Corporate Governance in selected South African state-owned entities

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Declaration

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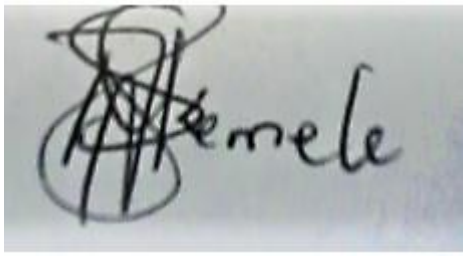

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Dedication and Acknowledgements

This study is firstly dedicated to God, my Heavenly Father, who has given me the talent, showed me the light, and gave me the perseverance to finish this study.

The study is also dedicated to my grandmother, ‘Malebohang Nkemele, who sadly passed on while I was half way through the study. Her never-ending words of encouragement and motivation throughout my years of studying have not been in vain.

I would also like to express my gratitude to the following people who, in their different ways, contributed to the completion of this study:

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In conclusion, I would like to quote a verse from the Good Book, which has kept me going throughout this study;

“I have fought the good fight, I have finished the race, I have kept the faith.”

2 Timothy 4:7 (NIV).

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Dear Dr Crous,

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I hereby confirm that I have edited Sylvester Moeketsi Nkemele's MA thesis, titled:

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Where a certain chapter in a book is referenced in the Reference List, it is done by the use of the word "In". See the example below:

Clarke, T. 2011. Corporate Governance Causes of the Global Financial Crisis. In W. Sun, J. Stewart, & D. Pollard, eds. *Corporate Governance and the Global Financial Crisis*. New York: Cambridge University Press: 28–49.

Where the article was obtained from the newspaper or magazine's website, the URL of the article, as well as the date the article was accessed, is provided instead of the page number, and looks as follows:

Abedian, I. 2017. The KPMG Failure – Ethical Test for SA Business and Company Directors. *Daily Maverick*: 1–5. https://www.dailymaverick.co.za/article/2017-09-11-op-ed-the-kpmg-failure-ethical-test-for-sa-business-and-company-directors/#.WuTnBYiFOCg 28 April 2018.

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Hofstatter, S. 2017. Bid to Save Eskom Millions Cast Aside. *Business Day*: 1–10.

Where there are sources with the same author in the same year, the program automatically numbers them a, b, c, etc. See the two examples below:

Nicolaides, G. 2017a. KPMG to Reimburse those Affected by its Spy Unit Report. *Eye Witness News*: 1. http://ewn.co.za/2017/09/16/kmpg-to-reimburse-those-affected-by-its-spy-unit-reports 28 April 2018.

Nicolaides, G. 2017b. KPMG Withdraws SARS 'Spy Unit' Report Findings. *Eye Witness News*: 1–2. http://ewn.co.za/2017/09/15/kpmg-withdraws-sars-spy-unit-report-s-findings 20 October 2017.

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In-text reference: (Bhorat et al., 2017:20-22).

Bhorat, H., Buthelezi, M. & Chipkin, I. 2017. *Betrayal of the Promise: How South Africa is Being Stolen*. Cape Town. http://pari.org.za/wp-content/uploads/2017/05/Betrayal-of-the-Promise-25052017.pdf.

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Abstract

This study has been undertaken against the backdrop of allegations of state capture in South Africa and public concern of failing Corporate Governance in the country's state-owned entities. Specifically, this study pays attention to eight South African state-owned entities. The purpose of this study was to identify possible gaps in the application of Corporate Governance practices by the eight state-owned entities selected for the study. The study sought to identify these gaps by analysing their disclosures of the application of these practices and provides possible ways in which the weaknesses may be addressed.

The literature review in this study focused on Corporate Governance Theories. The Corporate Governance Theories addressed in this study are: 1) the Agency Theory; 2) the Stewardship Theory; 3) the Stakeholder Theory; 4) the Enlightened Shareholder Theory; 5) the Resource Dependency Theory; 6) the Network Theory; and 7) the Class Hegemony Theory. The literature review also included a discussion on Corporate Governance in the United States of America, the United Kingdom, Germany and South Africa. The discussion in these different countries sought to establish the different approaches to the enforcement of Corporate Governance. These approaches were addressed in the study, and are: 1) the comply or explain approach 2) the comply and explain approach 3) the apply or explain and 4) the apply and explain approach.

The literature review was followed by a detailed analysis of the annual integrated reports of the eight state-owned entities. The analysis was done following a qualitative research approach, with document analysis as the research method used. The analysis of the annual integrated reports was done for eight financial years, starting from the 2010/2011 financial year to the 2017/2018 financial year. The levels of disclosure of Corporate Governance principles were analysed and the application of recommended principles seemed to be a struggle for all state-owned entities identified. A further analysis was made to determine whether, on average, the application of the Corporate Governance principles seemed to be deteriorating or improving over the period of analysis. In order to do this analysis, two basic scorecard systems were developed. The first scorecard system was used to establish whether the application of Corporate Governance practices was disclosed or not. The second scorecard

system was used to identify the level of application of the practices, whether the practices were fully disclosed, partially disclosed or not disclosed at all.

The results of the empirical study revealed that while the disclosure of the application of Corporate Governance practices seemed to improve over the financial years under analysis, there still remained challenges with the application of certain practices. The analysis revealed that the recommendations contained under themes 2, 7, 10 and 14 remained a challenge to all the state-owned entities selected for the study. The principles relate to the ethical and effective leadership, the governing body, the Chief Executive Officer and the remuneration of directors and senior executives respectively. Based on the findings from the empirical study, the study proceeded to make basic recommendations for the improvement in the application of Corporate Governance practices.

This study contributes towards the debate on the causes for concern in the Corporate Governance of South African state-owned entities. It further contributes towards possibly similar conditions in the other South African state-owned entities which have not been included in this study. This is because those state-owned entities may benefit from the weaknesses identified and recommendations suggested in this study to improve their own Corporate Governance disclosures.

Keywords: Corporate Governance, state-owned entities, King III Report, King IV Report, Corporate Governance Theories, Corporate Governance scandals, state capture, disclosure of recommendations.

List of Abbreviations

ACGN – African Corporate Governance Network

AGSA – Auditor General of South Africa

ANC – African National Congress

APA – Audit Profession Act 26 of 2005

BBBEE Act – Broad-Based Black Economic Empowerment Act 53 of 2003

CEO – Chief Executive Officer

CFO – Chief Financial Officer

Companies Act – Companies Act 71 of 2008

COO – Chief Operations Officer

COPE – Congress of the People

CSR – China South Rail

DA – Democratic Alliance

DGCL - Delaware General Corporations Law

EFF – Economic Freedom Fighters

EY – Ernst and Young

FRC – Financial Reporting Council

FTSE - Financial Times Stock Exchange

GCEO – Group Chief Financial Officer

GDP – Gross Domestic Product

IAS – International Accounting Standard

ICAEW - Institute of Chartered Accountants in England and Wales

IFAC – International Federation of Accountants

IFRS – International Financial Reporting Standard

IIC - Institutional Investor Committee

IIRC - International Integrated Reporting Council

IMC - Inter-Ministerial Committee

IOD – Institute of Directors

IODSA – Institute of Directors of Southern Africa

IRBA – Independent Regulatory Board for Auditors

ISC - Institutional Shareholders Committee

IT – Information Technology

JSE – Johannesburg Stock Exchange

KPMG - Klynveld Peat Marwick Goerdeler

LID – Lead Independent Director

LRA - Labour Relations Act 65 of 1995

LSE – London Stock Exchange

MFMA – Municipal Finance Management Act 56 of 2003

MOI – Memorandum of Incorporation

MP – Member of Parliament

NASDAQ - National Association of Securities Dealers Automated Quotations Stock Exchange

NPA - National Prosecuting Authority

NUMSA - National Union of Metalworkers of South Africa

NYSE – New York Stock Exchange

OECD – Organisation for Economic Co-operation and Development

PetroSA – Petroleum, Oil and Gas Corporation of South Africa

PFMA – Public Financial Management Act 1 of 1999

PIE – Public Interest Entity

PI Score – Public Interest Score

PRASA – Passenger Rail Agency of South Africa

PRC – Presidential Review Committee on State-Owned Entities

PWC – Price Water Coopers

QCA – Quoted Companies Alliance

RSA – Republic of South Africa

SA – South Africa

SAA – South African Airways

SABC – South African Broadcasting Corporation

SAICA – South African Institute of Chartered Accountants

SAPS – South African Police Service

SARS – South African Revenue Service

SATAWU - South African Transport and Allied Workers Union

SEC – Securities Exchange Commission

SESC - Securities and Exchange Surveillance Commission

SOC – State-Owned Company

SOE – State-Owned Entity

SOX – Sarbanes-Oxley Act of 2002

SRI - Stamford Research Institute

TCE - Transaction Cost Economics

UK – United Kingdom

UN – United Nations

USA – United States of America

VBS - Venda Building Society Mutual Bank

Chapter 1: Introduction

1.1 Background and Rationale

Several authors suggest that sound Corporate Governance principles positively correlate with good financial performance and increased stakeholder confidence in companies (Todorovic, 2013:51-52; Kowalewski, 2012:15; Solomon and Solomon, 2005:61-63). Adhering to Corporate Governance principles ensures that companies remain accountable to all their stakeholders, enabling them to achieve their objectives (Business Roundtable, 2016:2-3). As a result, good Corporate Governance should always be emphasised to those charged with governance.

State-owned Entities (SOEs) play an important role in the economy of South Africa in terms of job creation, infrastructure development and contribution to the Gross Domestic Product (GDP) of the country (Sturesson et al., 2015:23). However, South African SOEs have been faced with different Corporate Governance challenges in recent years. For example, it was reported in July 2017 that there were two reportable irregularities at two State-owned Companies (SOCs), Transnet and Eskom (Donelly, 2017:1). The two irregularities were said to have been continuing, and the Independent Regulatory Board for Auditors (IRBA) had since reported them to relevant authorities for further investigations (Crowley, 2017:1; Donelly, 2017:1). A reportable irregularity is defined by the Audit Profession Act (Act 26 of 2005) (APA) as;

> "any unlawful act or omission committed by any person responsible for the management of an entity, which has caused or is likely to cause material financial loss. [The loss may be] to the entity or to any partner, member, shareholder, creditor, or investor of the entity in respect of his, her or its dealings with that entity; or, is fraudulent or amounts to theft; or, represents a material breach of any fiduciary duty owed by such a person to the entity or any partner, member, shareholder, creditor or investor of the entity by any law applying to the entity or the conduct or management thereof." (SAICA, 2013c:332).

Sound Corporate Governance ensures that all checks and balances are in place for a company to produce cost-effective services, to maintain a good strategic future and to remain financially healthy (McGregor, 2013:36). However, the poor financial performances of the South African SOEs suggest that there are challenges with the

Corporate Governance of these entities, which make their future appear bleak, especially in the prevailing weak economic conditions in South Africa.

For example, South African Airways (SAA) reported a loss of R5.6 billion in the 2016 financial year (SAA, 2016:94). The reported loss was an increase in losses from R5.39 billion that was reported in the 2015 financial year (SAA, 2016:94). Moreover, in the 2014/2015 financial year, SAA reported that it had incurred R52.7 million on fruitless and wasteful expenditure (SAA, 2016:67). SAA also reported that there were concerns over its internal controls (SAA, 2016:68). It further reported that there was "evidence of lapses of effective monitoring and enforcement by management" (SAA, 2016:68)

Another example of an SOE with Corporate Governance challenges in South African SOEs is the South African Broadcasting Corporation (SABC). The SABC reported irregular, fruitless and wasteful expenditure of R92.46 million in the 2015/2016 financial year (SABC, 2016:141). A loss of R411 million was also reported for the same financial year (SABC, 2016:95). To compound the problem, the Auditor General of South Africa (AGSA) reported that the SABC significantly understated the irregular, fruitless and wasteful amount in its report (SABC, 2016:91).

SOEs in South Africa have been a subject of criticism in recent years from the public (Public Protector, 2016:4-5). The failure of the boards of directors to complete their terms of office without resignations or suspensions of some or all members of the boards, poor financial performance and actual or perceived political patronage and interference have all contributed to this criticism (Styan, 2016:26-27; Ditabo, 2015:22-23). To this end, the Institute of Directors of Southern Africa (IODSA) has expressed concern over "the many wars that have pitched several Chief Executive Officers (CEOs) of SOEs and their boards" (IODSA, 2015:2). For example, Eskom CEO, Brian Molefe, resigned from his position amid allegations contained in the Public Protector report into an alleged state capture (Quintal and Philip, 2016:1-2; Staff Reporter, 2016a:1). The Staff Reporter stated that "the Public Protector report into state capture implicated Molefe and Eskom in apparent corrupt behaviour in pre-paying Gupta-linked mining company, Tegeta Exploration, almost R1 billion for coal" (Staff Reporter, 2016a:1).

The State of Capture Report relates to an investigation by the Public Protector into complaints of alleged improper and unethical conduct by the then President of South

Africa, Jacob Zuma, and other state functionaries (see 3.2.5) (Public Protector, 2016:4). These complaints relate to alleged improper relationships and involvement of the Gupta family in the removal and appointment of ministers and directors of SOEs (Public Protector, 2016:4; Hofstatter, 2017:1-2).

As a pension pay-out after his resignation, the Eskom board approved a R30 million payment for Molefe (Chabalala, 2017:1-2; Omarjee, 2018a:1; Bezuidenhout, 2017:2-3). The proposed pension pay-out was however not made, as the then Minister of Public Enterprises, Lynne Brown, refused to approve the payment (Goba, 2017:1; Motau, 2017:1). The Minister claimed the payment could not be seen as a performance-related bonus as Molefe had already been remunerated for his performance at Eskom (Goba, 2017:1; Motau, 2017:1). The Minister further stated that the golden handshake was "not justifiable in light of the current financial challenges faced not only by SOCs, but by the country as a whole" (Goba, 2017:1; Motau, 2017:1).

The Eskom board then resolved to reinstate Molefe as CEO of the SOE (Cordeur, 2017:1-2). The Eskom board claimed that Molefe had not resigned, but was on unpaid leave (Cordeur, 2017:2). The reappointment was however challenged by the Democratic Alliance (DA), which filed an urgent application with the Gauteng High Court (Gerber, 2017:2; Cordeur, 2017:1-2). Moreover, there were protests by political parties and the public at Eskom's head office following the announcement of the reappointment (Nyoka, 2017:1-2; Gerber, 2017:1-2; Cordeur, 2017:2). The court challenge by the DA and the protests then resulted in an Inter-Ministerial Committee (IMC), which was set up to investigate Molefe's return to Eskom. The IMC ordered the Eskom board to rescind Molefe's appointment (Nyoka, 2017:1-2; Gerber, 2017:1-2; Cordeur, 2017:2).

The protests mentioned above may be viewed as the epitome of the political landscape in South Africa, more so in the lead-up to the National and Provincial elections on 8 May 2019, when pressure is mounting on the government to improve service delivery (Meiring, 2019:2). The governing party, the African National Congress (ANC), has been in power since 1994 when the first democratic government was elected (see 3.5.2). However, protests over poor service delivery, corruption by government officials, unemployment and state capture (see 3.2.5) have been on the rise, and have culminated in the recall of former President Jacob Zuma from the

Presidency (see 3.2.5) (Shai, 2017:65; Govender, 2018:2). Moreover, there is an indication of "deep-rooted social and political divisions…" (Meiring, 2019:2), as evidenced by xenophobic attacks and protest action in the Kwa-Zulu Natal and Gauteng provinces respectively (Maimane 2019:1-3; Phakgadi 2019:2-3).

In another scandal, the then chairperson of SABC, Ellen Tshabalala, was charged with misconduct in 2014 (Presence, 2014:1-3; Makinana, 2014:1-2; Moloi-Moropa, 2014:1). The misconduct charge related to Tshabalala's lying on her Curriculum Vitae (CV) about her qualifications when she applied for the chairpersonship of the SABC board (Presence, 2014:1-3; Makinana, 2014:1-2; Moloi-Moropa, 2014:1; Ndenze, 2014:1-3). After being found guilty of misconduct, the Congress of the People (COPE) lodged a fraud case against Tshabalala (Quintal, 2015:1). COPE claimed it had laid the case since "it is fraud because she claimed she had qualifications [with which] she got the chairpersonship of the SABC board" (Quintal, 2015:1). Ellen Tshabalala eventually resigned as chairperson of the SABC board (Morkel, 2014:1-2), with the fraud charge made by COPE still under investigation by the South African Police Service (SAPS) (Bloem, 2017:1).

Before the Tshabalala debacle, a complaint was lodged with the Public Protector on 11 November 2011 by Phumelele Ntombele-Nzimande (Public Protector, 2014:2). Ntombela-Nzimande was at the time the SABC Group Executive for Public and Regulatory Affairs. She requested an investigation into allegations of Corporate Governance failures by the SABC board and management (Public Protector, 2014:2). Additionally, Ntombela-Nzimande wanted an investigation into an alleged "financial mismanagement involving the spiraling of financial expenditure and undue influence by the Minister and Department of Communications" (Public Protector, 2014:2).

The findings and recommended remedial actions of the Public Protector were contained in the 2013/2014 report; *When Governance and Ethics Fail* (Public Protector, 2014:9-22). The findings included the following, which had Corporate Governance implications for the SABC:

- The appointment of Hlaudi Motsoeneng as Acting Chief Operations Officer (COO) was irregular;
- The 63% salary increase within 12 months for Hlaudi Motsoeneng was irregular;

- Hlaudi Motsoeneng fraudulently misrepresented his qualifications when applying for employment;
- Gugu Duda was irregularly appointed as Chief Financial Officer (CFO) through the interference of the Department of Communications; and that
- The findings are symptomatic of "pathological Corporate Governance deficiencies", including failure by the SABC board to provide strategic oversight as envisaged by the SABC Board Charter and the King III Report.

These findings were corroborated on 12 December 2016 by a Western High Court judgment. The judgment ruled that, Motsoeneng's appointment as SABC Group Executive for Corporate Affairs was unlawful, and that he was not entitled to occupy any position in the SABC (Phakathi, 2016:2; Gqirana, 2016:2). This, the judgment ruled, was until the 2014 Public Protector's report was set aside or the disciplinary process against him was concluded (Phakathi, 2016:1-2; Gqirana, 2016:2). The Western Cape High Court judgment was delivered after the DA had taken the public broadcaster to court. This was after Motsoeneng was appointed as the Group Executive for Corporate Affairs after the court had removed him as the Chief Operations Officer (COO).

In April 2016, Denel fired its suspended CEO, Riaz Saloojee, without being found guilty of any misconduct (see 4.4.4) (Gibson, 2016:1-2). Saloojee, together with Denel's CFO and the Group's Company Secretary were suspended in January 2016 as the board investigated them for "irregularities in the arms manufacturer's profit statement" (Gibson, 2016:1). The three were suspended six weeks after a new board was announced in July 2015 by the Minister of Public Enterprises. However, it was suspected that the suspension was because of the Gupta family's interest in Denel's business (Gibson, 2016:1). In January 2016, Denel registered VR Laser as a partner in China. It is reported that "VR Laser is a company with strong Gupta links, as one of the Gupta brothers' sons sits on its board" (Gibson, 2016:1). Therefore, the dismissal of Saloojee without being found guilty of misconduct may be seen as a way to allow the Gupta family to have an influence on the Denel board in pursuance of state capture (see 3.2.5).

Skae (2017:1-2) reported that the Passenger Rail Agency of South Africa (PRASA) was going through "serious turbulence that is symptomatic of broad Corporate

Governance failures within South Africa's SOEs". This was after the PRASA board was, on 8 March 2017, dissolved with immediate effect by the Minister of Transport (Peyper, 2017:1-2; Presence, 2017:1-2; Preez, 2017:1-3). The board was dissolved in the aftermath of a Parliament's Transport Committee briefing on PRASA's governance challenges (Peyper, 2017:1-2; Presence, 2017:1-2; Preez, 2017:1-3). The briefing came about after the then acting PRASA Group CEO (GCEO), Collins Letsoalo, was fired after allegations that he had increased his annual remuneration by 350% (Peyper, 2017:1-2; Presence, 2017:1-2; Preez, 2017:3). Immediately after the dissolution of the board, the axed chairperson, Popo Molefe and the board filed an urgent application with the North Gauteng High Court to interdict the Minister from naming an interim board of directors (Peyper, 2017:1-2; Presence, 2017:2; Preez, 2017:1-3). However, the Minister proceeded with the appointment of an interim board.

Furthermore, the Parliamentary portfolio committee on energy was, in March 2017, informed that the Petroleum, Oil and Gas Corporation of South Africa (PetroSA), a South African SOE, had paid its top management retention bonuses of R2.4 million each (Lepule, 2017:1-2). It is reported that the bonuses were not paid based on performance, but rather, on the premise that one remained in the employ of PetroSA (Lepule, 2017:1-2). All these bonuses were paid despite PetroSA facing a liability of R15.6 billion (Roux, 2016:1; Lepule, 2017:1; Essop and Staff Reporter, 2017:2; Dludlu, 2016:1-2).

Although the majority of Corporate Governance challenges have been underscored in the public sector in South Africa, recent media reports have indicated that the private sector is also faced with similar challenges. One such example is the Corporate Governance failure in Steinhoff South Africa. In December 2017, media reports plagued Steinhoff, alleging that Steinhoff had been involved in a Corporate Governance scandal relating to accounting irregularities (Ensor, 2018:1; Mchunu, 2018:1; Prinsloo et al., 2018:1; Planting, 2017:1-2; Kew and Bowker, 2018:1-3). The alleged accounting irregularities related to Steinhoff's management inflating its earnings and concealing losses (Viceroy Research Group, 2017:2-5; Kew and Bowker, 2018:1-3). The Corporate Governance scandal at Steinhoff culminated in the company's CEO resigning and the value of Steinhoff shares dropping by 63% (Naudé

et al., 2018:15; Prinsloo et al., 2018:1-2; Mchunu, 2018:1; Viceroy Research Group, 2017:1).

The Steinhoff scandal can be attributed to lapses in the application of Corporate Governance recommended practices. For example, in their widely cited report, *Business Perspectives on the Steinhoff Saga*, Naudé et al. argue that Steinhoff's board attempts to provide ethical and effective leadership seemed to have been inadequate over the years (Naudé et al., 2018:17). For example, in the 2011 Steinhoff Corporate Governance report, the following comment is made: "Steinhoff has not established a formal process for obtaining assurance on ethical awareness and ethical compliance throughout the group" (Naudé et al., 2018:16-17). Naudé et al. state that the same comment was made word-for-word in the following reports by Steinhoff, from 2012 to 2016, highlighting a lack of seriousness about ethical and effective leadership within the company (Naudé et al., 2018:17).

Furthermore, the independence of the Steinhoff board was questioned. Crous (2018:1) contents that the chairperson of the board of Steinhoff could not be classified as an independent director since he had a material investment in Steinhoff. Crous argues that "with the estimated loss of R30 billion on 8 December, the chair's independence is clearly under suspicion. With his substantial investment in Steinhoff, questions arose as to his ability to guide the board independently as required by international good Corporate Governance principles" (Crous, 2018:1). The argument of a board that lacked independence is supported by Naudé et al., who state that the Steinhoff board had members who had been directors from as far back as 1999 and directors who had shares in the company (Naudé et al., 2018:18). The independence of directors who had served for more than nine years was not rigouroulsy reviewed as recommended by the King III Report and King IV Reports on Corporate Governance (Naudé et al., 2018:18).

Another Corporate Governance scandal in the South African private sector happened in the Venda Building Society Mutual Bank (VBS). A forensic report has provided details of how R1.8 billion was stolen from VBS. A forensic investigation was instigated at the backdrop of a severe liquidity crisis at VBS (Motau and Werksmans Attorneys, 2018:3). Therefore, the forensic investigation sought to establish whether or not:

- “Any of the business of VBS was conducted with the intent to defraud depositors or other creditors of the bank, or for any other fraudulent purpose;
- VBS’ business conduct involved questionable or reckless business practices or material non-disclosure, with or without the intent to defraud depositors and other creditors; and
- There had been any irregular conduct by VBS shareholders, directors, executive management, staff, stakeholders or related parties” (Motau and Werksmans Attorneys, 2018:3).

The investigation revealed that the business of VBS was conducted in a fraudulent manner and was involved in reckless business practices (Motau and Werksmans Attorneys, 2018:19-23). This is because the investigation revealed that municipalities acted in contradiction with the Municipal Finance Management Act (MFMA) (Act 56 of 2003), which prohibited municipalities from making deposits in mutual banks (Motau and Werksmans Attorneys, 2018:40). In the aftermath of this scandal, VBS was liquidated (Phakgadi and Omarjee, 2018:1-2; Nicolson, 2018:1-2; Head, 2018a:1-2).

The importance of adhering to sound Corporate Governance principles and recommended practices has long been recognised in South Africa. However, many of the SOEs are constantly embroiled in controversies surrounding their boards of directors (Ditabo, 2015:22-23). This, in turn, results in the poor financial performance, protracted court battles and disciplinary hearings and commissions of inquiry that are reported in the media (Phakathi, 2017:1).

This study will concentrate on the Corporate Governance principles within the South African SOEs. It will concentrate on the disclosure requirements of the King III and King IV Reports on Corporate Governance.

1.2 Problem Statement

There is a problem with the application of Corporate Governance practices in South African SOEs and, if left unaddressed, will result in poor financial performances by these SOEs and further Corporate Governance failures and scandals.

1.3 Research Objectives

With so many Corporate Governance challenges among the South African SOEs (see 1.1 above), the need for a better understanding and analysis of Corporate Governance practices, based on Integrated Report disclosures, that have been put in place to ensure good Corporate Governance in SOEs was identified. The primary objective of this study is to identify possible gaps in the application of Corporate Governance practices of SOEs based on their current disclosure practices.

The secondary objectives of the study that supports the primary objective are:

a) Through a literature review, contextualise Corporate Governance principles in term of the following;
   (i) Selected countries;
   (ii) State-Owned Entities;
   (iii) State-Owned Entities in South Africa;
   (b) Through a comparison of the King III and King IV Reports on Corporate Governance, determine the similarities and differences in Corporate Governance practice disclosures to determine a benchmark for the application of Corporate Governance practices; and,
   (c) Based on the results of the analysis, identify possible gaps in the application of Corporate Governance principles in South African State-Owned Entities through document analysis.

1.4 Abbreviated Literature Review

1.4.1 Introduction

In this section, a definition adopted for this study is given. Some of the Corporate Governance Theories are also briefly discussed. A more detailed discussion of these Theories can be found in Chapter 3 (see 3.3.2).

For the purposes of this study, Corporate Governance is defined as;

> Structures and processes for effective control and direction of organisations, as lead by those charged with governance to achieve organisational objectives,

while simultaneously ensuring that the organisations' long-term sustainability, derived by properly addressing the legitimate interests and expectations of other stakeholders, is realised (see 3.3.1).

The development of Corporate Governance has been influenced by many disciplines (Mallin, 2007:12). These disciplines are finance, economics, organisational behaviour, accounting, law and management (Solomon and Solomon, 2005:16, Mallin, 2007:11). Therefore, the different theories underlying the development of Corporate Governance emanate from these disciplines. These theories are: The Agency Theory, the Stakeholder Theory, Transaction Cost Theory, the Stewardship Theory, the Resource Dependency Theory, the Network Theory, the Class Hegemony Theory and the Enlightened Shareholder Theory (Mallin, 2007:12, Solomon and Solomon, 2005:17-26, Tricker, 2012:59-74). Some of these theories are briefly discussed below.

- **The Agency Theory**

The need to develop securities exchange markets led to the development of the Agency Theory (Solomon and Solomon, 2005:16). Securities exchange markets were needed to source finance from different investors in order to aid the expansion of companies (Kochhar, 1996:713; Donadelli et al., 2014:259). For companies to entice investors, the concept of limited liability was introduced (Solomon and Solomon, 2005:16). This meant that investors were not personally liable for the debts that the companies they had invested in incur (Sauviat, 2006:245).

The introduction of the concept of limited liability meant that the general public could own companies through shareholding (Donadelli et al., 2014:259). Therefore, the running of the day-to-day operations of the companies had to be passed on or 'delegated' to management (Bainbridge, 2008:73; Donadelli et al., 2014:260; Amico, 2016:794). This then resulted in the separation of ownership of companies by shareholders and the control of those companies by management (Donadelli et al., 2014:260; Amico, 2016:794).

The Agency Theory is based on the premise that the principal, who is the owner of the company, delegates the day-to-day running of a company to directors, who are agents (Herrero, 2011:890). The principal then always expects the agent to make decisions

that are in the best interest of the principal (Solomon and Solomon, 2005:17). That is, the decisions of the agent should result in a sustainable wealth creation of the principal (Bainbridge, 2008:73)

However, Mallin (2007:12) acknowledges that “the agency relationship may be prone to disadvantages caused by opportunism or self-interest of the agent”. Moreover, it is stated in Solomon and Solomon (2005:17) that the goals of the agent and those of the principal are seldom in line. For example, while the agent will seek to pursue profitable short-term projects in order to maximize his or her remuneration, the principal will want projects that ensure the long-term sustainability of the company (Barac and Moloi, 2010:20; Madison *et al.*, 2016:75; Lewellyn and Fainshmidt, 2017:1605). This is referred to as the agency problem. That is the problem of inducing an agent to maximise the principal’s value in an organisation (Jensen and Meckling, 1976:311). In order to address the agency problem, agency costs are incurred (see 3.2.2.1).

- **The Stakeholder Theory**

While the Agency Theory advocates for accountability to the shareholders only, the Stakeholder Theory insists on corporate accountability to a broad range of stakeholders rather than focusing solely on certain constituencies of shareholders (Mallin, 2007:12). Proponents of this theory argue that companies’ operations affect the societies within which they operate and should, therefore, “discharge accountability to many more sectors of society than solely their shareholders” (Tricker, 2012:70). These stakeholders include shareholders, employees, customers, creditors, host communities and the general public (Hitt et al., 2011:20-22).

Stakeholders are affected by the operations of companies, and in turn, affect these companies in some way (Solomon and Solomon, 2005:23, Hitt et al., 2011:20-22). Therefore, the Stakeholder Theory suggests that shareholders’ wealth cannot be maximized without successfully managing the legitimate expectations of their stakeholders (Tricker, 2012:71, Hitt et al., 2011:20-22). However, those who oppose the Stakeholder Theory argue that companies have many constituencies of stakeholders, making it challenging to satisfy all their conflicting interests and expectations (Tricker, 2012:71).

- **The Stewardship Theory**

The Stewardship Theory comes from the Agency Theory, but refutes directors' opportunism, arguing that there are other motivating factors for directors (Huse, 2007:54). This theory emanates from legal and organisational studies (Tricker, 2012:66). Under this theory, the directors have a "fiduciary duty to act as stewards of shareholders' interest" (Nordberg, 2012:44).

Advocates of the Stewardship Theory claim that directors can be trusted (Huse, 2007:54). This, they argue, is because directors have a legal duty only to their shareholders (Veldman, 2017:77). Proponents of this theory argue that directors and managers are not solely motivated by personal gain, but by intrinsic rewards such as doing a good job, recognition and job satisfaction (Huse, 2007:54; Nordberg, 2012:45)

The assumption under the Stewardship Theory is that directors have the integrity to do their job and can do it with independence (Tricker, 2012:65). The theory suggests that, though directors should address the legitimate interests of other stakeholders, they should not do so at the expense of the interests of shareholders (Tricker, 2012:65).

- **Transaction Cost Economics**

Influenced by the financial economics discipline, this theory is based on the premise that entities can save costs by undertaking activities in-house instead of outsourcing (Tricker, 2012:64, Mallin, 2007:15). However, as firms grow, they eventually reach a point where it becomes cheaper to transact externally (Mallin, 2007:15). Transaction Cost Economics (TCE) argues that companies can "overcome disadvantages of scale by the choice of governance structures" (Bainbridge, 2008:103).

Therefore, TCE focuses on the cost of check and balance mechanisms such as internal controls, external audits, information disclosure, board composition, board committees and risk analysis (Tricker, 2012:64). These structures are needed in order

to counter the opportunistic behaviour that was identified under the Agency Theory. One such mechanism, which was developed in the 1970s in the United States of America (USA), was the establishment of Audit Committees (Brennan and Kirwan, 2015:466-467).

- **The Resource Dependency Theory**

The Resource Dependency Theory views and organisation as an open system, affecting and being affected by external environmental factors (Huse, 2007:61).This theory "explains how external dependencies are reduced by linking the organisation to its external environment through networking and legitimacy" (Huse, 2007:61). Within a company's environment, there are important external resources and influential group (Malatesta and Smith, 2014:14-15).

Thus, the Resource Dependency Theory suggests that to gain a competitive advantage and also improve their financial performance, companies must appoint to their governing bodies, directors that are well-networked or have access to external resources (Huse, 2007:61; Nordberg, 2012:39). Directors benefit the companies in four ways, as suggested in Nordberg (2012:40), advice and counsel, preferential access to channels of communication, preferential access to finance, people and equipment as well as legitimacy.

These ways, the proponents of the theory argue, reduce the search and uncertainty costs for the companies (Nemati, 2010:112). This is because the directors are considered administrators that help companies acquire important resources from the environment in which they operate (Huse, 2007:62). Furthermore, the Resource Dependency Theory advocates argue that the firms that have large governing bodies stand to benefit from positive financial performance than those that have smaller governing bodies (Bainbridge, 2008:80). However, the detractors of the Resource Dependency Theory argue that it lacks empirical substance and therefore is ambiguous (Casciaro and Piskorski, 2005:167).

- **The Enlightened Shareholder Theory**

It is stated that the King IV Report is based on the Enlightened Shareholder Theory (Crous, 2017:68). This theory aims at finding a balance between the competing interests of stakeholders for the benefit of shareholders in the long-term (Keay, 2007:590). The Enlightened Shareholder Theory advocates for an integrated approach to Corporate Governance (Queen, 2015:683; Mudawi and Timan, 2018:60-61). Therefore, the Enlightened Shareholder Theory suggests that companies make decisions that maximise long-term shareholder value, while at the same time benefiting other stakeholders (Queen, 2015:683). The Enlightened Shareholder Theory is however criticised because it advocates for conflicting goals, sacrificing shareholder wealth by making decisions that benefit other stakeholders (Queen, 2015:683; Mudawi and Timan, 2018:61).

1.4.3 Categories of Corporate Governance Systems

It is difficult to categorise systems of Corporate Governance of different countries (Solomon and Solomon, 2005:148). It is reasoned in Solomon and Solomon (2005:148) that this difficulty is due to the fact that categorisations may be loose, incorrect or oversimplified. Models of classification include the American-rules-based model, the continental European two-tier model, the Japanese business network model and the Asian family-based model (Tricker, 2012:151-162). The names suggest a classification based on geographical locations of the countries.

However, for the purposes of this study, Corporate Governance systems of different countries are categorised in terms of who plays an oversight role on the activities or operations of an entity. This is because this method of classification includes all the geographical classification models. This model of categorisation is referred to as the insider or outsider model (Solomon and Solomon, 2005:148). However, the terms insider and outsider loosely describe two extreme forms of Corporate Governance (Solomon and Solomon, 2005:148). It is argued that most Corporate Governance systems share some characteristics of both extremes (Solomon and Solomon, 2005:148). Therefore, the systems are referred to as the insider-dominated systems and the outsider-dominated systems (Solomon and Solomon, 2005:148-150). The characteristics of both systems are explained in (Solomon and Solomon, 2005:151) through Table 1.

Table 1: Characteristics of Insider-dominated and Outsider-dominated Systems

Insider-dominated System	**Outsider-dominated System**
Firms are owned predominantly by insider shareholders who also wield control over management.	Large firms controlled by managers but owned predominantly by outside shareholders.
Systems characterised by little separation of ownership and control such that agency problems are rare.	Systems characterised by separation of ownership and control, which engenders significant agency problems.
Concentration of ownership in a small group of shareholders being the founding family members, other companies through pyramidal structures or state ownership.	Dispersed ownership.
Excessive control by a small group of insider shareholders.	Moderate control by a large range of shareholders.
Weak investor protection in company law.	Strong investor protection in company law.
Majority shareholders tend to have more voice in their investee companies.	Shareholding characterised more by exit than by voice.

As can be seen from Table 1, the main differences between the two systems are found in the ownership and control of firms. Under insider-dominated systems, entities are owned and controlled by a small number of major shareholders (Solomon and Solomon, 2005:149, Mallin, 2007:67). It is argued that insider-dominated systems eliminate the agency problem (Mallin, 2007:67). That is, the interests of the owners and those of the management of companies are in line.

Due to their limited power, small shareholders often cannot voice their concerns to large shareholders who abuse their powers in making business decisions. Therefore, to express their dissatisfactions, small shareholders opt to sell their shares, hence exiting the company rather than voicing their concerns (Nordberg, 2012:36-37).

There are problems associated with having ownership and control at the same time (Solomon and Solomon, 2005:149). One such problem is the abuse of power by the shareholders (Solomon and Solomon, 2005:149). For example, it is argued in Solomon and Solomon (2005:149) that "opaque financial transactions and misuse of funds raised" are common in insider-dominated systems. Moreover, this system is characterised by weak legal protection of shareholders, particularly minority shareholders (Solomon and Solomon, 2005:149). The countries typical of the insider-dominated system include Germany and Japan. Outsider-dominated systems, such as those in the USA and United Kingdom (UK), tend to experience the agency problem (Solomon and Solomon, 2005:183). This is because ownership and control have been separated.

Based on the characteristics of the different systems outlined above, West (2006:435) argues that South Africa's Corporate Governance has the characteristics of an outsider-dominated system, and therefore follows an Anglo-American model. Even though not all the characteristics fully fit the South African perspective, West (2006:435) suggests that South Africa's corporate structures correspond substantially to the Anglo-American model. It is suggested in West (2006:441) that the South African state intervenes in the labour market through the Employment Equity Act (Act 55 of 1998) (RSA, 1998) and the Broad-Based Black Economic Empowerment (BBBEE) (Act 53 of 2003) (RSA, 2004b). This assertion is made based on the following characteristics of the model, as proposed in (Reed, 2002:230):

(i) A single tiered board structure which gives almost exclusive primacy to shareholder interests;
(ii) A dominant role for financial markets;
(iii) A correspondingly weak role for banks, and
(iv) Little or no industrial policy involving firms cooperating with government agencies and labour bodies.

West (2006:434-435) likens the two, as shown in Table 2: Comparison between South Africa's Corporate Governance and the Anglo-American Model.

Table 2: Comparison between South Africa's Corporate Governance and the Anglo-American model

Anglo-American model characteristic (as above)	**South Africa's Corporate Governance landscape**
(i) A single tiered board structure which gives almost exclusive primacy to shareholder interests	Boards of South African companies are single tiered without any representation from stakeholders such as employees.
(ii) A dominant role for financial markets	South Africa has an active securities exchange market, the Johannesburg Stock Exchange (JSE), which is rated as advanced-emerging.
(iii) A correspondingly weak role for banks	Banks do not maintain control over South African companies. They maintain arms-length relationships with clients.
(iv) Little or no industrial policy involving firms cooperating with government agencies and labour bodies.	In terms of the industrial policy, the evidence available is less clear.

1.4.4 Factors that Influence Corporate Governance

The governance framework of companies is set by the law, regulations, codes of best practice and the Memorandum of Incorporation (MOI) of a company (Wiese, 2014:15). One best practice, as contained in the Cadbury Report, is to have a balance of power on the board of directors so that "no individual can gain unfettered control of the

decision-making process" (Solomon and Solomon, 2005:67). The appropriate balance on the board, as discussed in the King IV Report, is of "knowledge, skills, experience, diversity and independence" (IODSA, 2016:50). In order to achieve this objective, the King IV Code on Corporate Governance recommends that the governing body should comprise a majority of non-executive members, the majority of whom should be independent (IODSA, 2016:50). Each of these contributing factors is briefly discussed below.

The Law and Regulations

Effective Corporate Governance requires an "effective legal, regulatory and institutional framework…" (OECD, 2015b:65). This entails legislation, regulations, voluntary business commitments and business practices (OECD, 2015b:65-66). In South Africa, legislation and regulations include the Companies Act (Act 71 of 2008), the Public Finance Management Act (PFMA Act 1 of 1999), JSE listing requirements and JSE regulations, the Protocol on Corporate Governance, the IFRSs and International Accounting Standards (IASs). Nordberg (2012:54) argues that laws are not best suited to deal with governance failures, hence the need for the creation of regulations.

However, laws and regulations do both have an impact on Corporate Governance. For example, according to Section 72(4) of the South African Companies Act, read with Regulation 43(1)(c) of the Companies Regulations (2011), certain companies are required to have social and ethics committees (SAICA, 2013b:43,123-124). Accordingly, all state companies, listed companies and all companies that have a Public Interest Score (PI Score) of 500 points and above must appoint social and ethics committees (SAICA, 2013b:43,123-124).

The PI Score is calculated in terms of Regulation 26(2) of the Companies Regulations (2011) (SAICA, 2013b:117-118). PI Scores are calculated to determine whether an organisation is a Public Interest Entity (PIE). Public Interest Entities are defined by the IFAC (2010:46) as "all listed entities and any other entity defined by regulation or legislation as a public interest, or for which an audit is required by regulation or

legislation…". South African SOEs are all required by regulation and legislation to be audited (SAICA, 2013b:368). Therefore, they are classified as PIEs.

Similarly, the Sarbanes-Oxley Act of 2002 (SOX) of the USA, also known as the Public Company Accounting Reform and Investor Protection Act of 2002, which was introduced in 2002, influenced Corporate Governance. The Act is mainly concerned with auditors, disclosure and the protection of whistle-blowers (Huse, 2007:184). SOX is a mechanism that regulates publicly traded companies (Soederberg, 2010:45).

Codes of Best Practice

A code of Corporate Governance is defined in Haskovec (2012:7) as "…a set of best practice recommendations concerning the behaviour and the structure of the board of directors of a firm". Some of the most influential codes, as discussed in (Huse, 2007:184-185) are the New York Stock Exchange (NYSE) code, the Higgs Report and the Combined Code, the Cromme Code in Germany and the OECD Principles of Corporate Governance.

Codes of Corporate Governance do influence Corporate Governance. For example, in 1978, the NYSE code started requiring all listed firms to have audit committees which consisted of a majority of non-executive directors (Huse, 2007:184). Immediately, listed companies needed to appoint at least two non-executive directors on their boards (Huse, 2007:184). In South Africa, the King IV Code on Corporate Governance requires, "as a matter of leading practice, organisations that issue audited financial statements to consider establishing audit committees" (IODSA, 2016:55). Moreover, board committees should have a minimum of three members, with all members of the audit committee being independent and non-executive (IODSA, 2016:55-56).

Memorandum of Incorporation

A Memorandum of Incorporation is defined in SAICA (2012:1) as "a document that sets out the rights, duties and responsibilities of shareholders, directors and others within a company, and by which a company is incorporated in the [Companies] Act…".

In South Africa, directors may be appointed in terms of either the company's MOI or elected by the shareholders (Wiese, 2014:112). For example, in terms of section 66(4)(a)(i) of the Companies' Act, a director may be appointed or removed by any person determined in the MOI (SAICA, 2013b:40; Wiese, 2014:113). This has an influence on Corporate Governance as those charged by governance may be appointed or removed in terms of the provisions of MOIs.

1.4.5 Corporate Governance in South Africa

Corporate Governance in South Africa was formalised by the publication of the King Report on Corporate Governance King Report in November 1994 (IODSA, 2002:7, Solomon and Solomon, 2005:176). Before 1994, business people had no clear guidelines on how accountability, transparency and openness were to be applied (Walker and Meiring, 2010:1). In 1994, the South African government found that some of the instruments for delivering the necessary services and carrying out the policy were SOEs and governance was not based on any standardised principles or rules (DPE, 2002:2).

The first King Report sought to provide a comprehensive set of principles and guidelines of Corporate Governance (Walker and Meiring, 2010:1). The King II report became effective on 1 March 2002 and replaced the first King Report (IODSA, 2002:4). It reviewed and expanded on the first King Report (Walker and Meiring, 2010:1). It identified seven fundamental characteristics of good Corporate Governance: discipline, transparency, independence, accountability, responsibility, fairness and social responsibility (Willem, 2013:304). The King II report was applicable to government departments, state-owned companies, all companies with securities listed on the JSE, banks and insurance companies (Institute of Directors in South Africa, 2002:21).

