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**BROAD-BASED BLACK ECONOMIC  
EMPOWERMENT ACT**  
The Codes of Good Practice

Interpretive Guide  
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# ***Chapter One: Background to, Intention & Application of, the Codes of Good Practice***

## **Introduction**

This guide has been developed as an interpretation aide for BEE practitioners seeking to gain further clarity and understanding of the Codes of Good Practice ('the Codes'). This includes interpretations on Codes 000 through to 800, as well as interpretations of individual statements. *This guide should not be viewed as a replacement for the content of the Codes, but rather, should be read in conjunction with each Statement, as a means of further clarification.*

## **The Purpose of the Codes of Good Practice**

Before the release of the Strategy on Broad-Based BEE<sup>1</sup>, there existed no framework for the measurement of broad-based BEE. The Strategy provided the outline of a broad-based scorecard, together with weightings, but did not contain detail on measurement principles and the application of the scorecard.

By the beginning of 2004 when the BEE Act was promulgated, numerous sectors of the economy had drafted industry charters on BEE and transformation. Whilst some contained scorecards loosely based on the broad-based scorecard contained in the Strategy, others were merely written undertakings of commitment to transformation. In addition, several of these charters were drafted prior to the release of the Strategy and stakeholders therefore had little point of reference in terms of broad-based elements and weightings. Furthermore, it became evident that other pertinent issues surrounding the measurement of BEE needed to be addressed to further accelerate the transformation process.

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<sup>1</sup> South Africa's Economic Transformation: A Strategy for Broad-Based Black Economic Empowerment



**Summary of Obstacles, Implications, Solutions presented by the Codes and Relevant Statements:**

<b>Historical BEE Implementation Obstacles</b>	<b>Implications</b>	<b>Solution presented by the Codes of Good Practice</b>	<b>Applicable COGP Statements</b>
<b>Lack of uniform framework for the recognition and measurement of BEE</b>	Created confusion as the same BEE initiatives or transactions may have received different BEE recognition by different organs of state, business entities and verification agencies	Standardisation of BEE recognition and measurement principles to provide clarity	<b>Primary:</b> Statement 000 <b>Secondary:</b> Codes of Good Practice in general
<b>Extensive delays in BEE implementation due to differences in interpretation</b>	Sectors were often locked in contentious debates around certain aspects of BEE, thereby delaying the implementation of broad-based BEE initiatives	Standardisation of BEE recognition and measurement principles to provide clarity	<b>Primary:</b> Statement 000 <b>Secondary:</b> Codes of Good Practice in general
<b>Disparity in definitions and targets in charters and other BEE requirements</b>	Different charters introduced definitions, targets and processes which may have diluted or negated the impact of the Strategy and circumvented the principles of the BEE Act	Specification of the requirements for the development and recognition of industry charters (reducing disparity in principles and definitions as a result of industry charters)	<b>Primary:</b> Statement 000 <b>Secondary:</b> Codes of Good Practice in general
<b>Status of transformation charters was unclear</b>	Confusion and delays in BEE implementation resulted since companies were uncertain as to the status and application of charters	Specification of the requirements for the development and recognition of industry charters	<b>Primary:</b> Statement 003
<b>Lack of underlying economic substance to many BEE transactions</b>	Many BEE transactions boasted high percentage levels of legal black ownership, but often the actual economic benefits accruing to black shareholders proved to be significantly lower	Provision of a balanced ownership scorecard which measures voting rights and net economic interest in the hands of black people	<b>Primary:</b> Statement 100
<b>Fronting due to lack of implementation guidelines</b>	Lack of understanding of BEE and its elements often resulted in fronting and meant that fronting was more difficult to detect	Provision of definitions, principles and processes to implement proper BBEE initiatives	<b>Primary:</b> Statement 100 <b>Secondary:</b> The Codes of Good Practice in General
<b>Very little transformation within management levels</b>	Despite various attempts at transformation within entities there is still a lack of sufficient representation of black people within management levels.	The codes encourage focus to be given for black representation at junior, middle, senior and top management levels within organisations.	<b>Primary:</b> Statement 200 & 300
<b>Uncertainty as to what type of skills development initiatives could be counted towards skills development spend</b>	Skills spend may not necessarily have been aligned to a particular learning outcome	Alignment of skills development spend on black employees to the learning programme matrix as issued under the Skills Development Act to ensure clear and quantifiable outcomes	<b>Primary:</b> Statement 400
<b>Narrow-based recognition tended to benefit a limited number of black people with access to capital</b>	Only a limited number of black people have tended to benefit from black economic empowerment to date	The Codes promote broad-based BEE which by encouraging that procurement opportunities be made available to B-BBEE compliant suppliers, Black owned and black women owned entities, small and micro enterprises	<b>Primary:</b> Statement 500



Historical BEE Implementation Obstacles	Implications	Solution presented by the Codes of Good Practice	Applicable COGP Statements
<b>Lack of awareness of enterprise development in and of itself, as well as a lack of awareness of what constitutes enterprise development</b>	Unlike corporate social investment, enterprise development is a fairly new concept and fairly specific to broad-based BEE. For this reason, the lack of documentation with examples of what constitutes enterprise development has made enterprise development one of the least implemented elements on the scorecard.	Code 600 outlines the principle of enterprise development, as well as supplying numerous examples of what kinds of initiatives constitute enterprise development	<b>Primary:</b> Statement 600
<b>Corporate social investment initiatives were not necessarily linked to the objective of bringing their beneficiaries into the mainstream economy</b>	The black majority remain largely outside of the mainstream economy	Code 700, whilst acknowledging that certain social objectives may not necessarily facilitate access to the mainstream economy, nevertheless encourages the implementation of initiatives which are socio-economic in nature and which are linked to the concept of assisting black people to be better equipped to access the mainstream economy	<b>Primary:</b> Statement 700
<b>BEE was seen as an obstacle to small business development due to an increase in the regulatory burden</b>	Small businesses tended to ignore BEE or resort to fronting techniques to maintain clients for business purposes.	Exemption of all entities with an annual turnover of less than R 5 million.  The inclusion of comprehensive statements for the measurement of broad-based BEE amongst Qualifying Small Enterprises (QSE's), based on a flexible approach where QSE's are only measured against 4 of the 7 elements of their choice	<b>Primary:</b> Code series 800



## History & Legal Framework

When the shortcomings of narrow-based black economic empowerment<sup>2</sup> ('BEE') became apparent towards the end of the nineteen nineties, a need emerged for a more inclusive approach to empowerment which would begin to narrow the divide between the first and second economies by putting mechanisms in place to accelerate the entry of black people into the first economy. This approach became known as broad-based black economic empowerment ('B-BBEE').

Subsequently, a document titled **A Strategy for Broad-Based Black Economic Empowerment** was released in 2003. This document not only defined broad-based BEE and the transformation imperative, but outlined the first broad-based scorecard comprising the seven elements of broad-based BEE. The seven elements and their respective weightings out of 100 are depicted below, as per the Generic Scorecard contained in the Codes:

<b>ELEMENT</b>	<b>POINTS</b>
<i>Ownership</i>	20
<i>Management Control</i>	10
<i>Employment Equity</i>	15
<i>Skills Development</i>	15
<i>Preferential Procurement</i>	20
<i>Enterprise Development</i>	15
<i>Socio-Economic Development</i>	5
<b>TOTAL</b>	<b>100 POINTS</b>

The Strategy was followed by the **Broad-Based BEE Act No. 53 of 2003** ('BEE Act'), which was promulgated in January of 2004. In section 10, the Act outlines government's leverages for the implementation of broad-based BEE, meaning that organs of state and public entities must take an entity's BEE status into account when:

- determining qualification criteria for the granting of licences and concessions
- developing and implementing a preferential procurement policy
- determining qualification criteria for the sale of state-owned enterprises
- developing criteria for entering into partnerships with the private sector

The BEE Act (abbreviated in the Codes and defined as "the Act") is an enabling legislative framework which allows for the development of the **Codes of Good Practice**. The Codes provide a standard framework for the measurement of broad-based BEE across all sectors of the economy. This means

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<sup>2</sup> Black economic empowerment by means of the elements of ownership and management exclusively





that no industry will be disadvantaged over another when presenting their BEE credentials. Statement 003, which provides guidelines for the alignment of transformation charters to be gazetted as Codes of Good Practice, will ensure that even when different gazetted charters are applied to different entities presenting their BEE credentials, neither of the entities will be unfairly disadvantaged over the other because of the application of a more stringent industry charter. The intention of the Codes of Good Practice is therefore to level the playing field for all entities operating within the South African economy by providing clear and comprehensive criteria for the measurement of broad-based BEE.



The table below, reproduced from Statement 000, provides a detailed guide to the organisation and content of the Codes:

CODE	STATEMENT
<b>Code 000</b> <b>Framework for the Measurement of B-BBEE</b> <b>(Carries general principles and Generic Scorecard)</b>	Statement 000 The General Principles and the Generic Scorecard
	Statement 003 Guidelines for the Development and Gazetting of Transformation Charters and Sector Codes
	Statement 004 Guidelines for special entities
<b>Code 100</b> <b>Measurement of the Ownership Element of B-BBEE</b> <b>(Measures the effective ownership of enterprises by black people)</b>	Statement 100: The General Principles for Measuring Ownership
	Statement 102: The Recognition in the Sale Assets
	Statement 103: The Recognition of Equity Equivalents for Multinationals
<b>Code 200</b> <b>Measurement of the Management Control Element of B-BBEE</b> <b>(Measures effective control of enterprises by black people)</b>	Statement 200: The General Principles for Measuring Management Control
<b>Code 300</b> <b>Measurement of the Employment Equity Element of B-BBEE</b> <b>(Measures initiatives intended to achieve equality in the workplace)</b>	Statement 300: The General Principles for Measuring Employment Equity
<b>Code 400</b> <b>Measurement of the Skills Development Element of B-BBEE</b> <b>(Measures the extent to which employers carry out initiatives designed to develop the competencies of black people)</b>	Statement 400: The General Principles for Measuring Skills Development
<b>Code 500</b> <b>Measurement of the Preferential Procurement Element of B-BBEE</b> <b>(Measures the extent to which enterprises buy goods and services from BEE-compliant suppliers)</b>	Statement 500: The General Principles for Measuring Preferential Procurement
<b>Code 600</b> <b>Measurement of the Enterprise Development Element of B-BBEE</b> <b>(Measures the extent to which enterprises carry out initiatives aimed at contributing to enterprise development)</b>	Statement 600: The General Principles for Measuring Enterprise Development
<b>Code 700</b> <b>Measurement of the Socio-Economic Development Element of B-BBEE</b> <b>(Measures the extent to which enterprises carry out initiatives aimed at contributing to socio-economic development and promoting access to the economy for black people)</b>	Statement 700: The General Principles for Measuring Socio-Economic Development (SED)
<b>Code 800</b> <b>Qualifying Small Enterprises</b>	Statement 800 to 807 General principles for QSEs in all the elements of the scorecard
<b>Code 900</b> <b>Public Private Partnership Code</b>	To be gazetted as a code once aligned with the generic codes

Further statements not presently included in the Codes, may be issued from time to time. In such cases, these statements will be included under the relevant Code series.



### **What about SMME's?**

A much-needed solution to the challenge of BEE and small enterprises has been presented in the form of the Qualifying Small Enterprise (QSE) scorecard and its corresponding statements. In addition, all entities with a turnover of less than R 5 million per annum are granted a deemed BEE Status as Level Four Contributors. In the case where such entities are also more than 50% owned by black people or 50% owned by black women, their status is elevated to that of Level Three Contributors.

### **- QUALIFYING SMALL ENTERPRISES (QSE's)**

Qualifying Small Enterprises (QSE's) are defined by the Codes as companies with an annual total turnover of between R 5 million and R35 million.

Government has singled out small enterprises as vital in the fight for job creation and economic growth. According to the Small Enterprise Development Agency (SEDA), small enterprises already contribute approximately 35% of the country's gross domestic product (GDP) and employ over half the number of people who work in the private sector. Also, one out of five units exported from South Africa is said to have been produced in the small and medium business sector.

Aiming to ease the regulatory burden on small enterprises, many of which are already struggling under financial and capacity constraints, the Codes require QSE's to comply with ONLY four out of seven elements on the QSE scorecard. And while every company qualifying for measurement under the Codes must maintain a scorecard, the codes have further eased the BEE compliance burden by setting lower targets for these companies.

Unlike the Generic Scorecard, the QSE Scorecard allocates an equal 25 points weighting to each of the seven elements, of B-BBEE. As QSE's only have to elect four of the elements, selected elements of compliance total 100 weightingpoints.

### **- Exempted Micro-Enterprises**

Exempted Micro Enterprises (EME's) are defined by the Codes, as companies with an annual total turnover of R 5 million or less. EME's enjoy a deemed BEE recognition of a Level 4 contributor and those, which are either 50%, owned by black people or 50% owned by black women are promoted to a Level 3 contributor.



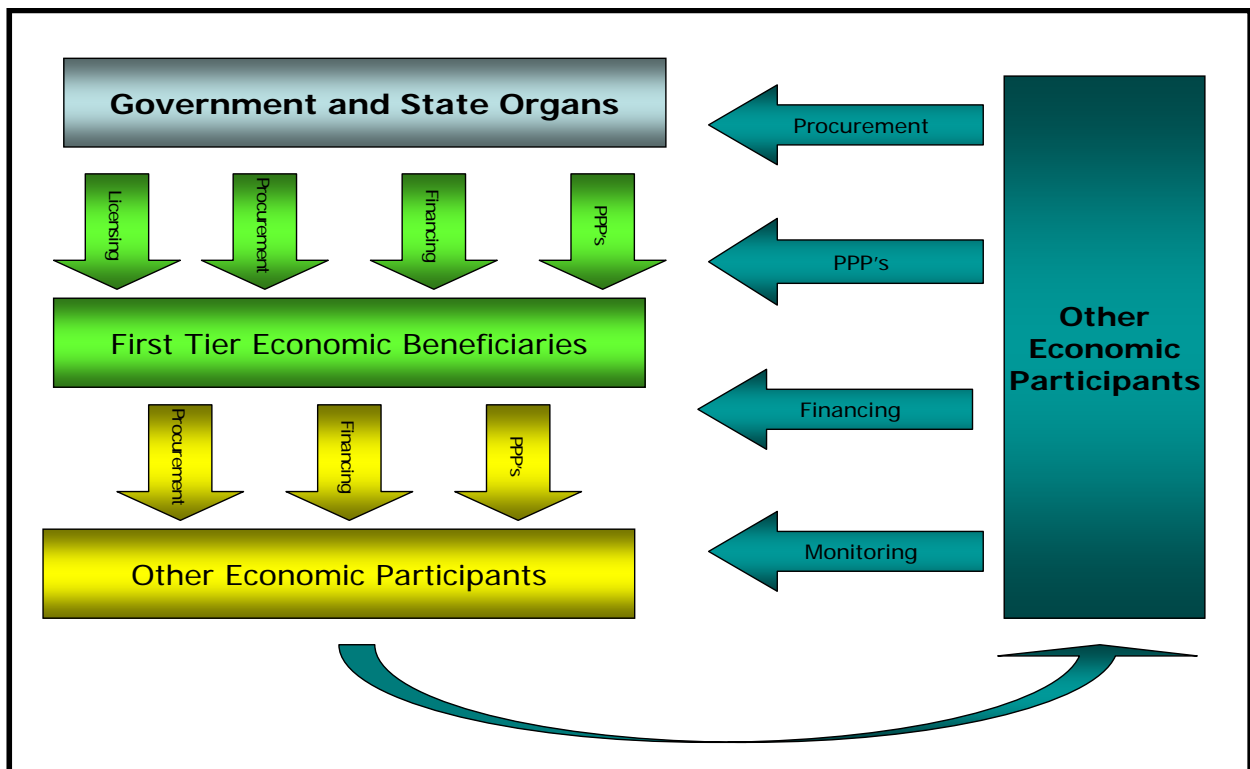
**Note:** Start-up enterprises are measurable as EME's for the first year following their formation or incorporation. This provision applies regardless of the expected total revenue of the start-up enterprise. However, in instances where such start-up enterprises tender for any contract with a value higher than R5million but less than R35million, they have to comply with the QSE scorecard. In instances where such start-up entities tender for contracts with a value above R35million they have to comply with the generic scorecard.

**Who do the Codes apply to?**

Once gazetted, the Codes of Good Practice will be binding on all organs of state and public entities. This means that, as per section 10 of the BEE Act, government must apply the Codes when entering into decisions affecting the following areas:

- procurement
- licensing and concessions
- public private partnerships ('PPP's')
- the sale of state-owned entities

**Implementation Levels for the Application of the Codes:**



By deduction, private sector enterprises must apply the Codes should they wish to interact with organs of state and public entities in one or more of the interactions described above, such as tendering for business, applying for licenses and concessions, entering into PPP's and purchasing state-owned assets.

Furthermore, private sector enterprises are encouraged to apply the Codes of Good Practice in their interactions with one another for two reasons. Firstly, enterprises should apply the Codes because preferential procurement will effectively impinge on most private sector enterprises throughout the chain of supply, from the first tier suppliers to government, downwards. Secondly, all industry charters wishing to be gazetted as Sector Codes, are required to align themselves with the Codes for the purposes of gazetting by the Minister of Trade and Industry. Therefore, those enterprises applying industry charters, which have not yet been gazetted, may be required to alter their means of measurement once these charters have been gazetted.

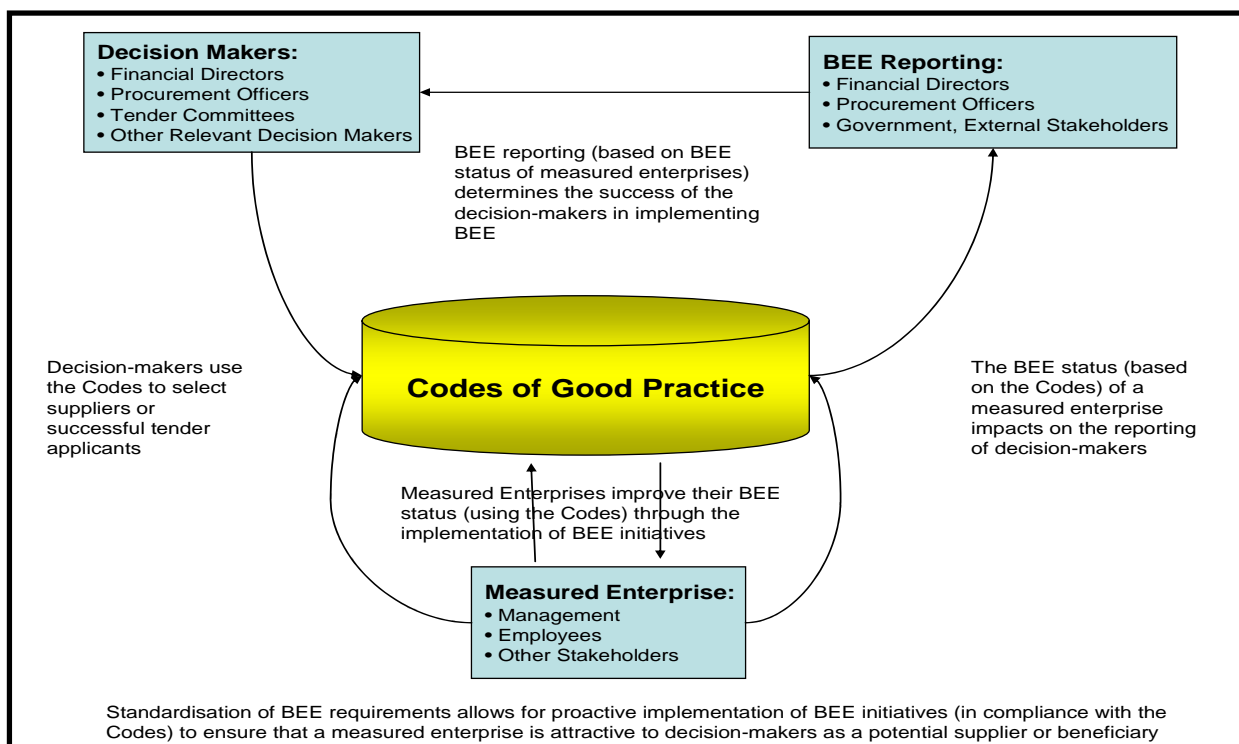
#### ***How will the Codes be applied?***

Based on the implementation levers highlighted above, the Codes of Good Practice are important for decision-makers when making and reporting on economic decisions. The following example will demonstrate how the Codes are implemented by such decision-makers when:

- reporting on BEE spend and initiatives
- making economic decisions based on BEE criteria
- selecting and implementing BEE initiatives

As a result, the Codes of Good Practice are important to the management of enterprises interacting with both public and private sector entities that make their decisions based on the Codes.





Applying the Codes of Good Practice to an enterprise simply means that an enterprise will be measured in accordance with a broad-based scorecard (Generic or Qualifying Small Enterprise, whichever is applicable), contained in the Codes. In other words, the measured enterprise's BEE status will be measured according to the targets and weightings contained in the applicable broad-based scorecard, as well as the measurement principles contained in each of the corresponding Statements. A measured enterprise will receive a score out of 100, which will confer upon it a corresponding BEE status according to its BEE contributions.

**Example: Application of the Codes by a Decision-Maker**

The procurement officer of a public sector entity is considering a tender. Assuming that pricing, quality and other factors are similar across the three potential suppliers, the final decision will be based on BEE credentials.

The BEE scorecards of three competing enterprises are as follows:

- **Company X:** with a BEE status in terms of the Generic Scorecard, as contained in Statement 000, of **55%**
- **Company Y:** with a BEE status in terms of the Generic Scorecard, as contained in Statement 000, of **78%**
- **Company Z:** a QSE black majority owned enterprise, with a BEE status in terms of the Generic Scorecard, as contained in Statement 800, is **55%**



The table below depicts the enterprise's weighted score per element (i.e. the score achieved after multiplying each indicator's raw score by the corresponding indicator weighting and summing the results for each element):

<b>ELEMENT</b>	<b>WEIGHTING</b>	<b>COMPANY X: WEIGHTED SCORE</b>	<b>COMPANY Y: WEIGHTED SCORE</b>	<b>COMPANY Z: WEIGHTED SCORE</b>
Ownership	20%	12%	18%	20%
Management Control	10%	5%	9%	10%
Employment Equity	15%	7%	8%	15%
Skills Development	15%	12%	15%	N/A
Preferential Procurement	20%	11%	12%	10
Enterprise Development (ED)	15%	7%	12%	N/A
Socio-economic Development (SED)	5%	1%	4%	N/A
<b>TOTAL</b>	<b>100%</b>	<b>55%</b>	<b>78%</b>	<b>55%</b>

Assuming the Procurement Officer awarding this tender is working towards the achievement of a set preferential procurement target, s/he will have to identify the BEE recognition levels of the three suppliers when making this economic decision. The following table, as contained in Statement 000, provides specific BEE procurement recognition levels for the procurement officer:

The BEE scores of the three enterprises in this example mean that each enterprise enjoys a corresponding BEE procurement recognition level, as illustrated in the table below:



<b>BEE Status</b>	<b>Qualification</b>	<b>BEE procurement recognition level</b>
Level One Contributor	≥100 points on the Generic Scorecard	135%
Level Two Contributor	≥85 but <100 points on the Generic Scorecard	125%
Level Three Contributor	≥75 but <85 on the Generic Scorecard	110%
Level Four Contributor	≥65 but <75 on the Generic Scorecard	100%
Level Five Contributor	≥55 but <65 on the Generic Scorecard	80%
Level Six Contributor	≥45 but <55 on the Generic Scorecard	60%
Level Seven Contributor	≥40 but <45 on the Generic Scorecard	50%
Level Eight Contributor	≥30 but <40 on the Generic Scorecard	10%
Non Compliant Contributor	<30 on the Generic Scorecard	0%

*BEE Procurement Recognition: Company X*

As a Level Five Contributor, if the procurement officer selects company X, s/he will recognise only 80c for every R1 spent with Company X. In other words, if the officer spends R1 million with Company X in the year under measurement, his/her department will recognise R800 thousand of that spend when reporting on preferential procurement.

