

AMENDMENT OF THE CODES OF GOOD PRACTICE

PUBLISHED IN GAZETTE NUMBER 29617 ON 9 FEBRUARY

2007 IN TERMS OF THE BROAD - BASED BLACK ECONOMIC

EMPOWERMENT ACT, 2003(Act No. 53 OF 2003)

By virtue of the powers vested in me in terms of section 9(1) of the abovementioned Act, I, Dr. Rob Davies, hereby amend the Codes of Good Practice as set out in the Schedule.

(Signed)

Dr ROB DAVIES, MP
MINISTER OF TRADE AND INDUSTRY DATE: 12-09-2011

SCHEDULE

With effect from 1 October 2011, only B-BBEE status level certificates issued by the following are valid:

1. 1.1 Verification Agencies accredited by the South African National Accreditation System (SANAS);
or
- 1.2 Registered Auditors approved by the Independent Regulatory Board of Auditors (IRBA) in accordance with the approval granted by the Department of Trade and Industry.

Exempted Micro Enterprises B-BBEE status level certificates

2. Statement 000, Section 4 of the B-BBEE Codes of Good Practice still applies for determining eligibility of a Exempted Micro Enterprise.

Repeal of Government Notice 810 of 31 July 2009.

3. The Government Notice published in gazette number 810 of 31 July 2009 is hereby repealed.

Amendment of Code 000, Statement 000 - Section 10 - Framework for the Accreditation of BEE Verification Agencies

4. Section 10 of Code 000, Statement 000 is hereby amended by the deletion of section 10.

Amendment of Code Series 000, Statement 000 - General Principles and the Generic Scorecard

6. **Code Series 000**, is hereby amended by the addition of the following **Statement**:

STATEMENT 005:

BROAD BASED BLACK ECONOMIC EMPOWERMENT VERIFICATION

Issued under section 9(1) of the Broad-Based Black Economic Empowerment Act, 53 of 2003

ARRANGEMENT OF THIS STATEMENT

Section 1: Definitions

Section 2: Objectives of this Statement

Section 3: Interpretation of this Statement

Section 4: Application of this Statement

Section 5: Requirements for Verification Agencies

Section 6: Requirements for Approved Registered Auditors

Section 7: Verification Certificates and Information Section 8: Verification

Manual

Section 9: Term and Withdrawal of Approved or Registered Status

SECTION 1 - DEFINITIONS

In this Statement, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act bears the same meaning, and:

"Accreditation Body" means the South African National Accreditation System (SANAS) established by section 3 of the Accreditation for Conformity Assessment Calibration and Good Laboratory Practice Act 2006 (Act No. 19 of 2006), an agency of **the** dti's Council of Trade and Industry Institutions (COTII) and South Africa's technical infrastructure;

"Approved Regulatory Body" means the Independent Regulatory Board of Auditors (IRBA) established by section 3 of the Auditing Profession Act (Act No. 26 of 2005).

"**B-BBEE**" means Broad Based Black Economic Empowerment;

"**B-BBEE Status**" has the meaning assigned in Code 000 Statement 000;

"**Enterprise**" has the meaning assigned in Code 100 Statement 100;

"**Higher Education Institutions**" has the meaning assigned in the Higher Education Act, 101 of 1997;

"**the Act**" means the Broad-Based Black Economic Empowerment Act 53 of 2003;

"**the Codes**" means all Codes of Good Practice issued in terms of section 9 of the Act;

"**the dti**" means the Department of Trade and Industry;

"**the Minister**" means the Minister of the Department Trade and Industry;

"**this Statement**" means Statement 005;

"**Verification Agency**" means a B-BBEE verification agency accredited by the Accreditation Body;

"**Approved Registered Auditor**" means a Registered Auditor approved by the "Approved Regulatory Body" to provide B-BBEE verification services to measured entities, in terms of the approval granted by the Minister of Trade and Industry;

"**Verification Certificate**" means a B-BBEE certificate issued in compliance with the BBBEE Codes of Good Practice and all Sector Codes issued in terms of Section 9(1) of the BBBEE Act 53 of 2003;

"**Verification Manual**" means the Verification Manual gazetted by the Minister on the 18 July 2008 (gazette No. 31255) or any other guidance or notices as may be issued by **the dti** from time to time.