The King III report was introduced and was effective from 1 March 2010 (SAICA, 2014a:17). The third report on Corporate Governance in South Africa became necessary because of the new Companies Act no. 71 of 2008 and the changes in international governance trends (SAICA, 2014a:5, Walker and Meiring, 2010:1). The King III Report reflects a shift from the comply or explain approach to an apply or explain approach to Corporate Governance (see 3.4.2), in terms of which all entities

to which the code is applicable are required to disclose how they apply the principles prescribed in King III (Willem, 2013:305), or explain why the principles were not applied.

The apply or explain approach, shows an appreciation for the fact that it is often not a case of whether to comply or not, but rather to consider how the principles and recommendations can be applied. Though the Code of Corporate Governance is not legislation, SAICA (South African Institute of Chartered Accountants) (2013b:7) acknowledges that any failure to meet a recognised standard of governance, albeit not legislated, may render a board or individual director liable at law. Moreover, and in contrast to the King I and II Codes, King III applies to all entities regardless of the manner and form of incorporation or establishment, and whether in the public, private sectors or non-profit sectors (SAICA, 2014b:16).

The King IV Report has shifted from the apply or explain approach adopted in the King III Report to the apply and explain approach in order to reinforce the qualitative application of its principles and practices (IODSA, 2016:7-27). It has reduced the 75 principles in the King III Report to 17 basic principles in King IV, the last one only applying to institutional investors (IODSA, 2016:7).

As stated in IODSA (2016:27), the following features of King IV distinguish it from its predecessors:

- King IV advocates an outcomes-based approach;
- Clear differentiation is made between principles and practices;
- King IV has been designed and drafted to make it more accessible to users, and also to reinforce governance as a holistic and integrated set of arrangements;
- Broader forms of address are made in King IV, namely organisations, governing body and those charged with governance duties;
- Supplements are provided to help organisations across a variety of sectors and organisational types to interpret and implement King IV as suited to their particular circumstances;

- King IV provides guidance on how to apply the recommended practices proportionally in line with the organisation's size, resources, extent and complexity of the more significant activities;
- To balance the less prescriptive approach adopted in King IV, there is a greater emphasis on transparency with regards to how judgement was exercised when considering the practice recommendations contained in King IV. For example, while the King III recommended how the fees should be calculated, King IV only requires that the basis for setting the non-executive director's fees should "…be clearly set out in order to enable relevant stakeholders to calculate the fees" (PwC, 2017b:15).

Though the new King IV Report replaces the King III Report, it only builds on the foundations of the previous King Reports. The outcomes-based approach is followed to ensure that governance outcomes, an ethical culture, good performance, effective control and legitimacy can be achieved if Corporate Governance principles are implemented effectively (Grant Thornton, 2017:2; IODSA, 2016:27). This is done in order to reduce the tick box approach to Corporate Governance principles (Grant Thornton, 2017:2).

Moreover, while the King III Report recommended that together with the CEO, a director responsible for finance also be appointed to the governing board, the King IV Report is flexible in this regard (IODSA, 2016:50; PwC, 2017a:5). King IV recommends that as a minimum, the CEO and at least one other executive should be appointed to the board, with the other executive not necessarily being a CFO, but any director appropriate for the organisation (IODSA, 2016:50; PwC, 2017a:5). This recommendation is different from the King III recommendation on the minimum requirement of the composition of a board of directors and is indicative of the non-prescriptive nature of King IV.

Another major difference between the recommendations in King III and King IV is in the performance evaluation of the governing body, its committees, its chair and its individual members (PwC, 2017a:9). While King III recommended that the evaluation be done annually, King IV recommends that it be done after every two years (IODSA, 2016:58; PwC, 2017a:9).

1.4.6 State-Owned Entities

An SOE is defined by the Korean Public Entity Management Act of 2007 as a public entity established by law with financial assistance from government (World Bank, 2014:27). The most important characteristic of an SOE is that the government must have significant control. Significant control can be attained through full ownership, majority or significant minority ownership (PwC, 2015:8). In terms of the International Financial Reporting Standard (IFRS) 10, control is obtained only if an investor has power over the investee, exposure, or rights, to variable returns from its involvement with the investee (SAICA, 2014:A479). The investor must also have the ability to use its power over the investee to affect the amount of the investor's returns (SAICA, 2014:A479).

However, a distinction is made between a State-Owned Entity and a State-Owned Enterprise. For a State-Owned Entity to be an enterprise, its purpose and activities must be mainly economic in nature (OECD, 2015:14). However, for both forms, the state has ownership (World Bank, 2014:27; OECD, 2015:14). Governments own entities for different reasons. There are reasons cited by the OECD and the World Bank as the most common reasons for state ownership (PwC, 2015:14). The reasons, as discussed in (PwC, 2015:14), are to;

- Provide public goods such as national defence or merit goods such as health and education;
- Limit foreign control in the domestic economy and generate public funds by imposing monopoly prices;
- Increase access to public services through reduced prices; and,
- Encourage economic development and industrialization.

It is argued in PwC (2015:14) that public access to goods and services is enhanced through reduced prices, hence the need for SOEs. It is achieved through the states' greater economies of scale than those of the private sector and therefore efficient pricing of products. Governments may also choose to generate their revenues by controlling entry in certain industries (PwC, 2015:14). As Bremmer (2014:2-3) puts it;

> "Governments of developing nations have become wary of opening more industries to multinational companies and are zealously protecting local

interests. They choose the countries or regions with which they want to do business, pick the sectors in which they will allow capital investment and select the local, often state-owned, companies they wish to promote."

1.4.7 Corporate Governance in South African State-Owned Entities

In South Africa, State-Owned Entities are public entities defined in the PFMA (Parliament of the Republic of South Africa, 2015:1). Consequently, the PFMA has divided SOEs into three schedules, being Constitutional Institutions, Major Public Entities and Other Public Entities (SAICA, 2014b:373-375). These entities are divided in schedules one, two and three[1] respectively (SAICA, 2014b:373-375). South Africa has over 300 SOEs (Balbuena, 2014:40). These entities are defined as major public entities and other public entities in schedule two and schedule three of the PFMA respectively (SAICA, 2013b:374; IODSA, 2016:111; PRC, 2013:12)

In terms of the King III Report and Code on Governance in South Africa, the companies listed on the JSE are required to comply with the principles and recommended practices of Corporate Governance or explain why they did not do so (SAICA, 2014a:5-6). This relaxed approach means that the principles are followed voluntarily. That is, the code of principles and practices is on a non-legislated basis. The implication of this is that since a flexible approach to governance disclosure has been adopted, it may be subject to abuse if entities fail to justify their deviations from the recommended principles (SAICA, 2014a:14).

SOEs, just like the listed companies, follow the regulations of the JSE. This, therefore, means that they must adhere to the requirements of the King IV Report Governance in South Africa as from 1 April 2017, the Companies Act (Act 71 of 2008) (SAICA, 2013b:14) and the Companies Regulations of 2011. Moreover, these entities must adhere to the requirements of the PFMA (Act 1 of 1999) (SAICA, 2014b:373-375). These Acts are important as it is the principle of the King III and King IV Reports on Corporate Governance that the boards of directors ensure that the companies comply with the applicable laws (SAICA, 2014a:14).

[1] Schedules 1, 2 and 3 in the PFMA (Act 1 of 1999) refer to the groupings of different entities. Constitutional entities are contained in Schedule 1, major public entities in Schedule 2, while Schedule 3 contains other public entities that are excluded from Schedule 2.

The contribution of these entities to the economy of the country has already been emphasised (see 1.1 above). However, it is reported that SOEs played a much bigger role in the South African economy in the pre-democracy era (DPE, 2002:2). However, upon the 1994 elections, the SOEs' control and governance were not based on any rules or principles (DPE, 2002:2). Before the turn of the millennium, the government had plans of privatisation of these SOEs (Balbuena, 2014:40). However, these plans changed in the early 2000s, when the government refocused to corporate restructuring of SOEs, thereby striving to improve their efficiency and effectiveness (Balbuena, 2014:40).

This then resulted in a substantial revision of the first Protocol of Corporate Governance in the Public Sector in 2002 (DPE, 2002:3). The first Protocol was published in 1997 (DPE, 2002:3). The revision was made as a result of the King II Code becoming effective in March 2002 (DPE, 2002:3). The Protocol is applicable to all public entities listed under Schedules 2 and 3[2] of the PMFA (Act 1 of 1999) and subsidiaries of the public entities (DPE, 2002:9). However, the Protocol has, since 2002, never been updated.

Since the publication of the first King Code on Corporate Governance, SOEs have had to use the same principles as used by any other entities, listed or private. However, the King IV report has principles that are specific to different sectors, called sector supplements. The Report contains supplements for SOEs.

1.5 Conclusion to the Abbreviated Corporate Governance

Corporate Governance is forever evolving. This is because of the weaknesses that are always discovered in the rules, regulations and laws that govern companies. For example, apply or explain approaches are now being changed to apply and explain so as to increase transparency (Grant Thornton, 2017:2).

[2] Refer to footnote 1.

1.6 Research Methods

Research can be defined as a careful investigation or inquiry specially through a search for new facts in any branch of knowledge (Kothari and Garg, 2016:1). It is explained in Dawson (2002:14) that research methodology and research methods are two different things. Research methodology is defined as the overall approach to studying a topic and includes issues that a researcher needs to consider such as constraints, dilemmas and ethical choices within his or her research (Dawson, 2002:14). Conversely, research methods are about the methods of gathering data. Research methods are defined in Perri and Bellamy (2012:9) as “a set of techniques used for the creation, collection, coding, construction and analysis of data”.

There are two different research approaches. These are the qualitative and quantitative research approaches (Kothri, 2004:5). However, a combination of both these approaches, a mixed-methods approach, can be used by a researcher. Kothri describes quantitative research as an approach that involves the generation of data in the quantitative form which can be subjected to a lot of quantitative analysis in a formal fashion (Kothri, 2004:5). Quantitative research involves variables, treatment and hypothesis testing (Lichtman, 2014:4).

The quantitative research approach can be used when large data needs to be collected, as it is appropriate for large samples (Cooper and Schindler, 2014:147). Another advantage of the quantitative research approach is that since data can be quantifiable, it can be inferred to larger populations. However, due to large samples, the time for the collection of data is often long (Cooper and Schindler, 2014:147). Moreover, when generalising the findings of the sample, the population may not have the characteristics of the said sample.

Qualitative research is another research approach. It is concerned with a subjective assessment of attitudes, opinions and behaviours (Kothri, 2004:5). Moreover, the qualitative research approach attempts to gain an understanding of the underlying reasons and motivations for actions and to establish how people interpret their experiences and the world around them (McDonald and Headman, 2015:8).

The characteristics and differences of the two approaches are shown below as stated in McDonald and Headlam (2015:9);

Table 3: Characteristics and Differences of Research Approaches

Characteristics	Quantitative	Qualitative
Aim	The aim is to count things in an attempt to explain what is observed.	The aim is a complete a detailed description of what is observed.
Purpose	Generalisation prediction and casual explanations.	Contextualization, interpretation, understanding perspectives.
Tools	A researcher uses tools such as surveys to collect numerical data.	The researcher is the data gathering instrument.
Output	Data is in the form of numbers and statistics.	Data is in the form of words, pictures or objects.
Sample	Usually a large number of cases representing the population of interest. Randomly selected respondents	Usually a small number of non-representative cases. Respondents are selected based on their experience.
Objective/Subjective	Objective – seeks precise measurement and analysis.	Subjective – Individual's interpretation of events is important.
Researcher role	The researcher tends to remain objectively separated from the subject matter.	The researcher tends to become subjectively immersed in the subject matter.
Analysis	Statistical.	Interpretive.

It is explained in Flick (2010:13) that the quantitative approach relies extensively on numbers and statistics in the analysis and interpretation of the findings that are generalized from the sample to the population. The qualitative approach generally uses smaller samples, from which the findings give a better understanding of the

phenomenon being investigated. For these reasons, a qualitative approach will be used for this study.

In qualitative research, relevant data is derived from field-based activities including; interviewing, observing, collecting and examining materials (Mouton, 2001:105). These approaches are briefly explained below. Interviews are categorised into two types, structured and unstructured or qualitative interviews. While all interviews involve an interaction between an interviewer and an interviewee, structured interviews carefully script this interaction (Mason, 2002:97-100). The researcher formally adopts the role of the interviewer, trying to get responses from the interviewee. Furthermore, the researcher or interviewer adopts the same consistent behaviour and demeanour when interviewing every participant (Mason, 2002:97). However, with unstructured interviews, the relationship between a participant and an interviewer is not scripted (Mason, 2002:98). Moreover, the interviewer does not try to develop any uniform behaviour for every interview but instead follows a conversational mode (Litchman, 2014:248-249).

It is the systematic collection of data about behaviour or action where the researcher cannot exercise experimental control over the research participants (Perri and Bellamy, 2012:13). The observations of the researcher are a form of primary data (see 2.3) (Litchman, 2014:281; Mason, 2002:110). Although the researcher is likely to engage in some participatory role through participant observation), he or she may assume a totally passive role, through a non-participant observation (Litchman, 2014:281; Mason, 2002:110).

Another approach in collecting data and examining it is about compiling or accumulating documents, artefacts and archival records related to the study topic (Litchman, 2014:281; Mason, 2002:110). Litchman gives examples of documents such as minutes of meetings, newspaper accounts and letters (Litchman, 2014:281). However, the generation and use of documents does not “inherently involve the researcher in social interactions as do interviews and observations, although it may” (Mason, 2002:109).

This study used a document analysis as the method of data collection. This is because the data required for the study was contained in the documents published annually by the SOEs. Specifically, the integrated reports of the different SOEs were analysed.

There are two types of documents, the primary documents and secondary documents (Taylor et al., 2016:155; Kumar, 2011:163; Creswell, 2014:191). Primary documents are original eyewitness accounts while secondary documents are those that have been written by others based on primary documents (Taylor et al., 2016:155; Kumar, 2011:163; Creswell, 2014:191. This study used both types of documents. Primary documents that were used included the integrated reports for analysis, while the secondary sources were used predominantly for the literature review.

1.7 Sampling and Selection

Since it may not be possible to study the whole population, a researcher may need to sample the population. Sampling and selection are the principles and procedures used to identify, choose and gain access to the relevant data sources from which the researcher generates the data using his or her chosen methods (Mason, 2002:120). In qualitative research, the main aim is to understand the phenomenon under investigation deeply.

Therefore, representative samples are not a requirement as they are in quantitative studies. However, the researcher needs to identify a sample of participants that carries most of the characteristics associated with the phenomenon under investigation. That is, a non-probability sampling rather than a probability sampling is made.

Non-probability sampling is arbitrary and subjective. The samples are chosen with a pattern or scheme in mind (Cooper and Schindler, 2014:343). Contrariwise, probability sampling is based on the concept of random sampling, where no population element is given a chance of selection (Cooper and Schindler, 2014:343). Furthermore, a purposive sampling, in which a sample conforms to certain criteria was chosen. Judgement sampling, rather than quota sampling, was used in selecting the SOEs for the purposes of this study. Therefore, while the population of the study included all the SOEs in South Africa, eight were selected for evaluation and analysis of the eight financial years, from 2010/2011 to 2017/2018.

The eight entities selected for the study were Alexkor, Denel, South African Express, Eskom, Transnet, South African Broadcasting Corporation, the Passenger Rail Agency of South Africa and the South African Airways. These SOEs have been listed

in Schedule two of the PFMA (Act 1 of 1999) as the major public entities, hence their selection in the study. Moreover, these entities have been selected based on the fact that they seem to have challenges with the application of principles of Corporate Governance (Peyper, 2017:1), as evidenced by audit reports received (see Table 4 on page 44).

1.8 Significance of the study

Due to the numerous Corporate Governance challenges facing SOEs in South Africa (see 1.1 above), possible gaps in the application of Corporate Governance practices needed to be determined. The results of this research were considered to be valuable to the Government of South Africa, the SOEs together with the Parliamentary committees to which the SOEs are answerable. This study was deemed significant towards helping these institutions with the effective management and governance of the SOEs. It was further deemed useful for the practitioners who would probably also be able to advise the SOEs according to the findings and conclusions of this study.

1.9 Ethical Considerations

Ethics are defined as “norms or standards of behaviour that guide moral choices about our behaviour and our relationships with others” (Cooper and Schindler, 2014:28). It is further stated in Cooper and Schindler (2014:28) that ethics help ensure that research does not harm anyone nor negatively affect them. Moreover, Cooper and Schindler (2014:28) state that the design of research should be such that participants do not suffer discomfort, pain or embarrassment. Therefore, consideration has been made for ethical issues for this study.

Ethical consideration has been made for the whole study and not just some parts of it. That is, from the research proposal to the final reporting of the research. These ethical issues relate to quality research, coercion, safety, deception and privacy.

Since the findings and conclusions of this study are based on document analysis, there was no direct interaction with any participants. Therefore, there was no risk of participants’ deception and infringing their privacy or the need for their consent.

Even though the annual integrated reports are publicly available information, there might possibly be sensitive information or information that might be seen as being sensitive in the documents. This study treated such information with respect and sensitivity.

1.10 Chapter Layout

The study is set out in chapters, as explained below;

Chapter 1: This chapter highlights the Corporate Governance challenges faced by South African SOEs. The research objectives of the study, the research methods followed in the study together with the significance of the study are briefly outlined in this chapter. A brief literature review on Corporate Governance is given.

Chapter 2: In chapter 2, different types of research methods are discussed. The research methods selected for this study are also presented.

Chapter 3: Through a literature review, a thorough background of Corporate Governance is given in Chapter 3 in the following order: the background of Corporate Governance around the world, Corporate Governance in SOEs. The development of Corporate Governance in South Africa and Corporate Governance in South African SOEs.

Chapter 4: In this chapter, the integrated reports of eight SOEs are analysed over eight years. Through this analysis, the gaps in the Corporate Governance practices by SOEs are established. Moreover, possible areas for improvement on Corporate Governance are identified.

Chapter 5: This final chapter is dedicated to the conclusions and recommendations for improvement of Corporate Governance. Possibilities for further research are suggested.

1.11 Chapter Conclusion

In this chapter, concerns over the state of Corporate Governance in South African SOEs were stated. These concerns were shown through examples of Corporate Governance failures in the SOEs. A brief history of Corporate Governance was also

given. Theories such the Agency Theory, the Stakeholder Theory, the Stewardship Theory and the Transaction Cost Economics were also discussed.

Research methods were briefly discussed. The qualitative research approach was chosen for the study. Document analysis was applied for data collection. In addition, purposive sampling was chosen as the most appropriate method for the selection of the SOEs that were included in the study. Finally, the significance of this study was stated.

Chapter 2: Research Methods

2.1 Introduction

Research is conducted according to the "preferred ways of understanding reality, building knowledge and gathering [data]" (Tracy, 2013:38). The preferred ways of conducting research are referred to as paradigms or philosophical worldviews on research (Creswell, 2014:5; Tracy, 2013:38; Neuman, 2014:96). There are four commonly cited paradigms, namely, the positivist or post-positivist paradigm, the interpretive or constructivist paradigm, the critical paradigm and the postmodern or post-cultural paradigm (Taylor et al., 2016:28; Tracy, 2013:38; Creswell, 2014:5; Denzin and Lincoln, 2005:11; Neuman, 2014:96-97). The paradigms differ based on the nature of reality or ontology, the nature of knowledge or epistemology, the values associated with areas of research or axiology, and on the basis of the methodology (Tracy, 2013:38; Mason, 2002:14-16; Mann, 2016:44). Ontology, epistemology, and axiology are outside the scope of this study, and the discussion will only focus on research methodology and not on the research paradigms.

Chapter 2 advances the topic of research methods through the discussion of qualitative research and quantitative research. The chapter proceeds to the methods used for this study and why those methods were chosen. A brief discussion of the literature review then follows, with a particular focus on the rationale for a proper literature review. Guidelines in conducting a proper literature review are also discussed. The discussion starts with quantitative research.

2.2 Quantitative Research

2.2.1 Introduction

Quantitative research is a research approach that deals with the "testing of objective theories by examining the relationship variables" (Creswell, 2014:4). Quantitative research is concerned with variables that can be measured, and numbered data that can be analysed by statistical procedures (Given, 2008:715; Kothari, 2004:5; Creswell, 2014:4). Quantitative research is about the "approaches to empirical inquiry that collect, analyse and display data in numerical rather than narrative form" (Given,

2008:714). Additionally, quantitative research is deductive, allowing the findings to be generalised to the population (Cooper and Schindler, 2014:146; Creswell, 2014:4; Fallon, 2016:3). Quantitative research is divided into three main designs, the experimental, non-experimental and the quasi-experimental designs (Given, 2008:715; Kumar, 2011:113). However, other authors, such as Kothari (2004:5) recognise three approaches to quantitative research. These are the inferential approach, the experimental approach and the simulation approach. For the purposes of this study, the first classification of quantitative research is discussed, starting with the experimental research design.

2.2.2 Experimental Research

The experimental approach to quantitative research is characterised by control, where the research environment is controlled by a researcher and some variables manipulated in order to observe their effect on other variables being studied (Campbell and Stanley, 1966:1; Kothari, 2004:5; Creswell, 2014:13; Cooper and Schindler, 2014:192). A variable is a concept, such as weight, height or income, that can assume different quantitative values (Kothari, 2004:33). Quantitative research distinguishes between two types of variables, independent variables or interventions and dependent variables. The distinction between dependent and independent variables is that in an experiment the latter is manipulated and controlled, while the former is not (Given, 2008:755). In an experimental research design, the researcher establishes a cause-and-effect relationship between dependent variables and independent variables (Kumar, 2011:114).

The researcher establishes the cause-and-effect relationship by introducing an independent variable that he or she assumes will cause a change to the dependent variable (Given, 2008:715; Kumar, 2011:114). The researcher then waits until a change to the dependent variable has been made or until sufficient time has been given for the change to happen (Kumar, 2011:114). There are criteria to be met for the causality of a variable to be proven. For example there must be a relationship between the variables; the cause must precede the effect and the independent variable must be controlled (Kothari, 2004:121; Kumar, 2011:113; Crous, 2012:34). Crous adds that

causality between variables is proven when all the above-mentioned criteria are met (Crous, 2012:34).

2.2.3 Non-experimental Research

Non-experimental research happens when an independent variable is not controlled, as is the case with experimental research (Kothari, 2004:34). In a non-experimental research, a researcher studies a phenomenon and attempts to establish its cause. In contrast to experimental research, the researcher starts from the effects and attempts to determine causation (Kumar, 2011:113).

2.2.4 Quasi-experimental Research

A quasi-experimental research, also known as a semi-experimental research, can have the characteristics of both an experimental and a non-experimental research design (Kumar, 2011:114). For instance, in a quasi-experimental research design, a study can be carried out in either a controlled environment, which is a characteristic of experimental research (see 2.2.2), or in a natural environment, which is a characteristic of non-experimental research (see 2.2.3) (Kumar, 2011:114).

However, quasi-experimental research lacks the random assignment of research subjects as is the case in experimental research (Shadish and Cook, 2002:14). Additionally, in a quasi-experimental research, the researcher has less control over the assignment of research subjects or the scheduling of experimental stimuli than in experimental research (Campbell and Stanley, 1966:34; Shadish and Cook, 2002:14; Given, 2008:715). Due to lack of full control of the researcher in a quasi-experimental research, the validity of the results may be questioned (Campbell and Stanley, 1966:34; Given, 2008:715). In order to counter the problem of validity, a researcher can make the users of his or her research aware of the threats associated with a quasi-experimental design. The researcher can also inform the users of his or her research not to expect a single study to produce definite results (Given, 2008:715).

2.2.5 Conclusion

In this section, it has been shown that quantitative research is concerned with the measurement of variables. In order to measure the variables, quantitative researchers employ three different methods, namely, the experimental research method, the non-experimental method and the quasi-experimental research method. The discussion shows that experimental research methods are characterised by the researcher controlling the environment and manipulating the variables to determine their effect on other variables (see 2.2.2). The discussion proceeds to non-experimental research, which is the opposite of the experimental research methods (see 2.2.3). It ends with quasi-experimental research methods, which can have the characteristics of both the experimental and non-experimental research methods (see 2.2.4). It then focuses on qualitative research.

2.3 Qualitative Research

2.3.1 Introduction

Different authors have explained qualitative research differently. In the *SAGE Handbook of Qualitative Research*, Denzin and Lincoln have given the following explanation to qualitative research;

> "Qualitative research is a situated activity that locates the observer in the world. It consists of a set of interpretive, material practices that make the world visible. These practices transform the world. They turn the world into a series of representations, including field notes, interviews, conversations, photographs, recordings and memos to the self. At this level, qualitative research involves an interpretive, naturalistic approach to the world. This means that qualitative researchers study things in their natural settings, attempting to make sense of, or interpreting phenomena in terms of the meanings people bring to them" (Denzin and Lincoln, 2005:3).

Creswell has offered another explanation for qualitative research;

> "Qualitative research begins with assumptions, a worldview, the possible use of a theoretical lens, and the study of research problems inquiring into the

> meaning individuals ascribe to a human social problem. To study this problem, qualitative researchers use an emerging qualitative approach to inquiry, the collection of data in a natural setting sensitive to the people and places under study, and data analysis that is inductive and establishes patterns or themes…" (Creswell, 2007:37).

It can be construed from the explanations given above that qualitative research involves studying and interpreting a phenomenon in its natural state, without it being manipulated as it is the case in quantitative research (see 2.2). Furthermore, qualitative research is interpretive in nature and is about establishing an understanding and meaning of a phenomenon, rather than its frequency. The explanations given above are encapsulated by Cooper and Schindler, who best define qualitative research as "array of interpretive techniques which seek to describe, decode, translate and otherwise come to terms with the meaning, not the frequency, of certain more or less naturally occurring phenomena in the social world." (Cooper and Schindler, 2014:144).

Qualitative research has three important aspects to it. The aspects are the collection of data from different sources, the analysis of the collected data and the reporting of the findings of the researcher (Creswell, 2007:43; Creswell, 2014:4-5; Cooper and Schindler, 2014:149). The collection and analysis of data are discussed.

2.3.2 Data Collection

Data can be collected from primary or secondary sources (Mason, 2002:56; Kumar, 2011:139; Cooper and Schindler, 2014:391). On one the hand, primary data is created, while on the other hand, secondary data is already available and only has to be extracted by a researcher (Kumar, 2011:138). Primary data is collected from primary sources while secondary data is collected from secondary sources of data collection (Kumar, 2011:139). Methods of gathering primary and secondary data are discussed.

2.3.2.1 Primary data

In collecting primary data, a researcher can use different methods. The methods are observation, interviews and the use of questionnaires (Kumar, 2011:139; Cooper and Schindler, 2014:172). They are briefly discussed.

- **Observation**

Observation is about monitoring and collecting data on behavioural and non-behavioural activities (Cooper and Schindler, 2014:173). Observation occurs when a researcher collects field notes on the activities and behaviours of individuals being studied (Creswell, 2014:190). Observation may be participatory, in which case the researcher participates in the activities of the group being observed in the same manner as its members, with or without their knowing that they are being observed (Kumar, 2011:141). Observation may also be non-participatory. This happens when the researcher does not get involved in the activities of the group but remains a passive observer. In a non-participatory observation, the researcher observes visually, through listening, reading, smelling and touching (Cooper and Schindler, 2014:173). The researcher neither interferes with what is being observed nor does he or she introduce any variables to the study (Kumar, 2011:141). Observation entails the researcher recording the activities and behaviours at a research site (Creswell, 2014:190). Observation has the benefit of enabling researchers to collect original data as it is produced, without relying on the reporting of others who might leave out important aspects (Cooper and Schindler, 2014:173). Another method of collecting primary data is the use of interviews.

- **Interviews**

Interviews are “guided question-answer conversations, or an interchange of views between two persons conversing about a theme of mutual interest” (Tracy, 2013:131). They differ from conversations in that, interviews are structured while conversations are not (Tracy, 2013:131). A researcher may interview individuals or groups of people. Repetitive interviews with individuals are referred to as in-depth interviews while

interviews with groups are called focus group interviews (Mason, 2002:64; Kumar, 2011:160; Cooper and Schindler, 2014:152). Additionally, interviews may be face-to-face; they may also be telephonic or take place through other electronic means such as electronic mail (Creswell, 2014:191).

Interviews may be structured, unstructured or semi-structured. The classification of interviews into structured, unstructured or semi-structured is based on the level of flexibility and specificity of the interviewer in asking questions (Kumar, 2011:144; Mann, 2016:91). Firstly, in a structured interview, an interviewer "asks a predetermined set of questions, using the same wording and order of questions… " (Kumar, 2011:145). A structured interview assists an interviewer to collect uniform data from different interviewees. Secondly, and in contrast, an unstructured interview allows an interviewer to ask questions in any sequence that he or she deems fit. The interviewer may also use different wording for different interviewees (Kumar, 2011:145). Lastly, a semi-structured interview allows an interviewer to use a guide, rather than a predetermined set of questions as is the case with structured interviews (Cooper and Schindler, 2014:153; Mann, 2016:91). However, a semi-structured interview requires an interviewer to follow the guide, unlike in an unstructured interview where interviewers generally follow the interviewees' lead (Mann, 2016:91).

- **Questionnaires**

While interviews involve a person-to-person interaction between an interviewer and interviewees, there is another method of collecting primary data, using questionnaires. This method involves asking questions from a written list of questions, to which a respondent is requested to provide answers in the spaces provided, in his or her own time (Mason, 2002:67; Kumar, 2011:145; Cooper and Schindler, 2014:320). The difference between interviews and questionnaires is that in an interview, the responses from the interviewee are recorded by the interviewer while the respondents record their own answers on a questionnaire. A researcher may also collect secondary data.

2.3.2.2 Secondary data

Secondary data is prepared by others and a researcher finds it ready for use (Mouton, 2002:144; Matthews and Ross, 2010:285; Taylor et al., 2016:155). Unlike primary data, the researcher has no control over the production of secondary data, as the researcher finds secondary data having already been produced (Mouton, 2002:144). Secondary data may be found in the form of government publications such as census reports, economic forecasts, and demographic information (Mouton, 2002:144; Kothari, 2004:111; Bowen, 2009:28; Labuschagne, 2003:101). Secondary data may also be unpublished (Kothari, 2004:111). It may also be found in previous research conducted by others. Media reports, published in newspapers, magazines and on the internet, also form part of examples of secondary data (Taylor et al., 2016:155; Kumar, 2011:163; Creswell, 2014:191).

Generally, secondary data is found in documents. Documents are defined as "standardised artefacts, in so far as they typically occur in particular formats such as notes, case reports, contracts, drafts, death or other certificates, remarks, diaries, statistics, annual reports, judgements, letters or expert opinions" (Flick, 2010:255). When a researcher uses documents as a source of data for research purposes, this practice is referred to as document analysis and is a qualitative research method of data collection (Mouton, 2002:169; Bowen, 2009:27-28; Cooper and Schindler, 2014:130). Bowen defines document analysis as a "systematic procedure for reviewing or evaluating documents, both printed and electronic, computer-based and Internet-transmitted material" (Bowen, 2009:28). Using document analysis as a qualitative research method has both advantages and disadvantages.

Document analysis is less time consuming, as documents are usually readily available and only need to be selected. Some necessary documents are readily available as they are usually in the public domain. The availability of documents in the public domain makes document analysis a cost-effective method to use for research, adding to the advantages of document analysis as a data collection method. However, there are disadvantages associated with document analysis. For instance, it may be difficult to retrieve some documents, as they may be deliberately blocked. Additionally, documents may not provide sufficient detail needed by a researcher. After data has

been collected, it has to be analysed (Kothari, 2004:18; Flick, 2010:290; Cooper and Schindler, 2014:376).

2.3.3 Data Analysis

In order to analyse the data, a researcher first needs to prepare the data (Flick, 2010:290; Cooper and Schindler, 2014:376). Its preparation ensures that the collected data is accurate and classified in order to make sure it is in the appropriate form for analysis (Cooper and Schindler, 2014:376). Data preparation entails data entry, editing and coding (Cooper and Schindler, 2014:376). Data entry, editing and coding constitute the preliminary activities in its analysis and are briefly discussed.

- **Data entry**

Data entry assists the researcher to convert data collected to a medium that can be viewed and manipulated (Kothari, 2004:122; Cooper and Schindler, 2014:391). Data entry results in the development of a database (Cooper and Schindler, 2014:392). A database is a collection of data which has been organised and which can be retrieved when the need arises (Cooper and Schindler, 2014:392). After entry, data can then be edited.

- **Editing**

Editing is the process of examining the collected data in order to detect errors and omissions for correction (Kothari, 2004:122). Data is also edited to ensure that it is accurate, consistent with other data, uniformly entered and ready for coding (Cooper and Schindler, 2014:395).

- **Coding**

Coding refers to the labeling of data (Strauss and Corbin, 2008:62; Tracy, 2013:186). Data may be labeled by assigning numbers or other symbols to the data so that it can

be classified into categories (Tracy, 2013:186; Flick, 2010:307; Cooper and Schindler, 2014:395). Coding is helpful to a researcher because it enables the researcher to efficiently analyse data (Kothari, 2004:123).

Once all the preliminary activities (data entry, editing and coding) are complete, the researcher may proceed to analyse the data. The researcher attempts to search for and measure patterns of relationships that exist within the data (Kothari, 2004:130). The analysed data will then result in the findings, which the researcher has to communicate to the users of research.

2.3.4 Conclusion

The discussion of qualitative research is divided into three main components, the collection of data, the analysis of data and the reporting of the findings by the researcher. However, only data collection and data analysis are discussed here. Two sources of data, primary sources and secondary sources are identified. Data collected from primary sources and secondary sources is categorised as primary data and secondary data respectively. On one hand, the discussion establishes that primary data can be collected through research methods such as observation, interviews and the use of questionnaires. On the other hand, a researcher can use document analysis to collect secondary data. Document analysis was chosen as the most appropriate research method for this study. Section 2.4 shows the research process and methodology.

2.4 Research Process and Methods

Notwithstanding the aforementioned disadvantages (see 2.3.2), this study will use document analysis as a research method. This is because not only is it appropriate for this study but it also has advantages that outweigh the disadvantages of using document analysis. Moreover, there are mitigating factors to the outlined disadvantages. With regard to the ease of access of the integrated annual reports, South African SOEs are required by law, the Companies Act (Act 71 of 2008) and the PFMA (Act 1 of 1999), to publish their annual integrated reports. As such, they must make the annual integrated reports easily accessible to the public. Moreover,

assurance by external auditors is provided to make sure that the published reports are reliable and therefore contain data which is needed for the study.

This study is focused on the disclosures of Corporate Governance principles in selected South African SOEs to identify possible gaps in the application of Corporate Governance practices, particularly the major SOEs listed in Schedule 2 of the PFMA (Act 1 of 1999). However, Corporate Governance is not a unique phenomenon to South Africa. Therefore, the literature review Chapter includes the following aspects:

- A discussion on Corporate Governance failures and scandals around the world (see 3.1);
- A discussion on Corporate Governance Theories (see 3.2);
- A discussion on Corporate Governance in selected countries other than South Africa. The selected countries are the United States of America, the United Kingdom and Germany (see 3.3) and
- Corporate Governance in South Africa (see 3.4).

After the literature review, the annual integrated reports of eight SOEs will be analysed. The eight SOEs selected for the study are Alexkor, Denel, South African Express, Eskom, Transnet, SABC, PRASA and SAA. These eight SOEs were chosen due to the audit reports that they have received in the financial years from 2010/2011 to 2017/2018 (see 4.3.2). As the King IV Report on Corporate Governance were applicable on all entities with a financial year starting on or after 1 April 2017, both the King III and King IV reports were used to determine the best practices for Corporate Governance. Table 4 shows the audit opinions expressed on the annual reports of the eight SOEs.

Table 4: Audit Opinions of the eight SOEs Selected for the Study

	Financial years									
State-owned entities	**2008/2009**	**2009/2010**	**2010/2011**	**2011/2012**	**2012/2013**	**2013/2014**	**2014/2015**	**2015/2016**	**2016/2017**	**2017/2018**
Alexkor	U, E	U, E	U, E	U, E	U, E	U	U, E	U, E	U, E	X
Denel	U, E	U, E	U, E	U, E	U, E	U	U, E	U, E	U	X
South African Express	X	X	X	D	Q	X	Q	Q	X	X
Eskom	U	U	U	U, E	U, E	U, E	U, E	U, E	Q	Q
Transnet	U	U	U	U, E	U, E	U	U	U	U	X
SABC	Q	U, E	Q	Q	D	Q	Q	Q	A	X
PRASA	U, E	U, E	U, E	U, E	U	U, E	U, E	U, E	X	X
SAA	U, E	U, E	U, E	U, E	U, E	U, E	U	U	Q	X

Key:

U = Unqualified audit opinion
U, E = Unqualified audit opinion, with an emphasis of matter paragraph (Unmodified audit opinion)
Q = Qualified audit opinion
A = Adverse opinion
D = Disclaimer opinion
X = Annual integrated report not published

Sources: Alexkor, 2011; Alexkor, 2012; Alexkor, 2013; Alexkor, 2014; Alexkor, 2015; Alexkor, 2016; Alexkor, 2017; Denel, 2011; Denel, 2012; Denel, 2013; Denel, 2014; Denel, 2015; Denel, 2016; Denel, 2017; Eskom, 2011; Eskom, 2012; Eskom, 2013; Eskom, 2014; Eskom, 2015; Eskom, 2016; Eskom, 2017; Eskom, 2018; PRASA, 2011; PRASA, 2012; PRASA, 2013; PRASA, 2014; PRASA, 2015; PRASA, 2016; PRASA, 2017; SAA, 2011; SAA, 2012; SAA, 2013; SAA, 2014; SAA, 2015; SAA, 2016; SAA, 2017; SABC, 2011; SABC, 2012; SABC, 2013; SABC, 2014; SABC, 2015; SABC, 2016; SABC, 2017; SABC, 2018; Transnet, 2011; Transnet, 2012; Transnet, 2013; Transnet, 2014; Transnet, 2015; Transnet, 2016; Transnet, 2017; Transnet, 2018.

As can be seen from Table 4, in the ten financial years under consideration, the eight selected SOEs received 14 unqualified audit opinions out of 80. The majority (32) of the audit opinions are unmodified. That is, the audit opinions were unqualified, but contained emphasis of matter paragraphs. An emphasis of matter paragraph is “a paragraph included in the auditor’s report that refers to a matter appropriately presented or disclosed in the financial statements that, in the auditor’s judgment, is of such importance that it is fundamental to the users’ understanding of the financial statements”. For the SOEs under review, emphasis of matter paragraphs were as a result of matters such as significant doubt about SOEs’ ability to continue as going concerns or reportable irregularities relating to financial losses as a result of irregular expenditure (Eskom, 2015:14,108; Denel, 2011:123). Furthermore, media reports, commissions of inquiry, parliamentary inquiries and investigations by the office of the

Public Protector have created a public perception that there are Corporate Governance challenges in the selected SOEs (see 1.1 and 3.2.5).

Therefore, the analysis in Chapter 4 covers annual integrated reports published from the 2010/2011 financial year to the 2017/2018 financial year. The analysis is done in order to establish the extent to which South African SOEs disclose the application of Corporate Governance principles. Although most of the 2017/2018 integrated reports had not been published by the SOEs at the time of the analysis, they have been included in the study since the late publication of the integrated reports has a Corporate Governance implication in the SOEs (see Section 5.6 for a discussion on limitations of the study). Table 5 shows the summary research process and method for the study.

Table 5: Research Process and Methods

STAGES IN THE RESEARCH PROCESS	**ACTIVITY**
Research design	
STAGE 1	
Literature review, part 1	Rationalise the research problem and discuss the background and development of the different components of the study.
Literature review, part 2	By comparing the disclosures recommendations in the King III and King IV Reports on Corporate Governance, determine what South African SOEs should disclose relating to their application of Corporate Governance practices.
STAGE 2	

STAGES IN THE RESEARCH PROCESS	ACTIVITY
Research design	
Data collection, part 1	Obtain annual integrated reports for the eight SOEs from their respective websites.
Data Collection, part 2	Capture the data from the annual integrated reports and through document analysis using the ATLAS.ti qualitative data analysis software.
STAGE 3	
Data analysis	Export data from ATLAS.ti to Microsoft Excel and use the data in Excel spreadsheets to identify the possible gaps in the application of Corporate Governance practices in the eight SOEs, based on the disclosures in their Integrated Reports.
STAGE 4	
Conclusion, part 1	Based on the results of the analysis, conclude on the weaknesses in the application of Corporate Governance practices by South African SOEs.
Conclusion, part 2	Make recommendations to address the identified weaknesses in the application of Corporate Governance principles by the SOEs.

As can be seen from Table 5, the research process starts with a chapter on the literature review. A discussion on why a literature review is important together with the guidelines for conducting a proper literature review are given in section 2.5.

2.5 Literature Review

A literature review is an examination of "recent or historically significant research studies…" (Cooper and Schindler, 2014:596). It is defined as "the selection of available documents, both published and unpublished, on the topic, which contain information, ideas, data and evidence written from a particular standpoint. The review seeks to fulfil certain aims or express certain views on the nature of the topic and how it is to be investigated, and the effective evaluation of these documents concerning the research being proposed." (Hart, 1998:13; Ridley, 2012:3).

In his renowned book, *Doing a Literature Review: Releasing the Social Science Research Imagination*, Hart argues that without reviewing the literature, one cannot understand the topic that one wants to conduct research on, its key issues and what has already been done on it (Hart, 1998:1). Knowing what has already been done helps one to "avoid the calamities of ignorance and the reinvention of what is already known" (Baker, 2000:219). Randolph, Boote and Beile corroborate this assertion, as they argue that if the literature review is flawed, the remainder of the research may also be viewed as flawed because "a researcher cannot perform significant research without first understanding the literature in the field" (Randolph, 2009:1; Boote and Beile, 2005:3). A literature review serves many purposes such as the ones outlined below:

- "Discovering important variables relevant to a topic;
- Synthesising and gaining new perspectives;
- Identifying relationships between ideas and practice;
- Establishing the context of a topic or problem;
- Rationalising the significance of a problem;
- Enhancing and acquiring the subject vocabulary;
- Understanding the structure of the subject;
- Relating ideas and theories to applications;
- Identifying the main methodologies and research techniques that have been used

- Placing the research in a historical context to show familiarity with state-of-the-art developments." (Hart, 1998:27; Baker, 2000:221; Boote and Beile, 2005:13; Randolph, 2009:6).

Furthermore, a literature review should not be just a summary of sources but should define and explain concepts, terms, and developments in a comprehensive and logical manner (Steward, 2004:499). In order to achieve this, Crous has provided a summary of guidelines for researchers in conducting a proper literature review:

- "Start by listing the headings and keywords that will be used in the literature review;
- Rather read too widely than too narrowly;
- Summarise articles, books dissertations, reports and other sources that will be used in the literature review;
- Identify the most important conclusions reached and implications suggested in other studies;
- Allow sufficient time for the literature review;
- Keep abreast of the latest research in the field and make sure that sources used are topical and current;
- Cover the main aspects of research in the field;
- Be fair in your treatment of others;
- Do not confine the literature review to internet sources only;
- Be organised in your search and writing the literature review;
- Use original sources; and,
- Summarise the literature in terms of your problem statement to indicate how it relates to the identified problem and gaps in the field of study" (Crous, 2012:27-28).

Crous states that if these guidelines are followed, "the literature review should be sufficiently comprehensive and detailed to enable the researcher to conclude on the scholarly importance of the proposed research" (Crous, 2012:28). A literature review for the study follows in Chapter 3.

2.6 Chapter Conclusion

Chapter 2 has focused on the discussion of research methodology, particularly quantitative and qualitative research. Under quantitative research, research methods were discussed. The discussed research methods are the experimental research method, the non-experimental research method and the quasi-experimental research method (see 2.2). The discussion then focused on qualitative research. Research methods discussed under qualitative research are observation, interviews, the use of questionnaires and document analysis (see 2.3). It is from the discussion of quantitative and qualitative research that a qualitative research approach through document analysis was chosen for the study (see 2.3.2). The document analysis was done on the annual integrated reports of the eight SOEs selected for the study. The document analysis focuses on integrated reports published from the 2008/2009 financial year to the 2017/2018 financial year. The document analysis is done in order to determine the possible gaps in the application of Corporate Governance practices in the selected SOEs.

Document analysis is preceded by a literature review on Corporate Governance. The literature review was done in order to determine the background of Corporate Governance, the Corporate Governance principles that South African SOEs are recommended to apply and disclose annually, and to show why the application and disclosure of Corporate Governance is important. Therefore, the research methodology followed in this study is a combination of the literature review and a qualitative data analysis. A chapter on literature review follows which forms the basis for the document analysis of the study.

