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INSTITUTE OF DIRECTORS
SOUTHERN AFRICA

CRISA

CODE FOR RESPONSIBLE INVESTING
IN SOUTH AFRICA 2011

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ACKNOWLEDGMENTS

The Committee on Responsible Investing by Institutional Investors in South Africa acknowledges with appreciation the following endorsers of the Code for Responsible Investing in South Africa:

INSTITUTE OF DIRECTORS
SOUTHERN AFRICA

Principal Officers Association

ASISA

The principles espoused by CRISA are also supported by the Financial Services Board and the Johannesburg Stock Exchange.

SUMMARY AND RELEVANCE STATEMENT

The Code for Responsible Investing in South Africa (CRISA) gives guidance on how the institutional investor should execute investment analysis and investment activities and exercise rights so as to promote sound governance.
There are five key principles:

1. An institutional investor should incorporate sustainability considerations, including environmental, social and governance, into its investment analysis and investment activities as part of the delivery of superior risk-adjusted returns to the ultimate beneficiaries.
2. An institutional investor should demonstrate its acceptance of ownership responsibilities in its investment arrangements and investment activities.
3. Where appropriate, institutional investors should consider a collaborative approach to promote acceptance and implementation of the principles of CRISA and other codes and standards applicable to institutional investors.
4. An institutional investor should recognise the circumstances and relationships that hold a potential for conflicts of interest and should proactively manage these when they occur.
5. Institutional investors should be transparent about the content of their policies, how the policies are implemented and how CRISA is applied to enable stakeholders to make informed assessments.

CRISA applies to:

- Institutional investors as asset owners, for example, pension funds and insurance companies (see page 9 for a definition of institutional investor).
- Service providers of institutional investors, for example, asset and fund managers and consultants (see page 9 for a definition of service provider).

FOREWORD

This year marks the 5th anniversary of the launch of the Principles for Responsible Investment ('PRI'), backed by the United Nations, an investor led initiative in partnership with UNEP Finance Initiative and UN Global Compact. This initiative has attracted 784 signatories globally (of which 30 are South African institutions), representing US$22 trillion in assets under management as at July 2010. These signatories have committed themselves to integrate Environmental, Social and Governance ('ESG') considerations into their investment decision-making.

This commitment and the launch of the Code for Responsible Investing in South Africa ('CRISA') are clear indications that ESG issues are mainstream investment considerations and not peripheral, especially at a time the world is facing serious sustainability challenges. These challenges range from the effects of the recent financial crisis, which left most pension schemes underfunded and government debts in developed markets at unsustainable levels, to socio-economic challenges and climate change which threatens our own existence as human society. This is a trend that cannot be allowed to continue. As long-term investors and fiduciaries, institutional investors have the responsibility to ensure that we invest in a way that promotes long-term sustainability.

At the heart of CRISA is the recognition of the importance of integrating sustainability issues, including ESG, into long-term investment strategies. These issues become more important in a market such as ours, which is predominantly driven by a non-mandatory market-based code of governance for companies (King Report on Governance), as opposed to legislation. The institutional investor in such a set up has, by virtue of its share ownership, the ability to influence and encourage the companies in which it invests to apply sound governance principles and to care for the environment in which it operates. CRISA sets out the governance duties of institutional investors in relation to the overall governance system including engagement with companies on ESG issues. It is a voluntary code, which we hope will be accepted by all parties as a standard for investing in our market.

I therefore call upon all the leaders involved in the long-term savings industry to pledge their support for CRISA. Such pledge will not only reflect our willingness to change but would go a long way in ensuring that the investments that we make, on behalf of others, are sustainable in the long-term.