SECTION 2: OBJECTIVES OF THIS STATEMENT

2.1. The objectives of this Statement are to:

- a) provide interpretation of this statement;
- b) provide for the application of this statement;
- c) specify requirements for approval of the Approved Regulatory Body and the Accreditation Body;
- d) specify accreditation requirements for Verification Agencies and approval requirements for Registered Auditors;
- e) specify terms and withdrawal of approved status of the Approved Regulatory Body and the Accreditation Body;
- f) specify the Verification Manual or any other verification guidance as may be issued by **the dti** from time to time; and
- g) specify requirements for Verification Certificates.

SECTION 3: INTERPRETATION OF THIS STATEMENT

This Statement must be interpreted in a manner that is consistent with the objectives of the Act.

SECTION 4: APPLICATION OF THIS STATEMENT

4.1. This Statement applies to:

- a) the Accreditation Body;
- b) the Approved Regulatory Body;
- c) all organs of state and public entities exercising powers in terms of section 10 of the Act; and

SECTION 5: REQUIREMENTS FOR VERIFICATION AGENCIES

- 5.1. An entity may apply to the Accreditation Body in order to obtain accreditation as a Verification Agency.
- 5.2. Accreditation will be conducted in terms of the accreditation standards that will be developed through the national standards process, and to be maintained and enforced by both **the dti** and the Accreditation Body.
- 5.3. The accreditation requirements shall govern the terms and conditions on which the Accreditation Body may grant, refuse to grant, revoke or suspend an accreditation of a Verification Agency.
- 5.4. Those verification agencies wishing to apply for accreditation will do so in writing through the Accreditation Body.
- 5.5. **The dti** together with the Accreditation Body will implement such mechanisms as may be necessary to

ensure that Verification Certificates are accurate and reliable.

The Accreditation Body in terms of this Statement must meet the following criteria:

- 5.5.1. The Accreditation Body requires any entity seeking accreditation:
- a) To meet the accreditation standards to grant, refuse to grant, revoke or suspend an accreditation of a Verification Agency;
 - b) To have completed training on B-BBEE Verification Services and Certification offered by Higher Education Institution as prescribed by **the dti** and to maintain relevant Continuing Professional Development (CPD) as prescribed by **the dti**;
 - c) To comply with the relevant Verification Manual, Gazette notices or any other guidance as may be issued by **the dti**; and
 - d) To demonstrate transformation and rated as a Contributor to B-BBEE" (Level one to three Contributor). This requirement must be met within 12 months from effective date of this statement.
- 5.5.2. The Accreditation body must provide the authorized verification agency with an approved identification reference to confirm such authorization.
- 5.6. The Accreditation Body must have the power and established processes to:
- a) Maintain a register of those accredited verification agencies who provide B-BBEE Verification Services;
 - b) Conduct investigations of accredited verification agencies' verification engagement files for evidence of compliance with the Verification Manual, and report on the outcome to **the dti** for monitoring and evaluation purposes;
 - c) Monitor CPD Compliance by accredited verification agencies; and
 - d) Investigate complaints against accredited verification agencies and suspend accreditation of those individuals found guilty of negligence in the performance of their duties or conduct which brings the profession into disrepute.