Chapter 3: Corporate Governance Scandals and Literature Review on Corporate Governance

3.1 Introduction

This chapter underscores the literature on the most known Corporate Governance failures in selected countries to show the problems that arise when principles of good Corporate Governance are not applied. These problems are shown in each scandal or failure of Corporate Governance. Firstly, the 2008 global financial crisis is discussed from the Corporate Governance perspective. Particularly, Corporate Governance failure in The Lehman Brothers Bank which was seminal in the crisis is discussed. The Enron scandal, which also happened in the USA is discussed. Other cases of failure in Corporate Governance, including those in South Africa, are also explored. The scandals and failures that happened in Toshiba, the state capture in South Africa and KPMG South Africa are also discussed.

The second section of the chapter deals with the theories behind Corporate Governance. These theories show the different ways in which different countries or Corporate Governance regimes deal with ways of curbing Corporate Governance failures and scandals. Based on the backdrop of these theories, Corporate Governance in different countries is discussed. The selected countries for the purposes of this study are the USA, the UK, and Germany (see 3.4.1). The chapter then proceeds to Corporate Governance in South Africa, particularly its historical background and reforms. The last section of the chapter addresses the Corporate Governance in South African SOEs.

3.2 Corporate Governance Scandals

3.2.1 Background

Had it not been for the 2008 financial crisis, many Corporate Governance scandals and failures would not have been exposed. This crisis is reported as the most serious financial crisis since the Great Depression between 1929 and 1941 (Creel et al, 2014:56, Lang and Jagtiani, 2010:124). More importantly, the crisis is largely blamed

on Corporate Governance failures (Erkens et al., 2012:1; Kashyap et al., 2008:437-440; Turnbull and Pirson, 2012:1-2). Therefore, a discussion on the 2008 financial crisis and its links to Corporate Governance is warranted.

The financial crisis began in the USA (Isaksson and Kirkpatrick, 2009:3; Sun et al., 2011:1). It was a result of subprime mortgages that were being offered by banks to customers in the USA between 2006 and 2008. A subprime mortgage is a loan given to an individual who has a credit impairment such as lacking a documented credit history or missing installment payments (Isaksson and Kirkpatrick, 2009:3; Sun et al., 2011:1). Offering subprime mortgages to customers created an environment where banks would take more risk and sell these mortgages in order to increase their reported profits. The remuneration of the bank directors would then increase, as it was based on the performance of the banks (Moslein, 2011:285). The increased remuneration then resulted in an agency problem (see 3.2.2), where directors were concerned mostly about their own interest than the long-term sustainability of the banks, highlighting the goal incongruence between shareholders and directors. One such bank that was involved in the practice of excessive risk-taking was the Lehman Brothers Bank and it is discussed below.

3.2.2 The Lehman Brothers Bank

At the time of filing for bankruptcy in 2008, the Lehman Brothers Bank was the fourth largest investment bank in the USA and it was considered “too big to fail” (Clarke, 2011:35; Wiggins et al., 2014:11). The bankruptcy filing came about as a result of the Federal Government of the USA refusing to bail the bank out of bankruptcy (Wiggins et al., 2014:11). The USA government had determined that it could not bail out Lehman Brothers Bank, as it had no legal authority to do so (Gakpo, 2012:5). Instead, the government proposed three options to the Lehman Brothers Bank; a purchase by another company, a bailout by other commercial and investment banks, or filing for bankruptcy (Gakpo, 2012:5). However, the other banks and companies that could possibly buy the Lehman Brothers Bank decided against buying, as it was too risky to do so (Wiggins et al., 2014:11; Financial Crisis Inquiry Commission, 2011:325) and the board subsequently filed for bankruptcy.

After the fall of the bank, the Lehman Brothers Bank board was widely criticised for being incompetent, lacking relevant banking experience and being negligent (Staff Reporter, 2011b:1-3; Levin, 2014:1; Gillespie and Zweig, 2010:1). The structure of the board was however not a problem, as eight of the ten directors were considered independent and met the independence standards of the NYSE (Larcker and Tayan, 2010:12). In particular, the board was criticised for not having a thorough understanding of financial markets (Financial Crisis Inquiry Commission, 2011:327). Of the ten directors of the Lehman Brothers Bank before its demise, only one had banking experience considered relevant for a board member of a bank (Gillespie and Zweig, 2010:1; Klepczarek, 2017:62).

Larcker and Tayan (2010:12) suggest that "… the board did not sufficiently monitor the decisions of senior management or understand the risks that the company was exposed to as a result of those decisions". One such decision was executive payment structures which encouraged excessive risk-taking (Bebchuk et al., 2009:258). Furthermore, between 2000 and 2008, the Lehman Brothers Bank board is reported to have received an amassed remuneration of one billion US dollars in cash bonuses and equity sales (Larcker and Tayan, 2010:257). Consequently, the fall of the Lehman Brothers Bank is reported to have resulted in a loss of $10.2 trillion on GDP in the USA alone (Pirson and Turnbull, 2015:81). However, the agency problem has not been unique only to the Lehman Brothers Bank case. Another USA company that went bankrupt as a result of the self-interest of directors is Enron.

3.2.3 Enron

Enron was a USA energy company that went bankrupt in 2001 (Li, 2010:37; Peavler, 2016:1; Staff Reporter, 2002a:1; Pugliese, Minichilli and Zattoni, 2014:1189). The fall of Enron is considered to have also resulted in what is argued to be the biggest audit failure in the world (Li, 2010:37; Titcomb, 2014:1; Farrell, 2015a:2). The failure of Arthur Anderson, Enron's external auditor, "raised questions about the failures and loopholes in the audit firm's Corporate Governance processes" (Sauviat, 2006:143). When an audit firm's Corporate Governance processes are questionable, its ability to provide reasonable assurance on the financial statements of its clients also becomes questionable (see KPMG South Africa in 3.2.6). Though Enron had reported revenues

of $100 billion in the 2001 financial year it was later revealed that "…its reported financial condition was sustained substantially by institutionalised, systematic and creatively planned accounting fraud" (Li, 2010:37). That is, its financial statements did not present a true reflection of the financial position and performance of the company (Cunningham and Harris, 2006:34). Furthermore, Arthur Anderson, its external auditor, was accused of being negligent when auditing Enron, thus assisting Enron to conceal its losses (Naylor, 2014:1). Upon restating its financial statements in 2001 for the previous five financial years, Enron reported losses of $586 million (Li, 2010:37).

Additional to accounting fraud, the fall of Enron has been attributed to many other factors. However, this study focuses only on those that have a bearing on Corporate Governance. These factors are lack of transparency by the board, self-interest by management and the board and failure in fiduciary duty by the board (Lieberman, 2002:11; Li, 2010:37-38; Peavler, 2016:2; Staff Reporter, 2002b:2; Cunningham and Harris, 2006:40-44). The events that led to the fall of Enron are discussed.

Abelson (2002:1) reported immediately after the scandal in 2002 that the board of Enron was actively involved and played a significant role in the decisions that led to the fall of Enron. Primarily, the board waived its code of ethics "to approve the creation of partnerships between Enron and its Chief Financial Officer", despite being aware of the potential risks that may emanate from these partnerships (Jennings, 2014:298; Abelson, 2002:1-3; Navran and Pittman, 2009:9). These partnerships "kept significant debt off Enron's books and masked much of what was really going on at the company" (Abelson, 2002:2; Baker, 2013:12; Rimkus, 2016:3-8). Enron's external auditors, Arthur Anderson, then admitted to making "an error in judgement" about the accounting treatment of Enron's debts, which resulted in overstating Enron's profits by over $600 between 1997 and 2000 (Staff Reporter, 2002a:2; Miller, 2004:20; Naylor, 2014:1).

Furthermore, by USA corporate standards, "Enron's executives were paid lavishly, enjoying not only above-market salaries, but also freewheeling expense accounts and staggeringly large bonuses" (Lieberman, 2002:3-4; Lease, 2006:7). However, it could be argued that this remuneration was justified by the good company performance over the years. Evidence presented in investigations and commissions of inquiry that the board was involved in fraudulent accounting practices and colluding with its external

auditors, suggests otherwise since the profits were overstated (Lieberman, 2002:57-57; Miller, 2004:20; Cunningham and Harris, 2006:43-44).

Moreover, as a scheme to enrich themselves, the board members took personal loans from Enron, sold the shares they held back to Enron, all in full knowledge that the company was on the verge of a collapse. As stated in Lease (2006:7), the CEO was able to sell $52 million back to Enron using this strategy.

The fall of Enron had dire consequences for its stakeholders. It resulted in over 5 500 jobs lost as well as the loss of pensions of its employees. Furthermore, $60 billion in shareholder value was lost (Hargreaves, 2013:2; Staff Reporter, 2011a:1-2). This Corporate Governance failure resulted in the enactment of the Sarbanes-Oxley Act (Act of 2002) (SOX) in the USA (United States Congress, 2002:745). The Act seeks to "protect investors by improving the accuracy and reliability of corporate disclosures made…" (United States Congress, 2002:745) (see 3.3.2). Shareholder protection is not only required in the USA, as directors in a Japanese company, Toshiba, were also engaged in fraudulent accounting practices. Toshiba is briefly discussed below.

3.2.4 Toshiba

In 2015, improper accounting was found to have taken place for over seven years at Toshiba, starting from 2008 (Carpenter, 2015:1; Farrell, 2015b:1; Staff Reporter, 2016a:1, 2016b:1). It started during the global financial crisis (see 3.1.2), which negatively affected Toshiba's profitability (Suzuki, 2015:1; Staff Reporter, 2016a:1, 2017:2). This was revealed by an independent investigation report released in 2015, detailing the accounting improprieties at Toshiba (Ueda et al., 2015:17). The investigation was considered independent because it was made up of independent experts with no interest in Toshiba (Ueda et al., 2015:17).

The investigation was necessitated by Japan's Securities and Exchange Surveillance Commission (SESC) request to inspect Toshiba's disclosures for its recognition of revenue in its financial statements in the 2013 financial year (Ueda et al., 2015:17; Nagata, 2015:2). The investigation revealed that the inappropriate accounting treatment of transactions happened during the tenure of Toshiba's three former CEOs (Ando, 2015:1; Inagaki, 2015:1; Staff Reporter, 2015b:1). The inappropriate

accounting practices were done through purposely understating the costs of production and purposely inflating prices for Toshiba's inter-related party sales (Nagata, 2015:2). The investigation further showed that while the three former CEOs did not instruct their subordinates to misstate the financial statements, the three former CEOs were aware of such misstatements and placed immense pressure on their subordinates not to correct that inappropriate accounting treatment of overstated revenues and understated costs (Inagaki, 2015:1; Ueda et al., 2015:307-308).

With pressure from the top executives, profits were pre-empted, with losses and expenses deferred in the financial statements to subsequent financial years. The pressure was exerted by the executives when business units were expected to meet excessive profit targets, which the company eventually failed to achieve (Ueda et al., 2015:309). These targets, which Toshiba called challenges, were only based on a current quarter or current year profits rather than the long-term profitability of the company (Ueda et al., 2015:308). Moreover, when it became difficult to achieve profit improvement targets, a challenge would be given to a business unit to achieve an overstated budget that exceeded the capabilities of the unit, thereby creating pressure to engage in inappropriate accounting practices (Ueda et al., 2015:308-309), which were possible since there existed a corporate culture within Toshiba in which employees "…could not act contrary to the intent of their superiors" (Staff Reporter, 2015b:1; Ueda et al., 2015:309). Therefore, when top management imposed a challenge, subordinates engaged in fraudulent accounting practices so that their reported financial results would show the profit targets as having been achieved (Bhattacharyya, 2015:1; Inagaki, 2015:1; Staff Reporter, 2015b:1; Ueda et al., 2015:309).

In the end, the independent investigation established that Toshiba had overstated its profits by at least $1.2 billion (Ando, 2015:1; Bhattacharyya, 2015:1; Nagata, 2015:1; Staff Reporter, 2015a:1, 2015b:1). In the aftermath of the scandal, the CEO of Toshiba and eight of the 16 members of the board resigned (Ando, 2015:1). Additionally, two former CEOs, who had assumed other positions in the company also resigned (Du, 2015:1). While some commentators argue that the Toshiba scandal has been a result of a corporate culture that existed in Toshiba of imposing unachievable profit targets and not allowing the employees to question directives (see discussion above), others

argue that this scandal is indicative of a failure of Corporate Governance in Japan (Iljazi, 2017:2).

So far, the discussion has centred around Corporate Governance scandals in the private sector (see 3.2.1 to 3.2.4). However, public institutions such as SOEs are not immune to Corporate Governance scandals. There are SOEs in South Africa that have been involved in Corporate Governance scandals. They include PRASA, Transnet, Eskom, Denel and SAA, which the Public Protector has reported to have been involved in the state capture allegations (Public Protector, 2016:48-49). PRASA and Transnet are discussed briefly.

3.2.5 State Capture in South Africa

3.2.5.1 Introduction

The topic of state capture was briefly introduced and defined in Chapter 1 (see 1.1). This section continues that discussion by showing how this phenomenon has resulted in Corporate Governance failures and scandals in South Africa's SOEs. Although Eskom, Denel and SAA have also been implicated in allegations of state capture (Public Protector, 2016:48), this section only focuses on PRASA and Transnet. This is because Eskom, Denel, and SAA have already been alluded to in Chapter 1 (see 1.1).

3.2.5.2 PRASA

PRASA has been involved in more than one Corporate Governance scandal (Bhorat et al., 2017:26-27; Magubane, 2018a:1; Public Protector, 2015:357-382). One notable scandal was one which the Public Protector investigated, and produced a report called *Derailed* (Gqirana, 2015:1). The Public Protector's investigation into PRASA was as a result of a complaint lodged by the South African Transport and Allied Workers Union (SATAWU) in 2012 (Public Protector, 2015:3).

SATAWU alleged that there was "maladministration and related improper conduct involving procurement irregularities [and lack of disclosure of] conflict of interest by the GCEO and other functionaries at PRASA" (Public Protector, 2015:3). SATAWU

claimed that it had evidence that billions of Rand had been stolen from PRASA (Public Protector, 2015:5; Bhorat et al., 2017:26). SATAWU further asserted that PRASA or its GCEO, Lucky Montana, had allowed improper awarding of tenders, corruption and financial mismanagement in the SOE (Gqirana, 2015:1; Public Protector, 2015:5; Bhorat et al., 2017:26). However wide-ranging SATAWU's allegations may be, the discussion focuses on those that relate to the state capture, which relates mainly to the awarding of tenders.

The awarding of a R51 billion tender for the supply of 600 commuter trains at PRASA illustrated the problems that had existed in PRASA (Brummer and Sole, 2016:1; Bhorat et al., 2017:26). PRASA stated that seven companies had sent their bids for consideration of the tender (Bhorat et al., 2017:25; Magubane, 2018a:1, 2018b:1). However, one of the bidders, China South Rail (CSR), was represented by the Gupta family and their business associate Duduzane Zuma, who is also former President Jacob Zuma's son (Bhorat et al., 2017:25; Montana, 2018:16-17; Staff Reporter, 2018a:1). The representatives are alleged to have pressured the then Minister of Transport and PRASA GCEO to award the tender to CSR (Bhorat et al., 2017:25; Magubane, 2018a:1; Montana, 2018:17; Staff Reporter, 2018a:1).

The pressure from the representatives came with threats to force the Minister of Transport to restructure the PRASA board, should their demands not be met (Bhorat et al., 2017:25-26; Montana, 2018:16-17). However, the PRASA board did not give in to the demands of the representatives, but rather, awarded the tender to another bidder, Gibela consortium. Subsequently, the GCEO asserted that he met a Gupta associate who told him that "there is an agreement at the political level that PRASA shall be instructed to cancel the tender if it is not awarded to CSR… The restructuring of the board of PRASA is intended to achieve this stated objective…" (Bhorat et al., 2017:26; Montana, 2018:17).

Even though a new PRASA board was appointed in 2015, the ability of the CSR representatives to use their power to persuade the Minister to make changes on the SOE board is a cause for concern for Corporate Governance principles. The concern for Corporate Governance principles stems from the fact that the boards of directors are required to be independent in performing their duties. Montana opines that CSR representatives made their demands for the restructuring of the PRASA board

“unapologetically and unashamedly… with power, authority and audacity, without any regard for the law and the Constitution of South Africa” (Bhorat et al., 2017:25-26; Montana, 2018:15-18).

In terms of the law and governance of companies, a director of a company may be removed from the board by an ordinary resolution of shareholders, as prescribed by section 71 of the Companies Act (Act 71 of 2008) (RSA, 2009:140). Additionally, the director in question must be given a chance to make a presentation to shareholders before the resolution to remove him or her is put to a vote (RSA, 2009:140). This was not done in the case of PRASA, showing signs of unlawful removal of directors. Given the Guptas’ failure to secure the lucrative PRASA tender, the Gupta family moved on to another SOE, this time Transnet.

3.2.5.3 Transnet

Transnet announced that it had awarded a R50 billion contract for the building of 1 064 locomotives in 2014. The contract was split between four train manufacturers (Faull et al., 2014:2; Staff Reporter, 2014a:1, 2014b:1; Bhorat et al., 2017:27). The four companies awarded the contract were Bombardier, General Electric, China North Rail and CSR, who were represented by the Gupta family and Duduzane Zuma (see 3.1.4.2) (Faull et al., 2014:3-4; Bhorat et al., 2017:27). Consequently, concerns of patronage and conflict of interest regarding the contracts were raised by the National Union of Metalworkers of South Africa (NUMSA) with the Public Protector. NUMSA complained that the contracts were used “… to line the pockets of a selected minority business and political elite.” (Faull et al., 2014:2; NUMSA, 2015:2; Bhorat et al., 2017:27).

The NUMSA concerns were corroborated by media reports that claimed that Iqbal Sharma, an alleged Gupta family associate and the person who oversaw the awarding of the tender, was also in line to benefit from the tender (Faull et al., 2014:1-4; Staff Reporter, 2014a:1; Bhorat et al., 2017:27-28; Sharife, 2017:2; Skiti, 2017:1). Sharma was appointed on the Transnet board by the then Minister of Public Enterprises, Malusi Gigaba (Faull et al., 2014:1; Skiti, 2017:1; Staff Reporter, 2017b:1). Gigaba had originally wanted to appoint Sharma as the Transnet board chairperson, but this was

not approved by Cabinet, citing concerns of the proximity of Sharma to the Gupta family (Bhorat et al., 2017:27). A new Transnet board committee, called the Board Acquisition and Disposals Committee, was then established, with Sharma elected as its chairperson (Bhorat et al., 2017:28).

The role of this new board committee was to oversee the awarding of tenders worth more than R2.5 billion. It was established just in time for the awarding of the locomotives' tender (Bhorat et al., 2017:28). However, the independence and conflict of interest of the board committee chairperson were a concern (Faull et al., 2014:1; Jamal, 2017:1; Staff Reporter, 2017b:1; Umraw, 2017:1; Skiti, 2017:1). This is a Corporate Governance problem because the King III Report on Corporate Governance, which was applicable when Sharma was appointed to chair the committee, strongly suggested that committees other than executive committees be chaired by independent non-executive directors. The King IV Report also has the same recommendation. The reasons for the perceived lack of independence and potential conflict of interest were furnished.

Firstly, Sharma, the Gupta family, and Duduzane Zuma held shares in the same company at the time when Sharma was overseeing the locomotive tender (Faull et al., 2014:1; Sole, McKune and Brummer, 2016:3; Bhorat et al., 2017:28). Therefore, there was a conflict of interest since one of the bidders for the tender, CSR, was represented by the Gupta family and Zuma (see 3.1.4.2) (Bhorat et al., 2017:25; Montana, 2018:16-17; Staff Reporter, 2018a:1). Additionally, the company in which Sharma, Zuma and the Gupta family all held shares, acquired shares in a South African engineering company while the locomotive tender winner was less than a month from being announced (Faull et al., 2014:1; Bhorat et al., 2017:28,47; Evans, 2017:4). However, media reports later alleged that Sharma was planning to use the engineering company to get subcontracting work from the winners of the locomotives tender (Bhorat et al., 2017:28; Faull et al., 2014:2-3).

Though Sharma denied any existence of a conflict of interest, it emerged that all four companies that won part of the locomotive tender had wanted to subcontract work to the engineering company (Faull et al., 2014:1-2; Evans, 2017:3-4). This was necessitated by the fact that the locomotives' tender required winning bidders to

“source up to sixty percent of their components from South African subcontractors” (Bhorat et al., 2017:28). Even though the engineering company did not get any subcontracting work, another Gupta-linked company, Trillian Asset Management, benefited from the locomotives’ tender (Bhorat et al., 2017:28). Trillian Asset Management was appointed to advise Transnet on the financial arrangement and corporate structuring of the locomotive deal (Bhorat et al., 2017:28).

The ability of the Gupta family and its associates to influence the awarding of tenders and the appointment and removal of directors of Transnet adversely impacted the SOE. Because of the influence of the Gupta family, Transnet incurred more costs on tenders (Skiti, 2017:1-2). The Economic Freedom Fighters (EFF), a South African political party, contents that through the locomotives tender, Transnet has been defrauded R17.4 billion through illegal payments (Jamal, 2017:1; Naki, 2017:1; Staff Reporter, 2017c:1; Umraw, 2017:1). The EFF further asserts that of the R17.4 billion, the Gupta family illegally received R10 billion (Jamal, 2017:1; Naki, 2017:1; Staff Reporter, 2017c:1). Additionally, Corporate Governance principles have also not been applied since conflicts of interests were not managed, and the directors who were against the pressure from the Gupta family were unlawfully removed from the Transnet board (Faull et al., 2014:1; Sole, McKune and Brummer, 2016:2-4; Bhorat et al., 2017:47; Evans, 2017:1-3).

3.2.5.4 Conclusion on state capture

State capture is a problem that has had dire consequences for Corporate Governance in South Africa, its SOEs and its economy (Shai, 2017:63; Pilling, 2017:2-3; February, 2017:2-5; Martin and Solomon, 2017:25). For example, state capture has resulted in fraud, money laundering, unstable boards of directors of SOEs and ailing confidence in SOEs by investors (Martin and Solomon, 2017:25; Sharife and Joseph, 2018:2-8; Khumalo, 2018:1). The South African Government has also spent billions of Rands on bailing out SOEs when these SOEs had defaulted in paying their lenders and consequently have going concern problems (Khumalo, 2018:1; Omarjee, 2018b:2; Prinsloo and Kew, 2017:1; Korhonen, 2017:1). However, in a bid to deal with the problem of state capture, the ANC resolved to recall Jacob Zuma from his position as the President of South Africa. He heeded the recall and resigned. Zuma has been

replaced by Cyril Ramaphosa, who has vowed to clean-up corruption and Corporate Governance challenges in SOEs (Cronje, 2018:1-2; Goba, 2018:1; Mokone, 2018:1). A private sector company that is alleged to have had a hand in state capture is KPMG South Africa and is briefly discussed below.

3.2.6 KPMG South Africa

Klynveld Peat Marwick Goerdeler (KPMG) is one of the big four audit firms in the world, with operations in South Africa. The South African branch of KPMG has been embroiled in two scandals. KPMG South Africa has been accused of facilitating tax evasion for the Gupta family, as well as its role in its investigation in the alleged SARS rogue unit (Shoaib, 2017:1; 2018:3; Cameron, 2017:1; Quintal, 2017:1). KPMG South Africa is alleged to have had a hand in tax evasion by helping the Gupta family divert business funds from the Estina dairy farm project to pay for a family wedding, thereby helping the family to evade paying taxes on the funds (Staff Reporter, 2017a:1; Maimane, 2017:1). The purpose of the project was to build a dairy farm from which eighty community members would benefit (Maimane, 2017:1; Poplak, 2018:4; Staff Reporter, 2018b:1). The project, Estina dairy project in the Free State province, was awarded by the Free State Provincial Government to a company owned by the Gupta family, Linkway Trading, allegedly without a competitive tender process (Staff Reporter, 2018b:1; Poplak, 2018:1; Maimane, 2017:1; Head, 2018b:4). The wedding expenses were classified as business expenses deductible for tax purposes (Wild, 2017:1; Crotty, 2017:2). The classification of the wedding expenses as business expenses is prohibited by Section 23 of the South African Income Tax Act (Act 58 of 1962) (RSA, 2004a:162). KPMG was aware of the accounting treatment of these expenses (Crotty, 2017:2; Khumalo, 2017:1; Quintal and Hosken, 2017:1), yet failed to act on them in terms of Section 45 of the Audit Profession Act (Act 26 of 2005) (APA) (see 1.1) (RSA, 2006:31), and resulting in the allegation that KPMG South Africa has helped Linkway Trading to evade tax.

KPMG South Africa announced the resignation of nine executives, including that of the CEO, as a result of the scandal, in which the audit firm admitted to ignoring the red flags while dealing with the Estina dairy farm project (Hosken, 2017b:1; Coterrill, 2017b:1). In its own admission, KPMG South Africa "… fell short of the quality

expected, and audit teams failed to apply sufficient professional scepticism and to comply fully with auditing standards" (Hosken, 2017b:2). One such auditing standard that KPMG failed to fully comply with is the International Standard on Auditing (ISA) 240. ISA 240 deals with the auditor's responsibilities relating to fraud in an audit (SAICA, 2017:162). The failure of KPMG to fully adhere to auditing standards, as well as with the APA (Act 26 of 2005) has resulted in KPMG South Africa contravening the provisions of the APA (Act 26 of 2005). The contravention of the APA (Act 26 of 2005) is as a result of KPMG South Africa not reporting to IRBA about the classification of the wedding expenses into business expenses. By classifying the wedding expenses as business expenses and deducting the expenses from taxable income, Linkway Trading caused financial loss to SARS, and KPMG South Africa ought to have reported this classification as a reportable irregularity to IRBA.

Furthermore, the independence of KPMG South Africa from the Gupta family came into question as a result of this scandal (Coterrill, 2017b:1; Quintal and Hosken, 2017:1-2), which is a Corporate Governance concern. KPMG South Africa's independence is a Corporate Governance concern because external auditors are required to be independent, according to the King IV Report on Corporate Governance (IODSA, 2016:32).

Allegations were also made against the South African Revenue Service (SARS) about the existence of a covert rogue unit within SARS (KPMG, 2015:2; Essop, 2017:1; Nicolaides, 2017a:1; Serrao, 2018:1). The rogue unit was believed to be spying on taxpayers, operating outside the limits of the law (Staff Reporter, 2015a:1). The international arm of KPMG did a review of the work done by KPMG South Africa for SARS and companies owned by the Gupta family (Staff Reporter, 2017d:1). While the review by KPMG International on the work of KPMG South Africa revealed no evidence of fraud or corruption on the part of KPMG partners and its staff on the work done for SARS, the new KPMG SA CEO conceded that the work done "fell considerably short of KPMG standards" (Staff Reporter, 2017e:1-2).

The KPMG report confirmed the existence of the rogue unit within SARS, and claimed that the then Commissioner of SARS, Pravin Gordhan, knew about the existence of the rogue unit (KPMG, 2015:73-81). It is reported in Staff Reporter (2015a:1) that among others, the investigation revealed the following findings:

- The unit operated outside of SARS' oversight and control;
- Members of the unit were referred to as ghost employees;
- Agents unlawfully intercepted taxpayers' communications; and
- Agents spied on the National Prosecuting Authority (NPA), allegedly at the instruction of the Deputy Commissioner of SARS.

For these findings, Gordhan was criminally charged, as the report alleged that he knew about the existence of the unit and endorsed it (Nicolaides, 2017b:1-2; Hosken, 2017a:1). Gordhan was also subsequently fired as a Finance Minister, based on this report (Hosken, 2017b:1). However, KPMG South Africa withdrew the findings, recommendations and conclusions of the report as it admitted to a drop in standards in undertaking the engagement with SARS (Hosken, 2017b:1). After admitting to wrongdoing, nine executives and board members of KPMG South Africa, including the CEO and chairman of the board, resigned (Coterrill, 2017a:1; Hosken, 2017a:1).

In the aftermath of all of the above, SAICA launched an inquiry, known as the Ntsebeza inquiry, into the individuals involved in the two scandals (Spies, 2018:1; SAICA, 2018:1). The inquiry was meant to investigate the allegations that SAICA members employed by KPMG South Africa "… had allegedly engaged in conduct in contravention to the SAICA Code of Professional Conduct." (Spies, 2018:1; SAICA, 2018:1). The damage that KPMG South Africa has caused can be summarised as follows:

> "KPMG corrupted the very underpinning of Corporate Governance and the reputational reliability of the external audit function and did so over an extended period of time in the face of evident financial and business malpractices of its [clients]. As such, South African business leaders and company directors have come face to face with a critical ethical decision, should they part ways with KPMG or not?" (Abedian, 2017:2).

3.2.7 Conclusion on Corporate Governance Failures and Scandals

The Corporate Governance scandals and failures discussed above highlight the need for good Corporate Governance practices. This is evidenced by the financial losses that result in cases where there is fruitless and wasteful expenditure (see 3.1.5), fines

given to corporations, fraud, corruption and the loss of reputation suffered by organisations (see 3.1.6). This is a problem, as it is stated in Vaughn and Ryan (2006:504) that some investors would rather pay a premium for shares in a company with good Corporate Governance than invest in one company for less than a premium, with the same financial performance but poorly governed.

However, there is no one agreed upon way to best govern organisations (West, 2006:434). Corporate Governance models around the world differ on the issue of to whom the board is responsible. Differences in theories emanate from the different ways in which organisations are financed and owned, as well as different legal and political landscapes of countries. In addition, the perception of who organisations should prioritise in their operations, either just their shareholders or all their stakeholders, leading to different Corporate Governance theories, remains a question. Therefore, different theories of Corporate Governance are discussed in the next section of the chapter.

3.3 Corporate Governance Theories

3.3.1 Introduction

Attempts have been made to define Corporate Governance. It is argued in Nordberg (2011:4), Solomon and Solomon (2005:12) Huse (2007:14-15) and Wiese (2014:2) that definitions are based on different views of the authors. These may be the narrow and the broad views. The narrow view is based on the definition of Corporate Governance in terms of a relationship between a company and its shareholders (Solomon and Solomon, 2005:12; Wiese, 2014:2-3). The broad view, which is a more inclusive view, is based on the relationship of the company and a broad range of its stakeholders (Solomon and Solomon, 2005:12; Wiese, 2014:2; IODSA, 2016:25). Different definitions are stated below, with the aim of adopting a definition for purposes of this study.

Corporate Governance has been defined as;

> “the exercise of ethical and effective leadership by the governing body towards the achievement of the following; ethical culture, good performance, effective control and legitimacy.” (IODSA, 2016:20)

> “the structures and processes for the direction and control of companies. It specifies the distribution of rights and responsibilities among the company’s stakeholders and articulates the rules and procedures for making decisions on corporate affairs.” (World Bank, 2014:12)

> “a set of relationships between a company’s management, its board, its shareholders and other stakeholders. Corporate Governance also provides a structure through which the objectives of the company are set, and the means of attaining those objectives and monitoring performance are determined.” (OECD, 1999:9)

> “a set of mechanisms used to manage the relationships among stakeholders, and to determine and control the strategic direction and performance of organisations” (Hitt, Ireland and Hoskisson, 2011:284)

> “the ways in which suppliers of finance to corporations assure themselves of getting a return on their investment” (Shleifer and Vishny, 1997:739).

> “Corporate Governance is simply the system by which companies are directed and controlled. While it is simple to state the concept, it has become more complicated by virtue of the various interest groups…” (Institute of Directors (IOD), 1994 in Crous (2017:17).

> “the system by which companies are directed and controlled” (Cadbury, 1992:15)

As deduced from all the definitions above, Corporate Governance is about directing and controlling organisations by those charged with governance and also employing the correct mechanisms to ensure that organisations achieve their objectives (Nordberg, 2011:6). The difference in the definitions is with regard to whose interests, either the shareholders’ or other stakeholders’, other than shareholders, should be prioritised while striving to achieve organisational objectives.,.

In this study, as is the case in the King IV Report (through the stakeholder-inclusive approach), a broad view of Corporate Governance is adopted. This is because organisations should be corporate citizens in order for them to be sustainable in the long-term (IODSA, 2016:4). This is to say that shareholders' interests, as stated in IODSA (2016:26), are intertwined with those of other stakeholders, therefore, following the stakeholder-inclusive approach promotes an organisation's long-term sustainability. Therefore, for purposes of this study, Corporate Governance is defined as;

> Structures and processes for effective control and direction of organisations as lead by those charged with governance to achieve organisational objectives, while simultaneously ensuring that the organisations' long-term sustainability derived by properly addressing the legitimate interests and expectations of other stakeholders is realised.

The development of Corporate Governance has been influenced by many disciplines (Mallin, 2007:11). These disciplines include, but are not limited to, finance, economics, organisational behaviour, accounting, law and management (Solomon and Solomon, 2005:16, Mallin, 2007:11). Therefore, the different theories underlying the development of Corporate Governance emanate from these disciplines. These theories are the Agency Theory, the Stewardship Theory, the Stakeholder Theory, the Enlightened Shareholder Theory, the Resource Dependency Theory, the Network Theory, and the Class Hegemony Theory (Mallin, 2007:12, Solomon and Solomon, 2005:17-26, Tricker, 2012:59-74). The theories are briefly discussed.

3.3.2 The Theories

The theories of Corporate Governance emanate from two parallel models, the shareholder and the stakeholder models (West, 2006:433). West (2006:403) opines that the differences between the two models "reflect different views of [a] corporation", with the shareholder model viewing an organisation as a vehicle for maximising wealth for its owners (West, 2006:433-434). The stakeholder model, In contrast, is based on the premise that an organisation is responsible to a variety of stakeholders, including owners, suppliers, customers, and employees (West, 2006:434). The Corporate

Governance theories are associated with the development of Corporate Governance (Mallin, 2007:12) and are discussed below.

3.3.2.1 The Agency Theory

This section continues the discussion on the Agency Theory first introduced in Chapter 1 (see 1.4.2). As mentioned in Chapter 1, the Agency Theory is about the separation of ownership and control in an organisation. This results in an agency dilemma (Bratton, 2008:509; Tricker, 2012:60). The Agency Theory views Corporate Governance as a contractual relationship between the agent and the principal (Tricker, 2012:60). Shleifer and Vishny (1997:741) contend that ideally, the principal and the agent should sign a contract that elucidates what is expected of both parties in order to make sure that the agent does not act contrary to what the principal wants. However, this contract is not possible as "most future contingencies are hard to describe and foresee" (Shleifer and Vishny, 1997:741). Therefore, the principal and the agent must allocate residual control rights (Shleifer and Vishny, 1997:741; Maher and Andersson, 2000:6). Residual control rights are defined as the rights to make decisions in circumstances not fully foreseen by the contract between the principal and the agent (Shleifer and Vishny, 1997:741). Since agents are always more informed about the operations of the organisation and are in a position to make good decisions, they usually end up with substantial residual control rights (Shleifer and Vishny, 1997:741). As a result, principals have the responsibility to monitor the agents to make sure that they use the residual control rights for the benefit of the principals (Bratton, 2008:509). This then results in an agency problem (Turnbull, 1997:189). The agency problem is the incongruence of the interests of principals and the interests of agents.

A principal attempts to monitor the agent by limiting the discrepancy between the agent's interests and those of the principal (Jensen and Meckling, 1976:310; Hall, 1998:147). The principal and the agent, therefore, incur costs in "monitoring and bonding managers in best-serving shareholders" (Turnbull, 1997:189). By so doing, agency costs are incurred. Agency costs have been defined as "the sum of the cost of monitoring the agent, bonding the agent to the principal and residual losses" (Jensen and Meckling, 1976:308-309; Turnbull, 1997:189). Bonding costs are resources expended by the agent to ensure that he or she will not act in ways that will harm the

principal or ensure that in case that happens, the principal will be compensated (Jensen and Meckling, 1976:308). Conversely, the residual loss is the reduction in the wealth of the principal as a result of the agent making a decision on behalf of the principal which does not maximise the principal's wealth (Jensen and Meckling, 1976:308). In monitoring the actions of agents, therefore, Crous (2017:58) underscores the need to use control mechanisms such as boards of directors and performance evaluations. Crous alludes to the issue that, there should be a balance between the costs of the principal and those of the agent, citing the control mechanisms mentioned above as useful in achieving this goal (Crous, 2017:58).

The Agency Theory has however received criticism (Tricker, 2012:62; Crous, 2017:59) for having a narrow scope since it only studies Corporate Governance in terms of contracts between principals and agents (Tricker, 2012:62). The criticism is that the Agency Theory is only focused on "quantitative metrics such as board structure or corporate compensation packages,… which is then compared to some measures of corporate performance" (Tricker, 2012:62). The critics argue that the behaviour of the board of directors is not influenced by the contractual relationships they have with shareholders, but by group dynamics, interpersonal behaviour and political intrigue (Tricker, 2012:62). Furthermore, the Agency Theory has been criticised for its moral assumption on human nature (Huse, 2007:51; Tricker, 2012:62). It has been criticised for its assumption that people are self-interested, cannot be expected to look after the interests of others and therefore cannot be trusted (Huse, 2007:51; Tricker, 2012:62; Mitzkus, 2013:3). The agency theory has also been criticised for aiding in the Enron scandal (see 3.1.3) since it "freed people of any moral responsibility" (Ghoshal, 2005:76). As mentioned above, the Agency Theory has been criticised for the view that agents are opportunistic and have self-interests. It is this criticism that forms the basis of the Stewardship Theory (Huse, 2007:54; Tricker, 2012:65).

3.3.2.2 The Stewardship Theory

The Stewardship Theory opposes the Agency Theory by contending that managers and directors are stewards, rather than the self-interested agents as suggested by the Agency Theory (Muth and Donaldson, 1998:5-6; Tricker, 2012:65; Duncan and Whittington, 2015:156). In the context of Corporate Governance, stewards are agents

who protect and enhance organisational capacity with the view of creating and enhancing the company's economic value. Therefore, stewards are managers and directors who use company assets under their control responsibly (Cossin et al., 2015:3-4). Although the Stewardship Theory also deals with the relationship between a principal and an agent, it is different from the Agency Theory by arguing that the steward seeks to achieve organisational goals and is not self-serving, as is the assumption in the Agency Theory (Duncan and Whittington, 2015:156). This means that it is assumed that agents can act responsibly, with independence and integrity (Tricker, 2012:65). In return, the steward is rewarded through intrinsic benefits (Duncan and Whittington, 2015:156). By definition, intrinsic rewards are the intangible benefits that exist in a job itself, that give personal satisfaction such as autonomy, recognition and empowerment to individuals (Mafini and Dlodlo, 2014:2; Kuvaas et al., 2017:245). Intrinsic benefits are important in the Stewardship Theory because the Stewardship Theory recognises other motivational factors other than financial rewards (Muth and Donaldson, 1998:6; Puyvelde et al., 2012:437). The non-financial factors include the need for achievement and recognition, the satisfaction of good performance and the respect on one's work ethic (Muth and Donaldson, 1998:6; Huse, 2007:54; Puyvelde et al., 2012:437)..

The Stewardship Theory places emphasis on trust (Huse, 2007:54-55; Tricker, 2012:65; Madison et al., 2016:80; Krzeminska and Zeyen, 2017:74). Because of the emphasis on trust, the Stewardship Theory holds that managers are trustworthy and have collectivistic behaviour (Huse, 2007:54; Puyvelde et al., 2012:437; Cossin et al., 2015:5; Krzeminska and Zeyen, 2017:73). Collectivistic behaviour postulates that agents are committed to organisational goals and interests instead of their personal interests (Zahra et al., 2008:1049; Crous, 2017:61). However, the agents have a fiduciary duty to act as stewards of the shareholders' interests, since they have a legal duty to their shareholders and not themselves or any other stakeholder (Tricker, 2012:65). This argument is brought forward by proponents of the Stewardship Theory in response to critics who claim that the Stewardship Theory neglects other stakeholders such as employees or customers in Corporate Governance (Tricker, 2012:65-66). One theory that gives prominence to the interests of many stakeholders rather than solely those of the shareholders is the Stakeholder Theory (Freeman, 1994:410; Tricker, 2012:70; Mason and Simmons, 2014:78; Moriarty, 2014:810).

3.3.2.3 The Stakeholder Theory

Although the idea that organisations have wider constituencies than just the shareholders can be traced back to the 1920s (Ayuso et al., 2014:417), Edward Freeman's book titled *Strategic Management: A Stakeholder Approach,* published in 1984 brought the Stakeholder Theory into prominence (Freeman et al., 2010:57; Ayuso et al., 2014:417). The word stakeholder was originally defined by the Stamford Research Institute (SRI) in 1963 as "those groups without whose support the organisation would cease to exist" (Sternberg, 1997:3; Fontaine et al., 2006:6; Freeman et al., 2010:31). The groups were shareholders, employees, customers, suppliers, lenders and society (Freeman et al., 2010:31). However, Freeman has given a modified definition of a stakeholder as "any group or individual who can affect or is affected by the achievement of an organisation's objectives" (Fontaine et al., 2006:6). Freeman's definition has been taken as more appropriate since the SRI's definition suggests that individuals or groups may consider themselves as stakeholders without the organisation considering them as such (Fontaine et al., 2006:6). Consequently, different stakeholder groupings such as suppliers, government, and unions have been included in the list produced by the SRI (Hitt et al., 2011:21).

As previously mentioned (see 1.4.2), the Stakeholder Theory holds the view that organisations should not only be run for maximising profits, but rather should also address the needs of other stakeholders which the organisation is associated with (Bottenberg et al., 2017:166; Hörisch et al., 2014:329-330; Heath and Norman, 2004:247; Nwanji and Howell, 2006:1). As a result, the Stakeholder Theory has three different theoretical approaches to stakeholder management, the normative stakeholder theory, the instrumental stakeholder theory and the descriptive stakeholder theory (Donaldson and Preston, 1995:70-71; Ayuso et al., 2014:417; Bottenberg et al., 2017:165-166).

The normative stakeholder theory addresses questions of why organisations should concern themselves with the interests of stakeholders and also whether stakeholders warrant any attention of the organisation or not (Donaldson and Preston, 1995:71; Huse, 2007:53; Gilbert and Rasche, 2008:761; Ayuso et al., 2014:417; Hörisch et al, 2014:330). The instrumental stakeholder theory attempts to ascertain whether "it is

beneficial for an organisation to engage with its stakeholders" (Donaldson and Preston, 1995:71; Gilbert and Rasche, 2008:761). This is done by determining whether the achievement of organisational objectives is linked with stakeholder management or not (Gilbert and Rasche, 2008:761). Lastly, the descriptive shareholder theory "explains how organisations actually take stakeholders' interests" into account (Gilbert and Rasche, 2008:761). Even though the three theories have different perspectives, they all have an interest in the long-term survival of an organisation (Crous, 2017:65).

However, the Stakeholder Theory has received criticism for being incompatible with business (Sternberg, 1997:4) since it is difficult to balance all the interests of stakeholders (Moriarty, 2016:50). Sternberg argues that balancing the interests of all stakeholders automatically rules-out the interests of other stakeholders (Sternberg, 1997:4). For example, balancing stakeholder interests automatically rules out maximisation of shareholder wealth, which is the primary interest of shareholders (Sternberg, 1997:4). Moreover, the Stakeholder Theory does not give criteria for choosing which stakeholders' interests to consider (Pichet, 2011:360). These arguments against the Stakeholder Theory are further supported by Bottenberg et al., who state that "attention to stakeholders leads to… inefficient resource allocation, impaired decision making and reduced accountability of managers" (Bottenberg et al., 2017:168). In a bid to address these criticisms, and those raised in the Agency Theory (see 3.2.2.1) and by extension, those in the Stewardship Theory (see 3.2.2.2), the Enlightened Shareholder Theory gives a different perspective to Corporate Governance, providing a way through the conflicting perspectives in the theories mentioned above (Jensen, 2002:245).

3.3.2.4 The Enlightened Shareholder Theory

The Enlightened Shareholder Theory recognises the need to take the interests of stakeholders into consideration in so far as by doing so, the needs of shareholders are addressed (Ho, 2010:78; Tricker, 2012:74; Ajibo, 2014:38; Queen, 2015:648). The theory highlights to whom the board of directors should owe their duties; it states that "… the basic goal for directors should be the success of the company in the best collective interest of shareholders, but directors should recognise, as circumstances

require, the company's need to foster relationships with its [stakeholders], its need to maintain its business reputation, and its need to consider the company's impact on the community…" (Smerdon, 2010:23).

