

TERMS OF REFERENCE: SOCIAL, ETHICS & TRANSFORMATION COMMITTEE



Ref. 747280

1. PURPOSE

The purpose of the Social, Ethics & Transformation Committee (the “Committee”) is to act as a formal sub-committee of the SAICA Board (the “Board”) and to assist the Board in ensuring that the Board discharges its oversight responsibilities with regard to safety, security, health, environmental, social, ethics, transformation and sustainable development matters and stakeholder relationships, to ensure the Institute upholds the principles of good corporate citizenship and conducts its business in an ethical and sustainable manner.

2. AUTHORITY

- 2.1. The Committee is a committee of the Board of SAICA (“the Board”) from which it derives its authority and to which it regularly reports.
- 2.2. The Committee has delegated authority from the Board in respect of the responsibilities and powers set out in these Terms of Reference.
- 2.3. The Committee has authority to investigate any matter within its area of responsibility and to obtain such information as it may require from any officer of the institute, its employees or its members.
- 2.4. The Committee may sub-delegate some and or all of its powers and authority as deems fit, including without limitation the establishment of sub-committees to analyse particular issues or themes or to report back to the Committee. For the avoidance of any doubt, the Committee’s power to sub-delegate shall not entitle the Committee to abdicate its responsibilities set out in these Terms of Reference.

3. SCOPE

- 3.1. The governance framework over which the SAICA Board has a monitoring and oversight responsibility includes:
 - 3.1.1. SAICA;
 - 3.1.2. The Hope Factory;
 - 3.1.3. The Thuthuka Education Upliftment Fund;
 - 3.1.4. SAICA Enterprise Development; and
 - 3.1.5. any other legal entity under SAICA’s management and/or control.
- 3.2. The Board has the ultimate responsibility to create a transparent and conducive environment and ensure that an adequate and effective process of corporate governance is established and maintained.
- 3.3. The Committee is appointed by the Board to assist the Board in discharging its oversight responsibilities over those entities listed in paragraph 3.1 above.

4. CONSTITUTION

4.1. Chairperson

- 4.1.1. The Chair of the Committee will be a Board member and will be appointed by the Board.
- 4.1.2. In the absence of the Chair of the Committee, the remaining members present at a meeting shall elect one of themselves to chair the meeting.
- 4.1.3. The Chair does not have a casting vote.
- 4.1.4. The Chairperson (or in his/her absence an alternate member) of the Committee shall attend SAICA's annual general meeting to answer questions concerning matters falling within the ambit of the Committee.

4.2. Membership

- 4.2.1. The Committee will comprise at least three members of the Board, with relevant experience.
- 4.2.2. The Chair of the Board may be a member of the Committee but not its Chair.
- 4.2.3. Members of the Committee shall be appointed by the Board on the recommendation of the Nominations Committee of the Board;
- 4.2.4. In the case of co-opted members, appointments shall be made by the Board on recommendation of the Chair of the Committee.
- 4.2.5. Members can be co-opted onto the Committee (as determined by the Committee Chair) as the need arises to help fulfil the duties and obligations of the Committee.
- 4.2.6. Members may be removed from the Committee at any time by the Board.

4.3. Duration of appointments

- 4.3.1. Unless otherwise determined by the Board, the duration of appointments of members of the Committee and of co-opted members shall be for a period of up to three years which may be extended by the Board for an additional period of three years.
- 4.3.2. Membership will automatically terminate on the termination of a member's Board membership.

4.4. Secretary

- 4.4.1. The Board Secretary or his nominee shall act as Secretary to the Committee and attend all meetings.
- 4.4.2. The Secretary shall record the proceedings and decisions of the Committee meetings and the minutes shall be circulated to all members and attendees, as appropriate, taking into account any conflicts of interest or confidentiality requirement that may exist.

5. PROCEEDINGS OF MEETINGS

5.1. Meetings

- 5.1.1. The Committee shall meet at least twice a year and otherwise as required.

