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## GENERAL NOTICE

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### NOTICE 174 OF 2012

(DEPARTMENT OF TRADE AND INDUSTRY)

### CODES OF GOOD PRACTICE ON BROAD-BASED BLACK ECONOMIC EMPOWERMENT

I, Dr Rob Davies, Minister of Trade and Industry, hereby:

- (a) Issue for public comment, Phase II of the DRAFT FINANCIAL SECTOR CODE as provided for in Code 000 Statement 003 of the Codes of Good Practice under Section 9(5) of the Broad-Based Black Economic Empowerment Act (Act No. 53 of 2003); and
- (b) Invite interested persons and the public to submit comments on the code within 60 days from the date of this publication.

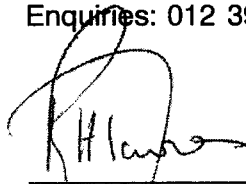
Interested parties are requested to forward their comments in writing for attention of **Xolisile Zondo** and **Mirriam Pooe** at the following address:

E-mail: [bee-fsc@thedti.gov.za](mailto:bee-fsc@thedti.gov.za)

or

Private Bag X84  
Pretoria  
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Enquiries: 012 394 1609/1870



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**Dr Rob Davies, MP**  
MINISTER OF TRADE AND INDUSTRY  
DATE: 13/02/2012

**FINANCIAL SECTOR CODE****FINANCIAL SECTOR CODE FOR BLACK ECONOMIC EMPOWERMENT****PREAMBLE**

This Financial Sector Code (FS Code) has been prepared in terms of the Broad-Based Black Economic Empowerment (B-BBEE) Act, (Act 53 of 2003), subsequently referred to as the Act. It is based on a harmonisation of Generic Codes and the Financial Sector Charter gazetted under Section 12 of the Act.

The Financial Sector Charter (the Charter) came into effect in January 2004 as a result of agreements reached at the National Economic Development and Labour Council (NEDLAC) Financial Sector Summit in August 2002. NEDLAC is the multilateral social dialogue forum which brings together Government, Business, Labour and Community constituencies to approve social, economic and labour market policy.

Following the Summit, the Charter was drafted by the financial sector Trade Associations<sup>1</sup> and the Association of Black Securities and Investment Professionals (ABSIP<sup>2</sup>), with Government<sup>3</sup> participating as observers. Although the labour<sup>4</sup> and community<sup>5</sup> constituencies were not included in the drafting of the Financial Sector Charter, they agreed to participate in its governing structure, the Financial Sector Charter Council, alongside Government, the financial sector Trade Associations and ABSIP to finalise outstanding elements of the Charter and to participate in overseeing the implementation of the Charter and the process for aligning the Financial Sector Charter with the Act's Generic Codes of Good Practice (CoGP).

In the alignment process, all the Financial Sector Charter Council participants committed to developing a sector transformation code aligned to the CoGP, noting that:

- Despite significant progress since the establishment of a democratic government in 1994, South African society remains characterised by racially based income and social inequalities. This is not only unjust, but inhibits the country's ability to achieve its full economic potential;
- B-BBEE is a mechanism aimed at addressing inequalities and mobilising the energy of all South Africans. It will contribute towards sustained economic growth, development and social transformation in South Africa;
- Inequalities also manifest themselves in the country's financial sector. A positive and proactive response from the sector through the implementation of B-BBEE will further

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<sup>1</sup> The Association for Savings and Investment South Africa (ASISA); South African Insurance Association (SAIA); International Banking Association (IBA); Banking Association of South Africa (BASA), JSE Limited

<sup>2</sup> ABSIP representing Black professional organisations

<sup>3</sup> The Presidency, National Treasury and Department of Trade and Industry

<sup>4</sup> Congress of South African Trade Unions (COSATU); National Council of Trade Unions (NACTU); Federation of Unions of South Africa (FEDUSA)

<sup>5</sup> Financial Sector Campaign Coalition; Disabled People South Africa; National Co-operatives Association; Women's National Coalition; SA Youth Council; SA National Civics Organisation.