The theory seeks to bridge the gap between shareholder primacy, as advocated by the Agency Theory (see 3.2.2.1), and the need to give all stakeholders preference in decision making, proposed by the Stakeholder Theory (see 3.2.2.3) (Ho, 2010:77; Smerdon, 2010:22-23; Ajibo, 2014:39; Queen, 2015:83; Wixley and Everingham, 2015:2; Mudawi and Timan, 2018:56-57). The Enlightened Stakeholder Theory bridges this gap by following an inclusive approach to Corporate Governance, that is, achieving sustainability and long-term shareholder wealth through building long-term relationships with other stakeholders (Deakin and Konzelmann, 2003:586; Keay, 2011:18,20; Queen, 2015:683).

Queen, therefore, suggests that the Enlightened Shareholder Theory is concerned with three aspects that form its basis; being the financial performance of an organisation, its performance in terms of social responsibility and the creation of shareholder wealth (Queen, 2015:684). The gap between the Stakeholder Theory and the Shareholder Theory is thus bridged by combining the two theories and forming the Enlightened Shareholder Theory (Pichet, 2011:360; Queen, 2015:684). However, the Enlightened Shareholder Theory has received some criticism. Queen argues that satisfying the interests of stakeholders and shareholders at the same time is seldom possible (Queen, 2015:683), as organisations tend to sacrifice the interests of shareholders for the benefit of stakeholders' interests (Grossman, 2005:573; Queen, 2015:686). The Enlightened Shareholder Theory is followed in the United Kingdom and in South Africa (Ajibo, 2014:38; Ho, 2010:77; IODSA, 2016:25-26; Mudawi and Timan, 2018:61; Esser and Delport, 2017:99) (see 3.3.3 and 3.4).

3.3.2.5 The Resource Dependency Theory

The Resource Dependency Theory is based on the seminal work of Pfeffer and Salancik, *The External Control of Organisations: A Resource Dependence Perspective*, which was published in 1978 (Nienhüser, 2008:10; Pfeffer and Salancik, 2003: xi; Hillman et al., 2009:1404; Delke, 2015:2). Pfeffer and Salancik's work was, however, a development of Richard Emerson's work; *Power-Dependence Relations*

(Malatesta and Smith, 2014:14; Afza and Nazir, 2014:260). The Resource Dependency Theory explains how organisations can reduce their environmental interdependence and uncertainty (Hillman et al., 2009:1404). Environmental interdependence exists when an organisation does not fully control the environment within which it operates but has to rely on the environment to produce the outcomes that it desires (Pfeffer and Salancik, 2003:40). Uncertainty is then created by the fact that the organisation does not know whether the outcome will be produced by the environment or not. In order to reduce interdependence and uncertainty from the environment, Pfeffer and Salancik proposed five ways, mergers or vertical integration, joint ventures and other organisational relationships, boards of directors, political action and executive succession (Hillman et al., 2009:1404; Drees and Heugens, 2013:1667; Malatesta and Smith, 2014:14; Zona et al., 2018:593). However, since the study is on Corporate Governance, it will only focus on boards of directors.

Boards of directors enable organisations to limit their dependence on the environment, to reduce transaction costs associated with environmental dependency and to help their organisations to gain resources (Hillman et al., 2000:236; Hillman., 2009:1408). In order to limit the organisational dependence and uncertainty from the environment, the Resource Dependency Theory focuses on the size and composition of a board of directors to determine the ability of the board to provide an organisation with critical resources (Hillman et al., 2009:1408; Malatesta and Smith, 2014:15; Mandrinos and Mahdi, 2015:39; Zona et al., 2018:593). These resources include labour, capital and raw materials (Viader and Espina, 2014:4; Crous, 2017:62).

Viader and Espina further state that these resources are not limited to just tangible resources but extend to networking, experience, external relationships with other organisations and strategies that are key to the future of the organisation (Viader and Espina, 2014:4). Organisations need these critical resources because they produce power and help organisations to attain long-term stability (Malatesta and Smith, 2014:15). Malatesta and Smith also state that organisations that do not have these resources depend on others and are also prone to control by organisations that possess the critical resources (Malatesta and Smith, 2014:15). Therefore, the performance of the board of directors and ultimately that of the organisation is reliant

on the power of the board of directors to avail the required resources (Afza and Nazir, 2014:260).

As mentioned above, the role of the board of directors is to limit the environmental dependence of an organisation. It has also been mentioned that the composition of an organisation's board of directors reflects the organisation's external dependencies (Pfeffer, 1972:218; Hillman et al., 2000:236). The Resource Dependency Theory therefore suggests that organisations with great environmental independence require a high ratio of outside directors or non-executive directors (Hillman et al., 2009:1408). If the majority of the directors on the board are independent, an organisation stands to benefit from the board of directors' ability to provide advice and counsel. The organisation further has access to channels of information between the organisation and the environment within which it operates and has preferential access to resources (Hillman et al., 2009:1408). Directors may have preferential access to information by being members of a network, as suggested by the Network Theory below.

3.3.2.6 The Network Theory

It is difficult to appoint expert board members to all positions on the board of directors. If this were to be the case, the result would be board members that are "undereducated and overwhelmed in addressing key concerns of [a company] and its stakeholders" (Pirson and Turnbull, 2015:86). In order to address the difficulty of board appointments, companies resort to the social networks that directors have, often encapsulated in the phrase; "it's not what you know, but who you know" (Hodgson, 2012:1). Consequently, in order to appoint suitable board members, companies tend to appoint directors who already serve on other companies' boards of directors (Huse, 2007:58; Buch-Hansen, 2014:250; Veen and Kratzer, 2011:2; Heemskerk, 2011:440; Hodgson, 2012:1).

It is through the networks created by directors amongst themselves that cohesion and exchange of information between directors are facilitated (Huse, 2007:58). However, Crous argues that directors may be faced with ethical implications in the exchange of information. Crous opines that "if a director were to use information obtained as a member of a board to the benefit of another organisation, it might seem as if the director is in breach of confidentiality and independence requirements in terms of

legislation and Corporate Governance principles" (Crous, 2017:63). The Network Theory also presents challenges posed by interlocking directorates (see 3.3.2.7), a concept that also exists in the Class Hegemony Theory discussed below.

3.3.2.7 Class Hegemony Theory

Tricker (2012:68) states that the Class Hegemony Theory of Corporate Governance is about the classification that board directors have of themselves as an elite group. This perception by the directors "encourages them to act in an elite way, dominating both the organisation and its external [relationships]" (Tricker, 2012:68). Therefore, independent directors are likely appointed to the board on condition that they help to protect the dominance of the elite group, an act that would undermine the independence of these independent directors since they will be perpetuating the interest of the elite group and not those of the organisation (Tricker, 2012:68).

Against this backdrop, the Class Hegemony Theory holds the view that power is shared by this elite group at the top of companies, holding on to this power by interlocking directorates (Huse, 2007:60). The term, Interlocking directorates refers to a situation where one particular person sits on the boards of more than one company (Huse, 2007:60; Brennecke and Rank, 2017:98; Hodgson, 2012:1; Veen and Kratzer, 2011:2; Barnes, 2017:38; Cárdenas, 2016:342). Although interlocking directorates may assist companies to obtain information (Cárdenas, 2016:342), they have been criticised for enabling the rewarding of failure by directors (Hodgson, 2012:3). Hodgson explains that because this elite group survives through looking out for each other, they get the most exorbitant remuneration packages, usually not based on any outstanding performance (Hodgson, 2012:3). Furthermore, this theory has been criticised for allowing collusion by members of the elite group (Drago et al., 2011:619; Buch-Hansen, 2014:249). The advancement of this theory in South Africa could perhaps be clearly seen in the state capture scandal (see 3.1.4) and the 2018 Steinhoff scandal.

3.3.3 Conclusion on Corporate Governance Theories

The emergence of Corporate Governance has been a result of the separation of the owners of companies from those who manage them (see 3.2.2), as there emerged an opportunistic behaviour of managers to pursue short-term profits at the expense of long-term sustainability of companies (see 3.1.2 and 3.1.3). The resultant theories have been a means of dealing with the scandals and Corporate Governance failures brought about by those who fail in their fiduciary duties. More importantly, these theories seem to centre around whom the companies should be accountable and responsible to.

Theories such as the Shareholder Theory suggest that shareholders' interests should be the primary concern of those charged with governance. Others, such as the Stakeholder Theory, suggest that all stakeholders' interests should be given primacy. However, it was established that the view in South Africa, through the Enlightened Shareholder Theory, is that directors should be accountable to shareholders and responsible to all other stakeholders (see 3.2.2.4).

3.4 Corporate Governance in Selected Countries

3.4.1 Introduction

This section deals with Corporate Governance in selected countries. These countries have been selected on the basis of their unique Corporate Governance systems, representative of many Corporate Governance regimes around the world, as well as their influence on Corporate Governance in South Africa. The selected countries are the USA, the UK and Germany. The USA was selected because it is an example of a country where Corporate Governance principles are contained in legislations. The UK was selected because it is an example of a country where Corporate Governance principles are contained in Codes of best practice. In addition, the UK was selected because its Corporate Governance was developed in conjunction with the South African King Reports. Lastly, Germany was selected because of its two-tier board system, which is different from South African boards of directors. Furthermore, Germany was selected because one of the scandals discussed, Steinhoff (see 1.1),

was listed on the German Stock Exchange and was required to apply the German Corporate Governance principles. In following the different Corporate Governance theories discussed above (see 3.3.2), different countries selected have different approaches to enforcing Corporate Governance principles. These approaches have different ways of enforcing Corporate Governance principles. While some countries choose to use voluntary application and enforcement of Corporate Governance principles through Codes of best practice, others have legislated the provisions of good Corporate Governance. However, other countries have opted to have a combination of the two approaches. These approaches are explained below.

3.4.2 Approaches to Enforcing Corporate Governance

As previously mentioned, a country may either adopt a voluntary application approach to Corporate Governance or it may legislate the provisions of Corporate Governance through Acts of Parliament. Corporate Governance provisions that have been legislated are mandatory (Alhazaimeh et al., 2014:342). The mandatory Corporate Governance provisions are usually required by legislation and listing requirements of stock markets (Alhazaimeh et al., 2014:342). An example of this approach can be found in the USA. Oppositely, voluntary application approach entails the requirement for companies to either apply or comply with the provisions of the codes of best practice, or to explain why they have not applied or complied with those provisions (Alhazaimeh et al., 2014:342; Keay, 2014:279). An example of this approach can be found in the UK. The voluntary application approach also has different specific approaches through which Corporate Governance principles may be applied. The specific approaches are the comply and explain approach, comply or explain approach, apply or explain approach, as well as the apply and explain approach. The specific approaches are briefly explained.

3.4.2.1 Comply or explain

Under the comply or explain approach, companies are given the choice between complying with Corporate Governance principles or explaining why they do not comply with those principles (Calder, 2008:14; Arcot et al., 2010:1; Sergakis, 2015:238;

Sarkar, 2015:238). Under the comply or explain approach, application of Corporate Governance principles is voluntary, but the disclosure of whether or not a Corporate Governance principle has been applied is mandatory. (Brown, 2008:104). That is, compliance to Corporate Governance principles is not mandatory but it is compulsory to disclose non-compliance (Esser, 2017:235). Additionally, companies may also be required to comply with and explain their Corporate Governance practices.

3.4.2.2 Comply and explain

Under the comply and explain approach, companies are required to comply with Corporate Governance principles and explain how they have complied with those principles. The comply and explain approach is different from the comply or explain approach in that, while companies may choose not to comply with Corporate Governance principles in the comply or explain approach, they may not choose not to apply with any recommended Corporate Governance principle in the comply and explain approach. However, some countries have moved from the requirement to comply, and now require companies to apply Corporate Governance principles. This is because applying "… shows an appreciation for the fact that it is often not a case of whether to comply or not, but rather to consider how the principles and recommendations can be applied" (Plessis, 2009:1; Esser, 2017:252).

3.4.2.3 Apply or explain

With the apply or explain approach, the board of directors may choose to apply a Corporate Governance principle, if the board determines that it would be in the good interest of the company to apply the principle (Esser, 2017:252). However, if the board feels that the principle recommended is not in the best interest of the company, the board may not apply the principle but it has to explain why it is not in the interest of the company to apply the principle (Plessis, 2009:2). To this effect, a comprehensive disclosure of why the principle has not been applied is issued by the board in order to facilitate transparency by the board to stakeholders (Esser, 2017:253). Another approach that facilitates transparency is the apply and explain approach.

3.4.2.4 Apply and explain

The apply and explain approach requires boards of directors to apply Corporate Governance principles and then explain how those principles are being effected (Esser, 2017:254; Myburgh and De Costa, 2017:1). The apply and explain approach helps to describe how the implemented practices achieve the principles and demonstrate the outcomes of applying recommended Corporate Governance principles, thereby providing more transparency by the board to stakeholders (Maharaj and Combrink, 2017:1). While some countries such as South Africa have adopted the apply and explain approach, others such as the USA use the legislative approach.

3.4.3 United States of America

Corporate Governance in the USA is shareholder-oriented (see 3.2.2.1 and 3.2.2.2) (Wixley and Everingham, 2015:18). Additionally, ownership of USA companies is dispersed (Pinto, 2010:259), with institutional investors such as pension funds playing a role as shareholders (Johnke, 2017:1). Furthermore, companies in the USA usually have small boards of directors (Green, 2005:32; Natesan and Plessis, 2018:1), with the majority of directors being independent (Ness et al., 2010:3; Megginson and Sitorus, 2017:35). To improve the functionality of the boards, board committees are usually established (Jackson, 2010:9; Emmerich et al., 2017:461). Furthermore, and in contrast to other Corporate Governance recommendations around the world such as those in South Africa, Germany and the UK, a director may simultaneously assume the role of a CEO and chairperson in the USA (Larker and Tayan, 2016:1; Dalton and Dalton, 2011:406; Krause et al., 2014:257; Lewellyn and Fainshmidt, 2017:1604; Nili, 2018:25). In cases where a company chooses to have the roles of CEO and chairperson filled by the same person, additional disclosure of why such a leadership structure will be effective for the company is required by the SEC (Dalton and Dalton, 2011:406; Lewellyn and Fainshmidt, 2017:1604).

With regard to enforcement of Corporate Governance requirements, USA companies are subject to federal and state laws, where federal laws are enacted by Congress and state laws by individual states legislatures or not (Pinto, 2010:261). In this regard, Emmerich et al. state four key sources of corporate laws and regulations in the USA

that have an impact on Corporate Governance (Emmerich et al., 2017:460). These are:

a) State corporate law, predominantly that of the Delaware state, under which at least half of the USA listed companies are incorporated (Black, 2017:1; Emmerich et al., 2017:472);
b) Federal Securities Act of 1993 and the Securities Exchange Act of 1994;
c) The Stock Exchange listing rules, especially the NYSE and the National Association of Securities Dealers Automated Quotations Stock Exchange (NASDAQ). These securities rules include provisions on the independence of directors, composition of board committees, shareholder resolutions and Corporate Governance disclosure requirements;
d) Federal statutes in regard to particular areas of corporate practice, such as the SOX.

As stated above, over half of the listed companies in the USA are incorporated under Delaware state laws and it is this popularity that warrants a discussion of Corporate Governance in Delaware. Corporate Governance in Delaware draws from two sources, the Delaware General Corporations Law (DGCL) and case law (Bissell and Norman, 2012:282; Black, 2017:1; Habbart and Swoyer, 2017:472). Corporate Governance in Delaware is embedded in section 141 of the DGCL (Habbart and Swoyer, 2017:472). Section 141 deals with Corporate Governance aspects relating to boards of directors, their powers the number of members of the board, their qualifications, terms and quorum of board meetings, board committees and classes of directors (Bissell and Norman, 2012:282; Wolters and Honaker, 2014:2; Habbart and Swoyer, 2017:473). In terms of federal law, the SOX is a federal legislation that was enacted in 2002, following Corporate Governance scandals in the USA (see 1.4.4 and 3.1.3) (Maroun et al., 2014:209; Chan et al., 2016:167; Soltani and Maupetit, 2015:261; Kecskés, 2017:179). While the USA follows the prescriptive legal approach to Corporate Governance, other countries such as the UK follow the voluntary principles-based approach (Andreasson, 2011:651).

3.4.4 United Kingdom

3.4.4.1 Introduction

The promotion of Corporate Governance in the UK is the responsibility of the Financial Reporting Council (Shearman and Sterling, 2010:1). Corporate Governance in the UK is not based on rules or regulations but rather on voluntary principles of best practice contained in Reports and Codes (Ajibo, 2014:43-44; Reisberg, 2015:219; O'Dwyer, 2014:115; Haskovec, 2012:13). Specifically, Corporate Governance in the UK follows the comply or explain approach (see 3.4.2.1) (Macneil and Li, 2006:486; Keay, 2014:281). However, the UK's Companies Act (Act of 1948) had a bearing on Corporate Governance, since it gave shareholders the right to remove directors from the board by an ordinary resolution (UK, 1948:114). The reviews and updates of Codes and Reports on Corporate Governance, together with an Act of Parliament, have been shown chronologically in the table below. A discussion of the contents Reports and Codes will then follow, starting with the Cadbury Report.

3.4.4.2 Development of Corporate Governance in the United Kingdom

Table 6: Timeline of the United Kingdom's Corporate Governance development

Year of Publication or Enactment	Name of Code or Legislation	Focus	Source
1992	Cadbury Report	Codifying Corporate Governance in the UK.	(Cadbury, 1992:1-90)
1995	Greenbury Report	Remuneration of directors.	(Greenbury, 1995:1-59)
1998	The Hampel Report	A review of the Cadbury and the Greenbury Reports and further recommendations on the	(Hampel, 1998:1-65)

Year of Publication or Enactment	Name of Code or Legislation	Focus	Source
		roles of directors, shareholders, and auditors.	
1998	The Combined Code on Corporate Governance	A combination of the Cadbury, Greenbury and Hampel Reports.	(FRC, 2000:1-14)
2003	The Higgs Review	A review of the role and effectiveness of non-executive directors.	(Higgs, 2003:1-126)
2003	The Smith Report	Guidance on Audit Committees	(Smith, 2003:1-48)
2003	The Combined Code on Corporate Governance	The 1998 Combined Code consolidated with recommendations from the Smith and Higgs Reports.	(FRC, 2003:1-84)
2006	Companies Act (Act of 2006)	Entrenching the Enlightened Shareholder Theory of Corporate Governance in the UK legislation.	(UK, 2006:1-701)
2006	The Combined Code on Corporate Governance	Review of the 2003 Combined Code based on the 2005 Turnbull Report.	(FRC, 2006:1-25)
2008	The Combined Code on Corporate Governance	An update of the 2003 Combined Code	
2009	The Walker Report	Recommendations on Corporate Governance in UK banks and other financial institutions.	(Walker, 2009:1-181)

Year of Publication or Enactment	Name of Code or Legislation	Focus	Source
2010	The UK Stewardship Code	Enhancing the quality of engagement between institutional investors for the long-term success of companies.	(FRC, 2010c:1-10)
2010	The UK Corporate Governance Code	An update of the 2008 Combined Code	(FRC, 2010a:1-40)
2012	The UK Corporate Governance Code	An update of the 2008 Combined Code	(FRC, 2012a:1-34)
2012	The UK Stewardship Code	Setting out of effective stewardship by institutional investors.	(FRC, 2012b:1-10)
2014	The UK Corporate Governance Code	An update of the 2012 Corporate Governance Code.	(FRC, 2014:1-31)
2016	The UK Corporate Governance Code	An update of the 2014 Corporate Governance Code.	(FRC, 2016:1-32)

- **The Cadbury Report, 1992**

The Cadbury Report, also known as the Report on Financial Aspects of Corporate Governance, is the UK's first Report on Corporate Governance and was published in 1992 (Jordan, 2012:4; Veldman and Willmott, 2016:582; Silva Lokuwaduge and Armstrong, 2015:814; Grant Thornton, 2017:5). The Cadbury Report came into effect as a result of the efforts of the FRC, the London Stock Exchange (LSE) and the Accountancy Profession in the UK to address financial aspects of Corporate Governance (Cadbury, 1992:14; Cheffins, 2015:406). Underpinned on openness, integrity and accountability, the Cadbury Report was applicable to companies listed

on the LSE, even though other companies were also encouraged to apply the principles set out in the Report (Cadbury, 1992:17).

The rationale behind the production of the Cadbury Report was “the perceived low level of confidence both in financial reporting and in the ability of auditors to provide safeguards which the users of company reports sought and expected” (Cadbury, 1992:14). The low confidence in financial reporting and auditing was a result of accounting standards that were easy to manipulate. Furthermore, weak control environments provided by directors in companies and auditors, easily giving in to the demands of directors, resulted in corporate fraud and Corporate Governance failures in the UK (Cadbury, 1992:14; Jordan, 2012:4; Zalewska, 2014:5). As a result, the main focus of the Cadbury Report was defining the function of the boards of directors, particularly their duties in controlling companies and reporting of companies’ performances (Jordan, 2012:5). The Report also focused on auditing and shareholders (Cadbury, 1992:36,48). The Cadbury Report would however be replaced by other Reports as the need to improve it arose.

- **The Greenbury Report, 1995**

The Greenbury Report was produced as a result of concerns by shareholders and the general public about the remuneration of directors (Greenbury, 1995:7). The public and shareholders were concerned about the remuneration of directors of privatised utility industries, which was increased while workers were being retrenched (Greenbury, 1995:9; Alissa, 2015:730). Key to the Greenbury Report was accountability, responsibility, full disclosure, alignment of shareholder and director interests, and improved company performance (Greenbury, 1995:7). The Greenbury Report was however criticised for trying to control the remuneration of the board of directors. This criticism has however been refuted by the Hampel Committee as being impractical in a free-market economy (Hampel, 1998:9).

- **The Hampel Report and The Combined Code, 1998**

The Hampel Report was produced by the Hampel Committee on Corporate Governance, which was established in 1995 by the FRC (Hampel, 1998:5). The Hampel Committee was tasked with reviewing the implementation of the findings and recommendations of the Cadbury and Greenbury Committees to ensure that their intended purpose had been achieved (Hampel, 1998:5). Furthermore, the Hampel Committee "looked afresh at the roles of directors, shareholders and auditors in Corporate Governance" (Hampel, 1998:8).

While the Hampel Committee conceded that it was too soon to make an assessment of the Cadbury Report's long-term impact on Corporate Governance in the UK, the Committee acknowledged that the Cadbury Report had resulted in higher standards of Corporate Governance, and a greater awareness of Corporate Governance standards and their importance (Hampel, 1998:9). Equally so, the review of the Greenbury Report was not possible since the only one set of annual reports had been published (Hampel, 1998:9). However, one of the Greenbury Report's primary aims of full disclosure of directors' remuneration was reported as being achieved (Hampel, 1998:9). Despite these time limits, the Hampel Committee established that the majority of large listed companies were fully implementing both the Cadbury and Greenbury Codes while the smaller companies found some provisions hard to comply with (Hampel, 1998:9). Nevertheless, the Hampel Committee decided against having different Corporate Governance standards for large and small companies, as it argued that high Corporate Governance standards were important for all companies, irrespective of their sizes (Hampel, 1998). The Cadbury, Greenbury and Hampel Reports were then consolidated in order to produce the Combined Code of Corporate Governance (FRC, 2000:1).

- **The Higgs Review, The Smith Report and The Combined Code, 2003**

The Higgs Review sought to clarify the role of non-executive directors and also make recommendations for improving the effectiveness of non-executive directors (Higgs, 2003:3). The review was necessary because Higgs contented that while the importance of non-executive directors was recognised, their roles were misunderstood in the UK (Higgs, 2003:3; Steele, 2008:50). The review was also necessitated by the

need to ensure that non-executive directors had the necessary knowledge and experience to serve on boards of directors (Higgs, 2003:3).

In the same year, The Smith Report was published by the FRC. It sought to "… provide guidance designed to assist company boards in making suitable arrangements for their Audit Committees, and to assist directors serving on Audit Committees in carrying out their role" (Smith, 2003:3). It contained requirements that ought to be complied with by every Audit Committee of listed companies (Smith, 2003:3). However, in keeping up with the requirements of the comply or explain regime of the UK, the Smith Report required all companies that did not comply with its requirements to explain why they did not do so (Smith, 2003:3). Additionally, the Smith Report affirmed that the UK subscribes to the shareholder primacy as prescribed by the Agency and Stewardship Theories (see 3.2.2.1 and 3.2.2.2). This is because it argued that the role of an Audit Committee is "… to ensure that the interests of shareholders are properly protected …" (Smith, 2003:3; Ajibo, 2014:38). The Higgs and Smith Reports was subsequently incorporated to form the Revised Combined Code of 2003.

- **The Companies Act (Act of 2006)**

Although Corporate Governance in the UK was only principle-based and not based on legislation prior to 2006 as is the case in the USA (see 3.3.3 above), the UK's Companies Act (Act of 2006) has a bearing on UK's Corporate Governance (Ajibo, 2014:38; Tsagas, 2017b:1; Gibbon et al., 2018:1). The Companies Act (Act of 2006) has embedded the Enlightened Shareholder Theory in UK Corporate Governance through its Section 172: "Duty to promote the success of the company" (UK, 2006:79; Ajibo, 2014:38-39; Gibbon et al., 2018:1; Tsagas, 2017b:1). As Section 172(1) states in UK (2006:79);

> "A director of a company must act in the way he [or she] considers, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole, and in doing so, have regard to –
>
> (a) The likely consequences of any decision in the long-term,
> (b) The interests of the company's employees,

(c) The need to foster the company's business relationships with suppliers, customers and others,
(d) The desirability of the company maintaining a reputation for high standards of business standards of business conducts, and
(e) The need to act fairly between members of the company."

This section has replaced the requirement for directors to act "bona fide in the interests of the company" and the upholding of shareholder primacy in the UK (Keay, 2010:9; Tsagas, 2017a:1). This has made Section 172(1) a significant improvement in UK Corporate Governance because more stakeholders will be considered by directors of companies in their decision making (Ajibo, 2014:50). The requirements of Section 172(1) have also been credited with being in line with the OECD principles on Corporate Governance (Ajibo, 2014:49). However, the Companies Act (Act of 2006) has been criticised for its inability to facilitate good Corporate Governance because the requirements are in the form of legislation (Tsagas, 2017a:2; 2017b:2). Tsagas argues that for the requirements of Section 172(1) to be effectively applied, it must be in the form of a principle of good Corporate Governance and not legislation (Tsagas, 2017a:2). Ajibo has corroborated this argument, stating that the enforcement of Section 172(1) will prove problematic (Ajibo, 2014:50-51). So far, there has not been a reported case to test the enforceability of Section 172(1) of the Companies Act (Act of 2006).

- **The Combined Codes, 2006 and 2008**

Following a review by the FRC on the implementation of the 2003 Combined Code, the 2006 Combined Code was issued and was applicable to financial years starting on or after 1 November 2006 (FRC, 2006:1). The 2006 Combined Code was in turn replaced by the 2008 Combined Code as a result of a review which indicated that some provisions of the 2006 Combined Code were less relevant to smaller listed companies (FRC, 2008:2).

- **The Walker Report**

The Walker Report reviewed Corporate Governance in UK banks. The review was necessitated by the failure of the UK banking system as a result of the 2008 global financial crisis (Walker, 2009:5). The Walker Report made the following recommendations concerning the banks:

- Boards of directors, their composition and the qualifications of members of the boards;
- Performance evaluation;
- The role of institutional investors;
- Governance of risk, and;
- Remuneration of high end employees (Turner, 2009:1-2; Walker, 2009:5-22).

High end employees have been defined as employees who earn more than the average remuneration of the board (Turner, 2009:2).

- **The Stewardship Codes, 2010 and 2012**

First published in 2010, The Stewardship Code recognises the responsibility of investors to hold the board of directors accountable for executing their duties (FRC, 2012c:1). The Stewardship Code was developed as a response to a call to give institutional investors active roles in companies they had invested in, in the wake of the 2008 global financial crisis (see 3.1.2) (Lu, 2016:1; Reisberg, 2015:220; Hirt, 2017:1). The call to have institutional investors playing more active roles was previously made in 2002 by the Institutional Shareholders' Committee (ISC), which was in 2011 named the Institutional Investor Committee (IIC), in its document; The Responsibilities of Institutional Shareholders and Agents: Statement of Principles (Lu, 2016:3). Through this document, the ISC sought to "… expand on the Combined Code on Corporate Governance of June 1998… [and set] out best practice for institutional shareholders in relation to their responsibilities in respect of investee companies…" (ISC, 2002:1).

The ISC's document was converted into a Code in 2009 through the recommendation of David Walker, who was asked by the then UK Prime Minister to review Corporate

Governance in UK banks (Walker, 2009:5; O'Dwyer, 2014:122). The review was a result of the failure of the banking system in the UK due to the 2008 global financial crisis (Walker, 2009:9; O'Dwyer, 2014:121). The Walker's review resulted in recommendations on the boards of directors, institutional shareholders, governance of risk, and remuneration within banks (Walker, 2009:14-22). These recommendations were taken into consideration when reviewing the 2008 Combined Code (see UK Corporate Governance Codes below).

The FRC subsequently renamed the ISC Code the UK Stewardship Code in 2010 (Lu, 2016:3-4; Reisberg, 2015:222; O'Dwyer, 2014:121). The Stewardship Code complemented the 2010 UK Corporate Governance Code and was also applicable to companies on a comply or explain basis (FRC, 2010b:1). The Code was updated and published again in 2012 while still maintaining the seven principles for institutional investors (Reisberg, 2015:223; Lu, 2016:4). The seven principles for institutional investors are as follows:

- Publicly disclose their policy on how they will discharge their stewardship responsibilities;
- Have a robust policy on managing conflicts of interest in relation to stewardship which should be publicly disclosed;
- Monitor their investee companies;
- Establish clear guidelines on when and how they will escalate their stewardship activities;
- Be willing to act collectively with other investors where appropriate.
- Have a clear policy on voting and disclosure of voting activity, and;
- Report periodically on their stewardship and voting activities (FRC, 2010b:5).

However, the 2012 Stewardship Code was accompanied by a detailed guidance to its application. This is because the 2010 edition of the Code had been criticised for being rushed and not being comprehensive enough (O'Dwyer, 2014:123).

- **The UK Corporate Governance Codes, from 2010 to 2016**

The 2010 UK Corporate Governance Code, previously referred to as the Combined Code on Corporate Governance, was issued in 2010 and became effective for

financial years starting on or after 29 June 2010 (FRC, 2010a:1; Lowe, 2011:1). This Code was developed as a result of the 2008 Combined Code review, after taking into consideration the recommendations of the Walker Report (Shearman and Sterling, 2010:1). The 2010 Corporate Governance Code included changes such as the provision of re-election of all directors annually, the role of non-executive directors in strategy development and the removal of provisions relating to the role of institutional investors in investee companies (Shearman and Sterling, 2010:1). These provisions were moved to the Stewardship Code (see discussion above).

The Code was updated in 2012 and became effective on 1 October 2012 (FRC, 2012b:1; FRC, 2012a:1-2). The main changes in the 2012 Code included the requirement to have Financial Times Stock Exchange (FTSE) 350 companies to put external audit contracts out to tender after every 10 years (FRC, 2012a:1). FTSE 350 companies are the 350 largest companies by market capitalisation primarily listed on the LSE. Another change included in the Code was the requirement for audit committees to provide more information to shareholders on how they carry out their responsibilities (FRC, 2012a:1). These changes were made "to give investors greater insight into what company boards and audit committees were doing to promote [investors'] interests…" (FRC, 2012a:2). The 2014 UK Corporate Governance Code was also released and was concerned with the change in behaviour of companies rather than introducing new technical requirements (PwC, 2014:1). The 2014 was also reviewed and updated, resulting in the 2016 Code which has been in effect for financial years starting on or after 17 June 2016 (FRC, 2016:1). The update of the Code was made in line with the changes to the implementation of the European Union's Audit and Regulation Directive (FRC, 2016:2). The 2016 UK Corporate Governance Code is still in use, with its review and update expected during 2018 (ICAEW, 2018:1; QCA, 2018:1; EY, 2018:1).

3.4.4.3 Conclusion on Corporate Governance in the United Kingdom

Corporate Governance in the UK has been regularly developed since the publication of the Cadbury Report in 1992 (see 3.3.4.2). While Corporate Governance in the UK has been considered voluntary based, some legislation that has had an impact on

Corporate Governance is the Companies Act (Act of 2006), showing that voluntary and mandatory Corporate Governance regimes can complement each other.

3.4.5 Germany

Corporate Governance in Germany is perhaps the most unique in the world (Schilling, 2001:148; Kreijger, 2018:1; Ringe, 2015:495,507-508). This is because unlike in other countries, companies in Germany are by law required to have employee representatives on their boards (Bottenberg et al., 2017:169; Sande and Schneider, 2017:167; Kreijger, 2018:3). This has been made possible through the German Co-determination Act (Act of 1976) *(or Mitbestimmunsgesetz)*, which requires that at least half of the members of the board of directors be employee representatives, typically from workers unions (Kreijger, 2018:3; Bottenberg et al., 2017:169; Sande and Schneider, 2017:167; Berger and Vaccarino, 2016:1-3).

Another distinction is of German companies having two-tier boards, the executive board and the supervisory board (Bottenberg et al., 2017:169; Rosen, 2007:38; Kreijger, 2018:3; Berger and Vaccarino, 2016:3). The executive board is responsible for the day-to-day operations of the company and reports to the supervisory board (Bottenberg et al., 2017:169; Kreijger, 2018:3-4). The executive board is required to have at least one member but must have at least two members in cases where the company's registered share capital is €3 million or more (Sande and Schneider, 2017:168). The executive board must also have two or more members in cases where the Co-determination Act (Act of 1976) requires that a labour director be included on the board (Sande and Schneider, 2017:168). As shown in Figure 1, members of the executive board are appointed and removed by the supervisory board and may only serve on the board for a maximum of five years (Sande and Schneider, 2017:168). Additionally, a director on the executive board is not allowed to serve on the supervisory board (Bermig, 2012:32; Bottenberg et al., 2017:169; Sande and Schneider, 2017:168).

The supervisory board, instead, is made up of at least three members, elected by both shareholders and employee representatives with the aim of supervising and controlling the executing board (Kreijger, 2018:3; Sande and Schneider, 2017:169,171). The

supervisory board has the legal obligation to control and monitor the executive board (Michelberger, 2017:66). Having employee representation on the supervisory board ensures that stakeholders other than shareholders are considered in decision making, therefore, making Corporate Governance in Germany stakeholder-orientated (see 3.2.2.3) (Bottenberg et al., 2017:170).

Figure 1: Illustration of the German two-tier boards

Source: Kreijger (2018:3).

Companies in Germany are also guided by a Code of Corporate Governance which was introduced in 2002 (Cromme, 2002:1; Cromme, 2005:364; Bottenberg et al., 2017:174; Sande and Schneider, 2017:175). The Code was developed at the request of the Germany federal government, as a response to the collapse of Germany's largest construction company in 2000 (Michelberger, 2017:66). The Code is based on a comply or explain approach (Michelberger, 2017:66). This Code has been regularly updated since 2002 and a major update in 2013 resulted in the Code recommending that board remuneration be limited (Michelberger, 2017:66). The latest version of the German Code of Corporate Governance was published in 2017. Although Corporate Governance in Germany is unique, the 2018 Steinhoff scandal has demonstrated that

even companies that have two-tier boards are still prone to Corporate Governance scandals (Crous, 2018:2).

3.4.6 Conclusion on Corporate Governance in Selected Countries

This section started with a discussion of the different approaches that certain countries have towards Corporate Governance. Then, the section underscored Corporate Governance in the USA, the UK and Germany. The rationale behind this was to show the characteristics of different Corporate Governance regimes. Furthermore, this discussion has identified the characteristics that South Africa may have adopted in its own regime. This is shown in the Corporate Governance in South Africa, as discussed below.

3.5 Corporate Governance in South Africa

3.5.1 Introduction

This section presents Corporate Governance in South Africa. The presentation starts with the publication of the first King Report, showing the reasons for the need for a Code of Corporate Governance. The section then proceeds to show subsequent reforms in South African Corporate Governance. Corporate Governance in South African SOEs is then presented, with a particular focus on the application and disclosure requirements for SOEs.

3.5.2 Background on Corporate Governance in South Africa

Corporate Governance in South Africa was formalised by the publication of the King Report on Corporate Governance in November 1994 (IODSA, 2002:7; Solomon and Solomon, 2005:176; Dartnall, 2016:1). Prior to 1994, businesses had no clear guidelines on how principles such as accountability, transparency, and openness were to be applied (Walker and Meiring, 2010:1).

In 1994, the newly democratically elected South African Government found that some of the instruments for delivering the necessary services and carrying out the policy were SOEs but governance was not based on any standardised principles or rules

(DPE, 2002:2). Furthermore, Corporate Governance principles were found in the common law, which is primarily based on court decisions and not readily available (Walker and Meiring, 2010:1). This means that Corporate Governance principles were not readily available for reference since there was no formal code of Corporate Governance (Walker and Meiring, 2010:1). Therefore, the King I Report formalised generally accepted Corporate Governance principles (Walker et al., 2013:304).

As South Africa had an oppressive political environment prior to 1994 when the apartheid regime was abolished, it faced sanctions from the United Nations (UN), which barred the country from participating in international organisations and trading globally (Vaughn and Ryan, 2006:505). As a result, "corporate practices, national laws and regulations fell far behind international laws and… many [of] South Africa's corporations were unfocused entities run by complacent and entrenched managers" (Vaughn and Ryan, 2006:505). Upon lifting the UN sanctions, South Africa re-entered the global economy (Vaughn and Ryan, 2006:505; Armstrong et al., 2005:9). Therefore, the development of a code of Corporate Governance was necessary in order to entice international investors to invest in South Africa and to make South Africa globally competitive in terms of governance standards (Andreasson, 2011:656).

"To effectively compete in [the] new environment, South African corporations were compelled to address and embrace improved standards of Corporate Governance" (Vaughn and Ryan, 2006:505). Pressures to reform came into effect as a result of the following reasons:

- Efforts to attract foreign investors;
- A shift in corporate control structures and
- Economic crises in emerging economies (Vaughn and Ryan, 2006:505; Barac and Moloi, 2010:20).

As a means of attracting international investors, South Africa had to reform its Corporate Governance landscape (Vaughn and Ryan, 2006:505; West, 2006:435; Barac and Moloi, 2010:20; Andreasson, 2011:655). This was because international investors needed assurance that companies were accountable, transparent and fair to all stakeholders in exchange for their capital (Vaughn and Ryan, 2006:505; Andreasson, 2011:656). This can be viewed to be in line with Shleifer and Vishny's

perspective of Corporate Governance, which is that Corporate Governance "deals with the ways in which suppliers of finance to corporations assure themselves of getting a return on their investment" (Shleifer and Vishny, 1997:737).

Additionally, South Africa was dominated by mining finance houses. Though difficult to define, Ryan (1980:16) has attempted to give mining finance houses a definition. He describes them as "mining companies which operate internationally and predominately, but not exclusively, through subsidiaries and affiliates" (Ryan, 1980:16). Mining finance houses have also been defined as mining companies, conglomerates, which are also able to raise large sums of capital (Pogue, 2000:14). Mining finance houses have also been characterised by the family control that further marginalises minority shareholders (Malherbe and Segal, 2001:14). It can, therefore, be deduced from these definitions that dominant, mining finance houses can undesirably shape the corporate structure and control in an economy since they operate only for the benefit of the elite who own them (Malherbe and Segal, 2001:14-15).

In South Africa, mining finance houses were established to mine the Johannesburg gold deposits (Pogue, 2000:14; Malherbe and Segal, 2001:14; Afolabi, 2015:14-15). These mining finance houses were also helpful in developing South Africa's capital and money markets. They also owned shares in banks (Malherbe & Segal, 2001). However, these conglomerates "… bred and sustained unacceptable governance and business controls marked by elaborate control structures and conflicts of interest" (Vaughn and Ryan, 2006:505). Hence, the finance houses were dismantled in order to appease foreign financiers, who were critical of the financial returns and management practices of the mining finance houses (Malherbe & Segal, 2001). Against this background, retired judge Mervyn King was, in 1994, tasked with forming a commission, under the auspices of the IODSA, to establish a South African code of Corporate Governance, which resulted in the production of the King Report on Corporate Governance (King I) (Rossouw et al., 2002:296; West, 2006:435; Andreasson, 2011:656).

3.5.3 Subsequent Reforms

Although Principles of good Corporate Governance in South Arica are mainly found in King Reports, Acts of Parliament have influenced South African Corporate Governance. These Acts do not form the main discussion of this study but are being underscored to demonstrate their importance in the development of Corporate Governance in South Africa. Attention is at this point turned to the King Reports.

Table 7: Major Acts influencing Corporate Governance since 1994

Year	Act of Parliament
1995	**Labour Relations Act (LRA) (Act 65 of 1995):** Restricts the concept of unfair labour practice to specific acts on the part of the employer and has codified the principles established by the Industrial Court relating to the requirements that dismissals be substantively and procedurally fair. The new LRA aims to encourage voluntary collective bargaining and the settlement of disputes and does so by enhancing the powers of new forums designed to facilitate those objectives.
1997	**Basic Conditions of Employment Act (Act 75 of 1997)**: Gives effect to the right to fair labour practices referred in the Constitution by establishing and making provision for the regulation of basic conditions of employment; and thereby requires employers to comply with the obligations of the Republic as a member state of the International Labour Organisation.
1998	**Employment Equity Act (Act 55 of 1998)**: Promotes the constitutional right of equality and the exercise of true democracy; eliminates unfair discrimination in employment; ensures the implementation of employment equity to redress the effects of discrimination; requires the workforce to be broadly representative of the South African population; promotes economic development and efficiency in the workforce.
1998	**Insider Trading Act (Act 135 of 1998):** Prohibits individuals who have inside information relating to securities or financial instruments from dealing in such securities or financial instruments; provides for criminal and civil law penalties for such dealings; empowers the Financial Services Board to investigate matters relating to such dealings.

Year	Act of Parliament
1999	**Public Finance Management Act (Act 1 of 1999):** Regulates financial management in the national government and provincial governments; ensures that all revenue, expenditure, assets and liabilities of those governments are managed efficiently and effectively.
1999	**Amendments to the Companies Act (Act 61 of 1973):** Permits companies to obtain liability cover identifying their directors, compelling disclosure of the identity of beneficial owners of shares held by nominees, and making public companies appoint a company secretary
1999	**Amendments to the Bank Act (Act 94 of 1990):** Enforcing higher levels of Corporate Governance in banks.
2000	Revision of Johannesburg Securities Exchange listing requirements.
2008	**Companies Act (Act 71 of 2008):** Defining the relationships between companies and their respective shareholders and directors.

Source: Kakabadse and Korac-Kakabadse (2002:308); IODSA (2009:2).

The first King Report applied to companies listed on the JSE, SOEs, banks and insurance companies, although other companies were encouraged to comply with it (Esser, 2009:190; Walker et al., 2013:304). The King I Report "sought to provide a comprehensive set of principles and guidelines to codify, clarify and expand upon the common law principles of Corporate Governance that existed in South Africa" (see 3.3.2) (Walker and Meiring, 2010:1). The main objective of the report, as IODSA (2002:7), Vaughn and Ryan (2006:406) and Esser (2009:189) state, was to "promote the highest standards of Corporate Governance in South Africa". The King I Report was also based on the United Kingdom's (UK) Cadbury Report on Corporate Governance (Armstrong et al., 2005:9; West, 2006:435; Esser, 2009:189; Andreasson, 2011:656), showing that Corporate Governance in South Africa has been greatly influenced by Corporate Governance pronouncements and laws in the UK (Wixley and Everingham, 2015:15). Though it was inspired by the Cadbury Report, the King I Report was created to fit the South African environment (Esser, 2009:189; Harvey Pamburai et al., 2015:119).

Just like the Cadbury Report (see 3.3.4), the King I Report followed the comply or explain approach to Corporate Governance (Andreasson, 2011:663; Ntim et al.,

2012:86). Under this approach, it is strongly suggested that boards of directors comply with a set of recommended best practices or explain why they decided not to comply (Esser, 2009:190; Andreasson, 2011:663; Keay, 2014:281; Harper Ho, 2017:329). The first King Report was celebrated for being the first report on Corporate Governance that "embraced the concepts of stakeholder engagement, ethics and environmental management, [encouraging] an active approach to these issues" (Rossouw et al., 2002:300). The Report was also celebrated for its recognition of the need for transparency for both shareholders and stakeholders through its integrated Corporate Governance disclosure approach (Ntim et al., 2012:86). However, the report was criticised for not being clear on the preferred approach of stakeholder protection (Esser, 2009:192). In addition, it failed to provide practical guidelines on how to act in the best interest of a company, taking into account the interests of various stakeholders (Esser, 2009:192).

