


Investigating non-compliance with corporate governance principles on material losses in selected business organizations

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DECLARATION

I, **Bongani Charles Sibanyoni**, declare that this study titled, **Investigating non-compliance with corporate governance principles on material losses in selected business organizations**, “is my own work carried out under the supervision of Prof Ravinder Rena. This mini-dissertation has not been submitted for any study or qualification in any institution of higher learning. All sources used in the study have been strictly indicated and acknowledged through references”.



Signed

3 May 2021

Date

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ABSTRACT

This research explores the principles of corporate governance and the material losses in business organisations. The concept of corporate governance continues to dominate the business world especially with major business organisations collapsing from non-compliance, dishonesty and unethical behaviors. The objective of this research study is to investigate the non-compliance of corporate governance principles and practices which result in material losses in business organisations. The study will focus on explaining the key concepts and principles of corporate governance, and the material losses incurred. Six business organisations were analyzed to identify gaps in implementing key corporate principles, and determining the impact of material losses.

The King Committee led by Dr Mervyn King has developed four King Reports on corporate governance. The suggested principles have been adopted by the public sector and the JSE as part of the regulation governing the existence of various companies. Corporate governance principles are an essential and significant part of the organisation- detailing how businesses are controlled and managed. The relationship between the lack of application of corporate governance principles and material losses is significant in all business organisations.

Many of the corporate scandals which are normally driven by fraud, corruption and bribery could be mitigated if the principles of corporate governance are adhered to. This would prevent organisations suffering material losses financially and due to reputational damages. The research is qualitative in nature using secondary sources. The results from the study confirm the parallel and a complementary relationship between the application of corporate governance best practices and the corporate growth, profitability, and sustainability. The inverse is also true, the non-application of corporate governance best practices results in material losses.

The leadership and management should ensure that background checks of those charged with governance are done effectively and efficiently. The Board should develop and implement policies and procedures aimed at maintaining high levels of integrity and ethical standards, in order to simplify the application of corporate governance standards and best practices. Further research should develop a model for regulation that focuses and facilitates the reporting of corporate governance best practices

Keywords: Corporate governance, Ethics, Material losses, Principles and practices, Governance, Leadership, Investigation, Governing Board, King Codes.

ABBREVIATIONS

AA	Affirmative Action Policies
AG	Auditor General of South Africa
BBBEE	Broad Based Black Economic Empowerment
CBO	Chief Banking Officer
CEO	Chief Executive Officer
CFO	Chief Financial Officer
Chairperson	Chairperson of the Governing Board
CIPC	Companies and Intellectual Property Commission
COO	Chief Operations Officer
GCEO	Group Chief Executive Officer
IJABER	International Journal of Applied Business and Economic Research
JSE	Johannesburg Stock Exchange
JCI	Johannesburg Consolidated Investment Companies Limited
LSE	London Stock Exchange
MFMA	Municipal Finance Management Act
NPO	Non-Profit Organisation
PIC	Public Investment Corporation
PFMA	Public Finance Management Act
PPE	Personal Protective Equipment
PP	Public Protector of South Africa
PPE	Personal Protective Equipment
PwC	PriceWaterHouseCoopers
SAA	South African Airways Limited
SABC	South African Broadcasting Corporation
SAICA	South African Institute of Chartered Accountants
SARB	South African Reserve Bank
SIU	Special Investigations Unit
TERS	Temporary Employees Relief Scheme
UN	United Nations
VBS	Venda Building Society

DEFINITIONS

Director	Is a person charged with planning, organising, controlling, and leading an organisation
Ethics	Moral values of integrity, competence and skill, confidentiality, transparency and accountability
Executives	Executive Management that are part of the Board
Governing Board/Board	Board of Directors both Executive and Non-Executive
King Codes	Marvin King codes of good governance which corporate governance principles have been designed. The codes were issued in 1994 (King I), 2002 (King II), 2009 King III and 2016 King IV Codes.
KPMG	an international accounting firm
Principles of governance	17 principles of governance
PriceWaterHouse	An international accounting firm
Non-Executive	Director considered not to be involved in the day to day operations of the business organisation

CHAPTER 1 INTRODUCTION AND BACKGROUND

1.1 INTRODUCTION

The purpose of this study is to explore and analyse the non-compliance of corporate governance principles in the selected business organisations. This non-compliance results in material losses which have negative and adverse results in its profitability and sustainability. Corporate governance is described and termed as the practise of regulating and control business behaviour and of balancing the interests of all internal participants and other parties who can be affected by the business conduct, in order to ensure responsible behaviour by businesses and to achieve the maximum level of efficiency and profitability for a business (IoDSA, 2016:81).

According to Vaughn and Ryan (2006) defines corporate governance as a specific significance component in the mixture of international sponsors and investors of capital and foreign wealth which is essential to economic development and improved standard of living within a country. Corporate governance ensures that material issues that can lead to a scandal and ultimately collapse the organisation are dealt with comprehensively.

Information is material if omitting, misstating or obscuring it could reasonably be expected to influence decisions made by the primary users of general-purpose financial statements make on the basis of those financial statements which provide financial information about a specific reporting entity (IFRS, 2019). The Auditor General (AG) (2018-19) provided a definition of material irregularity as any non-compliance with, or contravention of, legislation, fraud, theft or breach of a fiduciary duty by the Directors. These definitions are important in understanding the impact of irregularities that result in losses normally experienced when corporate governance is not followed and adhered to by those charged with governance.

The study explains, describes and analyses the corporate governance principles which when not adhered to, lead to devastating and material losses. According to Naidoo (2002) “the collapses have placed the agency relationships in the spotlight and as a result of these failures, stakeholders began to work towards the common goal of fighting corruption and demanding transparency and accountability in the management of their organisations”.

According to Investopia (2001) states that the fall of Enron failures with businesses such as Arther Anderson, it can be stated that corporate governance has become an integral part that has become important topic in corporates globally. Governance disclosures have become a critical additional information in the organisational Annual Reports. The JSE is an example as it requires full disclosure of corporate governance, Directors obligations and

responsibilities of the Board in line with the King IV. Since the release of the King III Report in 2009, business organisations started reporting on corporate governance by to ensure that business failures from non-compliance to the set principles of governance are avoided. The introduction of the integrated reporting model, insider trading regulation and revised listing requirements, and practice also added more safeguards to ensure that the Directors Report all aspects of the business and not only the bottom line.

According to the IIA (2018) whose Corporate Governance Index Report revealed that the overall ranking of ethics, compliance and assurance dropped 6.6% in 2018 compared to 2017. The non-compliance to corporate governance principles by managers and Directors has reached the highest level and the confidence levels in the internal controls has also dipped to its lowest levels. It is becoming a concern that those charged with governance and management are acting unethically and not complying with the principles as set out in the corporate governance principles and the King Codes. According to the Executive Centre for Corporate Governance at the Institute of Directors of Southern Africa (IoDSA), poor governance practices continue to hamstring our public sector institutions, and there is need to understand the issues so they are not repeated (Natesan, 2019). Shareholders should ensure that any Director appointed and employed by the business organisation should at least subscribe to a bare minimum of ethical standards and values. Controls should be in place to ensure that an assessment of ethical standards for any Director appointed is done and the assessment standards are achieved.

This research study consists of a background, problem statement, research objectives, research question, motivation, significance, research design and methodology, ethical consideration, definition of key terms and research schedule plan.

1.2 BACKGROUND TO THE STUDY

In the 21th century, effective management and corporate governance principles were developed to assist and ensure that the stewards of the organisations practice ethical, sound and transparent governance principles in conducting day to day activities on behalf of shareholders.

The study on corporate governance is important and critical since some business organisations are seen to act dishonestly to improve their bottom line. To improve the triple bottom line (people, planet and profits), corporate governance could be the sole foundation upon which business organisations build their structures on. According to former World Bank President James Wolfenson, proper governance of companies will become as crucial to the world economy as the proper controlling and management of countries (Wolfenson, 1999).

Poor corporate governance continues to cost South Africa in terms of financial and reputational risk as an investment destination as a country.

The 2008 global financial crises was mainly a result of loopholes from the lack of adequate regulation in the financial industry which allowed banks and insurance organisations to engage in hedge funds trading with derivatives (Investopia, 2008). Banks then demanded more mortgages to support the profitable sale of derivatives. The banks further created interest-only loans that became affordable to subprime borrowers thus creating a market that did exist and supply overcoming demand. In 2004, the Federal Reserve raised the federal fund interest rate just as the interest rates on these new mortgages reset. Housing prices started falling as supply outpaced demand, resulting in some homeowners not being able to afford the mortgage payments, as well as being unable to sell their houses. When the values of the derivatives crumbled, banks stopped lending to each other, which spilled over into the real economy- thus resulting in the financial crisis that led to the Great Recession. The ultimate reason for the 2008 financial crises was the unethical behavior and non-compliance to the corporate governance principles by those charged with governance in the United States. Such unethical behavior not only impacted the business organisations but the entire economy. The losses ultimately were material and resulted in the entire world experiencing the great 2008 recession.

Another example which creates more interest for this study of corporate governance is the Report of Brett Kebble's stalking of JCI. According to the Fidentia Report (as cited by Moloi, 2008), states that the incident confirms the fact that the mafias bore a serious threat to shareholders' investments which are normally found in the Boards. The 2007 Fidentia scandal Report stated that the multiple billions vanished without any trace from the business bank accounts (Fidentia Report, 2007). This failure of governance resulted in Brett Kebble not taking the responsibility for the collapse of Fidentia and ultimately committing suicide and the business liquidated as there was no cash to sustain the business to be a going concern.

1.3 PROBLEM STATEMENT

Over the years of corporate improvement and development with business organisations expanding, that also gave an opportunity for the overrule of corporate governance principles which resulting in the main problem discussed in this study. The enigma addressed in this research study is the non-compliance to principles and practices of corporate governance by those charged with governance. The first part of the problem refers to the principles of corporate governance as determined by King IV Report (IoDSA, 2016: 40). Lack of

governance therefore opens room for unethical behaviour by those charged with executive and management. Business organisations have failed due to material non-compliance resulting in businesses undergoing business rescue proceedings, liquidation or hostile take-overs.

According to Vaughn and Ryan (2006) the attack of corporate disgraces and scandals has forced the business community to accept and allow the value and significance of corporate governance principles in all the economies. Subsequent to the collapse of Enron and Arthur Anderson in 2001, the King Committee updated and introduced a report on corporate governance named King II in a quest to introduce more guidance for those charged with governance to mitigate against unethical conducts. The material impact of Enron was the ultimate closure and collapse which had a negative impact for the shareholders, employees, suppliers, government, banks, and most importantly communities around where the business was based and operating. In recent years (2001 – 2020), the well-publicised corporate scandals have placed governance and in particular the role of the Board at the focal point of attraction and attention. The second aspect of the problem is the material losses experienced which are significant and impact the survival of business organisations.

1.4 SIGNIFICANCE OF THE STUDY

This study is in response to the rise in corruption, fraud and non-adherence to corporate governance principles. The study adds to the existing literature on corporate governance and identifies more gaps in various studies focused on the principles of corporate governance as described in the King IV Report. The updated King IV Report was published in 2016, adopted and applied as from the 1 April 2017 by all major business organisations (IoDSA, 2016:14). The study is relevant and appropriate in contributing to today's management and leadership strategy for business organisations. For business organisations to grow, improve efficiency and effectiveness, record higher profitability and in the management of assets and liabilities, corporate governance principles are necessary and at the centre for any business organisations.

In March 2020 the government announced the state of disaster as well as lockdown alert level 5 with certain movement restrictions placed due to the COVID19 pandemic. The purpose of the lockdown was (among other reasons) to prepare health facilities for the potential influx of COVID19 patients, and also to enable procurement of sufficient personal protective equipment (PPE) for health care workers to protect them when treating COVID19 patients. News24 (2020) cites the Gauteng provincial government and Special Investigative Unit's (SIU) investigation and probe of an alleged R125 million of PPE corruption for a

contract given to Royal Bhaca. The company is owned by Chief Madzikane Diko who is the husband of the Presidential spokesperson Ms Khusela Diko (SIU, 2020). One reason for the rising corruption is the weak internal controls and lack of governance by the government which are not able to prevent and detect fraud and corruption. However, the most important element ignored was the active participation of those responsible with governance in the Department of Health (DoH). The SIU initial investigation updates (2020) make no mention of the active participation of the governing body's principles such as the duties of the audit and risk committee or the participation of the Board. At the initial stage of the investigation, it was clear that corporate governance principles which are mandatory in the public sector and all organisation governed by government in terms of Public Finance Management Act (PFMA), the Municipal Finance Management Act (MFMA), and the National Treasury Regulations should be applied fully and consistently.