*BEE Procurement Recognition Levels: Company Y*

In comparison, Company Y is a Level Three Contributor. Statement 000 provides for enhanced BEE procurement recognition levels when procuring from enterprises, which are Level One, Two or Three Contributors, as per the Generic Scorecard. This means that Company Y will enjoy enhanced procurement recognition: i.e.: for every R1 spent with Company Y by its clients, the procurer may recognise R1.10. In other words, if the officer spends R1 million with Company Y in the year under measurement, his/her department will recognise R1.1 million when reporting on preferential procurement.

*Enhanced BEE Procurement Recognition Levels: Company Z*

In addition, an inherent bonus system has been provided for in Statement 000 for procurement from exempted micro enterprises (EMEs) which are more than 50% black-owned (or majority black-owned enterprises) or 50% black women owned in that such enterprises may be 'promoted' one level in terms of their BEE status, provided that the enterprise has also achieved the full points under the current equity interest component of the Generic Scorecard.

As a result, although Company Z, scores 55 points on the Generic Scorecard (the same as Company X), it is promoted from a Level Five Contributor to a Level Four Contributor. This means that the procurement officer will be able to claim R 1 for every R 1 spent with Company Z, instead of only 80c for every Rand as is the case with Level Five Contributors. In other words, if the officer spends R1 million with Company Z in the year under measurement, his/her department will recognise R1 million when reporting on preferential procurement.





### Resulting Economic Behaviour

The selection of Company Y, the Level Three Contributor, will ensure that the procurement officer receives the most recognition for his/her spend through this tender. It will also incentivise Company X and Company Z to implement further BEE initiatives to ensure that they will be more competitive in future tenders.

### Comparative Reporting Effects of BEE Procurement Spend:

Assuming that the procurement officer in the above example spends R 1 million on goods and/or services from Company X, Company Y and Company Z respectively, as well as R 5 million from another company, Company A, non-BEE compliant entity, the officer's BEE reporting will be as follows:

Supplier	BEE Score	Level Contribution	BEE Recognition Level	Total Spend	BEE Spend
Company X	55%	Level 5	80%	1,000,000	800,000
Company Y	78%	Level 3	110%	1,000,000	1,100,000
Company Z	55%	Level 4 (Promoted)	100%	1,000,000	1,000,000
Company A	15%	Non-Compliant	0%	5,000,000	0
<b>Total</b>				<b>8,000,000</b>	<b>2,900,000</b>

The BEE procurement percentage for the procurement officer will be calculated as follows:

$$= \text{BEE spend} / \text{total procurement spend}$$

$$= 2,900,000 / 8,000,000 = 36.3\%$$

The procurement officer receives full and enhanced recognition for procurement from Company Y and Company Z, whilst s/he receives 80% recognition for his/her spend with Company X and no recognition whatsoever for his spend with Company A. In order to improve his/her spend to reach target, s/he will prefer to procure from Company Y and Company Z and similar BEE contributors and may reduce his spend with Company A and Company X over time (unless they transform). This behaviour will then encourage companies to maintain and improve on their BEE status to become more competitive.

### Conclusion:

The overall purpose of the Codes of Good Practice is to provide certainty with respect to BEE recognition and measurement, in order that BEE initiatives may be implemented in such a way that economic substance takes precedence over form, that there exists just comparability between the



BEE statuses of different entities and that competition with respect to BEE contribution levels takes place. In so doing, this will begin to ensure that BEE is implemented across the value chain, thereby facilitating access to the economy.



## THE GENERIC SCORECARD

Element	Category	Indicator	Weighting points	Interim Target (Years 0-5)	Compliance Target (Years 6-10)
<b>OWNERSHIP</b>  Code 100 Statements 100 102 103   Total Points = 20	Voting Rights	Exercisable Voting Rights in the Enterprise in the hands of black people	3		25%+1 vote
		Exercisable Voting Rights in the Enterprise in the hands of black women	2		10%
	Economic Interest	Economic Interest of black people in the Enterprise	4		25%
		Economic Interest of black women in the Enterprise	2		10%
		Economic Interest of the following black natural people in the Enterprise: black designated groups; black participants in Employee Ownership Schemes; black beneficiaries of Broad-Based Ownership Schemes; or black Participants in Co-operatives	1		2.5%
	Realisation Points	Ownership fulfillment	1		No Restrictions
		Net Value  Achieved accordingly: 10% of the Target (Year 1) 20% of the Target (Year 2) 40% of the Target (Year 3-4) 60% of the Target (Year 5-6) 80% of the Target (Year 7-8) 100% of the Target (Year 9-10)	7		25%
	Bonus Points	Involvement in the ownership of the Enterprise of black new entrants;	2		10%
		Involvement in the ownership of the Enterprise of: - black participants in Employee Ownership Schemes; - black beneficiaries of Broad Based Ownership Schemes; or - black participants in Co-operatives.	1		10%
	<b>MANAGEMENT CONTROL</b>  Code 200 Statements 200  Total Points = 10	Board Participation	Exercisable Voting Rights of black board members using the adjusted recognition for gender	3	
Black Executive Directors using the adjusted recognition for gender			2		50%
Top Management		Black Senior Top Management using the adjusted recognition for gender	3		40%
		Black Other Top Management using the adjusted recognition for gender	2		40%
Bonus Points		Black Independent Non-Executive Board Members	1		40%
<b>EMPLOYMENT EQUITY</b>  Code 300 Statements 300		Black employees of the Measured Entity who are Disabled Employees as a percentage of all employees using the adjusted recognition for gender	2	2%	3%
		Black employees in senior management as percentage of all such employees using the adjusted recognition for gender	5	43%	60%
		Black employees in middle management as a percentage of all such employees using the adjusted recognition for gender	4	63%	75%



Total Points = 15		Black employees in junior management as a percentage of all such employees using the adjusted recognition for gender	4	68%	80%
		Bonus points for meeting or exceeding the EAP targets in senior, middle and junior management	3		
SKILLS DEVELOPMENT Code 400 Statements 400  Total Points = 15	Skills Development Expenditure on any programme specified in the learning programme matrix	Skills Development Expenditure on Learning Programmes specified in the Learning Programme Matrix for black employees as a percentage of leviable amount using the adjusted recognition for gender	6		3%
		Skills Development Expenditure on Learning Programmes specified in the Learning Programme Matrix for black employees with disabilities as a percentage of leviable amount using the adjusted recognition for gender	3		0.3%
	Learnerships	Number of black employees participating in learnerships or category B,C, and D Programmes as a percentage of total employees using the adjusted recognition for gender	6		5%
PREFERENTIAL PROCUREMENT Code 500 Statements 500  Total Points = 20		B-BBEE Procurement Spend from all Suppliers based on the B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	12	50%	70%
		B-BBEE Procurement Spend from Qualifying Small Enterprises or from Exempted Micro Enterprises based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	3	10%	15%
		BEE Procurement Spend from any of the following Suppliers as a percentage of Total Measured Procurement Spend: Suppliers that are more than 50% black owned; and Suppliers that are more than 30% black women owned	3 2	9% 6%	12% 8%
ENTERPRISE DEVELOPMENT Code 600 Statements 600  Total Points = 15		Average annual value of all Enterprise Development Contributions and sector specific programmes made by the Measured Entity as a percentage of the target	15		3% of Net Profit After Tax)
SOCIO-ECONOMIC DEVELOPMENT Code 700 Statements 700  Total Points = 5		Average annual value of all Socio-Economic Development contributions by the Measured Entity as a percentage of the target	5		1% of Net Profit After Tax



## THE QUALIFYING SMALL ENTERPRISE (QSE) SCORECARD

Element	Category	Indicator	Weighting points	Interim Target (Years 0-5)	Compliance Target (Years 6-10)	
OWNERSHIP  Code 800 Statements 801          Total Points = 25	Voting Rights	Exercisable Voting Rights in the Enterprise in the hands of black people	6		25%+1 vote	
	Economic Interest	Economic Interest of black people in the Enterprise	9		25%	
	Realisation Points	Ownership fulfillment		1		Refer to paragraph 11
		Net Value		9		Refer to paragraph 11
	Bonus Points	Involvement in the ownership of the Enterprise of black women;		2		10%
Involvement in the ownership of the Enterprise by: - black participants in Employee Ownership Schemes; - black beneficiaries of Broad-Based Ownership Schemes; or - black participants in Co-operatives.			1		10%	
MANAGEMENT CONTROL  Code 800 Statement 802  Total Points = 25	Board Participation	Black representation at Top Management Level	25		50%	
	Bonus Points	Black women representation as Top-Managers	2		25%	
EMPLOYMENT EQUITY  Code 800 Statement 803  Total Points = 25		Black employees of the Measured Entity who are Management as a percentage of all Management using the Adjusted Recognition for Gender	15	40%	60%	
		Black employees of the Measured Entity as a percentage of all employees using the Adjusted Recognition for Gender	10	60%	70%	
		Bonus points for meeting or exceeding the EAP targets in each category above	2			
SKILLS DEVELOPMENT  Code 800 Statements 804 Total Points = 25		Skills Development Spend on Learning Programmes for black employees as a percentage of Leviable Amount	25		2%	
PREFERENTIAL PROCUREMENT  Code 800 Statements 805  Total Points = 25		B-BBEE Procurement Spend from all Suppliers based on the B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	25	40%	50%	



<p><b>ENTERPRISE DEVELOPMENT</b></p> <p>Code 800 Statements 806</p> <p>Total Points = 25</p>		<p>Average annual value of all Enterprise Development and Sector Specific Programmes made by the Measured Entity as a percentage of the target</p>	<p>25</p>		<p>2% of Net Profit After Tax</p>
<p><b>SOCIO-ECONOMIC DEVELOPMENT</b></p> <p>Code 800 Statements 807</p> <p>Total Points = 25</p>		<p>Average Annual value of all Socio-Economic Development contributions by the Measured Entity as a percentage of the target</p>	<p>25</p>		<p>1% of Net Profit After Tax</p>

### HOW THE SCORECARDS WORK:

- Using a system of weightings and targets, companies can express their BEE contribution as a score out of 100 points
- The Codes and accompanying Statements explain how each indicator should be measured
- The scorecards comprise seven elements, which are measured out of a total score of 100 points. QSE's may select four of the seven elements featured on the scorecard and need only comply with those as they all have an equal weighting of 25 points



## ***Chapter Two: Code 000 – Framework for the Measurement of Broad-Based Black Economic Empowerment***

### ***Statement 000 – The Organisation of the Codes of Good Practice, the Elements of Broad-Based Black Economic Empowerment and the Generic Scorecard***

#### **Introduction**

Statement 000 resolves certain fundamental and key issues surrounding broad-based BEE and the application thereof, by outlining the framework in which the measurement of broad-based BEE must take place.

#### **Interpretation Principles**

These interpretation principles outline key principles with respect to fronting - the key principle being that substance must always take precedence over form. In addition, key generic measurement principles are provided. They are as follows:

**1. Measurement of BEE principles is based on the actual level of compliance at the date of measurement:**

This means that the BEE status of an enterprise is determined as a snapshot at a point in time.

**2. Supporting evidence or documentation is required for the substantiation of BEE contributions:**

All claims with respect to BEE contributions made by a measured enterprise must be supported by evidence or documentation. No recognition in the form of points on the Generic Scorecard will be given for claims that are unsubstantiated by evidence.

**3. Disqualification for misrepresentation:**

Should an enterprise be found to misrepresent its BEE status, the enterprise may forfeit any points for any BEE contributions and its entire scorecard may be disqualified.



### ***Organisation of the Codes, the Elements, the Generic Scorecard***

In addition to providing code references for the seven elements of broad-based BEE, references are provided for transformation charters gazetted as sector codes.

Code 003 provides for sector charters to become legally binding as sector codes thereby enabling sectors to focus on some of the unique characteristics of individual industries when implementing BEE.

### ***BEE Status and Procurement Recognition Levels***

Statement 000 outlines what each of the seven elements measures in essence before going on to summarise the corresponding weightings for these seven elements and consequently interpreting an enterprise's score on the Generic Scorecard by assigning it a corresponding BEE status.

An enterprise is measured out of 100 BEE contribution points, which will determine that enterprise's contribution level. The highest possible contribution level is Level One, for entities that score over 100 points (this may be achieved by obtaining bonus points), whilst the lowest recognition level is Level Eight, for entities which score 30 points to 40 points on the scorecard. The status of "Non Compliant Contributor" is assigned to those enterprises that score less than 30 points on the scorecard.





For ease of reference, the table in Statement 000, is reproduced below:

<b>BEE Status</b>	<b>Qualification</b>	<b>BEE procurement recognition level</b>
Level One Contributor	≥100 points on the Generic Scorecard	135%
Level Two Contributor	≥85 but <100 points on the Generic Scorecard	125%
Level Three Contributor	≥75 but <85 on the Generic Scorecard	110%
Level Four Contributor	≥65 but <75 on the Generic Scorecard	100%
Level Five Contributor	≥55 but <65 on the Generic Scorecard	80%
Level Six Contributor	≥45 but <55 on the Generic Scorecard	60%
Level Seven Contributor	≥40 but <45 on the Generic Scorecard	50%
Level Eight Contributor	≥30 but <40 on the Generic Scorecard	10%
Non Compliant Contributor	<30 on the Generic Scorecard	0%

For the purposes of preferential procurement, each BEE status band (Levels One to Eight) is assigned a corresponding BEE procurement recognition level. This represents the proportion of spend which a decision maker can claim for interacting with a measured enterprise. For example, if a procurement officer procures from a Level Five Contributor, s/he can claim 80 cents in every Rand spent with that entity, as BEE procurement spend. The procurement officer's BEE recognition level, however, drops to 50 cents in every Rand when procuring from a Level Seven Contributor and increases to R 1.25 for every Rand spent with a Level Two Contributor.

#### **Enhanced BEE Procurement Recognition Levels**

A measured enterprise which procures goods and services from Contributors in Levels One, Two and Three, will enjoy enhanced recognition, i.e. for every R1 spent with a Level One Contributor; the procurer may recognise R1.35 as BEE procurement.

In addition, an inherent bonus system has been designed for procurement from EMEs which are more than 50% black-owned and 50% black women owned in that such enterprises may be promoted one level in terms of their BEE status.

#### **Accreditation of BEE verification agencies**

The codes provide a framework for the regulation of BEE verification agencies. The codes encourage BEE information to be verified in order for all affected entities to place reliance on such information. The provision of this regulatory framework ensures that when an entity opts to use a BEE verification agency an independent accreditation body being SANAS has duly accredited such BEE verification agency.



The dti will also provide further standards to be used when conducting verification of BEE information.

### ***The Transitional Period and the Duration of the Codes***

In recognition of the fact that many enterprises are still applying narrow-based<sup>3</sup> or other BEE evaluation mechanisms, the Codes allow for the continuation of narrow-based or other evaluation mechanism until the end of the twelfth month of the publication and gazetting of the Codes. This is to allow all reporting entities the opportunity to initiate the reporting of BEE contributions using the Codes from the first reporting period which will begin subsequent to the release of the Codes. Notwithstanding the latter, evaluation through the use of the broad-based scorecard is encouraged to continue, or to begin, prior to the completion of the transitional period.

If an enterprise elects to be measured on narrow-based principles during the transitional period, the sum of the measured enterprise's score for ownership and management will be multiplied by a factor of 1.92.

In other words, the measured enterprise's **narrow-based score** will be calculated as follows:

$$= \text{sum of scores for ownership \& management elements} \times 1.92$$

The Codes are intended to be in effect for at least a ten-year period. The implementation of the codes will be monitored on a continuing basis and annual reviews will also be conducted.

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<sup>3</sup> An entity's BEE status is evaluated according to ownership and management control exclusively



## ***Statement 003 – Guidelines for the Development and Gazetting of Transformation Charters***

### ***Introduction***

As the second wave of transformation began to gain momentum in South Africa in 2001, various sectors of the economy began drafting documents of intent that summarised each sector's commitments with respect to transformation. These became known as sector transformation charters.

There was, however, no overall framework against which to benchmark the individual charters during their development and no guidance on the level and extent of involvement by stakeholders. In the absence of such a framework, there may have existed substantial differences between these sector charters.

Section 12 of the Broad-Based BEE Act of 2003 provided some guidance with respect to the composition of what the Act termed, 'transformation charters'. In terms of the B-BBEE Act, sector transformation charters are commitments by a sector to accelerate BEE and are gazetted for information purposes only. Nonetheless, there existed a need for a more comprehensive regulatory framework to guide the development of transformation charters developed in terms of section 12, as well as those charters developed to be gazetted as Codes of Good Practice. Statement 003 provides such a framework.



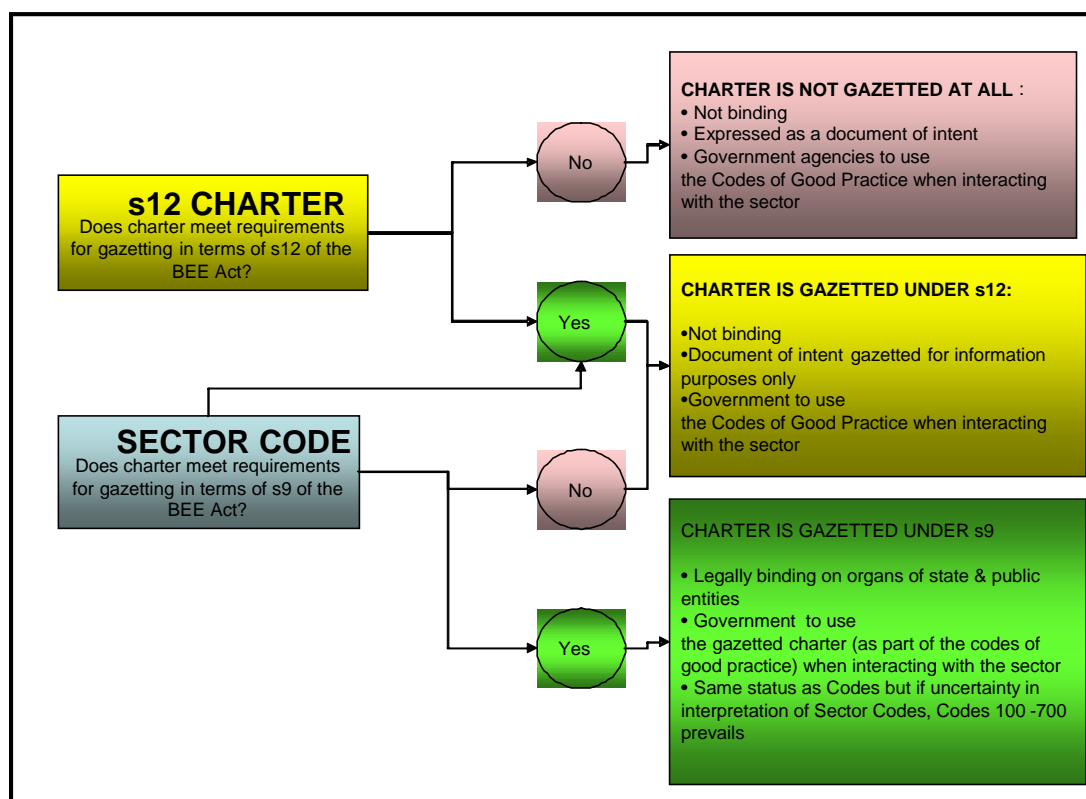
**The Status of Transformation Charters Gazetted in Terms of s12 and the Status of Sector Codes of Good Practice Gazetted in terms of s9**

The B-BBEE Act provides for the drawing up of industry charters which may be gazetted in terms of section 12 of the Act. Section 9 of the Act further allows for the gazettement of codes of good practice and the codes make provision for the gazettement of sector codes:

Sector Codes (s9 of B-BBEE Act)	Transformation Charters (s12 of B-BBEE Act)
<ul style="list-style-type: none"> <li>Gazetted as Codes of Good Practice</li> </ul>	<ul style="list-style-type: none"> <li>Gazetted for information purposes only</li> <li>s12 charters are expressions of the industry's commitment to transformation</li> </ul>
<ul style="list-style-type: none"> <li>Same legal status as the Codes of Good Practice, therefore binding on organs of state and public entities in their interactions with the sector, as provided for in section 10 of the B-BBEE Act</li> </ul>	<ul style="list-style-type: none"> <li>No legal status, therefore not legally binding on organs of state or public entities</li> </ul>
<ul style="list-style-type: none"> <li>Private sector enterprises are encouraged to apply the Codes of Good Practice (including Sector Codes, if applicable) in their interactions with one another, as espoused in Code 000</li> </ul>	<ul style="list-style-type: none"> <li>Private sector entities must apply Codes 100 to Code 700 should they wish to interact with organs of state and/or public entities and are furthermore encouraged to do the same in their interactions with one another</li> </ul>



**Implications for the Gazetting of Transformation Charters under section 12 & Sector Codes under section 9:**



**Procedure for the Gazetting of Transformation Charters in Terms of s12 of the BEE Act**

Transformation Charters to be gazetted in terms of section 12 of the B-BBEE Act must simply meet the following two criteria, as outlined in the Act:

- The charter must be sufficiently consultative in that it must have been developed by the sector’s major stakeholders
- The charter must advance the objectives of the BEE Act

Detailed procedures for the formulation of such sector charters have been provided in the statement 003 of the codes.

**Procedure for the Gazetting of Transformation Charters as Sector Codes of Good Practice**

Since transformation charters gazetted in terms of section 9 of the B-BBEE Act, become Codes of Good Practice and are therefore legally binding on organs of state and public entities, the procedure for gazetting these is far more stringent than those of s12 charters. The detailed procedures of

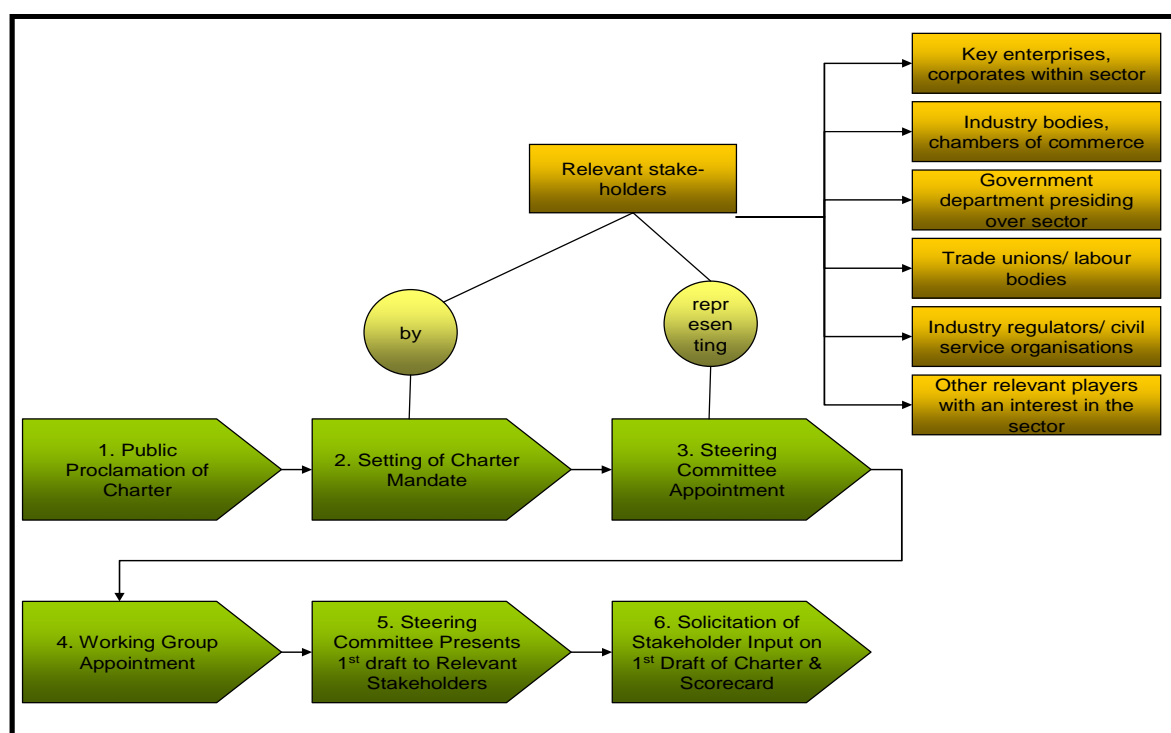


gazetting transformation charters as codes of good practice under s12 of the Act have been provided in statement 003.