- Inequalities also manifest themselves in the country's financial sector. A positive and proactive response from the sector through the implementation of B-BBEE will further unlock the sector's potential, promote its global competitiveness and enhance its world class status;
- Equally, the financial stability and soundness of the financial sector and its capacity to facilitate domestic and international commerce is central to the successful implementation of B-BBEE.

The Financial Sector Code commits all participants to actively promote a transformed, vibrant and globally competitive financial sector that reflects the demographics of South Africa, and which contributes to the establishment of an equitable society by providing accessible financial services to black people and by directing investment into targeted sectors of the economy.

This Financial Sector Code is the product of the interaction between the Trade Associations, ABSIP, Labour, Community and Government. The Code reflects the accord reached by all of the stakeholders regarding their joint commitment to fostering B-BBEE in the financial sector and in the South African economy.

### **Key aspects of the Sector Code**

Recognising the unique position that financial institutions hold in the development of South Africa, two new elements have been introduced into the scorecard over and above the seven elements that exist in the CoGP. These are Empowerment Financing and Access to Financial Services. These elements are intended to broaden and hasten the transformation process as they focus on making financial services accessible to the previously unbanked and under-served. They empower the previously disenfranchised through the provision of affordable housing, financing of black SMMEs and agricultural activities, and investing in various forms of transformational infrastructure that create the necessary platform to grow the economy on an equitable basis.

The new elements are derived from similar initiatives, which were at the core of the Charter. It is recognised that the Sector can better play a role in the creation of sustainable wealth across a broad base through leverage of its unique position in the allocation of resources from savers to borrowers in the economy. In addition to achieving Equity Ownership targets by means of sales of shares, as contemplated under Code series FS100, Statement 100 and Sales of Assets as contemplated under Code series FS100, Statement 102, measured entities are also entitled to achieve equity ownership points through Equity Equivalent Programmes as contemplated under Code series FS100, Statement 103. These Equity Equivalent contributions represent the commitment of further resources to key developmental and national focus areas including but not limited to the New Growth Path (NGP) aligned initiatives, Enterprise Development, Empowerment Financing and Access to Financial Services initiatives.

### **Scope of Application**

The Financial Sector Code applies to any natural or juristic person conducting a business, trade or profession in the South African financial sector, including, but not limited to, the following:

- Banking;
- Long-term insurance;
- Short-term insurance;
- Re-insurance;
- The management of retirement, pension and collective investment scheme assets;
- Management of formal collective investment schemes;
- Financial Services Intermediation and Brokerage;
- Management of investments on behalf of the public, including, but not limited to, private equity, members of any exchange licensed to trade equities or financial instruments in South Africa and entities listed as part of the financial index of a licensed exchange; and
- Underwriting Management Agents.

The Financial Sector Code does not apply to:

- Natural or juristic persons who do not have trading operations in the Republic of South Africa;
- The trading operations of natural or juristic persons outside the Republic of South Africa; and
- Managers of investments on behalf of the public who are not subject to regulation in terms of the Financial Services Board, for example, money held in intermediate trusts by lawyers.

### **Status of this Code**

It is recorded that the Minister of Trade and Industry has previously gazetted the Financial Sector Charter as a Transformation Charter under Section 12 of the Act.

The Financial Sector Charter Council is of the opinion that this Sector Code meets all of the requirements of paragraph 3 of Code 000, Statement 003 of the CoGP and has applied to the Minister of Trade and Industry to publish the Financial Sector Code under Section 9(5) of the Act to allow for public comment and for gazetting as a Sector Code under Section 9(1) of the Act.

In conceptualising, implementing and measuring any B-BBEE initiatives, financial institutions and other interested parties must apply this Financial Sector Code read together with the CoGP issued under Section 9(1) of the B-BBEE Act on 9 February 2007. While the gazetting under Section 9(1) of the Act of this Sector Code means that it is binding and takes precedence over any other Code, including the CoGP, the CoGP is applicable only to the extent that this Financial Sector Code is silent on a particular aspect of B-BBEE that is covered in the CoGP.

This Financial Sector Code will be published for public comment. After consideration of public comments, the Minister of Trade and Industry will be asked to gazette the Financial Sector Code under Section 9(1) of the CoGP as a binding Code on the Financial Sector.