John Oliphant
Chairman: Committee on Responsible Investing by Institutional Investors in South Africa

COMMITTEE ON RESPONSIBLE INVESTING BY INSTITUTIONAL INVESTORS IN SOUTH AFRICA

CRISA has been issued by the Committee on Responsible Investing by Institutional Investors in South Africa. The Committee is comprised as follows:

Member	Institution
John Oliphant (Chairperson)	Government Employees Pension Fund
Sunette Mulder (Deputy Chairperson)	Association for Saving and Investment SA
Ansie Ramalho (Convener and Secretariat)	Institute of Directors in Southern Africa
Deon Botha	Public Investment Corporation
Mervyn King	Independent
John Burke	JSE Ltd
Theo Botha	Independent
Trevor Chandler	Association for Saving and Investment SA
Evan Gilbert	Cadiz
Richard Foster	Old Mutual
Trevor Pascoe	Symmetry
David Couldridge	Element Investment Managers
Narina Mnatsakanian	Principles for Responsible Investment supported by United Nations
Vasta Mhlongo	Financial Services Board
Michael Judin	Independent
Jon Duncan	OMIGSA
Herman Steyn	Prescient
Heather Jackson	Cadiz
Hamed Behairy	Radix Corporate Governance (Pty) Ltd
Malcolm Gray	Investec Asset Management
Brandon Furstenburg	Mergence
Rowan le Roux	Mergence
Adrian Bertrand	Principles for Responsible Investment supported by United Nations
Kerry Horsley	Prudential Portfolio Managers
Leon Campher	Association for Saving and Investment SA
Robert Lewenson	OMIGSA
Keith Rayner	The Securities Regulation Panel
Richard Connellan	The Securities Regulation Panel
Wanjiru Kirima	Principal Officers Association
Andrew Johnston	Independent

INTRODUCTION

A non-mandatory market-based code of governance, such as the King Code, is (in the context of listed companies) stronger if its implementation is overseen by those with a vested interest in effective market forces i.e. the institutional investor. The institutional investor has by virtue of its share ownership and rights, including voting rights, the ability to influence and encourage investee companies to apply sound governance principles and practices. Recent experience in South Africa and internationally indicates that market failures in relation to governance are, at least in part, due to an absence of active institutional investors, or investment behaviour driven by short-term results.

In reaction to comments on the King Report which were submitted by the South African PRI network and which called for guidance to the investor community to be included in the Report, the King Committee recommended that a separate code be drafted to specifically set out the expectations from institutional investors in this regard. The Committee on Responsible Investing by Institutional Investors in South Africa has been convened by the IoDSA to develop such a code.

PURPOSE

The King Code was written from the perspective of the board of the company as the focal point of corporate governance. CRISA is intended to give guidance on how the institutional investor should execute investment analysis and investment activities and exercise rights so as to promote sound governance.

Read together, the King Code and CRISA provide a framework that relates to the function of all role players in the overall governance system, including boards of companies, institutional shareholders, their service providers and the ultimate beneficiaries. The objective of providing such a framework is to ensure that sound governance is practised which results in better performing companies that deliver both economic value as well as value within its broader meaning.

The definition of “value” has evolved from its traditional measure in financial terms. It is no longer appropriate for institutional investors to focus on only monetary benefit to the ultimate beneficiaries of investments to the exclusion of factors that impact on long-term sustainability. Modern governance thinking advocates that in addition to economic considerations, boards of companies should consider all those factors which impact the long-term value of companies such as the natural environment and social factors. Such an approach will in the long-term be in the interest of ultimate beneficiaries as part of the delivery of superior risk-adjusted returns on investment that has been done cognisant of the environmental and socio-economic context.

In making investment decisions and in their investment activities, institutional investors may interpret governance narrowly to merely indicate governance structures, processes and systems. This narrow interpretation of governance was not followed in the drafting of the King Report and Code and is not intended with CRISA. Regulation 28 issued by the Minister of Finance under section 36 of the Pension Funds Act, 1956 now also states in its preamble that prudent investing “should give appropriate consideration to any factor which may materially affect the sustainable long-term performance of a fund’s assets, including factors of an environmental, social and governance character”. In order to avoid any misunderstanding in CRISA the terminology “sustainability” and “ESG” are used in order to indicate an understanding of governance in its wider sense, encompassing behaviour that supports sustainable development.

APPLICATION

Legally, the institutional investor, who is the asset owner, has fiduciary duties towards the ultimate beneficiaries of these investments and is accountable in this regard. If an institutional investor appoints a service provider, to make investment decisions or to execute any aspect of the investment activities dealt within CRISA, that relationship is regulated by the mandate between the asset owner and service provider. Expectations for application of CRISA's reporting requirements and sanctions for non-adherence by the service provider are to be agreed and determined *via* this mandate. However, the accountability of the institutional investor to the ultimate beneficiary is not diminished by such mandate.