Commended as world class for an emphasis on social, environmental and ethical concerns, the King II Report became effective on 1 March 2002 and replaced the first King Report (IODSA, 2002:4). The King II Report was issued as a result of the changes in Corporate Governance around the world and in consideration of the political and economic uncertainty that existed in South Africa when the King I Report was issued (West, 2006:436). This means that the relevance of the first King Report in light of the new international developments was questionable because a major international development in Corporate Governance, the publication of OECD principles of Corporate Governance, was issued in 1999. In order to improve on their already existing Corporate Governance principles and laws (OECD, 1999:6). Therefore the King II Report was also issued as a response to Corporate Governance scandals and failures such as the MacMed healthcare group in 1999 and the collapse of the Regal Treasury Bank in 2001 (Armstrong et al., 2005:15,26; Padayachee, 2013:268; Kakabadse and Korac-Kakabadse, 2002:306; Muchemwa et al., 2016:497).

The second King Report reviewed and expanded on the first King Report (Walker and Meiring, 2010:1; Walker et al., 2013:304). It identified seven fundamental characteristics of good Corporate Governance: discipline, transparency, independence, accountability, responsibility, fairness and social responsibility (Walker et al., 2013:304). Furthermore, the King II report was applicable to government

departments, state-owned companies, all companies with securities listed on the JSE, banks and insurance companies (IODSA, 2002:21). The King II Report also advocated for an inclusive approach to Corporate Governance (West, 2006:433,436). According to the inclusive approach, which also emanates from the Stakeholder Theory (West, 2006:436) (see 3.2.2.2), while all stakeholders should be considered in the decision making and operations of a company, shareholders should be recognised as part of other stakeholders, with directors responsible to the company and not the shareholders (IODSA, 2002:7-8,11; West, 2006:436). Even though the second King Report was an improvement on the King I Report, Lubbe and Lubbe (2015:1) criticised the reduction of the application of Corporate Governance principles of the King II Report, particularly in the public sector. Furthermore, changes in the South African legislation made it necessary for the introduction of a new and improved King Report on Corporate Governance (Brink, 2009:6; Walker et al., 2013:304).

The King III report was introduced and became effective from 1 March 2010 (IODSA, 2009:17). The third report on Corporate Governance in South Africa became necessary because of the anticipated new Companies Act (Act 71 of 2008) and changes in international governance trends (Brink, 2009:6; IODSA, 2009:4; Walker and Meiring, 2010:1; Walker et al., 2013:304-305). This was because it had been anticipated that many of the recommendations included in the King Reports would be included in the Companies Act (Act 71 of 2008) (Walker et al., 2013:304). The King III Report had some key differences from the King II Report. Unlike its predecessor, King II Report, the King III Report applied to all companies, irrespective of their form of incorporation (Brink, 2009:7; Walker et al., 2013:305; Myburgh and De Costa, 2017:2). The King III Report shifted from the comply or explain approach to an apply or explain approach to Corporate Governance that was used in the King II Report. The King III Report requires that all companies to which the Report is applicable are required to should disclose how they apply the principles prescribed in King III, or explain why they did not apply them (IODSA, 2009:6; Walker et al., 2013:305; Wixley and Everingham, 2015:10).

The rationale behind the new approach was that “the comply or explain approach could denote a mindless response to the King Code and its recommendations, [while] the apply or explain approach shows an appreciation for the fact that it is often not the

case of whether to comply or not, but rather to consider how the principles and recommendations can be applied" (IODSA, 2009:6). Though the Code of Corporate Governance is not legislation, IODSA (2009:7) acknowledges that any failure to meet a recognized standard of governance, albeit not legislated, may render a board or individual director liable at law. Crous (2012:108-109) underscores other key differences as follows;

- With regard to Boards and Directors, the majority of the directors must be non-executive, the majority of which should be independent. The board should be chaired by an independent non-executive director, with the board having a minimum of two executive directors being the CEO and the CFO. This changed from the King II Report, which required the board to consist of executive and non-executive directors to the extent appropriate (IODSA, 2002:46). While it recommended that the majority of directors be non-executive, the Report recommended that a sufficient number of non-executive directors be independent.
- Shareholders must approve a directors' remuneration policy. The board chairperson and non-executive directors may not receive incentive awards that are linked to share the company's price.
- Mergers, acquisitions and take-overs were included for the first time in the King Code due to changes in the Companies Act (Act 71 of 2008).

The King IV Report has been issued and has been effective from 1 April 2017 (IODSA, 2016:38; Dartnall, 2016:1; Shango and Anton, 2016:2). King IV was necessitated by significant changes in South African and international Corporate Governance and regulations (Dartnall, 2016:1). The King IV Report was issued by the IODSA as a means of improving Corporate Governance in South Africa (Cairns, 2016:1). This has been done by changing the understanding of Corporate Governance from a box-ticking approach to where organisations appreciate the intent behind the recommended practices (Cairns, 2016:1). This means that the King IV Report was introduced so that organisations understand the rationale behind the recommended practices as adding value to the functioning of boards of directors, thereby achieving their objectives (Cairns, 2016:1). Therefore, the King IV Report has been described as having followed an outcome-based approach to Corporate Governance (Cairns,

2016:1; Shango and Anton, 2016:3). The governance outcomes referred to are the benefits that an organisation could get if the recommended practices are followed (Shango and Anton, 2016:4). These outcomes also found in the King IV definition of Corporate Governance (see 1.4.2). They are ethical culture, good performance, effective control and legitimacy (IODSA, 2016:11; Shango and Anton, 2016:4).

Furthermore, King IV has been introduced to make it easy for all organisations to apply, irrespective of their size or form of incorporation (Cairns, 2016:1). This has been made possible by the introduction of sector supplements (IODSA, 2016:75; Shango and Anton, 2016:5; Myburgh and De Costa, 2017:2). Although the King IV Report does not differ significantly from King III, concepts that were introduced in King III have been refined in King IV (Shango and Anton, 2016:2; IODSA, 2016:23). That is, it does not give out new principles of Corporate Governance, but rather sets out the already existing ones in a new way (Cairns, 2016:1). Key differences between King III and the King IV reports are outlined in Shango and Anton (2016:4-9); Myburgh and De Costa (2017:2-9) as follows;

- **A change from 'apply or explain' to 'apply and explain' approach**
  While the King III Report required companies to apply the recommended practices or explain why they did not apply them (see discussion above), the King IV Report has adopted an apply and explain application approach (IODSA, 2016:37). Under this approach, organisations are recommended to apply the Corporate Governance principles and explain the practices that demonstrate the application of the practices (IODSA, 2016:37). This means that organisations will be required to implement the principles, take measures to achieve the principles and explain the taken measures and their governance outcomes. This is done in order to facilitate a meaningful participation of stakeholders in the Corporate Governance of organisations.

- **Introduction of sector supplements**
  The King IV has introduced supplements that provide specific guidance and direction to different sectors and categories of organisations in applying the Report (IODSA, 2016:75). The sector supplements are applicable to municipalities, non-profit organisations, retirement funds, small and medium

enterprises and SOEs. It is recommended that those sectors and categories and that do not have specific supplements provided for in King IV should consider the supplement most aligned to their organisational structure (IODSA, 2016:75). The sector supplements are "intended to demonstrate how the Code should be interpreted and applied in a number of representative contexts, situations and legislative regimes" (IODSA, 2016:76). Additionally, organisations are required to read the sector supplements with the balance of the King IV Report. This study focuses on the supplement for SOEs (see 3.4.4.2).

- **Board committees and enhanced disclosure requirements**
  Disclosure requirements under the King IV are more comprehensive than those that were recommended in the King III Report (Myburgh and De Costa, 2017:5-6). These disclosure requirements can be found under each principle (IODSA, 2016:45-73).

However, the King IV Report has some similarities to its predecessors. It is based on the Enlightened Shareholder Theory (Crous, 2017:68). This has been built from King I, II and III Reports as they are also based on the theory (Esser, 2009:192). This theory aims at finding a balance between the competing interests of stakeholders for the benefit of shareholders in the long-term (Keay, 2007:590). Esser (2009:192) argues that for one to understand the Enlightened Shareholder Theory, an understanding of the triple-bottom-line approach is needed.

The triple-bottom line approach, also known as the triple-context approach, argues that a company is a corporate citizen, and as such "has social and moral standing in society…" (SAICA, 2013b:22). Therefore, the board of a company should not be responsible for just the company's financial bottom line, but rather, its "performance within the triple context in which it operates: economic, social and environmental" (SAICA, 2013b:22). This is because, as stated in (SAICA, 2013b:22),

> "[The] triple-context approach enhances the company's potential to create economic value. It ensures that the economic, social and environmental resources that the company requires to remain in business are treated

> responsibly. By looking beyond the immediate financial gain, the company protects its reputation, [which] is its most significant asset and builds trust. There is a growing understanding in business that social and environmental issues have financial consequences."

The Enlightened Shareholder Theory draws from the triple-bottom-line approach. It is concerned with accountability towards shareholders and responsibility towards other stakeholders, while the triple-context approach is only concerned with responsibility (Esser, 2009:192-193). In this theory, other stakeholders are considered, but their interests are subordinate to those of shareholders. That is, the primary role of directors is working towards the success of a company "for the benefit of the company as a whole, and to generate maximum value for shareholders" (Esser, 2009:193).

3.5.4 Corporate Governance in South African State-Owned Entities

3.5.4.1 Introduction

This section deals with SOEs in South Africa, with a particular interest in the Corporate Governance of these SOEs. While Codes of best practice are largely made for private sector companies, they usually encourage other forms of business ownership to comply with their recommendations (see 3.3.4, 3.3.5, 3.4.2 and 3.4.3). Usually, not all the recommendations are applicable to these SOEs because of the SOEs' proximity to the States which own them. In light of this, the OECD issues Guidelines on Corporate Governance of SOEs which provides guidelines for effective application of good Corporate Governance principles in SOEs (Corrigan, 2014:2).

3.5.4.2 Corporate Governance in State-Owned Entities

A state may have a role in Corporate Governance through direct ownership and control of entities (Baker and Quéré, 2014:294). Corporate Governance in SOEs has been identified as different from that of the private sector due to being "under the direct influence of politicians rather than career businesspeople" (Corrigan, 2014:2). . Being under the direct influence of politicians increases the propensity for conflicts of interests (Matsiliza, 2017:39). These conflicts on interests arise as a result of politicians appointing board members that serve the interests of influential politicians

at the expense of public interests (see 3.2.5) (Matsiliza, 2017:39-40). Therefore, SOEs are generally characterised by lack of transparency (Thomas, 2012:452). However, transparency in SOEs can be enhanced by Corporate Governance disclosures, as advocated for in this study (see 5.4). Furthermore, OECD Guidelines discussed below have been developed to also help in improving Corporate Governance practices in SOEs.

3.5.4.3 Corporate Governance in South African State-Owned Entities

3.5.4.3.1 OECD Guidelines

The OECD Guidelines on Corporate Governance of State-Owned Enterprises are internationally agreed standards which were first published in 2005 (Kloviene et al., 2015:237; OECD, 2015a:3). The Guidelines have been widely adopted in the world, with different governments changing their Corporate Governance practices in order to limit the negative effects of state ownership on competitive markets (Rajavuori, 2015:1; Thomas, 2012:453). The 2005 Guidelines were non-binding recommendations that served as "an international benchmark to help governments assess and improve the way they exercise ownership of SOEs" (OECD, 2005:3). They were a set of recommendations to governments to ensure that SOEs operate efficiently, transparently and in an accountable manner (OECD, 2015a:3). The 2005 Guidelines dealt with six aspects divided into six chapters, being Ensuring an effective and legal regulatory framework for SOEs, The State as an owner, Equitable treatment of shareholders, Stakeholders' rights, Transparency and disclosure and The responsibilities of the boards of SOEs (OECD, 2005:5). These chapters had separate annotations to them in the second part of the Report. The aspects contained in the OECD Guidelines are explained below.

(i) Chapter 1: This chapter sought to ensure that governments provide environments in which SOEs and private companies competed on a level field without one having an advantage over the other. It recommended that the States' ownership of entities should not influence the regulation of markets for competitive advantage. It further recommended that the access to finance for

private companies and SOEs should be on equal competitive grounds (OECD, 2005:12).

(ii) **Chapter 2:** The development of Governments' ownership policies was recommended in this chapter. The OECD recommended that these ownership policies should facilitate state ownership that is transparent and accountable with governance that is professional and effective. The OECD recommended that Governments should not be involved in day-to-day running of the SOEs but should appoint boards of directors which are autonomous (OECD, 2005:13).

(iii) **Chapter 3:** The need to recognise the rights of all shareholders was underscored in this chapter. This could be through equitable treatment of all shareholders, transparency toward all shareholders, communication policy development and the facilitation of the participation of minority shareholders in decisions such as the election of the board of directors (OECD, 2005:14).

(iv) **Chapter 4:** The recommendations with regard to the relations of SOEs with stakeholders other than shareholders were discussed in chapter 4. The OECD recommended that stakeholders' rights should be recognised and respected by Governments (OECD, 2005:15).

(v) **Chapter 5:** This chapter contained recommendations that enhance transparency and disclosure of SOEs. The OECD stated that for this to be achieved, SOEs were recommended to consistently publish annual aggregate reports. SOEs should be subjected to annual external audits and high-quality accounting standards (OECD, 2005:16).

(vi) **Chapter 6:** The last chapter contained recommendations on the responsibilities of the boards of directors. This chapter stated that the function of the boards of directors was the strategic guidance and monitoring of management. The OECD recommended that in carrying out these functions, the boards should be given the necessary authority, competencies and

> objectivity. Other recommendations included separating the position of Chairperson and CEO as well as giving the boards the power to appoint and remove CEOs (OECD, 2005:17).

The OECD Guidelines on Corporate Governance of State-Owned Enterprises were reviewed, updated and published in 2015 (OECD, 2015a:3). The Guidelines were updated to "reflect a decade of experience with their implementation and address new issues that have arisen concerning SOEs…" (OECD, 2015a:3). Corrigan states that in response to the 2008 global financial crisis (see 3.1.2), many governments have made state ownership of companies a priority (Corrigan, 2014:2). It is this surge in state ownership that has made the OECD Guidelines more relevant, hence the review of the 2005 edition (Rajavuori, 2015:1). The OECD stated that the Guidelines are outcome-based, requiring governments to decide how the recommended outcomes can be achieved (OECD, 2015a:14). The same approach has been adopted by the King IV Report (see 1.4.5).

The 2015 Guidelines were considerably changed from the 2005 edition, with greater clarity on how governments can ensure the implementation of good Corporate Governance practices (OECD, 2015a:7). Chief among the upgrades of the OECD Guidelines was an inclusion of a chapter on the reasons for state ownership (OECD, 2015a:17). However, the South African government has so far had a poor understanding of its oversight role as a shareholder (Qobo, 2018:3).

3.5.4.3.2 Public Financial Management Act (Act 1 of 1999)

The PFMA (Act 1 of 1999) (RSA, 2010:1-82) applies to government departments, public entities including SOEs, constitutional entities, Parliament and Provincial Legislatures (RSA, 2010:45-46; PwC, 2012:3-4; Kanyane and Sausi, 2015:31-32; Wixley and Everingham, 2015:276). The PFMA (Act 1 of 1999) seeks to:

> "regulate financial management in the national government and provincial governments; to ensure that all revenue, expenditure, assets and liabilities of those governments are managed efficiently and effectively; to provide for the

responsibilities of persons entrusted with financial management in those governments; and to provide for matters connected therewith" (RSA, 2010:1).

The PFMA does this in order to achieve transparency, accountability and sound management of the revenue, expenditure, assets and liabilities within the institutions it applies (Kanyane and Sausi, 2015:32; Ramano, 2018:1-2; Thabane and Deventer, 2018:10; Wixley and Everingham, 2015:276). However, the Act does not deal directly with the principles of Corporate Governance (Wixley and Everingham, 2015:276) but it plays an important role in ensuring compliance with good Corporate Governance practices (Fourie, 2009:1117). The SOEs in South Africa are also requested to adhere to the requirements of the protocol on Corporate Governance in the public sector.

3.5.4.3.3 Protocol on Corporate Governance in the public sector

Unlike the PFMA (Act 1 of 1999), the Protocol on Corporate Governance in the public sector deals specifically with aspects of Corporate Governance (Wixley and Everingham, 2015:284). It deals with the role of the board of directors of SOEs, including those of the chairperson and the CEO, the appointment and removal of directors, remuneration of directors, board committees and the relationship between boards of directors and the shareholders of the SOEs (DPE, 2002:8-19). The Protocol on Corporate Governance in the Public Sector was first published in 1997, with the government trying to entrench principles of good Corporate Governance in SOEs (DPE, 2002:3; PRC, 2013:81). The Protocol was revised in 2002 in response to the publication of the King Code II, which was deemed too general and not covering Corporate Governance aspects specific to the public sector (DPE, 2002:3; Thabane and Deventer, 2018:13; ACGN, 2016:71). The Protocol was however not intended to be a substitute of the King II Code. It was rather meant to supplement it (DPE, 2002:3; Thabane and Deventer, 2018:13; EY, 2016:3).

The Protocol combines the principles of the King II Code (see 3.4.3) and provisions of the PFMA (Act 1 of 1999) (see 3.4.4.2.2) (PRC, 2013:81). The Protocol is applicable to the SOEs listed in schedules 2, 3B, 3D and "any unlisted public entities that are subsidiaries of a public entity, whether listed in the PFMA (Act 1 of 1999) or not" (DPE, 2002:7; PRC, 2013:81; Wixley and Everingham, 2015:284). These are the Major

Public Entities, National Government Business Enterprises and Provincial Government Enterprises respectively (RSA, 2010:71,75-78). However, the Protocol has not been updated to reflect changes in Corporate Governance since it was last issued (Wixley and Everingham, 2015:284). These changes include the publication of the King III and IV Reports, as well as the enactment of the Companies Act (Act 71 of 2008). For example, the Protocol requires SOEs to establish audit committees that have at least two independent non-executive directors (DPE, 2002:15), while Section 94(2) of the Companies Act (Act 71 of 2008) requires at least three members of the audit committees of SOEs (RSA, 2009:174).

The PRC, therefore, recommended that the Protocol be reviewed and updated in order to address the specific principles applicable to SOEs since the King III Report did not adequately do so (PRC, 2013:81). The PRC further recommended that the Protocol be reviewed periodically, at least after every three years (PRC, 2013:85). The recommended periodic review of the Protocol has so far not been done, but Corporate Governance principles, specific to SOEs, have been published as a supplement for SOEs in the King IV Report.

3.5.4.3.4 King IV Report Supplement for State-Owned Entities

The supplement on SOEs in the King IV Report applies to all entities listed in Schedule 2 and 3 of the PFMA (Act 1 of 1999). However, it is recommended that SOEs that fall outside the scope of the supplement on SOEs should still apply the Principles of the supplement (IODSA, 2016:111). The supplement contains 16 of the 17 Principles of good Corporate Governance. These Principles are the same Principles contained in part five of the King IV Report: Code on Corporate Governance, which is applicable to other of forms of business organisations, inclusive of SOEs. The seventeenth principle contained in the Code is not applicable to SOEs, as it is applicable only to institutional investors (IODSA, 2016:117). Furthermore, the terminology used for the SOE supplement is unique to SOEs. For example, the governing body of the SOEs is called the accounting authority while the shareholder is called the executive authority. However, for purposes of this study, these terms will be used interchangeably since it is permissible by the supplement (IODSA, 2016:112). The King IV Report contains the

principles of Corporate Governance and the disclosure requirements for SOEs. These are discussed below.

3.5.4.3.5 Application and Disclosure Requirements of Corporate Governance Principles by South African State-Owned Entities

Principles of good Corporate Governance in South Africa are contained in the King IV Code. They are applied through the recommended practices contained in the same Code. The Code contains 208 of these recommended practices, spread across the sixteen principles that are applicable to SOEs. Furthermore, there are specific disclosure recommendations under the principles, which are " intended as guidance and a starting point for disclosure on [a] particular principle" (IODSA, 2016:37). However, the King IV Code states that "there is no need to disclose whether each practice has been implemented or not, as this is quantitative and does not necessarily add to the quality of disclosure" (IODSA, 2016:37). This is contrary to the King III Report which specifically recommend that "in a situation where the board or those charged with governance decide not to apply a specific principle or recommendation, this should be explained fully to the entity's stakeholders" (IODSA, 2009:100).

The King IV Report, furthermore, indicates that there is no need to disclose the outcomes of the recommended practices, as it can be left to the user to "draw inferences from the narrative provided" (IODSA, 2016:37). The King IV Code also recommends that these disclosures be made annually either in integrated reports, sustainability reports, social and ethics committee reports, online or printed information or reports (IODSA, 2016:38). The disclosures may also be made in more than one of these reports. As with all other forms of business ownership, the King IV is applied on an apply and explain basis (IODSA, 2016:38).

3.5.4.4 Conclusion on Corporate Governance in South African State-Owned Entities

The public perception of South African SOEs is very poor due to the scandals happening within the entities (see 1.1 and 3.1.4) (McGregor, 2013:34; PwC and IODSA, 2011:6; Kanyane and Sausi, 2015:34; Matsiliza, 2017:39). This perception is

a result of “money [being] lost, too few [unqualified audit opinions], poor financial performance, too many bail-outs, high turnover rates and numerous resignations amongst board members and CEOs [which] have undermined sustainable Corporate Governance” (McGregor, 2013:34).

This section discussed Corporate Governance in South African SOEs. The discussion focused on OECD Guidelines, the PFMA (Act 1 of 1999), the protocol on Corporate Governance in the public sector and the King IV supplement for SOEs. The discussion also focused specifically on the Corporate Governance principles that SOEs are recommended to apply and disclose. These Corporate Governance recommendations may be used by the SOEs in order to improve the perception on SOEs described above.

3.5.5 Conclusion on Corporate Governance in South Africa

Corporate Governance in South Africa has not been static over the years but has gradually evolved. This is evidenced by the production of four different codes on Corporate Governance in the last 23 years. Important to note is the fact that South Africa is considered a leader in Corporate Governance, though this has not made it immune to scandals and failures (See 1.1, 3.1.4 and 3.1.5). This section has shown the development of Corporate Governance in South Africa, from when it was first formalised in 1994, to the latest production of the King Report in 2017. The section has also dealt with Corporate Governance in SOEs, through a discussion of OECD Guidelines on Corporate Governance, which also apply to South African SOEs. The section also focused on specific Corporate Governance requirements.

3.6 Chapter conclusion

“The need for good Corporate Governance has been underscored by the 2008 global financial crisis, high-profile corruption scandals, monumental waste of resources and bankruptcy” (PwC and IODSA, 2011:6). These Corporate Governance scandals and failures have been underscored in this Chapter (see 3.1). The scandals were discussed in order to highlight the need for the application of good Corporate Governance principles, showing the detrimental effects of not applying these

principles. In order to deal with Corporate Governance scandals and failures, different Theories of Corporate Governance have been developed, which deal with to whom boards of directors should be accountable and how this accountability can be achieved (see 3.2). The Corporate Governance Theories also show how Corporate Governance has been developed around the world. Corporate Governance in selected countries, the USA, the UK and Germany were discussed (see 3.3).

These countries were selected based on their characteristics, which are representative of many Corporate Governance regimes in the world. Moreover, the countries were selected based on their influence on South African Corporate Governance. The development of Corporate Governance in South Africa was then discussed (see 3.4), from the issue of the first King Report in 1994 to the latest issue of the King Report in 2017. Although not the main focus of the study, the effect of legislative changes on Corporate Governance in South Africa were briefly underscored. The chapter then ended with the discussion of Corporate Governance in South African SOEs, with the principles SOEs that are recommended to apply and disclose in their integrated reports. The discussion of the application and disclosure requirements is important because before the gaps in the Corporate Governance practices can be identified, the practices need to be identified through the analysis of disclosure recommendations. The application of the Corporate Governance practices is analysed through an analysis of disclosures in Chapter 4.

Chapter 4: Analysis of Annual Integrated Reports of Selected South African State-Owned Entities

4.1 Introduction

This chapter presents the analysis of the integrated annual reports of the selected eight SOEs. It begins with a brief discussion of the Corporate Governance disclosures used for the analysis of the Integrated Reports, based on a comparison between the recommendations of the King III and the King IV Reports on Corporate Governance (see Appendix). It proceeds to a brief overview of the methodology of data analysis followed in the study. The findings are then presented, followed by a detailed discussion of the application of Corporate Governance practices by the selected SOEs. Chapter 4 is a combination of the following stages in the research process, as outlined in Table 5 on page 46.

- Stage 2: Data collection, part 1;
  : Data collection, part 2; and,
- Stage 3: Data analysis.

The integrated reports are analysed in order to determine the level of application and disclosure of Corporate Governance principles based on a comparison between the King III and King IV Reports Corporate Governance. Both reports were used as the sample selected, 2010/2011 to 2017/2018, includes financial statements that are prepared based on King III (2010/2011 until 2016/2017) as well as King IV (2017/2018). These integrated reports are analysed using the ATLAS.ti qualitative data analysis software and later exported to Microsoft Excel for further analysis.

4.2 Corporate Governance Disclosures

4.2.1 Introduction

A comparison was done between the disclosure requirements contained in King IV and those contained in King III (see Appendix for a detailed comparison). The comparison included a comparison of the main principles in each Report as well as

the detailed disclosure recommendations in both reports. The King IV Report, as the latest Corporate Governance guidelines, was used as a basis and the principles of the King IV report were used to identify the 17 different themes in the analysis of the Integrated Reports. The 17 themes are:

1. Ethical and effective leadership;
2. An ethical culture;
3. Responsible corporate citizenship;
4. Core purpose, risks, opportunities, strategies, business models and sustainable development;
5. Assessment of performance and short, medium and long-term prospects;
6. The governing body as Corporate Governance focal point;
7. The governing body;
8. Arrangements for delegation within structures and board committees;
9. Performance evaluations;
10. Management contribution to clarity and effective exercise of authority and responsibility;
11. Risk governance;
12. Governance of technology and information;
13. Compliance to laws, regulations, rules and codes;
14. Remuneration;
15. Assurance;
16. Stakeholder inclusive approach; and
17. Institutional investors.

Although the philosophy of King III differs from that of King IV, namely Apply or Explain as opposed to Apply and Explain, both Reports contain specific disclosures recommendations. Companies which engage with Corporate Governance practices, in terms of the King III Report, are recommended to disclose when a principle is not applied according to the disclosure recommendations (see section 3.5.3). Similarly, when a company applies the Corporate Governance practices in terms of the King IV Report, they disclose how they applied the practices. Therefore, an analysis of the disclosures in the Integrated Reports may identify possible gaps in the application of Corporate Governance practices. In order to analyse the disclosures of Corporate

Governance practices, the disclosure recommendations between the King III and King IV Reports are briefly outlined below.

4.2.2 Ethical and Effective Leadership

Ethical and effective leadership in the King IV Report is found in the first principle. In comparing the disclosures recommendations in King IV to the disclosure recommendations in King III (see Appendix), it is clear that the recommended disclosures for both are the same. Therefore, when a company discloses its application, or lack thereof, of the recommended principles in King III, they also apply the recommended principles in King IV.

4.2.3 Ethical Culture

In the King IV Report, ethical culture is found in the second principle. A comparison between the King IV and King III Reports reveals that the King IV Report includes all the disclosure recommendations contained in the King III Report. However, as the King IV has more onerous disclosure recommendations than the King III Report, it contains one more recommendation, being, key areas of focus during a reporting period (see Appendix). However, the disclosure recommendations of the two Reports may, in this case, be viewed as the same since the King III Report recommends that company ethics be assessed and disclosed annually. Therefore, when a company discloses its application, or lack thereof, of the recommended principles in King III, they also apply the recommended principles in King IV.

4.2.4 Responsible Corporate Citizenship

Responsible corporate citizenship is found in the third principle of the King IV Report. In comparing the disclosures recommendations in King IV to the disclosure recommendations in King III (see Appendix), the recommended disclosures are similar, except for additional disclosure recommendations in the King IV Report. Therefore, when a company discloses its application, or lack thereof, of the recommended principles in King III, they also apply the recommended principles in King IV.

4.2.5 Core Purpose, Risks, Opportunities, Strategies, Business Models and Sustainable Development

Core purpose, risks, opportunities, strategies, business models and sustainable development is found in the fourth principle of the King IV Report. In comparing the disclosures recommendations in King IV to the disclosure recommendations in King III (see Appendix), the recommended disclosures for both are similar, except for onerous disclosure recommendations in the King IV Report relating to key sustainability risks, and responses to these risks and residual sustainability risks. Therefore, when a company discloses its application, or lack thereof, of the recommended principles in King III, they also apply the recommended principles in King IV.

4.2.6 Assessment of Performance and Short, Medium and Long-term Prospects

Assessment of performance and short, medium and long-term prospects is found in the fifth principle of the King IV Report. In comparing the disclosures recommendations in King IV to the disclosure recommendations in King III (see Appendix), the recommended disclosures for both are similar, except for an additional disclosure recommendation in the King III Report. The additional disclosure states that to the extent that sustainability reports are subject to assurance, the name of the assurer should be clearly stated, together with the period under review, the scope of the assurance exercise and the methodology adopted. The additional disclosure recommendation has been included in the analysis. Therefore, when a company discloses its application, or lack thereof, of the recommended principles in King III, they also apply the recommended principles in King IV.

4.2.7 The Governing Body as a Corporate Governance Focal Point

The governing body as Corporate Governance focal point is found in the sixth principle of the King IV Report. In comparing the disclosures recommendations in King IV to the disclosure recommendations in King III (see Appendix), the recommended disclosures for both Reports are the same. Therefore, when a company applies the recommended principles in King III, they also apply the recommended principles in King IV.

4.2.8 The Governing Body

The governing body is found in the seventh principle of the King IV Report. In comparing the disclosures recommendations in King IV to the disclosure recommendations in King III (see Appendix), the recommended disclosures for both Reports show a few differences. Therefore, when a company discloses its application, or lack thereof, of the recommended principles in King III, they also apply the recommended principles in King IV.

4.2.9 Arrangements for Delegation Within Structures and Board Committees

Arrangements for delegation within structures and board committees are found in the eighth principle of the King IV Report. In comparing the disclosures recommendations in King IV to the disclosure recommendations in King III (see Appendix), the recommended disclosures for both Reports show a few differences. Therefore, when a company discloses its application, or lack thereof, of the recommended principles in King III, they also apply the recommended principles in King IV.

4.2.10 Performance Evaluations

Performance evaluation disclosure recommendations are found in the ninth principle of the King IV Report. In comparing the disclosures recommendations in King IV to the disclosure recommendations in King III (see Appendix), the recommended disclosures for both Reports show a few differences. Therefore, when a company discloses its application, or lack thereof, of the recommended principles in King III, they also apply the recommended principles in King IV.

4.2.11 Management Contribution to Clarity and Effective Exercise of Authority and Responsibility

Disclosure recommendations about management contribution to clarity and effective exercise of authority and responsibility are found in the tenth principle in the King IV Report. A comparison between the King IV and King III Reports shows few differences in disclosure recommendations, with the King IV Report having additional two disclosure recommendations (see Appendix). The additional disclosure

recommendations relate to, firstly, a statement on whether governing body is satisfied that the delegation of authority framework contributes to role clarity and effective exercise of authority. The second disclosure recommendation relates to a statement on whether governing body believes that arrangements for accessing professional Corporate Governance services are effective. These disclosure recommendation differences have all been included in the data analysis in order to show best practice regarding Corporate Governance disclosures. Therefore, when a company discloses its application, or lack thereof, of the recommended principles in King III, they also apply the recommended principles in King IV.

4.2.12 Risk Governance

Risk governance is found in the eleventh principle of the King IV Report. In comparing the disclosures recommendations in King IV to the disclosure recommendations in King III (see Appendix), the recommended disclosures are similar, except for an additional disclosure recommendation in the King IV Report which relates to planned areas of future focus. The additional disclosure recommendation has been included in the analysis. Therefore, when a company discloses its application, or lack thereof, of the recommended principles in King III, they also apply the recommended principles in King IV.

4.2.13 Governance of Technology and Information

Disclosure recommendations relating to the governance of technology and information are contained in the twelfth principle of the King IV Report. None of the King IV Report disclosure requirements are contained in the King III Report (see Appendix). Therefore, these disclosure recommendation differences have all been included in the data analysis in order to show best practice regarding Corporate Governance disclosures.

4.2.14 Compliance to Laws, Regulations, Rules and Codes

Disclosure recommendations relating to compliance to laws, regulations, rules and codes are contained in the thirteenth principle of the King IV Report. A comparison

between the King III and King IV Reports (see Appendix) shows that none of the King IV Report disclosure requirements are available in the King III Report. Therefore, these disclosure recommendation differences have all been included in the data analysis in order to show best practice regarding Corporate Governance disclosures.

4.2.15 Remuneration

Disclosure recommendations relating to remuneration are found in the fourteenth principle of the King IV Report. In comparing the disclosures recommendations in King IV to the disclosure recommendations in King III (see Appendix), the recommended disclosures for both Reports show a few differences. These disclosure recommendation differences have all been included in the data analysis in order to show best practice regarding Corporate Governance practices. Therefore, when a company discloses its application, or lack thereof, of the recommended principles in King III, they also apply the recommended principles in King IV.

4.2.16 Assurance

Disclosure recommendations relating to assurance are found in the fifteenth principle of the King IV Report. In comparing the disclosures recommendations in King IV to the disclosure recommendations in King III (see Appendix), the recommended disclosures are similar, except for an additional disclosure recommendation in the King III Report related to the establishment of an internal audit function. Therefore, the additional disclosure recommendation has been included in the analysis in order to show best practice regarding Corporate Governance practices.

4.2.17 Stakeholder Inclusive Approach

Stakeholder inclusive approach disclosure recommendations are found in the sixteenth principle of the King IV Report. In comparing the disclosures recommendations in King IV to the disclosure recommendations in King III (see Appendix), the recommended disclosures for both Reports show some differences. These disclosure recommendation differences have all been included in the data analysis in order to show best practice regarding Corporate Governance practices.

Therefore, when a company discloses its application, or lack thereof, of the recommended principles in King III, they also apply the recommended principles in King IV.

4.2.18 Institutional Investors

The King III Report does not contain any disclosure recommendations with regard to institutional investors. This is contrary to the King IV, which contains disclosure recommendations concerning institutional investors in principle seventeen (see Appendix). However, disclosure recommendations relating to institutional investors have not been included in the analysis as the recommendations do not apply to SOEs.

4.2.19 Conclusion

In this section, a comparison between the recommendations of the King III and King IV Reports was made, based on the disclosure guidelines (see Appendix). The comparison revealed that the majority of disclosure recommendations contained in the King III Report are also available in the King IV Report, with only 13 out of 116 (11%) of the disclosure recommendations in the King III Report not available. The 13 disclosure recommendations were included in the data analysis. The comparison further revealed that of the 211 disclosure recommendations in the King IV Report, 42 (19%) are not contained in the King III Report. Finally, the comparison revealed that the King IV Report has more onerous disclosure recommendation than the King III Report, even though the King III Report contains similar practice recommendations. Therefore, since the differences in the two Reports are minimal (see Appendix), it was concluded that the themes as set out above (see section 4.2) will be used to analyse the disclosure of Corporate Governance practices by the SOEs. Where there are indications of gaps in the disclosure of these themes (see section 4.3.2), the gaps have been identified and discussed as weaknesses for each SOE separately.

4.3 Data analysis

4.3.1 Introduction

This section presents the analysis of the annual integrated reports of the SOEs. The annual integrated reports are analysed in order to identify possible gaps in the application of Corporate Governance practices, based on disclosures. The eight SOEs whose annual integrated reports are analysed over eight years are:

- Alexkor
- Denel
- Eskom
- PRASA
- SA Express
- SAA
- SABC
- Transnet.

4.3.2 Data Analysis Method

Integrated annual reports of the eight selected South African SOEs for an eight-year period were obtained from their respective websites. Each of them has been analysed for Corporate Governance disclosure requirements as a combination between the King III and King IV Reports (see Appendix and section 4.2 above). Nevertheless, the reasons for the lack or partial disclosure of the recommendations of Corporate Governance principles by the SOEs have not been furnished, as they do not form part of the study.

The analysis is presented in two phases, beginning with a detailed analysis of disclosures and then using a detailed analysis to develop summary findings. For purposes of the study, two scorecard systems have been developed. Both scorecard systems are elementary models, as more sophisticated models are not the focus of the study.

The first phase of the analysis takes a detailed approach to the analysis of disclosure by the eight selected SOEs, as it analyses the disclosure of the application of Corporate Governance practices, based on the recommended disclosures, for each SOE in the eight years under review. The developed scorecard is as follows:

Indication of application	**Point awarded**
Recommendation disclosed	1
Recommendation not disclosed	0

For illustrative purposes, an example of how this scorecard works is provided below. In this example, Denel's disclosure for the recommendations relating to Theme 7 - The governing body, is measured for every disclosure and requirement per year.

0 = Application and disclosure of recommendation not made
1 = Application and disclosure of recommendation made
X = Could not determine disclosure of application

Sources: IODSA, 2016; Denel, 2011; Denel, 2012; Denel, 2013; Denel, 2014; Denel, 2015; Denel, 2016; Denel, 2017.

Table 8*:* Theme 7: The governing body disclosure measurement for Denel

Application and disclosure requirements	Financial year							
	‘10/’11	‘11/’12	‘12/’13	‘13/’14	‘14/’15	‘15/’16	‘16/’17	‘17/’18
Whether the governing body is satisfied that its composition reflects the appropriate mix of knowledge, skills, experience, diversity and independence	1	1	1	1	1	1	1	x
The number of meetings of the governing board.	1	1	1	1	1	1	1	x
Attendance at meetings of the governing body.	1	1	1	1	1	1	1	x
The targets set for gender and race representation on the governing body, and progress made towards these targets	0	0	0	0	0	0	0	x
The categorisation of each member as executive or non-executive	1	1	1	1	1	1	1	x
The categorisation of each non-executive member as independent or not	1	1	1	1	1	1	1	x
Member of the governing body serving on the board for more than nine years, and a summary of the views of the governing body on the independence of the member	0	0	0	0	0	0	0	x
Qualifications and experience of members	1	1	1	1	1	1	1	x
Period of service on the governing body	1	1	1	1	1	1	1	x
Age of each member	1	1	1	1	1	1	1	x
Other governing body and professional positions held by each member	1	1	1	1	1	1	1	X
Reasons why any members of the governing body have been removed, resigned or retired	0	0	0	0	0	0	0	X
CEO should not chair the governing body	1	1	1	1	1	1	1	X

Application and disclosure requirements	Financial year							
	‘10/’11	‘11/’12	‘12/’13	‘13/’14	‘14/’15	‘15/’16	‘16/’17	‘17/’18
The chair should not be a member of the audit committee	1	1	1	1	1	1	1	X
The chair of the governing body may be a member of the committee responsible for remuneration, but should not be its chair	1	1	1	1	1	1	1	X
The chair of the governing body may be a member of the committee responsible for nominations, and may also be its chair	1	1	1	1	1	1	1	X
The chair of the governing body may be chair of the committee responsible for risk governance	1	1	1	1	1	1	1	X
The chair may be a member of the social and ethics committee but should not be its chair	1	1	1	1	1	1	1	X
Whether the chair is considered to be independent	1	1	1	1	1	1	1	X
Whether a lead independent has been appointed, and whether roles and responsibilities have been assigned	0	0	0	0	0	0	0	X
Whether supervising of new management is required in which case retention of board experience would be called for. Actual or potential political connections or exposure	0	0	0	0	0	0	0	X
There should be a succession plan for the position of the chairman	0	0	0	0	0	0	0	X
Total score	**16**	**16**	**16**	**16**	**16**	**16**	**16**	**X**
Final score (full disclosure 2 (20/20); partial disclosure 1 (1-19 out of 20); no disclosure (0/20))	**1**	**1**	**1**	**1**	**1**	**1**	**1**	**X**

As shown in Table 8, the scorecard shows whether each disclosure recommendation has been applied. Application of the recommendations is denoted with a score of 1, while non-application is denoted with a score of 0. For example, the recommendation that Denel appoint a Lead Independent Director (LID) and that LID be assigned roles and responsibilities, was applied. Denel failed to apply this recommendation for all the financial years under review, hence was awarded a 0 score for those financial years. However, in the 2017/2018 financial year, a determination of whether the recommendation was applied could not be made, as Denel's 2017/2018 integrated report had not been published at the time of the analysis. The non-availability of the integrated report for the 2017/2018 financial year is thus denoted with an X in the analysis.

In instances where Denel has applied and disclosed the application of a Corporate Governance practice, a score of 1 is given. For example, the recommendation that the chair of Denel's governing body not be a member of the audit committee has been applied and has also been disclosed in the integrated report. Denel has complied consistently with this recommendation, therefore being allocated a score of 1 in the financial years 2010/2011 to 2016/2017. If for example, in the 2016/2017 financial year, Denel had its chair of the governing body as a member of the audit committee, the score would be reduced to 0, as it would not have applied the practice. This exercise has been done on all the other 16 applicable (excluding Theme 7: Institutional Investors) Corporate Governance themes for the eight SOEs (refer to section 4.2.1). However, owing to the fact that the volume of the analysis is too big, with the average analysis per SOE being 30 pages in length, the full analysis of all application and disclosure requirements is consequently not included in the study report.

The full analysis may be obtained from the author. This detailed analysis of application of Corporate Governance themes has been used to draw up the summary findings, as presented in Table 9.

Table 9: Corporate Governance disclosure per selected state-owned entity from 2010/2011 to 2017/2018

	State-owned entity							
King IV Principles	**Alexkor**	**Denel**	**Eskom**	**PRASA**	**SA Express**	**SAA**	**SABC**	**Transnet**
Theme 1: Ethical and effective leadership	1	2	1	1	n/a	1	1	1
Theme 2: Ethical culture	0	2	2	0	n/a	0	1	1
Theme 3: Responsible corporate citizenship	2	2	2	0	n/a	2	0	2
Theme 4: Core purpose, risks and opportunities	2	2	2	1	n/a	2	2	2
Theme 5: Assessment of performance and short, medium and long-term prospects	2	2	2	1	n/a	2	2	2
Theme 6: The governing body as Corporate Governance focal point	2	2	2	1	n/a	2	2	2
Theme 7: The governing body	1	1	1	1	n/a	1	1	1
Theme 8: Arrangements for delegation	1	2	2	1	n/a	1	1	2
Theme 9: Performance evaluations	2	2	1	0	n/a	0	1	1
Theme 10: Management contribution to clarity and effective exercise of authority and responsibility	0	0	1	0	n/a	0	1	1
Theme 11: Risk governance	0	2	1	0	n/a	1	1	2
Theme 12: Governance of technology and information	0	2	1	0	n/a	0	1	2
Theme 13: Compliance to laws, regulations, rules and codes	2	2	2	0	n/a	2	1	2
Theme 14: Remuneration	1	1	1	1	n/a	1	1	1
Theme 15: Assurance	2	2	1	1	n/a	2	2	2
Theme 16: Stakeholders inclusive approach	2	2	2	2	n/a	2	2	2
Total score	**20**	**29**	**24**	**9**	**n/a**	**19**	**21**	**24**
% Score	**57%**	**77%**	**79%**	**28%**	**n/a**	**44%**	**61%**	**82%**

Sources: Alexkor, 2011; Alexkor, 2012; Alexkor, 2013; Alexkor, 2014; Alexkor, 2015; Alexkor, 2016; Alexkor, 2017; Denel, 2011; Denel, 2012; Denel, 2013; Denel, 2014; Denel, 2015; Denel, 2016; Denel, 2017; Eskom, 2011; Eskom, 2012; Eskom, 2013; Eskom, 2014; Eskom, 2015; Eskom, 2016; Eskom, 2017; Eskom, 2018; PRASA, 2011; PRASA, 2012; PRASA, 2013; PRASA, 2014; PRASA, 2015; PRASA, 2016; PRASA, 2017; SAA, 2011; SAA, 2012; SAA, 2013; SAA, 2014; SAA, 2015; SAA, 2016; SAA, 2017; SABC, 2011; SABC, 2012; SABC, 2013; SABC, 2014; SABC, 2015; SABC, 2016; SABC, 2017; SABC, 2018; Transnet, 2011; Transnet, 2012; Transnet, 2013; Transnet, 2014; Transnet, 2015; Transnet, 2016; Transnet, 2017; Transnet, 2018.

