### Part (f) Discuss, with reasons, any concerns you have about the current (i.e. post-listing) corporate governance arrangements of AA

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<thead>
<tr>
<th></th>
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<th>Marks</th>
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</thead>
<tbody>
<tr>
<td>1.</td>
<td><strong>Appointment of directors</strong></td>
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<tr>
<td>1.1.</td>
<td>There is no chairman of the Board of Directors. The King Code requires the Board to be chaired by an independent non-executive director.</td>
<td>No chairman Independent non-executive chairman 1</td>
</tr>
<tr>
<td>1.2.</td>
<td>With the exception of Mr Barclay and Alexia Viljoen, the directors who have been appointed appear to lack the necessary competence and experience required of individuals to serve on the Board – this would be the case for both Kingston and Luhle Jacobs (relevant experience) and Messrs Abbott and Callan (age and experience).</td>
<td>Lack of competence &amp; experience 1</td>
</tr>
<tr>
<td>1.3.</td>
<td>King Code (2.84) requires that directors do not hold more directorships than is reasonable for them to exercise due care, skill and diligence. Given that Mr Barclay holds various directorships and given his age, this could represent a potential risk for AA.</td>
<td>Too many directorships Mr Barclay holds various directorships ½</td>
</tr>
<tr>
<td>1.4.</td>
<td>According to King Code (2.18) the Board should be of sufficient size, diversity and demographic make-up to be effective. AA needs to find independent, suitably skilled and demographically acceptable directors. It can be argued that the Board at present is not representative in terms of gender and a risk exists that it is also not representative in terms of race.</td>
<td>Sufficient size, diversity &amp; demographic make-up Board likely not representative at present ½</td>
</tr>
<tr>
<td>1.5.</td>
<td>In terms of principle 2.17 of the King Code, the Board and not one of the major shareholders, i.e. Mark Brooney, as is the case at AA, should appoint the chief executive officer.</td>
<td>Board to appoint CEO Mark Brooney currently appoints CEO ½</td>
</tr>
<tr>
<td>1.6.</td>
<td>The Board should comprise a balance of power, with a majority of non-executive directors. The majority of the non-executive directors should be independent (principle 2.18). However:</td>
<td>Board’s balance of power ½</td>
</tr>
<tr>
<td>1.6.1.</td>
<td>Six directors have been appointed, three executive, and three non-executives – i.e. there is not a majority of non-executives.</td>
<td>No majority of non-executive director at present 1</td>
</tr>
<tr>
<td>1.6.2.</td>
<td>The risk exists that none of the directors appointed to the Board can be considered independent, as they have been appointed by the Jacobs’s (i.e. by the CEO and COO) OR that the individual could have been an employee of AA or that the employee works for a material customer of AA.</td>
<td>No independent directors – either due to employee/appointment/material customer (limit to one) 1</td>
</tr>
<tr>
<td>1.6.3.</td>
<td>The desirability of appointing a husband and wife (familiarity threat to objectivity) into two of the three senior executive posts in AA is questionable – as this will undermine effective control and governance (incl. segregation of duties and management oversight) and would be a succession planning nightmare.</td>
<td>Desirability of appointing husband &amp; wife (familiarity threatens objectivity) 1</td>
</tr>
</tbody>
</table>
1.7. In terms of principle 2.19 of the King Code, directors should be appointed through a formal process – however, with the approval of Mark Brooney, the Jacobs' nominated the directors.

| 1.7. | In terms of principle 2.19 of the King Code, directors should be appointed through a formal process – however, with the approval of Mark Brooney, the Jacobs' nominated the directors | Formal process to appoint directors Jacobs' nominated & Brooney approved | ½ |

1.8. In terms of section 66(4) of the Companies Act, at least 50% of the directors must be elected by shareholders – the appointments have been made without the involvement of all the shareholders.

| 1.8. | In terms of section 66(4) of the Companies Act, at least 50% of the directors must be elected by shareholders – the appointments have been made without the involvement of all the shareholders. | At least 50% of directors elected by shareholders Shareholders are not involved in election | ½ |

1.8.1. Marc Brooney can only have a right to vote on the appointment of directors in accordance with his shareholding. A 40% shareholding will not give him the ability to appoint the majority of the Board of directors. The other shareholders' approval should therefore have been sought in the appointment of the directors.

| 1.8.1. | Marc Brooney can only have a right to vote on the appointment of directors in accordance with his shareholding. A 40% shareholding will not give him the ability to appoint the majority of the Board of directors. The other shareholders' approval should therefore have been sought in the appointment of the directors. | Marc Brooney only entitled to vote in accordance with his 40% shareholding | 1 |

1.8.2. In addition, the JSE does not permit a minority shareholding to exercise negative control as a result of any contract or agreement.