This study is necessary to further emphasize the importance of the principles of corporate governance, the King Code, and ethical conduct. Subsequent to the emphasis of the principles, a reason exists to identify and clearly state the impact of the material losses experienced. The material loss suffered by organisation can either be:

- a. Liquidation – a process where the organisation is not in a position to pay and settle outstanding amounts due as it occurs in the normal and ordinary course of trading. This is where an organisation can not be saved under the business rescue process.
- b. Business rescue – a process initiated as per Section 129 of the Companies Act of 2008. An outside and independent individual is mandated to handle the daily activities of the organisation until such time that the organisation is able to manage its operations.
- c. Devaluation of shares – shareholders experience low value in shares where share price has fallen due to known scandals.

1.5 RESEARCH OBJECTIVES

Research aim

This study aims to examine and investigate the non-compliance and defiance of corporate governance principles and the material losses in business organisations. This research also aims to explain in detail the critical principles of corporate governance, the role of the principals and Directors in a business organisation, the recommendations as set out in King IV and corporate governance, as well as the material losses and consequences of non-compliance.

Research question & objectives

According to Blumberg, Cooper, & Schindler (2008) the specific research question is the theory of decision that describes the goal of the research and normally considered to be a fact-orientated, information-gathering enquiries. The purpose of this study is to determine the non-compliance to the corporate governance principles that result in material losses. The following research questions were therefore defined:

- What are the corporate governance principles that should be applied by the business organisations?
- What are the material losses of the non-compliance to corporate governance principles in business organisations?

The research objectives of the research are to:

- a. Explain the concept of corporate governance to those charged with governance in business organisations.
- b. Discuss the corporate governance principles that must be applied in business organisations.
- c. Apply the roles and responsibilities of those charged with governance
- d. Examine on the impact of the non-compliance to corporate governance in business organisations.
- e. Categorise the material losses which result from the non-compliance to corporate governance principles.

1.6 RESEARCH METHODOLOGY

1.6.1 Introduction

Research in a business environment deals with various sets of broad subjects and concerns. The understanding of the business environment, staff involved, investors, management and leadership and most importantly the customers. Further understanding is required in various environments such as economies, operations and marketing.

According to Babbie and Mouton (2005) there are broad procedural examples and prototypes that have subjugated the section which is includes qualitative, quantitative and mixed approach. According to Greener (2008) who describes the “quantitative approach to research as likely to be associated with a deductive approach to testing theory, and often using number or fact and therefore a positivist or natural science model, and an objectivist

view of the objects studied". According to Greener (2008) "a qualitative approach on the other hand is likely to be associated with an inductive approach to generating theory, often using an interpretivist model allowing the existence of multiple subjective perspectives and constructing knowledge rather than seeking to find it in reality".

The research methodology used in this research is the literature study approach which involves analysing the Investigation Reports, Audit Reports, case studies, and published research journals- in line with the research topic.

1.6.2 Research Study

Qualitative research was based on a preselected number of business organisations to respond to the study questions and realise the research aims. The research study looked at the following elements:

- Type of business organisation
- The size of the organisation
- How the business organisation entity is structured and governed
- The size and popularity of the scandal faced by such business organisations
- The dissimilarities and affirmations between the Companies Act and the corporate governance principles.

Research design for this study will be qualitative in nature. The research study is non-numerical, and to explain and gain in-depth understanding of non-compliance to corporate governance and the impact on business organisations. The research sample has been pre-selected based on available investigations and concluded business case studies. The data to be assessed is obtained as a secondary source. The process of selecting the sample was guided as follows:

a) Recent multiple case studies will be analysed to test the theory

Corporate governance is a study of facts and truths with no scientific process required. Previous and current cases are the basis of the research study.

Multiple existing cases are selected and used to test the application of corporate governance principles for the business organisations to be selected.

This case study clarified the non-compliance of key concepts of corporate governance and the impact in business organisations.

b) Prescribed standards set out by recognised bodies that control the governance standards and ensures that the standards are updated with relevant changes

The prescribed standards of corporate governance are prescribed by the King Committee. The King Committee which is made up of all industry role players i.e. auditors, Directors of various entities such as South African Institute of Chartered Accountants (SAICA), Institute of Directors, Institute of Internal auditors, University subject matter experts etc.

King Committee remains the sole custodian of the developments of the standards and such standards are adopted by JSE and public sector organisations.

c) The nature of the data to be collected is visual analysis

The research was written in a historical format which is recommended for mini-dissertations or long assignments.

This research is a mini-dissertation and as part of the longer research paper. Visual analysis remains relevant for this research.

This study is based on literature obtained, assessed and confirmed until 29 November 2020.

Sources that were referenced and checked have been broken down into various sections as follows:

Secondary sources includes information from journals, theses, dissertations, peer reviewed documents, reviewed articles, practice guidelines and articles from newspapers.

1.6.3 Limitation of the study

Limitations are possible lacks and shortcomings in research and are not in power of the scholar (Simon, 2011:2).

The study limitations are:

- a. Only 6 (six) business organisations were selected out of more than 10 million registered business organisations. The total number of registered businesses is over 10 million across the world.
- b. Only selected business organisations which are well investigated and reported on are selected. Small businesses such as family businesses are ignored.
- c. Small informal and unregistered business organisations are totally ignored as their activities and industries are difficult to trace and investigate.

1.7 STUDY DESIGN

1.7.1 Study method and strategy

This research study is non-numerical, and to explain and gain in depth understanding of non-compliance to corporate governance and the impact on business organisations. The research sample has been pre-selected based on available investigated and concluded business case studies.

1.7.2 Research method

The study method followed is qualitative method, with factually based assessments and detailed reports.

1.7.3 Research setting

The research is based on secondary sources.

1.8 STUDY PLAN

This study has separate individual chapters. The plan detailing the chapters are discussed underneath:

CHAPTER 1: Introduction and background

The chapter presents the background, research objectives, research questions, significance of the study as well as the importance of the study and also the problem statement.

CHAPTER 2: Literature review

The chapter assesses, examines, thoroughly the literature review, concept regarding the King Codes and the principles of corporate governance to the study subject, and the effectiveness of the implementation of corporate governance. The review further explains the basis of ethics and its application. The review also includes the reviews by the leading audit and management consulting firms such as Deloitte, PwC and various individuals of significance.

CHAPTER 3: Research methodology

The chapter explains in detail the study procedure and methodology by ensuring that the sample selected is thoroughly discussed through secondary sources to be used and motivation of the sources. The conclusions of the study are also presented and discussed in detail.

CHAPTER 4: Assessment (Analysis) and results

The chapter delivers and explains the assessment and the results.

CHAPTER 5: Conclusions

In this chapter, analysis and evaluations from the literature review and investigations are made, and a conclusion is drawn.

1.9 CONCLUSION

In the late 20th and early 21st centuries, there has been a steep increase in the fraud, corruption and bribery matters which have led to many cases of business organisations collapsing and governments experiencing recession and economic meltdowns. At the centre of the above challenges is the lack of ethics, flouting of corporate governance principles and overlooking of policies and procedures. Mismanagement has been identified as bad and unpleasant within many business organisations. The underlying basis of this malpractice is due to the misunderstandings and misapplication of the governance practices by business organisations. This has a significant impact on losses that become material which ends up crippling business organisations.

The research delivers exhaustive and rigorous mechanisms of various business organisations in public and private sector business organisations. The growth of any business organisation is likely to be achieved objectives if there is valid and strong governance and risk controlling and structures. This study appraises the application of the principles of corporate governance principles, ethics which normally would minimise material losses and possible closures.

1.10 SUMMARY

The chapter examined the foundation for the study which includes the significance of the research, the importance, the objectives as well as the limitations. Various studies have been led and piloted in this discipline such as the relationship between corporate governance and the performance (Moloi, 2008) . However not many have assessed and appraised the non-compliance to corporate governance principles, and the material losses incurred as a result of such non-compliance. It should be noted that the regulations that govern the listed business organisations and the public business organisations are different. This sets the tone for how the corporate governance is placed and the enforcement thereof. The requirements for public and government business organisations are to be strictly applied, to ensure that tax payer money is spent and accounted for appropriately- which can be compared to service delivered should match.

Based on the relevance of the research which will provide to the overall explanation and expansion of the skills and expertise of management and governance in business

organisations, which should also address any potential collapse of organisations. The next chapter will focus on the literature review.

CHAPTER 2 LITERATURE REVIEW

2.1 INTRODUCTION

The aim of literature review is to constructively and critically analyse relevant research to highlight research possibilities that have been overlooked implicitly in research to date, and to place research findings within a wider body of knowledge (Saunders et al, 2012:78). Critically reviewing the literature provides the foundation to tackle the study questions and fulfill the study aims. The study question will investigate the non-compliance with corporate governance and material losses that are normally experienced from the non-compliance. Corporate governance is defined as the method by which a business' procedures are guided, controlled and organised, in a quest to create shareholder investment value (IoDSA, 1994). One example of a business organisation that had failed corporate governance is Enron. Enron was a US business organisation which had the country's longest natural-gas pipeline, and was an electricity trading giant. In 2001, it was discovered that Enron was involved in deceptive accounting practices to hide its financial losses. Enron was declared bankrupt in December 2001. Another related company is Arthur Anderson, the auditors of Enron which was classified as part of the 'Big Five' accounting firms alongside PwC, Deloitte, Ernst & Young, KPMG and Sizwe Ntsaluba Gobodo. The firm conducted audits for Enron which reported US\$100 billion in revenue through institutional and systematic accounting fraud. Andersen's performance and alleged complicity as an auditor came under intense scrutiny. The collapse of Enron and Arthur Anderson, brought to the fore the gap and presented an opportunity to examine the role of corporate governance principles. The impact of the organisation's collapse can be solely blamed on the ineffective and inefficient corporate governance systems.

The fall of Enron, and the deregistration of Arthur Anderson depict a time which is seen as a time of corporate greed, lack of whistle blowing and mostly compliance weaknesses. The international business community identified a need to review the strength of their corporate governance and thus appointed Mr Cadbury to lead a Commission.

The Cadbury Report published on the 1st of December 1992 upon request by the Financial Reporting Council, the London Stock Exchange (LSE), and the accountancy profession was meant to address the financial aspects of corporate governance. London based companies wished to assess and evaluate the status of compliance by the Board of Directors of multiple companies to ensure continuous economic growth. The Report set a tone on the improvement of the Board in an organisation. The Cadbury Committee's objective was to help raise standards of corporate governance and the level of confidence in financial

reporting and auditing, by setting out clearly what it saw as the respective responsibilities of those involved and what it believed was expected of them. The Cadbury Report ushered in the need to progressively improve the roles of those accountable and responsible for the Board and those with control and providing oversight in business organisations. The roles of the Board of Directors and its Committees were clearly explained, and most importantly the importance of the auditors in ensuring that the internal controls and the amounts stated in the Annual Financial Statements are fairly present (Cadbury Report, 1992)

In South Africa, the Institute of Directors asked Mervyn King to chair a committee on corporate governance. In 1994, the committee published its first report aptly named 'King I Report'. In 1992 when South Africa was at the cusp of democracy, the private sector appointed former Judge Mervyn King to chair a Committee which was referred to as the King Committee with a mandate to draft guidelines on how private companies would be managed and controlled. The Report established recommended standards of conduct for Boards and Directors of Listed Companies, banks and certain state-owned entities. Currently, all Johannesburg Stock Exchange (JSE) listed companies, most state-owned entities, financial and insurance companies, and also large companies with a shareholding equity of over R50 million are included in the updated and revised King IV Report (IoDSA, 2016:88). The Directors, Executives and the Governing Board is the main and principal centre of leadership and management as well as governance in any business, and thus the main focus of corporate governance.

According to Rossouw (2013), corporate governance and ethics are closely linked to organisational reputation and defines organisational reputation as the attributed character of an organisation, determines the extent to which stakeholders would be comfortable to form relationships, business or otherwise, with the organisation. Rossouw further explains that business organisational status and standing is the collective opinion of participants towards an organisation which is grounded on previous and detailed records of ethical standing. This suggests that there is a connection between the business organisation's sustainability and good corporate governance. The ability for an organisation to continue as a going concern also relies on the ethical standards adopted and used in the ordinary course of business.

The first step to ensure that ethical leadership is achieved was to redefine the responsibilities of the Board of Directors in terms of the legislation. The Companies Act 71 of 2008, 'The Act' categorises and prescribes the standard of Directors comportment in section 76.

Personal liability is included where the business organisation suffers loss or damage due to a Director's conduct not meeting the prescribed standard.

It should be noted that the "Companies Act" does not distinguish any difference between the duties between Executive, non-day to day or impartial non-day to day Directors. To understand the dissimilarities of the kinds of Directors, detailed explanations are given in the corporate governance guidelines and the King Code. The code applies to both executive and Non-Executive Directors.