During this gazetting period in terms of Section 9(5), the Financial Sector will comply with the CoGP.

Once gazetted as a Sector Code under Section 9(1) of the Act, it shall remain in effect until amended, substituted or repealed. The Minister of Finance will conduct an interim review of the transformation progress made by the sector as a whole, in respect of this Financial Sector Code after the end of the third year from the commencement date of this statement; in addition to the aforementioned, annual reviews will take place to monitor the implementation of B-BBEE throughout the economy.

The commencement date of the Financial Sector Code will be 1 January 2012. It will be applicable to all measurement periods commencing on or after 1 January 2012. Measurement periods commencing prior to 1 January 2012 will still be measured/verified in terms of the general CoGP. This Financial Sector Code will be binding for all measurement periods ending prior to 31 December 2017, when a full review of the progress made against this Financial Sector Code will be undertaken by the Minister of Trade and Industry and the Minister of Finance. The end of the third year (the date for the interim review) will therefore be 31 December 2014.

**INDEX FOR THE FINANCIAL SECTOR CODE**  
**Index of Code Series**

<b>Financial Sector Code Series</b>	<b>Code Title</b>
FS000	Framework for measuring Broad-Based Black Economic Empowerment
FS100	Measurement of the Ownership Element of Broad-Based Black Economic Empowerment
FS200	Measurement of the Management Control Element of Broad-Based Black Economic Empowerment
FS300	Measurement of the Employment Element of Broad-Based Black Economic Empowerment
FS400	Measurement of the Skills Development Element of Broad-Based Black Economic Empowerment
FS500	Measurement of the Preferential Procurement Element of Broad-Based Black Economic Empowerment
FS600	Measurement of the Enterprise Development and/or Empowerment Financing Element of Broad-Based Black Economic Empowerment
FS700	Measurement of the Socio-Economic Development Element of Broad-Based Black Economic Empowerment
FS800	Measurement of the Access to Financial Services Element of Broad-Based Black Economic Empowerment
FS900	Measurement of the Qualifying Small Enterprises of Broad-Based Black Economic Empowerment

### Index for Statements

Statement Number	Financial Sector Code Series and Statement Title	
000	Code Series FS000	The general principles and the Scorecard
100	Code Series FS100	The general principles for measuring Ownership
102	Code Series FS100	The recognition of the Sale of Assets
103	Code Series FS100	The recognition of Equity Equivalents
200	Code Series FS200	The general principles for measuring Management Control
300	Code Series FS300	The general principles for measuring Employment Equity
400	Code Series FS400	The general principles for measuring Skills Development
500	Code Series FS500	The general principles for measuring Preferential Procurement
600	Code Series FS600	The general principles for measuring Enterprise Development and/or Empowerment Financing
601	Code Series FS600	The general principles for measuring Enterprise Development for Measured enterprises <del>exempted</del> from Empowerment Financing
602	Code Series FS600	The general principles for measuring Enterprise Development for Measured enterprises <b>not exempted</b> from Empowerment Financing
700	Code Series FS700	The general principles for measuring Socio-Economic Development
800	Code Series FS800	The general principles for Access to Financial Services
801	Code Series FS800	The general principles for measuring Access to Financial services as it relates to Members of the Banking Association of South Africa
802	Code Series FS800	The general principles for measuring Access to Financial services as it relates to Members of ASISA
803	Code Series FS800	The general principles for measuring Access to Financial services as it relates to Members of SAIA

**Special Index for Qualifying Small Financial Institutions**

<b>Statement Number</b>	<b>Financial Sector Code Series and Statement Title</b>	
900	Code Series FS900	The Qualifying Small Financial Institutions Scorecard and Exempted Micro-Enterprises
901	Code Series FS900	Ownership for Qualifying Small Financial Institutions
902	Code Series FS900	Management Control for Qualifying Small Financial Institutions
903	Code Series FS900	Employment Equity for Qualifying Small Financial Institutions
904	Code Series FS900	Skills Development for Qualifying Small Financial Institutions
905	Code Series FS900	Preferential Procurement for Qualifying Small Financial Institutions
906	Code Series FS900	Enterprise Development and/or Empowerment Financing for Qualifying Small Financial Institutions
907	Code Series FS900	Socio-Economic Development for Qualifying Small Financial Institutions
908	Code Series FS900	Access to Financial Services for Qualifying Small Financial Institutions