SECTION 6: REQUIREMENTS FOR APPROVED REGISTERED AUDITORS

- 6.1. A Registered Auditor may apply to the Approved Regulatory Body in order to obtain approval as an "Approved Registered Auditor".
- 6.1.1. The Approved Regulatory Body requires Registered Auditors:
- a) To be in good standing with the Regulatory Body;
 - b) To comply with its prescribed Code of Professional Conduct, Standards of Quality Control and Assurance Standards;
 - c) To have completed the Standardised B-BBEE Management Development Programme and Certification offered by Higher Education Institutions as prescribed by **the dti** and who maintain relevant Continuing Professional Development (CPD) as prescribed by the Approved Regulatory Body;
 - d) To comply with the relevant Verification Manual, or any other guidance or notices as may be issued by **the dti** from time to time; and
 - e) To demonstrate transformation and rated as a Contributor to B-BBEE" (Level one to three Contributor). This requirement must be met within 12 months from effective date of this statement
- 6.1.2. The Approved Regulatory Body provides all registered auditors with a registration number on registration and will issue a Certificate to all Approved Registered Auditors, reflecting their approved status, which may also be confirmed directly with the Approved Regulatory Body.
- 6.2. The Approved Regulatory Body must have the power and established processes to:
- a) Maintain a record of those Approved Registered Auditors who provide B-BBEE Verification Services;
 - b) Conduct investigations of Approved Registered Auditors' engagement files for evidence of compliance with the prescribed Code of Conduct, with Standards of Quality Control and Assurance Standards (including B-BBEE Verification Services) and report on the outcome to **the dti** for monitoring and evaluation purposes;
 - c) Monitor CPD Compliance by Approved Registered Auditors; and
 - d) Investigate complaints against Approved Registered Auditors and to discipline, sanction or exclude from registration those individuals found guilty of negligence in the performance of

their duties or conduct which brings the auditing profession into disrepute.

SECTION 7: VERIFICATION CERTIFICATES AND INFORMATION

- 7.1. **The dti** will from time to time issue guidelines on the validity and issuance of Verification Certificates;
- 7.2. A Verification Certificate issued:
- a) Must record the weighting points attained by the measured entity for each element, where applicable, and the overall B-BBEE Status of an Enterprise and other relevant information regarding the identity of the Measured Enterprise, determined in accordance with the Codes of Good Practice, Sector Codes issued in terms of Section 9(1) of the Act and the Verification Manual;
 - b) Must record an approved identification reference in the format required by the Approved Regulatory Body or Accreditation Body; and
 - c) is valid for a period of 12 months from the date of issue.
- 7.3. The Approved Regulatory Body and the Accreditation Body must require its Approved Registered Auditors and accredited Verification Agencies, respectively, to keep records as are necessary to:
- a) Identify the individual member or Approved Registered Auditor who has signed the Verification Certificates issued by the Approved Registered Auditor's firm or Verification Agency; and
 - b) Maintain such documentation and records as may be necessary to support the accuracy and reliability of the rating awarded to all Scorecard categories and resultant Contributor Level reflected on the Verification Certificates; and
 - c) Upload the relevant information pertaining to the certificate on **the dti** BEE IT Portal containing the information underlying each verification certificate issued within 30 days of issuance of the certificate.

SECTION 8: VERIFICATION MANUAL

- 8.1.** The Verification Manual shall be applied as minimum guidelines when performing B-BBEE Verification and determining the B-BBEE rating to be awarded in accordance with paragraph 7.2 above; and
- 8.2. Any Verification Certificate issued without applying the guidelines in determining the B-BBEE rating as set out in the Verification Manual shall be deemed null and void.

SECTION 9: TERM AND WITHDRAWAL OF APPROVED OR REGISTERED STATUS

- 9.1. The Term of Approval of the Approved Regulatory Body and the Accreditation Body may be specified for a specific period or, once approved, continues until such time as it may be withdrawn or revoked by the Minister.
- 9.2. The Minister may determine conditions for approval or withdraw approval of the Approved Regulatory Body and Accreditation Body that has failed to comply with the provisions of this Statement or on such grounds as appear reasonable in the circumstances.

DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM