



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 700: MEASUREMENT OF THE RESIDUAL ELEMENT OF BROAD BASED BLACK-ECONOMIC EMPOWERMENT

STATEMENT 700: THE RECOGNITION OF RESIDUAL CONTRIBUTIONS

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 **"Acceptable Valuation Standard"** means a valuation in Rand value of a Qualifying Residual Contribution, whether monetary or non-monetary, relevant to measurement under this statement. All such valuations shall be undertaken in accordance with normal valuation methodologies that represent standard market practice as qualified by the provisions of paragraph 6.5;
- 1.2 **"BEE"** means black economic empowerment;
- 1.3 **"black people"** shall have the same meaning as defined in Code 000 Statement 000;
- 1.4 **"Contribution Beneficiaries"** means any of the following beneficiaries:
 - 1.4.1 communities, natural persons and/or groups of natural persons consisting exclusively

- of black people;
- 1.4.2 communities, natural persons and/or groups of natural persons where at least 75% of the value of the benefits accrue to natural persons who are Black People; and
- 1.4.3 any project or scheme targeting infrastructural development and/or reconstruction in underdeveloped areas or in rural communities or geographic areas identified in the government's integrated sustainable rural development and urban renewal programmes.
- 1.5 "Corporate Social Investment" refers to an enterprise's contributions to society and community that are extraneous to its regular business activities. CSI interventions may include, but will not be limited to –
- 1.5.1 Development Programmes for women, youth, people with disabilities, people living in rural areas and other target groups
- 1.5.2 Health: support of health and HIV/AIDS programmes in the community
- 1.5.3 Education: support for community education facilities; programmes at secondary and tertiary education level; bursaries and scholarships
- 1.5.4 Training : community training; skills development for unemployed; adult basic education and training in communities
- 1.5.5 Environment: which focuses on conservation, awareness, education and waste management
- 1.5.6 Arts & Culture: support of development programmes; development of new talent and
- 1.5.7 Sport: support of developmental programmes.
- 1.6 "**Enterprise**" shall have the same meaning as defined in Code 000 Statement 000;
- 1.7 "**Inception Date**" means a date specified by a Measured Entity as being the date from which its residual contributions should be measured where that Measured Entity has initiated such contributions prior to the commencement date of this statement. The Inception Date shall not be a date earlier than 5 years prior to the commencement date of this statement;
- 1.8 "**Industry Specific Contribution**" means the qualifying residual contributions that are unique to the industry in which enterprises operates. For the purposes of this statement an industry may be grouped in major divisions in accordance with the Standard Industrial

Classification Coding System used by Statistic South Africa;

- 1.9 **"Measured Entity"** shall bear the same meaning assigned in Code 000 Statement 000;
- 1.10 **"Non-Recoverable Contribution"** means the monetary value of Qualifying Residual Contributions made by the Measured Entity to the Contribution Beneficiary in a form of grants, donations, and other similar quantifiable benefits which are not recoverable by the Measured Entity;
- 1.11 **"Qualifying Residual Contributions"** means monetary or non-monetary contributions actually initiated and implemented in favour of Contribution Beneficiaries by a Measured Entity with the specific objective of facilitate access to the economy for Contribution Beneficiaries and is inclusive of both Corporate Social Investment and Industry Specific Contributions;
- 1.12 **"the Act"** means the Broad-Based Black Economic Empowerment Act 53 of 2003;
- 1.13 **"the Codes"** means all Codes of Good Practice issues in terms of section 9 of the Act, including without limitation, this statement; and
- 1.14 **"this statement"** means this Code of Good Practice 700, Statement 700 issued in terms of section 9 of the Act.

2 INTERPRETATION OF THIS STATEMENT

- 2.1 When interpreting a provision of this statement, any reasonable interpretation which is consistent with the objectives of the Act and those set forth in paragraph 4 must be preferred over any other interpretation which is inconsistent with such objectives.
- 2.2 To the extent that any provision of this statement is inconsistent with the Act, the Act shall prevail.

3 APPLICATION OF THIS STATEMENT

This statement is to be used in the measurement of the residual element of broad-based black economic empowerment in respect of all Measured Entities with the exception of the following:

- 3.1 any form of Measured Entity or residual contribution specifically dealt with in terms of another Statement in Code 700 to the exclusion of this statement; and
- 3.2 any Measured Entity that is expressly excluded from the provisions of this statement by the Minister by notice in a gazette.

4 OBJECTIVES OF THIS STATEMENT

The objectives of this statement are:

- 4.1 specify the residual contribution scorecard;
- 4.2 specify the key measurement principles to be applied when calculating Qualifying Residual Contributions to BEE;
- 4.3 specify the formula for the calculation of the criteria specified in the residual contribution scorecard; and
- 4.4 specify the basis for the award of bonus points.