- 5.1.2. Meetings of the Committee shall be summoned by the secretary of the Committee at the request of the Committee Chairperson.
- 5.1.3. Unless otherwise agreed or waived by all members of the Committee, notice of each meeting confirming the venue, time and date, together with an agenda of items to be discussed, shall be made available to each member of the Committee and any other person required to attend, no later than 5 (five) Business Days before the date of the meeting. Supporting papers shall be sent to Committee members, and to other attendees as appropriate, at the same time.
- 5.1.4. The Committee shall dispatch its business, adjourn and otherwise regulate its meetings as it shall deem fit, including, but not limited to conducting meetings by means of a tele/video-conference or similar facility and approving items of business by written resolution.

5.2. **Quorum**

- 5.2.1. Any two members of the Committee may form a quorum.
- 5.2.2. A duly convened meeting of the Committee at which a quorum is present shall be competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the Committee.

5.3. **Attendees**

- 5.3.1. Only the members of the Committee and members of the Board have the right to attend Committee meetings.
- 5.3.2. The following attendees will be expected to attend Committee meetings on a regular basis:
 - 5.3.2.1. The Chief Executive Officer of SAICA
 - 5.3.2.2. The Chief Operating Officer of SAICA
- 5.3.3. Any other persons may attend at the invitation of the Chair of the Committee and they may collectively or individually be requested to withdraw from meetings of the Committee if required to do so by the Chair of the Committee.
- 5.3.4. On a regular basis, the Committee members shall meet separately "in Committee" without any member of Executive Management to discuss any matters that the Committee believe should be discussed privately. The Chair of the Committee shall advise the Board Secretary of the resolutions of such in Committee meetings for recording in the Committee minutes

5.4. **Resolutions**

- 5.4.1. The Committee shall reach decisions by a simple majority of those voting on the issue in question.¹

¹ SAICA Constitution approved 26 June 2019, Point 2.19: "**Ordinary resolution**" means a resolution of Members at a meeting at which a quorum is present in person or by proxy, and which requires more than 50% (fifty percent) of the votes cast to be in favour of the resolution; AND POINT 2.27: 2.27 "**Special Resolution**" means a resolution of Members at a meeting at which a quorum is present in person or by proxy, and which requires more than 75% (seventy five percent) of the votes cast to be in favour of the resolution;

5.4.2. Subject to the provisions of the SAICA Constitution² and applicable laws and regulations, a resolution in writing signed by a majority of the Committee shall be as valid and effectual as if it had been passed at a meeting of the Committee duly convened and held.³

5.5. Minutes

5.5.1. Full minutes of the Committee's meetings shall be recorded and kept by the Board Secretary or his nominee and such minutes shall be available for inspection at any reasonable time on prior reasonable notice by a Board member.

5.5.2. Draft and final versions of minutes of the Committee's meetings shall be sent to all members of the Committee for their comment and records, within a reasonable time after such meetings.

6. RESPONSIBILITIES

6.1. The Committee shall be responsible for, among others –

6.2. Monitoring SAICA's activities, having regard to any relevant legislation, other legal requirements or prevailing codes of best practice, with regard to matters relating to:

6.2.1. **Social and economic development as well as transformation**, including SAICA's standing in terms of the goals and purposes of –

6.2.2. The 10 principles set out in the United Nations Global Compact Principles in terms whereof SAICA should:

6.2.2.1. Human Rights

6.2.2.1.1. Principle 1: support and respect the protection of internationally proclaimed human rights; and

6.2.2.1.2. Principle 2: make sure that SAICA is not complicit in human rights abuses;

6.2.2.2. Labour

6.2.2.2.1. Principle 3: uphold the freedom of association and the effective recognition of the right to collective bargaining;

6.2.2.2.2. Principle 4: eliminate all forms of forced and compulsory labour;

6.2.2.2.3. Principle 5: effectively abolish child labour; and

6.2.2.2.4. Principle 6: eliminate discrimination in respect of employment and occupation;

6.2.2.3. Environment

6.2.2.3.1. Principle 7: support a precautionary approach to environmental challenges;

² SAICA Constitution approved 26 June 2019, point 6.10: **Written Resolutions:** Decisions taken by written resolution are valid decisions of the Board if signed by the majority of Board Members, provided all Board Members have given notice of the proposed resolution and have an opportunity of expressing their views on the resolution.