### Enterprise BEE Plans

Enterprise BEE plans are mission statements to achieve transformation by individual entities. These are voluntary company-specific commitments to BEE and may not be used for the purposes of measuring an entity's BEE status, save for internal assessment purposes.

### Recommended Model for Drawing up a Transformation Charter



### Further clarification on definitions of Qualifying Small Enterprises (QSEs) and Exempted Micro Enterprises (EMEs)

The codes have provided generic thresholds for QSEs and EMEs to be used in the case where specific sector determinations have not been made of the definitions for small and micro-enterprises. In sectors where these thresholds have the effect of excluding a majority of the sector from transformation (due to the use of the thresholds for EMEs), it is encouraged that the relevant stakeholders in these sectors make a determination of appropriate thresholds that are more relevant to the peculiarities of the sector.

### Further clarification on Employment Equity



- Individual sectors may seek the gazetting of a Sector Code that allows the use of other indicators as a means of testing the appropriateness of the fixing of the various Measurement Categories using the Regulations issued under the Employment Equity Act. These regulations are contained in form EEA 4 of the Employment Equity Act which seeks to report income differentials. The Regulations nevertheless take precedence over such other indicators.
- the definition of occupational levels must use sound and empirical research undertaken by a representative body for that sector as a basis; and
- where salary scales form part of the other indicators used in the sector code, these salary scales must provide for a default cost of living or inflation adjustment in the Sector Code, even if the sector intends amending those salary scales annually.



## ***Chapters Three: Code 100 – Measurement of the Ownership Element of Broad-Based Black Economic Empowerment***

### ***Statement 100 – The General Ownership Scorecard and the Recognition of Ownership Arising from the Sale of Equity Instruments***

#### **Introduction**

Transactions which were concluded during the first wave of BEE in the late nineteen nineties began to reveal the fact that transformation of the nature of BEE deals themselves, was required. In particular, the need to address the following issues with respect to some BEE transactions, was revealed:

- The lack of participation by black women in BEE consortia;
- The reversion of black equity into the hands of the original white owners, following the collapse of BEE deals, owing to onerous structuring and repayment terms;
- The fact that often the BEE ownership status of entities was inflated when compared to the actual economic benefits flowing to the black beneficiaries, since economic benefits were often eroded by financing and voting restrictions;
- The lack of participation by broad-based beneficiaries such as black rural people, black unemployed people, black workers, and black disabled (black designated groups);
- The fact that deals were primarily concluded amongst a select number of BEE personalities since there was no incentive for companies to look beyond these prominent black players;
- Fronting

Statement 100 aims to address all of these issues by providing specific incentives in the ownership scorecard to ensure participation by black women, black designated groups and black new entrants and to ensure that only real economic interest in the hands of black people is measured.

#### **Components of the Ownership Scorecard**

In order to measure the extent of black ownership participation, the ownership scorecard measures the different rights normally attached to ownership. These rights are:

- **Voting Rights:** Control of the Enterprise, through the exercise of voting rights at shareholder meetings.





- **Economic Interest:** The entitlement of black people to dividends, capital gains and other economic rights of shareholders.
- **Net Value:** The accumulated net economic interest in the hands of the black shareholders, after the deduction of monies owed by these black shareholders.

### Ownership Scorecard

Category	Ownership indicator	Weighting points	Compliance Target
1.1	Voting rights:		
	1.1.1 Exercisable Voting Rights in the Enterprise in the hands of black people	3	25%+1 vote
	1.1.2 Exercisable Voting Rights in the Enterprise in the hands of black women	2	10%
1.2	Economic Interest:		
	1.2.1 Economic Interest of black people in the Enterprise	4	25%
	1.2.2 Economic Interest of black women in the Enterprise	2	10%
	1.2.3 Economic Interest of the following black natural people in the Enterprise: 1.2.3.1 black designated groups; 1.2.3.2 black Participants in Employee Ownership Schemes; 1.2.3.3 black beneficiaries of Broad-Based Ownership Schemes; or 1.2.3.4 black Participants in Co-operatives	1	2.5%
1.3	Realisation points:		
	1.3.1 Ownership fulfilment	1	<b>Refer to definition below</b>
	1.3.2 Net value	7	<b>Refer to definition below</b>
1.4	Bonus points:		
	1.4.1 Involvement in the ownership of the Enterprise of black new entrants;	2	10%
	1.4.2 Involvement in the ownership of the Enterprise of black Participants in 1.4.2.1 black Participants in Employee Ownership Schemes; 1.4.2.2 black beneficiaries of Broad-Based Ownership Schemes; or	1	10%



	1.4.2.3	black Participants in Co-operatives.		
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**How the Scorecard Resolves the Issues Surrounding BEE Transactions:**

The ownership scorecard provides specific recognition of ownership participation by black women or black designated groups. As a result, a measured enterprise will only achieve full ownership points if there is equity participation by black women and black designated groups or broad-based schemes in its ownership structure. Through the targets and weightings allocated to the different indicators, the scorecard also seeks to strike a balance in the inclusion of various intended beneficiaries of BEE ownership transactions.

The scorecard aims to ensure that a measured enterprise will consider its black shareholders' ownership rights and their status when structuring a transaction to introduce black ownership or when formulating a new enterprise with black owners.

**Key Definitions and Principles:**

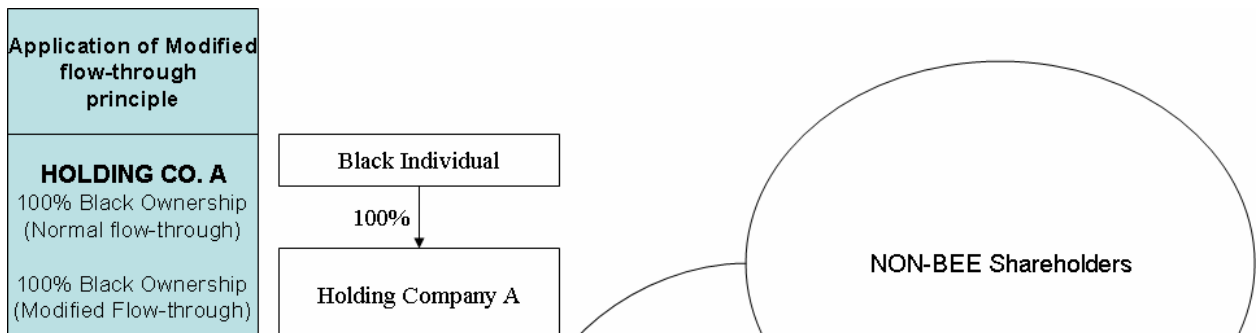
The term "**black people**" includes all African, Coloured or Indian persons who are South African citizens by birth or by descent or who were naturalised prior to the commencement of the interim constitution in 1993. In addition, the term also includes black people who became South African citizens after the constitution's commencement but who would have been able to be naturalised prior to this, were it not for the Apartheid laws which prohibited naturalisation of certain persons.

This means that an African, Coloured or Indian person who was not a South African citizen before the commencement of the interim constitution in 1993 but who would have been entitled to apply to be naturalised prior to 1993, will also be considered a black person for the purposes of benefiting from the policy objectives of B-BBEE.

**"Flow-through and modified flow-through principles"** are used to ensure that the objectives of BEE will not be circumvented through complex funding structures. The flow-through principle traces ownership measurement through the chain of ownership to the black natural person(s).

The modified flow-through principle allows for the participation of non-BEE funders at one tier of ownership. A measured enterprise can elect to apply the modified flow-through principle at any tier in a chain of ownership, but limited to one tier only.

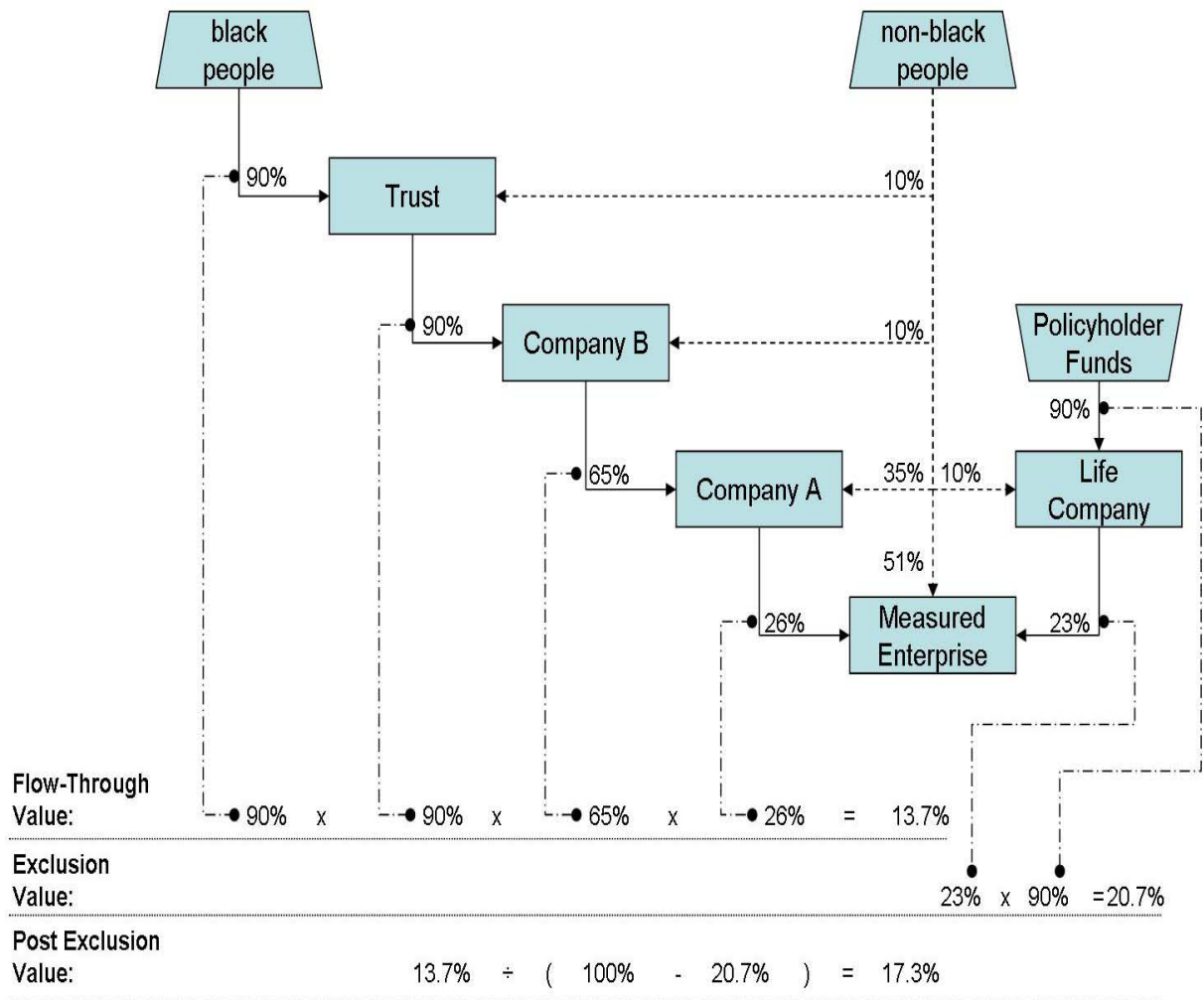
**Figure 100-I Illustration of the Flow-Through and Modified Flow-Through principles**



**“Exclusion Principle”** allows for ownership by certain entities to be excluded from the calculation of ownership up to a maximum of 40% of the measured entity in total. These include ownership by Government entities (unlimited exclusion); s21 Companies; and Mandated Investments (e.g. pension funds, insurance funds, medical scheme, banking investment, friendly society, mutual schemes, unit trusts)

**Figure 100 –2 Illustration of the Exclusion principle**





The "Flow-Through Value" shows the black ownership at each level in the ownership chain using the Flow-Through Principle. The "Exclusion Value" shows the excluded value at each level of that ownership chain using the Exclusion Principle. The full value of the mandated investment is excludable as this is less than 40%. The "Post Exclusion Value" shows the effective black rights of ownership after applying the Exclusion Principle.

**(Note: A Measured Enterprise applying the Exclusion Principle to mandated investments cannot benefit from the Modified Flow-Through Principle and vice versa)**

**“Recognition of ownership after the sale or loss of shares” (Continuing consequences principle)**

This principle enables a company to include up to 40% of the ownership points after the BEE partner exits OR loses its shares to a funder.

Conditions for the Application of the Continuing Consequences Principle:



1. The black shareholder must have held their equity stake for at least 3 years prior to their exit.
2. There must be demonstrable net value in the hands of black people.
3. The measured entity, using its balanced scorecard, is able to demonstrate that it has transformed.

The extent to which ownership points can be maintained using this principle will be based on both the net value in black hands as well as the extent of transformation in the Measured Entity (based on the Measured Entity's BEE score).

### Illustration

Year 1

Company A enters into a 25% BEE transaction

Value of Company A in year 1 = R100

BEE recognition level per scorecard of company A = 0

Value of BEE transaction = R25

BEE shareholder loan = R25

End of year 3

BEE shareholder exits investment in measured entity

Value of Company A = R150

BEE recognition level per scorecard = 100%

Value of 25% BEE shareholding = R37.50

Outstanding loan amount = R15



### Determination of Ownership points on the scorecard of the measured entity:

- The first test would be whether the black shareholder has remained with the measured entity for a minimum period of 3 years.
- Net value in the hands of black people =  $(R37.5-R15)/R150= 15\%$

The following formula is used:

$$A = B \times C \times D$$

B = Percentage rights of ownership for each of the indicators in the ownership scorecard that were attributable to the black shareholder immediately before his/her sale or loss;

C = The Net Value percentage of the equity interest

$$=20 \text{ points} \times (100 \text{ points} \times 15\%)$$

$$=3 \text{ points}$$

Effectively the Measured Entity would be able to obtain 3 points on its ownership scorecard. For the purposes of this calculation the BEE recognition level will be determined out of 80 total scorecard points as opposed to 100 scorecard points.

The codes do not limit the period over which such points can be obtained as the points are determined by various factors. It is envisaged that the current value of the Measured Entity will increase over time which will gradually decrease the number of points that a Measured Entity can continue scoring.

**“Deemed Net Value”** is the value of the part of the business that the black shareholder owns, less any outstanding financial obligations (including the capitalized/accumulated interest) that financed the purchase of his/her share of the business, as a percentage of the current value of the company.

### Illustration

The following formula is used:

$$A = (B-C)/D$$

B = Value of the shares held in the hands of black people

C = Carrying value of any outstanding debts by the black participant in relation to the shareholding including the interest thereon

D = The value of the Measured entity

Where:

$$B = R25$$

$$C = R10$$



$$D = R100$$

$$\begin{aligned}\text{Therefore } A &= (R25-R20)/R100 \\ &= R5/R100 \\ &= 5\%\end{aligned}$$

“**Net Value**” points on the scorecard are determined on a graduation factor based on a loan repayment period ending in the tenth year of the effective date of the codes or the date from which an ownership transaction was entered into (defined as the commencement date), whichever comes later.

The following formula used is:

$$A = B \times (1/25\% \times C) \times 7 \text{ points}$$

B = Deemed value as calculated above

C = is the time based graduation factor of economic interest being unencumbered in the hands of black people as outlined below:

- 10% of the target of 25% for the first year after the commencement date.
- 20% of the target of 25% for the second year after the commencement date.
- 40% of the target of 25% from the first day of the third year after the commencement date to the last day of the fourth year after the commencement date.
- 60% of the target of 25% from the first day of the fifth year after the commencement date to the last day of the sixth year after the commencement date.
- 80% of the target of 25% from the first day of the seventh year after the commencement date to the last day of the eighth year after the commencement date.
- 100% the target of 25% from the first day of the ninth year after the commencement date to the last day of the tenth year after the commencement date.



## Illustration

Loan given in year 0 = R25

Loan amount to be repaid:

Year 1 = 10% x R25 = R2.50

Year 2 = 20% x R25 = R5

Years 3 & 4 = 40% x R25 = R10

Years 5 & 6 = 60% x R25 = R15

Years 7 & 8 = 80% x R25 = R20

Years 9 & 10 = 100% x R25 = R25

Using the example above, a measured entity will score ownership points in the following manner assuming the loan outstanding remains constant over the years:

Year 1

$$\begin{aligned} A &= 5\% \times (1/(25\% \times 10\%)) \times 7 \\ &= 14 \text{ points} \end{aligned}$$

The codes however state that should a company score more points than allocated in the scorecard it will be limited to the maximum available points.

Therefore in the first year the company would be able to claim a maximum of the full 7 points available for this element of the ownership scorecard.

Year 2

$$\begin{aligned} A &= 5\% \times (1/(25\% \times 20\%)) \times 7 \\ &= 7 \text{ points} \end{aligned}$$

The company would still be able to retain the full 7 points scored on the ownership scorecard

Years 3 & 4

$$\begin{aligned} A &= 5\% \times (1/(25\% \times 40\%)) \times 7 \\ &= 3.5 \text{ points} \end{aligned}$$





As the company has not met the target of having paid up to 40% (R10) of its outstanding loan it would only be able to claim half (3.5) of the points on the ownership scorecard. It is also important to note that this rule would apply during any point within the 3 to 4 year period.

**“Ownership Fulfillment”** refers to any conditions that might prevent the black shareholder from achieving the full benefit of the Value of shares held by them. Where there are for instance restrictions on the date on which the shares can be sold by the black shareholder or if the shares have been pledged or ceded to a third party.

**“Black Ownership by Trusts, Employee Share Ownership Schemes and Broad-based Ownership Schemes”**: The statement provides detailed requirements for the recognition and measurement of trusts, employee ownership schemes and broad-based ownership schemes as black ownership as detailed in annexure 100 (B) of statement 100.

There is a general limitation on the extent to which such ownership schemes will be allowed to participate in BEE transactions if they do not meet certain requirements and this limitation is 40% of the transaction value/ownership points. Should such schemes wish to participate fully in BEE transactions they would be required to prove that they have operational capacity. In other words, schemes set up for the sole purpose of a transaction without the mandate of pursuing other business opportunities would most likely be confined to participating in up to 40% of the BEE transaction assuming that the transaction is at least a 25% transaction. Where a scheme has been set up to benefit a defined group of people and has a mandate to pursue other business opportunities and is properly capacitated to carry out day to day functions of an operating entity, it is likely to qualify to participate fully in any BEE transactions and ownership points attributable to it will not be limited to 40%.

In the case of family trusts the codes require that for such a trust to participate fully in a 25% transaction a competent person qualified to do so should provide a certificate stating that such a trust was set up for a legitimate commercial reason i.e. estate planning. This certificate by a competent person should also state that the terms of the Trust do not directly or indirectly seek to circumvent the provisions of the Codes and the Act.

The flow through principle should be used in determining the racial and gender profile of the trust to assist in the process of verifying the ownership status of such a trust. A document endorsed by the trustees listing the names of the beneficiaries, their gender and their racial profile should be made available. The trust deed should also make provision for the maintenance of such documentary evidence which should be duly authorized by the trustees.



**“Mandated Investments”** refer to what was previously loosely termed ‘indirect ownership’ – this generally refers to ownership through pension and/or provident funds by the individual policy holders through the investors that manage their savings.

There is an option for Measured Entities to include Mandated Investments in the calculation of their ownership score. They are, however, not compelled to do so.

- When a Measured Entity elects to **include** Mandated Investments as part of its shareholding, it has to demonstrate the value attributable to black people in terms of both economic interest as well as net value. The measured entity also has to demonstrate how it promotes shareholder activism.
- If a decision is made to **include** a Mandated Investment then all Mandated Investments must be included
- The portion of **included** Mandated Investments cannot exceed 40% of the total value of the Measured Entity’s equity.
- As is the case with the inclusion of Mandated Investments, when a Measured Entity elects to **exclude** Mandated Investments, they can only **exclude** them up to a maximum of 40% of the total value of the Measured Entity’s equity (all excluded mandated Investments must be summed to arrive at a total not exceeding 40% of the value of the company under measurement)

### **Treatment of Private equity funds**

The codes seek to encourage the creation and growth of black owned private equity fund management firms. There is also a need to encourage investment in black owned entities in order to alleviate the challenge of access to finance still faced by a number of such entities. In this regard certain provisions have been made in the codes that will allow investments made by such private equity fund managers to be recognized as being investments made by black shareholders while at the same time requiring them to provide funding that will facilitate economic participation by black investors. The provisions allowing for the treatment of investments made by private equity funds to be treated as black shareholding should be interpreted as follows:

- more than 50% of any of the Private Equity Fund Manager’s Exercisable Voting Rights associated with the Equity Instruments through which the Private Equity Fund holds rights of ownership in a Measured Entity, must be held by black people.
- more than 50% of the profits accruing to the Private Equity Fund Manager after realising any investment made by it, must by written agreement, accrue to black people; and



- the term profit in this is deemed as profit from the operations of the Private Equity Fund Manager and the carried interest that the Private Equity Fund Manager (and/or its associated entities) receives after realising any investment made by it.
- The Private Equity Fund Manager must be a BEE Owned Company. A BEE owned company refers to a juristic person, having share holding or similar members interest, that is BEE controlled, in which black participants enjoy a right to Economic interest that is more than 50% of the total of such rights measured using the Flow Through Principle.
- The Private Equity Fund Manager must seek to invest more than 50% of the value of funds under management in companies that have at least a 25% direct black shareholding.
- It is accepted that the Private Equity Fund Manager can facilitate such direct shareholding at the time of entering into the funding transaction should the target company not meet the requirement of 25% direct black shareholding. The point is that subsequent to the investment by the Private Equity Fund Manager there has to be a 25% direct shareholding by a black investor.
- This determination will be made at each measurement date and the status given to the Private Equity Fund Manager will be applicable for a period of 12 months.

In recognition of the fact that it is currently a challenge for Private Equity Fund Managers to find companies to invest in that already have a significant black shareholding, in practice it should be allowed to achieve the 50% target over a period of time based on the formulation detailed below (It must be noted that this formulation is in line with that of the net value calculation above). This rule will apply to all investments made after 9 February 2007. The commencement date is the later of 9 February 2007 and the date of establishment of a new fund.

- within one year from the commencement date, more than 5% of the value of funds invested by the Private Equity Fund must at all times be invested in enterprises that have a 25% direct black shareholding;
- within two years from the commencement date, more than 10% of the value of funds invested by the Private Equity Fund must at all times be invested in enterprises that have a 25% direct black shareholding;
- From the first day of the third year and the last day of the fourth year from the commencement date, more than 20% of the value of funds invested by the Private Equity Fund must at all times be invested in enterprises that have a 25% direct black shareholding;
- From the first day of the fifth year and the last day of the sixth year from the commencement date, more than 30% of the value of the funds invested by the Private Equity Fund must at all times be invested in enterprises that have a 25% direct black shareholding;
- From the first day of the seventh year and the last day of the eighth year from the commencement date, more than 40% of the value of the funds invested by the Private Equity



Fund must at all times be invested in the enterprises that have a 25% direct black shareholding;

- From the first day of the ninth year and beyond from the commencement date, more than 50% of the value of the funds invested by the Private Equity Fund must at all times be invested in enterprises that have a 25% direct black shareholding.

