



# GLOBAL BUSINESS SOLUTIONS

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The long awaited amendments to the Broad-Based Black Economic Empowerment (“B-BBEE”) Codes of Good Practice (“Codes” or “COGP”) were gazetted on 11 October 2013. The major changes are summarised below:

- Reduction of elements from 7 to 5 through the merging of:
  - Management Control and Employment Equity under Management Control; and
  - Preferential Procurement and Enterprise Development under Enterprise and Supplier Development
- Creation of 3 priority elements, Ownership, Skills Development and Enterprise and Supplier Development;
- The discounting of the Entity’s B-BBEE status by one level if the gazetted sub-minima for these priority elements are not met;
- The removal of Value Adding Supplier and its replacement with Empowering Supplier;
- EME and QSE that are 100% black owned will qualify as level 1, and EME and QSE that are more than 51% black owned will qualify as level 2;
- EME and QSE will only need to produce an annual sworn affidavit confirming revenue and black ownership if they are more than 51% black owned;
- A QSE with less than 51% black ownership is required to comply with all 5 elements of the scorecard, and is subject to discounting if sub-minima are not met;
- No separate QSE scorecard is supplied in the amended codes, so QSE with less than 51% black ownership will be scored on the same scorecard as companies with turnover in excess of R50 million;
- Adjusted Recognition for Gender has been removed. Instead black women are separately scored;
- One year transition period from 11 October 2013. In the first year after the Gazette, Measured Entities can elect to use:
  - The amended Codes; or
  - The original codes issued on 09 February 2007.
- Thresholds have been adjusted as shown below:

	Existing Codes (R million)	Updated Codes (R million)
<b>Exempted Micro-Enterprise (EME)</b>	0 – 5	0 – 10
<b>Qualifying Small Enterprise (QSE)</b>	5 – 35	10 – 50
<b>Generic</b>	35 +	50 +

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## **1. Ownership**

- Meet 40% sub minimum of Net Value or level will be discounted by 1 level;
- The ownership score will be increased from 20 points to 25;
- Ownership by Organs of State and State Owned Entities must be excluded, unless treated as B-BBEE Facilitators;
- Entities applying the Modified Flow through cannot also apply the Exclusion principle;
- Treatment of share ownership through family trusts has been clarified. This will make it easier to recognise ownership through family trusts;
- Only South Africa based and regulated mandated investments will qualify for exclusion;
- There will be enhanced provisions for shareholdings through private equity funds;
- Ownership will include designated groups (Employee share ownership schemes, broad-based ownership schemes, and co-operatives) under the main points. Previously treated as bonus points;
- New Entrants will be included in the main points, not as bonus point as in the past, and the amount to qualify as a New Entrant has been increased from R20 million to R50 million;
- Ownership fulfilment and net value points (the realisation points) have been consolidated.

## **2. Management control**

- The amalgamation of Management and Control and Employment Equity elements on the current scorecard;
- Paragraph 8 of Code series 000 states that Management and control will be out of a total of 15 points. The detailed scorecard for codes series 200, Management Control details 19 points. An adjustment will be required;
- Junior Management has been included. Points however have been reduced from the existing scorecard;
- The element has been aligned with the Economically Active Population (EAP) targets published annually;
- Targets are required to be broken down into the differing subcategories of Black, on an equitable representation and appropriately weighted;
- Compliance targets have been aligned to the Commission for Employment Equity report.

## **3. Skills Development**

- Priority element subminimum of 40% of target applies;
- Targets are required to be broken down into the differing subcategories of Black, on an equitable representation and appropriately weighted;
- Category F and G training are both recognisable but capped at 15% of the total value of skills expenditure;
- The 6% compliance target for Skills Development has been retained and includes external training for unemployed black people;
- A 15% cap on non-core training expenses has been introduced. This will be applied to expenditure such as accommodation and travel;
- International training can be recognised provided it meets SAQA standards.

## **4. Enterprise and Supplier Development**

- Priority element subminimum of 40% of target applies for each of the Preferential Procurement and Enterprise and Supplier Development elements;
- The imports exclusion can still be applied, but it will not be applicable to sectors designated by the Department of Trade and Industry;