³ Board Charter (Appendix 1 of By-laws approved 26 June 2019), points 8.6, 8.6.1, and 8.6.2:

Decisions and Round Robin Resolutions. Resolutions taken at a meeting of the Board shall be decided by a majority of votes of members attending the meeting either in person or electronically. The Chairperson shall not have a casting vote in addition to his or her deliberative vote.

A decisions taken by a round robin resolution in writing signed by a majority of the Board Members shall be as valid and effective as if it had been passed at a meeting of the Board duly convened and constituted, provided where possible, all Board Members have been given notice of the proposed resolution and have had an opportunity to express their views on the resolution.

- 6.2.2.3.2. Principle 8: undertake initiatives to promote greater environmental responsibility; and
- 6.2.2.3.3. Principle 9: encourage the development and diffusion of environmentally friendly technologies;
- 6.2.2.4. **Anti-Corruption**
- 6.2.2.4.1. Principle 10: Businesses should work against corruption in all its forms, including extortion and bribery;

- 6.2.2.5. **The Organization for Economic Cooperation and Development (OECD)** recommendations regarding corruption which include:
 - 6.2.2.5.1. the development and adoption of adequate internal controls, ethics and compliance programmes or measures for the purpose of preventing and detecting bribery;
 - 6.2.2.5.2. the making of statements in SAICA's annual report or otherwise public disclosure of internal controls, ethics and compliance programmes or measures (including those which contribute to preventing and detecting bribery) adopted by SAICA;
 - 6.2.2.5.3. the provision of channels for communication by, and protection of, persons not willing to violate professional standards or ethics under instructions or pressure from hierarchical superiors, as well as for persons willing to report breaches of the law or professional standards or ethics occurring within SAICA in good faith and on reasonable grounds, and the taking of appropriate action (including the making of recommendations to the Board) based on such reporting; and
 - 6.2.2.5.4. internal monitoring of the Company's implementation of the OECD "Good practice guidance on internal controls, ethics, and compliance" a copy of which is annexed hereto as **Annexure 1**;

- 6.2.2.6. **The Employment Equity Act**, as amended the goals of which include:
 - 6.2.2.6.1. promoting equal opportunity and fair treatment in employment through the elimination of unfair discrimination; and
 - 6.2.2.6.2. implementing affirmative action measures to redress the disadvantages in employment experienced by designated groups, in order to ensure their equitable representation in all occupational categories and levels in SAICA;

- 6.2.2.7. **The Broad-Based Black Economic Empowerment Act**, as amended the goals of which include:
 - 6.2.2.7.1. promoting economic transformation in order to enable meaningful participation of black people in the economy;
 - 6.2.2.7.2. achieving a substantial change in the racial composition of ownership and management structures and in the skilled occupations of existing and new enterprises;
 - 6.2.2.7.3. increasing the extent to which communities, workers, cooperatives and other collective enterprises own and manage existing and new enterprises and increasing their access to economic activities, infrastructure and skills training;
 - 6.2.2.7.4. increasing the extent to which black women own and manage existing and new enterprises, and increasing their access to economic activities, infrastructure and skills training;

