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OVERHAULING THE B-BBEE CODES – MIXED VIEWS?

Article by CGF Research and BEESA Group

There's been much debate amongst the critics regarding the Broad-Based Black Economic Empowerment (B-BBEE) Codes of Good Practice (the codes), and whether or not they have become overly draconian in nature. The new codes were unveiled by Minister Rob Davies in October 2012 and contain a framework for determining the B-BBEE scorecard and guidelines, including the manner in which companies will be measured once the codes are implemented.

The revised codes contain some significant and far reaching implications for companies in South Africa; and many fear its objectives have become overly prescriptive and will -- contrary to its original intent -- begin to discourage broad-based black transformation.

Of course B-BBEE continues to be an imperative to South Africa's economic growth and development and the proposal to change the general scorecard may eventually address certain inconsistencies and interpretative issues found within the original codes. The revised codes aim to enhance the integration of black people into the economy in a meaningful and sustainable manner and through its principles and guidelines, facilitate and accelerate the implementation of B-BBEE through the introduction of the three priority elements; namely Ownership, Skills Development and Enterprise & Supplier Development.

Under the revised codes, many believe organisations will find it more difficult to achieve -- or even retain -- their existing B-BBEE status. To this end, if organisations measured on the Generic Scorecard do not comply with all the proposed priority elements, their B-BBEE Level will drop (be discounted) by two levels. Similarly, even QSEs (Qualifying Small Entities) are not left off the hook if they fail to meet the minimum thresholds in two of the Scorecard elements and they will find their BEE Level dropping by one level.

Expectedly there has been much frustration due to the slow progress in the area of Broad-Based Black Economic transformation since it was originally signed into law in January 2004. Driving the point further, the BMF (Black Management Forum) which was founded in 1976, have taken a hard stance in support of the proposed new codes saying "that the B-BBEE Act must supersede all other laws and policy tools that seek to achieve economic transformation" and that it "must be the country's trumping legal and policy framework."

"The B-BBEE Scorecard was introduced by government in 2007 as an economic growth and transformation tool in an attempt to sustainably integrate 'black' people into a 'white economy' which was simply too small to accommodate the previously disadvantaged. Success could only have been possible through economic growth and a forced change environment. B-BBEE was launched just as the South African economic growth slowed which has limited the potential impact B-BBEE would have had in a growth environment. Add corporate South Africa's lack of understanding on how to sustainably embed B-BBEE into their operations and we have a less than optimum result so far."

Andrew Bizzell
 Chairman, BEESA Group



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Taking an even harder line in support of the new codes, the BMF are opposed to the various industry sector codes and have radically suggested that all five of the B-BBEE elements should be priority elements, not just the three.

One of the areas which drew a lot of criticism was the Social Economic Development (SED) Scorecard wherein contributors provide monetary and non-monetary support to achieve 'sustainable access to the economy for the beneficiary' which is desperately needed to uplift and empower the millions of impoverished people in South Africa. The Department of Trade and Industry (DTI) withdrew the proposed changes to this Scorecard, wherein it was proposed that contributing organisations would only score BEE points if they were involved in 'income generating activities' if 100% of the contribution benefitted black people. Under the current codes, organisations score in this area if at least 75% of the value of any SED Programme benefits black people.

Whilst the debates will rage on, what is encouraging is the fact that the proposed codes should provide great stimulus for the Exempt and Micro Enterprises (EME) and the QSEs, as big businesses are encouraged to direct a relatively large portion of their procurement spend to these smaller companies whose total annual revenue is R5m and below for EMEs and between R5m-R35m for QSEs. Interestingly, any EME will qualify for preferential procurement recognition, and this spend need not be only be done with a black-owned business.

In concluding, one hopes that the amended codes will indeed bring about true black economic empowerment and lasting transformation at the levels in which the B-BEE Act and the Codes of Good Practice originally intended. Whilst it is hard to quantify the true monetary value that has already been spent on BEE ownership deals to date (estimated between R550bn-R600bn in the decade from 1998 to 2008) and Enterprise Development and Socio-economic Development (estimated to be R20bn in the last 5 years), one hopes the next monetary portions will be distributed with better and lasting effect.

ENDS

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