It should also be noted that the measurement of the 50% of the value of funds invested by any Private Equity Fund that must be invested in enterprises with a 25% direct black shareholding is to be measured with reference to the cost of the investments made by the Private Equity Fund;

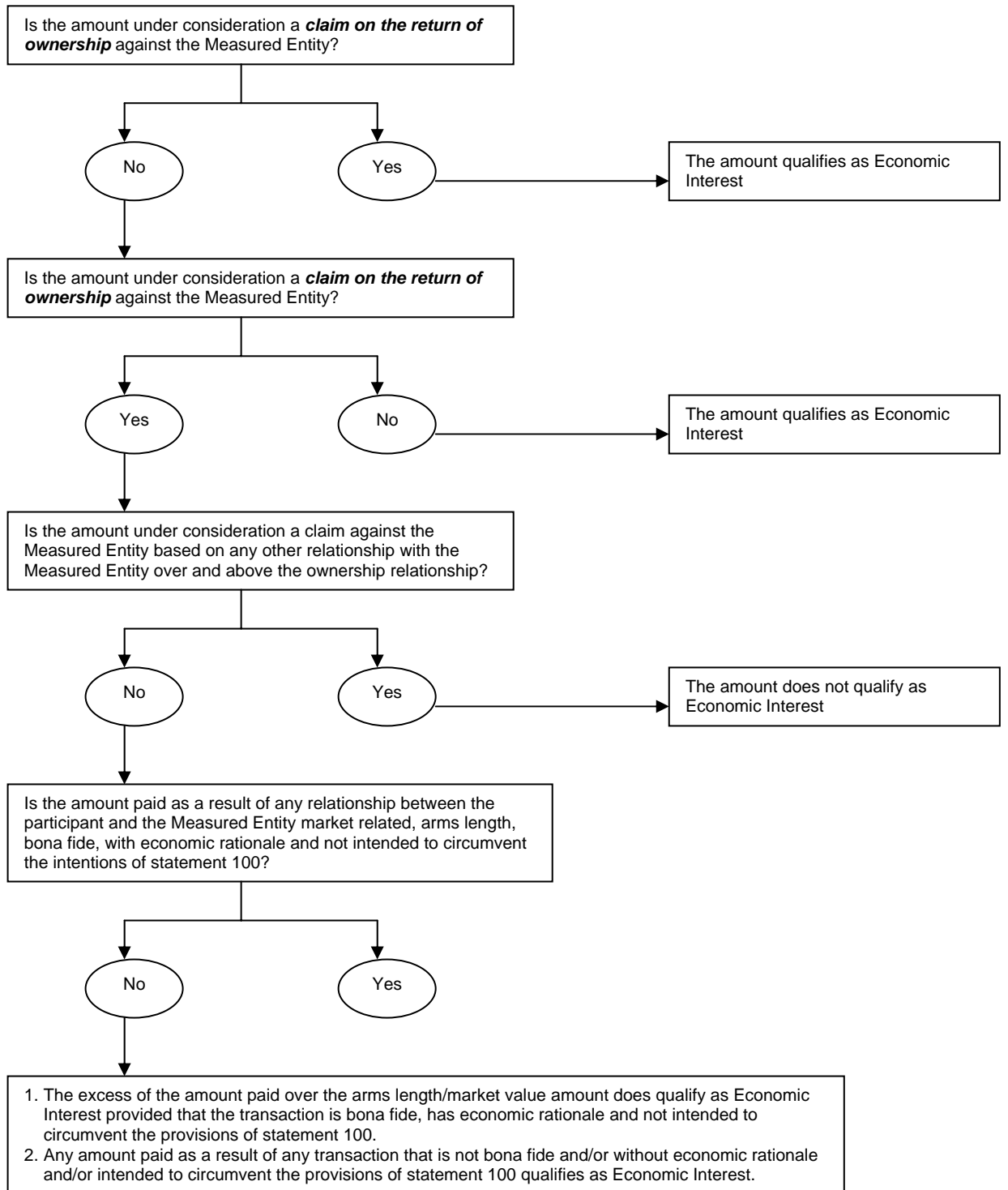
In the case of Private Equity Funds that were fully invested prior to 9 February 2007, investments by the fund managers will be considered as being made by black people if the Private Equity Fund Management entities meet the following criteria:

- more than 50% of any of the Private Equity Fund Manager's Exercisable Voting Rights associated with the Equity Instruments through which the Private Equity Fund holds rights of ownership in a Measured Entity, must be held by black people.
- more than 50% of the profits accruing to the Private Equity Fund Manager after realising any investment made by it, must by written agreement, accrue to black people; and
- The Private Equity Fund Manager must be a BEE Owned Company.



## Decision Tree for determining ownership points

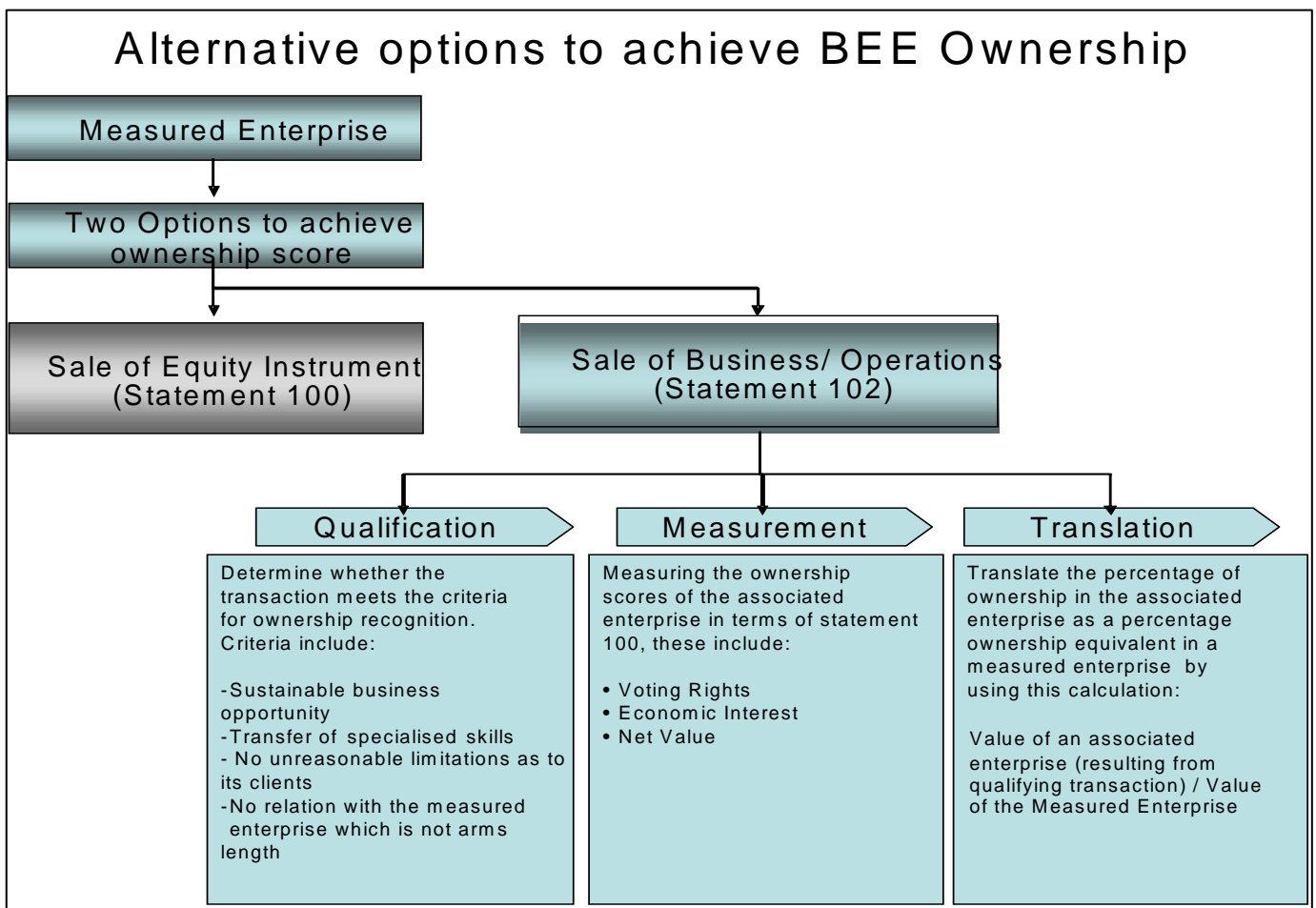
This decision tree can be used as a guideline to determine whether any amount paid out to Participants as a result of a Participants Claim against the Measured Enterprise qualifies as Economic Interest.



## Statement 102 – The Recognition of Ownership In the Sale of Assets

In addition to achieving ownership recognition through the acquisition of equity shareholding by black people, an enterprise can also achieve BEE ownership recognition through the disposal of businesses and assets.

Statement 102 provides an alternative avenue for black people to acquire ownership and control of enterprises and economic resources. This statement defines the specific requirements for the recognition of ownership resulting in the disposal of assets or businesses to an *Associated Enterprise*, as well as the way in which ownership points can be measured and recognised.



### **1. The Sale of Assets and Associated Enterprises**

A measured enterprise will only be able to claim ownership contribution through sale of businesses and assets if the sale is recognised as a Sale of Assets for the purposes of claiming points on the ownership scorecard if the transaction results in:

- The creation of *sustainable businesses or business opportunities* for black people; and
- The transfer of *specialised skills* or productive capacity to black people;
- An associated enterprise that does not have unreasonable limitations as to its clients or customers;
- An associated enterprise has clients, customers or suppliers other than the seller; and
- An associated enterprise which has *no unreasonable limitations* and *no operational outsourcing arrangements* with the Measured Enterprise that were not concluded on a fair and reasonable basis

### **2. Ownership Equivalency**

The Ownership Equivalency is measured as the value of the Associated Enterprise (as at the date of measurement) divided by the value of the Seller (as at the date of measurement). The value of the associated enterprise will exclude the value introduced by another measured enterprise through separate qualifying transactions.

The ownership percentage equivalent which the Seller can claim from an associated enterprise is based on all the other key measurement principles of ownership such as:

- Voting rights exercisable by black people;
- Economic Interest that black people are entitled to; and
- Net value of black people.

*The calculation should always take the following into account:*

- the value of the Equity Instruments held by black Participants in the Associated Enterprise measured using a Standard Valuation Method;
- the carrying value of the Acquisition Debt of black Participants in the Associated Enterprise measured using a Standard Valuation Method; and
- The value of the transaction measured using a Standard Valuation Method.

### **3. Measurement Principle**

The same measurement principles for ownership in Statement 100 will apply when measuring the ownership of an associated enterprise.



#### **4. Other Key Principles:**

- It must be noted that a Seller may transfer the benefit of any recognition earned under this statement to another Enterprise that is part of the same Group Structure as the Seller. The transfer:
  - once effected, cannot be reversed and the recipient of the transfer cannot transfer that recognition to any other person,; and
  - can have only one recipient. There should be no provision for set-off of recognition between a multiplicity of recipients.
- A transaction recognised as a qualifying transaction and where ownership has been claimed by the measured enterprise will not qualify for the recognition under the enterprise development element of the scorecard
- Specifically excluded from this statement is the Sale of Asset transactions in the form of:
  - transfers of business rights by way of license, lease or other similar legal arrangements not conferring unrestricted ownership; and
  - sales of franchises by franchisors to franchisees, but includes sales of franchises from franchisees to other franchisees or to new franchisees
- The equivalency percentage will be linked to the ownership compliance level of the associated enterprise for the first 3 years of the sale having been effected. Only after the end of the third year will the Seller be able to carry forward the current equity interest compliance percentage but the voting rights and economic interest of black people in the associated enterprise will be measured on an annual basis.
- The Seller is therefore encouraged to further develop and expand the associated enterprise, as the extent of the BEE recognition in the first 3 years depends on the sustainability and success of the associated enterprise.





## ***Statement 103 – The recognition of Equity Equivalentents for Multinationals***

### **Introduction**

In recognition of the constraints facing some multinationals in South Africa with respect to the sale of equity in their South African operations, multinationals that are bound by a global practice pertaining to the sale of shares, are offered an alternative means of contributing towards the ownership element of broad-based BEE. This enables the South African operation of the multinational business to compete on an equal footing with its counterparts operating within South Africa.

Statement 103 therefore provides guidelines on how Multinational companies can recognize Equity Equivalent programmes in order to obtain points on their ownership scorecards.

### **Definition of Multinationals**

A multinational business is defined as a Measure Entity with a business in the Republic of South Africa and elsewhere, which maintains its international headquarters outside the Republic.

The eligibility for such entities to obtain exemption from selling equity is determined by whether or not the company is subject to a global practice that restricts it from selling equity in its foreign subsidiaries or branches. Proof of such restriction would be required.

### **Key considerations**

It is not the intention of this statement to allow Multinational entities of South African origin to opt for such equity equivalent programmes. It is expected that such South African Multinationals will comply with the requirement to sell equity in fulfillment of the objectives of B-BBEE. It is also a key principle of this code that other foreign multinationals that have no restrictions on their ability to sell equity in countries in which they operate should do so in their South African operations in fulfillment of the objectives of B-BBEE.



## **Types of Initiatives which qualify as Equity Equivalent Contributions**

It should be noted that all initiatives must be approved by the Minister of Trade and Industry if they are to enjoy recognition on the ownership scorecard. Statement 103 allows companies to make written submissions to the Minister for the recognition of Equity Equivalent Contributions not listed in the statement.

Statement 103 encourages the implementation of sector specific Equity Equivalent Contributions but submissions may be made to the Minister for the approval of non-sector specific contributions.

1. All Equity Equivalents contained in Sector Codes
2. Programmes that support ASGISA (Accelerated & Shared Growth Initiative for South Africa)
3. Programmes that support JIPSA (Joint Initiative for Priority Skills)
4. Programmes that support the National Skills Development Strategy
5. Programmes that promote enterprise creation in respect of:
  - a. Co-operatives
  - b. Small Enterprises (EME's and QSE's)
  - c. Enterprise that are more than 50% owned by black people
  - d. Enterprise that are more than 30% owned by black women
  - e. Enterprise that are more than 50% owned by members of black designated groups
6. Programmes that promote social advancement
7. Equity Equivalent Contribution examples listed in Statement 103. Two general examples are listed, together with their qualifying criteria, in the areas of:
  - a. Enterprise creation with the following qualifying criteria:
    - i. New enterprise must be a Value-Adding Enterprise (job creation and/or job retention opportunities)
    - ii. Compliance with the requirements for a Sale of Asset as per Statement 102
    - iii. No simultaneous enterprise development recognition
    - iv. Must involve: interest free loans, No-Gain Grants (donations) or Human Capital Investments (time spent mentoring/ training by Measured Entity). When quantified to a Rand value, the aforementioned contributions must equal 50% of the new Enterprise's projected operational costs for its first 3 years of trading
  - b. Investment in social advancement with the following qualifying criteria:
    - i. Socio-economic Development must comply fully with Statement 700 BUT these cannot simultaneously be counted under Statement 700.

## **Conditions attached to the recognition of Equity Equivalent Programmes:**



1. The most critical condition is that Equity Equivalent Programmes ONLY apply to Multinationals which are subject to a Global Practice
2. Equity Equivalent Programmes must include:
  - a. Full description of qualification criteria
  - b. Timelines for implementation and delivery with concrete milestones against which progress is actually measurable
  - c. Details on the sponsors of the Programme (i.e. the Measured Entity implementing the Programme)

### **Beneficiaries of Equity Equivalent Programmes Defined**

1. Enterprises that are more than 50% owned by black people as determined under Code series 100
2. Enterprises that are more than 30% owned by black women as determined under Code series 100
3. Enterprises in that are more than 50% owned by black designated groups as determined under Code series 100
4. Communities/ groups of people where at least 75% of the persons are black people AND where at least 75% of the economic benefit is enjoyed by black people.

### **The Equity Equivalent Target and Weighting for Multinationals**

**Weighting:** As with Ownership, the Equity Equivalent element which effectively replaces Ownership for Multinationals, has a weighting of 20 points.

**Target:** Multinationals may choose between the following two targets:

1. 25% of the value of its South African (SA) operations (Based on a discounted cash flow or other valuation model considered appropriate); OR
2. 4% of Total Revenue of its South African operations (to be determined annually based on preceding year turnover or to be based on 10 year turnover projections should it be a once off contribution)

A Multinational entity may choose to do a once off contribution towards its equity equivalent project or may opt to contribute over an extended period of time not exceeding 10 years. These options are available for any of the targets chosen above.

The ownership points that will be allocated for the first option of making a once off contribution will be based on the actual contribution made by the multination vs the target arrived at and this score will be multiplied by the 20 points available under the ownership element of the scorecard.



The ownership points that will be allocated for the second option of contributing over an extended period of time will be based on the following basis:

<b>DATE OF MEASUREMENT- target to be achieved during:</b>	<b>Percentage of the 25% of SA operations valuation or 4% of annual turnover (based on preceding year turnover) in SA operations:</b>	<b>Effective Target</b>
Year 1	10%	= 25% X 10% = 2.5%
Year 2	20%	= 25% X 20% = 5%
Years 3 & 4	40%	= 25% X 40% = 10%
Years 5 & 6	60%	= 25% X 60% = 15%
Years 7 & 8	80%	= 25% X 80% = 20%
Years 9 & 10	100%	= 25% X 100% = 25% <b>IE: THE FULL TARGET!</b>



## ***Chapter Four: Code 200 – Measurement of the Management & Control Element of Broad-Based Black Economic Empowerment***

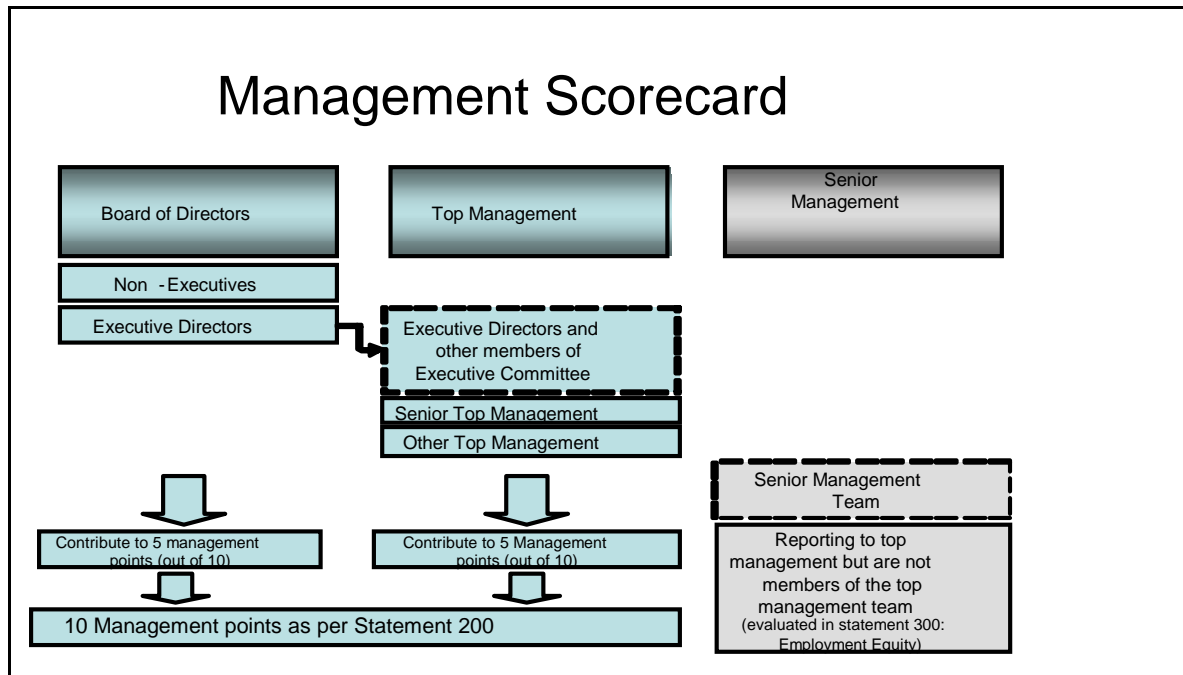
### ***Statement 200 – The General Recognition of Management Control***

#### ***Introduction***

The Management Control element of the Generic Scorecard aims to address certain key issues surrounding black management and control of enterprises. These issues include:

- **Representation of black people at executive board level:** Statement 200 provides incentives for the representation of black people as executive directors, in order to reverse the trend of companies hiring black people as non-executive directors only
- **Involvement of black people in daily operations and strategic decision-making at the most senior level:** The code encourages the inclusion of black people in driving the implementation of operational and strategic decisions
- **Black people represented in positions that are key to the functioning of companies:** The codes seek to encourage the employment of black people in positions that are core to the operations of a company.
- **The inclusion of black women in daily operations and strategic decision-making at the most senior level:** An 'Adjusted Recognition for Gender' has been included to ensure proper representation of black women in positions of influence. This factor ensures that black women make up at least 50% of the overall set targets for black people.





Category	Management Control indicator	Weighting points	Compliance Target
1.1	Board participation:		
	1.1.1 Exercisable Voting Rights of black Board members using the Adjusted Recognition for Gender	3	50%
	1.1.2 Black Executive Directors using the Adjusted Recognition for Gender	2	50%
1.2	Top Management:		
	1.2.1 Black Senior Top Management using the Adjusted Recognition for Gender	3	40%
	1.2.2 Black Other Top Management using the Adjusted Recognition for Gender	2	40%
1.3	Bonus points:		
	Black Independent Non-Executive Board Members	1	40%



***The Difference between Senior Top Management and Other Top Management:***

<b>Senior Top Management</b>	<b>Other Top Management</b>
<ul style="list-style-type: none"> <li>Appointed by the board</li> </ul>	<ul style="list-style-type: none"> <li>Appointed by the board</li> </ul>
<ul style="list-style-type: none"> <li>Operationally involved in day-to-day management of entity</li> </ul>	<ul style="list-style-type: none"> <li>Operationally involved in day-to-day management of entity</li> </ul>
<ul style="list-style-type: none"> <li>Individual responsibility for OVERALL and/or FINANCIAL MANAGEMENT of the enterprise</li> </ul>	<ul style="list-style-type: none"> <li>Individual responsibility for THEIR PARTICULAR AREA OF RESPONSIBILITY within the business</li> </ul>
<ul style="list-style-type: none"> <li>Actively involved in development and/or implementation of the enterprise's strategy, including the OVERALL strategy</li> </ul>	<ul style="list-style-type: none"> <li>Actively involved in development and/or implementation of the enterprise's strategy insofar as it relates to THEIR PARTICULAR AREA OF RESPONSIBILITY</li> </ul>
<ul style="list-style-type: none"> <li>Common examples: CEO; Chief Operating Officer; Chief Financial Officer</li> </ul>	<ul style="list-style-type: none"> <li>Possible examples (will vary from one enterprise to the next): Human Resources Director; Marketing Director; Strategy Director ; other members of the executive committee</li> </ul>

***Top Management includes “Senior Top Management” and “Other Top Management”:***

- “Top Management” is a collective term for Senior Top Management and Other Top Management, despite the fact that the EE Act does not contain these sub-categories
- Despite the fact that the EE Act contains a category for “Top Management”, this is measured under Management Control and NOT under Employment Equity
- If a measured entity does not distinguish between Senior Top Management and Other Top Management, Top management is measurable as a single indicator with a weighting of 5 points.
- If in practice it is found that certain entities do not have a component of executives directors at all, the points for board participation should be collapsed into one indicator and the weighting should be adjusted to 5 points and the target will remain the same at 50% of exercisable voting rights in the hands of black people.



**Enterprises which make no distinction between Top Management and Senior Management**

Schedule EEA9 contained in the Employment Equity Act is reproduced here, for ease of reference. Essentially, only “Top Management” should be measured under Management Control, but inclusion of senior management under Management Control is allowed in certain cases, as described below:

<b>Equivalent occupational levels</b>					
<b><i>Semantic Scale</i></b>	<b>Paterson</b>		<b>Peromnes</b>	<b>Hay</b>	<b>Castellion</b>
Top management	F	F	1++ 1+		14
Senior management	E	E UPPER E LOWER	1 2 3	1 2	13

- Although senior and top managers are employees and referred to as such, any employee classified under management control, will not be accounted for under the employment equity element, and vice versa
- In other words, if any employee who is categorised as senior management as per the EEA9 schedule, is included in top management under management, this employee will not be accounted for under the measured enterprise’s employment equity element for the year under measurement
- In such instances where Senior Management is included in the calculation of Top Management the weightings should be adjusted as follows:
  - Black Senior Top Management – 6
  - Black Other Top Management – 4
  - Senior Management (Code 300) - 0
- The target for Top Management will then be adjusted to reflect the ten-year target for Senior Management under Code 300 being 60%.