- 6.2.2.7.5. promoting investment programmes that lead to broad-based and meaningful participation in the economy by black people in order to achieve sustainable development and general prosperity;
 - 6.2.2.7.6. empowering rural and local communities by enabling access to economic activities, land, infrastructure, ownership and skills; and
 - 6.2.2.7.7. promoting access to finance for black economic empowerment.
- 6.2.2.8. **Good corporate citizenship**, including SAICA's -
- 6.2.2.8.1. Promotion of equality, prevention of unfair discrimination, and reduction of corruption;
 - 6.2.2.8.2. Contribution to development of the communities in which its activities are predominantly conducted or within which its products or services are predominantly marketed;
 - 6.2.2.8.3. Record of sponsorship, donations and charitable giving;
 - 6.2.2.8.4. The environment, health and public safety, including the impact of SAICA's activities and of its products or services; and
 - 6.2.2.8.5. Consumer relationships, including SAICA's advertising, public relations and compliance with consumer protection laws;
- 6.2.2.9. **Labour and employment**, including -
- 6.2.2.9.1. SAICA's standing in terms of the International Labour Organization Protocol on decent work and working conditions; and
 - 6.2.2.9.2. SAICA's employment relationships, and its contribution toward the educational development of its employees;
- 6.2.2.10. **Ensuring that SAICA's ethics is managed effectively** as recommended in principle 2 of the King IV Report on Corporate Governance for South Africa, 2016⁴, including –
- 6.2.2.10.1. Leadership on the direction for how ethics should be approached and addressed throughout SAICA;
 - 6.2.2.10.2. A strategy for managing ethics that:
 - 6.2.2.10.2.1. encompass the Institute's interaction with both internal and external stakeholders and the broader society; and
 - 6.2.2.10.2.2. address the key ethical risks of SAICA.
 - 6.2.2.10.3. Approve ethical standards as articulated in a code of ethics and supporting ethics policies;
 - 6.2.2.10.4. Structures, systems and processes are in place to ensure that the various boards, employee and supply chains are familiar with and adhere to SAICA's ethical standards;
 - 6.2.2.10.5. Ethics performance is included in the scope of internal audit and reported on in the SAICA's integrated annual report; and

- 6.2.2.10.6. Delegate to management the responsibility for implementation and execution of the codes of conduct and ethics policies.

7. REPORTING

- 7.1. Periodically, the Chair of the Committee shall report to the Board on matters within its duties and responsibilities.
- 7.2. Ensure that the Board is aware of matters that may significantly impact SAICA.
- 7.3. The Committee shall compile a report of the work of the Committee in discharging its responsibilities for inclusion in the Integrated report.
- 7.4. The Committee shall work and liaise as necessary with other Committees of the Board.

8. GOVERNANCE AND RESOURCES

- 8.1. The Committee shall, via the Secretary to the Committee, make available to new members of the Committee a suitable induction process and, for existing members, ongoing training as discussed and agreed by the Committee.
- 8.2. The Committee shall conduct an annual self-assessment of its activities under these Terms of Reference and report any conclusions and recommendations to the Board and, as part of this assessment, shall consider whether or not it receives adequate and appropriate support in fulfilment of its role and whether or not its annual plan of work is manageable.
- 8.3. The Committee shall in its decision making, give due regard to any relevant legal or regulatory requirements, and associated best practice guidance, as well as to the risk and reputation implications of its decisions (liaising where relevant with other Committees).
- 8.4. The Committee shall have access to sufficient resources in order to carry out its duties and have the power to engage independent counsel and other professional advisers and to invite them to attend meetings.

9. TERMS OF REFERENCE

The Committee shall annually review its Terms of Reference and may recommend to the Board any amendments to its Terms of Reference.

Version Control

21 November 2019	To be tabled at Board for approval

ANNEXURE 1

GOOD PRACTICE GUIDANCE ON INTERNAL CONTROLS, ETHICS, AND COMPLIANCE

This Good Practice Guidance was adopted by the OECD Council as an integral part of the Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions of 26 November 2009.

This Guidance is flexible, and intended to be adapted by companies, in particular small and medium sized enterprises (hereinafter “SMEs”), according to their individual circumstances, including their size, type, legal structure and geographical and industrial sector of operation, as well as the jurisdictional and other basic legal principles under which they operate.

A. Good Practice Guidance for Companies

Effective internal controls, ethics, and compliance programmes or measures for preventing and detecting foreign bribery should be developed on the basis of a risk assessment addressing the individual circumstances of a company, in particular the foreign bribery risks facing the company (such as its geographical and industrial sector of operation). Such circumstances and risks should be regularly monitored, re-assessed, and adapted as necessary to ensure the continued effectiveness of the company’s internal controls, ethics, and compliance programme or measures.