| 1.8.2. | In addition, the JSE does not permit a minority shareholding to exercise negative control as a result of any contract or agreement. | JSE - no negative control contractually Bonus | 1 |

2. Remuneration of directors

2.1. There is reason to believe that principle 2.25 of the King Code (that companies should remunerate directors and executives fairly and responsibly) has not been applied appropriately by AA. For example –

| 2.1. | There is reason to believe that principle 2.25 of the King Code (that companies should remunerate directors and executives fairly and responsibly) has not been applied appropriately by AA. For example – | Fair & responsible remuneration of directors & executives | ½ |

2.1.1. All directors (including the non-executives) will receive share options on listing and annually thereafter - in terms of recommended practice of King Code 2.25.4 non-executive directors should not receive share options, but rather a base fee and attendance fees for meetings.

| 2.1.1. | All directors (including the non-executives) will receive share options on listing and annually thereafter - in terms of recommended practice of King Code 2.25.4 non-executive directors should not receive share options, but rather a base fee and attendance fees for meetings. | Non-execs should receive base fee & attendance fees for meetings | 1 |

2.1.2. Principle 2.25.147 (King), states that companies should adopt remuneration policies and practices that create value for the company over the long-term. Given that 3-year appointment terms apply at AA and that directors negotiate large termination payments if not reappointed indicates a shortcoming in the corporate governance of AA.

| 2.1.2. | Principle 2.25.147 (King), states that companies should adopt remuneration policies and practices that create value for the company over the long-term. Given that 3-year appointment terms apply at AA and that directors negotiate large termination payments if not reappointed indicates a shortcoming in the corporate governance of AA. | Remuneration policies to create long-term value 3-year contracts ≠ LT & large termination payments | ½ |

2.1.3. This indicates a lack of a remuneration policy aligned with the strategy of the company and linked to individual performance (a recommended practice per the King Code).

| 2.1.3. | This indicates a lack of a remuneration policy aligned with the strategy of the company and linked to individual performance (a recommended practice per the King Code). | Remuneration policy not aligned to strategy and linked to individual performance | 1 |

2.1.4. A special resolution every two years in terms of which shareholders is required to approve directors’ remuneration (in terms of section 66 of the Companies Act) – the shareholders need to approve the directors’ remuneration.

| 2.1.4. | A special resolution every two years in terms of which shareholders is required to approve directors’ remuneration (in terms of section 66 of the Companies Act) – the shareholders need to approve the directors’ remuneration. | Shareholder approval of directors' remuneration required | 1 |

2.1.5. Principle 2.27.186 (King Code) stipulates that the remuneration policy be discussed at the annual general meeting with shareholders being able to express their views on said policy.

| 2.1.5. | Principle 2.27.186 (King Code) stipulates that the remuneration policy be discussed at the annual general meeting with shareholders being able to express their views on said policy. | Shareholders entitled to express view at AGM | 1 |

2.1.6. Principle 2.25.150 (King), states that the remuneration committee should assist the Board in setting and administering remuneration policies across the company, including for directors.

| 2.1.6. | Principle 2.25.150 (King), states that the remuneration committee should assist the Board in setting and administering remuneration policies across the company, including for directors. | Remuneration committee to assist Board | 1 |
2.1.7. Principle 2.25.165 (King Code) – directors should not be paid large (balloon) severance packages. Hence the negotiation of large severance benefits being negotiated in advance creates an ethical dilemma.

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<table>
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<td></td>
<td>No balloon payments Ethical dilemma – severance packages at AA</td>
</tr>
</tbody>
</table>

3. **Succession planning and rotation of directors**

3.1. While appointing directors on three-year contracts is acceptable, the previous practice of replacing virtually all directors on the termination of contracts is of concern. In terms of recommended practice 2.17.5 of the King Code, the Board should ensure that there is succession planning for the CEO and other senior executives and officers.

<table>
<thead>
<tr>
<th></th>
<th>Succession planning into King 3-yr contracts with all directors being replaced ≠ succession planning</th>
</tr>
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3.2. Recommended practice 2.18.6 of the King Code states that at least one third of the non-executive directors should rotate every year (independence of the non-execs threatened). If all directors’ contracts terminate after three years then no rotation policy exists at AA.

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<thead>
<tr>
<th></th>
<th>No rotation policy (King) Directors’ contracts terminate simultaneously</th>
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4. **Board Committees**

4.1. In terms of recommended practice 2.23.6 of the King Code the company should also have established a risk committee (in addition to the audit and remuneration committees) – there is no risk committee at present.