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**FINANCIAL SECTOR CODE SERIES FS000: FRAMEWORK FOR MEASURING  
BROAD-BASED BLACK ECONOMIC EMPOWERMENT**

**STATEMENT 000: GENERAL PRINCIPLES AND THE SCORECARD**

**Issued under Section 9 of the Broad-Based Black Economic  
Empowerment Act of 2003**

**Arrangement of this statement**

1. Objectives of this statement
2. Key principles
3. Application of the Financial Sector Code
4. Eligibility as an Exempted Micro-Enterprise
5. Eligibility as a Qualifying Small Financial Institution
6. Start-up Enterprises
7. The Elements of B-BBEE in terms of the Scorecard
8. The Financial Sector Code Scorecard
9. Enhanced recognition for certain categories of Black People
10. Framework for the Accreditation of B-BBEE Verification Agencies
11. Transitional period
12. Adjustment of thresholds
13. Amendments and duration of the Financial Sector Code

**1. Objectives of this statement**

The objectives of this statement are to:

- 1.1 **Specify interpretative principles of B-BBEE as it relates to the Financial Sector;**
- 1.2 **Specify the application of the Financial Sector Code and the basis for measurement under the Financial Sector Code;**
- 1.3 **Specify the qualifying thresholds for businesses to qualify as Exempted Micro-Enterprises (EME) or Qualifying Small Financial Institutions (QSFI);**
- 1.4 **Specify the method of measuring Start-up Enterprises;**
- 1.5 **Specify the elements of B-BBEE measurable under the Scorecard;**
- 1.6 **Specify the Scorecard;**
- 1.7 **Specify the basis for determining compliance by entities with the Financial Sector Code;**
- 1.8 **Provide for the Transitional Period before the compulsory use of the Scorecard starts;**
- 1.9 **Define the duration for the applicability of the Financial Sector Code; and**
- 1.10 **Give the Financial Sector Council the power to provide Interpretive Guides / Guidance Notes / Practice Directives and Standards Documents with regard to the application, intention and any clarification required should any ambiguities exist in any part of this Financial Sector Code.**

**2. Key principles**

- 2.1 **The fundamental principle for measuring B-BBEE compliance is that substance takes precedence over legal form.**
- 2.2 **In interpreting the provisions of the CoGP and this Financial Sector Code, any reasonable interpretation consistent with the objectives of the Act and the B-BBEE Strategy must take precedence.**
- 2.3 **The basis for measuring B-BBEE initiatives under this Financial Sector Code is the B-BBEE compliance of the measured entities during the measurement period.**

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- 2.4 **Any misrepresentation or attempt to misrepresent any enterprise's true B-BBEE status may lead to the disqualification of the entire scorecard of that enterprise.**
- 2.5 **Initiatives which separate or divide enterprises solely as a means of ensuring eligibility as an Exempted Micro-Enterprise Qualifying Small Financial Institution or a Start-up Enterprise are a circumvention of the Act and may lead to the disqualification of the entire scorecard of those enterprises concerned.**
- 2.6 **Any representation made by an entity about its B-BBEE compliance must be supported by a valid B-BBEE certificate and scorecard, issued by an accredited verification agency. This requirement does not apply to divisions or subsidiaries that submit reports in terms of paragraph 8.3 of Code series FS000. For these entities, their B-BBEE compliance must be supported by suitable evidence or documentation. Any entity that does not provide proof of B-BBEE compliance, must not receive any recognition for that initiative.**
- 2.7 **Wherever a Standard Valuation Method applies to measuring an indicator, the same standard should apply, as far as reasonably possible, consistently in all other applicable calculations in this statement.**
- 2.8 **Where the Financial Sector Code is silent on certain provisions, the provisions of the Generic Code shall take precedence.**
- 2.9 **In general, a financial institution that is a local subsidiary of a multinational or external company (as defined in Section 1 of the Companies Act (Act 61 of 1973, as amended, repealed or superseded)) or a branch of a multinational or external company that is precluded in terms of a Global Policy from accommodating domestic ownership participation, will be exempt from the ownership provisions of Code series FS100.**
- 2.10 **The B-BBEE compliance level of an institution which has been exempted from compliance with any element or sub-element, must be determined by adding its actual points earned for each of the scorecard elements in line with paragraph 8.2 of Code 000, Statement 000 of the CoGP. The B-BBEE compliance level shall be the sum of the actual points earned divided by the total amounts available to it (that is, the scorecard total less exempted elements).**
- 2.11 **All scores achieved by the financial institutions under the scorecards in paragraph 8.1.3 of Code series FS000 must be used to determine the compliance level in line with paragraph 8.2 of Code series FS000.**
- 2.12 **The verification of B-BBEE compliance of financial institutions will be undertaken by B-BBEE verification agencies that are accredited by the**

