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Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA

**DRAFT STATEMENT 005 OF 2017
FOR
BROAD-BASED BLACK ECONOMIC EMPOWERMENT
THE B-BBEE VERIFICATION PROFESSIONAL REGULATOR**



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BACKGROUND

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- The withdrawal of the Independent Regulatory Board of Auditors (IRBA) from the B-BBEE Verification Industry which became effective from the **01 April 2016** has required **the dti** to accommodate the exit.
- The exit took place on the **30 September 2016**, in which case B-BBEE Approved Register Auditors will not be able to participate in the B-BBEE Verification Industry and undertake new B-BBEE Verifications
- A further notice had been issued by the IRBA on the **02 August 2016** stating the following “With respect to assurance engagements that have been entered into prior to **30 September 2016**, a transitional period of three (3) months (to 31 December 2016) will be allowed for the sign off of the verification certificates for these engagements.”
- If B-BBEE Approved Registered Auditors choose to continue operating post 31 December 2016 in the B-BBEE Verification industry, those B-BBEE Certificates will no longer be valid under Section 10 of the B-BBEE Act No 46 of 2013
- In terms of Statement 005, SANAS was appointed as the Accreditation Body with the IRBA being Approved Regulatory Body, in view of this with the exit of IRBA, SANAS continues in its mandate under this Statement



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DEFINITIONS

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- The Broad-Based Black Economic Empowerment Act no. 53 of 2003 as amended by the B-BBEE Act Amendment No. 46 of 2013 makes provision for the Minister of Trade and Industry to appoint a B-BBEE Verification Professional Regulator that will be responsible for regulating the industry through Standards and Codes of Conduct that will govern the entire B-BBEE Verification Industry
- As per the B-BBEE Act, the ***“B-BBEE Verification Professional Regulator means a body appointed by the Minister for the accreditation of rating agencies or the authorisation of B-BBEE Verification Professionals”***.
- As per the B-BBEE Act, a ***“B-BBEE Verification Professional means a person who performs any work in connection with rating the status of enterprises in terms of broad-based black economic empowerment compliance on the authority of, or for a rating agency accredited by, a B-BBEE Verification Professional Regulator.”***



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OBJECTIVES

- To specify Standards of Ethical Conduct and Requirements;
- To specify Standards on Education Standards;
- To specify Standards for Verification Certificates and Reports;
- To specify Standards for Accreditation for a Rating Agency;
- To provide guidance and clarification in terms of Application of the Codes, Act and Methodology; and
- To set Standards that will govern the B-BBEE Verification Industry.



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STANDARDS OF ETHICAL CONDUCT AND REQUIREMENTS

- **Impartiality** - Impartiality is the actual and perceived presence of objectivity. Objectivity means that conflicts of interest do not exist or are resolved so as not to influence adversely the subsequent activities of the B-BBEE Verification Professional/Rating Agency.
- **Competence** - Competence is the demonstrated ability to apply knowledge and skills effectively by the Verification Professional/Rating Agency.
- **Responsibility** - The B-BBEE Verification Professional/Rating Agency is responsible for carrying out a factual, thorough evaluation of a measured entity's BEE status and, based on the result, for granting a B-BBEE score
- **Openness** - A B-BBEE Verification Professional/Rating Agency needs to provide public access to, or disclosure of, appropriate and timely information about the evaluation and verification process and about the verification status of any measured entity in order to gain confidence in the integrity and credibility of the B-BBEE verification process.
- **Confidentiality** - In order to gain access to the privileged information that is needed for the B-BBEE Verification Professional/Rating Agency to assess adequately the requirements for BEE Verification, a B-BBEE Verification Professional/Rating Agency needs to keep any proprietary information about a measured entity confidential
- **Resolution of Complaints** - Parties that rely on the outcome of their verification status as assessed by accredited B-BBEE Verification Professionals/Rating Agencies expect to have their complaints investigated



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EDUCATION STANDARDS

- The following Education Standards will be required as a minimum for B-BBEE Verification Professional Signatories:
 - B-BBEE Capacity Development Programme;
 - Must have a minimum of Three (3) years relevant technical experience on the practical implementation and verification of the B-BBEE Codes of Good Practice;
 - Must have a minimum of One (1) of Managerial experience in the practical implementation and verification of the B-BBEE Codes of Good Practice as per above
 - All Candidates need to undergo a Technical Exam in order to qualify as a B-BBEE Verification Professional Signatory
- The following Education Standards will be required as a minimum for B-BBEE Verification Professionals:
 - B-BBEE Capacity Development Programme;



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STANDARDS FOR VERIFICATION CERTIFICATES AND REPORTS

- A B-BBEE Verification Certificate and Report issued:
 - Must record the weighting points obtained by the measured entity for each element, where applicable, and the overall B-BBEE Status of an Enterprise and other relevant information regarding the identity of the Measured Enterprise, determined in accordance with the Amended Codes of Good Practice and Amended Sector Codes issued in terms of Section 9 (1) of the Act and the Verification Methodology;
 - Must record an approved identification reference in the format required by the Accreditation Body; and
 - is valid for a period of 12 months from the date of issue