**Black women representation in each of the measurement categories will affect the score for black representation within that particular category through the use of the Adjusted Recognition for Gender. This is illustrated in the diagram below:**

#### **THE ADJUSTED RECOGNITION FOR GENDER**

- Has the effect of ensuring that black women comprise at least half of the total number of black people in a particular occupational level:

#### **FOR EXAMPLE**

Where an entity has:

- 6 people on its board of directors
- 3 black directors (50% black people)
- 1 black female director (16.67% black women)

#### **Application of Adjusted Recognition:**

$$\begin{aligned} &= 50\% / 2 + 16.67\% \\ &= 25\% + 16.67\% \\ &= 41.67\% \end{aligned}$$

The company's black representation is effectively reduced (for scoring purposes) from 50% to 41.67%.

This new black representation figure of 41.67% will now be measured against the relevant target for the board of directors (50%):

#### **Calculation of Indicator Score:**

$$\begin{aligned} &= \text{black representation} / \text{target} \times \text{weighting} \\ &= 41.67\% / 50\% \times 3 \\ &= 2.5 \text{ points out of 3} \end{aligned}$$



## **Chapter Five: Code 300 – Measurement of the Employment Equity Element of Broad-Based Black Economic Empowerment**

### **Statement 300 – The General Principles for Measuring Employment Equity**

#### **Introduction**

The Employment Equity element of the Generic Scorecard aims to address certain key issues surrounding the representation of black employees as well as black employees with disabilities in the workplace. These issues include:

- **Representation of black employees with disabilities :** The Employment Equity Scorecard contains a specific indicator which measures the extent to which black people with disabilities are employed by the Measured Entity
- **Representation of black employees at junior, middle & senior management levels only:** the Generic Scorecard also awards points to Measured Entities which have black representation at management levels as transformation still lacks in those occupational levels of organizations while there tends to be sufficient/over representation of black employees in the lower occupational levels of organizations.
- **The inclusion of black women managerial positions:** An 'Adjusted Recognition for Gender' has been included to ensure proper representation of black women in positions of influence. This factor ensures that black women make up at least 50% of the overall set targets for black people.



## The Employment Equity Scorecard

Criteria	Weighting points	Compliance targets	
		Years 0 - 5	Years 6 - 10
1.3.1 Black disabled employees as a percentage of all employees using the adjusted recognition for gender	2	2%	3%
1.3.2 Black employees in senior management as a percentage of all such employees using the adjusted recognition for gender	5	43%	60%
1.3.3 Black employees in middle management as a percentage of all such employees using the adjusted recognition for gender	4	63%	75%
1.3.4 Black employees in junior management as a percentage of all employees using the adjusted recognition for gender	4	68%	80%
1.3.5 Bonus points for meeting or exceeding the EAP targets in categories 1.3.2 to 1.3.4 above	3		

The Employment Equity element of the Generic Scorecard has staggered compliance targets. The first set of compliance targets are for the first five years following the gazetting of the Codes of Good Practice, whilst the second set of targets are for the next five year period.

### Key measurement principles -

#### I. Alignment with the Employment Equity Act

- Where possible, measured entities must make use of the same data they collect for submission to the Department of Labour under the Employment Equity Act.
- This has been included to encourage entities to avoid duplication of data collection for BEE reporting purposes.
- As the EE Act seeks to encourage companies to meet the Economically Active Population (EAP) targets, the codes have also embedded this principle as a target towards which Measured Entities should be aspiring.
- A measured entity will be allocated bonus points for meeting or exceeding the EAP targets in the senior, middle and junior management levels of the scorecard (Please note that this exclusion of black people with disabilities is a deliberate deviation from the current



statement of code 300). Each occupational category will be allocated one such bonus point should this target be met.

## **2. Minimum compliance targets**

- The codes require that a Measured Entity should only start being allocated points on its EE scorecard provided it achieves a minimum of 40% of its target in each measurement category.
- This implies that for a Measured Entity to obtain points in the senior management measurement category, it would have to meet a minimum of 40% of its target of 43% in the first five years of the application of the codes. Therefore a Measured Entity has to have at least 17% of its employees at a senior management level made up of black people using the adjusted recognition for gender before it can start scoring points in that occupational level. This principle would apply to each of the other measurement categories on the employment equity scorecard.

## **3. Companies exempt from filing returns to the Department of Labour are not necessarily exempt from compliance with Code 300**

- Only companies that are classified as Exempted Micro Enterprises are exempted from complying with all the Codes. Entities that are classified as Qualifying Small Enterprises are only exempted from this Code if they select to be measured against four elements which do not include employment equity.
- Companies that are exempted from filing employment equity returns to the Department of Labour under the Employment Equity Act must rely on the guidelines contained in the Employment Equity Act and its corresponding Regulations in the compilation of their employment equity data.
- Nothing in the Codes exempts entities required to comply with the Employment Equity Act from doing so.



**4. Measurement Categories can be changed to reflect the internal employment categories of a measured entity**

- This applies to the categories of Junior and Middle Management, which can be collapsed into one category provided that the measured entity does not normally make the distinction between junior and middle management in practice. In such a case, the company's black representation at junior/middle management (one category) would be scored out of ten weighting points. The target for this consolidated category is 68% in year 5 and 80% in year 10 (being the targets for junior management)
- Management weightings should be adjusted as follows:
  - Senior Management – 7 points
  - Junior Management – 6 points
  - The bonus points will be apportioned equally between these two categories as 1.5 each for exceeding the EAP targets

**5. Black women representation in each of the measurement categories will affect the score for black representation within that particular category through the use of the Adjusted Recognition for Gender. This is illustrated in the diagram below:**



## THE ADJUSTED RECOGNITION FOR GENDER

- Has the effect of ensuring that if black women comprise at least 50% of the target of black people in each occupational category:

### FOR EXAMPLE

Where an entity has:

- 100 middle managers
- 40 black middle managers (40% black people)
- 10 black female middle managers (10% black women)

### Application of Adjusted Recognition:

$$A = B/2 + C$$

Where: A is the Adjusted Recognition of Gender

B is the percentage of people in the middle management category that are black people

C is the percentage of people in the middle management category that are black women (but limited to 50% of the target in each occupational category)

Then applying the formula:

$$= 40\% / 2 + 10\%$$

$$= 20\% + 10\%$$

$$= 30\%$$

The company's black representation is effectively reduced (for scoring purposes) from 40% to 30%.

This new black representation figure of 30% will now be measured against the relevant target for middle management (63% in the first five years & 75% in the second five years):

### Calculation of Indicator Score:

$$= \text{black representation} / \text{target} \times \text{weighting}$$

$$= 30\% / 63 \times 5$$

$$= 2.4 \text{ points out of } 5$$

(a measured entity can claim 2.4 points (48%) of the total potential points in the middle management category of the scorecard)

If the Adjusted Recognition factor had not been taken into account then the effect would be:

$$= 40\% / 63 \times 5$$

$$= 3.2 \text{ out of } 5$$

(a measured entity can claim 3.2 points (63%) of the total potential points in the middle management category of the scorecard)



- Individual sectors may seek the gazetting of a Sector Code that allows the use of other indicators as a means of testing the appropriateness of the fixing of the various Measurement Categories using the Regulations issued under the Employment Equity Act. These regulations are contained in form EEA 4 of the Employment Equity Act which seeks to report income differentials. The Regulations nevertheless take precedence over such other indicators.
- the definition of occupational levels must use sound and empirical research undertaken by a representative body for that sector as a basis; and
- where salary scales form part of the other indicators used in the sector code, these salary scales must provide for a default cost of living or inflation adjustment in the Sector Code, even if the sector intends amending those salary scales annually.



## **Chapter Six: Code 400 – Measurement of the Skills Development Element of Broad-Based Black Economic Empowerment**

### **Statement 400 – The General Principles for Measuring Skills Development**

#### **Introduction**

The Skills Development element of the Generic Scorecard aims to address certain key issues surrounding the representation of black employees as well as black employees with disabilities in the workplace. These issues include:

- **Skills Development spend recognition for expenditure in any area of training, without the implementation of programmes focusing on Priority Skills:** Statement 400 requires that Measured Entities prove that programmes have been implemented which target the development of Priority Skills (Priority Skills is the collective name for SETA-defined core, critical and scarce skills). This is a condition for recognition to avoid situations where companies spend money on skills without training black people in skills areas essential to their sector or to the economy in general as well as their upward mobility within their organizations.
- **Skills development spend recognition not restricted to SETA-accredited training only:** statement 400 encourages the use of the Learning programme matrix which has been issued under the Skills Development Act as a guide to the types of training programmes that will qualify for recognition on the scorecard. This learning programme matrix provides learning programmes that result in tangible outcomes such as degrees, diplomas, certificates, etc.
- **Skills Development spend recognition for informal, in-house training and associated costs:** Statement 400 seeks to limit the amount of recognition a company is eligible for when carrying out informal, in-house training.





## The Skills Development Scorecard

The Skills Development Scorecard comprises three indicators: the first two measure monetary spend on black employees, whilst the third measures the number of black employees who are enrolled in learnerships and/or structured work-based learning programmes as defined in the Learning Programme Matrix annexed as 400A

Skills Development indicator	Weighting points	Compliance Target
<b>Skills Development Expenditure on any programme specified in the Learning Programme Matrix</b>		
Skills Development Expenditure on Learning Programmes specified in the Learning Programme Matrix for black employees as a percentage of Leviable amount using the adjusted recognition for gender	6	3%
Skills Development Expenditure on Learning Programmes specified in the Learning Programme Matrix for black employees with disabilities as a percentage of Leviable amount using the adjusted recognition for gender	3	0.3%
<b>Learning Programmes/Learnerships</b>		
Number of black employees participating in Learnerships or Category B,C and D Programmes as a percentage of total employees using the adjusted recognition for gender	6	5%

### Key measurement principles

- I. **Over-arching compliance criteria must be met before a Measured Entity can score any points at all**
  - a) A Measured Entity must comply with certain skills development requirements, some of them linked to the Skills Development Act, before it will be allowed any recognition for scorecard contributions. These requirements are as follows:
    - i) Compliance with the Skills Development & Skills Development Levies Act
    - ii) Registration with the applicable SETA
    - iii) Development of a Workplace Skills Plan
    - iv) Implementation of programmes targeting the development of Priority Skills specifically amongst black people



2. **Prioritization of ABET-related spend to encourage spend in this area**
  - a) Statement 400 allows Measured Entities to multiply ABET-related training spend by a factor of 1.25 to encourage entities to include ABET-related expenditure in their training budgets
3. **Skills spend on black women and black women representation amongst learners will affect the score for each of these two indicators through the use of the Adjusted Recognition for Gender**

## THE ADJUSTED RECOGNITION FOR GENDER

- Has the effect of ensuring that at least **half** the company's total skills spend on black people or half the total black learners are black women.

### FOR EXAMPLE

*For the purposes of this example, the Adjusted Recognition for Gender will be applied to the indicator which measures Skills Development Spend on Learning Programmes for Black Employees*

Where an entity:

- spends R300,000 on skills development for black employees (3% of Leivable Amount)
- spends R100,000 on skills development for black women (33.3% of skills spend is spent on black women)
- has an annual, leivable payroll figure of R10 million

### Application of Adjusted Recognition:

$$= A = B/2 + C$$

Where: A is the Adjusted Recognition of Gender

B is the value of Skills Development Spend attributable to black employees

C is the value Skills Development Spend attributable to black women employees (but limited to 50% of the overall target)

Then

$$= R300,000 / 2 + R100,000$$

$$= R150,000 \text{ (1.5% of Leivable Amount)}$$

The company's skills development spend as a percentage of their Leivable Amount is effectively halved (for scoring purposes) from 3% to 1.5%.

This new figure of 1.5% will now be measured against the target for skills development spend of 3%:

### Calculation of Indicator Score:

$$= \text{adjusted skills development spend as a percentage of payroll} / \text{target} \times \text{weighting}$$

$$= 1.5\% / 3\% \times 8$$

$$= 4 \text{ points out of 8}$$

In the absence of this adjusted recognition the entity would be able to claim the full points



- 4. Skills development spend can include spend on legitimate training related expenses at their full value, provided these are for the implementation of Certified Learning Programmes (if Learning Programmes are uncertified then expense recognition is capped at 15% of total skills spend). Legitimate training expenses are clearly listed in the statement, but the following must be noted:**
- a) The opportunity cost of an employee's time may NOT be included as a legitimate training expense EXCEPT where the employee participates in Learning Programmes
  - b) Scholarship/ bursary expenses where employees<sup>4</sup> are required to reimburse the Measured Entity may NOT be included as legitimate training expenses EXCEPT where the only obligation on the part of the employee relates to:
    - ii) The completion of their studies within a specific timeframe
    - iii) Reimbursement in the form of being employed by the company on completion of studies, provided the employment time does not exceed the number of years of study
  - c) While the Learning Programme Matrix seeks to serve as a comprehensive guide on the types of Training Programmes that should be embarked upon, it does not seek to provide an exhaustive list of such Learning Programmes. Specific consideration should be given to internally developed training programmes accredited by a South African or an internationally recognized accreditation body. In this regard the merits of the training should be considered for their full inclusion in determining skills expenditure for the purposes of this code.
  - d) Overhead costs should be allocated according to the amount of time administration staff spends on different areas of skills training.

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<sup>4</sup> It should be noted that this refers to scholarships & bursaries for employees of the Measured Entity and not those awarded to persons who are not employed by the Measured Enterprise since the Skills Development element focuses only on the training of employees. Support for the training of non-employees may be recognised under the Socio-economic and Enterprise Development element.



## The learning programme matrix

Cat	Narrative Description	Delivery Mode	Learning Site	Learning Achievement
<b>A</b>	<b>Institution-based theoretical instruction alone</b> – formally assessed by the institution	Institutional instruction	Institutions such as universities and colleges, schools, ABET providers	Recognised theoretical knowledge resulting in the achievement of a degree, diploma or certificate issued by an accredited or registered formal institution of learning
<b>B</b>	<b>Institution-based theoretical instruction</b> as well as some practical learning with an employer or in a simulated work environment – formally assessed through the institution	Mixed mode delivery with institutional instruction as well as supervised learning in an appropriate workplace or simulated work environment	Institutions such as universities and colleges, schools, ABET providers and workplace	Theoretical knowledge and workplace experience with set requirements resulting in the achievement of a degree, diploma or certificate issued by an accredited or registered formal institution of learning
<b>C</b>	Recognised or registered structured experiential learning in the workplace that is required after the achievement of a qualification – formally assessed by a statutory occupational or professional body	Structured learning in the workplace with mentoring or coaching	Workplace	Occupational or professional knowledge and experience formally recognised through registration or licensing
<b>D</b>	Occupationally-directed instructional and work-based learning programme that requires a formal contract – formally assessed by an accredited body	Institutional instruction together with structured, supervised experiential learning in the workplace	Institution and workplace	Theoretical knowledge and workplace learning, resulting in the achievement of a South African Qualifications Authority registered qualification, a certificate or other similar occupational or professional qualification issued by an accredited or registered formal institution of learning
<b>E</b>	Occupationally-directed instructional and work-based learning programme that does not require a formal contract – formally assessed by an accredited body	Structured, supervised experiential learning in the workplace which may include some institutional instruction	Workplace and some institutional as well as ABET providers	Credits awarded for registered unit standards
<b>F</b>	Occupationally-directed informal instructional programmes	Structured information sharing or direct instruction involving workshops, seminars and conferences and short courses	Institutions, conferences and meetings	Continuing professional development, attendance certificates and credits against registered unit standards (in some instances)
<b>G</b>	Work-based informal programmes	Informal training	Workplace	Increased understand of job or work context or improved performance or skills



## THE LEARNING PROGRAMME MATRIX

### The Purpose of the Introduction of the Learning Programme Matrix

The Learning Programme Matrix was introduced to ensure alignment with Department of Labour criteria and the Skills Development Act. It ensures that skills spend initiatives have clear learning outcomes

### Key Aspects of the Learning Programme Matrix

A means of categorizing Skills Development programmes, the learning matrix is a planning and analysis tool whose primary purpose is to facilitate the transfer of knowledge and skills while also improving performance on the job. The Learning Matrix is also introduced to reduce the Codes reliance on SETAs. The matrix hones in on occupation-directed and work-based learning.

### The Learning Programme Matrix comprises –

1. **Institution-based theoretical instruction** alone – formally assessed by the institution
2. **Institution-based theoretical instruction as well as some practical learning** with an employer or in a simulated work environment – formally assessed through the institution
3. **Recognised or registered structured experiential learning in the workplace** that is required after the achievement of a qualification – formally assessed by a statutory occupational or professional body
4. **Occupationally-directed instructional and work-based learning programmes** that require a formal contract – formally assessed by an accredited body
5. **Occupationally-directed instructional and work-based learning programme that does not require a formal contract** – formally assessed by an accredited body
6. **Occupationally-directed informal instructional programmes**
7. **Work-based informal programmes**



## Chapter Seven: Code 500 – Measurement of the Preferential Procurement Element of Broad-Based Black Economic Empowerment

### Statement 500 – The General Principles for Measuring Preferential Procurement

#### Introduction

The Preferential Procurement element of the Generic Scorecard aims to address certain key issues surrounding supplier opportunities for BEE compliant enterprises, Qualifying Small Enterprises and Exempted Micro Enterprises as well as black-owned enterprises. These issues include:

- **Preferential Procurement is used to drive transformation throughout the economy by encouraging procurement only from suppliers that are compliant with the B-BBEE scorecard:**
  - There is a market tendency to interpret B-BBEE compliance as only having ownership by black people without looking at the level of compliance with other B-BBEE requirements. This has resulted in a number of sham transactions/'fronting' activities being entered into in a scramble to meet this compliance requirement.
  - Enterprises are encouraged to procure from those entities that have a good B-BBEE contribution level based on their performance on the scorecard. A supplier that has a very good B-BBEE contribution level is likely to be chosen as a preferred supplier as compared to his peers as they will give the enterprise they are providing goods and services to a good scoring on their own scorecard as well.
- **Incentive to procure from Qualifying Small Enterprises and Exempted Micro enterprises.**

Statement 500 has a specific indicator for the recognition of BEE procurement spend from , Qualifying Small Enterprises (QSE's) and Exempted Micro Enterprises (EME's) by allocating specific scorecard points to procurement from these entities exclusively.

#### The Preferential Procurement Scorecard

Criteria	Weighting points	Compliance targets	
		Years 0-5	Years 6-10
B-BBEE Procurement Spend from all suppliers based on the B-BBEE Procurement Recognition Level as a percentage of Total Measured Procurement Spend	12	50%	70%



B-BBEE Procurement Spend from Qualifying Small Enterprises or Exempted Micro-Enterprises based on the applicable B-BBEE Procurement Recognition Level as a percentage of Total Procurement Spend	3	10%	15%
B-BBEE Procurement Spend from any of the following Suppliers as a percentage of Total Measured Procurement Spend			
Suppliers that are 50% black owned; and	3	9%	12%
Suppliers that are 30% black women owned	2	6%	8%

The Preferential Procurement scorecard offers B-BBEE procurement recognition from three categories of B-BBEE compliant suppliers. These are summarized in the table below:

BEE COMPLIANT SUPPLIERS WHICH WILL ENJOY PREFERENTIAL PROCUREMENT RECOGNITION	
BENEFICIARY CATEGORY	DESCRIPTION OF BENEFICIARY
<p style="text-align: center;"><b>(A)</b> <b>BEE COMPLIANT SUPPLIERS</b> Based on BEE contribution level</p>	<p>Includes all BEE compliant companies:</p> <ul style="list-style-type: none"> <li>• Of any size;</li> <li>• With 30% or more on the Generic or QSE scorecards; and/or</li> <li>• EMEs</li> </ul>
<p style="text-align: center;"><b>(B)</b> <b>QSE &amp; EME SUPPLIERS</b> Based on BEE contribution level</p>	<p>Includes:</p> <ul style="list-style-type: none"> <li>• QSE's – proportional representation based on their score on the QSE scorecard to be applied;</li> <li>• EME's – proportional representation based on their deemed Level 4 status and Level 3 status if they are 50% black owned or 50% black women owned;</li> </ul>
<p style="text-align: center;"><b>(C)</b> <b>50% BLACK-OWNED COMPANIES &amp; 30% BLACK WOMEN OWNED COMPANIES</b> Based purely on ownership status</p>	<p>Includes BEE compliant companies:</p> <ul style="list-style-type: none"> <li>• Large entities;</li> <li>• QSEs; and</li> <li>• EMEs that are</li> <li>• 50% black owned or 30% black women owned</li> </ul>

### ***BEE Procurement Recognition Levels***

For ease of reference, the BEE Procurement recognition levels as contained in Code 000 have been reproduced below. Note that Exempted Micro Enterprises obtain an automatic, deemed Level 4 Contributor Status (100% BEE procurement recognition).

BEE Status	Qualification	BEE procurement recognition level
Level One Contributor	≥100 points on the Generic/ QSE Scorecard	135%
Level Two Contributor	≥85 but <100 points on the Generic/ QSE Scorecard	125%
Level Three Contributor	≥75 but <85 on the Generic/ QSE Scorecard	110%
Level Four Contributor	≥65 but <75 on the Generic/ QSE Scorecard	100%
Level Five Contributor	≥55 but <65 on the Generic/ QSE Scorecard	80%



Level Six Contributor	≥45 but <55 on the Generic/ QSE Scorecard	60%
Level Seven Contributor	≥40 but <45 on the Generic/ QSE Scorecard	50%
Level Eight Contributor	≥30 but <40 on the Generic/ QSE Scorecard	10%
Non Compliant Contributor	<30 on the Generic/ QSE Scorecard	0%

- Companies are recognised for additional points based on the status table above
- Customers (public and private sector) will prefer to interact and procure from companies with higher BEE status (for their own recognition)
- Exempted Micro Enterprises qualify for a promotion to the next BEE Recognition level if the enterprise is:
  - more than 50% owned by black people
  - more than 50% owned by black women

### ***Key measurement principles***

#### **2.Enhanced Recognition for Procurement from the Measured Entity’s Enterprise Development Beneficiaries**

A Measured Entity will enjoy enhanced recognition for procurement spend from any company which is also simultaneously one of its enterprise development beneficiaries. This will be at a multiple of 1.2 – see example below:





### ENHANCED RECOGNITION FOR SPEND ON ENTERPRISE DEVELOPMENT BENEFICIARIES

*For example:*

If Rand spend on Company A which is also an enterprise development beneficiary equals R100,000:  
= R100,000 X 1.2  
= R120,000

To calculate Preferential Procurement Spend (Company A is an EME in this example but the beneficiary need not necessarily be an EME)  
= Rand spend (taking into account enhanced recognition) X BEE procurement recognition level  
= R120,000 X 100% (EME = deemed Level 4 Contributor = 100% BEE recognition level)  
= R120,000

### 3. Enhanced Recognition for Procurement from Value-Adding Suppliers

A Measured Entity will enjoy enhanced recognition for procurement spend from any company which is also a Value Adding Supplier. This will be at a multiple of 1.25

### REWARDING VALUE-ADDING SUPPLIERS WHICH PRODUCE LOCALLY

Value-Adding Suppliers beneficiate or add value to raw materials and tend to manufacture and produce locally, rather than relying too heavily on imports in most cases. The objective of this enhanced recognition is to encourage local production.

NB: Value-adding suppliers still need to meet the Preferential Procurement scorecard requirements for any procurement spend on such suppliers to be recognised for B-BBEE scoring purposes.

*Example*

### ENHANCED RECOGNITION FOR SPEND ON VALUE ADDING SUPPLIERS

*For example:*

If Rand spend on Company A which is also a value adding supplier equals R100,000:  
= R100,000 X 1.25  
= R125,000

Company A is a level 5 contributor

To calculate Preferential Procurement Spend  
= Rand spend (taking into account enhanced recognition) X BEE procurement recognition level  
= R125,000 X 80% (Level 5 Contributor = 80% BEE recognition level)  
= R100,000

Note

Had Company A not been a value adding supplier the company procuring goods and services from Company A would claim preferential procurement points based on the following calculated amount:

= Rand spend X BEE procurement recognition level  
= R100,000 X 80%  
= R80,000



#### ***4.Enhanced Recognition for Black Owned Professional Service Providers and Entrepreneurs***

A Measured Entity will enjoy enhanced recognition for procurement from Professional Services Providers and Entrepreneurs who are black owned. It must be noted that it is the intention of this Code to encourage procurement from such service providers who have a shareholding in excess of 50% and that such services are in the professional and consulting arenas of service provision. It is also the intention of the code to encourage the use of local service providers and it is therefore assumed that such black owned service providers and entrepreneurs will incur a majority of the costs related to this service provision locally. A non-exhaustive list of examples of such service providers is detailed below.