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<thead>
<tr>
<th></th>
<th>King = risk committee No risk committee at present</th>
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</table>

4.2. Moreover, in terms of recommended practice 2.19.1 of the King Code, the company should have established a nomination committee to assist with the process of identifying suitable Board members – which does not appear to have happened (e.g. the Board members were ‘nominated’ by the Mark Brooney and the Jacob’s).

<table>
<thead>
<tr>
<th></th>
<th>Nomination committee assist with process of identifying Board Jacobs’ nominate &amp; Mr Brooney approves the Board’s appointment</th>
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4.3. In terms of Regulation 43 of the Companies Regulations, 2011, every listed public company (such as AA) should establish a social and ethics committee within 12 months of the effective date of this regulation – however, no such committee appears to have been established.

<table>
<thead>
<tr>
<th></th>
<th>Regulation 42 = S &amp; E Committee No Social and Ethics Committee established</th>
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4.4. Given that there are no independent directors on the Board –

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4.4.1. The remuneration committee will not be adequately constituted by at least the majority of independent non-executive directors – as recommended by par. 2.23.7 of the King Code.

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<thead>
<tr>
<th></th>
<th>Remuneration committee – no majority of independent non-executive directors</th>
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4.4.2. The audit committee should be comprised exclusively of independent directors (minimum of three) – such an arrangement would be contrary to par. 3.2 of the King Code.

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<thead>
<tr>
<th></th>
<th>Audit Committee should only have independent director</th>
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4.4.3. Should any of the current independent directors be elected as chairperson of the Board, the audit committee would no longer comply with the aforementioned requirement since the chairperson may not be a member of the audit committee.