5 THE RESIDUAL CONTRIBUTION SCORECARD

The following table represents the criteria and methodology used for the purposes of deriving a score for Qualifying Residual Contributions in terms of this statement:

Criteria		Weighting Points	Compliance Target
5.1.1	Cumulative Rand value of Non-recoverable Qualifying Corporate Social Investment Contributions made by a Measured Entity to Contribution Beneficiaries measured as a percentage of cumulative net profit after tax measured from the commencement date of this statement or the Inception Date until the date of measurement.	5	1.5%
5.1.2	Cumulative Rand value of Qualifying Industry Specific Contributions made by a Measured Entity to Contribution Beneficiaries measured as a percentage of cumulative net profit after tax measured from the commencement date of this statement or the Inception Date until the date of measurement.	5	1.5%
5.1.3	Bonus Points	1	refer to paragraph 8

- 5.2 To the extent that a Measured Entity makes only Non-recoverable Qualifying Corporate Social Investment Contributions to the exclusion of Industry Specific Contributions, the weighting allocated to Corporate Social Investment Contributions in paragraph 5.1.1 shall be increased to 10 and the corresponding target will be increased to 3%.
- 5.3 To the extent that a Measured Entity makes only Industry Specific Contributions to the exclusion of Corporate Social Investment Contributions, there shall be no adjustment to the Qualifying Residual Contribution Scorecard.

6 KEY MEASUREMENT PRINCIPLES

- 6.1 Measured Entities shall be entitled to receive recognition for any Qualifying Residual Contributions that are capable of being quantified as having a Rand value using an Acceptable Valuation Standard.
- 6.2 Qualifying Residual Contributions of any Measured Entity shall be measured cumulatively from the commencement date of this statement until the date of measurement.
- 6.3 Notwithstanding paragraph 6.2, any Measured Entity that commenced making Qualifying Residual Contributions prior to the commencement date of this statement shall be entitled to designate an earlier Inception Date which shall not go back more than five years prior to the commencement date of this statement.
- 6.4 Where an earlier Inception Date has been designated, the Measured Entity will continue to be bound by that Inception Date for the continued duration of this statement
- 6.5 This statement provides guidance as to the Acceptable Valuation Standards to be applied to the determination of the value of Qualifying Residual Contributions. The minister shall be entitled, from time to time, to provide further guidance in this regard through the issue of further statements or amendments to this statement.
- 6.6 Notwithstanding the provisions of paragraph 6.5, the Rand value of Qualifying Residual Contributions which directly provide Contribution Beneficiaries who are natural persons with a means of generating an income for themselves will be calculated at the specified multiple of 1.5 to actual Rand value measured using an Acceptable Valuation Standard.
- 6.7 Where any uncertainty exists as to whether certain contributions falls within the ambit of the statements in Code 600 or under Code 700, that particular contribution may only be claimed under one of those Codes.
- 6.8 Non-monetary contributions will be measured by quantifying the cost of time spent by staff or management of the Measured Entity in carrying out such initiatives. Any travel or commuting time may not, however, be included in this cost. Notwithstanding the foregoing, only that portion of salaries and wages which relate to time spent by the staff in the implementation of residual initiatives for the benefit of Contribution Beneficiaries should be taken into consideration under qualifying Residual Contributions. Furthermore, a clear justification must be supplied to verification agencies with respect to the calculation of such costs incurred, commensurate with the level of seniority and level of remuneration

of the employee(s) and or manager(s). Such non-monetary contributions must be separately identified from other Qualifying Residual Contributions made by the Measured Entity.

7 MEASUREMENT OF THE RESIDUAL ELEMENT

Qualifying Residual Contributions are calculated on the following basis:

$$A = \frac{B}{C} \times D$$

Where

A is the score achieved in respect of the non-recoverable residual contributions made by the Measured Entity

B is the cumulative contributions made by the Measured Entity in favour of Contribution Beneficiaries measured from the commencement of the Statement or the designated Inception Date until the date of measurement.

C is the percentage compliance Target in respect to the applicable residual contribution criteria being measured as specified in paragraph 5.1.1, 5.1.2

D is the Weighting points allocated to the applicable residual contribution criteria being measured as specified in paragraph 5.1.1, 5.1.2

8 MEASUREMENT OF BONUS POINTS

A Measured Entity will qualify for the award of one bonus point for Qualifying Residual Contributions which benefit natural persons living in rural communities and/or natural persons living in the geographic areas identified in government's integrated sustainable rural development programme and urban renewal programme in the preceding year. Notwithstanding the number of initiatives implemented in such areas, a maximum of one bonus point may be awarded and no such bonus points will be carried over from one year to another unless that contribution is repeated.