With regard to the summary findings, the following scorecard has been developed:

Level of application	**Point awarded**
Full disclosure	2
Partial disclosure	1
No disclosure	0

Over the eight years of analysis, each SOE will be awarded a mark out of a total of 32 per financial year. The total score of 32 is derived from the fact that the highest score an SOE can achieve per theme is 2, and there are 16 themes to measure the application of Corporate Governance practices. Therefore, the total score that an SOE can achieve in the eight years under analysis is 256 (two points x 16 themes x eight years).

In order to ensure the accuracy of the data used for the analysis, the author coded the data both manually and with the use of ATLAS.ti. Any code created on the analysis software was simultaneously recorded manually. The codes created through the analysis software were then compared with the manually recorded codes to ensure that no coded data was left out or included by mistake. The author also selected random samples of coded data and compared them with the recorded codes to ensure the accuracy of the data.

However, the data collected does have limitations. One such limitation is the unavailability of some 2017/2018 integrated reports, which were not yet published at the time of the analysis. The inclusion of the 2017/2018 financial year in the analysis is important as it demonstrates whether or not the selected SOEs published their integrated reports within the timeframe stipulated by the Companies Act (Act 71 of 2008). This is because at the time the analysis, all SOEs ought to have published their integrated reports (see 5.4.3). Another limitation is that during the financial years under analysis, SA Express was able to publish integrated reports for only four financial years.

4.3.3 Conclusion

In this section, the methodology of the data analysis for the study was discussed. Two basic scorecards for the analysis of Corporate Governance practice application were developed. These scorecards are used to make empirical findings for the study.

4.4 Empirical Findings

The findings of the study have been presented from Table 10 to Table 16. For purposes of the study, the discussion on the findings for each SOE is discussed under the following headings:

- Ethical and effective leadership (Themes 1 and 2)
- Responsible corporate citizenship (Theme 3: Responsible corporate citizenship)
- Risk governance (Theme 4: Core purpose, risks and opportunities)
- Reporting (Theme 5: Assessment of performance and short, medium and long-term prospects)
- The governing body and board committees (Themes 6 and 7)
- Board committees (Theme e8: Arrangements for delegation)
- Performance evaluation (Theme 9: Performance evaluations)
- Chief Executive Officer (Theme 10: Management contribution to clarity and effective exercise of authority and responsibility)
- Risk governance (Theme 11: Risk governance)

- Technology and information governance (Theme 12: Governance of technology and information)
- Compliance (Theme 13: Compliance to laws, regulations, rules and codes)
- Remuneration governance (Theme 14: Remuneration)
- Assurance services (Theme 15: Assurance)
- Stakeholder relationships (Theme 16: Stakeholder inclusive approach).

In particular, the discussion is based on the concerns in the application of the recommendations, as grouped above. Throughout the analysis, different SOEs may share the same application concerns but these are discussed per SOE.

4.4.1 Alexkor

4.4.1.1 Introduction

Alexkor received a total score of 146 out 256 in its disclosure of Corporate Governance practices over eight years. This can be translated to 57% score over the eight financial years under analysis. Furthermore, Alexkor only fully complied with eight out of the 16 themes from the 2010/2011 financial year to the 2016/2017, as the 2017/2018 integrated report had not been published at the time of the data analysis for this study. Put differently, if Corporate Governance practices disclosure measurement was only measured based on recommendations fully disclosed, Alexkor would have scored 50%. This shows how poorly Alexkor has performed in terms of the application of Corporate Governance practices.

This section addresses all the Corporate Governance practices that Alexkor has had challenges with based on the disclosure in its annual integrated reports. Attention is given to the practices which have either been partially disclosed or those which have not been disclosed at all. These practices are discussed in detail below, starting with ethical leadership.

4.4.1.2 Ethical and Effective Leadership, themes 1 and 2

In terms of ethical and effective leadership, which for the purposes of this study is discussed as a combination of themes 1 and 2, Alexkor has an average score of 41%

for the financial years under review. With regard to Theme 1: Ethical and effective leadership, Alexkor complied with all the recommendations for the period under review, except for failing to disclose its arrangements by which members of the board are held to account for ethical and effective leadership. Mainly, the code of conduct of the board and its members was not disclosed in the integrated report for the 2016/2017 financial year. This gives Alexkor an average disclosure score for Theme 1: Ethical and effective leadership for the financial years under review of 81%. A determination of whether Alexkor would continue with the non-disclosure of its code of conduct could not be made, as the 2017/2018 integrated report had not been published at the time of data analysis.

A major concern under ethical and effective leadership is application of the recommendations contained in Theme 2: Ethical culture. For the entirety of the financial years under review, Alexkor failed to apply the recommendations. As a result, Alexkor has an application score of 0% for Theme 2: Ethical culture which states that the governing body ought to govern the ethics of an organisation in a way that supports the establishment of an ethical culture within that organisation (IODSA, 2016:44).

Table 10: Alexkor King IV Report recommendations disclosure

King IV Principle	2010/2011	2011/2012	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017	2017/2018	Score per theme
Theme 1: Ethical and effective leadership	2	2	2	2	2	2	1	0	13
Theme 2: Ethical culture	0	0	0	0	0	0	0	0	0
Theme 3: Responsible corporate citizenship	2	2	2	2	2	2	2	0	14
Theme 4: Core purpose, risks and opportunities	2	2	2	2	2	2	2	0	14
Theme 5: Assessment of performance and short, medium and long-term prospects	2	2	2	2	2	2	2	0	14
Theme 6: The governing body as Corporate Governance focal point	2	2	2	2	2	2	2	0	14
Theme 7: The governing body	1	1	1	1	1	1	1	0	7
Theme 8: Arrangements for delegation	1	1	1	1	1	1	1	0	7
Theme 9: Performance evaluations	2	2	2	2	2	2	2	0	14
Theme 10: Management contribution to clarity and effective exercise of authority and responsibility	0	0	0	0	0	0	0	0	0
Theme 11: Risk governance	0	0	0	0	0	0	0	0	0
Theme 12: Governance of technology and information	0	0	0	0	0	0	0	0	0
Theme 13: Compliance to laws, regulations, rules and codes	2	2	2	2	2	2	2	0	14
Theme 14: Remuneration	1	1	1	1	1	1	1	0	7
Theme 15: Assurance	2	2	2	2	2	2	2	0	14
Theme 16: Stakeholders inclusive approach	2	2	2	2	2	2	2	0	14
Total score	**21**	**21**	**21**	**21**	**21**	**21**	**20**	**0**	**146**
Average disclosure score per financial year	**66%**	**66%**	**66%**	**66%**	**66%**	**66%**	**63%**	**0%**	**57%**

Sources: Alexkor, 2011; Alexkor, 2012; Alexkor, 2013; Alexkor, 2014; Alexkor, 2015; Alexkor, 2016; Alexkor, 2017.

For reasons stated above, a determination of Alexkor's application of Theme 2: Ethical culture could not be made for the 2017/2018 financial year. Therefore, it appears that the board of Alexkor needs to put a lot of emphasis on its arrangements to govern the ethics of the organisation so that an ethical culture is seen to be created and maintained within Alexkor.

4.4.1.3 Governing Body, Theme 7: The Governing Body

The discussion on the governing body is based solely on the recommendations of Theme 7: The governing body, as those of Theme 6: The governing body as Corporate Governance focal point have fully been disclosed. The disclosure of the recommendations under Theme 7: The governing body was partially made. This section addresses aspects of the governing body which are of concern, as revealed by the analysis. The discussion identifies recommendations where disclosure remained the same, improved or worsened over the financial years under review.

Alexkor failed, for the period under review, to disclose whether the governing body is satisfied as to whether its composition reflects the appropriate mix of knowledge, skills, experience, diversity and independence. Alexkor also did not disclose the targets set for gender and race representation on the governing body. During the financial years under review, Alexkor had, on average, eight directors as members of the governing body (Alexkor, 2011; Alexkor, 2012; Alexkor, 2013; Alexkor, 2014; Alexkor, 2015; Alexkor, 2016; Alexkor, 2017). Of this number, 38% were female, while males made up the remaining 62%. However, this disparity in the gender representation on the board seemed to improve from the 2015/2016 financial year. The improvement is evidenced by the 43% female representation on the board for the 2015/2016 and 2016/2017 financial years (Alexkor, 2016; Alexkor, 2017).

Another area of concern, which has improved from the 2013/2014 financial year, was the disclosure of the qualifications of members of the board, their experience, periods of service on the governing body, their age and other positions held outside of Alexkor. This information was not disclosed only in the 2010/2011 and 2011/2012 financial years. Based on the consistency of its disclosure from the 2013/2014 financial year, it

may be assumed that Alexkor will continue with the disclosure in the 2017/2018 financial year.

While some members of the governing body left their directorships during the period under review, their reasons for leaving have not been disclosed. Only statements confirming resignations from the board were made available. Alexkor also failed to elect an independent non-executive member as chair in the financial years under review. It also failed to disclose that it had not elected a LID in any of the financial years reviewed.

4.4.1.4 Board Committees, Theme 8: Arrangements for delegation

The Corporate Governance best practices recommends the establishment of the following committees of the board:

- Audit committee;
- Committee responsible for the nominations of members of the governing body;
- Committee responsible for risk governance;
- Committee responsible for remuneration and the
- Social and ethics committee

However, the King IV Report recommends that the oversight of risk governance may be added to the responsibilities of another committee. Based on this recommendation, Alexkor has added the oversight of risk governance to the audit committee, thereby naming the committee the audit and risk committee. For the period under review, the recommendations relating to this committee were all applied, except for the committee's views on the effectiveness of the CFO and the finance function. Alexkor states that it does not evaluate the CFO and the finance function (Alexkor, 2017:77) and that the CFO's effectiveness is evaluated as part of its outsourced board evaluation process, while members of the finance function are evaluated through an annual performance appraisal (Alexkor, 2017:77). This is in contradiction with the recommendation of the Corporate Governance practices, which states that the audit committee should disclose its views on the effectiveness of the CFO and the finance function.

4.4.1.5 Chief Executive Officer, Theme 10: Management contribution to clarity and effective exercise of authority and responsibility

During the eight years under review, Alexkor has had three CEOs. Of these three, only one was appointed as a permanent CEO, from the 2012/2013 to the 2014/2015 financial year. Prior to the 2012/2013 financial year, Alexkor's CFO was simultaneously acting as the SOEs CEO, contradicting the Corporate Governance practices, which states that "as a minimum, the CEO and at least one other executive should be appointed to the governing body…" (IODSA, 2016:50). Corporate Governance practices further recommends that "the executive other than the CEO appointed to the governing body may be the CFO, or another designated executive as is appropriate for the organisation" (IODSA, 2016:50).

During the eight years under review, barring the 2017/2018 financial year where the integrated report had not been published at the time of the analysis, Alexkor failed to apply any of the recommendations of Theme 10: Management contribution to clarity and effective exercise of authority and responsibility. One of the recommendations which Alexkor failed to apply is the disclosure of whether succession planning is in place for the CEO position. Perhaps the instability in the CEO position described above occurred as a result of the absence of succession planning as recommended by Corporate Governance practices.

4.4.1.6 Risk Governance, Theme 11: Risk governance

The governance of risk was also a problem for Alexkor during the financial years 2010/2011 to 2017/2018. In this period, there was no disclosure of the recommendations contained in Theme 11: Risk governance of Corporate Governance best practices. That is, Alexkor did not disclose the extent of risks and opportunities that it was willing to take. Furthermore, the key areas of focus in any of the financial years was not disclosed in the annual integrated reports, together with any planned areas of focus in future financial years. Moreover, there was no disclosure of arrangements for governing and managing risk, nor was there any disclosure of measures taken to monitor the effectiveness of risk management procedures. It is

important to note that the non-disclosure of the risk governance procedures is non-application of the risk management principles contained in both the King III and King IV Reports.

4.4.1.7 Technology and Information Governance, Theme 12: Governance of technology and information

As with the governance of the risk above, Alexkor failed to apply any of the Corporate Governance practices regarding the governance of technology and information in the financial years under review. However, Alexkor stated in the 2016/2017 financial year that it was developing a formal Information Technology (IT) governance framework (Alexkor, 2017:77). Upon its completion, the formal IT framework ought to address the recommendations of Theme 12: Governance of technology and information. That is, the framework has to address, among other aspects:

- Arrangements for governing and managing technology and information and
- Actions to be taken to monitor the effectiveness of the IT risk management and how outcomes will be addressed.

Alexkor has estimated that the formal IT framework will be completed by the end of March 2018 (Alexkor, 2017:77). However, whether or not Alexkor has completed the framework and therefore complied with the recommendations of Theme 12: Governance of technology and information cannot be determined through this study since the 2017/2018 integrated report was yet to be published by Alexkor at the time of the data analysis.

4.4.1.8 Remuneration Governance, Theme 14: Remuneration

While Alexkor complied with some of the recommendations under Theme 14: Remuneration, it failed to apply the majority of the recommendations. For the eight financial years from 2010/2011 to 2017/2018, Alexkor failed to disclose the remuneration report and the disclosure requirements regarding voting on remuneration in its annual integrated reports. Although remuneration governance is

mainly a theme found in King IV, the management of remuneration, and the disclosure thereof, is an important Corporate Governance practice.

4.4.1.9 Conclusion

In this section, the recommendations which Alexkor failed to disclose or partially disclosed were identified. The main principles which Alexkor seemed to struggle with were identified as Theme 2: Ethical culture, which relates to ethical culture, Theme 10: Management contribution to clarity and effective exercise of authority and responsibility, which relates to the CEO, themes 11 and 12 which relate to the governance of risk and the governance of technology and information respectively.

Figure 2: Alexkor: Measure of application based on disclosure

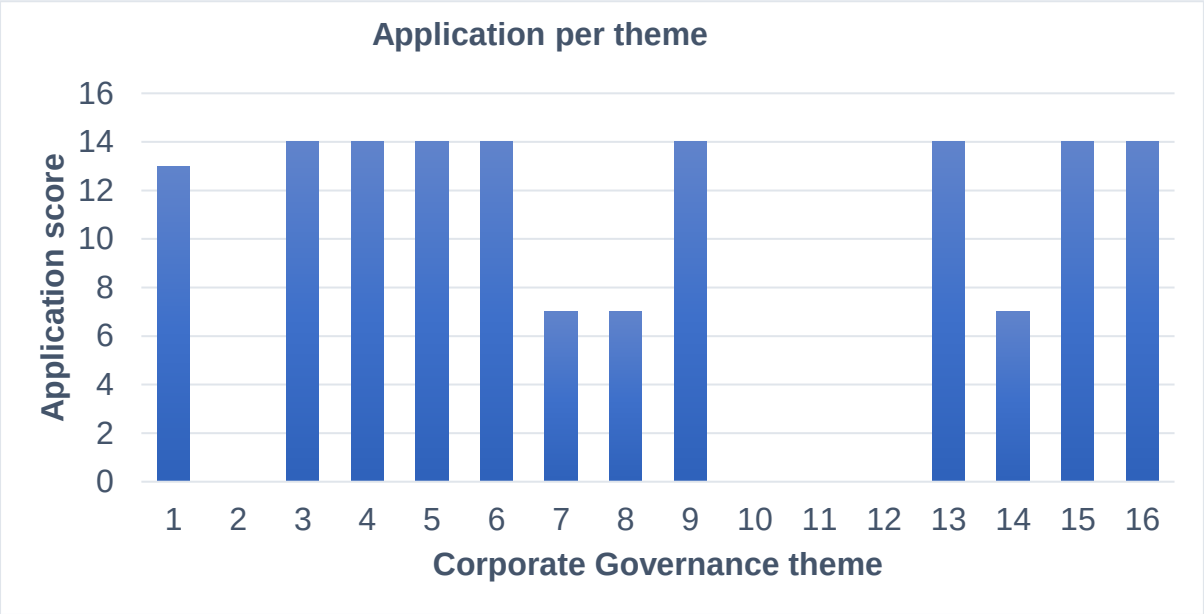


Figure 2 also shows that for the financial years under review, Alexkor failed to fully apply the Corporate Governance practices. The score on the vertical axis represents the total score, out of 16, that Alexkor had for each Corporate Governance practice over the eight financial years under review. Alexkor did not seem to improve on application over the financial years under analysis.

Figure 3: Alexkor: Trends in application based on disclosure

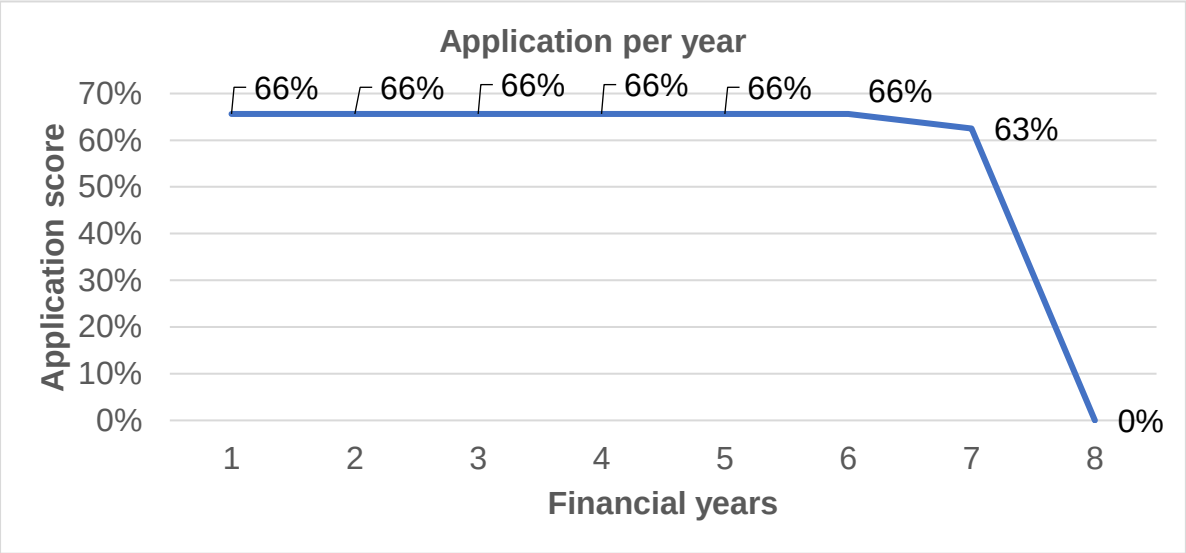


Figure 3 shows that over the eight financial years, Alexkor's score remained constant from the first financial year to the sixth. A drop in the seventh year from 66% to 63% was experienced. This drop is attributed to Alexkor's failure to disclose the code of conduct for the board. Figure 3 also shows that in the eighth year of analysis, a significant drop in the score was recorded. This drop is attributed to Alexkor's failure to publish its integrated report (see Section 5.6 for a discussion on limitations of the study). Therefore, based on the trend identified above, it could be argued that Alexkor is not improving on its disclosure of the recommendations of Corporate Governance practices.

4.4.2 Denel

4.4.2.1 Introduction

Denel has an average score of 77% in the financial years under review. Furthermore, Denel has fully applied 11 out of the 16 themes in the eight financial years under review. Although Denel has a higher application score than all the other SOEs, there are still some concerns with regard to the recommendations which it did not apply. Those concerns are discussed below.

4.4.2.2 Governing Body, Theme 6: The governing body as Corporate Governance focal point and 7

Just as it is the case with Alexkor, Denel has applied all other recommendations, except for the election of a LID. This goes against the recommendation of the Corporate Governance practices, which states that a governing body should elect an independent non-executive member to the governing body as a LID (IODSA, 2016:53).

4.4.2.3 Chief Executive Officer, Theme 10: Management contribution to clarity and effective exercise of authority and responsibility

For the financial years under review, Denel has had two different Groups Chief Executive Officers (GCEO) (Denel, 2011; Denel, 2012; Denel, 2013; Denel, 2014; Denel, 2015; Denel, 2016; Denel, 2017). Denel ‘s GCEOs are given five-year contracts, which could be argued is a contributing factor to the long stays of GCEOs at Denel, as compared to CEOs at other SOEs (see 4.4.3.5 above). However, in the 2015/2016 financial year, Denel’s GCEO was placed on special leave pending the outcome of an investigation into the GCEOs conduct. The GCEO was never reinstated, as Denel’s MOI states that “should an executive director be placed on suspension, he or she may no longer be an executive director of the company” (Denel, 2016:62). This resulted in the appointment of an acting GCEO. A new permanent GCEO was appointed in the 2016/2017 financial year (Denel, 2017:13).

Between the financial years 2010/2011 and 2017/2018, Denel failed to apply some of the recommendations contained in Theme 10: Management contribution to clarity and effective exercise of authority and responsibility. Of particular concern is Denel’s failure to disclose the notice period stipulated in the GCEO’s employment contract and the contractual conditions related to the termination of employment. Another area of concern for Denel has been the lack of a succession plan for the GCEO position.

Table 11: Denel King IV Report recommendations disclosure

King IV Principle	2010/2011	2011/2012	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017	2017/2018	Score per theme
Theme 1: Ethical and effective leadership	2	2	2	2	2	2	2	0	14
Theme 2: Ethical culture	2	2	2	2	2	2	2	0	14
Theme 3: Responsible corporate citizenship	2	2	2	2	2	2	2	0	14
Theme 4: Core purpose, risks and opportunities	2	2	2	2	2	2	2	0	14
Theme 5: Assessment of performance and short, medium and long-term prospects	2	2	2	2	2	2	2	0	14
Theme 6: The governing body as Corporate Governance focal point	2	2	2	2	2	2	2	0	14
Theme 7: The governing body	1	1	1	1	1	1	1	0	7
Theme 8: Arrangements for delegation	2	2	2	2	2	2	2	0	14
Theme 9: Performance evaluations	2	2	2	2	2	2	2	0	14
Theme 10: Management contribution to clarity and effective exercise of authority and responsibility	0	0	0	0	0	0	0	0	0
Theme 11: Risk governance	2	2	2	2	2	2	2	0	14
Theme 12: Governance of technology and information	2	2	2	2	2	2	2	0	14
Theme 13: Compliance to laws, regulations, rules and codes	2	2	2	2	2	2	2	0	14
Theme 14: Remuneration	1	1	1	1	1	1	1	0	7
Theme 15: Assurance	2	2	2	2	2	2	2	0	14
Theme 16: Stakeholders inclusive approach	2	2	2	2	2	2	2	0	14
Total score	**28**	**28**	**28**	**28**	**28**	**28**	**28**	**0**	**196**
Average disclosure score per financial year	**88%**	**88%**	**88%**	**88%**	**88%**	**88%**	**88%**	**0%**	**77%**

Sources: Denel, 2011; Denel, 2012; Denel, 2013; Denel, 2014; Denel, 2015; Denel, 2016; Denel, 2017.

From the 2010/2011 financial year to the 2013/2014 financial year, there was no succession plan in place and no disclosure was made in the annual integrated reports of Denel. However, this improved from the 2014/2015 financial year. In its 2014/2015 financial year, Denel disclosed that it had appointed three deputy CEOs as a succession plan for the position of GCEO (Denel, 2015:20).

4.4.2.4 Remuneration Governance, Theme 14: Remuneration

Just like Alexkor, Denel failed to apply the majority of the recommendations contained in Theme 14: Remuneration. The following are the recommendations under remuneration governance that Denel failed to apply and disclose for the financial years under review:

- Internal and external factors that influence remuneration;
- Recent voting results;
- Substantial changes to the remuneration policy;
- Details of obligations in executive employment contracts;
- An illustration of the potential consequences on the total remuneration for executive management of applying the remuneration policy; and,
- Voting on remuneration policy and implementation report at an annual general meeting.

4.4.2.5 Conclusion

This section identified three areas of concern in terms of the application of the recommendations of the Corporate Governance practices. The identified areas are the governing body, the CEO and the governance of remuneration.

Figure 4: Denel: Measure of application based on disclosure

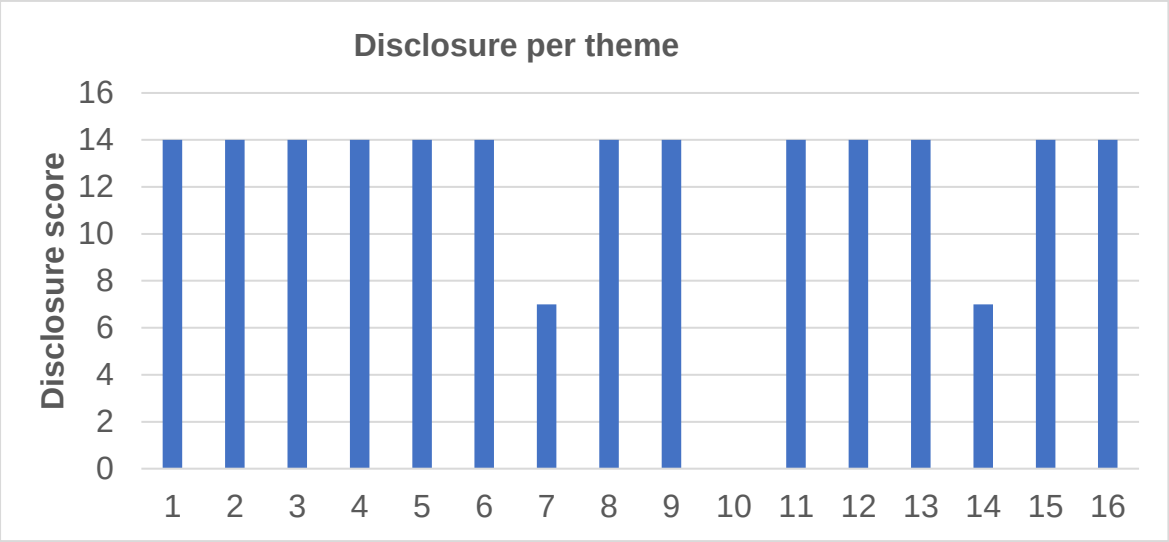
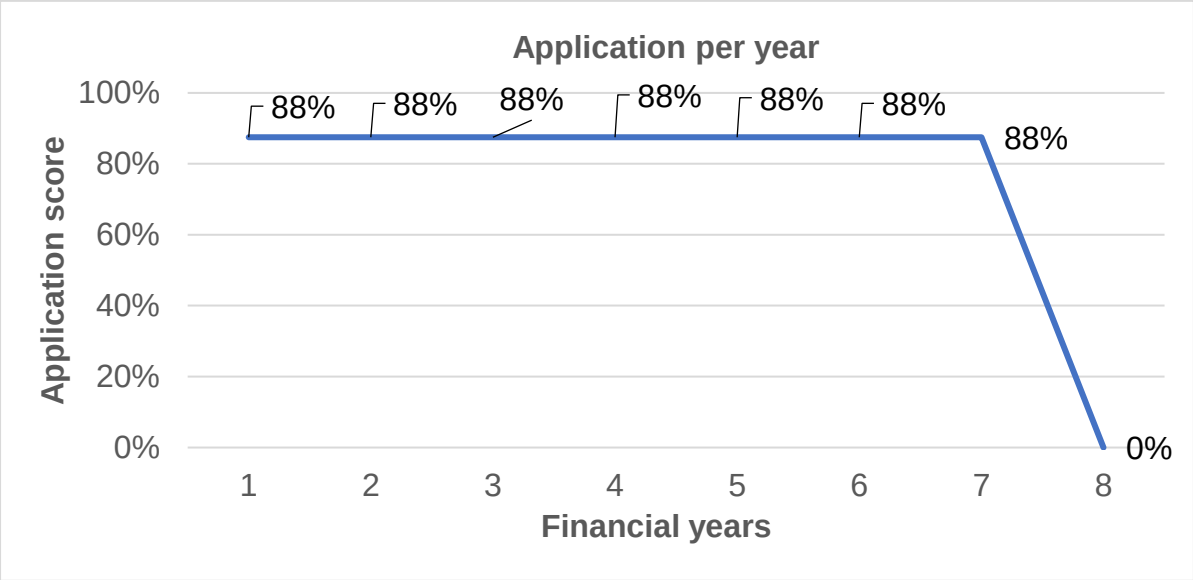


Figure 4 illustrates that of the three areas of concern identified, Theme 10: Management contribution to clarity and effective exercise of authority and responsibility, which is about the CEO, obtained the lowest score. The score on the vertical axis represents the total score, out of 16, that Denel had for each Corporate Governance best practices over the eight financial years under review. Figure 5 shows that despite the identified areas of concern, Denel has consistently scored 88% in terms of the disclosure of the recommendations.

Figure 5: Denel: Trends in application based on disclosure



The 88% score was achieved from the first year until the seventh year. However, a drop from 88% to 0% in the final year of analysis has resulted in an average score of 77% for the eight years under analysis. The drop in the score in the final year of analysis occurs as a result of Denel failing to publish its integrated report (see Section 5.6 for a discussion on the limitations of the study). Therefore, based on the results and trends identified above and possibly upon its publication of its 2017/2018 integrated report, Denel will either improve on its score or maintain it at 88%.

4.4.3 Eskom

4.4.3.1 Introduction

For the eight financial years under review, Eskom had a score of 79%. More importantly, on average, there is not a single theme that Eskom fully applied. This is shown by Eskom's publication of the 2017/2018 integrated report.

4.4.3.2 Ethical and Effective Leadership, Theme 1: Ethical and Effective Leadership

With regard to Theme 1: Ethical and effective leadership, Eskom failed to be consistent with regard to the disclosure of the arrangements by which members of the board are held accountable for ethical and effective leadership of the company. Of particular concern has been the evaluation of the performance and effectiveness of the board and its committees.

Table 12: Eskom Corporate Governance themes disclosure recommendations

King IV Principle	2010/2011	2011/2012	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017	2017/2018	Score per theme
Theme 1: Ethical and effective leadership	0	2	2	0	0	2	2	2	10
Theme 2: Ethical culture	2	2	2	2	2	2	2	2	16
Theme 3: Responsible corporate citizenship	2	2	2	2	2	2	2	2	16
Theme 4: Core purpose, risks and opportunities	2	2	2	2	2	2	2	2	16
Theme 5: Assessment of performance and short, medium and long-term prospects	2	2	2	2	2	2	2	2	16
Theme 6: The governing body as Corporate Governance focal point	2	2	2	2	2	2	2	2	16
Theme 7: The governing body	1	1	1	1	1	1	1	2	9
Theme 8: Arrangements for delegation	2	2	2	2	2	2	2	2	16
Theme 9: Performance evaluations	0	2	2	0	0	2	2	2	10
Theme 10: Management contribution to clarity and effective exercise of authority and responsibility	0	0	0	0	0	0	0	2	2
Theme 11: Risk governance	0	0	0	2	2	2	2	2	10
Theme 12: Governance of technology and information	2	2	2	2	2	2	2	2	16
Theme 13: Compliance to laws, regulations, rules and codes	2	2	2	2	2	2	2	2	16
Theme 14: Remuneration	1	1	1	1	1	1	1	2	9
Theme 15: Assurance	1	1	1	1	1	1	1	2	9
Theme 16: Stakeholders inclusive approach	2	2	2	2	2	2	2	2	16
Total score	**21**	**25**	**25**	**23**	**23**	**27**	**27**	**32**	**203**
Average disclosure score per financial year	**66%**	**78%**	**78%**	**72%**	**72%**	**84%**	**84%**	**100%**	**79%**

Sources: Eskom, 2011; Eskom, 2012; Eskom, 2013; Eskom, 2014; Eskom, 2015; Eskom, 2016; Eskom, 2017; Eskom, 2018.

As stated by Eskom, the evaluation of the board ought to be done annually but it was not done during the 2010/2011 financial year. Eskom claimed that the failure to evaluate board performance was as a result of leadership challenges during the financial year (Eskom, 2011:40). Eskom did not disclose the leadership challenges that hindered it to evaluate the board. While the evaluation of the board was undertaken in the 2011/2012 and 2012/2013 financial years, Eskom again failed to evaluate the board and its committees in the 2013/2014 financial year. It stated, in its 2013/2014 integrated report, that the board evaluation exercise was being conducted at the time when it published its 2013/2014 integrated report (Eskom, 2014:70).

In the 2014/2015 financial year, Eskom also failed to undertake the board evaluation exercise. It disclosed that the failure to evaluate the board was caused by the fact that it was reconstituting its governing body (Eskom, 2015:106). It further stated that, in order to make up for the failure to evaluate the board in the 2014/2015 financial year, the new board would be evaluated over a period of 15 months in the 2015/2016 financial year (Eskom, 2015:106). The board was evaluated during the 2015/2016 financial year, as well as in the 2016/2017 and 2017/2018 financial years (Eskom, 2016; Eskom, 2017; Eskom, 2018).

4.4.3.3 Governing Body, Theme 2: Governing Body

During the financial years under review, Eskom had several challenges with the composition of its governing body. One such challenge relates to the positions of the CEO and the chair of the governing body. During the 2010/2011 financial year, the chair of the governing body also acted as Eskom's CEO before a permanent CEO was appointed (Eskom, 2011:39). The appointment of the chair to simultaneously act as CEO is a contravention of a recommendation of the Corporate Governance practices, which states that "the CEO of [an] organisation should not also chair the governing body, and [a] retired CEO should not become the chair of the governing body until

three complete years have passed after the end of the CEO's tenure" (IODSA, 2016:53).

Another concern regarding the composition of the board is that, for the period under review, Eskom did not elect a LID. Eskom disclosed in its 2017/2018 integrated report that the board deemed it not necessary to elect a LID as it considered the chair independent and non-executive (Eskom, 2018:49). Eskom's reasoning for not electing a LID seems to suggest that a LID is only elected in cases where the chair is not considered independent and non-executive. However, Corporate Governance practices clearly state the functions of a LID as follows:

- "To lead in the absence of the chair;
- To serve as a sounding board for the chair;
- To act as an intermediary between the chair and other members of the governing body, if necessary;
- To deal with shareholders' concerns where contact through the normal channels has failed to resolve concerns, or where such contact is inappropriate;
- To strengthen the independence of the governing body if the chair is not an independent non-executive member of the governing body;
- To chair discussions and decision-making by the governing body on matters where the chair has a conflict of interest; and,
- To lead the performance appraisal of the chair" (IODSA, 2016:53).

From the LID's functions listed above, Eskom only considered one for not electing a LID. Therefore, Eskom is in contravention of the recommendation of the Corporate Governance practices.

Another concern identified with the composition of the governing body is that no racial or gender targets were set for the period under review. Eskom stated that the targets were not even being considered. Eskom disclosed that that was because it was not necessary to do so (Eskom, 2018:49).

4.4.3.4 Chief Executive Officer, Theme 10: Management contribution to clarity and effective exercise of authority and responsibility

For the financial years under review, Eskom did not disclose the notice periods stipulated in the employment contracts of the CEOs. Furthermore, from the 2010/2011 to the 2017/2018 financial years, there was no succession planning for the position of the CEO. Eskom disclosed in the 2017/2018 integrated report that the succession planning "would be considered in due course." (Eskom, 2018:49). The absence of succession planning at Eskom could perhaps be one of the reasons why at one point in the financial years under review, the chair of the governing body also acted as the CEO (see 4.4.5.3 above).

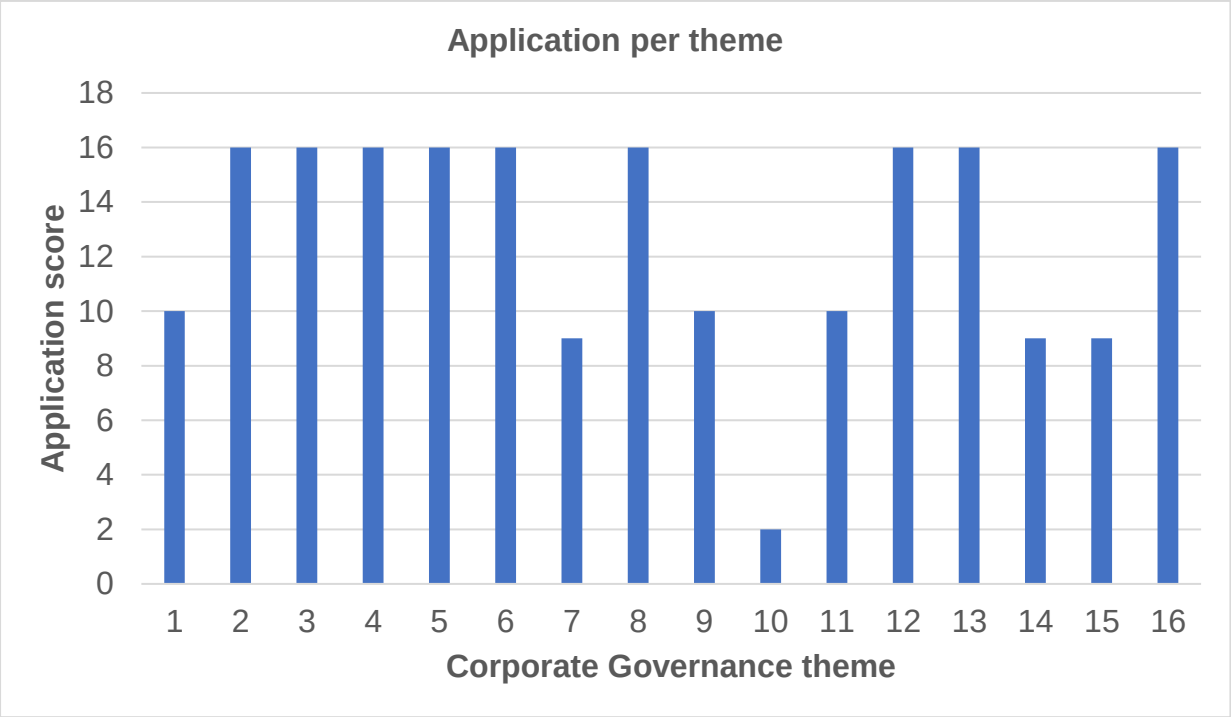
4.4.3.5 Risk Governance, Theme 11: Risk governance

From the 2010/2011 financial year to 2013/2014, Eskom was not applying the recommendations contained under Theme 11: Risk governance. However, application improved from the 2014/2015 to the 2017/2018 financial years, with Eskom disclosing in its annual integrated reports, the risks and opportunities that it is willing to take, and its arrangements for governing and managing risk. The key areas of focus in the respective financial years were disclosed, together with actions taken to monitor risks and planned areas of future focus (Eskom, 2015; Eskom, 2016; Eskom, 2017; Eskom, 2018).

4.4.3.6 Conclusion

The analysis above has identified principles not fully applied by Eskom in the eight years under review. These principles, as shown in Figure 6 are Theme 1: Ethical and effective leadership, which deals with ethical and effective leadership, Theme 7: The governing body, which contains disclosure recommendation regarding the governing body and Theme 10: Management contribution to clarity and effective exercise of authority and responsibility, which focuses on the CEO. The discussion also included recommendations regarding risk governance, which are contained in Theme 11: Risk governance of the King IV Report.

Figure 6: Eskom: Measure of application based on disclosure



While the analysis identified the problems which Eskom has had with regard to the application of the practices, the analysis also showed Eskom's improvement over the eight years of the review. The improvement trend is shown in Figure 7. The score on the vertical axis represents the total score, out of 16, that Eskom had for each Corporate Governance practice over the eight financial years under review.

Figure 7: Eskom: Trends in application based on disclosure

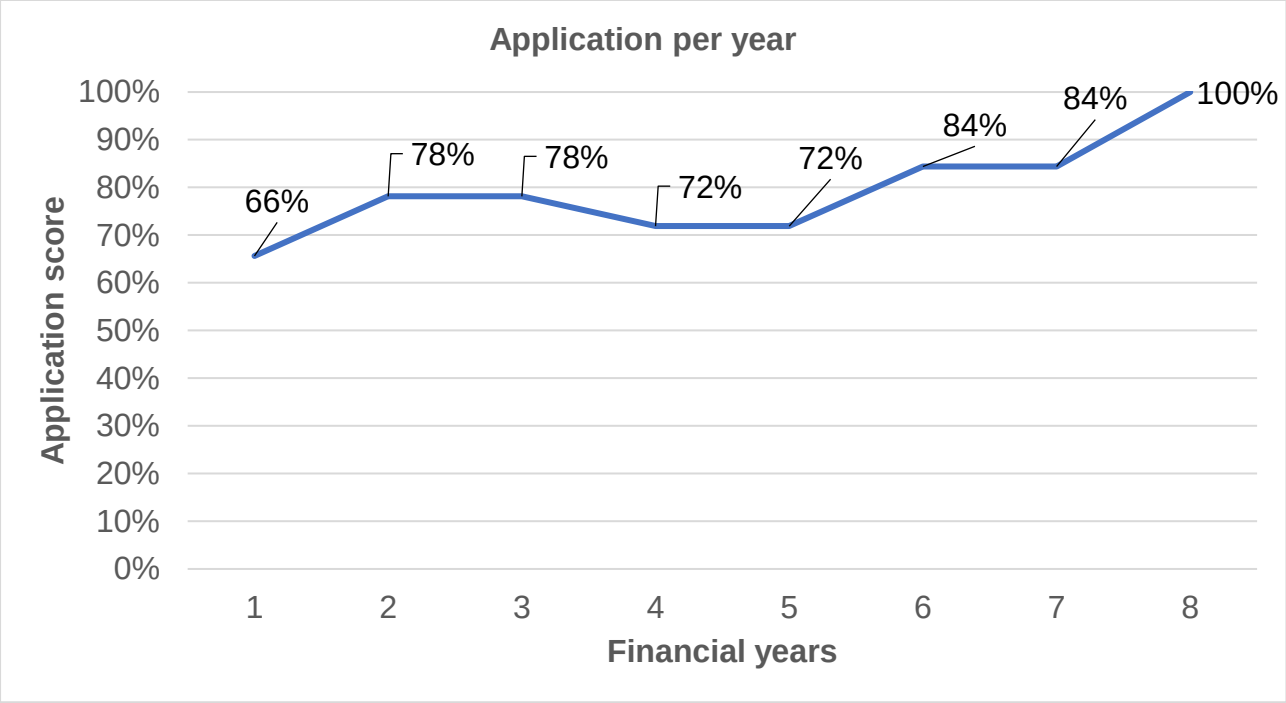


Figure 7 shows that while Eskom had challenges in the application of practices, it improved from the fifth year of analysis. The improvement has resulted in Eskom having a score of 100% in the final year of analysis.

4.4.4 Passenger Rail Agency of South Africa

4.4.4.1 Introduction

PRASA had the lowest application score of the eight SOEs analysed. It had an average application score of 28%, failing to disclose eight of the 16 themes of the Corporate Governance practices. For the period under review, PRASA fully applied the principles of only one principle, Theme 16: Stakeholders inclusive approach.

Table 13: PRASA Corporate Governance themes disclosure recommendations

King IV Principle	2010/2011	2011/2012	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017	2017/2018	Score per theme
Theme 1: Ethical and effective leadership	0	0	0	0	0	1	1	0	2
Theme 2: Ethical culture	0	0	0	0	0	0	0	0	0
Theme 3: Responsible corporate citizenship	0	0	0	0	0	0	0	0	0
Theme 4: Core purpose, risks and opportunities	1	1	1	1	1	1	1	0	7
Theme 5: Assessment of performance and short, medium and long-term prospects	1	1	1	1	1	1	1	0	7
Theme 6: The governing body as Corporate Governance focal point	2	2	2	2	2	2	2	0	14
Theme 7: The governing body	1	1	1	1	1	1	1	0	7
Theme 8: Arrangements for delegation	1	1	1	1	1	1	1	0	7
Theme 9: Performance evaluations	0	0	0	0	0	0	0	0	0
Theme 10: Management contribution to clarity and effective exercise of authority and responsibility	0	0	0	0	0	0	0	0	0
Theme 11: Risk governance	0	0	0	0	0	0	0	0	0
Theme 12: Governance of technology and information	0	0	0	0	0	0	0	0	0
Theme 13: Compliance to laws, regulations, rules and codes	0	0	0	0	0	0	0	0	0
Theme 14: Remuneration	1	1	1	1	1	1	1	0	7
Theme 15: Assurance	1	1	1	1	1	1	1	0	7
Theme 16: Stakeholders inclusive approach	2	2	2	2	2	2	2	0	14
Total score	**10**	**10**	**10**	**10**	**10**	**11**	**11**	**0**	**72**
Average disclosure score per financial year	**31%**	**31%**	**31%**	**31%**	**31%**	**34%**	**34%**	**0%**	**28%**

Sources: PRASA, 2011; PRASA, 2012; PRASA, 2013; PRASA, 2014; PRASA, 2015; PRASA, 2016; PRASA, 2017.