##### **Professional and Consulting Services shall mean:-**

Accounting and Auditing
Actuarial Sciences
Advertising Marketing
Any other professional and consulting services
Architectural services
Asset/Fund Management Services
Corporate Finance related services
Engineering services (all kinds of engineering disciplines)
Financial Advisory Services
HR Consulting Services
Information Technology Services and Consulting
Legal Services (including all legal related services)
Management Consulting Services
Medical Services
Quantity Surveying
Real Estate Appraisers
Real Estate Brokers and Salespersons
Real Estate Developers
Real Estate Managers
Recruitment Services
Scientists
Strategic Consultants
Tax Services
Town Planning Services
Training and Development
Transaction Advisory Services



<b>TOTAL MEASURED PROCUREMENT SPEND (TMPS)</b>		
	<b>SPEND ITEM</b> (included in TMPS save for any exceptions outlined in the adjacent column)	<b>EXCEPTIONS</b> (may be permissibly excluded from TMPS)
1.	<b>Cost of sales</b>	No exceptions
2.	<b>Operational expenditure</b>	No exceptions
3.	<b>Capital expenditure</b>	No exceptions
4.	<b>Public sector procurement</b> – from Schedule 2(e.g. Eskom) & 3(e.g. SITA) listed organs of state & public entities as per the Public Finance Management Act (PFMA)	Procurement from Schedule 1 organs of state & public entities is excluded from Total Measured Procurement Spend, unless the procurement is from a local government entity acting as a reseller
5.	<b>Monopolistic procurement</b>	No exceptions
6.	<b>Third-party procurement</b> (not pass-through, third party procurement)	<b>Pass through third party procurement</b> where the Measured Entity may be acting as an agent in normal business practices. In other words procurement spend which may pass through an agent (the Measured Entity) but which is not recorded as an expense in the entity's financial statements but is recorded in the third party's financial statements. For example: a travel agent buying on behalf of a third party
7.	<b>Labour brokers &amp; independent contractors</b>	No exceptions
8.	<b>Pension &amp; medical aid contributions</b>	Exclude capital investment portion only
9.	<b>Trade commissions</b>	No exceptions
10.	<b>Empowerment related expenditure</b>	The following empowerment related expenditure is excluded from TMPS: <ul style="list-style-type: none"> <li>• Investments in or loans to an Associated Enterprise (as defined in Statement 102)</li> <li>• Investments, loans or donations which qualify for enterprise development and socio-economic development recognition under Codes 600 and 700</li> </ul>
11.	<b>Imports</b>	Several exceptions – see box below
12.	<b>Intra-group procurement</b>	Exceptions as per the guideline on Complex Structures and Transactions

#### **Exclusions from Total Measured Procurement Spend -**

Permissible exclusions from Total Measured Procurement Spend are strictly defined in Statement 500. For ease of reference, the exclusions from total procurement which have already been outlined above in that they are exceptions from specific inclusions, are repeated below:

- Taxation
- Public sector procurement (schedule 1 entities as per the PFMA)
- Salaries, wages and emoluments
- Pass-through third-party procurement (where no entries relating to this procurement appear in the books of the Measured Entity)



- Empowerment related procurement associated with investments, loans or donations to Associated Enterprises or enterprise development beneficiaries

### **IMPORTS – PERMISSIBLE EXCLUSIONS FROM TOTAL MEASURED PROCUREMENT SPEND**

- imported capital goods or components for value-added production in South Africa provided that:
  - there is no existing local production of such goods or components
  - importing such capital goods or components promotes further value-added production within South Africa
- imported goods and services if there is no local production of such goods or services including instances where:
  - the imported goods or services carry a brand different to the locally produced goods or services
  - where the imported goods or services have different technical specifications to those produced locally.

### **CALCULATING A MEASURED ENTITY'S PREFERENTIAL PROCUREMENT SPEND:**

Below is an example to illustrate the calculation of a hypothetical company's preferential procurement score. Please note that this example assumes that Measured Entity X procures only from 4 suppliers over a twelve month period – a highly simplified example for explanatory purposes only.

Measured Entity X's annual procurement spend is as follows:

<b>Supplier Company</b>	<b>BEE Score</b>	<b>Level Contributor Status</b>	<b>BEE Procurement Recognition</b>	<b>Procurement Rand Spend with Supplier</b>	<b>Enhanced Recognition</b>	<b>BEE Spend</b>	<b>Beneficiary category</b>
Company A (measured as per Generic Scorecard)	62%	5	80%	R10,000,000	Value Adding Enterprise (1.25)	R10,000,000	<b>(A)</b>
Company B (measured as per the QSE Scorecard)	82%	3	110%	R250,000	Enterprise Development Beneficiary (1.2)	R330,000	<b>(A)</b> <b>(B)</b>
Company C	29%	Non-	Black women	R2,000,000	Black women	R2,000,000	<b>(C)</b>



(30% black women owned measured as per generic scorecard)		compliant	owned therefore 100% recognition		owned entity therefore no enhanced recognition		
Company D (measured as per the generic scorecard)	28%	Non-compliant	0%	R14,000	Value Adding Enterprise (no enhanced recognition as non compliant)	R0	

**Step 1: Calculation of Rand Value of BEE Spend:**

**Company A:**

= Procurement Rand Spend X BEE Procurement Recognition Percentage X Enhanced Recognition Multiple (where applicable)  
 = R10,000,000 X 80% X 1.25  
 = R10,000,000

Although Company A's BEE score is below 65% and the Measured Entity therefore cannot recognize 20% of the R10 million they spend on Company A, the enhanced recognition which Company A enjoys owing to its status as a Value Adding Enterprise, means that there is effectively recognition of the full R10 million spend for BEE procurement purposes

**Company B:**

= Procurement Rand Spend X BEE Procurement Recognition Percentage X Enhanced Recognition Multiple (where applicable)  
 = R250,000 X 110% X 1.2  
 = R330,000

**Company C:**

=R2,000,000

The full R2,000,000 is recognized as procurement is from a company that is more than 30% owned by black women

**Note:** Had company C been an enterprise development beneficiary of the Measured Entity or a Value-Adding Company, the Measured Entity's R2million spend on Company C would have been multiplied by 1.25 or 1.2 effectively. Since it is neither, however, there is no calculation since



Company C falls into the third scorecard category which sets a compliance target of 9% (in the first 5 years) for spend on any enterprise which is 50% black owned (as per the definition) and a 6% target (in the first 5 years) for spend on any enterprise which is 30% black women owned (as per the definition), regardless of its score on any broad-based scorecard and therefore without the application of the proportional recognition system for BEE procurement.

#### **Company D:**

= R0

Although Company D is a Value Adding Enterprise, it does not meet any of the Preferential Procurement Scorecard requirements for recognition and can therefore not enjoy any enhanced recognition.

#### **Step 2: Calculate Total Measured Procurement Spend**

Assume that all procurement spend in this example is listed above and that there are therefore no exclusions. Total Measured Procurement Spend is therefore equal to total procurement in this instance:

$$\begin{aligned}
 &= \sum \text{Total Rand Spend of Companies A, B, C, D} \\
 &= R10,000,000 + R250,000 + R2,000,000 + R14,000,000 \\
 &= R26,250,000
 \end{aligned}$$

#### **Step 3: Calculate Scores for Each of the Three Indicators**

##### **Beneficiary Category (A)**

$$\begin{aligned}
 &= \text{BEE procurement spend from all suppliers as a percentage of Total Measured Procurement Spend} \\
 &= (\sum \text{BEE procurement} / \text{Total Measured Procurement Spend}) / \text{target} \times \text{weighting} \\
 &= (R10,000,000 + R330,000) / R26,250,000 / 50\% \times 12 \\
 &= (R10,330,000 / R26,250,000) / 50\% \times 12 \\
 &= 0.39 / 50\% \times 12 \\
 &= 0.787 \times 12 \\
 &= 9.4 \text{ points (out of a maximum total of 12)}
 \end{aligned}$$

*The Measured Entity's BEE Procurement Percentage is 39% against a target of 50% which means the entity will enjoy 78% of the 12 weighting points allocated to this Beneficiary Category, i.e. 9.4 points.*

(Note: Because company C is non-compliant with the scorecard it will not be taken into consideration in the calculation of Beneficiary Category (A); If however it had obtained a compliance level the extent of its compliance would have been used to determine the amount attributable from Company C towards this Beneficiary Category level)

##### **Beneficiary Category (B)**



= BEE procurement spend from QSE's & EME's as a percentage of Total Measured Procurement Spend

=  $(\sum \text{QSE/EME BEE procurement} / \text{Total Measured Procurement Spend}) / \text{target} \times \text{weighting}$

=  $(R330,000 / R26,250,000) / 10\% \times 3$

=  $0.0125 / 10\% \times 3$

=  $0.125 \times 3$

= 0.4 points (out of a maximum total of 3)

*The Measured Entity's BEE Procurement Percentage is 1.25% against a target of 10%, which means the entity will enjoy 12.5% of the 3 weighting points allocated to this Beneficiary Category, i.e. 0.4 points*



### **Beneficiary Category (C)**

= BEE procurement spend from a 30% Black Women Owned supplier as a percentage of Total Measured Procurement Spend

= (BEE Procurement from 30% Black Women Owned supplier/Total Measured Procurement Spend)/target X weighting

= (R2,000,000 / R26,250,000) /10% X 2

= 0.076/ 10% X 2

= 0.76 X2

= 1.5 points (out of a maximum total of 2)

*The Measured Entity's BEE Procurement Percentage is 7.6% against a target of 10% which means the entity will enjoy 76% of the weighting points allocated to this Beneficiary Category, i.e. 1.5 points*

### **Step 4: Sum points for each Beneficiary Category to reach a score for Preferential Procurement**

= Score for Beneficiary Category (A) + score for Beneficiary Category (B) + score for Beneficiary Category (C)

= 9.4 + 0.4 + 1.5

= 11.3 (out of a maximum total of 20)

*The Measured Entity scores 11.3 points out of 20. It is however, possible for entities to score more than 20 points through procurement from BEE compliant suppliers with more than 65points on the scorecard (BEE procurement recognition of 110% - 135%) and/or through procurement from their own enterprise development beneficiaries and/or BEE compliant Value-Adding Suppliers*

### **Analysis**

Note that Beneficiary Category (A) on the Preferential Procurement scorecard includes procurement spend from EME's, QSE's. It may also include procurement spend from 50% Black Owned and 30% Black Women Owned companies, BUT only if they score 30% or more on a broad-based scorecard, since this indicator applies the proportional BEE procurement recognition levels.

Beneficiary Category B specifically targets procurement spend from EME's and QSE's and scores Measured Entity's only on this aspect of their procurement, to encourage procurement from small, medium and micro entities. Procurement from such entities will therefore ensure that a Measured Entity scores points on both Beneficiary Category (A) and Beneficiary Category (B), whereas procuring only from larger entities will mean that no points will be scored on Beneficiary Category (B).

Beneficiary Category (C) specifically targets procurement spend from 50% Black Owned and 30% Black Women Owned companies, rewarding only black ownership regardless of the entities scoring





on the scorecard. This is to ensure that the objective of increasing the number of black owned and controlled and black women owned and controlled entities is achieved while the other Beneficiary Categories cater for non-black owned and controlled entities and non-black women owned and controlled entities.



## **Chapter Eight : Code 600 – Measurement of the Enterprise Development Element of Broad-Based Black Economic Empowerment**

### **Statement 600 – The General Principles for Measuring Enterprise Development**

#### **Introduction**

The Enterprise Development Element of the Generic Scorecard aims to address certain key challenges facing Qualifying Small Enterprises and Exempted Micro Enterprises and more specifically black owned entities that struggle to take their businesses from survivalist and/or micro level to a level of sustainability and profitability. The challenges which Code 600 therefore seeks to address include:

#### **1. High failure rate amongst black-owned start-ups due to lack of access to financing and other business support**

Many black entrepreneurs struggle to take their businesses from a survivalist or micro-level to the next phase owing to one or more of the following: lack of access to capital, lack of collateral, lack of education, training and experience. Statement 600 therefore attempts to address these challenges by providing recognition for, *inter alia*:

- Investments, loans, grants, guarantees, provision of seed capital
- Access to credit, interest free loans, relaxed security requirements
- Time spent on training and mentoring of black entrepreneurs/ start-ups

#### **2. Job-creation cannot be attained without the growth of the small business sector**

Most analysts agree that growth with respect to job creation will predominantly come from the small business sector. This will only be made possible if small businesses are assisted to grow, develop and graduate from micro and survivalist entities to become sustainable, job-creating, enterprises. By providing recognition for various types of assistance to small, medium and micro enterprises with the objective of expanding their operational and financial capacity, Statement 600 seeks to ensure that such assistance is incentivised.

### **The Enterprise Development Scorecard**



Criteria	Weighting Points	Compliance Target
Average annual value of all Enterprise Development Contributions and Sector Specific Programmes by the measured entity as a percentage of target	15	3% of Net Profit After Tax (NPAT)

The weighting of different types of Qualifying Enterprise Development Contributions is effectively increased or decreased by means of the Benefit Factor Matrix. This Matrix awards either full recognition (100%) or lesser recognition (usually 80%). The Benefit Factor Matrix hereby encourages spend in certain areas by allowing full recognition in such areas, whilst still allowing significant recognition (80%) in other areas.

#### BENEFICIARIES OF ENTERPRISE DEVELOPMENT DEFINED

BENEFICIARY	DESCRIPTION OF BENEFICIARY
<b>ENTERPRISE DEVELOPMENT – Category A (QSEs &amp; EME's)</b>	<ul style="list-style-type: none"> <li>QSEs &amp; EMEs which are 50% black owned or 50% black women owned</li> </ul>
<b>ENTERPRISE DEVELOPMENT – Category B (Any size of entity)</b>	Any size entities which are <ul style="list-style-type: none"> <li>50% black owned or 50% black women owned</li> <li>25% black owned or 25% black women owned that also have a BEE Status Level of one to six</li> </ul>
<b>Sector Specific Programmes -</b>	<ul style="list-style-type: none"> <li>The beneficiaries of sector specific programmes must meet the definitions of enterprise development beneficiaries</li> </ul>

#### ENTERPRISE DEVELOPMENT CONTRIBUTIONS DEFINED

Enterprises Development Contributions is a collective term for:

- Enterprise Development contributions
- Sector Specific Contributions

provided that such contributions are made to Category A and B beneficiaries and that they are directly aligned to the enterprise development principles of contributing to the development, sustainability, financial and operational independence of enterprise development beneficiaries.



## Qualifying Enterprise Development Contributions:

TYPE	GENERAL NATURE & OBJECTIVE	EXAMPLES
<p><b>Category A Beneficiaries</b> (QSEs &amp; EME's that are 50% black owned or 50% black women owned)</p> <hr/> <p><b>Category B Beneficiaries</b> Any size companies that are 50% black owned or 50% black women owned;  25% black owned or 25% black women owned that also have a BEE Status Level of one to six</p>	<p>Enterprise development initiatives:</p> <ul style="list-style-type: none"> <li>should typically aim to assist and accelerate the development, sustainability and ultimate financial and operational independence of the beneficiaries they assist.</li> <li>this is usually achieved by helping beneficiaries to expand their operational and financial capacity.</li> </ul>	<ul style="list-style-type: none"> <li>Grants</li> <li>Investments in beneficiary entities</li> <li>Loans</li> <li>Guarantees/ security</li> <li>'SEED' capital</li> <li>Access to finance through provision of collateral/ relaxed security requirements</li> <li>Early payments for goods supplied</li> <li>Extended credit terms for procurement amounts owed by beneficiary entity</li> <li>Infrastructure support to suppliers and other entities in the same area or community</li> <li>Beneficiation</li> <li>Labour-intensive production &amp; construction methods</li> <li>Investment and support to enterprises operating in rural communities</li> </ul>
<p><b>SECTOR SPECIFIC -</b></p>	<p>These are to be included in Sector Codes or as sector specific initiatives and not as part of the Generic Codes. Code 600 includes this category to give individual sectors the flexibility to define their own Sector Specific contributions</p>	<p>Can be determined by</p> <ul style="list-style-type: none"> <li>each sector through the process of sector codes;</li> <li>each sector through other processes i.e. those areas identified as requiring to be specifically addressed through enterprise development initiatives in sectors that do not have charters/sector codes</li> </ul>

### Key Measurement Principles

#### I. Cumulative recognition to allow for fluctuations in spend based on the financial needs of different projects in different years

All enterprise development contributions are measured cumulatively from the earlier of the commencement of the Codes or a maximum of five years prior to the commencement of the codes until the date of measurement. This cumulative period will be limited to five years at a time – in other words the sum of contributions is averaged over the number of years (limited to a maximum of five years). The figures to be used will be either of the following:

- the annual average value of the amount of money spent by the measured entity and the



average Net Profit After Tax over that cumulative period; or

- The value of the actual amount of money spent by the measured entity in the preceding financial year and the actual Net Profit After Tax in the preceding financial period;

In the case where the measured entity has not recorded any Net Profit after tax either in the preceding financial period or during any time during the 5 year cumulative period; or the Net Profit Margin is less than a quarter of the norm in the industry; then Turnover should be used as a base for determining their target. The following formula should be utilised:

- $3\% \times \text{Indicative Profit Margin} \times \text{Turnover}$
- Please note that the Indicative Profit Margin is the profit margin in the last year in which the company's profit margin was at least one quarter of the industry norm.

## **2. Inception Date allows for recognition of prior spend if an entity so wishes**

Certain companies may wish to choose an Inception Date which is not the date of commencement of the Codes, but an earlier date. This is to allow recognition for companies which were early starters and which contributed to enterprise development initiatives before the commencement of the Codes. However, companies must be able to produce evidence of contributions prior to the gazetting of the Codes if they wish to claim this spend, as they would for recognition claims following the gazetting of the Codes.



### 3. The Benefit Factor Matrix

The purpose of the Benefit Factor Matrix is to incentivise spend in certain areas, whilst still allowing significant recognition in the other areas of enterprise development.

**Note:** All enterprise development spend must first be multiplied by the corresponding Benefit Factor which appears in the Benefit Factor Matrix attached as Annexure 600A.

**For example:**

If a Measured Entity spends R750, 000 per annum on overhead costs which are incurred in the support of enterprise development initiatives, then this spend must be multiplied by the corresponding Benefit Factor of 80%

#### ANNEXE 600A – BENEFIT FACTOR MATRIX

Qualifying Contribution type	Contribution Amount	Benefit Factor
<b>Grant and Related Contributions</b>		
Grant Contribution	Full Grant Amount	100%
Direct Cost incurred in supporting enterprise development	Verifiable Cost (including both monetary and non-monetary)	100%
Discounts in addition to normal business practices	Discount Amount (in addition to normal business discount)	100%
Overhead Costs incurred in supporting enterprise development (including people appointed in enterprise development)	Verifiable Costs (including both monetary and non-monetary)	80%
<b>Loans and Related Contributions</b>		
Interest-Free Loan with no security requirements	Outstanding Loan Amount	100%
Standard Loan to Black Owned EME and QSE's	Outstanding Loan Amount	70%
Standard Loan provided to other Beneficiary Enterprises	Outstanding Loan Amount	60%
Guarantees provided on behalf of a Beneficiary entity	Guarantee Amount	3%
Lower Interest Rate	Outstanding loan amount	Prime Rate – Actual Rate
<b>Equity Investments and Related Contributions</b>		
Minority Investment in Black Owned EME and QSE's	Investment Amount	100%
Minority Investment in Other Beneficiary Enterprises	Investment Amount	80%
Enterprise Development Investment with lower dividend to financier	Investment Amount	Dividend Rate of Ordinary Shareholders – Actual Dividend Rate of Contributor
<b>Contributions made in the form of human resource capacity</b>		
Professional services rendered at no cost	Commercial hourly rate of professional	80%



Professional services rendered at a discount	Value of discount based on commercial hourly rate of professional	80%
Time of employees of Measured Entity productively deployed in assisting beneficiaries	Total annual cost to company of the employee divided 160	80%
Other Contributions		
Shorter Payment Periods	Percentage of invoiced amount	Percentage being 15 days less the number of days from invoice date to payment date

In cases where reference is made to outstanding loan amount the average of the amount of money outstanding during the measurement period should be utilised.

### Example

A Measured Entity's financial year-end is 31 December 2007 and they also measure their B-BBEE scorecard as at that date

If the Measured Entity provided an interest free loan of R10,000 to an enterprise development beneficiary on 30 June 2007, the formula to be used in determining the enterprise development points for the measured entity is as follow:

$$\begin{aligned} \text{Enterprise Development points} &= \text{R10,000 (loan amount outstanding)} \times 100\% \text{ (the benefit} \\ &\text{factor)} \times 6/12 \text{ (the average period during which the loan amount has been outstanding)} \\ &= \text{R5,000} \end{aligned}$$

The measured entity will therefore only claim R5,000 of the R10,000 outstanding interest free loan. Had the loan been provided at the beginning of the year, say 1 January 2007, the measured entity would have been able to claim the full R10,000 at the financial year-end.

It must be noted that a measured entity will be able to claim enterprise development points for the duration of the period that those amounts remain outstanding. For instance in the above example, if the same loan amount of R10,000 is still outstanding on 31 December 2008 (the following year) then the measured entity would be able to claim the full R10,000 (R10,000 x 12/12) as enterprise development.



## **Chapter Nine: Code 700 – Measurement of the Socio-Economic Development Element of Broad-Based Black Economic Empowerment**

### **Statement 700 – The General Principles for Measuring Socio-Economic Development**

#### **Introduction**

Code 700 seeks to encourage initiatives that enhance the ability of black people who remain non-participants in the economic mainstream to be included in participating in the economy in a sustainable manner. The challenge which Code 700 therefore seeks to address may be summarised as follows:

***The Majority of Black People in South Africa are still unable to access the mainstream economy owing to lack of education and poverty***

Although it is recognised that social initiatives cannot always be linked to obtaining financial independence for beneficiaries, where possible, Statement 700 adheres to the principle that socio-economic development initiatives should strive to facilitate access to the mainstream economy for black people. It does so by encouraging socio-economic development contributions linked to improving the financial circumstances of beneficiaries, such as:

- Provision of development capital for communities
- Training or mentoring to beneficiary communities which will assist them to increase financial capacity
- Offering preferential terms to beneficiary communities when purchasing their goods/ services (e.g. early payment)

The most critical aspect of the socio-economic development (SED) element is that SED initiatives should result in the sustainable economic participation by its intended beneficiaries and discourage perpetual dependence on hand-outs.

#### **The Socio-Economic Development Scorecard**

<b>Criteria</b>	<b>Weighting</b>	<b>Compliance Target</b>
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	Points	
Annual average value of all Socio-Economic Development contributions by the measured entity as a percentage of the target	5	1% of Net Profit After Tax (NPAT)

The Socio-economic development scorecard contains one indicator that measures socio-economic development contributions to defined beneficiaries, as well as contributions to certain Approved Projects such as projects in rural or underdeveloped urban areas, earmarked by government for development and any sector specific contributions which have been approved through gazetting of a particular industry's Sector Code.