In addition, to the institutional investor, the pivotal role of service providers in promoting sound governance cannot be disregarded and it is intended that the principles and practice recommendations contained in CRISA also apply to service providers and the manner in which they execute their mandates. Therefore where CRISA makes recommendations that pertain to investment decisions or investment activities that fall within the ambit of the mandate, the service provider should follow such recommendations even if the recommendation makes reference to the institutional investor only.

The approach that CRISA applies to both the institutional investor and its service providers, but that the institutional investor bears accountability to ultimate beneficiaries, has been followed throughout this document.

As the purpose of CRISA is to form part of an effective governance framework in South Africa, it is furthermore proposed that foreign pension funds, insurance companies, investment trusts and other collective investment vehicles apply CRISA to the extent that they invest in South African companies.

Institutional investors and service providers should adopt the principles and practice recommendations in CRISA on an "apply or explain" basis.

Where there is conflict between CRISA and applicable legislation, the legislation will prevail.

The effective date for reporting on the application of CRISA is 1 February 2012.

DEFINITIONS

In this Code for Responsible Investing in South Africa ('CRISA'), unless the context indicates otherwise:

code of conduct means the internal code of conduct developed by a company by which it expects its directors, managers and employees to behave.

company or **investee company** means a company in which an institutional investor invests or considers investing as a shareholder.

ESG means environmental, social and governance.

institutional investor means any legal person or institution referred to in the definition of "financial institution" in section 1 of the Financial Services Board Act No 97 of 1990, to the extent that these legal persons or institutions own and invest in the equity of a company and have obligations in respect of investment analysis, activities and returns to ultimate beneficiaries.

integrated reporting means a holistic and integrated representation of the company's performance in terms of the value that it has generated within the triple context of the economy, society and natural environment.

King Report or **King Code** means The King Report or The King Code of Governance for South Africa, 2009 or its successor in title.

mandate means the arrangement between an institutional investor and its service provider whereby the service provider makes investment decisions or performs investment activities for and on behalf of the institutional investor.

service providers means those who act under mandate of the institutional investor in respect of any of the investment decisions and investment activities dealt with in CRISA, including asset and fund managers and consultants.

supply chain code of conduct means the code of conduct by which a company expects its suppliers to behave and by which the company undertakes to conduct itself in its relationship with the supplier. The supply chain code of conduct includes conduct in terms of ethics and sustainability considerations.

sustainability means the ability of a company to conduct its operations in a manner that meets existing needs without compromising the ability of future generations to meet their needs. Sustainability includes managing the impact that the business has on the life of the community, the broader economy and the natural environment in which it operates. It also includes the converse, namely considering the effect that the society, the economy and the environment have on business strategy. Sustainability includes economic and ESG considerations.

stakeholder means those who reasonably have a legitimate expectation to be engaged with or to receive information from the institutional investor or its service providers on the grounds that they are affected by the investment activities and investment decisions of the institutional investor or its service providers.

transparent means easy to understand or recognise, balanced, complete, obvious, candid, open, frank, relevant and accessible to stakeholders.

ultimate beneficiaries means those end-beneficiaries or underlying investors such as the individual savers or pension fund members to whom institutional investors owe their duties, including the individual retirement fund beneficiaries and the individuals in whose names on whose behalf unit trusts and policies are held.

PRINCIPLES AND PRACTICE RECOMMENDATIONS

Principle 1: An institutional investor should incorporate sustainability considerations, including ESG, into its investment analysis and investment activities as part of the delivery of superior risk-adjusted returns to the ultimate beneficiaries.

1. An institutional investor should develop a policy on how it incorporates sustainability considerations, including ESG, into its investment analysis and activities. The matters to be dealt with in the policy should include, but not necessarily be limited to, an assessment of:
   a. the sum of tangible and intangible assets of a company;
   b. the quality of the company's integrated reporting dealing with the long-term sustainability of the company's strategy and operations. If integrated reporting has not been applied, due enquiry should be made on the reasons for this;
   c. the manner in which the business of the company is being conducted based on, for example, alignment with targeted investment strategies of the institutional investor and the code of conduct and supply chain code of conduct of the company.
2. An institutional investor should ensure implementation of the policy on sustainability considerations, including ESG, and establish processes to monitor compliance with the policy.