In the case of "Cyber Scene Ltd and others v iKiosk Internet and Information (Pty) Ltd" 2000 (3) SA 806 (C), the court established that a Director is seen as to be in a fiduciary responsibility to the business irrespective of whether the Director is Executive or Non-Executive. According to Deloitte (2013) states that in terms of this prescription, a Director must exercise his or her powers and perform his or her fiduciary duties.

- in 'good faith' and for a proper purpose,
- in the best interest of the business, and
- to carry on duties with the degree of care, skill and diligence that may reasonably be expected of a person carrying out the same functions and having the general knowledge, skill and experience of that particular Director.

The objective of the corporation, as a separate and potentially immortal legal person, is simply to survive and, if possible, to thrive.

The King IV Code/Report sets the tone of the responsibilities and other functions of those charged with governance. King IV Report sets a foundation of the understanding of what corporate governance is, and the principles of corporate governance. The King IV Report is therefore vital for the understanding of governance in South Africa.

King IV Report in summary (IoDSA, 2016) is a *set of controls and principles with guiding practices – principles set out to manage businesses which can be adopted as best practices voluntarily basis*. The set principles are developed to assist business organisations with effective management and most importantly protect the assets and ensure smooth running of the business organisation. *"Approved to be applied to all organisations, regardless of their form of incorporation"*. Irrespective of the nature of the organisation, corporate governance can be applied in all types of organisations, from Non-Profit Organisations (NPOs), profit making businesses, government organisations and entities, family businesses. All business organisations can benefit from applying governance principles. The Report clearly

distinguishes between principles and practices. Principles are referred to as key concepts which are foundation base and practices are detailed processes to adhere to the principles. Principles such as setting up of committees, ethical clearances and many principles designed to ensure effective oversight.

The foundation of the corporate governance is ethics, without ethics, the existence of corporate governance remains null and ineffective. Good corporate governance can never be achieved without achieving a culture of ethical behaviour. Ethics are rooted from the Greek word 'ethikos' which means character (Rossouw, 2013).

2.2. PRIORITISING ETHICS

King IV explains corporate governance as the method to also introduce ethics by a specific goal of effective and efficient leadership of the governance outcomes. Principles exemplifies the objectives of good governance. Principles led businesses should progress to achieve good governance practices. The governance principles form on and are enforced, are expressed so that and are essential to governance and applied by all businesses.

Business organisations should apply the principles and practices of corporate governance. Such application solely lies with leadership and management of such business organisation. The leadership style of the business organisations should be based on ethics and standards for them to be able to apply the principles of corporate governance. Ethical leadership is the best leadership model for businesses especially in the 21st century.

Rossouw (2013) describes the concept of ethical leadership as derived from the three theories which give a basic explanation of provide standards for deciding whether a specific advancement is ethical or not. Virtue theory by Aristotle, Deontological theory by Kant and the Utilitarian theory by Mill.

Virtue Theory

The Greek philosopher, Aristotle, is a person who developed and explained the virtue theory. Aristotle argued that morality is not a luxury that one can choose to have or not. On the contrary, morality is a pre-condition for living with human dignity (Rossouw, 2013:69). People who forsake morality are, according to Aristotle, debased beings who have not fulfilled their human potential. Aristotle further explains that morality starts with the self. Generally, in leadership and ethics, what matters is not what is right or wrong in interaction, but is the development of ones' character. Morality starts with self-love. Self-love is a precondition for morality (Rossouw, 2013:69). Aristotle maintains that it is the man who has

taken rational control of his life; has cultivated his natural dispositions into moral virtues; and has always throughout his lifetime found pleasure in acting in accordance with these virtues.

Deontological ethics

Deontological ethics insists that moral action requires conformity to rationally founded moral principles. This theory was developed by a German philosopher, Immanuel Kant. Kant was convinced that people's moral actions cannot be guided by practical experience. Kant insisted that the moral 'ought to' cannot be deduced from the practical experience 'is'. Kant further argued that the moral guidance should be sought outside the sphere of practical experience and can only be found in the sphere of purely rational thinking (Rossouw, 2013:70). Kant was convinced that our natural inclinations are too unstable and unpredictable to secure stable moral judgement. Kant believed that nothing could possibly be conceived in the world or even out of it, which can be good without qualification, except a 'Good Will'. Our will is therefore our capacity to decide what we want to do and what we wish to become.

Kant stated that there were three imperatives to moral and ethical standards, as outlined below.

First Imperative

Kant reinforced that moral actions should not be guided by personal inclinations but by a sense of duty to the universal moral law.

Second Imperative

Kant argued that the categorical imperative required people to act not for the sake of an objective goal that applies to everyone. The question is whether such an objective goal exists? According, to Kant there is such an objective end, and that end is the dignity of all human beings.

Third Imperative

Kant emphasized that the categorical imperative is not something alien to society, but is something which can be identified as being of society's own creation. Kant's moral theory claimed there is indeed an objective moral rule that can guide all our moral decisions. Kant emphasized that all people need to respect the moral rule, which is to be found in our pure reason, and act on it from the sense of duty (Rossouw, 2013:75).

Kant's belief is that all people should understand that morality is a decision from rational thinking. This moral theory was further explained by Mills as the utilitarian moral theory.

Utilitarian theory

The utilitarian moral theory claims that the morality of actions should be judged by their consequences. Mill was convinced that the actions are good when they contribute towards fulfilling the ultimate goal of human beings, which he defined as happiness. Therefore, an action should be considered good when it results in happiness for the majority of those affected by the specific action. Mill theorised that when questioned about our motives for doing whatever it is, we do, we ultimately would have to admit it is done for the sake of happiness (Rossouw, 2013:75).

All the theories discussed above agree that ethics are a part of humanity and that they are the basis of morality. Morality is the consciousness of all human beings the desire to do what is right and good. The consciousness to do right is the main cause of happiness as argued by Mill. Mill argued that such happiness should transform from an individual happiness to the society's happiness.

Ethics have developed an imperative aspect in the success and rehabilitation of the nation's financial sector. A registered company, as a juristic person has rights and a moral obligation towards the society it operates in. Good governance covers the application of integrity, honesty, responsibility and most importantly accountability.

A failure of African Bank (2017) indicated that Leon Karkinis, former CEO of African Bank Investments Limited (ABIL) pursued a path to riches that led through some of the South Africa's poorest provinces, and won the confidence of investors along the way.

Declaring himself to have a vision for loaning to South Africans ignored and thought the traditional banks were old and outdated, Kirkinis fuelled profits making loans at annual interest rates as high as 60 per cent. Like US subprime lenders half a world away, he overestimated his customers' ability to repay their loans when the economy soured (Giamporcaro & Marrian, 2017). The negligent issuing of loans by ABIL was contravention of the banking regulations, and most importantly the code of ethics. Ethics are moral codes and standards which are a basis of life, ABIL's Directors violated the moral standard. ABIL violated regulations such as according to the SARB's quarterly bulletin (2020:15) limit on interest rates for a loan is 32%, however African Bank charged over 60% which violated the limit (Giamporcaro & Marrian, 2017). This action remained a crime and most importantly unethical and not in accordance to society's moral code.

The JSE amended the listing requirements and compliance in 2017 after the IoDSA released the final version of King IV Report. Under the amendments, listed companies do not have

the choice that non-listed companies have – the choice to apply only some of the King Code principles and explain the ones they have not applied. Listed companies must apply all the latest King Code principles, including IT Governance.

The amendments do not require listed companies to apply all King Codes recommended practices (only the principles). The corporate governance principles which are explained and described by King IV Report are fundamental to the sustainability of every organisation whether big or small. It is vital to give a background of the development of King Codes from the first version to the fourth version.

King I

The King Committee on Corporate Governance was established in 1992 and published King I in 1994 (Andreasson, 2009:656). As previously stated it was the same time that South Africa was accepted and reintroduced into the global economy. Vaughn and Ryan (2006) state that the objective of governance is to uphold the best standard based on the foundations of intellectual honesty. King II was founded on several pillars of accountability, fairness, transparency and responsibility (King, 2013).

King II

The focus of King II was to incorporate the principle of ‘triple-bottom line’ which is basically a consolidation of the traditional financial bottom line, and alternative reporting on the environmental and social sustainability of the organisation.

King III

The King III was based on the introduction of the new Companies Act (2008) and the update of the international governance processes and structure. King III is regarded as the most advanced as the approach to governance is different, the basis is ‘apply and explain’.

King IV then expanded and split the principles of corporate governance into 17 well structured and well defined principles, which are explained by practices.

Corporate Governance Principles

The IoDSA published core governance principles and guidelines in the King Codes. The King IV Report identified and prescribes 17 principles of corporate governance which are described as principles embodying the goals and objectives of the journey towards good corporate governance (IoDSA, 2016:40).

These principles are effective in the management of any organisation. The Governing Board is mandated to implement these principles. The roles of the Directors and those charged with governance has also been further explained and described in the King Code as:

Steering the organisation and setting the strategy, while defining the way in which the specific governance areas are approached, addressed and implemented, approving policy and ensuring planning gives effect to the approved strategy and direction, overseeing and monitoring the performance of the organisation and the execution of the strategy by the executive and ensuring accountability for organisational performance, by means of amongst others, ethical and transparent reporting and disclosure (Clamp, 2017).

It is necessary to explain in detail the principles of corporate governance as they are the cornerstone and the basis of the King IV Report. Without the corporate governance principles, the King Code remains an unstructured document not appropriate to provide guidance.

Below is the summary of key major principles and recommended practices. The principles explain the what, while the recommended practices explain the how. All these principles and practices aim to achieve clean governance and profitability for organisations to achieve their strategic goals.

2.3 CORPORATE GOVERNANCE PRINCIPLES EXPLAINED

Principle 1: The Board ought to direct the business morally, ethically and efficiently (IoDSA, 2016:43).

Principle 1 is the foundation of all organisational leadership. Without ethics, no organisation will survive and thrive. Organisations should evaluate their present ethics codes to ensure that principle 1 is considered and adhered to.

Principle 2: The Board should govern the ethics of the business in a way that supports the establishment of ethical and moral culture (IoDSA, 2016:44).

Leadership is all about leading from the front, similar to the concept of leading by example. All organisations follow the example of its leadership model, if the leaders have integrity then the employees will likely have integrity. It is the responsibility of the governing body to live and enforce a culture of ethics within the organisation. Organisational culture often is introduced by the management and those charged with governance. Control environment refers to how management adheres to the policies and procedures including internal controls.

Principle 3: The Board should ensure that corporation is seen to be an accountable citizen (IoDSA, 2016:45).

The Board should place the organisation in a position to adhere to all the necessary regulations, laws and acts. The organisation should align its policies and procedures to promote the livelihood of all stakeholders and improve quality for all stakeholders.

RECOMMENDED PRACTICES

(i) The Board ought to adopt the accountability and responsibility of the nationality by introducing trends to approach and address the business model (IoDSA, 2016:45).

The Board should be a responsible citizenship which should be the custodian of formulating a vision, mission and strategic objectives which provides direction to the organisation.

(ii) The Board should ensure that the organisation's responsible corporate citizenship efforts include compliance with the Constitution of South Africa (including the Bill of Rights), the law, leading standards, and adherence to its own codes of conduct and policies (IoDSA, 2016:45).

The Governing Board should warrant that all relevant laws, regulations and standards are adhered to which promote good citizenship. Relevant laws include the Constitution of South Africa, the Labour Relations Act, Companies Act, Johannesburg Stock Exchange Regulations. It is the responsibility of the Board to ensure that these laws and regulations are adhered to by the organisation.

(iii) The Board should oversee that the business' core purpose and values, strategy and conduct are consistent with it being a corporate citizen (IoDSA, 2016:45).

The Board should ensure that the business strategy and values are in line with good business practice. The strategy should not be adverse to the beliefs of the organisation, no immoral dealings or dishonesty should be implemented.

The Governing Body should oversee and monitor, on an ongoing basis, how the consequences of the organisation's activities and output affect its status as a responsible corporate citizen. This oversight and monitoring should be performed against measures and targets agreed with management in areas such as workplace, economy, society and environment. (IoDSA, 2016:45). The Board should have a mechanism in place to monitor and ensure that targets are achieved in order to see growth in the organisation in these areas:

Workplace – the Board should be informed of the latest workplace developments and updated organisational policy such as Human Resources policies, training and retention policy as well as updated labour policies.

Economy – the Board should be aware of the economic developments such as prime rate adjustments, unemployment rates and tax policies.

Environment – the Board should ensure that the products and service of the organisation protect the environment by reducing emissions, renewable gas and recycling production, and creating sustainability for the next generations.

The above arguments illustrate the need for business organisations to engage in being a responsible corporate citizen. Responsible citizenship also means that all regulations and laws related and relevant to the community within which the business exists are totally adhered to, and observed at all times. Business organisations operating in rural and traditional communities should take note of the additional traditional rules and laws as prescribed by the traditional leadership of such a community.

Principle 1 focuses on the Board taking responsibility of the mission, vision and strategic goals while abiding by the laws and regulation while principle 7 focuses on the structure of the Board, skills and due care and competence.

Principle 7: The Board should consist of a proper and suitable and stability of knowledge, ability, competence, mixture and impartiality for it to perform its control of position and responsibilities objectively and effectively (IoDSA, 2016:50).

RECOMMENDED PRACTICE

Composition

The Board should ensure that its composition is set to provide proper direction and maintain a stable composition that includes understanding, skills and competence, experience, mixture and independence to accurately release its control of position and accountability (IoDSA, 2016:50).

The Board of any organisation should have balanced members with a variety of skills and competence to be able to complete their functions. The Board's composition should be inclusive of all genders, races to be diverse. Representation should be fair and equal in line with the current policies of employment equity and affirmative actions.

In putting together the required amount of the Board, the following elements should be taken into consideration, the proper and suitable mix of knowledge, skills, competence, experience, including the business and industry experience, needed to govern the business.

The Board should ensure that it has all the necessary knowledge across all the relevant areas such as accounting, Information Technology (IT), Human Resources and strategic management which will ensure that no knowledge gaps exist.

The appropriate mix and blend of Executive, Non-Executive, impartial and independent Non-Executive members (IoDSA, 2016:50).

Since the executive Directors are in charge of designing the internal controls, process flows, strategy and operations plans in the organisations, it would be biased and improper for Executive Directors to independently review the organisation. The introduction of Non-Executive Directors ensures that an independent, none biased judgement of the organisation's processes can be achieved.

The Board should be constituted with a greater part of the Board who are Non-Executive members, most of whom should be impartial and non-biased towards the business organisation (IoDSA, 2016:50).

The main aim of the proper composition of the Board is to have an overview of the entire business organisation. When the majority of the Directors are Non-Executive members who are independent it gives assurance that the Executive Directors are accountable for the decisions taken, missed opportunities, failed plans and unmet targets. The independent non-Executive Directors are equipped to independently check and review the business from an independent and objective perspective. The Non-Executive Directors should be a majority in numbers as compared to the day to day operational Directors while discharging the responsibilities on the Board.

The Board should develop a succession plan for the Directors which includes the appointment, and development of future Directors (IoDSA, 2016:50).

According to Kang, Cheng, & Gray (2007) the Board of Directors is one of the multiple internal governance mechanisms that are intended to ensure that the interests of shareholders and managers are closely aligned, and to discipline or remove ineffective management teams.

Skills, experience and competence

A business organisation should comprise of the best of competence, service, skills, experience, and expertise is important to ensure that governance as a unit is well-founded and furnished to guide the strategy of the organisation. Appointment of diverse Board representatives is important to bring an astute perspective into the operating of the Governing Board. Executives of public and private business organisations participating on audit committees should have financial knowledge and qualifications and an understanding of accounting standards, financial management, integrated reporting, and risk assessment process.

Furthermore, with the developing technology and the importance of security in the information technology environment that businesses utilise, appointing a person knowledgeable about technology on the Board may be a well strategic move to ensure that the Board considers the impact of technology in the organisation. The code of corporate governance endorses that the governing structure should consider incorporating information and communications technology (ICT) so that it can assist the business organisation in setting and attaining its strategy and achieve high performance. Another example of a well balanced Board would be the appointment of a Director with the human capital management skill. Most organisations have placed a worth in their employees as one most important resources, however Governing Boards have appointed people with specialised knowledge in human resources. Few Boards in privately owned business organisations adhere to fully comply as well as small business development. Further to skills, experience and expertise, business organisations and Boards should ensure that gender representation is present.

Gender

This component of diversity should be prioritised in the governing boards in business organisations. Previously, the Governing Board have been male dominated and structured. In the past 5 years (2015 to 2020), this domination by males has been deemed unfair by many Governing Boards and have begun to realise importance and assistance by gender-balanced Board composition. The benefits include female leadership and entrepreneurship models. According to a survey conducted by Deloitte (2017), South Africa was ranked fourth at 7.8% as compared to 4% of global rate where women are Board Chairpersons. An average of 18% of first 251 of America's public business organisations improved the sum of women serving on their Boards in 2019 (Board Practices Report, 2014).

Ethnic diversity

Ethnic diversity is about a blend of Board members by diverse race, culture and religious diversity (Deloitte, 2017). The ethnic diversity of any Governing Board should be a representation of the entire organisational diversity. In South Africa, various laws and regulations such as the BBBEE and AA policies promotes ethnic variety in the employment environment. The legislation is meant to provide opportunities to the previously disadvantaged individuals who were denied economic participation. According to Gini-coefficient measure, the measure indicates that South Africa is regarded as the most unequal country in the world and is seen to be not transforming (Hicks, 1996). The addition of African people to the diverse Boards within the businesses in South Africa would be a great boost for transformation and this will help drive equality and skills development.

Age diversity

Age diversity is a disregarded and discounted component when appointing the governing board (Deloitte, 2016). The Board normally are older and experienced with no succession planning and passing information to the next remains a strong challenge. The Board Practices Report (2014) revealed fringe proof of various age group variety in the governing Board, with the so-called younger Executives having reached fifty and above. Older Directors provide a great value of knowledge and experience, while appointing younger Directors brings an updated and new outlook to the strategic planning which should not be taken too light (Deloitte, 2014). The appointment of younger Board members also indicates that the Governing Board has considered succession planning, the commencement of training of the next Board members.

Geography diversity

Geographic diversity is described as a blend of individuals from various geographic places. The geographic diversity should consists of members from various places that the organisation exists from. In a global workplace, neglecting this section of geographical variety would show that the organisation lacks the understanding of its environment and operations. An organisation that exists in multiple provinces should be represented in all places of existence. Where a business organisation has operations internationally, it would be beneficial for such a business organisation to appoint internationally experienced members to also benefit from a globally diverse culture and business acumen.

Independence

It is in the business organisation's interest to appoint the correct balance of Executive and the non-day to day Directors. The inclusion of the lead impartial Directors is vital for an operating and effective Governing Board and these elements of age, diversity and race may involve having respect to the association of the individual, family association with all stakeholders (Deloitte, 2017). According to Deloitte (2017) which describes that in South Africa, a projected figure of more than 59% of Non-Executive of private business organisations are classified as independent. The corporate governance code mentions that the Board must embrace a sense of balance of authority, with a greater part being Non-Executives, the greater part must be independent. Deloitte (2017) argues that an organisation should have a greater part of impartial Directors on the Board is a concept emphasized by multiple overseas reputable corporate codes regulators including the one based in US, Canada, Australia and East Europe as well as the OECD principles of corporate code on governance.

King IV further endorses that the Chairperson be an impartial Non-Executive who is not involved in the day to day of the functioning of the organisation. Furthermore King IV also emphasizes that a lead independent/neutral Director should be elected as a Deputy Chairperson.

According to Deloitte (2017) the duties allocated to the Deputy Chairperson's role includes principal and controlling and directing the Board in the non-attendance of the Chairperson, to continue aiding as a firm and strong Board to the Chairperson, strengthening independence of the Board if the Chairperson is not independent, and leading the functioning and assessment of the Chairperson.

The above mentioned internationally adopted principles comprising comparable set of practices and principles to encourage independent analysis and resolutions and assessments in the Governing Boards.

The concept of independence is one of the focal points in corporate governance. The committees highlighted as important and relevant to the improvement of governance. Independence ensure that conflict of interest is minimized in decision making.

The previous forms and types of the King Reports directed the differences between Non-Executive Directors and independent Directors and Executive Directors, further to the explanation, King IV explains the significance and bearing of independence;

The Board Directors whether are classified as Executive, Non-Executive or independent Non-Executive have by law, a responsibility to act with independence of appearance and mind in the best interests of the business (IoDSA, 2016:28).

Although important, impartiality in appearance is one main factor in achieving the stability in the formation and development of the Board (IoDSA, 2016:28).

Independence is more relevant to the Non-Executive Directors while Executive Directors are employed based on trust, confidentiality and integrity in conducting the day to day activities of the business organisation. The CEO is in charge of the operations of the business organisation.

Post-apartheid Boards and transformation

Subsequent to the introduction of King IV in 2016, the JSE amended their listing requirements to be aligned to the BBBEE. The amended requirements (as cited by Mayekiso, 2017) proposed the inclusion of a policy that promotes of inclusion of various races in the Board and ensure the reporting of annual compliance index in the annual report. The policy was introduced post apartheid to help usher in the new South Africa. The promulgation date which businesses should commence with the required disclosure of BBBEE compliance in the Annual Report is 1 June 2018. The amendment was greatly required to be inclusive of all people it had to start with the JSE as a business organisation that is considered as a business leader for all listed organisations.

The approved Listing Requirements are two-fold according to the JSE listing (2016):

1. "Racial diversity disclosure at Board level. This means that companies must have a policy for the promotion of racial diversity at Board level and they are further required to report annually to their shareholders how they have applied the policy, and Listed companies are also required to report on how they have complied with their own voluntary targets and are also required to report on the progress they have made".
2. "Listed companies are required to publish their BBBEE Annual Compliance Report on their company website and are further required to make an announcement on the stock exchanges news service (SENS) that this has been published on their website".

Professor Vishnu Padayachee (2017) argued that there is little substantive evidence that corporate governance in the new South Africa had moved beyond some level of nominal and technical compliance with King recommendations, and even thus unevenly, embracing a more stakeholder-oriented philosophy. Andreasson's (2017) assertion principles of Ubuntu and African values are yet to be found in our corporate governance framework,

although their inclusion is a desirable goal. There is a reflection of poor and weak leadership at Board levels as practised by both the 'Old Boys' and the transformed Boards. The latter have largely failed to penetrate the corporate culture of the old South Africa, and in fact appear to have accommodated themselves rather nicely in past practices (Mayekiso, 2017)

Jayne Mamatt a Director from PwC Report (2016) states that as a community we are still striving towards reversing the unfair discrimination of the past in the Boardroom and the appointment of the Board and its committees. The role of business, through the committee responsible for social and ethics is considered strategic future sustainability which cannot be understated and underemphasized.

About 413 companies across all sectors listed on the JSE's main and AltX boards in (state the year), reveals that of Directors aged under 50 years, 27.1% are female (up from 25.1% 2019) (Deloitte, 2016). Equally significant, black Board members account for 40.1% of Directors who are under the age of 50 (PwC, 2016).

The issue of white CEOs of listed businesses came into sharp focus earlier in 2019 when several major businesses appointed new white male CEOs. The relevant companies maintained that their strongest candidates were appointed and the decisions were made on the basis of the interests of all stakeholders (Engelbrecht, 2020). Transformation seems to be very slow in listed business organisations such as the top 100 listed organisations.

Board's responsibilities based on Companies Act

Above the principles stated in the King IV Report, the duties, responsibilities and obligations of Directors in South Africa are legally outlined by the Companies Act. According to Burger (2011), "the business and affairs of the company must be managed by or under direction of its Board, which has the authority to exercise all of the powers and perform any of the functions of the company, except to the extent of this Act or the company's Memorandum of Association". This obliges Executives in performing their fiduciary responsibilities:

- (i) act in the best interests of the business organisation,
- (ii) act in good faith and for a proper purpose and
- (iii) not to disclose/misuse confidential information.

However, with this power and authority comes greater accountability which lies with the Directors, in that non-compliance to the Act could equate to the business organisation or individual being fined or imprisoned. Since the shareholders own tradable rights enabling them to vote, the responsibility of decision making and management are assigned to the

Governing Board and Executives by means of trust. The trust is also stated as fiduciary responsibility. Those charged with governance have fiduciary responsibility which requires to place priority and importance on shareholders' interests.

This study also emphasises on the key corporate governance principles that are fundamental and basic in ensuring that a business organisation functions properly, effectively and efficiently.

Principle 8: The Board should ensure there is independent judgement in its own structures for work delegation which will have stability in sharing of duties efficiently and effectively (IoDSA, 2016:54).

RECOMMENDED PRACTICE

Audit Committee

(i) The establishment of an audit committee is a statutory requirement for some business organisations and as a matter of leading practice, the Board of any business that issues audited financial statements should consider establishing an audit committee, the role of which should be to provide independent broad oversight (IoDSA, 2016:55):

a. the efficiency of the business assurance and contractors, internal audit and finance (IoDSA, 2016:55); and

b. the integrity of the annual financial statements and, to the extent delegated by the governing body, other external reports issued by the organisation (IoDSA, 2016:55).

King IV endorses that the disclosure performance by the committee in charge of the audit of the auditor's independence to the business organisation. Further disclosure is specifically required when the audit firm has also perform additional services, the nature and extent of the such services; the rotation of the designated audit partner; a specific risk mitigation of the familiarity threat between the auditor and management. King IV recommends that the audit committee should divulge and comment on the audit quality as performed by the auditors with clear indicators.

Shirley Mashaba (a Director for risk at PwC) argues that the boosted emphasis on accountability and responsibility which means that the reporting outside of the business organisation has been impelled into the public interest. "The above combined with the need for quality information for decision-making in an integrated manner, means that the quality of the organisation's internal controls around information have become critical and as the

overseers of this system, the audit committee has become a critical element of good governance” (PwC, 2016).

(ii) An audit committee is statutory which has the sovereignty to make conclusions regarding its statutory responsibilities, and is accountable for its performance in this regard. The Board may allocate other responsibilities to the audit committee including acceptance and authorisation of the Annual Report and Financial Statements, nevertheless the Board is responsible for such delegation (IoDSA, 2016:55).

King IV further endorses and suggests that a disclosure of material and significant financial related matters and the plan to address them should be done by the Audit Committee in the Audit Committee’s Report in the Annual Report. The recommended practice enables the users of the financial statements for perspectives;

- of significant assumptions in the preparation of the annual financial statements; and
- of the committee in charge of audit and risk on significant contribution with the annual financial statements.

Mr Pule Mothibe, Director of Risk from PwC argues that the audit committee is appointed to complete a very crucial role of overseeing the honesty and realibility of the financial statements (PwC, 2016). According to Mothibe (2016) the recommendation “in King IV for the audit committee to disclose the significant matters that the committee considered in relation to the annual financial statements, and how these matters were addressed by the audit committee, will provide stakeholders with insight into how the audit committee discharged its duties, and pinpoint the areas or items on which the audit committee focused its efforts” (PwC, 2016). The King IV recommendation details with recent reforms to the Auditor’s Report (PwC, 2016).

(iii) If the Board allocates risk assessment and analysis to the audit committee responsible for audit matters, the committee should dedicate adequate time and expertise for such responsibility (IoDSA, 2016:55).

The organisations should consider risk governance which includes risk assessment. An effective risk management includes risk factors, actual risk identified, ranking of the risk identified, likelihood of the risk identified, the responsible person for dealing with the identified risk and the implementation of mitigating factors with the expected date. Risk is defined in King IV as the uncertainty of any incidence which is based on impact and likelihood and their effect which are negative and may result in the organisational objectives and goals not to be achieved. King IV realises the possible opportunities which are integral in risks and may give

rise to negative occurrence. To minimise the risk, the business organisation should strengthen risk governance to address raising the potential risks, to pay attention to the risk, King IV recommends that the committee in charge of risk assessment and response should be constituted of a majority of Non-Executive Directors.

(iv) The members of the audit committee should, as a whole, have the necessary financial literacy, skills and experience to execute their duties effectively (IoDSA, 2016:56).

The practice is that the participants of the committee in charge of finance and internal controls as well as audit should include members who have the necessary skills in finance and risk management. The responsibility of the signing off financial statement to the Board lies with the audit committee so the committee signing off should possess high finance skills and experience to assess the quality of the presentation and preparation of the financial statements.

(v) All members of the audit committee should be independent, Non-Executive members of the Board (IoDSA, 2016:56).

The Chairperson of the committee in charge of audit and risk should remain independent with no involvement in the strategy and operational planning and execution of the normal function of the finance department and in the organisation as well. The independent Chairperson will review the financial statements and internal controls with a clear view of objectivity without influencing the financial affairs of the business organisation.

The committee responsible for audit and risk is one that should be prioritised by business organisations, and should constantly be followed up by the committee accountable, liable and in control of remuneration.

Remuneration Committee responsibilities

(i) The Board should allocate control of remuneration to a specific committee (IoDSA, 2016:57).

Remuneration is normally the biggest expense in a labour intensive business organisation. The remuneration expenses should be controlled and maintained and therefore such responsibility should be discharged to a particular committee that is appropriate and qualified. Thus the appointment of the remuneration committee is vital and critical.

(ii) The committee responsible for remuneration should consist of only Non-Executive Directors of which the majority and greater part should be independent (IoDSA, 2016:57).

This practice will ensure that remuneration is required by members who are not actively involved in the operations and day to day and who are not on the payroll of the organisation. The review of the policy and procedure regarding the remuneration is handled by the Non-Executive Directors to ensure that the policies and procedures are market related.

(iii) The remuneration committee should have an independent Chairperson who is also considered to be independent Non-Executive (IoDSA, 2016:57).

Independent and impartial Non-Executive member must be accountable and responsible for the committee in charge of remuneration and take accountability of the policies for remuneration. The Chairperson being independent gives the committee strength to review in detail as not influenced by the processes of the business organisations.

Social and ethics committee

(i) For some business organisation, the creation of a committee responsible for social and ethics is a legal obligation. The Board will allocate oversight of all ethical responsibility to the committee (IoDSA, 2016:57).

Ethics are becoming a major issue in business organisations, a committee to review the processes of identifying, preventing and correcting unethical behavior is necessary. The increase in fraud and corruption in the COVID19 Temporary Employees Relief Scheme (TERS) fund in 2020, the procurement of PPE. These alleged corrupt events should be a wake-up call for business organisations to take seriously the social and ethics principles.

(ii) The duties of the social and ethics committee includes its legal duties as granted by the Board (IoDSA, 2016:57).

Part of the responsibilities of the ethics committee should be to develop and set up a standard that improve ethics, compliance and social programs. Business organisations need to maintain integrity within the operations including ensuring that employees are constantly checked and monitored. This helps prevent fraud, corruption and possible bribery.

Principle 10: The Board should ensure that the appointment of, and delegation to, management contributes to role clarity and the effective exercise of authority and responsibilities (IoDSA 2016:58).

RECOMMENDED PRACTICE

(i) The Board should appoint the CEO. Every business organisation needs to have a leader and such leader should be the CEO (IoDSA 2016:58).

(ii) The CEO should be tasked with directing and starring the application and performance of the approved plans, procedures and day to day approach, and should serve as the connection between daily supervisors and management and those charged with Board duties and responsibilities (IoDSA 2016:58).

Establishing the right tone is essential to fortifying the organisation's reputation and its relationship with all stakeholders. The CEO is the first representative of the organisation, the front-person whom the employees ultimately view as the custodian of the vision guidance, and leadership. Leadership derives from trust, and trust is built upon a common understanding between people.

The tone at top management requires for leaders, the Board, Executive Management and Senior Management – and the CEO – to ensure relevance to the stakeholders.

Developing a sense of shared values – a set of belief against which all decisions can be measured and tested – is increasingly the basis on which long-term strategies and successful implementations are built and failure to align ethics and values to business strategies and operating plans bears potentially heavy costs (Deloitte, 2014).

(iii) The CEO should be answerable, liable, and accounts to the Board (IoDSA 2016:58).

As the Chief Executive is appointed by the Board, it is the responsibility of the CEO to report to the Board and not just the Chairperson of Board.

The implementation of the governance structures and effective committees will minimise the material losses since the Board members will be active in discharging their fiduciary responsibilities and duties to ensure that they serve the business organisation with reasonable due care and skill.

2.3 IMPACT OF MATERIAL LOSSES

Eccles and Roberts (2015) states that “in the face of these limited resources such as cash and working capital, Executives must take decisions as to which audiences are significant; these will be a subset of all of the firm's stakeholders. These ‘significant audiences’ determine which issues are material to the ability of the corporation to sustain itself over a self-defined time period. As the trustees of the corporation, Directors too often focus on issues that are only material for short-term financial performance”. Eccles and Roberts (2015) suggest that “Directors focus on significant audiences and this implies a broader range of issues, over a longer time frame, to be considered in determining materiality. Because shareholder primacy ideology has been widely perceived as a legal requirement,

Directors by and large have not seriously considered the full array of potential audiences that may be significant”.

For the public sector, the AG the system of accountability has reached a point where accounting officers and authorities must invest in preventative controls. Preventing material irregularities is more active than invoking the results management thereafter – it is expensive to recover funds instead of implementing controls to prevent irregularities. The material irregularities from non-compliance to procurement and supply chain management are preventable prior to them escalating to material irregularities. None of the material irregularities were as a result of human error, but were rather due to poor processes and judgements and there were most definitely indicators of fraud in some of these material irregularities, which have been (or will still be) uncovered by the investigations (AGSA, 2018-19).

According to International Journal of Applied Business and Economic Research (IJABER) (2017) in a free market and capitalist economy, financial information is critical and essential part in business decision-making, inaccurate and unwarranted information leads to management errors resulting in losses to financial statement users. Hence, ensuring the transparency and honesty of financial information should be prioritised for stakeholders and detection of fraudulent and material misstatements within financial statements. In current times, there is an escalating tendency of issuing mistated financial statements constituting fraud and errors through highly well thought methods. The evidence of this practice is embodied in the series of mouth watering scandals revealed in businesses with fraudulent financial statements in the world.

According to IJABER (2017), there is currently an increasing tendency in the frequency of material misstatements including fraud and errors through highly meticulous methods. The evidences lie in the series of headline-grabbing scandals uncovered in business with fraudulent accounting ledgers all over the world.

According to the Journal of Scientific and Research Publications (2017) fraud and misstatements in financial statements has led to collapse of many organisations, especially large corporations. This has made researchers to doubt the accounting numbers to certify the information needs of users. Even when these statements are examined by the auditor, who is generally believed to ensure accuracy, reliability, and conformity to Generally Accepted Accounting Principles (GAAPs). Misstatement in financial statements fraud has cost market participants, including, investors more than US\$500 billion during the past since 2000.

Eccles & Youmans (2015) argues that materiality's guiding principle is conciseness and that Governing Boards have the courage to be concise and limit reporting to only material information are also sending the meta-message that they have the ability to exercise this judgment—in other words, to govern and determining materiality is at the essence of Directors' fiduciary duty and it is the basis for establishing the legitimacy of the corporation's role in society. It is the responsibility of Directors to ensure that the materiality is calculated and affirmed to be correct in order to ensure that the losses are correctly placed. Materiality is at the heart of every business decision making process, while users of financial information depend on the validity and accuracy of the information. Beneficiaries of the financial statements includes the following:

Shareholders – the investors of the business that require a return for their investment.

Employees – individuals that have a contractual obligation to the organisation. This is a contract between an employer and employee.

Creditors – lenders to the business organisations that should be paid for services rendered.

Government – uses the information for infrastructure investments and fiscal policy planning. The fiscal policy refers to the amount of taxes expected to be collected from the tax payers by government in order to finance both the operational expenses which includes salaries and wages of public servants, rental expenses, and other expenses which are for the running for a government department or municipality.

2.4 SUMMARY

It is vitally important for organisations to understand the principles of corporate governance as highlighted in the King Report released in 2016. For all types of business, it is important to consider the major principles of corporate governance and implement the said principles. The principles are confirmed by the JSE listing requirements for listed organisations, the Treasury regulations for state owned organisations should be adopted as stated in the PFMA. The first point of growing the business to its potential to ensure effectiveness and efficiencies and proper management and governance includes the implementation of Committees. This ensures that a Chairperson is an independent person who leads the Board in proper decision making. Two other important facts are that the remuneration of the Executives and Non-Executives are determined by the remuneration committee. The second important area of focus is the development and maintenance of the risk register, the approval of financial statements, the evaluation of the internal controls and mostly prevention of fraud and error.

The absence of corporate governance normally would make it easy for fraud, error and material losses to happen. Material losses impact negatively to the organisations to an extent that organisations collapse and close down resulting in major losses for government, creditors, employees and mostly shareholders. The major aim of shareholders is to increase investment value thus the Board need to protect and grow the shareholder value by implementing the corporate governance principles. The next chapter explains the research methodology which was used to ensure that the research objectives are met and achieved.

CHAPTER 3 RESEARCH METHODOLOGY

3.1 INTRODUCTION

The research methodology chapter outlines the inspiration of the selected research method. The methodology confers the study proposal, design, size population, sample selected and motivates the use of secondary sources and research limitations.

This research topic on corporate governance principles follows on a few studies that have been undertaken by scholars and those in various corporates with the intention of advancing the understanding towards the entire concept of corporate governance.

According to Blumberg, Cooper & Schindler (2008) states that the research methods afford one, superior information and competence needed to participate in problem solving and meet tasks and contests in a decision making environment.

As mentioned earlier in chapter 1, the purpose of this study is to investigate corporate governance principles which are ignored and not adhered to by businesses, which have a devastating effect on the losses. The research is limited to six (6) business organisations as stated in 1.6.3. Therefore, the basis for this chapter is to afford a detailed explanation of the following research elements:

- (i) Research methodology
- (ii) Research design – current study
- (iii) Reliability of data
- (vi) Population and sample selection
- (vii) Analysis and conclusion
- (viii) Ethical consideration

3.2 STUDY DESIGN

According to Blumberg (2008) the study design establishes and creates the plan for the gathering, quantity and evaluation of data and information. The detailed design and structure of the study is to obtain answers and responses to research questions. According to Saunders, Lewis, & Thornhill (2009) the “focus of a research design is based more on turning a research question and objectives into a research project. It considers research strategies, choices and time horizons”. Saunders et al (2009) argues, the data collection procedures for answering the research question are classified to be qualitative or quantitative methods. Blumberg et al., (2008) argue that the distinction between qualitative and quantitative is mainly based on the kind of information used to study a phenomenon. Buglear (2015)

mentions that “the selection of procedures is used to create an understanding of what is essential to enable an analysis of data collected meaningfully”. Qualitative instrument use non-numerical data and which often would include focus groups and personal interviews. Quantitative instrument use numerical assessments such as questionnaires and surveys.