### BENEFICIARIES OF SOCIO-ECONOMIC DEVELOPMENT DEFINED

BENEFICIARY	DESCRIPTION OF BENEFICIARY
<b>SOCIO-ECONOMIC DEVELOPMENT -</b>	<p>Social development beneficiaries are either black individuals, or, as is more commonly the case, communities or groups of people. In the latter case the percentage of black people within the beneficiary group affects the amount of spend recognition in terms of the Codes:</p> <ul style="list-style-type: none"> <li>• where 75% of the beneficiary group is black, then the full value of contributions is recognizable</li> <li>• where less than 75% of the beneficiary group is black, then value of the contribution multiplied by the percentage benefiting black people</li> </ul>
<b>APPROVED SOCIO-ECONOMIC DEVELOPMENT PROGRAMMES -</b>	The beneficiaries of Approved Socio-Economic Development programmes must meet the definition of Socio-economic development beneficiaries

### QUALIFYING SOCIO-ECONOMIC DEVELOPMENT CONTRIBUTIONS DEFINED

Qualifying Contributions is a collective term for:

- Socio-economic development contributions
- Approved socio-economic development programme contributions

provided that such contributions are made to the defined beneficiaries of socio-economic development initiatives and that they are directly aligned to the socio-economic development principles of resulting in the sustainable economic participation by its beneficiaries with the view to discouraging perpetual dependence on hand-outs.



## QUALIFYING CONTRIBUTIONS:

TYPE	GENERAL NATURE & OBJECTIVE	EXAMPLES
<b>SOCIO-DEVELOPMENT -</b>	Socio-economic development contributions: <ul style="list-style-type: none"> <li>should typically strive to promote access to the economy for beneficiaries</li> </ul>	<ul style="list-style-type: none"> <li>development programmes (especially for Black Designated Groups as defined in Code 100)</li> <li>HIV/ AIDS &amp; healthcare support</li> <li>Support to schools and educational assistance through bursaries</li> <li>Skills development for the unemployed; ABET programme support</li> <li>Support for arts and culture</li> <li>Guarantees/ security for beneficiaries</li> <li>Development capital for beneficiary communities</li> <li>Training/ mentoring of communities to assist them to increase their financial capacity</li> <li>Investment in the social wage of employees (e.g. housing, transport and healthcare)</li> </ul>
<b>APPROVED SOCIO-ECONOMIC DEVELOPMENT PROGRAMMES</b>	Contributions to projects which have been approved by organs of state as well as those that are sector specific as agreed to by sector representatives through their sector codes	Approved Project contributions include <ul style="list-style-type: none"> <li>Infrastructure Development</li> <li>Reconstruction in underdeveloped areas</li> <li>Rural Communities</li> <li>Geographical areas identified in the government's Integrated Sustainable Rural Development and Urban renewal projects</li> </ul>

### Key Measurement Principles

#### I. Cumulative recognition to allow for fluctuations in spend based on the financial needs of different projects in different years

All socio-economic development contributions are measured cumulatively from the earlier of the commencement of the Codes or a maximum of five years prior to the commencement of the codes until the date of measurement. This cumulative period will be limited to five years at a time – in other words the sum of contributions is averaged over the number of years (limited to a maximum of five years). The figures to be used will be either of the following:

- the annual average value of the amount of money spent by the measured entity and the average Net Profit After Tax over that cumulative period; or
- The value of the actual amount of money spent by the measured entity in the preceding



financial year and the actual Net Profit After Tax in the preceding financial period;

In the case where the measured entity has not recorded any Net Profit after tax either in the preceding financial period or during any time during the 5 year cumulative period; or the Net Profit Margin is less than a quarter of the norm in the industry; then Turnover should be used as a base for determining their target. The following formula should be utilised:

- $1\% \times \text{Indicative Profit Margin} \times \text{Turnover}$
- Please note that the Indicative Profit Margin is the profit margin in the last year in which the company's profit margin was at least one quarter of the industry norm.

## **2. Inception Date allows for recognition of prior spend if an entity so wishes**

Certain companies may wish to choose an Inception Date which is not the date of commencement of the Codes, but an earlier date. This is to allow recognition for companies which were early starters and which contributed to socio-economic development initiatives before the commencement of the Codes. However, companies must be able to produce evidence of contributions prior to the gazetting of the Codes if they wish to claim this spend, as they would for recognition claims following the gazetting of the Codes.

## **3. The Benefit Factor Matrix**

The purpose of the Benefit Factor Matrix is to incentivise spend in certain areas whilst still allowing significant recognition in other areas of socio-economic contributions.

Note: All socio-economic development spend must first be multiplied by the corresponding Benefit Factor which appears in the Benefit factor matrix attached as Annexe 700A



### Example

If a measured entity spends R500,000 per annum on professional services rendered at no cost for supporting socio-economic development initiatives, then this spend must be multiplied by the corresponding Benefit Factor of 80%

### Annexe 700 (A) – Benefit Factor Matrix

Qualifying Contribution type	Contribution Amount	Benefit Factor
<b>Grant and Related Contributions</b>		
Grant Contribution	Full Grant Amount	100%
Direct Cost incurred in supporting socio-economic development, or approved socio-economic development contributions	Verifiable Cost (including both monetary and non-monetary)	100%
Discounts in addition to normal business practices supporting socio-economic development, or approved socio-economic development contributions	Discount Amount (in addition to normal business discount)	100%
Overhead Costs incurred in supporting socio-economic development, or approved socio-economic development contributions	Verifiable Costs (including both monetary and non-monetary)	80%
<b>Contributions made in the form of human resource capacity</b>		
Professional services rendered at no cost supporting socio-economic development, or approved socio-economic development contributions	Commercial hourly rate of professional	80%
Professional services rendered at a discount supporting socio-economic development, or approved socio-economic development contributions	Value of discount based on commercial hourly rate of professional	80%
Time of employees of Measured Entity productively deployed in assisting beneficiaries and supporting socio-economic development, or approved socio-economic development contributions	Monthly salary divided by 160	80%



## ***Statement 800 – The Qualifying Small Enterprise Scorecard and Exempted Micro Enterprises***

### ***Introduction***

This statement details the criteria that is used to determine if an entity is eligible to be classified as a Qualifying Small Enterprise or an Exempted Micro Enterprise and how these are measured in terms of the Codes of Good Practice.

### ***Eligibility criteria***

Qualifying Small Enterprises (QSE's) = companies with an annual total turnover of between R5 million and R35 million

Exempted Micro Enterprises (EME's) = companies with an annual total turnover of R 5 million or less

Start-up enterprises are measurable as EME's for the first year following their formation or incorporation. This provision applies regardless of the expected total revenue of the start-up enterprise. In the case where a start-up enterprise tenders for a contract of R5 million or more they will be required to provide evidence of BEE compliance.

Sectors of the economy wishing to define small, very small, and micro enterprises differently from the definition of the codes may do so either through a sector specific charter formulation process or any other relevant sector specific initiative.

### ***Measurement Criteria***

#### **Qualifying Small Enterprises**

Unlike the Generic Scorecard, the QSE Scorecard allocates an equal 25 weighting points to each of the seven elements of B-BBEE. The overall weighting of the elements on the scorecard adds up to 175 points. But because QSE's only have to elect four of the elements, selected elements of compliance will total 100 points.



### **Exempted Micro Enterprise**

Any entity that is eligible to be an Exempted Micro Enterprise will enjoy an automatic Level 4 Contributor status. An EME qualifies for promotion to a B-BBEE status of “Level 3 contributor” having a B-BBEE procurement recognition of 110% if it is more than 50% owned by black people or more than 50% owned by black women.

Any representation made by a QSE or an EME about its B-BBEE compliance must be supported by suitable evidence or documentation.

### **Example**

- EMEs can provide an Auditor’s certificate or similar certificate issued by an Accounting Officer or a Verification Agency confirming that their annual turnover is below R5million;

Note: There is nothing in the codes or in this guidance note that makes it compulsory for EMEs to obtain certificates of compliance from verification agencies

- QSEs must submit a QSE scorecard with sufficient documentary evidence of their B-BBEE compliance.



## • *Statement 801 – Ownership for Qualifying Small Enterprises*

### **Introduction**

This statement provides the scorecard and measurement guidelines for Qualifying Small Enterprises with respect to Ownership.

### **Measurement Principles**

A measured entity with 25% black ownership, can receive a maximum of 2 bonus points for a 10% holding of economic interest by black women.

A measured enterprise with 25% black economic interest, can receive a maximum of 1 bonus point for a 10% holding of economic interest by black participants in Employee Ownership Schemes, Broad-Based Ownership Schemes and Co-operatives.

### **Qualifying Small Enterprise Ownership Scorecard**

Category	Ownership indicator	Weighting points	Compliance Target
1.1	Voting rights:		
	Exercisable Voting Rights in the Enterprise in the hands of black people	6	25%+1 vote
1.2	Economic Interest:		
	Economic Interest of black people in the Enterprise	9	25%
1.3	Realisation points:		
	1.3.1 Ownership fulfilment	1	Refer to definition in Statement 100
	1.3.2 Net Value	9	Refer to definition in Statement 100
1.4	Bonus points:		
	1.4.1 Involvement in the ownership of the Enterprise of black women;	2	10%
	1.4.2 Involvement in the ownership of the Enterprise of black Participants in	1	10%
	1.4.2.1 black Participants in Employee Ownership Schemes;		
	1.4.2.2 black beneficiaries of Broad-Based Ownership Schemes; or		
	1.4.2.3 Black Participants in Co-		



	operatives.		
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## **Statement 802 – The General Recognition of Management Control for Qualifying Small Enterprises**

### **Introduction**

This statement details how a Qualifying Small Enterprise will be measured in terms of their Management Control.

### **The Management and Control Scorecard for Qualifying Small Enterprises**

<b>Management control criteria</b>	<b>Weighting points</b>	<b>Compliance Target</b>
1.1 Black representation at Top-Manager level.	25	50% Top-Manager representation.
1.2 Bonus Points: Black women representation as Top-Managers	2	25%

### **Measurement Principles**

- The measurement principles for this element are the same as those for Statement 200, but with only 2 indicators.

(Please note that the definition of Top-Manager in the codes should read: Means employees of a Measured Entity who serve on the Board, undertake the day to day management, have overall responsibility for the overall financial management and are actively involved in developing and implementing the overall strategy of the Measured Entity).

- The definition of Top Management should only be understood to include black people at a top management level without regard to their ownership status in the QSE. Ownership for QSEs is measured independently of Top Management.



## Statement 803 – Employment Equity for Qualifying Small Enterprises

### Introduction

The Employment Equity element of the QUALIFYING SMALL ENTERPRISE Scorecard is a simplified version of the Generic Scorecard's employment equity element. The objective of this simplification is to enable small and medium businesses to comply more easily with the requirements of the codes. The key issues addressed by Statement 803 include:

- **Representation of black people in management:** The Employment Equity Scorecard for QSE's measures the extent to which black people participate in the management of enterprise as a whole. Management means Employees of a Measured Entity who undertake the day-to-day management of that Measured Entity but who do not necessarily have ownership in the Measured Entity
- **Representation of black employees amongst all staff in the enterprise:** Unlike Statement 300, Qualifying Small Enterprises are able to score points for overall representation of black people. This means that even if black people are not represented in management, the enterprise will be able to score up to 10 out of the 25 weighting points for Employment Equity, making compliance somewhat easier to achieve

### The QSE Employment Equity Scorecard

Criteria	Weighting points	Compliance targets	
		Years 0 - 5	Years 6 -10
1.2.1 Black employees of the Measured Entity who are Management as a percentage of all Management using the Adjusted Recognition for Gender	15	40%	60%
1.2.2 Black employees of the Measured Entity as a percentage of all employees using the Adjusted Recognition for Gender	10	60%	70%
1.2.3 Bonus points for meeting or exceeding EAP targets in each category above	2		

#### Key measurement principles -

- I. **Recognition is given for black representation at management level and at total staff level**



- a. Statement 803 measures black representation at management level primarily by allocating 15 points to this indicator, whereas only 10 points are allocated to black representation at total employee level
2. **A maximum of two bonus points (one for each indicator) for meeting or exceeding the EAP targets are provided for.**
3. **Black women representation at both management and total employee level will affect the score for black representation within that particular category through the inclusion of the Adjusted Recognition for Gender**



## THE ADJUSTED RECOGNITION FOR GENDER

- Has the effect of ensuring that black women comprise at least 50% of the target for the representation of black employees:

### FOR EXAMPLE

Where an entity has:

- 100 managers
- 40 black managers (40% black people)
- 10 black female managers (10% black women)

### Application of Adjusted Recognition:

$$= A = B/2 + C$$

Where: A is the Adjusted Recognition of Gender

B is the percentage of people in the middle management category that are black people

C is the percentage of people in the middle management category that are black women

Then applying the formula:

$$= 40\% / 2 + 10\%$$

$$= 20\% + 10\%$$

$$= 30\%$$

The company's black representation is effectively reduced (for scoring purposes) from 40% to 30%.

This new black representation figure of 30% will now be measured against the relevant target for management (40% in the first five years & 60% in the second five years):

$$= \text{black representation} / \text{target} \times \text{weighting}$$

$$= 30\% / 40\% \times 15$$

$$= 11 \text{ points out of 15}$$

(a measured entity can claim 11 points (75) of the total potential points in the management category of the scorecard)

If the Adjusted Recognition factor had not been taken into account then the effect would be:

$$= 40\% / 40\% \times 15$$

$$= 15 \text{ out of 15}$$

(a measured entity can claim 15 points (100%) of the total potential points in the management category of the scorecard)



## Statement 804 – Skills Development for Qualifying Small Enterprises

### Introduction

The Skills Development element of the Qualifying Small Enterprise Scorecard is a far less complex version of the Generic Scorecard's Skills Development element, although the Learning Programme Matrix which broadly defines the training initiatives also forms part of Statement 804. The objective of the simplification of the scorecard is to enable small and medium businesses to comply more easily against less stringent criteria with respect to skills development of employees. The key issues addressed by Statement 804 are:

- **Skills Development spend recognition for spend on any types of training initiatives:** Statement 804 seeks to address the issue of companies spending on training which may not have sufficiently well-planned outcomes. For this reason, only skills development spend on Learning Programmes as contained in the Learning Programme Matrix are recognisable.

The Skills Development Scorecard for Qualifying Small Enterprises

Skills Development Element	Weighting points	Compliance Target
Skills Development Spend on Learning Programmes for black employees as a percentage of Leviable Amount.	25	2%

- The Skills Development Scorecard for Qualifying Small Enterprises consists of only one indicator. This indicator measures the amount spent on Learning Programmes which form part of the Learning Programme Matrix.
- The purpose of the Learning Programme Matrix is largely to ensure that training outcomes either lead to increased recognition for learners through existing training mechanisms such as certificates, degrees, diplomas or unit standards or increased on-the-job understanding or improved performance.
- For the latter two outcomes, the Learning Programme Matrix does include informal, in-house training, which means that training programmes need not necessarily fit into an accredited course, so long as they comply with the abovementioned learning achievements.

### No specific indicator measuring the QSE's participation in learnership initiatives

Unlike Statement 400, the simplified QSE scorecard for Skills Development does not contain a specific indicator for the measurement of black people participating in in-service training. However, the



Measured Entity will obtain recognition for learnerships and other in-service training programmes provided that they meet the definition of an In-Service Training Programme. These are defined as follows for both QSE's and corporates:

- learnerships, as defined in the Skills Development Act; and
- Learning Programmes contained in category C or D of the Learning Programme Matrix

**Key measurement principles –**

**1. Prioritisation of ABET-related spend to encourage spend in this area**

Statement 804 allows Measured Enterprises to multiply ABET-related training spend by a factor of 1.25 to encourage entities to include ABET-related expenditure in their training budgets

**2. Training-related expenses may be included in skills development spend so long as they are legitimate and properly recorded and accounted for**

Evidence of legitimate training expenses includes invoices and/or internal accounting records. A non-exhaustive list of legitimate training expenditure is included under the learning programme matrix.

**3. Skills spend on black women will affect a Measured Entity's score for Skills Development through the inclusion of the Adjusted Recognition for Gender**



## THE ADJUSTED RECOGNITION FOR GENDER

Has the effect of ensuring that black women make up at least half of the target set for skills development on black employees

### FOR EXAMPLE

*For the purposes of this example, the Adjusted Recognition for Gender will be applied to the indicator which measures Skills Development Spend on Learning Programmes for Black Employees*

Where an entity:

- spends R200,000 on skills development for black employees (2% of Leivable Amount)
- spends R66,000 on skills development for black women (33.3% of skills spend is spent on black women)
- has an annual, leivable payroll figure of R10 million

### Application of Adjusted Recognition:

$$= A = B/2 + C$$

Where: A is the Adjusted Recognition of Gender

B is the value of Skills Development Spend attributable to black employees

C is the value Skills Development Spend attributable to black women employees

Then

$$= R200,000 / 2 + R66,000$$

$$= R166,000 \text{ (1.66\% of Leivable Amount)}$$

The company's skills development spend as a percentage of their Leivable Amount is effectively reduced by 17% (for scoring purposes) from 2% to 1.66%.

This new figure of 1.66% will now be measured against the target for skills development spend of 2%:

### Calculation of Indicator Score:

= adjusted skills development spend as a percentage of payroll/ target X weighting

$$= 1.66\% / 2\% \times 25$$

$$= 21 \text{ points out of 25 (83\% of the target)}$$

In the absence of this adjusted recognition the entity would be able to claim the full points



Cat	Narrative Description	Delivery Mode	Learning Site	Learning Achievement
<b>A</b>	<b>Institution-based theoretical instruction alone</b> – formally assessed by the institution	Institutional instruction	Institutions such as universities and colleges, schools, ABET providers	Recognised theoretical knowledge resulting in the achievement of a degree, diploma or certificate issued by an accredited or registered formal institution of learning
<b>B</b>	<b>Institution-based theoretical instruction</b> as well as some practical learning with an employer or in a simulated work environment – formally assessed through the institution	Mixed mode delivery with institutional instruction as well as supervised learning in an appropriate workplace or simulated work environment	Institutions such as universities and colleges, schools, ABET providers and workplace	Theoretical knowledge and workplace experience with set requirements resulting in the achievement of a degree, diploma or certificate issued by an accredited or registered formal institution of learning
<b>C</b>	Recognised or registered structured experiential learning in the workplace that is required after the achievement of a qualification – formally assessed by a statutory occupational or professional body	Structured learning in the workplace with mentoring or coaching	Workplace	Occupational or professional knowledge and experience formally recognised through registration or licensing
<b>D</b>	Occupationally-directed instructional and work-based learning programme that requires a formal contract – formally assessed by an accredited body	Institutional instruction together with structured, supervised experiential learning in the workplace	Institution and workplace	Theoretical knowledge and workplace learning, resulting in the achievement of a South African Qualifications Authority registered qualification, a certificate or other similar occupational or professional qualification issued by an accredited or registered formal institution of learning
<b>E</b>	Occupationally-directed instructional and work-based learning programme that does not require a formal contract – formally assessed by an accredited body	Structured, supervised experiential learning in the workplace which may include some institutional instruction	Workplace and some institutional as well as ABET providers	Credits awarded for registered unit standards
<b>F</b>	Occupationally-directed informal instructional programmes	Structured information sharing or direct instruction involving workshops, seminars and conferences and short courses	Institutions, conferences and meetings	Continuing professional development, attendance certificates and credits against registered unit standards (in some instances)
<b>G</b>	Work-based informal programmes	Informal training	Workplace	Increased understand of job or work context or improved performance or skills





## Statement 805 – Preferential Procurement for Qualifying Small Enterprises

### Introduction

The Preferential Procurement element of the Qualifying Small Enterprise (QSE) Scorecard is a simplified version of the Generic Scorecard's Preferential Procurement element, reducing the number of indicators from three to only one, not merely for the sake of simplicity but to also make compliance that much easier. There are no targets for particular types or sizes of entities as QSE's are encouraged to procure from those entities that have a good BEE status. The key issue addressed by Statement 805 is:

- **Preferential Procurement is used to drive transformation throughout the economy by encouraging procurement only from suppliers that are compliant with the B-BBEE scorecard:**
- There is a market tendency to interpret B-BBEE compliance as only having ownership by black people without looking at the level of compliance with other B-BBEE requirements. This has resulted in a number of sham transactions/'fronting' activities being entered into in a scramble to meet this compliance requirement.
- Enterprises are encouraged to procure from those entities that have a good B-BBEE contribution level based on their performance on the scorecard. A supplier that has a very good -BBEE contribution level is likely to be chosen as a preferred supplier as compared to his peers as they will give the enterprise they are providing goods and services to a good scoring on their own scorecard as well.

### The Preferential Procurement Scorecard for Qualifying Small Enterprises

Criteria	Weighting points	Compliance targets	
		Years 0 - 5	Years 6 - 10
BEE Procurement Spend from all Suppliers based on the BEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	25	40%	50%

The Preferential Procurement scorecard offers only B-BBEE procurement recognition by means of proportional recognition on the broad-based scorecard. Nonetheless, during the Transitional Period of one year from the gazetting of the Codes, companies may still be measured on narrow-based principles (ownership and management) and have their score converted to a Level Contributor status (see Code 000), thus QSE's procuring from such enterprises will still be able to claim preferential procurement points from such enterprises.

### BEE Procurement Recognition Levels



For ease of reference, the BEE Procurement recognition levels as contained in Code 000 have been reproduced below. Note that Exempted Micro Enterprises (EME's) (with an annual turnover of under R5million by definition) obtain an automatic Level Four B-BBEE contribution status and that procurement from such enterprises means that the procuring entity recognizes 100% of their spend with such enterprises regardless of the race of their owners. EMEs that are also more than 50% owned by black people and more than 50% owned by black women obtain an automatic Level Three B-BBEE contribution status (110% BEE procurement recognition)

BEE Status	Qualification	BEE procurement recognition level
Level One Contributor	≥100 points on the Generic/ QSE Scorecard	135%
Level Two Contributor	≥85 but <100 points on the Generic/ QSE Scorecard	125%
Level Three Contributor	≥75 but <85 on the Generic/ QSE Scorecard	110%
Level Four Contributor	≥65 but <75 on the Generic/ QSE Scorecard	100%
Level Five Contributor	≥55 but <65 on the Generic/ QSE Scorecard	80%
Level Six Contributor	≥45 but <55 on the Generic/ QSE Scorecard	60%
Level Seven Contributor	≥40 but <45 on the Generic/ QSE Scorecard	50%
Level Eight Contributor	≥30 but <40 on the Generic/ QSE Scorecard	10%
Non Compliant Contributor	<30 on the Generic/ QSE Scorecard	0%

**Note: Total Measured Procurement Spend and its corresponding exclusions are calculated in the same way in terms of both Statements 500 and 805**

### **Key measurement principles**

#### **1. Enhanced Recognition for Procurement from the Measured Entity's Enterprise Development Beneficiaries**

A Measured Entity will enjoy enhanced recognition for procurement spend from any company which is also simultaneously one of its enterprise development beneficiaries. This will be at a multiple of 1.2 – see example below:

#### **ENHANCED RECOGNITION FOR SPEND ON ENTERPRISE DEVELOPMENT BENEFICIARIES**

*For example:*

If Rand spend on Company A which is also an enterprise development beneficiary (and an EME) equals R100,000:  
 = R10,000 X 1.2  
 = R12,000

To calculate Preferential Procurement Spend (Company A is an EME in this example but the beneficiary need not necessarily be an EME)

= Rand spend (taking into account enhanced recognition) X BEE procurement recognition level  
 = R12,000 X 100% (EME = deemed Level 4 Contributor = 100% BEE recognition level)  
 = R12,000

#### **2. Enhanced Recognition for Procurement from Value-Adding Suppliers**



A Measured Entity will enjoy enhanced recognition for procurement spend from any company which is also a Value Adding Supplier. This will be at a multiple of 1.25

### **REWARDING VALUE-ADDING SUPPLIERS WHICH PRODUCE LOCALLY**

Value-Adding Suppliers benefit or add value to raw materials and tend to manufacture and produce locally, rather than relying too heavily on imports in most cases. The objective of this enhanced recognition is to encourage local production.

NB: Value-adding suppliers still need to meet the Preferential Procurement scorecard requirements for any procurement spend on such suppliers to be recognised for B-BBEE scoring purposes.