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STANDARDS FOR VERIFICATION CERTIFICATES AND REPORTS

- Upload the B-BBEE Verification Certificate and Report onto the B-BBEE Certificate and Report Portal:
 - The information uploaded must contain the underlying data in each B-BBEE Verification Certificate and Report;
 - The Rating Agencies must ensure that the above information is uploaded within **5 Working Days** of issuance to the Measured Entity;
 - Where a B-BBEE Verification Certificate and Report has been uploaded and an amended version has been re-issued, the Rating Agency must ensure that the latest version is uploaded in addition to the original upload;
 - Any B-BBEE Verification Certificates and Reports issued prior to the implementation of this Statement which are still valid, must be uploaded onto B-BBEE Certificate and Report Portal.



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STANDARDS FOR ACCREDITATION OF A RATING AGENCY

- An entity must apply to the Accreditation Body in order to obtain accreditation as a Rating Agency
- Accreditation will be conducted in terms of the accreditation standards that will be developed through the national standards process, and to be maintained and enforced by both The B-BBEE Verification Professional Regulator and the Accreditation Body;
- The accreditation requirements shall govern the terms and conditions on which the Accreditation Body in conjunction with the B-BBEE Verification Professional Regulator may grant, refuse to grant, revoke or suspend an accreditation of a Rating Agency;
- Those Rating Agencies wishing to apply for accreditation will do so in writing to the Accreditation Body;
- The B-BBEE Verification Professional Regulator together with the Accreditation Body will implement such mechanisms as may be necessary to ensure that B-BBEE Verification Certificates and Reports are accurate and reliable; and
- The Accreditation Body must provide the accredited Rating Agency with an approved identification reference to confirm such accreditation.



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STANDARDS FOR ACCREDITATION OF A RATING AGENCY

• THE RATING AGENCY IN TERMS OF THIS STATEMENT MUST MEET THE FOLLOWING CRITERIA:

- To comply with the relevant Verification Methodologies as amended, Gazette notices or any other guidance as may be issued by The B-BBEE Verification Professional Regulator;
- To be verified as a **Superior Contributor to B-BBEE (Level One (1) to Three (3) Contributor)** with at least **51% Black Ownership utilizing the Flow Through Principle** as per the Amended Codes of Good Practice within 12 Months of the final publication of Statement 005;
- If the above is not adhered to, Accreditation is automatically lost;
- The B-BBEE Verification Professional Regulator will assess and analyse the B-BBEE Verification Certificate and Report of the Rating Agency inclusive of all supporting documentation and evidence.
- A Rating Agency needs to be verified against all 5 elements of the scorecard regardless of their size (EME, QSE or Generic);
- Rating Agencies that are classified as EMEs, must be verified in accordance with paragraph 4.4 under Statement 000 of the Amended Codes of Good Practice and cannot use the application stated under paragraphs 4.2, 4.3 and 4.5 under Statement 000 of the Amended Codes of Good Practice;
- Rating Agencies that are classified as EMEs cannot obtain a B-BBEE Certificate from the Companies and Intellectual Property Commission (CIPC);
- Rating Agencies that are classified as QSEs and at least 51% Black Owned or more cannot use the application stated under paragraph 5.3 under Statement 000 of the Amended Codes of Good Practice; and
- The above principles are also applicable to Start-Up Enterprises



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VERIFICATION METHODOLOGY AND TECHNICAL ASSISTANCE GUIDELINE (TAG)

- The Verification Methodology consists of the applicable documentation and principles to be followed when verifying elements and initiatives that attribute to B-BBEE.
- The Verification Methodology has been developed and gazetted for 60 Day Public Commentary in which comments have been analysed and incorporated.
- The final Verification Methodology has not been gazetted for implementation due to processes that have an impact on the Amended Codes of Good Practice that is underway.
- The TAG is a document that indicates practical examples of how B-BBEE initiatives should be calculated.
- The TAG has been developed already and vetted by our legal team.
- The TAG has not been gazetted for 60 Day Public Commentary due to processes that have an impact on the Amended Codes of Good Practice that is underway.



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B-BBEE FOR SECTOR CODES STATUS OF ALIGNMENT

- **Gazetted B-BBEE Sector Codes:**
 - Tourism B-BBEE Sector Code
 - Information and Communication Technology (ICT) B-BBEE Sector Code
 - Marketing, Advertising and Communication (MAC) B-BBEE Sector Code
 - Forestry B-BBEE Sector Code
 - Property B-BBEE Sector Code
- **B-BBEE Sector Codes being analysed:**
 - Agri B-BBEE Sector Code
 - Financial Services B-BBEE Sector Code
 - Construction B-BBEE Sector Code
 - Transport B-BBEE Sector Code
- **B-BBEE Sector Codes busy with alignment:**
 - Chartered Accountancy B-BBEE Sector Code
- **Proposed B-BBEE Sector Codes:**
 - Defence B-BBEE Sector Code
 - Petroleum and Liquid Fuels Sector Code



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QUESTIONS

QUESTIONS AND DISCUSSION