The study methodology for the study is a qualitative approach as stated above. This research focused on the in-depth study and obtaining an understanding which is qualitative. Saunders et al., (2009) state that a descriptive qualitative analysis is mainly used as a substitute any data collection technique or data analysis procedure that generates or uses numerical data. After considering the two research models, qualitative research is appropriate.

3.3 SECONDARY SOURCES

This research uses secondary sources. Secondary sources refer to research work that is not from primary sources which is also considered to be used by other researchers. Since this study is mainly an indepth understanding, primary sources are considered not relevant.

3.4 POPULATION

According to Saunders et.al, (2009) indicates that “a population is defined as the full set of incidences from which a sample is selected, an alternative definition states, a population is the comprehensive set of occassions, people, or events to which findings are to be discussed and conclusion is reached”.

Moreover, a well defined population is the total quantity of the matters that is covered in the detailed description referred to as unit of analysis. At this point, there is an estimated 10 million business organisations registered and trading across the world.

3.5 SAMPLING

According to Bryman & Bell (2010) a sample is described as a part of the population that is carefully considered for examination and analysis – it is a subset of the population. This is further emphasized by Saunders et.al, (2009) that the study, the sample selected was a non-probability sampling method, made up of people who are most conveniently available. In examining and investigating a selected sample, the researcher must be able to arrive at a conclusion from the representative of the population. Nonetheless, sometimes it is not practical to survey each unit of the population due to the size and extent of the population, as well as the resources that may be needed to undertake the exercise. For the researcher to make the said conclusion about the population, the researcher must determine

appropriate characteristics of the unit of analysis. Furthermore, an appropriate sample and its size are influenced by the purpose of conducting the research. As this study focuses on the secondary sources, the unit of analysis are clearly marked as follows:

- **Case studies** – these are recorded cases of events that resulted from non-compliance of corporate governance principle in reliable investigations and various media sites that are verified and trustworthy and regarded as facts and true statements.
- **Published research journals** – these includes signed off and published research papers and journals by relevant schools and research institutions including academic papers. The academic papers that focus on the business organisations that are selected or business organisations similar to those selected.
- **Independent Investigation Reports** – these include reports by appointed qualified investigators to investigate non-compliance to governance principles and are compiled and reported to Board/members and shareholders with the findings and recommendations
- **Annual Reports** – these are reports produced by organisations about the events and activities which transpired during the entire financial year. The reports also includes accompanying corporate governance reports by those charged with governance.
- Reports from relevant **authorities**;
 - **Public Protector (PP) Reports** – these reports are prepared and signed off by the PP investigating complains laid by the ordinary residents of the Republic for maladministration, corruption, theft and fraud. The findings would also be confirmed and validated and affirmed by the Courts.

The sampling of this study consists of pre-selected business organisations, and the selection was done based on:

- Size of the business organisation measured by organisation's public interest score, the strength of the balance sheet and size of the workforce.
- Year and time of the corporate scandal and failure.
- The impact of the losses in both quantity and quality.
- Intensity of the scandal i.e. how deep was the scandal and how many stakeholders were affected (both qualitatively and quantitatively)?

The above selection process has been considered to be appropriate for the study. The selected business organisations and their background are:

1. Steinhoff International Holdings NV – Privately owned organisation

Steinhoff is a South African listed international retail holding company whose main business is the sale of furniture on other 6 (six) regions including Europe, Africa, Australia, New Zealand, United States, and Asia. Steinhoff has a dual listing in South Africa and Germany.

2. VBS Mutual Bank – Privately owned organisation

VBS was a registered mutual bank in South Africa which functioned in Limpopo and was placed under final liquidation in 2019. The bank functioned as a mutual bank with branches in Limpopo and mainly in Venda. The mandate of the bank was to provide financial services to the elderly and the rural people.

3. Tongaat Hullet – Privately owned organisation

Tongaat Hullet is a business that produces various animal feeds, sugar, and other products. The organisation mainly operates in the Northern parts of KwaZulu-Natal and has its footprint in South African Development Community (SADC) countries.. The organisation was founded and established by Mr Hulett in the late nineteenth century. The organisation is listed on the Johannesburg Stock Exchange, however its share trading was suspended in June 2019.

4. South African Broadcasting Corporation (SABC) – Government owned organisation

The SABC is the national broadcaster wholly owned by the South African government. The main purpose for the organisation is to communicate with various communities, providing news and entertainment. The SABC is listed in the PFMA of 1999 as a schedule 3A entity.

5. South African Airways (SAA) – Government owned organisation

SAA is a national courier which was named Africa's best airline in 2016. The airline has not produced a set of Financial Statements in the past 5 years (from 2015 to 2020) and had liquidity and profitability challenges. The airline changed 10 CEOs in the past 10 years (from 2009 to 2019). SAA is wholly owned by the government and is listed in the PFMA of 1999 as a schedule 3A entity.

6. Volkswagen (VW) – Foreign owned organisation

VW is a German automaker founded in 1937. VW was designated the world's largest car manufacturer in 2016 and 2017 (Schmitt, 2017). VW's largest market is China which accounted for 40% of sales in 2017.

3.6 RELIABILITY AND VALIDITY OF DATA COLLECTED

According to Welman et al., (2006) reliability focuses on the factuality of the study and relays to the trustworthiness of the results. Saunders et al (2009) describes validity as the extent to which the research findings accurately represent what is happening in the situation. According to Wagner, Kawulich & Garner (2012) other researchers describe reliability as the extent to which test scores are accurate, consistent and stable, over different forms of the same instrument or occasions of data collecting. For this study that is based on secondary sources.

3.7 ETHICAL CONSIDERATION

According to Myers (2013) ethical deliberations are a vigorous feature of a study, including certifying the protection of the student, the voluntary participants and the status of the academic establishment. Blumberg et al., (2008) further argues that "ethics is the study of the right behaviour and addresses the question of how to conduct research in a moral and responsible manner". During the study, the researcher acquires an ethical and moral obligation and duty

to notify subjects within the study.

The following ethical requirements were considered during the research study.

- i. There is no harm to participants – no participants were involved in this study.
- ii. Informed consent – no consent form was signed.
- iii. Privacy – no participants were involved in this study. The secondary sources are public knowledge information which are easily accessible for analysis and information and can be accessed on the internet.

3.8 RESEARCH LIMITATIONS

Limitations are potential faults and flaws in a study and are usually not controllable by the researcher (Simon, 2011:2). When a sample is selected in a study similar to the one used in this study, it is possible to apply the results of the findings to the broader population of business organisations that have not complied with corporate governance principles and

suffered material losses. This study was limited to 6 businesses and the sampling obtained from actual case studies recorded, verified and completed. Due to time limits and the COVID19 restrictions, this study may have to be stretched and lengthy to all business organisations that have experienced first hand the collapse due to non-compliance to the corporate governance principles that have failed and had material losses.

3.9 RESEARCH OUTCOMES

The study outcomes and results are a conclusion of the enquiry and examinations of the selected and assessed case studies and reports obtained from the research which in this research was mainly from secondary sources.

3.10 CONCLUSION

The purpose of this chapter was to give in detail the research methodology applied for this study. The first part focused on the research design which describes the type of research study conducted. In this study the qualitative method was selected to be proper and appropriate.

Furthermore, the population was discussed and was stated that an estimated 10 million business organisations are registered and functioning. The population was considered to be enormous and high in numbers. A sampling method was discussed, and the reasons for selecting 6 (six) business organisations was discussed in detail and conclusions and recommendations are further discussed in chapter 4.

The researcher is confident with the research methodology especially how the sample was selected and confirmed. All ethical requirements were noted and observed, and this grants the researcher the assurance to trust on the integrity of the data obtained herein.

3.11 SUMMARY

A research methodology utilised to achieve the research aims was to warrant that the problem statement is appropriately stated and engaged. The study methodology applied is reasonable to achieve the objectives. The next chapter analyses the findings against the set principles of corporate governance.

CHAPTER 4: FINDINGS AND DISCUSSION

4.1 INTRODUCTION

The examination and analysis of information is a requirement for any research study. The analysis of data collected through a non-statistical techniques is basic and simple. The data does not need to be classified into categories. The data in this study is from secondary sources which is not statistical but is drawn from previously reported facts. The data to be analysed is simple, ordinary and theory based as it is non-numeric in nature. The analysis will test if the data collected achieves the theory discussed in chapter 1. The results will determine the recommendations and possible future studies.

4.2 FINDINGS AND DISCUSSION

The business organisations selected are discussed in no particular order.

4.2.1 Steinhoff International Holdings NV – Privately owned organisation

Steinhoff is a South African listed international retail holding company whose main business is the sale of furniture other 6 (six) regions including Africa, Australia, New Zealand, United States, and Asia. Steinhoff has a dual listing both in South Africa and Germany.

On the 6th of December 2017, market news reported that Steinhoff (SNH) CEO Marcus Jooste resigned overnight. This was due to accounting irregularities which lead to Steinhoff not publishing their results on the expected date. The announcement led to the loss of share value of 95% to R17 per share. The loss resulted in the PIC incurring losses equivalent to R12 billion in share value. PIC's mandate is to invest government employee funds in various organisations to maximise investment income from the market trade and benefits.

Based on the overview forensic investigation released on the 15 March 2019 conducted by PwC, the details are below.

The scope of the Steinhoff Report (2019) includes examined:

1. allegations of material accounting irregularities and overriding of laws and regulations by Directors;
2. issues and findings raised by the external auditor, Deloitte (Steinhoff, 2019);

The key findings of the report were:

1. A collection of Steinhoff Group former Executives and other non-Steinhoff Executives, directed by a Senior Management Executive inflated the income, marginal income and

assets of the Group from 2012 to 2017 (Steinhoff Report, 2019).

Directors contradicted principle 8 of King IV: *Principle 8: The Board should ensure there is independent judgement in its own structures for work delegation which will have stability in sharing of duties efficiently and effectively (IoDSA, 2016:54).*

The Social and Ethics Committee did not discharge its duties of formulating policies and procedures to ensure that ethic codes and standards are constantly adhered to and declared by those charged with governance. As the ethics standards were often ignored by those charged with governance, communication was discovered where Executives instructed Non-Executives to inflate financial statement amounts.

Irregular transactions were contracted with parties which appeared as independent business organisations to Steinhoff Group but were actually related parties. Furthermore, fraudulent and other irregular income was developed at the Group level which were then allocated to subsidiaries which did not perform. These were then classified as contributions that were regarded as different forms which either increased income or reduced expenses in those subsidiaries. The subsidiaries then received cash from within the Group resulting in intercompany loans and receivables.

The material transactions acknowledged in the Steinhoff Report are described as follows:

- (1) Overstatement of income and assets;
- (2) Reallocation of items to assets;

From the findings of the investigation, it is distinct that corporate governance principles were ignored by those charged with governance. The second non-compliance of the corporate governance principles is the active lack of involvement by the Audit and Risk Committees. The duty of the audit committee is to provide for the honesty and fairness of the annual financial statements, the audit committee failed to assess the integrity of the financial statements and the neutral/impartiality auditors in charge of the regulatory audit. KPMG were auditors of Steinhoff Group and did not in their audit identify the risk that published financial statements may have errors resulting from fraud and error. The audit committee failed to also provide oversight of the external auditors and the finance department of the Steinhoff Group.

(a) Colluding of Directors to perform accounting irregularities - Violation of ethics and corporate governance principles.

The above concluded findings reveal that the Directors of Steinhoff did not practice adequate corporate governance principles and ethics by deliberately inflating the profits of Steinhoff

since 2009 (for almost a decade). The report states that the 3 Directors; Mr Markus Jooste (former CEO), Mr Dirk Schreiber (former Head of Finance Germany division), Mr Ben la Grange (former CFO), Mr Stehan Grobler (former Company Secretary) and 3 other Directors in their foreign operations colluded in performing the irregularities. Although the report does not state the names, it can be assumed that the Directors and Senior Management refers to the above as they were involved in the daily operations of Steinhoff Group.

(b) Lack of oversight by Audit Committee, Ethics Committee and the Shareholders Committee

King IV states that the committee in charge of audit and fairness of financial statements should supervise the financial and possibly risks that might impair the honesty and fairness of the Accounting Reports issued by the organisation in the Annual Report. The above findings prove that oversight by the independent committee (audit and risk committee) was not effective, the right questions, to the right person were not asked since 2009. The audit committee which is required and charged with ensuring that the internal controls are adequate and implemented to prevent possible fraud and error as well as to ensure that financial statements are fairly present in all material respect, giving assurance that transactions are accurate, valid and complete.