Principle 2: An institutional investor should demonstrate its acceptance of ownership responsibilities in its investment arrangements and investment activities.

3. An institutional investor should develop a policy dealing with ownership responsibilities. The policy should include, but not necessarily be limited to the following:
   a. guidelines to be applied (e.g. King III) for the identification of sustainability concerns, including ESG, at a company.
   b. mechanisms of intervention and engagement with the company when concerns have been identified and the means of escalation of activities as a shareholder if these concerns cannot be resolved.
   c. voting at shareholder meetings, including the criteria that are used to reach voting decisions and for public disclosure of full voting records
4. Even if passive investment strategies are followed, active voting policies incorporating sustainability considerations, including ESG, should still be followed.
5. An institutional investor should ensure implementation of the policy on ownership responsibilities and establish processes to monitor compliance with the policy.
6. Where the institutional investor outsources to third party service providers, the onus is on the institutional investor as owner to ensure that the mandate deals with sustainability concerns, including ESG, and that there are processes to oversee that the service providers apply the provisions of CRISA when executing their mandate.
7. The institutional investor should introduce controls that prevent it from receiving price sensitive information regarding a company or acting on such information in a manner that makes it an 'insider' in terms of the Securities Services Act No 36 of 2004. These controls should be applied when engaging with the company, and when seeking any information it requires, whether this is to fulfil its duties or to act within the guidelines of CRISA.

Principle 3: Where appropriate, institutional investors should consider a collaborative approach to promote acceptance and implementation of the principles of CRISA and other codes and standards applicable to institutional investors.

8. An institutional investor should consider a collaborative approach to work jointly with other shareholders, service providers, regulators, investee companies and ultimate beneficiaries to, where appropriate, promote acceptance and implementation of CRISA and sound governance. Parties should be aware of the consequences of acting in concert in terms of applicable legislation.

Principle 4: An institutional investor should recognise the circumstances and relationships that hold a potential for conflicts of interest and should pro-actively manage these when they occur.

9. All of the circumstances and relationships that could potentially lead to a conflict of interest should be identified by the institutional investor and a policy for preventing and managing these conflicts should be developed.
10. An institutional investor should ensure implementation of the policy on prevention and management of conflicts of interests and establish processes to monitor compliance with this policy.

Principle 5: Institutional investors should be transparent about the content of their policies, how the policies are implemented and how CRISA is applied to enable stakeholders to make informed assessments.

11. An institutional investor should regularly engage with its stakeholder groupings, including investee companies and the ultimate beneficiaries, in order to, *inter alia*, identify and understand information requirements and, at least once a year, fully and publicly disclose to what extent it applies to CRISA.
12. If an institutional investor does not apply some or any of the principles or recommendations in CRISA or applies them differently from how they are set out, it should in a transparent manner explain the reasons for this and the alternative measures employed.
13. The disclosure by institutional investors should be made public in order that it is readily accessible by all stakeholders, including investee companies and the ultimate beneficiaries.
14. The following policies should be disclosed publicly upon CRISA becoming effective and subsequently in the event of changes to the policies:
    a. policy on incorporation of sustainability considerations, including ESG, into investment analysis and investment activities with reference to the matters as set out under Principle 1.
    b. policy in regard to ownership responsibilities, including voting as set out under Principle 2.
    c. policy on identification, prevention and management of conflicts of interests as set out under Principle 4.
15. Non-disclosure of voting records by an institutional investor and its service providers precludes the investee company the opportunity to engage with the institutional investor or its service providers regarding the vote exercised. Therefore an institutional investor and its service providers should, before agreeing to a proxy or other instruction to keep voting records confidential, carefully consider the reasons put forward to justify confidentiality.
16. Disclosure of policies should be reinforced by clear explanation of how the commitments made in the policies were practically implemented and monitored during the reporting period.
17. There should be disclosure by an institutional investor of processes to ensure that its service providers apply CRISA as well as the requirements of the institutional investor's policies.

RESEARCH REFERENCES

Principles for Responsible Investment as supported by the UN
ICGN Statement of Principles on Institutional Shareholder Responsibilities, 2007
UK Stewardship Code
Fiduciary Responsibility by UNEP FI Asset Management Working Group (AMWG), July 2009