### **ENHANCED RECOGNITION FOR SPEND ON VALUE ADDING SUPPLIERS**

*For example:*

If Rand spend on Company A which is also a value adding supplier equals R100,00  
= R100,000 X 1.25  
= R125,000

Company A is a level 5 contributor

To calculate Preferential Procurement Spend  
= Rand spend (taking into account enhanced recognition) X BEE procurement recognition level  
= R125,000 X 80% (Level 5 Contributor = 80% BEE recognition level)  
= R100,000

Note

Had Company A not been a value adding supplier the company procuring goods and services from Company A would claim preferential procurement points based on the following calculated amount:

= Rand spend X BEE procurement recognition level  
= R100,000 X 80%  
= R80,000



<b>TOTAL MEASURED PROCUREMENT SPEND (TMPS)</b>		
	<b>SPEND ITEM</b> (included in TMPS save for any exceptions outlined in the adjacent column)	<b>EXCEPTIONS</b> (may be permissibly excluded from TMPS)
1.	<b>Cost of sales</b>	No exceptions
2.	<b>Operational expenditure</b>	No exceptions
3.	<b>Capital expenditure</b>	No exceptions
4.	<b>Public sector procurement</b> – from Schedule 2(e.g. Eskom) & 3(e.g. SITA) listed organs of state & public entities as per the Public Finance Management Act (PFMA)	Procurement from Schedule 1 organs of state & public entities is excluded from Total Measured Procurement Spend, unless the procurement is from a local government entity acting as a reseller
5.	<b>Monopolistic procurement</b>	No exceptions
6.	<b>Third-party procurement</b> (not pass-through, third party procurement)	<b>Pass through third party procurement</b> where the Measured Entity may be acting as an agent in normal business practices. In other words procurement spend which may pass through an agent (the Measured Entity) but which is not recorded as an expense in the entity's financial statements but is recorded in the third party's financial statements. For example: a travel agent buying on behalf of a third party
7.	<b>Labour brokers &amp; independent contractors</b>	No exceptions
8.	<b>Pension &amp; medical aid contributions</b>	No exceptions
9.	<b>Trade commissions</b>	No exceptions
10.	<b>Empowerment related expenditure</b>	The following empowerment related expenditure is excluded from TMPS: <ul style="list-style-type: none"> <li>• Investments in or loans to an Associated Enterprise (as defined in Statement 102)</li> <li>• Investments, loans or donations which qualify for enterprise development recognition</li> </ul>
11.	<b>Imports</b>	Several exceptions – see box below
12.	<b>Intra-group procurement</b>	No exceptions

#### **Exclusions from Total Measured Procurement Spend -**

Permissible exclusions from Total Measured Procurement Spend are strictly defined in Statement 500. For ease of reference, the exclusions from total procurement which have already been outlined above in that they are exceptions from specific inclusions, are repeated below:

- Taxation
- Public sector procurement (schedule 1 entities as per the PFMA)
- Salaries, wages and emoluments
- Pass-through third-party procurement (where no entries relating to this procurement appear in the books of the Measured Entity)
- Empowerment related procurement associated with investments, loans or donations to Associated Enterprises or enterprise development beneficiaries



- Imports in certain cases only:

### **IMPORTS – PERMISSIBLE EXCLUSIONS FROM TOTAL MEASURED PROCUREMENT SPEND**

- imported capital goods or components for value-added production in South Africa provided that:
  - there is no existing local production of such goods or components
  - importing such capital goods or components promotes further value-added production within South Africa
- imported goods and services if there is no local production of such goods or services including instances where:
  - the imported goods or services carry a brand different to the locally produced goods or services
  - where the imported goods or services have different technical specifications to those produced locally.

### **CALCULATING A QSE'S PREFERENTIAL PROCUREMENT SPEND:**

Below is an example to illustrate the calculation of a hypothetical company's preferential procurement score. Please note that this example assumes that Measured Entity Y procures only from 4 suppliers over a twelve month period – a highly simplified example for explanatory purposes only.



Measured Entity Y's annual procurement spend is as follows:

Supplier Company	BEE Score	Level Contributor Status	BEE Procurement Recognition	Procurement Rand Spend with Supplier	Enhanced Recognition	BEE Spend
Company A (measured as per Generic Scorecard)	62%	5	80%	R100,000	Value Adding Enterprise (1.25)	R100,000
Company B (measured as per the QSE Scorecard)	82%	3	110%	R25,000	Enterprise Development Beneficiary (1.2)	R33,000
Company C (30% black women owned)	29%	Non-Compliant	0%	R200,000	n/a	R0
Company D	28%	Non-compliant	0%	R14,000	Value Adding Enterprise (no enhanced recognition as non compliant)	R0

### Step I: Calculation of Rand Value of BEE Spend:

#### Company A:

= Procurement Rand Spend X BEE Procurement Recognition Percentage X Enhanced Recognition Multiple (where applicable)  
 = R100,000 X 80% X 1.25  
 = R100,000

Although Company A's BEE score is below 65% and the Measured Entity therefore cannot recognize 20% of the R10 million they spend on Company A, the enhanced recognition which Company A enjoys owing to its status as a Value Adding Enterprise, means that there is effectively recognition of the R100,000, rather than only R80,000.

#### Company B:



$$\begin{aligned}
&= \text{Procurement Rand Spend} \times \text{BEE Procurement Recognition Percentage} \times \text{Enhanced Recognition} \\
&\text{Multiple (where applicable)} \\
&= R25,000 \times 110\% \times 1.2 \\
&= R33,000
\end{aligned}$$

**Company C:**

$$\begin{aligned}
&= \text{Procurement Rand Spend} \times \text{BEE Procurement Recognition Percentage} \times \text{Enhanced Recognition} \\
&\text{Multiple (where applicable)} \\
&= R200,000 \times 0\% \\
&= R0
\end{aligned}$$

Although Company C is a black women owned entity, since it is non-compliant on its scorecard none of the procurement spend from it will be recognized for preferential procurement purposes. It is therefore an incentive for black women owned entities to also comply with the requirements of the scorecard.

**Company D:**

$$= R0$$

Although Company D is a Value Adding Enterprise, it does not meet any of the Preferential Procurement Scorecard requirements for recognition and can therefore not enjoy any enhanced recognition.

**Step 2: Calculate Total Measured Procurement Spend**

Assume that all procurement spend in this example is listed above and that there are therefore no exclusions. Total Measured Procurement Spend is therefore equal to total procurement in this instance:

$$\begin{aligned}
&= \sum \text{Total Rand Spend of Companies A, B, C, D} \\
&= R100,000 + R25,000 + R200,000 + R14,000 \\
&= R339,000
\end{aligned}$$

**Step 3: Calculate the sum of all BEE procurement spend**

$$\begin{aligned}
&= \text{BEE procurement spend from all suppliers as a percentage of Total Measured Procurement Spend} \\
&= (\sum \text{BEE procurement} / \text{Total Measured Procurement Spend}) / \text{target} \times \text{weighting} \\
&= (R100,000 + R33,000) / R339,000 / 40\% \times 25 \\
&= (R133,000 / R339,000) / 40\% \times 25 \\
&= 39\% / 40\% \times 25 \\
&= 98\% \times 25
\end{aligned}$$



=24.5 points out of 25

*The Measured Entity's BEE Procurement Percentage is 39% against a target of 40% which means the entity will enjoy 98% of the 25 weighting points allocated to preferential procurement by QSE's.*

**Note:** *No additional points are awarded for exceeding the target. It is however, possible for entities to score more than 25 points through procurement from BEE compliant suppliers with more than 65% on the scorecard (BEE procurement recognition of 110% - 135%) and/or through procurement from their own enterprise development beneficiaries and/or BEE compliant Value-Adding Suppliers*





## **Statement 806 – Enterprise Development for Qualifying Small Enterprises**

### **Introduction**

Although some Qualifying Small Enterprises (QSE's) may have a turnover of little more than R5million per annum, others in certain industries with greater turnovers may well be better positioned to contribute to enterprise development than certain of the other elements. In addition, many successful small business owners are no doubt in a better position than most corporate managers to mentor and advise on micro and survivalist enterprises on how to grow and become sustainable. Therefore, some QSE's may be well-placed to try and address some of the following challenges facing entrepreneurs in South Africa, such as:

#### **1. High failure rate amongst black-owned start-ups owing to lack of access to financing and education/ experience**

Many black entrepreneurs struggle to take their businesses from a survivalist or micro-level to the next phase owing to one or more of the following: lack of access to capital, lack of collateral, lack of education, training and experience. Statement 806 therefore attempts to address these challenges by providing recognition for, *inter alia*:

- Investments, loans, grants, guarantees, provision of seed capital
- Access to credit, interest free loans, relaxed security requirements
- Time spent on training and mentoring of black entrepreneurs/ start-ups

#### **2. Job-creation cannot be ensured without growth in the small business sector**

Most analysts agree that growth with respect to job creation will predominantly come from the small business sector. This will only be made possible if small businesses are assisted to grow, develop and graduate from micro and survivalist entities to become sustainable, job-creating, enterprises. By providing recognition for various types of assistance to small, medium and micro enterprises with the objective of expanding their operational and financial capacity, Statement 806 seeks to ensure that such assistance is incentivised.

### **The Enterprise Development Scorecard**



Criteria	Weighting Points	Compliance Target
Average annual value of all Enterprise Development contributions and sector specific programmes made by the measured entity as a percentage of the target	25	2% of Net Profit After Tax (NPAT)

The Enterprise Development Scorecard contains one indicator that measures all Enterprise Development Contributions, which are enterprise development contributions to defined beneficiaries, as well as any sector specific contributions which have been approved through gazetting of a particular industry's Sector Code. It must be noted, however, that Enterprise Development must be directly aligned to the enterprise development principles of contributing to the development, sustainability and financial and operational independence of enterprise development beneficiaries. If contributions do not meet this principle, then Measured Entities are advised to assess whether they meet the principles of socio-economic development as outlined in Code 700.

#### BENEFICIARIES OF ENTERPRISE DEVELOPMENT DEFINED

BENEFICIARY	DESCRIPTION OF BENEFICIARY
<b>Category A Beneficiaries</b> (QSEs & EME's that are 50% black owned or 50% black women owned)	<ul style="list-style-type: none"> <li>EMEs which are 50% black owned or 50% black women owned</li> </ul>
<b>ENTERPRISE DEVELOPMENT – Category B (Any other entities)</b>	Any size entities which are: <ul style="list-style-type: none"> <li>50% owned by black people or 50% owned by black women;</li> <li>25% owned by black people or 25% owned by black women with BEE status of a level One to Six</li> </ul>
<b>SECTOR SPECIFIC -</b>	Sectors should use definitions of enterprise development beneficiaries



## QUALIFYING ENTERPRISE DEVELOPMENT CONTRIBUTIONS DEFINED

Qualifying Contributions is a collective term for:

- Enterprise Development contributions
- Sector Specific Contributions

provided that such contributions are made to Category A and B beneficiaries and that they are directly aligned to the enterprise development principles of contributing to the development, sustainability, financial and operational independence of enterprise development beneficiaries.

### QUALIFYING CONTRIBUTIONS:

TYPE	GENERAL NATURE & OBJECTIVE	EXAMPLES
<p><b>Category A Beneficiaries</b> (QSEs &amp; EME's that are 50% black owned or 50% black women owned)</p> <hr/> <p><b>Category B Beneficiaries</b> Any size companies that are 50% black owned or 50% black women owned;  25% black owned or 25% black women owned that also have a BEE Status Level of one to six</p>	<p>Enterprise development initiatives:</p> <ul style="list-style-type: none"> <li>• should typically aim to assist and accelerate the development, sustainability and ultimate financial and operational independence of the beneficiaries they assist.</li> <li>• this is usually achieved by helping beneficiaries to expand their operational and financial capacity.</li> </ul>	<ul style="list-style-type: none"> <li>• Grants</li> <li>• Investments in beneficiary entities</li> <li>• Loans</li> <li>• Guarantees/ security</li> <li>• Seed capital</li> <li>• Access to finance through provision of collateral/ relaxed security requirements</li> <li>• Early payments for goods supplied</li> <li>• Extended credit terms for procurement amounts owed by beneficiary entity</li> <li>• Infrastructure support to suppliers and other entities in the same area or community</li> <li>• Beneficiation</li> <li>• Labour-intensive production &amp; construction methods</li> <li>• Investment and support to enterprises operating in rural communities</li> </ul>
<p><b>SECTOR SPECIFIC -</b></p>	<p>These are to be included in Sector Codes or as sector specific initiatives and not as part of the Generic Codes. Code 600 includes this category to give individual sectors the flexibility to define their own Sector Specific contributions</p>	<p>Can be determined by</p> <ul style="list-style-type: none"> <li>• each sector through the process of sector codes;</li> <li>• each sector through other processes i.e. those areas identified as requiring to be specifically addressed through enterprise development initiatives in sectors that do not have charters/sector codes</li> </ul>



## Key Measurement Principles

### 1. Cumulative recognition to allow for fluctuations in spend based on the financial needs of different projects in different years

All enterprise development contributions are measured cumulatively from the earlier of the commencement of the Codes or a maximum of five years prior to the commencement of the codes until the date of measurement. This cumulative period will be limited to five years at a time – in other words the sum of contributions is averaged over the number of years (limited to a maximum of five years). The figures to be used will be either of the following:

- the annual average value of the amount of money spent by the measured entity and the average Net Profit After Tax over that cumulative period; or
- The value of the actual amount of money spent by the measured entity in the preceding financial year and the actual Net Profit After Tax in the preceding financial period;

In the case where the measured entity has not recorded any Net Profit after tax either in the preceding financial period or during any time during the 5 year cumulative period; or the Net Profit Margin is less than a quarter of the norm in the industry; then Turnover should be used as a base for determining their target. The following formula should be utilised:

- $2\% \times \text{Indicative Profit Margin} \times \text{Turnover}$

Please note that the Indicative Profit Margin is the profit margin in the last year in which the company's profit margin was at least one quarter of the industry norm.

### 2. Inception Date allows for recognition of prior spend if an entity so wishes

Certain companies may wish to choose an Inception Date which is not the date of commencement of the Codes, but an earlier date. This is to allow recognition for companies which were early starters and which contributed to enterprise development initiatives before the commencement of the Codes. However, companies must be able to produce evidence of contributions prior to the gazetting of the Codes if they wish to claim this spend, as they would for recognition claims following the gazetting of the Codes.

### 3. The Benefit Factor Matrix

The purpose of the Benefit Factor Matrix is to incentivise spend in certain areas, whilst still allowing significant recognition in the other areas of qualifying contributions.

**Note:** All enterprise development spend must first be multiplied by the corresponding Benefit Factor which appears in the Benefit Factor Matrix attached as Annexure 600A.



**For example:**

If a Measured Entity spends R75, 000 per annum on overhead costs which are incurred in the support of enterprise development initiatives, then this spend must be multiplied by the corresponding Benefit Factor of 80%

Therefore  $R75, 000 \times 80\% = R60,000$  can be claimed by the measured entity for enterprise development

If, however the Measured Entity spends the same amount of money on Interest-Free Loan with no security requirements to a contribution beneficiary then they will be able to claim 100% of the expenditure (The full R750, 000).

**ANNEXE 600A – BENEFIT FACTOR MATRIX**

<b>Qualifying Contribution type</b>	<b>Contribution Amount</b>	<b>Benefit Factor</b>
<b>Grant and Related Contributions</b>		
Grant Contribution	Full Grant Amount	100%
Direct Cost incurred in supporting enterprise development	Verifiable Cost (including both monetary and non-monetary)	100%
Discounts in addition to normal business practices	Discount Amount (in addition to normal business discount)	100%
Overhead Costs incurred in supporting enterprise development (including people appointed in enterprise development)	Verifiable Costs (including both monetary and non-monetary)	80%
<b>Loans and Related Contributions</b>		
Interest-Free Loan with no security requirements	Outstanding Loan Amount	100%
Standard Loan to Black Owned EME and QSE's	Outstanding Loan Amount	70%
Standard Loan provided to other Beneficiary Enterprises	Outstanding Loan Amount	60%
Guarantees provided on behalf of a Beneficiary entity	Guarantee Amount	3%
Lower Interest Rate	Outstanding loan amount	Prime Rate – Actual Rate
<b>Equity Investments and Related Contributions</b>		
Minority Investment in Black Owned EME and QSE's	Investment Amount	100%
Minority Investment in Other Beneficiary Enterprises	Investment Amount	80%
Enterprise Development Investment with lower dividend to financier	Investment Amount	Dividend Rate of Ordinary Shareholders – Actual Dividend Rate of Contributor
<b>Contributions made in the form of human resource capacity</b>		
Professional services rendered	Commercial hourly rate of	80%



at no cost	professional	
Professional services rendered at a discount	Value of discount based on commercial hourly rate of professional	80%
Time of employees of Measured Entity productively deployed in assisting beneficiaries	Total annual cost to company of the employee divided 160	80%
Other Contributions		
Shorter Payment Periods	Percentage of invoiced amount	Percentage being 15 days less the number of days from invoice date to payment date



## **Statement 807 – Socio-Economic Development for Qualifying Small Enterprises**

### **Introduction**

Although some Qualifying Small Enterprises (QSE's) may have a turnover of little more than R5million per annum, others in certain industries with greater turnovers may well be better positioned to contribute to socio-economic development than certain of the other elements.

Code 807 seeks to encourage initiatives that enhance the ability of black people who remain non-participants in the economic mainstream to be included in participating in the economy in a sustainable manner. The challenge which Code 807 therefore seeks to address may be summarized as follows:

### ***The Majority of Black People in South Africa are still unable to access the mainstream economy owing to lack of education and poverty***

It remains a fact that the majority of black South Africans still operate in the second economy twelve years after the advent of freedom and democracy. Although it is recognised that social initiatives cannot always be linked to obtaining financial independence for beneficiaries, where possible, Statement 807 adheres to the principle that socio-economic development initiatives should strive to facilitate access to the mainstream economy for black people. It does so by encouraging socio-economic development contributions linked to improving the financial circumstances of beneficiaries, such as:

- Provision of development capital for communities
- Training or mentoring to beneficiary communities which will assist them to increase financial capacity
- Offering preferential terms to beneficiary communities when purchasing their goods/ services (e.g. early payment)

The most critical aspect of the socio-economic development (SED) element is that SED initiatives should result in the sustainable economic participation by its intended beneficiaries and discourage perpetual dependence on hand-outs.



## The Socio-Economic Development Scorecard

Criteria	Weighting Points	Compliance Target
Average annual value of all Qualifying Contributions made by the Measured Entity measured from the commencement of this statement or the Inception Date to the date of measurement as a percentage of the target	25	1% of Net Profit After Tax (NPAT)

The Socio-economic development scorecard - now referred to by the acronym 'SED' – has been simplified to contain only one indicator. The indicator measures all Qualifying Contributions, which are social development contributions to defined beneficiaries, as well as contributions to certain Approved Projects such as projects in rural or underdeveloped urban areas, earmarked by government for development and any sector specific contributions which have been approved through gazetting of a particular industry's Sector Code.

### BENEFICIARIES OF SOCIO-ECONOMIC DEVELOPMENT DEFINED

BENEFICIARY	DESCRIPTION OF BENEFICIARY
<b>SOCIO-ECONOMIC DEVELOPMENT -</b>	<p>Social development beneficiaries are either black individuals, or, as is more commonly the case, communities or groups of people. In the latter case the percentage of black people within the beneficiary group affects the amount of spend recognition in terms of the Codes:</p> <ul style="list-style-type: none"> <li>• where 75% of the beneficiary group is black, then the full value of contributions is recognizable</li> <li>• where less than 75% of the beneficiary group is black, then value of the contribution multiplied by the percentage benefiting black people</li> </ul>
<b>APPROVED SOCIO-ECONOMIC DEVELOPMENT PROGRAMMES</b>	The beneficiaries of Approved Project Contributions must meet the definition of Socio-economic development beneficiaries

### QUALIFYING SOCIO-ECONOMIC DEVELOPMENT CONTRIBUTIONS DEFINED

Qualifying Contributions is a collective term for:

- Socio-economic Development contributions
- Approved Socio-economic Development Programmes contributions





**QUALIFYING CONTRIBUTIONS:**

TYPE	GENERAL NATURE & OBJECTIVE	EXAMPLES
<b>SOCIO-ECONOMIC DEVELOPMENT</b>	Socio-economic development contributions: <ul style="list-style-type: none"> <li>• should typically strive to promote access to the economy for beneficiaries</li> </ul>	<ul style="list-style-type: none"> <li>• development programmes (especially for Black Designated Groups as defined in Code 100)</li> <li>• HIV/ AIDS &amp; healthcare support</li> <li>• Support to schools and educational assistance through bursaries</li> <li>• Skills development for the unemployed; ABET programme support</li> <li>• Support for arts and culture</li> <li>• Guarantees/ security for beneficiaries</li> <li>• Development capital for beneficiary communities</li> <li>• Training/ mentoring of communities to assist them to increase their financial capacity</li> <li>• Investment in the social wage of employees (e.g. housing, transport and healthcare)</li> </ul>
<b>APPROVED SOCIO-ECONOMIC DEVELOPMENT PROGRAMMES</b>	Contributions to projects which have been approved by organs of state	Approved Project contributions include <ul style="list-style-type: none"> <li>• Infrastructure Development</li> <li>• Reconstruction in underdeveloped areas</li> <li>• Rural Communities</li> <li>• Geographical areas identified in the government's Integrated Sustainable Rural Development and Urban renewal projects</li> </ul>

**Key Measurement Principles**

**I. Cumulative recognition to allow for fluctuations in spend based on the financial needs of different projects in different years**

All socio-economic development contributions are measured cumulatively from the earlier of the commencement of the Codes or a maximum of five years prior to the commencement of the codes until the date of measurement. This cumulative period will be limited to five years at a time – in other words the sum of contributions is averaged over the number of years (limited to a maximum of five years). The figures to be used will be either of the following:

- the annual average value of the amount of money spent by the measured entity and the average Net Profit After Tax over that cumulative period; or
- The value of the actual amount of money spent by the measured entity in the preceding financial year and the actual Net Profit After Tax in the preceding financial period;



In the case where the measured entity has not recorded any Net Profit after tax either in the preceding financial period or during any time during the 5 year cumulative period; or the Net Profit Margin is less than a quarter of the norm in the industry; then Turnover should be used as a base for determining their target. The following formula should be utilised:

- $1\% \times \text{Indicative Profit Margin} \times \text{Turnover}$

Please note that the Indicative Profit Margin is the profit margin in the last year in which the company's profit margin was at least one quarter of the industry norm.

## 2. Inception Date allows for recognition of prior spend if an entity so wishes

Certain companies may wish to choose an Inception Date which is not the date of commencement of the Codes, but an earlier date. This is to allow recognition for companies which were early starters and which contributed to socio-economic development initiatives before the commencement of the Codes. However, companies must be able to produce evidence of contributions prior to the gazetting of the Codes if they wish to claim this spend, as they would for recognition claims following the gazetting of the Codes.

## 3. The Benefit Factor Matrix

The purpose of the Benefit Factor Matrix is to incentivise spend in certain areas whilst still allowing significant recognition in other areas of socio-economic development.

Note: All socio-economic development spend must first be multiplied by the corresponding Benefit Factor which appears in the Benefit Factor Matrix as attached under Annexe 807 (A).

### Annexe 807 (A) – Benefit Factor Matrix

Qualifying Contribution type	Contribution Amount	Benefit Factor
<b>Grant and Related Contributions</b>		
Grant Contribution	Full Grant Amount	100%
Direct Cost incurred in supporting socio-economic development, or approved socio-economic development contributions	Verifiable Cost (including both monetary and non-monetary)	100%
Discounts in addition to normal business practices supporting socio-economic development, or approved socio-economic development contributions	Discount Amount (in addition to normal business discount)	100%
Overhead Costs incurred in supporting socio-economic development, or approved socio-	Verifiable Costs (including both monetary and non-monetary)	80%



economic development contributions		
<b>Contributions made in the form of human resource capacity</b>		
Professional services rendered at no cost supporting socio-economic development, or approved socio-economic development contributions	Commercial hourly rate of professional	80%
Professional services rendered at a discount supporting socio-economic development, or approved socio-economic development contributions	Value of discount based on commercial hourly rate of professional	80%
Time of employees of Measured Entity productively deployed in assisting beneficiaries and supporting socio-economic development, or approved socio-economic development contributions	Monthly salary divided by 160	80%

END