Companies should consider, inter alia, the following good practices for ensuring effective internal controls, ethics, and compliance programmes or measures for the purpose of preventing and detecting foreign bribery:

1. strong, explicit and visible support and commitment from senior management to the company's internal controls, ethics and compliance programmes or measures for preventing and detecting foreign bribery;
2. a clearly articulated and visible corporate policy prohibiting foreign bribery;
3. compliance with this prohibition and the related internal controls, ethics, and compliance programmes or measures is the duty of individuals at all levels of the company;
4. oversight of ethics and compliance programmes or measures regarding foreign bribery, including the authority to report matters directly to independent monitoring bodies such as internal audit committees of boards of directors or of supervisory boards, is the duty of one or more senior corporate officers, with an adequate level of autonomy from management, resources, and authority;
5. ethics and compliance programmes or measures designed to prevent and detect foreign bribery, applicable to all directors, officers, and employees, and applicable to all entities over which a company has effective control, including subsidiaries, on, inter alia, the following areas:
 - i. gifts;
 - ii. hospitality, entertainment and expenses;
 - iii. customer travel;
 - iv. political contributions;
 - v. charitable donations and sponsorships;
 - vi. facilitation payments; and
 - vii. solicitation and extortion;

6. ethics and compliance programmes or measures designed to prevent and detect foreign bribery applicable, where appropriate and subject to contractual arrangements, to third parties such as agents and other intermediaries, consultants, representatives, distributors, contractors and suppliers, consortia, and joint venture partners (hereinafter “business partners”), including, inter alia, the following essential elements:
 - i. properly documented risk-based due diligence pertaining to the hiring, as well as the appropriate and regular oversight of business partners;
 - ii. informing business partners of the company’s commitment to abiding by laws on the prohibitions against foreign bribery, and of the company’s ethics and compliance programme or measures for preventing and detecting such bribery; and
 - iii. seeking a reciprocal commitment from business partners.
7. a system of financial and accounting procedures, including a system of internal controls, reasonably designed to ensure the maintenance of fair and accurate books, records, and accounts, to ensure that they cannot be used for the purpose of foreign bribery or hiding such bribery;
8. measures designed to ensure periodic communication, and documented training for all levels of the company, on the company’s ethics and compliance programme or measures regarding foreign bribery, as well as, where appropriate, for subsidiaries;
9. appropriate measures to encourage and provide positive support for the observance of ethics and compliance programmes or measures against foreign bribery, at all levels of the company;
10. appropriate disciplinary procedures to address, among other things, violations, at all levels of the company, of laws against foreign bribery, and the company’s ethics and compliance programme or measures regarding foreign bribery;
11. effective measures for:
 - i. providing guidance and advice to directors, officers, employees, and, where appropriate, business partners, on complying with the company's ethics and compliance programme or measures, including when they need urgent advice on difficult situations in foreign jurisdictions;
 - ii. internal and where possible confidential reporting by, and protection of, directors, officers, employees, and, where appropriate, business partners, not willing to violate professional standards or ethics under instructions or pressure from hierarchical superiors, as well as for directors, officers, employees, and, where appropriate, business partners, willing to report breaches of the law or professional standards or ethics occurring within the company, in good faith and on reasonable grounds; and
 - iii. undertaking appropriate action in response to such reports;
12. periodic reviews of the ethics and compliance programmes or measures, designed to evaluate and improve their effectiveness in preventing and detecting foreign bribery, taking into account relevant developments in the field, and evolving international and industry standards.

B. Actions by Business Organisations and Professional Associations

Business organisations and professional associations may play an essential role in assisting companies, in particular SMEs, in the development of effective internal control, ethics, and compliance programmes or measures for the purpose of preventing and detecting foreign bribery. Such support may include, inter alia:

1. dissemination of information on foreign bribery issues, including regarding relevant developments in international and regional forums, and access to relevant databases;
2. making training, prevention, due diligence, and other compliance tools available;
3. general advice on carrying out due diligence; and
4. general advice and support on resisting extortion and solicitation.