<table>
<thead>
<tr>
<th></th>
<th>Any of current independent directors become CEO – Audit Committee (AC) problem</th>
</tr>
</thead>
<tbody>
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<tr>
<td>4.5.</td>
<td>Regulation 42 prescribes that at least one-third of the members of an audit committee must have academic qualifications, experience in economics, law, corporate governance, finance, accounting, commerce, industry, public affairs or human resource management – this could be an issue for AA (only Mr Barclay potentially has these skills).</td>
</tr>
<tr>
<td>4.6.</td>
<td>The audit committee, although established, is not effective as it appears to have played no role in the reappointment of United Auditors (in terms of King).</td>
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<tr>
<td>4.6.1.</td>
<td>The Committee is required to nominate the external auditor for appointment and approve the terms of engagement (per section 94 of Companies Act). According to part 3.9 of the King Code, the committee is responsible for recommending the appointment of external auditors to the Board – this does not appear to have happened.</td>
</tr>
<tr>
<td>4.7.</td>
<td>This committee is required to monitor and report on the independence of the external auditor – however, there are significant threats to the auditor’s independence which do not appear to have been addressed (King 3.9.3).</td>
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<tr>
<td>4.7.1.</td>
<td>In terms of the SAICA Code of Professional Conduct (ET 290.139), in a situation where a key audit partner joins the audit client that is a public interest entity (such as AA), independence would be compromised given that the client has not yet issued audited financial statements covering a period of not less than 12 Months (cooling off period is required).</td>
</tr>
<tr>
<td>4.8.</td>
<td>In terms of King 3.9.4 the audit committee is required to define a policy for non-audit services by the auditor and approve contracts for the external audit firm to render non-audit services – however, the outsourcing of the internal audit services appears to have been done without reference to the audit committee (it was done in terms of a Board resolution).</td>
</tr>
<tr>
<td>4.9.</td>
<td>In terms of section 290.200 of the SAICA Code of Professional Conduct, the appointment of United Auditors to render internal audit services is of concern as the Code states that for a public interest entity (such as AA), the services shall exclude controls and systems relating to financial reporting.</td>
</tr>
<tr>
<td>4.10.</td>
<td>King requires that the internal audit function be independent of management. Given that the internal audit function has been outsourced to United Inc. (small firm) where Mr Jacobs (now the CEO of AA) was a partner, would result in the independence of the internal audit function being questioned (familiarity).</td>
</tr>
<tr>
<td></td>
<td>The committee is required to review the quality and effectiveness of the external audit process – however, the competence of the external audit firm to perform the engagement is in doubt (King Code, par. 3.9.6). It is doubtful whether three partners and 30 trainees (capacity) will satisfy the ISQC 1 skills and competence requirements given that AA is a fairly large listed client, with complex operations.</td>
</tr>
<tr>
<td></td>
<td>The audit committee needs to ensure that the JSE approves the appointment of the audit firm – given United Inc.’s limited resources, this is debatable.</td>
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<tr>
<td></td>
<td>In terms of the Companies Act (section 90), the auditor must be appointed at every annual general meeting of the company (i.e. by the shareholders). Only if no such appointment was made, can the Board of directors proceed to make an appointment. The fact that the appointment was made without the knowledge of the shareholders is therefore of concern.</td>
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<tr>
<td></td>
<td>The manner in which Alexia Viljoen’s resignation was communicated gives rise to the following concerns:</td>
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<td>The communication was done by way of a press conference rather than a SENS announcement – which is inconsistent with the JSE Listings Requirements.</td>
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<tr>
<td></td>
<td>It is doubtful whether the communication satisfies principle 8.5 of the King Code which requires transparent and effective communication with stakeholders in order to build and maintain their confidence – specifically, it appears that the reason cited for Alexia’s resignation (‘to pursue personal interests’) is at odds with her recent acceptance of the appointment. The information was selectively released.</td>
</tr>
<tr>
<td></td>
<td>In terms of section 76(2) of the Companies Act, a director must not use the position as a director to gain an advantage for him/herself – yet directors negotiate large payments on the termination of their contracts, and they participate in the rigging of tender processes. For example:</td>
</tr>
<tr>
<td></td>
<td>Principle 2.14 (King) requires the board and directors of the company to act in the best interests of the company, which appears not to be happening given the illegal tendering process and large severance packages paid.</td>
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<tr>
<td></td>
<td>Given the directors’ conduct generally, there is reason to believe that they are acting contrary to their statutory fiduciary duties. For example:</td>
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<td></td>
<td>Act in good faith in best interests of company</td>
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<td>In terms of section 76(3) of the Companies Act, directors must exercise the powers and functions of a director in good faith, in the best interests of the company and with a reasonable degree of care and skill – however, failing to focus on the employees (in an industry where skills are in short supply (e.g. pilots and engineers)) and participating in the rigging of tenders, is not consistent with the statutory requirements.</td>
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<td>8.</td>
<td>It is doubtful whether the executive directors who ‘secretly’ received incentives from the recipients of tenders disclosed their interests in the contracts prior to entering into these contracts in the manner required by section 75 of the Companies Act.</td>
</tr>
<tr>
<td>8.1.</td>
<td>By conducting themselves in this manner, the directors would also not be complying with the following principles of the King Code:</td>
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<tr>
<td>8.1.1.</td>
<td>The Board should ensure that the company’s ethics are managed effectively (principle 1.3). According to the King Code, ‘Good corporate governance requires that the Board takes responsibility for building and sustaining an ethical corporate culture in the company’ the action breaches this requirement since the Board is the problem.</td>
</tr>
<tr>
<td>8.1.2.</td>
<td>The Board should ensure that the company complies with applicable laws (principle 6.1) – such as the Prevention and Combatting of Corrupt Activities Act (PRECCA). Alternatively: principle 2.9 also requires compliance</td>
</tr>
<tr>
<td>8.1.2.</td>
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<tr>
<td>9.</td>
<td>The fact that there is poor corporate governance in place especially from the leadership could result in fraud in other parts of the company. This is more likely when employees are dissatisfied.</td>
</tr>
<tr>
<td>10.</td>
<td>Now that Alexia Viljoen has resigned, AA is operating without a financial director. King (principle 2.18.5) requires the company to have a CEO and chief financial officer indicating non-compliance with King.</td>
</tr>
<tr>
<td>11.</td>
<td>There is doubt as to whether or not a company secretary has been appointed which results in non-compliance with the Companies Act.</td>
</tr>
<tr>
<td>12.</td>
<td>Given the fact that the directors have contravened the Companies Act, the directors need to be aware that they can be held personally liable in such instances where breaches in complying with the Companies Act have taken place.</td>
</tr>
<tr>
<td>13.</td>
<td>From the perspective of the external auditors of AA, they would need to consider the requirements of the Audit Profession Act in respect of the tender rigging qualifying as a reportable irregularity which they would need to report on.</td>
</tr>
<tr>
<td>13.1.</td>
<td>An unlawful act has occurred through the tender rigging as well as non-compliance with various statues (refer above).</td>
</tr>
<tr>
<td>13.2.</td>
<td>This act has been committed by management (the Board of Directors)</td>
</tr>
<tr>
<td>13.3.</td>
<td>Material breach of fiduciary duty (Section 76 – best interest of company) has occurred OR Material financial loss (tender rigging and severance packages) has occurred for the company OR Fraudulent act (tender rigging)</td>
</tr>
<tr>
<td>14.</td>
<td>Given the relevant concerns identified one can conclude that AA is not a responsible corporate citizen.</td>
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<tr>
<td>15.</td>
<td>Any other valid relevant point (limited to)</td>
</tr>
</tbody>
</table>

Available: **75½**

Maximum: **43**

Communication skills – clarity of expression; logical argumentation: **2**

Total for Part (f): **45**