- If imports are excluded as there is no local production, this is subject to the development and implementation of an Enterprise Development and Supplier Development plan for imported goods and services;
- The Value Adding Supplier has been replaced with an Empowering Supplier (ES);
- Suppliers must be ES to be claimed for the entities B-BBEE procurement claim;
- An ES is a BEE compliant entity which demonstrates that it is a “good citizen South African entity” **complying “with all regulatory requirements of the country”**. A large enterprise must comply with 3 of the following criteria, or 1 if a QSE:
  - 25% of Cost of Sales, excluding Labour and Depreciation, must be procured from South African suppliers or local producers. For the service industry labour costs are included but capped at 15%;
  - 50% of the jobs created must be for black people provided the number of Black employees since the immediate prior B-BBEE certificate is maintained;
  - 25% must be local production including local manufacturing, production, and/or assembly, and/or packaging
  - At least 12 days a year must be spent on skills transfer to assist beneficiaries to increase their knowledge in operations, technology or finance.
- EME and start-ups are automatically ES; the following multipliers are available:
  - Procurement from a Supplier Development beneficiary under a contract of at least 3 years duration can be multiplied by 1.2;
  - Procurement from black owned EME or QSE which are not supplier development beneficiaries but have a contract of at least 3 years duration can be multiplied by 1.2; and
  - Procurement from a first time supplier can be multiplied by 1.2.
- Procurement falling under 2.1 on the procurement scorecard, cannot be scored under 2.2 and 2.3 and vice versa;
- Supplier Development and Enterprise Development beneficiaries are EME or QSE which are at least 51% black owned or at least 51% black women owned;

## 5. Socio-Economic Development

- No Change

### Targets and Weightings

A summary of the weightings can be found below and a detailed description of the targets and weightings for each scorecard element can be found at the end of this document.

Element	Weighting (Old COGP)	Weighting (New COGP)
<b>Ownership</b>	20	<b>25</b>
<b>Management Control</b>	10	<b>15</b>
<b>Employment Equity</b>	15	-
<b>Skills Development</b>	15	<b>20</b>
<b>Preferential Procurement</b>	20	-
<b>Enterprise and Supplier Development</b>	-	<b>40</b>
<b>Enterprise Development</b>	15	-
<b>Socio-Economic Development</b>	5	<b>5</b>
<b>Total</b>	<b>100</b>	<b>105</b>

### Contribution Levels

Depending on the amount of points scored on each element, a certain contribution level is achieved:

B-BBEE Status	Qualification points (Old COGP)	Qualification points (New COGP)	B-BBEE Procurement Recognition Level
<b>Level 1 Contributor</b>	≥100	≥100	135%
<b>Level 2 Contributor</b>	≥85 but <100	≥95 but <100	125%
<b>Level 3 Contributor</b>	≥75 but <85	≥90 but <95	110%
<b>Level 4 Contributor</b>	≥65 but <75	≥80 but <90	100%
<b>Level 5 Contributor</b>	≥55 but <65	≥75 but <80	80%
<b>Level 6 Contributor</b>	≥45 but <55	≥70 but <75	60%
<b>Level 7 Contributor</b>	≥40 but <45	≥55 but <70	50%
<b>Level 8 Contributor</b>	≥30 but <40	≥40 but <55	10%
<b>Non-compliant Contributor</b>	< 30 points	< 40 points	0%

## Detailed Scorecards

### Ownership

Criteria/Indicator	Weighting points (Old Codes)	Compliance target (Old Codes)	Weighting points (New Codes)	Compliance target (New Codes)
<b><i>Voting Rights:</i></b>				
Exercisable Voting Rights of black people	3	25% + 1 vote	4	25% + 1 vote
Exercisable Voting Rights of black women	2	10%	2	10%
<b><i>Economic Interest:</i></b>				
Economic interest of black people	4	25%	4	25%
Economic interest of black women	2	10%	2	10%
Economic interest of black natural people in Designated Groups; Employee Ownership Schemes; Broad-based Ownership Schemes; Co-Operatives	1	2,5%	3	3%
Involvement in ownership of black new entrants	-	-	2	2%
<b><i>Realisation Points:</i></b>				
Ownership fulfilment	1	No Restrictions	0	0
<b>Net Value</b>				
<b>Time-based graduation factor:</b>				
10% of Target (Year 1)				
20% of Target (Year 2)				
40% of Target (Year 3-4)	7	25%	8	25%
60% of Target (Year 5-6)				
80% of Target (Year 7-8)				
100 % of Target (Year 9-10)				
<b><i>Bonus Points:</i></b>				
Involvement in ownership of black new entrants	2	10%	0	0%
Involvement in ownership of black participants in Employee Ownership Schemes; Broad-Based Ownership Schemes; Co-operatives	1	10%	0	0%
<b>Total</b>	<b>20 + 3 Bonus Points</b>		<b>25</b>	

## Management Control

Criteria/Indicator	Weighting points (Old Codes)	Compliance target (Old Codes)	Weighting points (New Codes)	Compliance target (New Codes)
<b>Board Participation:</b>				
Exercisable Voting Rights of black Board members	3	50% *	2	50%
Exercisable Voting Rights of black female Board members			1	25%
Black Executive Directors	2	50% *	2	50%
Black female Executive Directors			1	25%
<b>Executive Management:</b>				
Black Executive Management	3	40% *	2	60%
Black female Executive Management			1	30%
Black Other Top Management	2	40% *	0	0%
Bonus point for Black Independent Non-Executive Board Members	1	40%	0	0%
<b>Disabled Employees</b>				
Black Disabled employees as a percentage of all employees	0	0%	2	2%
<b>Senior Management:</b>				
Black employees in Senior Management	0	0%	2	60%
Black female employees in Senior Management			1	30%
<b>Middle Management:</b>				
Black employees in Middle Management	0	0%	2	75%
Black female employees in Middle Management	0	0%	1	38%
<b>Junior Management:</b>				
Black employees in Junior Management	0	0%	1	88%
Black female employees in Junior Management	0	0%	1	44%
<b>Total</b>	<b>10 + 1 bonus points</b>		<b>19</b>	<b>Should be 15</b>

