



REPABOLIKI YA AFERIKA BORWA

REPUBLIC VAN SUID AFRIKA

BROAD-BASED BLACK ECONOMIC EMPOWERMENT ACT

Section 9(5): Codes of Good Practice

It is hereby notified that the Minister of Trade and Industry hereby issues the following draft Code of Good Practice for public comments under section 9(3) of the Broad-Based Black Economic Empowerment Act 53 of 2003. Interested persons are invited to furnish the Minister with comments on this proposed code within 60 days of the date of publication.

**CODE 100: MEASUREMENT OF THE OWNERSHIP ELEMENT OF BROAD-BASED BLACK
ECONOMIC EMPOWERMENT**

**STATEMENT 105: THE RECOGNITION OF OWNERSHIP CONTRIBUTIONS MADE BY
COMPANIES LIMITED BY GUARANTEE AND SECTION 21 COMPANIES**

Issued under section 9(5) of the Broad-Based Black Economic Empowerment Act 53 of 2003 for public comment. Interested persons are invited to furnish the minister with comments on this proposed code within 60 days of the date of publication.

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1 DEFINITIONS

In this statement, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Act bears the same meaning, and:

- 1.1 "**BEE**" means black economic empowerment;
- 1.2 "**company limited by guarantee**" means a company as referred to in section 19(1)(b) of the Companies Act;
- 1.3 "**Companies Act**" means the Companies Act of 1973, as amended or substituted;
- 1.4 "**section 21 company**" means an association not for gain incorporated under section 21 of the Companies Act and which, in accordance with the provisions of section 21(1) of the Companies Act, is incorporated as a company limited by guarantee;
- 1.5 "**Statement 100**" means Code 100, Statement 100 issued in terms of section 9 of the Act;
- 1.6 "**the Act**" means the Broad-Based Black Economic Empowerment Act 53 of 2003; and
- 1.7 "**the Codes**" means all Codes of Good Practice issues in terms of section 9 of the Act, including without limitation, this Statement.

2 INTERPRETATION OF THIS STATEMENT

This statement is to be interpreted in a manner that is consistent with the objectives of the Act, and those set out in paragraph 4.

3 APPLICATION OF THIS STATEMENT

This statement is to be used in the measurement of contributions towards the ownership Element of broad-based black economic empowerment in respect of companies limited by guarantee and section 21 companies.

4 OBJECTIVES OF THIS STATEMENT

The objectives of this statement are to specify the basis for the award of indicative points for the ownership Element of the broad-based black economic empowerment in respect of companies limited by guarantee and section 21 companies.

5 INDICATIVE OWNERSHIP SCORE

As companies limited by guarantee and section 21 companies cannot be measured as having any black ownership in terms of Statement 100, the following formula is provided in order to allow such entities to be awarded an indicative score for the ownership Element:

$$A = \frac{B}{80} \times 20$$

Where

A is the score for the ownership Element any entity measured in terms of this statement

B is the score achieved by that entity on the remainder of the Generic Scorecard other than the ownership Element.