(c) Independence of the Chairperson was not maintained

Practice 31 states that the governing body should elect an independent Chairperson Non-Executive member as chair to lead the Board in the objective and effective discharge of this governance role and responsibilities (IoDSA, 2016:53).

From the biography of Mr Markus Jooste, it is understood that Mr Markus Jooste completed his training articles in a company that was owned by Mr Christo Wiese. Mr Christo Wiese was the Chairperson of Steinhoff while Mr Markus Jooste was the CEO at the time of scandal. The Chairperson is not fully independent, he has a familiarity threat with the CEO which could have led to him not performing his role with due care and skill. As the saying goes, familiarity breeds contempt.

(d) Losses incurred from failure to implement corporate governance

According to PwC Report, it has been confirmed that Steinhoff lost 96% amounting to US\$7.2 billion (R88.6-billion) market value from the accounting irregularities scandal which was reported in December 2017, this loss was actually was for one day (06 December 2017). The most affected investor, the PIC investing the public servants' pension funds lost R19

billion. Mr Christo Wiese, the Chairperson, as a major shareholder (owning 23% shares) is estimated to have lost R28 billion in share value.

The total losses in share value amounted to R100 billion as of 7 December 2017 in value by all shareholders, the worst loser was South Africa's fourth richest person, Christo Wiese, who lost an estimated R50 billion, Mr Wiese was the largest investor in Steinhoff. The impact of the Steinhoff collapse resulted in Mr Wiese moving from being the 4th richest person in South Africa in 2016 and placed him outside the top 10 richest people in South Africa. The losses in Steinhoff Group remained material to PIC, Mr Wiese and the general investors.

4.2.2 Venda Bank Services (VBS) Mutual Bank – Privately owned organisation

VBS was a registered mutual bank in South Africa which functioned in Limpopo and was placed under final liquidation in 2019. The bank functioned as a mutual bank with branches in Limpopo, mainly in Venda. The mandate of the bank was to provide financial services to the elderly and the rural people. The bank was formed and named as "Venda Building Society" in the early 80's, and subsequently a mutual bank in the early 90's. During 2016 the bank announced that it had approximately more than thirty thousand (30,000) effective depositors, and deposits equalling a total of R800 million.

Management and governance structure comprised of:

- a) Andile Ramavhunga – CEO and Executive Director
- b) Paul Magula – Non- Executive Director
- c) Ernest Nesane – Executive Head & Legal Counsel
- d) Phalaphala Ramikosi – Non-Executive Director & Chairman of the Audit Committee
- e) Hlohonolofatso Mcwazzer – Business Development Manager
- f) Bhekwayinkosi Manyaka – Chief Banking Officer
- g) Yolanda Deale – Accountant
- h) Dudley Fatcher – Information Systems Manager
- i) Mulimisi Maposa – Managing Director of Retail
- j) Ntendeni Nemabubuni – General Manager: Sales
- k) Philip Tshililo – Branch Manager: Thohoyandou Branch

In April 2018 report results provided by the curator showed excessive losses in VBS, the CEO of the Prudential Authority, appointed Advocate Mudau SC to investigate the conduct and financial dealings and operations of VBS.

The main aim and goal of the investigation was to uncover:

- Activities of VBS were directed with any resolution to defraud stakeholders of the bank;
- VBS' business activities where contradicting best practices, business ethics and non-disclosure, with the motive to deceive and defraud clients and other stakeholders; which resulted in the irregular behavior by the Directors, management, staff.

Paragraph 38 of The Great Bank Heist Report states that “Ramavhunga admitted through examination that he, through Dambale, received the sum of R15 million from Vele’s banking account on 5 October 2017. The report further states that Ramavhunga “admitted that he had received, through Dambale and a company named Munyai, a series of monthly payments of R300 000 from the bank accounts of Vele Petroport (Pty) Ltd and Vele over the period July 2016 to February 2018. He also received R1 million in December 2016”. However, Andile Ramavhunga vehemently “denied that any of these payments were untoward. He stated that the R15 million was paid to Dambale in respect of a fee earned by him for introducing Matodzi to the vendor of the shares in Mvunonala Holdings (Pty) Ltd ("Mvunonala") which he said were acquired by Vele in September 2017”. He further stated “that the monthly payments of R300 000 and the R1 000 000 payment were earned as management fees for work that he had done in respect of a joint venture between two of VBS’ fuel finance customers, Belton Park and Mmampilo”.

Paragraph 48 – 49 of the report states that “three of the Non-Executive Directors of VBS, being Magula, Nesane and Ramikosi, all confessed that they had been rewarded in an improper manner. Magula, after first giving a lot of false evidence in this regard, eventually found himself constrained to retract his prior evidence and to seek immunity against self-incrimination”. Ramavhunga testified as follows:

“Hekima Capital (Pty) Ltd and Investar Connect Holdings (Pty) Ltd were front companies which were his vehicles for receiving payments from Vele and Vele Petroport amounting to in excess of R7.6 million; and in return for those payments, Matodzi was buying silence from those that could speak the truth”.

Advocate Terry Mudau further states in paragraph 47 that “Mr Andile Ramavhunga (CEO) in paragraph 47 that Ramavhunga would have me believe that, despite the fact that he was

the CEO of VBS for the better part of four years, he was blissfully unaware of what was going on under his nose. I simply do not believe him. In my view it is abundantly clear that Ramavhunga was a central and active participant in the unlawful conduct of VBS' affairs, who was very well rewarded for his complicity".

Mr Andile Ramavhunga proved to be unethical in his conduct as CEO. Principle 1 of the King Code had been substantively violated. Mr Ramavhunga failed to practice principles of ethics which are Integrity, Competence, Responsibility, Fairness, Transparency and most importantly Accountability.

Principle 2 states that the Board should govern the ethics of the business in a way that supports the establishment of ethical culture (IoDSA, 2016:44).

The three Non-Executive Directors received improper payments which contradicted the principle of the Board governing with ethics and establishing an ethical culture.

The improper conduct by the Non-Executive members by agreeing to receive improper payments, and not declaring the payments received to the relevant committees and shareholders.

The Board showed no application of ethics in execution of their fiduciary responsibilities as entrusted by the shareholders and owners of the mutual bank. The unethical behaviour cascaded down to lower level staff falling into the trap of receiving large sums of money for their silence. Paragraph 70 of the report states that "Mukhodobwane stated that Nemabubuni dealt directly with the municipal officials and he would inform Mukhodobwane what amounts were required from time to time to bribe municipal officials and funds would then be drawn in cash or transferred from an account at VBS operated in the name of Robvet (Pty) Ltd" ("Robvet"). Mr Nemabubuni as a General Manager: Sales also acted unethically in his conduct. This proves that the unethical culture had filtered to even lower ranking staff members".

Principle 7 states that the Board should select an impartial and none day to day Executive to lead the committee in charge of the audit (IoDSA, 2016:50).

Paragraph 56.2.3 of the Great Heist Report states that the sum of greater than R250 000 in later 2017 was mainly for audit Chairman, Mr "Ramikosi's" advantage while no work was done to earn it.

Paragraph 56.7 of the report also states that disdain this concern, Ramikosi continued to contend that he did accept funds from VBS' Chairman, Mr Matodzi, for absolutely performing

nothing for VBS, he *"could still create a distinction between what needed to be done. I had kept a separate view of the transaction and the work I needed to do for the bank"*.

Mr Ramikosi seems to have been involved in the operations of the bank and subsequently received payments from the bank and its subsidiaries or related parties. Such involvement suggests that his independence as the audit committee Chairperson was impaired.

The close relationship that Mr Ramikosi had with the Chairman and majority shareholder of the bank also further caused a possible conflict thus impairing his objectivity and independence as chair of the audit committee.

The report concludes by stating that it emerges from the Forensic Accountants' Report that the amount of R1 894 923 674 was gratuitously received from VBS by some fifty-three persons of interest, both natural and juristic, over the period 1 March 2015 to 17 June 2018.

The above looting is a consequence of an organisation that had tuned a blind eye on the application of governance principles and ethics. The impact led to the bank being placed under curatorship and depositors and investors lost material and substantial investments amount which to some members were their life time savings and thus could not be recovered or paid back by the bank. The losses were so severe that the bank was finally liquidated as granted by the High Court on 13 November 2019. The losses to the investors and depositors have not yet been determined by the authorities. A liquidator has still to be appointed.

4.2.3. Tongaat Hullet – Privately owned organisation

Tongaat Hullet is a business organisation that produces various animal feeds, sugar, and other products. The organisation is mainly in the Northern parts of KwaZulu-Natal. The organisation was founded and established by Mr Hulett in the late nineteenth century. The organisation is listed at the Johannesburg Stock Exchange, however its share trading has been suspended and has its footprint in the SADC countries. In June 2019 Tongaat Hullet requested the JSE and LSE to suspend its listing simply because of accounting irregularities and thus postponing the release of the accounting results for the period ended 31 July 2019.

Tongaat said an ongoing financial review had revealed that certain past practices do not reflect the company's business performance accurately. The overstatements may have been related to the treatment of Tongaat's property assets, analysts have speculated.

Tongaat Hulett Limited contracted PwC to perform an analysis and investigation into the business and matters of the organisation. The following are key findings presented in the report.

According to the PwC Report (2019), the following are key findings identified and presented to the Board;

The PwC investigation found that:

- (i) certain Executives originated and contributed in implementing unauthorised accounting principles that caused in overstatement of revenue which was recognised in earlier reporting periods than it should have been, and in expenses being improperly classified as capital asset than operational expenses. This resulted in profits in the subsequent years to be overstated, and in the assets to be overstated and overvalued;
- (ii) there was a culture of lack of oversight of the accounting function resulting in employees processing accounting transactions, without questioning the principles behind the adoption of those accounting practices; and
- (iii) there were a few events of failure of governance and management oversight which the internal policies adopted and approved and guidelines were not fully complied with where Executives were actually processing accounting transactions in the financial reporting misstatements.

Principle 1: The Board ought to direct the business morally, ethically and efficiently (IoDSA, 2016:43).

The Directors and Senior Managers did not act ethically when passing certain accounting transactions which were contrary to the international standards of accounting as well as the JSE regulations. Capitalisation of expenses into assets understating expenses, overstating profits and assets is unethical and illegal, which amounts to a possible fraud and corruption. The Board did not assess the risk of unethical behaviour.

Principle 2: The Board should govern the ethics of the business in a way that supports the establishment of ethical and moral culture (IoDSA, 2016:44).

According to the Investigation Report, the Board did not lead ethically which led to some senior managers to follow the example set by the Board. Management normally follows what the Board prescribes and sets which in Hulett was no regard to the ethical standards.

Principle 8: The Board should ensure that its provisions for delegation within its own Board structures and committees to promote independent judgement, and assist with balance of power and the effective discharge of its duties (IoDSA, 2016:54).

The formation of a competent committee in charge of the audit is a legal obligation for Tongaat Hulett as a JSE listed organisation. The main role of the audit committee is to

provide an impartial oversight regarding the financial affairs. The audit committee did not introduce policies to ensure that the accounting processes were adhered to, so the financial statements could be valid, complete and accurate.

The lack of corporate governance application has resulted in Tongaat Hulett shares being suspended in May 2019 and in August 2019 Tongaat Hulett requested a voluntary delisting from the London Stocks Exchange (LSE). The material loss of the share value was 65% resulting in a share price of R2 per share when the scandal was revealed.

4.2.4 SABC – Government owned organisation

The SABC is the national broadcaster wholly owned by the South African government. The main purpose for the organisation is to communicate with various communities, providing news and entertainment. The SABC is listed in the PFMA of 1999 as a schedule 3A entity.

Principle 8: The Board should ensure there is independent judgement in its own structures for work delegation which will have stability in sharing of duties efficiently and effectively (IoDSA, 2016:54).

The Board should consider allocating oversight of remuneration to a deducted committee, or adding to the responsibility of another as is appropriate for the organisation. The SABC was entangled in a maladministration and alleged corruption in 2013 which were deemed to be directly linked to non-compliance with governance principles.

According to the Public Protector's Report titled "When governance fails" (2014) (a) The alleged irregular appointment and salary progression of Mr. Hlaudi Motsoeneng, I find that:

1) "The allegation that the appointment of Mr Motsoeneng as the Acting Chief Operating Officer (COO) was irregular is substantiated and by allowing Mr Motsoeneng to act for a period in excess of three months without the requisite Board resolution and exceeding the capped salary allowance, the SABC Board acted in violation of the SABC's 19.2 Articles of Association which deals with appointments, SABC Policy No HR002/98/A-Acting in Higher Scale and Chapter 5 of the Broadcasting Act, which regulates acting appointments and this constitutes improper conduct and maladministration (Public Protector, 2014)".