\* - Using Adjusted Recognition for Gender

## Employment Equity

Criteria/Indicator	Weighting points (Old Codes)	Compliance target (Old Codes)	Weighting points (New Codes)	Compliance target (New Codes)
Black Disabled employees as a percentage of all employees	2	3% *	0	0%
Black employees in Senior Management	5	60% *	0	0%
Black employees in Middle Management	4	75% *	0	0%
Black employees in Junior Management	4	80% *	0	0%
Bonus for meeting or exceeding the EAP targets per category	3		0	
<b>Total</b>	<b>15 + 3 bonus points</b>		<b>0</b>	

\* - Using Adjusted Recognition for Gender

## Skills Development

Criteria/Indicator	Weighting points (Old Codes)	Compliance target (Old Codes)	Weighting points (New Codes)	Compliance target (New Codes)
<b>Skills Development Spend on Learning Programmes</b>				
Skills Development expenditure	6	3% *	8	6%
Skills Development expenditure for black employees with disabilities	3	0.3% %	4	0.3%
<b>Learnerships:</b>				
Number of black employees participating in Learnerships, apprenticeships or	6	5% *	4	2.5%
Number of unemployed black people participating in Learnerships, apprenticeships or	0	0%	4	2.5%
Bonus point for number of Black People absorbed at the end of the learnership	0	0%	5	100%
<b>Total</b>	<b>15</b>		<b>20 + 5 Bonus Points</b>	

\* - Using Adjusted Recognition for Gender

## Enterprise and Supplier Development

Criteria/Indicator	Weighting points (Old Codes)	Compliance target (Old Codes)	Weighting points (New Codes)	Compliance target (New Codes)
<b>2.1 Preferential Procurement</b>				
Broad-based BEE Procurement Spend from all Empowering Suppliers based on the broad-based BEE Procurement Recognition levels as a percentage of Total Measured Procurement Spend of the enterprise	12	70%	5	80%
Broad-based BEE Procurement Spend from all QSE Empowering Suppliers based on the applicable broad-based BEE Procurement Recognition levels as a percentage of Total Measured Procurement Spend for the enterprise	3	15%	3	15%
Broad-based BEE Procurement Spend from all EME based on the applicable broad-based BEE Procurement Recognition levels as a percentage of Total Measured Procurement Spend for the enterprise			4	15%
Broad-based BEE Procurement Spend from any of the following Empowering Suppliers as a percentage of Total Measured Procurement Spend:				
suppliers that are 51% black owned;	3	12%	9	40%
suppliers that are 30% black women owned	2	8%	4	12%
<b>Bonus Points</b>				
Procurement Spend from Designated group suppliers that are at least 51% black owned	0	0%	2	2%
<b>2.2 &amp; 2.3 Enterprise and Supplier Development</b>				
Annual Value of all Supplier Development contributions as a % of Target	0	0%	10	2% of NPAT
Annual Value of all Enterprise Development	0	0%	5	1% of NPAT

Criteria/Indicator	Weighting points (Old Codes)	Compliance target (Old Codes)	Weighting points (New Codes)	Compliance target (New Codes)
<b>contributions as a % of Target</b>				
<i>Bonus Points</i>				
Graduation from Enterprise Development to Supplier Development Beneficiary	0		1	
Jobs created by a supported supplier	0		1	
<b>Total</b>	<b>20</b>		<b>40 + 4 bonus points</b>	

#### Enterprise Development

Criteria/Indicator	Weighting points (Old Codes)	Compliance target (Old Codes)	Weighting points (New Codes)	Compliance target (New Codes)
Value of all Enterprise Development Contributions and Sector Specific Programmes made	15	3% of NPAT	0	0%
<b>Total</b>	<b>15</b>		<b>0</b>	

#### Socio-Economic Development

Criteria/Indicator	Weighting points (Old Codes)	Compliance target (Old Codes)	Weighting points (New Codes)	Compliance target (New Codes)
Value of all Socio-Economic Development and Approved Socio-Economic Development Contributions made	5	1% NPAT	5	1% NPAT
<b>Total</b>	<b>5</b>		<b>5</b>	

Should you have any queries, please do not hesitate to contact the writer on 083 440 2130.

Yours faithfully

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