**South African National Accreditation System (SANAS) or any other bodies as may be given authority to accredit agencies by the Department of Trade and Industry.**

### **3. Application of the Financial Sector Code**

**3.1 This Financial Sector Code is applicable to all entities as defined under the paragraph titled, "Scope of Application" under the Preamble section of this document**

**3.2 The basis for measuring the B-BBEE compliance of an entity in terms of paragraph 3.1 is:**

**3.2.1 paragraph 4, in the case of an Exempted Micro-Enterprise (EME);**

**3.2.2 The QSFI statements in Code series FS900, in the case of a Qualifying Small Financial Institution (QSFI);**

**3.2.3 The Scorecard, in the case of other enterprises.**

### **4. Eligibility as an Exempted Micro-Enterprise**

**4.1 Any enterprise with an annual total revenue of R5 million or less qualifies as an Exempted Micro-Enterprise.**

**4.2 Exempted Micro-Enterprises are deemed to have B-BBEE Status of "Level Four Contributor" having a B-BBEE procurement recognition of 100% under paragraph 8.2.**

**4.3 Despite paragraph 4.2, an Exempted Micro-Enterprise qualifies for a promotion to a B-BBEE Status of "Level Three Contributor" having a B-BBEE procurement recognition of 110% under paragraph 8.2 if it has direct black or black woman ownership (without any Equity Equivalents) in excess of 50%.**

**4.4 Exempted Micro-Enterprises are allowed to be measured in terms of the QSFI scorecard should they wish to maximise their points and move to the next procurement recognition level.**

**4.5 Sufficient evidence of qualification as an Exempted Micro-Enterprise is an auditor's certificate or similar certificate issued by an accounting officer or verification agency.**

**5. Eligibility as a Qualifying Small Financial Institution**

- 5.1 A Financial Institution with designated investments of less than R50 million and with an annual total revenue of between R5 million and R35 million qualifies as a Qualifying Small Financial Institution.**
- 5.2 A QSFI must select any five of the eight Elements of B-BBEE for the purposes of measurement under the QSFI Scorecard contained in Code series 900. Where a QSFI does not make a selection, its five best element scores will be used for the purposes of measurement.**

**6. Start-up Enterprises**

- 6.1 Start-up Enterprises must be measured as Exempted Micro-Enterprises under this statement for the first year following their formation or incorporation. This provision applies regardless of the expected total revenue of the Start-up Enterprise.**
- 6.2 Start-up Enterprises are deemed to have a B-BBEE Status of "Level Four Contributor" having a B-BBEE procurement recognition of 100% under this paragraph.**
- 6.3 In order to qualify as a Start-up Enterprise, the enterprise must provide an independent confirmation of its status. For avoidance of doubt, a new entity that is a merger of two or more existing enterprises may not qualify as a Start-up Enterprise.**
- 6.4 Despite paragraphs 6.1 and 6.2, Start-up Enterprises must submit a QSFI Scorecard when tendering for any contract, or seeking any other business covered by Section 10 of the Act, with a value higher than R5 million but less than R35 million. For contracts above R35 million they should submit the scorecard. The preparation of such scorecards must use annualised data.**