2) "The former SABC Board's Chairperson, Dr Ben Ngubane further acted irregularly when he ordered that the qualification requirements for the appointment to the position of COO be altered to remove academic qualifications as previously advertised, which was clearly aimed at tailor making the advert to suit Mr Motsoeneng's circumstances and this constitutes improper conduct maladministration and abuse or unjustifiable exercise of power (Public Protector, 2014)".

3) “The allegation that Mr. Motsoeneng’s salary progression was irregular is also substantiated in that Mr Motsoeneng received salary appraisals three times in one year as alleged, hiking his salary as Executive Manager Stakeholder Relations from R 1.5 million to R2.4 million. His salary progression as the Acting Chief Operations Officer concomitantly rose irregularly from R122 961 to R211 172 (63% increase) in 12 months and was in violation of Part IV of SABC’s Personnel Regulations and SABC Policy No HR002/98/A-Acting in Higher Scale and this constituted improper conduct and maladministration (Public Protector, 2014)”.

4) “While I have accepted the argument presented by Mr Motsoeneng, the current GCEO and the Chairperson of the current Board that salary increases at the SABC are negotiated without any performance contracts or notch increase parameters, I am unable to rule out bad faith in Mr Motsoeneng in the circumstances that allowed 3 salary increases in one fiscal year resulting in Mr Motsoeneng’s salary being almost doubled (Public Protector, 2014). The discomfort with the whole situation is accentuated by the fact that all were triggered by him presenting his salary increase requests to new incumbents who would have legitimately relied on him for guidance on compliance with corporate prescripts and ethics. It cannot be said that he did not abuse power and/or his position to unduly benefit himself although on paper the decisions were made by other people (Public Protector, 2014). The approval of Mr Motsoeneng’s salary increments by the GCEO’s and the Chairperson of the Board at the time, Dr Ben Ngubane was, accordingly, irregular as it was in violation of Part IV of SABC’s Personnel Regulations and SABC Policy No HR002/98/A-Acting in Higher Scale and constitutes improper conduct, abuse of power and maladministration”.

Acting COO’s salary was increased by 63% without being approved by the remuneration committee. This is a violation of corporate governance and has fraud and corruption elements.

The responsibility of salary adjustments for Executives and Senior Managers solely lies with the remuneration committee and is not an operational matter which should be attended to by the GCEO. According to the PP Report, the Group Chief Operating Officer (GCOO) salary adjustment was approved by the Board Chairperson and GCEO.

Principle 7: The Board should consist of a proper and suitable and stability of knowledge, ability, competence, mixture and impartiality for it to perform its control of position and responsibilities objectively and effectively (IoDSA, 2016:50).

The governing body should elect an independent Chairperson Non-Executive member as chair to lead the governing body in the objective and effective discharge of its governance role and responsibility.

The Chairperson of the Board seems not to be independent when he ordered that the qualifications of the GCOO be altered to remove the academic requirement. The Chairperson's actions are familiar to the GCEO and do not reflect the act of independence both in mind and appearance. Recruitment of staff is the function of management and not the Board or its Committees. The Chairperson is acting in the operations of SABC.

The above violation of principles of corporate governance placed the SABC in a vulnerable position, thus incurring multiple losses from 2018 to 2020. The SABC maladministration continued and in 2020 SABC announced a section 189 restructuring and retrenchments due to financial losses and maladministration.

4.2.5 SAA – Government owned organisation

SAA is a national courier which was named Africa's best airline in 2016. The airline has not produced a set of Financial Statements in the past 5 years (from 2015 to 2020) and has liquidity and profitability challenges. The airline has changed 10 CEOs in the past 10 years (from 2009 to 2019) . SAA is wholly owned by the government and is listed in the PFMA of 1999 as a schedule 3A entity.

Principle 1: The Board ought to direct the business morally, ethically and efficiently (IoDSA, 2016:43).

Former SAA Board Chairperson Dudu Myeni allegedly ordered that a lucrative catering contract be given to a company on whose Board she served. The contracts, for catering services at airport lounges, was allegedly withdrawn from the successful bidder and were given to the Chairperson aligned company that did not win the bid.

The Chairperson did not declare Board membership of the supplier which was granted the contract. The Chairperson did not act ethically and in accordance with the governance.

- Integrity – did not act in good faith and honesty,
- Responsibility – did not take responsibility for anticipating, preventing the negative outcomes of the organisation's activities and output,
- Accountability – was not willing to answer for execution of responsibilities,
- Transparency – was not transparent in disclosing the conflict of interest.

Principle 7: The Board should consist of a proper and suitable and stability of knowledge, ability, skills, competence, experience, mixture and impartiality for it to discharge its control of position and responsibilities objectively and effectively (IoDSA, 2016:50).

The Board should appoint an impartial Chairperson non-day to day member as Chairman to drive the Board in a fair and equitable execution of its controlling role.

The Chairperson seems to be involved in the operations of the organisation. Tender process should be the responsibility of management and not the Executives or those charged with governance. The Chairperson interfered with the normal course of running the business.

The violation of ethics and corporate governance principles resulted in SAA incurring excessive material losses. During the State Capture Commission testimonies, SAA officials implicated the involvement of the Chairperson.

4.2.6. VW – Foreign owned organisation

VW is a German automaker founded in 1937. VW was crowned the world's largest car manufacturer in 2016 and 2017. VW's largest market by sales is China which accounted for 40% in 2017.

Volkswagen: emissions cover up

Volkswagen may well have won the prize for corporate villain of the year in 2015 following revelations

that the German car manufacturer had installed software designed to cheat nitrous oxide (NOx) emissions tests in up to 11m of its diesel cars. The scandal widened in November when it emerged the company may also have been reporting its CO₂ emissions incorrectly.

Principle 1: The Board should lead morally, ethically and efficiently (IoDSA, 2016:43).

The Board should lead the organisation that minimises the impact and damage of the environment for the continuous use from generation to generation.

Principle 3: The Board should ensure that corporation is seen to be an accountable citizen (IoDSA, 2016:45).

Falsifying reporting is a major non-compliance in governance. VW under-reported their CO₂ emissions. This has a negative impact in the global warming and the organisation did not act as a responsible corporate citizen in reporting environmental matters.

As part of the sustainability, emissions cause global warming and change in weather patterns, more sicknesses and disease outbreaks and instability to the world's economies. VW reported understatement of carbon emissions caused by the use of the manufactured vehicles. The United Nations (UN) has set a target for countries to decrease emissions in order to slow global warming for future generations (UN Development Goals, 2015).

4.3 SUMMARY

This chapter was mainly focusing on the analysis of the sample selected against the set principles of governance as clearly published in the King Report. Based on the assessment and analysis;

1. Steinhoff – the business organisation contravened principle 8 of the King Report. The Board committees did not perform its duties independently and in the best interest of the organisation.
2. VBS – the bank's Executives contravened principle 1 of the King Report. The Executives discharged funds by the depositors to its Executives without any valid services rendered to the bank. The bank transactions did not have proper supporting documents.
3. Tongaat Hulett – the business organisation contravened principles 1, 2 and 8 of the King Report. Transactions were processed and passed without proper and valid supporting documents and calculations. The fraudulent transactions were recorded to inflate the profits and assets thus creating a fictitious value.
4. SABC – the state owned organisation contravened principle 7 of the King Report. The Chairperson did not seem independent from the operations of the organisation when he altered the vacancy academic requirements of the position of the GCEO when a person without a matric qualification was appointed to run the organisation. The GCEO then increased his own salary three times in one calendar year which was rendered irregular by the PP.
5. SAA – the state owned organisation contravened principle 7 of the King Report. The Chairperson was not independent and interfered with the operations of the organisation by ordering the approval of the wasteful catering contract to a company which did not even bid for the contract.
6. VW – the foreign owned organisation contravened principle 3 of the King Report through falsification of the Emissions Report from reporting higher emissions to lower emissions. Such emissions contribute in negative climate conditions and worst weather patterns.

The findings are serious violations of King Report and the business organisations have suffered material losses from the non-compliance. The next chapter will discuss the conclusion and recommendations of the research study.

CHAPTER 5: CONCLUSIONS AND RECOMMENDATIONS

5.1 INTRODUCTION

The reason for this chapter is to finalise the research based on the aims laid-out in the introduction. The chapter also presents endorsements to address future research studies. The aim of this study is to examine the non-compliance to governance principles in selected business organisations resulting in material losses. Further to this, ethics were introduced and explained, and followed by the discussion of the principles of corporate governance. Lastly, the concept of material losses was discussed.

The research objectives were defined, the chapter determined whether the results which were projected to have been accomplished or not. A detailed discussion arises to determine if the reviewed literature and the secondary sources added towards replying to the research aims and objectives and answering the research questions.

The results and outcomes is greatly well informed by the examination utilised in Chapter 3 as well as a well defined literature review. The literature reviewed, analysis, the understanding and application of corporate governance principles remained a challenge for many business organisations such as listed businesses, government departments and public entities. The literature review noted that the principle of corporate governance is developed from ethics and where non-compliance is experienced, management and governance will fail and thus material losses will result in either total failure, devaluing of shares, business rescue proceedings or liquidation. According to Macey & O'Hara (2003) stated that a majority of developed countries have made strides and restated how businesses should develop and implement corporate governance principles. Garanina & Kaikova (2006) agrees that compliance with the relevant corporate governance principles should reduce costs and ensure improved business performance. Furthermore, good governance in all business organisations must show effective leadership and management. Effective leadership improves inspirations to achieve aims and objectives which are at the beginning of the set up (Kehinde et al., 2016:38). As further explained, ethics are at the critical centre of the corporate governance principles.

Several absences and shortages were perceived in the literature and during the analysis of the selected case studies. The analysis and the recommendations are:

a) Any possible conflicts between the key principles of corporate governance, JSE regulations and Companies Act.

- b) The assumption that the finances are not a key factor that impact on the execution of governance, and
- c) Corruption and greed are considered to be the main driver of corporate governance failures and business collapse.

5.2 RECOMMENDATIONS

According to ACCA (2010:6), a piloted and guided assessment on corporate leadership and control provided various suggestions that authorities, all sectors' businesses should ensure there is a common understanding among Board and Senior Executives regarding ethical standards. ACCA further states that "a recommendation requires of individuals and Board members charged with governance to put in place codes of governance or frameworks that are proper and relevant to facilitate novelty and enhancement in practice and such codes to be flexible and adjustable to organisational requirements to ensure optimal gains. Effective leadership ensures roles and responsibilities for strategic and operational governance and ethical practices are clear to both governing body members and employees. Good and effective leadership and governance are pivotal to the success of any organisation, sector or economy".

King Report states that rigorous principles of corporate governance are the basis for the integrity and reputation of any business organisation, and the King IV Report recommends implementation of corporate governance principles regardless of the form of the institution. This expectation implies that the principles contained in the King IV Report should be applied by the entities that were the subject of this study (IoDSA, 2016:75).

Good governance principles are critical in cultivating and refining the status of any business keen to above average presentations as stated by Chamlou and Iskander (2000) which further stated that corporate governance enables fairness, accountability, responsibility and transparency across business organisations. There is a correlation between the implementation of governance principles and the performance of the business organisation. It remains a concern that major listed business organisations with major capital investments, market capitalisation and number of employees and mostly the legal framework of the business organisation.

In the literature review, the corporate governance was explained in great details and its relevance to any business organisation fully explained. The active participation by those charged with governance should be placed as a priority that should be achieved at all cost. The cost of reputational damage due to a non-compliance to corporate governance

principles is far worse than the cost of ensuring that the principles are adhered to. Preventing and correcting corruption and adherence to settings of integrity and honesty is the most important challenge for governance within South Africa (McGregor, 2014). Fraud and corruption have been the greater motivator of major corporate governance scandals, greed remains the ultimate enemy of non-compliance to corporate governance.

Business organisations should develop ethics aligned, policies and procedures to mitigate against the non-compliance to corporate governance and ethics. These policies will remain critical in the implementation of corporate governance principles and standards in business organisations.

It was noted also during the analysis that some committee Chairpersons and independent Non-Executive Directors assume the responsibilities of management. The distinction of Non-Executive and Executive Directors should be clearly defined and shareholders and owners should be clearly educated and trained.

The business organisations must also consider that there is a process to enforce ethics such as declarations, background checks and many processes to maintain that Directors do have a process to be ethical at all times.

5.3 CONTRIBUTION TO THE STUDY

The contribution to the study was as described below:

1. Explaining and construct the major concepts of corporate governance by introducing literature that confirms the principles of corporate governance.
2. The other literature studies that support the King Report such as the Companies Act.

5.4 CONCLUSION

The corporate governance principles when properly applied ensures that the business organisations achieves business strategic objectives. The non-application of corporate governance has led various listed and major business organisations to collapse, and experience excessive losses.

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