4.4.4.2 Ethical and Effective Leadership, Theme 1: Ethical and Effective Leadership

No board performance evaluation was undertaken or disclosed in the annual integrated reports for the financial years under review. Furthermore, a determination of whether such an evaluation was undertaken for the 2017/2018 financial year could not be made as the integrated report for the 2017/2018 financial year had not been published at the time of the analysis.

Additionally, a code of ethics was only disclosed for the first time in the 2015/2016 integrated report. No other arrangements for managing ethics were disclosed until the 2015/2016 financial year. PRASA did not deteriorate, disclosing the code of ethics again in the 2016/17 financial year. However, for reasons stated above, the disclosure of arrangements for holding members of the PRASA governing body accountable for ethical and effective leadership could not be determined for the 2017/2018 financial year.

4.4.4.3 Governing Body, Theme 6: The governing body as Corporate Governance focal point and 7

For the period under review, there were concerns relating to the recommendations for the composition of the governing body. PRASA deteriorated with regard to categorising members of the governing body as either executive or non-executive members. This non-disclosure continued until the 2016/2017 financial year. PRASA also failed to elect a LID for the financial years under review. Moreover, gender and race targets representation were not made for the period under review.

4.4.4.4 Board Committees, Theme 8: Arrangements for delegation

With regard to the audit committee, two concerns were identified for the financial years under review. One concern is that of the absence of a nominations committee, or a committee which has been allocated the responsibilities of a nominations committee.

This non-application occurred throughout the period under review. Since no committee responsible for nominations has been elected by the governing body, it means the following responsibilities remain unattended to:

- Nominating, electing and appointing members of the governing body;
- Succession planning in respect of members of the governing body and
- Evaluating governing body performance.

The second area of non-application is that of expressing views on the effectiveness of the CFO and the finance function. The Corporate Governance practice recommends that these views be expressed by the audit committee. However, for the period under review, PRASA did not apply this recommendation at all.

4.4.4.5 Remuneration Governance, Theme 14: Remuneration

Between the 2010/2011 and 2014/2015 financial years, PRASA did not disclose any details relating to the remuneration of its board members and that of its executive management. It only started disclosing remuneration details in the 2015/2016 financial year (PRASA, 2016). However, the disclosure was not in accordance with the recommendations of the Corporate Governance practices. The following were not disclosed:

- Internal and external factors influencing remuneration;
- Any voting results on remuneration;
- Whether the committee responsible for remuneration is satisfied that consultants were independent and objective,
- Whether the committee responsible for remuneration achieved its stated objectives;
- Any areas of focus for the future; and,
- An illustration of the potential consequences on the total remuneration for executive management of applying the remuneration policy.

The non-disclosure of the recommendations listed above alludes to the fact that even though PRASA has disclosed some details of remuneration, it still has to improve in order to fully apply practices. It could be argued that the poor quality of the disclosure of PRASA is due to the fact that the detailed disclosures relating to remuneration is only a recommendation found in the King IV Report and not in the King III Report. This was thus an expected result for remuneration disclosures.

4.4.4.6 Conclusion

Under this section, disclosure recommendations that PRASA had a problem applying were identified and discussed. The discussion centred on the recommendations under ethical and effective leadership, the governing body, board committees and the governance of remuneration. Figure 8 illustrates which principles PRASA had problems with. The score on the vertical axis represents the total score, out of 16, that PRASA had for each Corporate Governance theme over the eight financial years under review.

Figure 8: PRASA: Measure of application based on disclosure

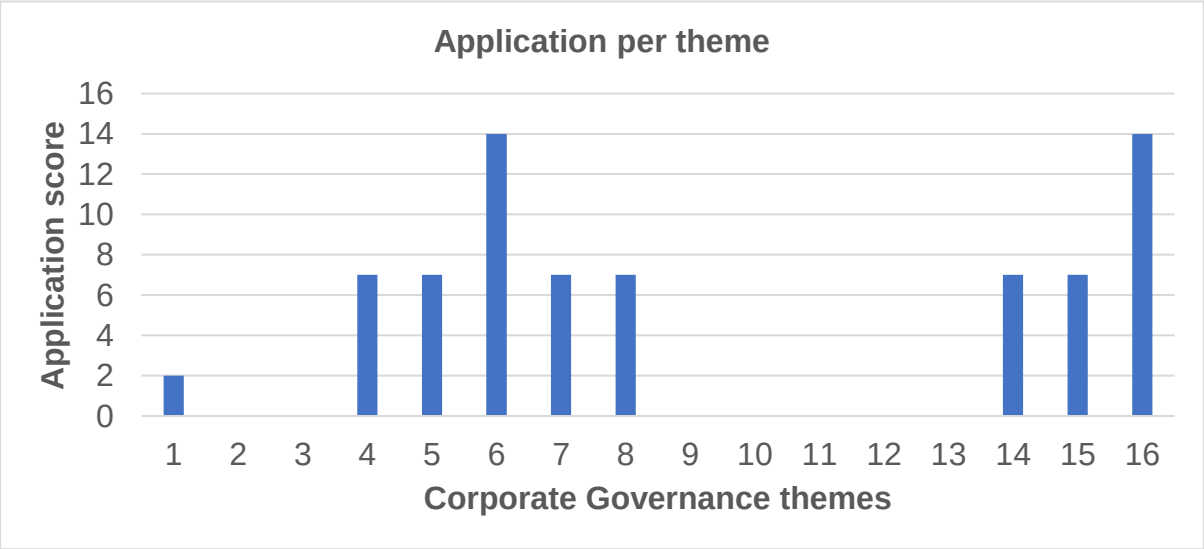
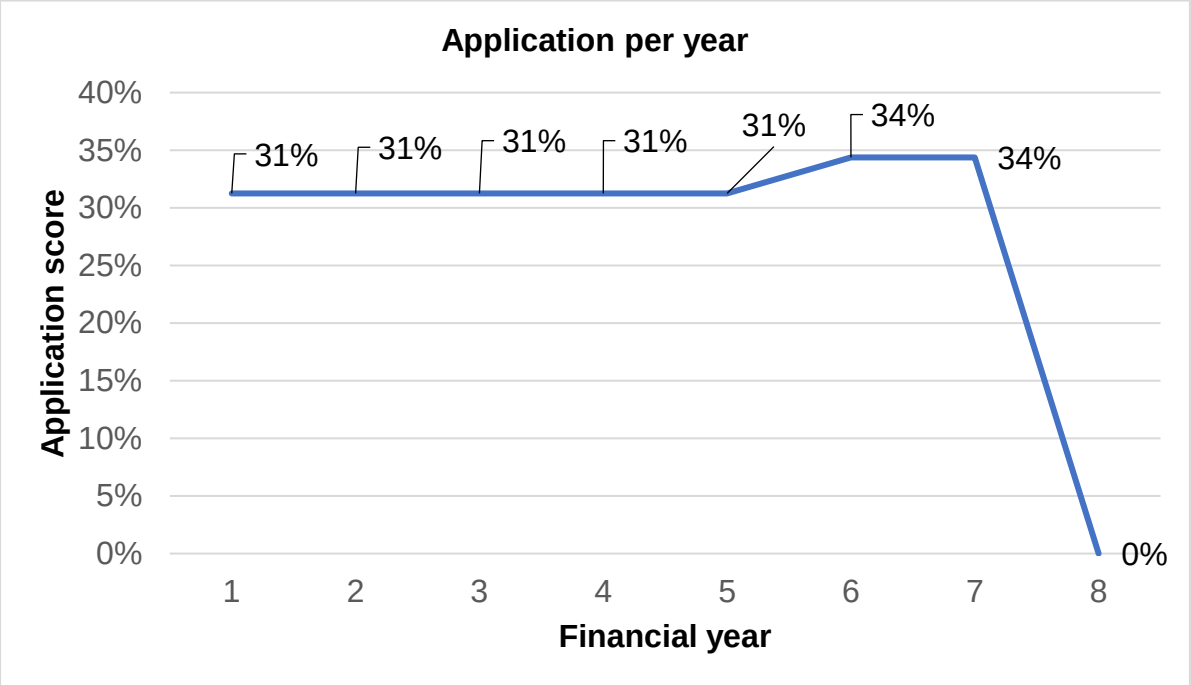


Figure 9 shows that while PRASA's disclosure score remained constant at 31% during the first five years of analysis, the score slightly improved in the sixth and seventh years. However, due to PRASA not publishing its integrated report, the score dropped to 0% (see Section 5.6 for a discussion on the limitations of the study). Therefore,

based on the results of the analysis and the trend shown in Figure 9, it can be argued that when PRASA publishes its integrated report, a slight improvement in the disclosure of Corporate Governance best practices is observable.

Figure 9: PRASA: Trends in application based on disclosure



4.4.5 South African Express

For the financial years under review, a score for application of the recommendations of the Corporate Governance practices could not be determined. This is due to the fact that in the eight financial years from 2010/2011 to the 2017/2018 financial year, SAA only had four sets of integrated reports published. These reports were for the 2011/2012, 2012/2013, 2014/2015 and 2015/2016 financial years.

4.4.6 South African Airways

4.4.6.1 Introduction

SAA received a total score of 112 out 256 in for disclosure of Corporate Governance practices. This can be translated to 44% score over the eight financial years under analysis. Moreover, SAA only fully applied four out of the 16 themes from the 2010/2011 financial year to the 2016/2017, as the 2017/2018 integrated report had not

been published at the time of analysis. That is, if the disclosure of Corporate Governance practices were only based on recommendations fully disclosed, SAA would have scored only 25%. This section presents the Corporate Governance practices that SAA had problems applying, based on the disclosures in the period under review.

4.4.6.2 Ethical and Effective Leadership, Theme 1: Ethical and Effective Leadership

For the entirety of the period under review, SAA failed to disclose its arrangements for governing and managing ethics. Failure to disclose these arrangements may suggest that SAA has a problem with establishing an ethical culture within the organisation.

4.4.6.3 Corporate Citizenship, Theme 3: Responsible corporate citizenship

As is the case with ethical and effective leadership, SAA failed, for the period under review, to disclose its arrangements for governing and managing responsible corporate citizenship. Continued failure to disclose these arrangements may result in stakeholders of SAA viewing the company as not being a responsible corporate citizen.

4.4.6.4 Performance Evaluation, Theme 9: Performance evaluations

In the period under analysis, SAA failed to evaluate the performance of its members of the board and that of its board committees. This means that for the eight years under review, SAA failed to determine whether its board members are effective, and whether improvement is seen in their performance.

Table 14: SAA Corporate Governance themes recommendations disclosure

King IV Principle	2010/2011	2011/2012	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017	2017/2018	Score per theme
Theme 1: Ethical and effective leadership	1	1	1	1	1	1	1	0	7
Theme 2: Ethical culture	0	0	0	0	0	0	0	0	0
Theme 3: Responsible corporate citizenship	0	0	0	0	0	0	0	0	0
Theme 4: Core purpose, risks and opportunities	2	2	2	2	2	2	2	0	14
Theme 5: Assessment of performance and short, medium and long-term prospects	1	1	1	1	1	1	1	0	7
Theme 6: The governing body as Corporate Governance focal point	2	2	2	2	2	2	2	0	14
Theme 7: The governing body	1	1	1	1	1	1	1	0	7
Theme 8: Arrangements for delegation	1	1	1	1	1	1	1	0	7
Theme 9: Performance evaluations	0	0	0	0	0	0	0	0	0
Theme 10: Management contribution to clarity and effective exercise of authority and responsibility	0	0	0	0	0	0	0	0	0
Theme 11: Risk governance	1	1	1	1	1	1	1	0	7
Theme 12: Governance of technology and information	0	0	0	0	0	0	0	0	0
Theme 13: Compliance to laws, regulations, rules and codes	2	2	2	2	2	2	2	0	14
Theme 14: Remuneration	1	1	1	1	1	1	1	0	7
Theme 15: Assurance	2	2	2	2	2	2	2	0	14
Theme 16: Stakeholders inclusive approach	2	2	2	2	2	2	2	0	14
Total score	**16**	**16**	**16**	**16**	**16**	**16**	**16**	**0**	**112**
Average disclosure score per financial year	**50%**	**50%**	**50%**	**50%**	**50%**	**50%**	**50%**	**0%**	**44%**

Sources: SAA, 2011; SAA, 2012; SAA, 2013; SAA, 2014; SAA, 2015; SAA, 2016; SAA, 2017.

4.4.6.5 Conclusion

In this section, problems regarding the disclosure of the application of Corporate Governance practices at SAA were identified and discussed. The discussion centred on ethical and effective leadership, corporate citizenship and the performance evaluation of SAA's board members. As shown in Figure 10, none of the Corporate Governance practices were fully applied in the period under analysis. The score on the vertical axis represents the total score, out of 16, that SAA had for each Corporate Governance practice over the eight financial years under review.

Figure 10: SAA: Measure of application based on disclosure

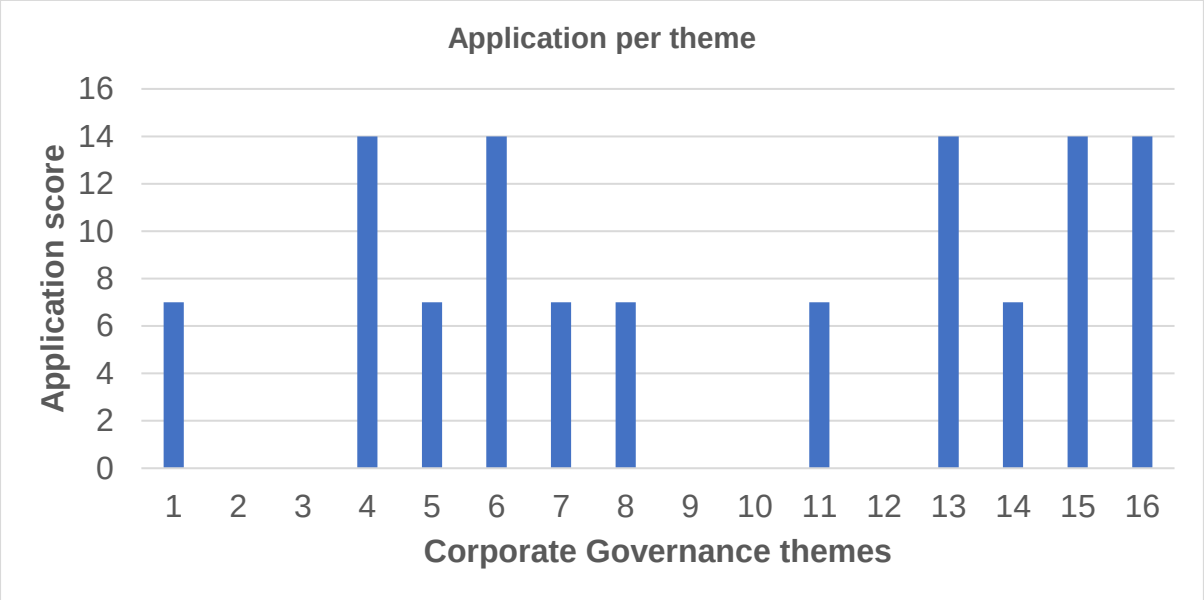
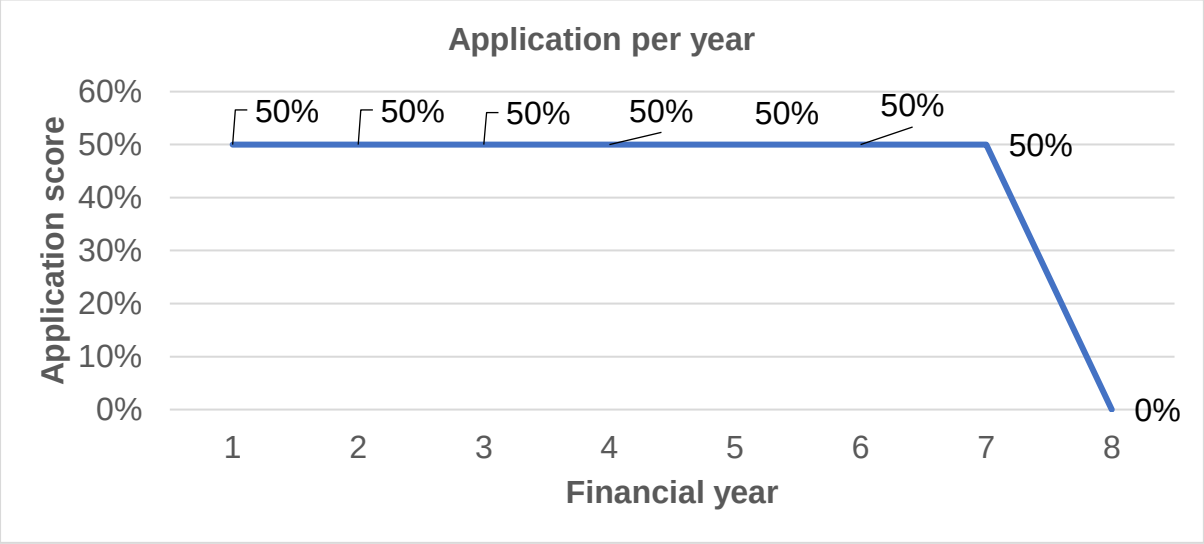


Figure 11 illustrates that the application score for SAA has remained constant at 50% for the period under review. However, SAA has a score of 0% in the final year of analysis, due to its failure to publish its integrated report for the year (see Section 5.6 for a discussion on limitations of the study). Therefore, for the period under review, SAA failed to improve on the disclosure of the application of the Corporate Governance practices.

Figure 11: SAA: Trends in application based on disclosure



4.4.7 South African Broadcasting Corporation

4.4.7.1 Introduction

The SABC received a total score of 157 out of 256 in its measure of Corporate Governance practices. This can be translated to 61% score over the eight financial years under analysis. The SABC showed an improvement in its application of the practices. In the financial years under review, SABC moved from a score of 58% in the 2010/2011 financial year to a score of 94% in the 2017/2018 financial year.

4.4.7.2 Ethical and Effective Leadership, Theme 1: Ethical and Effective Leadership

From the 2010/2011 financial year to the 2015/2016 financial year, SABC failed to apply any of the recommendations regarding ethical and effective leadership, according to themes 1 and 2. However, in the 2016/2017 financial year, SABC disclosed its code of conduct for the board. An improvement was seen in the 2017/2018 financial year, whereby all the practices were applied.

4.4.7.3 Corporate Citizenship, Theme 3: Responsible corporate citizenship

In all of the financial years under review, SABC did not disclose any of the arrangements of managing and governing responsible corporate citizenship. Therefore, it scored 0% in this regard.

4.4.7.4 Conclusion

While SABC has had some challenges with regard to Corporate Governance practices, it has shown a lot of improvement over the years. The score on the vertical axis in Figure 12 represents the total score, out of 16, that the SABC had for each Corporate Governance practices over the eight financial years under review. As demonstrated in Figure 12, the SABC failed to at least partially apply the recommendations of only Theme 3: Responsible corporate citizenship.

Figure 12: SABC: Disclosure score per theme

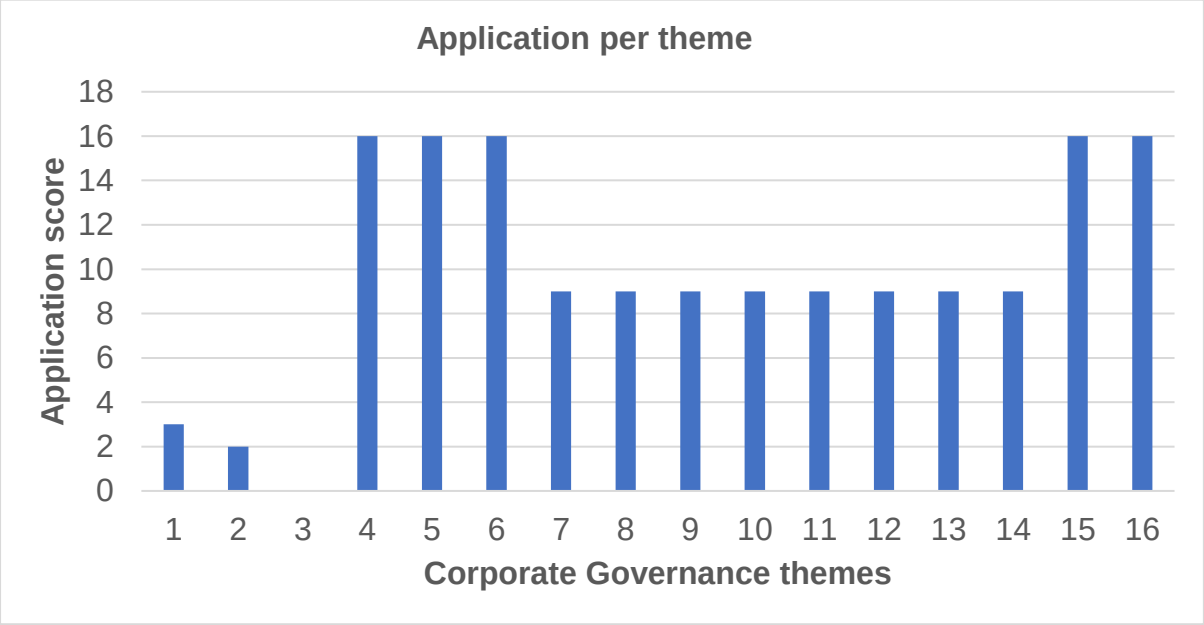


Table 15: SABC Corporate Governance themes recommendations disclosure

King IV Principle	2010/2011	2011/2012	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017	2017/2018	Score per theme
Theme 1: Ethical and effective leadership	0	0	0	0	0	0	1	2	3
Theme 2: Ethical culture	0	0	0	0	0	0	0	2	2
Theme 3: Responsible corporate citizenship	0	0	0	0	0	0	0	0	0
Theme 4: Core purpose, risks and opportunities	2	2	2	2	2	2	2	2	16
Theme 5: Assessment of performance and short, medium and long-term prospects	2	2	2	2	2	2	2	2	16
Theme 6: The governing body as Corporate Governance focal point	2	2	2	2	2	2	2	2	16
Theme 7: The governing body	1	1	1	1	1	1	1	2	9
Theme 8: Arrangements for delegation	1	1	1	1	1	1	1	2	9
Theme 9: Performance evaluations	1	1	1	1	1	1	1	2	9
Theme 10: Management contribution to clarity and effective exercise of authority and responsibility	1	1	1	1	1	1	1	2	9
Theme 11: Risk governance	1	1	1	1	1	1	1	2	9
Theme 12: Governance of technology and information	1	1	1	1	1	1	1	2	9
Theme 13: Compliance to laws, regulations, rules and codes	1	1	1	1	1	1	1	2	9
Theme 14: Remuneration	1	1	1	1	1	1	1	2	9
Theme 15: Assurance	2	2	2	2	2	2	2	2	16
Theme 16: Stakeholders inclusive approach	2	2	2	2	2	2	2	2	16
Total score	**18**	**18**	**18**	**18**	**18**	**18**	**19**	**30**	**157**
Average disclosure score per financial year	**56%**	**56%**	**56%**	**56%**	**56%**	**56%**	**59%**	**94%**	**61%**

Sources: SABC, 2011; SABC, 2012; SABC, 2013; SABC, 2014; SABC, 2015; SABC, 2016; SABC, 2017; SABC, 2018.

Figure 13: SABC: Trends in application based on disclosure

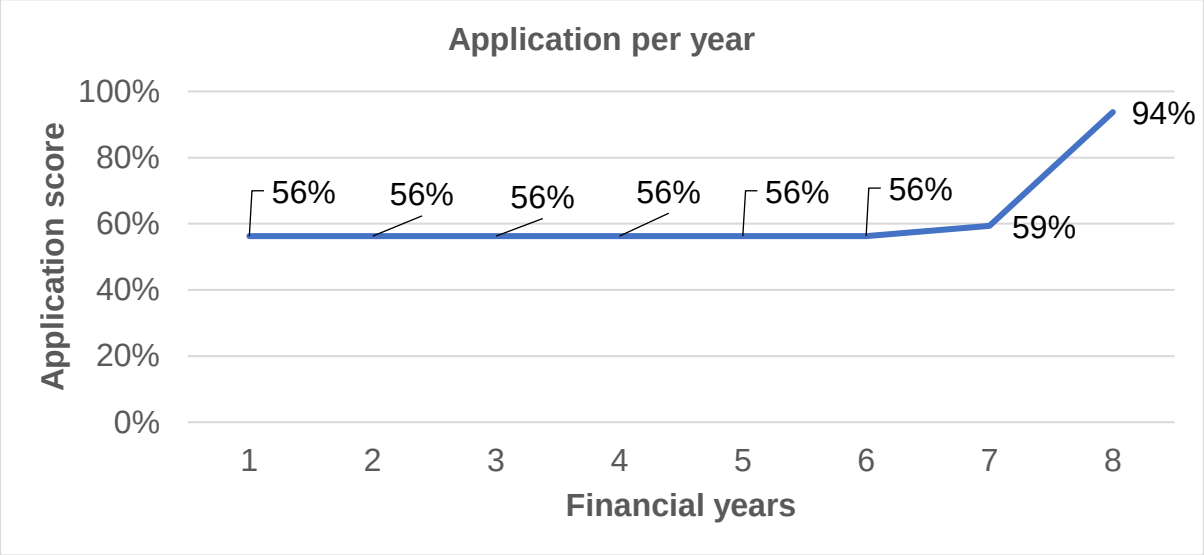


Figure 13 further shows that, while SABC's disclosure score remained constant at 56% over the years, it improved to 59% in the seventh year of analysis, and later to 94% in the final year of analysis. Therefore, SABC has shown an improvement concerning the application of Corporate Governance practices.

4.4.8 Transnet

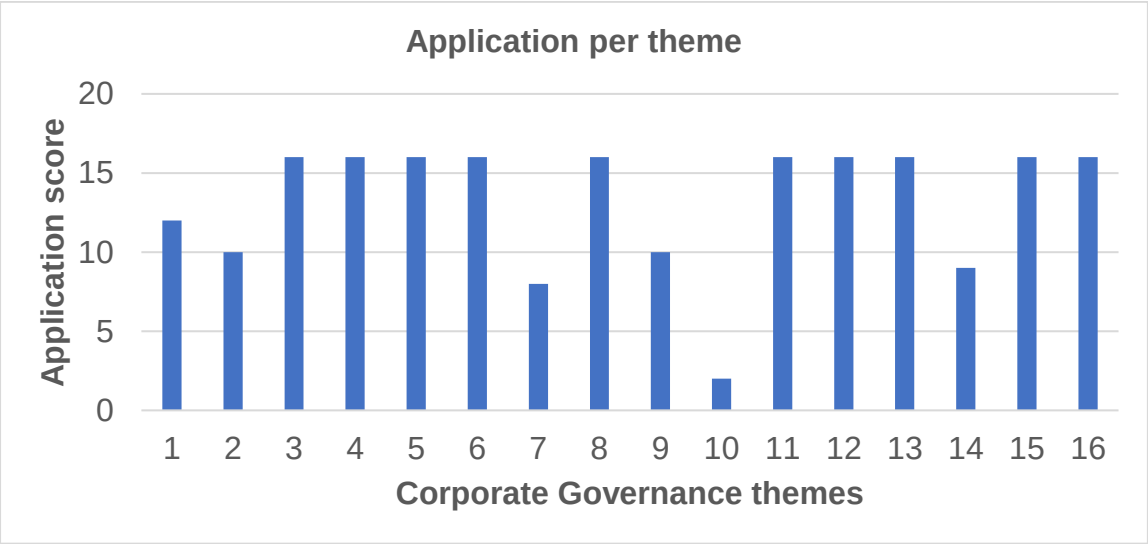
4.4.8.1 Introduction

Transnet received a total score of 211 out 256 in its Measure of application based on disclosure of Corporate Governance practices. This can be translated to 82% score over the eight financial years under analysis. Transnet showed an improvement in its application of Corporate Governance practices. In the financial years under review, Transnet moved from a score of 72% in the 2010/2011 financial year to a score of 97% in the 2017/2018 financial year, making it the SOE with the highest score in terms of application of practices.

4.4.8.2 Chief Executive Officer, Theme 10: Management contribution to clarity and effective exercise of authority and responsibility

Although Transnet had the highest score in the period under review, it had a problem with the disclosure of the practices under Theme 10: Management contribution to clarity and effective exercise of authority and responsibility. However, it rectified this, as it disclosed all of the recommendations in the 2017/2018 financial year.

Figure 14:Transnet: Disclosure score per theme



4.4.8.3 Conclusion

For the period under review, Transnet has had the highest score in terms of the application of Corporate Governance practices. Figure 14 and Figure 15 summarise Transnet disclosures for the period under review. Figure 14 shows that in the period under review, Transnet applied the majority of the practices. The score on the vertical axis represents the total score, out of 16, that Transnet had for each Corporate Governance practice over the eight financial years under review.

Table 16: Transnet Corporate Governance themes recommendations disclosure

King IV Principle	2010/2011	2011/2012	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017	2017/2018	Score per
Theme 1: Ethical and effective leadership	1	0	1	2	2	2	2	2	12
Theme 2: Ethical culture	0	0	0	2	2	2	2	2	10
Theme 3: Responsible corporate citizenship	2	2	2	2	2	2	2	2	16
Theme 4: Core purpose, risks and opportunities	2	2	2	2	2	2	2	2	16
Theme 5: Assessment of performance and short, medium and long-term prospects	2	2	2	2	2	2	2	2	16
Theme 6: The governing body as Corporate Governance focal point	2	2	2	2	2	2	2	2	16
Theme 7: The governing body	1	1	1	1	1	1	1	1	8
Theme 8: Arrangements for delegation	2	2	2	2	2	2	2	2	16
Theme 9: Performance evaluations	0	0	0	2	2	2	2	2	10
Theme 10: Management contribution to clarity and effective exercise of authority and responsibility	0	0	0	0	0	0	0	2	2
Theme 11: Risk governance	2	2	2	2	2	2	2	2	16
Theme 12: Governance of technology and information	2	2	2	2	2	2	2	2	16
Theme 13: Compliance to laws, regulations, rules and codes	2	2	2	2	2	2	2	2	16
Theme 14: Remuneration	1	1	1	1	1	1	1	2	9
Theme 15: Assurance	2	2	2	2	2	2	2	2	16
Theme 16: Stakeholders inclusive approach	2	2	2	2	2	2	2	2	16
Total score	**23**	**22**	**23**	**28**	**28**	**28**	**28**	**31**	**211**
Average disclosure score per financial year	**72%**	**69%**	**72%**	**88%**	**88%**	**88%**	**88%**	**97%**	**82%**

Sources: Transnet, 2011; Transnet, 2012; Transnet, 2013; Transnet, 2014; Transnet, 2015; Transnet, 2016; Transnet, 2017; Transnet, 2018.

Figure 15: Transnet: Trends in application based on disclosure

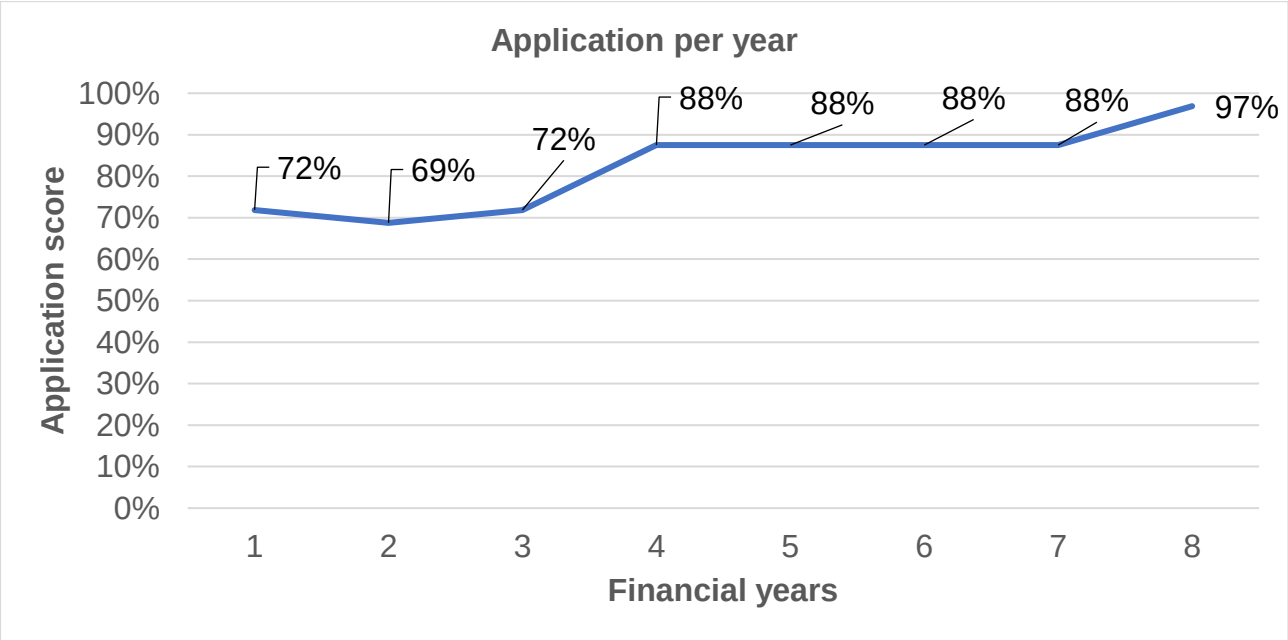


Figure 15 further illustrates that Transnet's scores improved over the years. It had an average score of 82%, the highest of any of the selected SOEs for the study. Therefore, Transnet scores an improvement over the years.

4.5 Chapter Conclusion

This chapter presented the analysis of annual integrated reports of the selected South African SOEs. The analysis was based on the disclosure of the Corporate Governance practices made by the SOEs to identify possible gaps in the application of these practices. Therefore, the different themes of Corporate Governance practices were briefly discussed. In formulating the different themes of Corporate Governance practices, the King III and King IV Reports were compared. The chapter then proceeded to the data analysis reports of the selected SOEs for the study. The empirical findings of the study were then presented for each SOE.

The study findings revealed that while the SOEs have challenges in terms of the application of Corporate Governance practices, the SOEs were on average improving over the financial years in their application of the Corporate Governance practices. The findings of the study are summarised in Figure 16 and Figure 17.

Figure 16: Average application levels for all state-owned entities

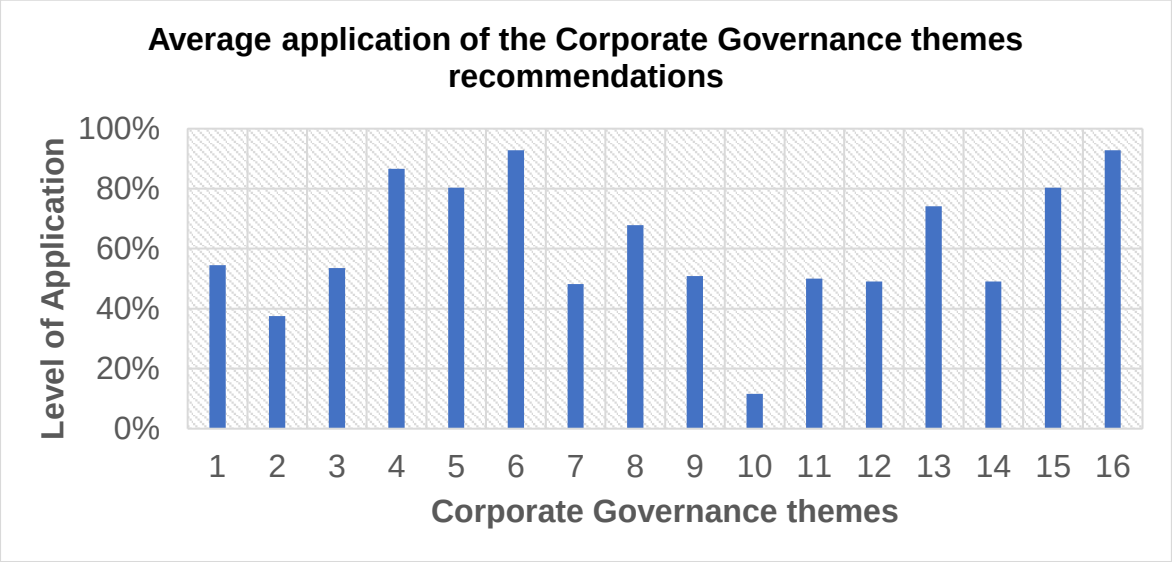


Figure 16 shows the average level of the application of the 16 Corporate Governance practices by the SOEs selected for the study. Figure 16 also shows principles that on average, all SOEs seem to have challenges applying practices. These are practices which have an average score of below 50%. The principles are listed below, together with their respective average disclosure scores:

- Theme 2: Ethical culture – average score: 38%
- Theme 7: The governing body – average score: 48%
- Theme 10: Management contribution to clarity and effective exercise of authority and responsibility – average score: 12%
- Theme 14: Remuneration – average score: 49%.

The reasons for the low application scores vary. These reasons are discussed below.

- **Theme 2: Ethical culture**

One of the reasons for the low application scores is that, as previously mentioned (see 4.1), most of the analysed integrated reports contained disclosure recommendations contained in the King III Report and not those of the King IV Report. Therefore, the non-disclosure may be as a result of the King IV Report having more onerous disclosure recommendations than the King III Report. For example, Theme 2: Ethical culture of the King IV Report lists specifically what should be disclosed in relation to the organisational ethics. These disclosure recommendations are (also see Appendix):

- "An overview of the arrangements for governing and managing ethics;
- Key areas of focus during the reporting period;
- Measures taken to measure organisational ethics and how the outcomes were addressed and,
- Planned areas of future focus" (IODSA, 2016:45).

Therefore, the disclosure score for Corporate Governance practices was low for this theme due to the onerous recommendations of the King IV Report.

- **Theme 7: The governing body**

A major reason why all of the SOEs selected for the study failed to fully disclose the recommendations of Theme 7: The governing body relates to the appointment of a LID. For the financial years under review, none of the SOEs appointed a LID. Perhaps a lack of appreciation or understanding of the role of a LID could be cited as the reason why all SOEs do not elect LIDs. As Eskom stated in its 2017/2018 integrated report, "as the chairman is an independent non-executive director, the board does not consider it necessary to appoint a lead independent director" (Eskom, 2018:49).

In the financial years under review, all of the SOEs selected for the study seemed to struggle with the disclosure of the following practices relating to the governing body:

- Whether the governing body is satisfied that its composition reflects the appropriate mix of knowledge, skills, experience, diversity and experience;
- The targets set for gender and race representation in the membership of the governing body, and progress made against these targets and
- The reasons why any members of the governing body have been removed, resigned or retired.

The non-disclosure of these practices may result from the non-application of practices. In its 2017/2018 integrated report, Eskom acknowledged its failure to apply these recommendations. Eskom stated that “no racial or gender targets have been set, and are not currently considered necessary…” (Eskom, 2018:47).

- **Theme 10: Management contribution to clarity and effective exercise of authority and responsibility**

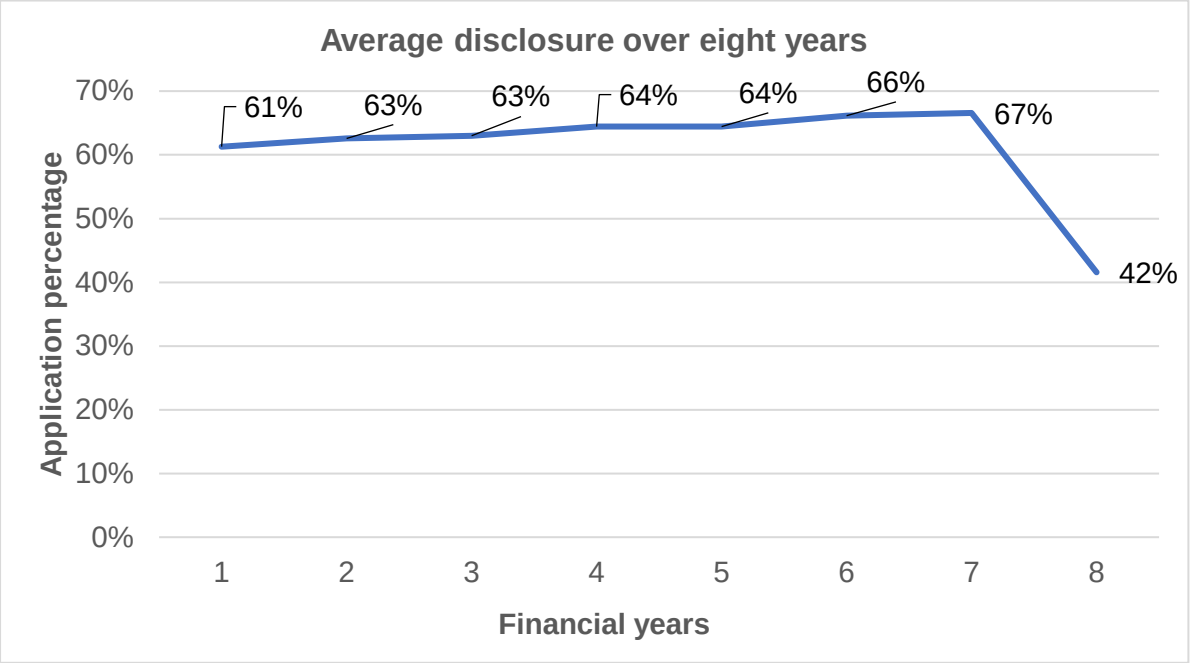
As is the case with Theme 2: Ethical culture, one major reason for the poor application score for Theme 10: Management contribution to clarity and effective exercise of authority and responsibility is that the King III Report was not specific with regard to the disclosure recommendations in relation to the CEO. The reason behind the low disclosure score is that the King IV Report has more onerous disclosure recommendations than the King IV Report (see Appendix). As the application of Corporate Governance practices for this study is based on a combination of the practices in King III and King IV, the results for this theme is expected.

- **Theme 14: Remuneration**

In terms of the disclosure relating to the remuneration of directors and senior executives, SOEs seemed to disclose information only required by the Companies Act (Act 71 of 2008) and not as required by the Corporate Governance practices. This disclosure coincides in some parts with the recommendations of the Corporate Governance practices, hence the average score of 49% by the SOEs. The disclosure

requirements of directors and senior executives is made through section 30(4) of the Companies Act (Act 71 of 2008).

Figure 17: Average application of all state-owned entities over eight years



Notwithstanding the contents of Figure 16, Figure 17 shows that the average application levels of the SOEs have been increasing over the eight financial years under review. The average application increased from 61% in the first year of analysis to 67% in the seventh year of analysis. However, the application dropped to 42% in the final year of analysis. The drop in the application levels can be attributed to SOEs that failed to publish their 2017/2018 integrated report when the study was conducted (see Section 5.6 for a discussion on the limitations of the study).

In the 217/2018 financial year, only three SOEs published their integrated reports. The average application levels of the three SOEs in the 2017/2018 financial year is 97%. Therefore, given all the above, and notwithstanding the late publication of integrated reports by the other five SOEs, it may be concluded that the SOEs selected for the study, with the exception of SA Express, seem to have largely applied the Corporate Governance practices.

Chapter 5: Conclusion and Recommendations

5.1 Introduction

The study sought to identify possible gaps in the application of Corporate Governance practices of eight selected South African SOEs. The analysis was done over a period of eight financial years, from the 2010/2011 financial year to the 2017/2018 financial year. Chapter 5 gives a brief summary of the study, from the research methods followed to the findings of the study. The chapter concludes with a discussion of the significance and limitations of the study. It also suggests further research possibilities resulting from this study.

5.2 Summary of the Study

With the many Corporate Governance scandals that have been reported in South African SOEs over recent years (see 1.1 and 3.2.5), Corporate Governance disclosures have become very important. The concern regarding these scandals has been evidenced by the changes in the boards of directors of the SOEs and the establishment of a Commission of inquiry into allegations of state capture (see 3.2.5).