**7. The Elements of B-BBEE in terms of the Scorecard**

- 7.1 The Ownership Element, as set out in Code series FS100, measures the effective ownership of enterprises by Black People.**
- 7.2 The Management Control Element, as set out in Code series FS200, measures the effective control of enterprises by Black People.**
- 7.3 The Employment Equity Element, as set out in Code series FS300, measures initiatives intended to achieve equity in the workplace under the Act, and the Employment Equity Act.**

- 7.4 **The Skills Development Element, as set out in Code series FS400, measures the extent to which employers carry out initiatives designed to develop the competencies of black employees.**
- 7.5 **The Preferential Procurement Element, as set out in Code series FS500, measures the extent to which enterprises buy goods and services from suppliers with B-BBEE procurement recognition levels.**
- 7.6 **The Enterprise Development and/or Empowerment Financing Element, as set out in Code series FS600, measures the extent to which Enterprises carry out initiatives intended to assist and accelerate the development and sustainability of other Enterprises.**
- 7.7 **The Socio-Economic Development and Sector Specific Contributions Element, as set out in Code series FS700, measures the extent to which enterprises carry out general and financial sector specific initiatives that contribute towards Socio-Economic Development and that promote access to the economy for Black People.**
- 7.8 **The Access to Financial Services Element, as set out in Code series FS800, measures the extent to which enterprises substantially increase effective access to first-order retail financial services to the defined target market as contemplated under Code series FS800.**
- 8. The Financial Sector Scorecard**
- 8.1 **The following table represents the Scorecard and contains the:**
- 8.1.1 **Elements of the scorecard;**
- 8.1.2 **Weightings; and**
- 8.1.3 **Financial Sector Code series reference that specifies the mechanisms for measurement and calculation of each of the elements of the scorecard (Code series 100 – 800).**

Element	Available Points	% Weighting	Primary Reference
Ownership	14 + 3 bonus	14%	Code series FS100 to be read with Code series 100 of the Generic Code
Management Control	8 + 1 bonus	8%	Code series FS200 to be read with Code series 200 of the Generic Codes
Employment Equity	15 + 3 bonus	15%	Code series FS300 to be read with Code series 300 of the Generic Codes
Skills Development	10	10%	Code series FS400 to be read with Code series 400 of the Generic Codes
Preferential Procurement	16	16%	Code series FS500 to be read with Code series 500 of the Generic Codes
Empowerment Financing	15	15%	Code series FS600
Enterprise Development*	5	5%	Code series FS600 to be read with Code series 600 of the Generic Codes
Socio-Economic Development	3	3%	Code series FS700 to be read with Code series 700 of the Generic Codes
Access to Financial Services	14	14%	Code FS800
<b>Total</b>	<b>100 + 7 bonus</b>	<b>100%</b>	

\*For Measured Entities that are exempted from Empowerment Financing, the total number of points available shall be 95 + 7 bonus. This is as a result of having only 15 points available for Enterprise Development and zero available for Empowerment Financing, whereas enterprises that are not exempt from Empowerment Financing have 5 points available for Enterprise Development and 15 available for Empowerment Financing. For measured entities that are exempted from Empowerment Financing, the Enterprise Development Measurement Principles, Scorecard and Benefit Factor Matrix shall align completely with all the provisions of Code series 600 of the Generic Codes. Therefore, the Recognition level of these entities shall be based on the score obtained via the following formula:

$$A = (B/95) \times 100$$

Where:

A = the deemed score achieved (to be applied to the table under paragraph 8.2 below)

B = the total number of points achieved (including Bonus Points)

The same principle shall apply to measured entities that are exempt from both Empowerment Financing and Access to Financial Services or to measured entities that are exempt from only Access to Financial Services.

