

DENovo

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AMENDED GENERIC B-BBEE CODES

Enhanced recognition limited to effective black ownership.

On the 31st of May 2019 the Minister of Trade and Industry gazetted four amendments to the Generic B-BBEE Codes of 2013. These include amendments to the General Principles and Schedule 1 (Interpretation) as well as amendments to elements such as Skills Development and Enterprise and Supplier Development. This article, however, focusses on the amendments to the General Principles (Codes Series 000).

Previously, Exempted Micro Enterprises (“**EMEs**”) and Qualifying Small Enterprises (“**QSEs**”) being 100% or 51% Black owned could obtain enhanced recognition (automatic level 1 or 2) by applying the Modified Flow-Through principle (“**MFT**”).

In terms of the **MFT**, where in a chain of ownership an entity is at least 51% black owned, such entity may be treated as if it were 100% black owned. As such, should Entity “A” be 51% owned by Entity “B” (being a 51% black owned entity, but in terms of the **MFT** treated as if it were 100% black owned) Entity “A” would’ve been deemed to be 51% black owned on the **MFT** (100% x 51%).

However, this will no longer be allowed, as the amended Generic B-BBEE Codes, which comes into effect on the 31st of November 2019, provides that **EMEs** and **QSEs** seeking enhanced recognition (automatic level 1 or 2) can only obtain same by applying the flow-through principle, which recognises only the entity’s effective black ownership.

Should an **EME** or **QSE** be 100% or 51% black owned, based on the flow-through principle, such entity does not have to be verified on the other B-BBEE elements and is only required to obtain a sworn affidavit confirming its turnover and percentage black ownership.

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