In Chapter 1, the study started with a background of the Corporate Governance challenges facing the South African SOEs (see 1.1). In Chapter 2, different research methods were underscored. A distinction between qualitative and quantitative research methods was drawn (see 2.1, 2.2 and 2.3). Under quantitative research, experimental (see 2.2.2), non-experimental (see 2.2.3) and quasi-experimental research methods (see 2.2.4) were identified and briefly discussed. With regard to qualitative research, data collection methods were classified into methods used to collect primary data (see 2.3.2.1) and those used to collect secondary data (see 2.3.2.2). Observations, interviews and the use of questionnaires were identified as primary data collection methods, while document analysis was identified and briefly discussed as a secondary data collection method. When these research methods had been discussed, it was concluded that a qualitative approach, through the use of document analysis, would be adopted, as it was found to be the best approach for this study (see 2.4).

The discussion and the selection of the research methods were then followed by a brief discussion on Corporate Governance scandals and a literature review on Corporate Governance in Chapter 3. Corporate Governance scandals such as the 2008 global financial crisis, Toshiba, the state capture in South Africa, and KPMG South Africa were briefly discussed (see 3.2). Then a discussion on the Corporate Governance Theories followed. The Corporate Governance Theories that were discussed are the following (see 3.2.2):

- The Agency Theory;
- The Stewardship Theory;
- The Stakeholder Theory;
- The Enlightened Shareholder Theory;
- The Resource Dependency Theory;
- The Network Theory; and,
- The Class Hegemony Theory.

The discussion on Corporate Governance Theories established that the theories were a result of different companies dealing with Corporate Governance scandals and failures (see 3.3). The Corporate Governance Theories address the Corporate Governance scandals and failures by suggesting to whom companies should be accountable and responsible (see 3.3.2). The discussion established that in South Africa, the Enlightened Shareholder Theory is followed.

Following the presentation on the Corporate Governance Theories, a discussion on the approaches to Corporate Governance in difference countries followed (see 3.4). The approaches to enforcing Corporate Governance were identified and briefly discussed (see 3.4.2). It was also established through the literature review that different countries may adopt different approaches to enforcing Corporate Governance (see 3.4.2). Countries may adopt a mandatory approach of enforcement, in which case Corporate Governance principles are legislated through Acts of Parliament. Another approach that may be adopted to enforce Corporate Governance in various countries was identified as the voluntary application approach (see 3.4.2). With the voluntary application approach, it was established that Corporate Governance provisions are not legislated but are contained in codes of best practice, which are enforced through different approaches, being the:

- Comply or explain approach;
- Comply and explain approach;
- Apply or explain approach; and the
- Apply and explain approach.

The presentation of the approaches was followed by a brief discussion on how Corporate Governance is enforced in the USA, the UK, Germany (see 3.4.3 to 3.4.5). The discussion stated that while some of the provisions of Corporate Governance in South Africa were legislated through the PFMA (Act 1 of 1999) and the Companies Act (Act 71 of 2008), Corporate Governance in South Africa is enforced through a voluntary application approach, with the use of both the King III and King IV Reports. The discussion of enforcement approaches of Corporate Governance in the USA, the UK and Germany was followed by a discussion of the application of Corporate Governance in South Africa (see 3.5). A brief historical background on Corporate Governance in South Africa was then underscored. This was followed by a brief discussion on the subsequent reforms of Corporate Governance in South Africa. A brief discussion on Corporate Governance in South African SOEs then followed (see 3.5.4).

5.3 The Findings

5.3.1 Introduction

The annual integrated reports of the eight selected SOEs were obtained from their respective websites. These reports were analysed in order to determine the gaps in the application of Corporate Governance practices. The findings are discussed below.

5.3.2 Data Analysis

Two basic scorecards were developed and then presented in Chapter 4 (see 4.3). The first scorecard used to determine whether or not a Corporate Governance practice has been disclosed used a two-point scoring system. The second scorecard developed was used to summarise the disclosure for each Corporate Governance theme based on full or partial disclosure. Partial disclosure was used as an indicator of a possible

gap in the application of Corporate Governance practices, and details were provided on these gaps (see 4.3.2).

The study finds that the average application score of the SOEs selected for the study was 61% in the eight financial years under review. The SOEs average scores were calculated to be the following:

- Alexkor, an average score of 57%;
- Denel, an average score of 77%;
- Eskom, an average score of 79%;
- PRASA, an average score of 28%;
- SAA, an average score of 44%;
- SABC, an average score of 61%; and
- Transnet, an average score of 82%.

However, the analysis did not include the average application score for SA Express. This is because SA Express only published four of its annual integrated reports in the financial years under analysis, which was deemed insufficient for analysis (see 4.4.7).

The analysis also revealed areas of concern in terms of the application of Corporate Governance practices. These are the themes which on average, all SOEs seemed to struggle with in terms of application. These themes are:

- Theme 2: Ethical culture, which relates to ethical and effective leadership;
- Theme 7: The governing body, which relates to the governing body;
- Theme 10: Management contribution to clarity and effective exercise of authority and responsibility, which relates to the CEO and delegation of authority; and
- Theme 14: Remuneration, which relates to the remuneration of directors and senior executives.

The average application scores were 38% for Theme 2: Ethical culture, 48% for Theme 7: The governing body, 12% for Theme 10: Management contribution to clarity and effective exercise of authority and responsibility and 49% for Theme 14: Remuneration (see 4.5).

5.3.3 Conclusion

The study concludes that SOEs need to improve on the disclosure of the application of Corporate Governance practices. More attention needs to be given to themes 2, 7, 10 and 14, as they are the ones with the lowest application scores in the financial years under analysis. The study further concludes that, while there are challenges with the application of Corporate Governance practices, the findings reveal that, on average, the SOEs selected for the study, except for SA Express, are largely disclosing the Corporate Governance practices. Even though there are limited differences in the Corporate Governance practices between King III and King IV (refer to section 4.2 and Appendix), these differences may have had an effect on the application scores of the SOEs selected for the study as discussed below.

By giving the guidance for application and disclosure, the King IV Report provides specific recommendations which organisations ought to follow. Furthermore, the application philosophy of the King IV Report, which requires organisations to apply and explain Corporate Governance principles and practices, together with the fact that the King IV Report has more onerous disclosure recommendations than the King III Report (see Appendix), makes the disclosure of application by organisations more onerous than the King III Report.

The King III Report, in contrast, recommended that organisations either apply the recommended Corporate Governance practices, or explain why such practices are not applied. This approach meant that disclosure is seldom made when the recommended practices are applied, but disclosure on why a principle is not applied, are often found.

5.4 Recommendations

5.4.1 Introduction

Based on the findings made through a review of the literature in Chapter 3, as well as the analysis of the integrated reports in Chapter 4, this section provides some recommendations in order to improve on the application and disclosure of Corporate Governance principles. The recommendations are divided into two, those based on

the review of the literature and those based on the study findings. The discussion starts with the recommendations that are based on the literature review.

5.4.2 Recommendations Based on the Review of Literature

In Chapter 3, it was established that there are inconsistencies between the Protocol on Corporate Governance in the public sector and the Companies Act (Act 71 of 2008). It was established that while the Protocol requires SOEs to establish audit committees that have at least two independent non-executive directors, the Companies Act (Act 71 of 2008) requires the audit committees of the SOEs to have at least three independent non-executive directors on the audit committee (see 3.4.4.2.3). A recommendation is therefore made that the Protocol be regularly reviewed and updated so that it reflects the latest developments in Corporate Governance such as the enactment of the Companies Act (Act 71 of 2008) and the publication of the King IV Report on Corporate Governance.

It was also established in Chapter 3 that the state capture in South Africa was enabled by the Gupta family being able to influence appointments on the boards of SOEs (see 3.2.5). It could further be argued that the Gupta family was able to influence such appointments because appointments made on SOE boards are those of members of the governing party, the ANC. As one DA MP, Natasha Mazzone, puts it,

> "… SOEs need to become depoliticised. Political appointments to the boards of SOEs through ANC's cadre deployment policy have come at the expense of exceptionally skilled and knowledgeable candidates. Often SOE boards and top management lack commercial expertise and requisite skills to create environments in which decisions are made with profitability or sustainability in mind. This can be attributed to the ANC's policy of cadre deployment…" (Mazzone, 2018:1).

At the backdrop of the above, therefore, a recommendation is made that, nominations and appointments to the boards of SOEs only be made through formal and transparent processes so that only qualified people are appointed to the boards. Furthermore, the proximity of people to the governing body should be used as a means to disqualify people from being appointed to the boards, as they are not independent.

5.4.3 Recommendations Based on the Findings

The recommendations based on data analysis have been grouped as follows:

- Governing body;
- Lead independent directors;
- Audit and risk committees;
- Remuneration; and
- Reporting.

The grouping of the study recommendations is based on the weaknesses identified in Chapter 4. The recommendations are discussed below.

- **Governing body**

In Chapter 4 (see 4.5), it was stated that the SOEs had challenges with applying and disclosing the following Corporate Governance principles contained in the themes:

- Whether the governing body is satisfied that its composition reflects the appropriate mix of knowledge, skills, experience, diversity and experience; and
- The targets set for gender and race representation in the membership of the governing body, and progress made against these targets.

This study makes the recommendation that the SOEs fully apply and disclose these practices related to governing bodies, as it is required by the Corporate Governance practice. A framework for diversity targets may be created by these SOEs. It has been stated in Deloitte (2017:8) that “an optimally diverse board is primarily built on the foundation of a skills-based framework, taking into account the appropriate skills, expertise and experience necessary for the proper functioning of the board”. Therefore, it is recommended that a similar framework be created for race and gender targets.

- **Lead independent directors**

As it has been established in Chapter 4, none of the SOEs selected for the study elected a LID in the financial years under review. A recommendation is therefore made that all SOEs elect LIDs to their boards, as currently no director has been designated to perform the functions of a LID. The functions of a LID have been underscored in Chapter 4 (see 4.4).

- **Audit and risk committees**

For the financial years under review, all the SOEs had the audit and risk committees as one committee. Although combining the audit and risk committees is not a contravention of any of the recommendations of the Corporate Governance practices, a recommendation is made in this section that SOEs consider having separate audit and risk committees. The separation of the audit and risk committee is to allow for the risk committee to concentrate solely on the responsibilities relating to the governance of risk. As established in Chapter 4, the average disclosure score for Theme 11: Risk governance relating to risk governance is only 50% (see Figure 16) and needs immediate attention. The need to have separate audit committees and risk committees has also been recognised by Eskom. Eskom has stated in its 2017/2018 integrated report that the board evaluation process revealed the need for the separation of the audit and risk committee (Eskom, 2018:21).

- **Remuneration**

As identified and discussed in Chapter 4 (see 4.5), the SOEs selected for the study have had some challenges with regard to the application and disclosure of remuneration of directors and executive management. The analysis revealed that the SOEs only disclosed the remuneration details required by the Companies Act (Act 71 of 2008). A recommendation is therefore made here that SOEs disclose both the requirements of the Companies Act (Act 71 of 2008) and those recommended by Corporate Governance principles. The King IV Report has the following additional

disclosure recommendations, which are not required by the Companies Act (Act 71 of 2008):

- Internal and external factors that influence remuneration;
- Recent voting results on remuneration;
- Substantial changes to remuneration policy;
- Whether the remuneration committee is satisfied that consultants used were independent and objective;
- Whether the remuneration committee achieved its stated objectives;
- Future areas of focus;
- Remuneration elements and design principles;
- Details of obligations in executive employment contracts;
- An illustration of the potential consequences on the total remuneration for executive management of applying the remuneration policy; and,
- Disclosure of, and reasons for, any payments made on termination of employment or office.

- **Reporting**

As established in Chapter 4, only three of the eight SOEs selected for the study had published their 2017/2018 integrated reports at the time of data analysis. The Companies Act (Act 71 of 2008) in section 30 requires that annual reports be completed within six months after the end of their financial year (RSA, 2009:90). The analysis in this study was done after the six months stipulated period had elapsed. Therefore, a recommendation is made that the boards of SOEs be mindful of the timing of their annual integrated reports. This is done so that stakeholders can make appropriate and timely use of the integrated reports.

5.4.4 Conclusion

This section presented a discussion on the recommendations of the study. The recommendations were made based on the weaknesses identified in Chapter 3

through a review of the literature. The recommendations made are also as a result of the weaknesses identified in Chapter 4 through the empirical research findings.

5.5 Significance of the Study

This study clearly shows the application of Corporate Governance practices by the South African SOEs. With none of the Corporate Governance themes fully applied in the period of analysis, the study has made it clear that SOEs lack in Corporate Governance application. This study could assist the SOEs to rectify the identified aspects of non-application. Furthermore, other SOEs not included in this study could also be helped by taking from the weaknesses identified in this study and not repeat the mistakes of the SOEs selected for this study.

5.6 Limitations of the Study

Even though the study has identified certain areas for improvement, it has also been characterised by a few limitations. These limitations are as follows;

- Late publication of integrated reports by some SOEs. Due to the lateness of the SOE to publish their integrated report, a determination of the level of disclosure in the 2017/2018 financial year could not be made. This forced a score of 0% to be given to all SOEs that had not published their integrated reports at the time of the analysis.
- Few published integrated reports by SA Express. Due to the limited number of published integrated reports by SA Express, the level of disclosure of Corporate Governance principles could not be determined. For the period under analysis, SA Express had published only four integrated reports.

5.7 Further Research

A look at media reports reveals that Corporate Governance challenges are not unique to only the eight SOEs selected for this study. Other SOEs such as PetroSA, the South African Post Office may have similar or more serious Corporate Governance challenges than the eight SOEs selected for the study. Therefore, further research into

the Corporate Governance challenges of other SOEs may reveal other challenges that have not been revealed by this study.

Additionally, further research could be made into the application of Corporate Governance requirements of other tools such as the Protocol on Corporate Governance in the public sector. Further research could be conducted into the effectiveness of the Protocol in holding members of the boards of SOEs accountable.

Further analysis of the statistical correlation between the level of disclosures in this study and the financial performance of the SOE's may cast some light on the impact of the level of disclosure on the financial performance, if any. If a statistical correlation between the level of disclosures and financial performance can be established, the use of reporting as an accountability tool can be justified.

5.8 Concluding Remarks

From this study, it can be seen that although SOEs are improving in terms of their Corporate Governance disclosures, there remain significant Corporate Governance challenges within the SOEs. Even though the study focused on the analysis of the disclosure recommendations Corporate Governance in general, there is evidence of the non-application of other Corporate Governance practices by the SOEs. Perhaps the following quote is fitting of the description of the state of South African SOEs as a result of the challenges in Corporate Governance:

> "Eskom is on the verge of bankruptcy. SABC is bankrupt. Transnet is on the verge of bankruptcy. SAA is bankrupt. PRASA is on the verge of bankruptcy. PetroSA is bankrupt. I have to stop there and ask the million-dollar question, what went wrong? Which comrade was deployed where on what mission to do what? It's almost unbelievable that so much could go so wrong so quickly" (Govender, 2018:2).

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Appendix

Note: All disclosures identified in the King IV Report that are not found in the King III Report are identified in the colour **Blue** in the column titled: King IV – Disclosure requirements. All disclosures identified in the King III Report and not in the King IV Report is identified in the colour **Red** in the column titled: King III - Disclosure requirements. Where disclosures are found in both King III and King IV Reports, the Report with the more onerous disclosures are indicated in **Green** in the relevant column. Where there are no differences in the disclosures between the two reports, the text remains in **Black**.

King IV Code on Corporate Governance Principles and Disclosure Requirements

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
Principle 1: The governing body should lead ethically and effectively.	• Code of conduct. • Performance evaluation.	**Principle 1.1**: The board should provide effective leadership based on an ethical foundation. **Principle 1.3**: The board should ensure that the company's ethics are managed effectively.	• The company's ethics performance. • Code of conduct. • The board should state that appraisals of the board and its committees have been conducted and should provide an overview of the results of the performance assessment and the action plans to be implemented, if any.

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
		Principle 2.3: The board should provide effective leadership based on an ethical foundation. **Principle 9.1**: The board should ensure the integrity of the company's integrated report. **Principle 9.2**: Sustainability reporting and disclosure should be integrated with the company's financial reporting. **Principle 9.3**: Sustainability reporting and disclosure should be independently assured.	
Principle 2: The governing body should govern the	• Overview: Arrangements for governing and managing ethics.	**Principle 1.3**: The board should ensure that the	• An assurance statement on ethics in integrated report.

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
ethics of the organisation in a way that supports the establishment of an ethical culture.	• **Key areas of focus during the reporting period** • Measures taken to monitor organisational ethics and how the outcomes were addressed.	company's ethics are managed effectively. **Principle 2.1**: The board should act as the focal point for and custodian of Corporate Governance. **Principle 2.3**: The board should provide effective leadership based on an ethical foundation. **Principle 2.5**: The board should ensure that the company's ethics are managed effectively. **Principle 9.1**: The board should ensure the integrity of the company's integrated report.	• Company's ethics performance should be assessed, monitored, reported and disclosed.

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
		Principle 9.2: Sustainability reporting and disclosure should be integrated with the company's financial reporting. **Principle 9.3**: Sustainability reporting and disclosure should be independently assured.	
Principle 3: The governing body should ensure that the organisation is and is seen to be a responsible corporate citizen.	• Overview: Arrangements for governing and managing responsible corporate citizenship. • **Key areas of focus during the reporting period.** • Measures taken to monitor corporate citizenship and how the outcomes were addressed.	**Principle 1.2**: The board should ensure that the company is and is seen to be a responsible corporate citizen. **Principle 2.4**: The board should ensure that the company is and is seen to be a responsible corporate citizen. **Principle 2.3**: The board should provide effective	• Ethics risk and opportunity profile • Code of conduct. • Integrating ethics into all the company's strategies and operations. • Assessment, monitoring, reporting and disclosure of company's ethics performance.

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
	• **Planned areas of future focus.**	leadership based on an ethical foundation. **Principle 9.1**: The board should ensure the integrity of the company's integrated report. **Principle 9.2**: Sustainability reporting and disclosure should be integrated with the company's financial reporting. **Principle 9.3**: Sustainability reporting and disclosure should be independently assured.	
Principle 4: The governing body should appreciate that the organisation's core purpose, its risks	• Corporate Governance disclosures • Integrated reports • Annual financial statements and other external reports.	**Principle 2.2**: The board should appreciate that strategy, risk, performance and sustainability are inseparable.	• **Key sustainability risks, and responses to these risks and residual sustainability risks.** • Corporate Governance disclosure. • Integrated reports.

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
and opportunities, strategy, business model, performance and sustainable development are all inseparable elements of the value creation process.	• Other external reports.	**Principle 9.1**: The board should ensure the integrity of the company's integrated report. **Principle 9.2**: Sustainability reporting and disclosure should be integrated with the company's financial reporting. **Principle 9.3**: Sustainability reporting and disclosure should be independently assured.	• Annual financial statements and other external reports. • Other external reports.
Principle 5: The governing body should ensure that reports issued by the organisation enable stakeholders to make informed	• Corporate Governance disclosures. • Integrated reports. • Annual financial statements and other external reports. • Other external reports.	**Principle 9.1**: The board should ensure the integrity of the company's integrated report. **Principle 9.2**: Sustainability reporting and disclosure should	• **To the extent that sustainability reports are subject to assurance, the name of the assurer should be clearly stated, together with the period under review, the scope of the assurance exercise and the methodology adopted.**

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
assessments of the organisation's performance, and its short, medium and long-term prospects.		be integrated with the company's financial reporting. **Principle 9.3**: Sustainability reporting and disclosure should be independently assured.	• Corporate Governance disclosures. • Integrated reports. • Annual financial statements and other external reports. • Other external reports.
Principle 6: The governing body should serve as the focal point and custodian of Corporate Governance in the organisation.	• The number of meetings held during the reporting period. • Attendance at the meetings held. • Whether the governing body is satisfied that it has fulfilled its responsibilities in the reporting period.	**Principle 1.2**: The board should ensure that the company is and is seen to be a responsible corporate citizen. **Principle 2.4**: The board should ensure that the company is and is seen to be a responsible corporate citizen. **Principle 9.1**: The board should ensure the integrity of the company's integrated report.	• The number of meetings held during the reporting period • Attendance at the meetings held • Whether the governing body is satisfied that it has fulfilled its responsibilities in the reporting period.

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
		Principle 9.2: Sustainability reporting and disclosure should be integrated with the company's financial reporting. **Principle 9.3**: Sustainability reporting and disclosure should be independently assured.	
Principle 7: The governing body should comprise the appropriate balance of knowledge, skills, experience, diversity and independence for it to discharge its governance role and responsibilities.	• Whether the governing body is satisfied that its composition reflects the appropriate mix of knowledge, skills and experience, diversity and independence • The number of meetings of the governing board. • Attendance at meetings of the governing body.	**Principle 2.14**: The board and its directors should act in the best interests of the company. **Principle 2.16**: The board should elect a chairman of the board who is an independent non-executive director. The CEO of the company should not also fulfil the role of chairman of the board.	• Composition of the board and board committees, including external advisers who regularly attend or are invited to attend committee meetings. • Number of board meetings and board committee meetings held, attendance and activities. • Length of service and age of directors.

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
objectively and effectively.	• **The targets set for gender and race representation on the governing body, and progress made towards these targets.** • The categorisation of each member as executive or non-executive. • The categorisation of each non-executive member as independent or not. • Member of the governing body serving on the board for more than nine years, and a summary of the views of the governing body on the independence of the member.	**Principle 2.18**: The board should comprise a balance of power, with a majority of non-executive directors. The majority of non-executive directors should be independent. **Principle 2.19**: Directors should be appointed through a formal process. **Principle 2.20**: The induction of and ongoing training and development of directors should be conducted through formal processes. **Principle 9.1**: The board should ensure the integrity of	• Education, qualifications and experience of the directors. • **Whether supervising of new management is required in which case retention of board experience would be called for.** • **Actual or potential political connections or exposure.** • Other significant directorships of each board member. • a chairman of the board has been appointed who is either a non-executive director but who is not independent, or who is an executive director, with the reasons and justifications for it. • The classification of directors as independent or otherwise.

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
	• Qualifications and experience of members. • Period of service on the governing body. • Age of each member. • Other governing body and professional positions held by each member. • **Reasons why any members of the governing body have been removed, resigned or retired.** • CEO should not chair the governing body. • The chair should not be a member of the audit committee.	the company's integrated report. **Principle 9.2**: Sustainability reporting and disclosure should be integrated with the company's financial reporting. **Principle 9.3**: Sustainability reporting and disclosure should be independently assured.	• To the extent that an independent non-executive director may serve longer than nine years, a statement indicating that the director's independence or character and judgement had been assessed and was not considered to be affected or impaired by the length of service. • The chairman of the board is an independent non-executive director. • CEO should be appointed and may not the chairperson of the board. • The chairman should not be a member of the audit committee. • The chairman should not chair the remuneration committee, but may be a member of it.

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
	• The chair of the governing body may be a member of the committee responsible for remuneration, but should not be its chair. • The chair of the governing body may be a member of the committee responsible for nominations, and may also be its chair. • The chair of the governing body may be chair of the committee responsible for risk governance. • The chair may be a member of the social and ethics committee but should not be its chair.		• The chairman should be a member of the nomination committee and may also be its chairman. • The chairman should not chair the risk committee but may be a member of it. • **There should be a succession plan for the position of the chairman.**

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
	• Whether the chair is considered to be independent. • Whether a lead independent has been appointed, and whether roles and responsibilities have been assigned.		
Principle 8: The governing body should ensure that its arrangements for delegation within its own structures promote independent judgement, and assist with balance of power and the effective	**(i) Audit committee** • Overall role and associated responsibilities and functions • Composition of the committee, each member's qualification and experience. • **Any external advisers or invitees to committee meetings.**	**Principle 2.6**: The board should ensure that the company has an effective and independent audit committee. **Principle 2.7**: The board should be responsible for the governance of risk. **Principle 2.13**: The board should report on the	• A description of how the audit committee carried out its functions in the period under review. • A statement on whether the audit committee is satisfied that the external auditor was independent of the company. • The policy and controls that address the provision of non-audit services by the external auditor.

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
discharge of its duties.	• **Key areas of focus during the reporting period** • The number of meetings held during the reporting period. • Attendance to committee meetings. • Whether the committee is satisfied that it has fulfilled its responsibilities. • A statement on the independence of the external auditor. • The policy and controls that address the provision of non-audit services by the external auditor.	effectiveness of the company's system of internal controls. **Principle 2.18**: The board should comprise a balance of power, with a majority of non-executive directors. The majority of non-executive directors should be independent. **Principle 2.23**: The board should delegate certain functions to well-structured committees but without abdicating its own responsibilities. **Principle 3.1**: The board should ensure that the	• Tenure of the external audit firm • Commentary in any way the committee considers appropriate on the financial statements, the accounting practices and the internal financial control of the company. • A summary of the role of the audit committee. • **Whether the audit committee has adopted formal terms of reference that have been approved by the board and if so, whether the committee satisfied its responsibilities for the year in compliance with its terms of reference.** • The names and qualifications of all members of the audit committee

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
	• Tenure of the external audit firm. • **Rotation of the designated external audit partner.** • **Significant changes in the management of the organisation during the external audit firm's tenure.** • Significant matters considered in relation to the annual financial statements, and how these were addressed. • **Views on quality of the external audit.** • **Views on the effectiveness of the chief audit executive**	company has an effective and independent audit committee. **Principle 3.2**: Audit committee members should be suitably skilled and experienced independent non-executive directors. **Principle 3.3**: The audit committee should be chaired by an independent non-executive director. **Principle 3.4**: The audit committee should oversee integrated reporting. **Principle 3.5**: The audit committee should ensure that a combined assurance model is applied to provide a	during the period under review, and the period for which they served on the committee. • The number of audit committee meetings held during the period and the attendance at these meetings. • Comment on the state of the internal financial control environment in the company's integrated report. • **For government institutions, including departments, public entities, municipalities, municipal entities and constitutional institutions in the public sector, the report of the audit committee must also include comments on the quality of the management and monthly or quarterly reports**

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
	and arrangements for internal audit. • Views on the effectiveness of design and implementation of internal financial controls. • Views on effectiveness of CFO and finance function. • **Arrangements in place for combined assurance and views on its effectiveness.**	coordinated approach to all assurance activities. **Principle 3.6**: The audit committee should satisfy itself of the expertise, resources and experience of the company's finance function. **Principle 3.7**: The audit committee should be responsible for overseeing of internal audit. **Principle 3.8**: The audit committee should be an integral component of the risk management process. **Principle 3.9**: The audit committee is responsible for	**submitted under the PFMA, the MFMA and the Division of Revenue Act.** • The results of the review by the audit committee of the appropriateness of the expertise and adequacy of resources of the finance function and experience of the senior members of management responsible for the financial function. • **Information regarding any other responsibilities assigned to the audit committee by the board.** • **A statement on whether the audit committee complied with its legal, regulatory or other responsibilities.**

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
		recommending the appointment of the external auditor and overseeing the external audit process. **Principle 3.10**: The audit committee should report to the board and shareholders on how it has discharged its duties. **Principle 4.3**: The risk committee or audit committee should assist the board in carrying out its risk responsibilities. **Principle 4.4**: The board should delegate to management the responsibility	• **A statement on whether or not the audit committee recommended the integrated report to the board for approval.** • Conclude and report yearly to the stakeholders and the board on the effectiveness of the company's internal financial controls. • **Weaknesses in financial control, whether from design, implementation or execution that are considered material.**
	(ii) Nominations committee • All members are non-executive.		

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
	• The majority of the non-executive members are independent. • Overall role and associated responsibilities and functions • Composition of the committee, each member's qualification and experience. • Any external advisers or invitees to committee meetings. • Key areas of focus during the reporting period. • The number of meetings held during the reporting period. • Attendance to committee meetings.	to design, implement and monitor the risk management plan. **Principle 5.7**: A risk committee and audit committee should assist the board in carrying out its IT responsibilities. **Principle 7.4**: The audit committee should be responsible for overseeing internal audit. **Principle 9.1**: The board should ensure the integrity of the company's integrated report. **Principle 9.2**: Sustainability reporting and disclosure should	

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
	• Whether the committee is satisfied that it has fulfilled its responsibilities.	be integrated with the company's financial reporting. **Principle 9.3**: Sustainability reporting and disclosure should be independently assured.	
	(iii) Risk governance committee • **At least one member has a joint membership of the risk governance committee and the audit committee** • Has executive and non-executive members • **Majority of members are non-executive** • Overall role and associated responsibilities and functions		• The board should be able to disclose how it has satisfied itself that risk assessments, responses and interventions are effective. • The board should disclose for the period under review any undue, unexpected or unusual risks it has taken in the pursuit of reward as well as any material losses and the causes of the losses. • The board should endeavour to quantify and disclose the impact that these losses have on the company and the responses and interventions implemented by the board and

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
	• Composition of the committee, each member's qualification and experience. • Any external advisers or invitees to committee meetings. • Key areas of focus during the reporting period. • The number of meetings held during the reporting period. • Attendance to committee meetings. • Whether the committee is satisfied that it has fulfilled its responsibilities.		management to prevent recurrence of the losses. • The board should disclose any current, imminent or envisaged risk that may threaten the long-term sustainability of the company. • The board should also disclose its views on the effectiveness of the company's risk management processes in the integrated report. • Membership of the risk committee should include executive and non-executive directors. • The risk committee may invite independent risk management experts to attend its meetings. • The risk committee should have a minimum of three members.

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
	• Overall role and associated responsibilities and functions.		
	(iv) Remuneration committee • All members are non-executive. • The majority of the non-executive members should be independent. • The committee is chaired by an independent non-executive member. • Overall role and associated responsibilities and functions.		• All members of the remuneration committee are non-executive. • The majority of the non-executive members should be independent. • The committee is chaired by an independent non-executive member. • Overall role and associated responsibilities and functions. • Composition of the committee, each member's qualification and experience. • Any external advisers or invitees to committee meetings.

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
	• Composition of the committee, each member's qualification and experience. • Any external advisers or invitees to committee meetings. • **Key areas of focus during the reporting period.** • The number of meetings held during the reporting period. • Attendance to committee meetings. • Whether the committee is satisfied that it has fulfilled its responsibilities.		• The number of meetings held during the reporting period. • Attendance to committee meetings • Whether the remuneration committee is satisfied that it has fulfilled its responsibilities.

	(v) Social and ethics committee • Has executive and non-executive members. • Majority of members are non-executive. • Overall role and associated responsibilities and functions • Composition of the committee, each member's qualification and experience • Any external advisers or invitees to committee meetings. • **Key areas of focus during the reporting period.** • The number of meetings held during the reporting period. • Attendance to committee meetings.		• All members of the social and ethics committee are non-executive. • The majority of the non-executive members should be independent. • The committee is chaired by an independent non-executive member • Overall role and associated responsibilities and functions. • Composition of the committee, each member's qualification and experience. • Any external advisers or invitees to committee meetings. • The number of meetings held during the reporting period. • Attendance to committee meetings. • Whether the social and ethics committee is satisfied that it has fulfilled its responsibilities.

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
	• Whether the committee is satisfied that it has fulfilled its responsibilities.		
Principle 9: The governing body should ensure that the evaluation of its own performance and that of its committees, its chair and its individual members, support continued improvement in its performance and effectiveness.	• **A description of the performance evaluations undertaken including their scope.** • A formal or informal process of evaluation. • **Externally facilitated process or not.** • Overview of evaluation results. • Remedial actions taken. • Whether governing body is satisfied that the evaluation process is improving its performance.	**Principle 2.22**: The evaluation of the board, its committees and the individual directors should be performed every year. **Principle 9.1**: The board should ensure the integrity of the company's integrated report. **Principle 9.2**: Sustainability reporting and disclosure should be integrated with the company's financial reporting.	• The board should state in the integrated report whether the appraisals of the board, its committees have been conducted. • The report should provide an overview of the results of the performance assessment and the action plans to be implemented, if any.

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
		Principle 9.3: Sustainability reporting and disclosure should be independently assured.	
Principle 10: The governing body should ensure that the appointment of, and delegation to, management contribute to role clarity and the effective exercise of authority and responsibilities.	• **A statement on whether governing body is satisfied that the delegation of authority framework contributes to role clarity and effective exercise of authority.** • Notice period stipulated in the CEO's employment contract. • Other professional commitments of the CEO. • Whether succession planning is in place for CEO.	**Principle 2.17**: The board should appoint the chief executive officer and establish a framework for the delegation of authority. **Principle 2.21**: The board should be assisted by a competent, suitably qualified and experienced company secretary. **Principle 9.1**: The board should ensure the integrity of the company's integrated report.	• The board should also ensure that a succession plan is in place for the CEO. • Policies regarding executive employment contracts should be set out in the annual remuneration report. • Other professional commitments of the CEO.

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
	• **A statement on whether governing body believes that arrangements for accessing professional Corporate Governance services are effective.**	**Principle 9.2**: Sustainability reporting and disclosure should be integrated with the company's financial reporting. **Principle 9.3**: Sustainability reporting and disclosure should be independently assured.	
Principle 11: The governing body should govern risk in a way that supports the organisation in setting and achieving its strategic objectives.	• Nature and extent of risks and opportunities the organisation is willing to take • Overview of arrangement for governing and managing risk • Key areas of focus during the reporting period. • Actions taken to monitor effectiveness of risk management.	**Principle 2.7**: The board should be responsible for the governance of risk. **Principle 3.8**: The audit committee should be an integral component of the risk management process. **Principle 4.1**: The board should be responsible for the governance of risk.	• The board should also disclose its views on the effectiveness of the company's risk management processes in the integrated report. • The board should be able to demonstrate that it has dealt with the governance of risk comprehensively. This should include the development and implementation of a policy and plan for a systematic, disciplined approach to evaluate and improve

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
	• **Planned areas of future focus.**	**Principle 4.2**: The board should determine the levels of risk tolerance. **Principle 4.3**: The risk committee or audit committee should assist the board in carrying out its risk responsibilities. **Principle 4.4**: The board should delegate to management the responsibility to design, implement and monitor the risk management plan. **Principle 4.5**: The board should ensure that risk assessments are performed on a continual basis.	the effectiveness of risk management, as well as the related internal control, compliance and governance processes within the company. • The board should be able to disclose how it has satisfied itself that risk assessments, responses and interventions are effective.

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
		Principle 4.6: The board should ensure that frameworks and methodologies are implemented to increase the probability of anticipating unpredictable risks. **Principle 4.7**: The board should ensure that management considers and implements appropriate risk responses. **Principle 4.8**: The board should ensure continual risk monitoring by management. **Principle 4.9**: The board should receive assurance regarding the effectiveness of the risk management	

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
		process. **Principle 4.10**: The board should ensure that there are processes in place enabling complete, timely, relevant, accurate and accessible risk disclosure to stakeholders. **Principle 9.1**: The board should ensure the integrity of the company's integrated report. **Principle 9.2**: Sustainability reporting and disclosure should be integrated with the company's financial reporting. **Principle 9.3**: Sustainability reporting and disclosure should be independently assured.	

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
Principle 12: The governing body should govern technology and information in a way that supports the organisation setting and achieving its strategic objectives.	• **Overview of arrangement for governing and managing technology and information.** • **Key areas of focus during the reporting period.** • **Actions taken to monitor effectiveness of risk management.** • **Planned areas of future focus.**	**Principle 2.8**: The board should be responsible for information technology governance. **Principle 5.1**: The board should be responsible for information technology (IT) governance. **Principle 5.2**: IT should be aligned with the performance and sustainability objectives of the company. **Principle 5.3**: The board should delegate to management the responsibility for the implementation of an IT governance framework.	• Information technology reporting included in the integrated report by the board should be complete, timely, relevant, accurate and accessible.

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
		Principle 5.4: The board should monitor and evaluate significant IT investments and expenditure. **Principle 5.5**: IT should form an integral part of the company's risk management. **Principle 5.6**: The board should ensure that information assets are managed effectively. **Principle 5.7**: A risk committee and audit committee should assist the board in carrying out its IT responsibilities. **Principle 9.1**: The board should ensure the integrity of	

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
		the company's integrated report. **Principle 9.2**: Sustainability reporting and disclosure should be integrated with the company's financial reporting. **Principle 9.3**: Sustainability reporting and disclosure should be independently assured.	
Principle 13: The governing body should govern compliance with applicable laws and adopted, non-binding rules, codes and standards in a way that supports the	• **Overview of arrangements for governing and managing compliance.** • **Key areas of focus during the reporting period.** • **Actions taken to monitor effectiveness of compliance management.**	**Principle 2.9**: The board should ensure that the company complies with applicable laws and considers adherence to non-binding rules, codes and standards. **Principle 6.1**: The board should ensure that the company complies with	• Applicable non-binding rules, codes and standards to which they adhere on a voluntary basis. • Any material or immaterial but often repeated regulatory penalties, sanctions and fines for contraventions or non-compliance with statutory obligations that were

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
organisation being ethical and a good corporate citizen.	• **Planned areas of future focus.** • Material or repeated regulatory penalties, sanctions/fines for non-compliance with statutory obligations. • Details of monitoring and compliance inspections.	applicable laws and considers adherence to non-binding rules, codes and standards. **Principle 6.2**: The board and each individual director should have a working understanding of the effect of the applicable laws, rules, codes and standards on the company and its business. **Principle 6.3**: Compliance risk should form an integral part of the company's risk management process. **Principle 6.4**: The board should delegate to management the implementation of an effective	imposed on the company or any of its directors or officers. • The board should disclose details in the integrated report on how it has discharged its responsibility to ensure the establishment of an effective compliance framework and processes.

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
		compliance framework and processes. **Principle 9.1**: The board should ensure the integrity of the company's integrated report **Principle 9.2**: Sustainability reporting and disclosure should be integrated with the company's financial reporting. **Principle 9.3**: Sustainability reporting and disclosure should be independently assured.	
Principle 14: The governing body should ensure that the organisation	• Remuneration report. • **Internal and external factors that influence remuneration.**	**Principle 2.25**: Companies should remunerate directors and executives fairly and responsibly.	• The remuneration committee should issue a remuneration report which is included in the integrated report.

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
remunerates fairly, responsibly and transparently so as to promote the achievement of strategic objectives and positive outcomes in the short, medium and long term.	• **Recent voting results.** • **Substantial changes to remuneration policy.** • **Whether the remuneration committee is satisfied that consultants were independent and objective Whether the remuneration committee achieved its stated objectives.** • **Future focus areas.** • Overview of remuneration policy. • Remuneration elements and design principles. • Details of obligations in executive employment contracts.	**Principle 2.26**: Companies should disclose the remuneration of each individual director and prescribed officer. **Principle 2.27**: Shareholders should approve the company's remuneration policy. **Principle 9.1**: The board should ensure the integrity of the company's integrated report. **Principle 9.2**: Sustainability reporting and disclosure should be integrated with the company's financial reporting. **Principle 9.3**: Sustainability reporting and disclosure should be independently assured.	• Explain the remuneration policies followed. • Provide a clear disclosure of the implementation of the remuneration policy and the strategic objectives it seeks to achieve. • Explain the policy on base pay, including the use of appropriate benchmarks. • A policy to pay salaries on average at above median requires special justification. • Any material payments that may be viewed as being ex-gratia in nature should be fully explained and justified.

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
	• A description of the framework and performance measures used to achieve strategic objectives and positive outcomes. • **An illustration of the potential consequences on the total remuneration for executive management of applying the remuneration policy.** • How the policy addresses fair and reasonable remuneration. • The use and justification of remuneration benchmark.		• All benefits including pensions, benefits in kind and other financial arrangements. • The period of the contract as well as the notice of termination. • The nature and period of any restraint. • The maximum and the expected potential dilution that may result from the incentive awards granted in the current year. • Remuneration of executive and non-executive directors. • **Remuneration of the three most highly paid employees who are not directors.** • The company's remuneration policy is approved by its shareholders.

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
	• The basis for the setting of fees for non-executive directors. • **A reference to electronic to an electronic link to the full remuneration policy for public access.** • Implementation report. • The remuneration of each member of executive management. • A single, total figure of remuneration and all remuneration elements that it comprises, at fair value. • Awards made under variable remuneration incentive schemes in the current and		• Factors affecting company performance, but outside the control of senior executives, and to which they have made no contribution should only be considered to a limited extent.

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
	prior period that have not yet vested. • Cash value of all awards made under variable remuneration incentive schemes settled during the reporting period. • Performance measures used and their relative weighting. • Disclosure of, and reasons for, any payments made on termination of employment or office. • A statement regarding compliance with, or deviation from the remuneration policy.		

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
	• **Voting on remuneration policy and implementation report at an annual general meeting.** • Measures taken in the event that remuneration policy or implementation report or both have been voted against by 25% or more of voting rights exercised. • **Engagements with dissenting shareholders and manner and form of such engagement.** • **The nature of steps taken to address legitimate and reasonable objections or concerns.**		

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
Principle 15: The governing body should ensure that assurance services and functions enable an effective control environment, and that these support the integrity of information for internal decision-making and of the organisation's external reports.	• A brief description of nature and scope of assurance functions, and services and processes underlying preparation of report. • A statement by governing body on integrity of report and basis of this statement.	**Principle 2.10**: The board should ensure that there is an effective risk-based internal audit. **Principle 2.12**: The board should ensure the integrity of the company's integrated report. **Principle 3.5**: The audit committee should ensure that a combined assurance model is applied to provide a coordinated approach to all assurance activities. **Principle 3.7**: The audit committee should be	• The board should report on the effectiveness of the system of internal controls in the integrated report. • The board should disclose details in the integrated report on how it discharged its responsibility to ensure the establishment of an effective compliance framework and process. • **Where the board, in its discretion, decides not to establish an internal audit function, full reasons should be disclosed with an explanation as to how adequate assurance of an effective governance, risk**

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
		responsible for overseeing of internal audit. **Principle 3.9**: The audit committee is responsible for recommending the appointment of the external auditor and overseeing the external audit process. **Principle 7.1**: The board should ensure that there is an effective risk-baseded internal audit. **Principle 7.2**: Internal audit should follow a risk-based approach to its plan. **Principle 7.3**: Internal audit should provide a written assessment of the	**management and internal control environment have been maintained.**

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
		effectiveness of the company's system of internal control and risk management. **Principle 7.4:** The audit committee should be responsible for overseeing the internal audit. **Principle 7.5**: Internal audit should be strategically positioned to achieve its objectives. **Principle 9.1**: The board should ensure the integrity of the company's integrated report. **Principle 9.2**: Sustainability reporting and disclosure should	

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
		be integrated with the company's financial reporting. **Principle 9.3**: Sustainability reporting and disclosure should be independently assured.	
Principle 16: In the execution of its governance roles and responsibilities, the governing body should adopt a stakeholder-inclusive approach that balances the needs, interests and expectations of material stakeholders in the best interests of	• **Overview of arrangements for governing and managing stakeholder relationships.** • **Actions taken to monitor effectiveness of stakeholder management.** • **Key areas of focus during reporting period.** • **Future focus areas.** • **Overview of group governance framework.**	**Principle 2.11**: The board should appreciate that stakeholders' perceptions affect the company's reputation. **Principle 2.24**: A governance framework should be agreed between the group and its subsidiary boards. **Principle 8.1:** The board should appreciate that stakeholders' perceptions affect a company's reputation.	• The board should report to its shareholders and other stakeholders on the company's economic, social and environmental performance in a transparent manner. • **Where entities have applied the Code and best practice recommendations in the Report, a positive statement to this effect should be made to stakeholders**. • **In situations where the board or those charged with governance decide not to apply a specific**

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
the organisation over time.	• **Responsibilities that subsidiary company has delegated to board committees of holding company and extent to which it has adopted the policies.**	**Principle 8.2**: The board should delegate to management to proactively deal with stakeholder relationships. **Principle 8.3**: The board should strive to achieve the appropriate balance between its various stakeholder groupings, in the best interests of the company. **Principle 8.4**: Companies should ensure the equitable treatment of shareholders. **Principle 8.5**: Transparent and effective communication with stakeholders is essential for	**principle or recommendation, this should be explained fully to the entity's stakeholders.** • The nature of a company's dealings with its stakeholders and the outcomes of these dealings. • **The board should include commentary on the company's financial results which enables stakeholders to make informed assessments.**

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
		building and maintaining their trust and confidence. **Principle 8.6**: The board should ensure that disputes are resolved as effectively, efficiently and expeditiously as possible. **Principle 9.1**: The board should ensure the integrity of the company's integrated report. **Principle 9.2**: Sustainability reporting and disclosure should be integrated with the company's financial reporting. **Principle 9.3**: Sustainability reporting and disclosure should be independently assured.	

Corporate Governance principle – King IV	King IV - Disclosure requirement	King III Report Principles	King III - Disclosure requirements
Principle 17: The governing body of an institutional investor organisation should ensure that responsible investment is practiced by the organisation to good governance and the creation of value by the companies in which it invests.	• Investment code adopted by the institutional investor and the application of its principles and practices.		