**8.2 Based on the overall performance of a Measured Entity using the Scorecard it receives the following B-BBEE Status-:**

<b>B-BBEE Status</b>	<b>Qualification</b>	<b>B-BBEE Recognition Level</b>
Level One Contributor	≥ 100% on the FSC Scorecard	135%
Level Two Contributor	≥ 85% but < 100% on the FSC Scorecard	125%
Level Three Contributor	≥ 75% but < 85 % on the FSC Scorecard	110%
Level Four Contributor	≥ 65% but < 75% on the FSC Scorecard	100%
Level Five Contributor	≥ 55% but < 65% on the FSC Scorecard	80%
Level Six Contributor	≥ 45% but < 55% on the FSC Scorecard	60%
Level Seven Contributor	≥ 40% but < 45% on the FSC Scorecard	50%
Level Eight Contributor	≥ 30% but < 40% on the FSC Scorecard	10%
Non Compliant Contributor	< 30% on the FSC Scorecard	0%

**8.3 If a financial institution is a member of a group, it will be measured and reported on as part of the South African group unless:**

8.3.1 The financial institution is a listed company; or

8.3.2 The financial institution opts to be measured as a separate company.

8.3.3 Notwithstanding paragraphs 8.3.1 and 8.3.2, should any division or business unit or subsidiary within a measured entity be deemed as a significant division or business unit or subsidiary it shall, upon request of the Financial Sector Council be required to produce and submit its own scorecard to the Council for information purposes. The scorecard need not be independently verified; however, the head of that division or business unit or subsidiary must attest to the accuracy of the scorecard submitted.

8.3.3.1 The division or business unit or subsidiary referred to in paragraph 8.3.3 above may utilise its Group B-BBEE report for official use or it can opt to utilise its own scorecard (as per paragraph 8.3.3 above) should that scorecard be verified.

8.3.3.2 A significant division, business unit or subsidiary is defined as:

- Any subsidiary, division or business unit forming part of a Consolidated Group Scorecard that conducts its primary business activities in a sector other than the financial sector; or
- Any subsidiary, division or business unit forming part of a Consolidated Group Scorecard that contributes more than 50% of the measured entity's revenue.



**8.4 Each financial institution will report annually to the Financial Sector Council on its progress in implementing the provisions of this Financial Sector Code.**

**9. Enhanced recognition for certain categories of Black People**

In various elements of the Financial Sector Code, various criteria appear that advance the interests of certain categories of Black People. These include:

**9.1 Black Women and Broad-Based Groupings for the Ownership, Management Control, Employment Equity and Skills Development Elements of the Scorecard;**

**9.2 Black People with disabilities for the Employment Equity and Skills Development Elements of the Scorecard; and**

**9.3 Broad-Based Groupings, including Employees, Communities and Co-operatives for the Ownership, Access to Financial Services and Socio-Economic Elements.**

**10. Framework for the Accreditation of B-BBEE Verification Agencies**

**10.1 As per the Generic Code series 000.**

**11. Transitional period**

**11.1 The transitional period shall exist from the commencement date of this Financial Sector Code until such time as the Access Standards have been agreed by the Financial Sector Council. During this transitional period, all measured entities shall report their B-BBEE compliance in relation to the scorecard and principles contained in this Financial Sector Code but will exclude the Access to Financial Services Element.**

**11.2 Notwithstanding, paragraph 11.1, measured entities shall be allowed to utilise their existing valid, verified Generic B-BBEE certificate during the period between the commencement date of this Financial Sector Code and the expiry of their existing verified Generic B-BBEE certificates.**

**12. Adjustment of Thresholds**

**12.1 The Minister of Trade and Industry may, by notice in the Gazette, adjust the thresholds in paragraphs 4 to 6. Any such changes apply to compliance reports prepared for enterprises after a twelve-month period following the gazetting of the adjustment.**

**13. Amendments and Duration of the Financial Sector Code**

- 13.1 **The Financial Sector Code shall be effective and legally binding from the commencement date until amended, substituted or repealed under the Act. The commencement date shall be 1 January 2012.**
- 13.2 **The process for the amendment of the Financial Sector Code will follow the process set out in the Generic Codes for the development of Sector Codes. Any amendments to the Generic Codes may result in a review of the Financial Sector Code for purposes of harmonisation.**

**14. Interpretive Guides / Guidance Notes / Practice Directives and Standards Documents**

- 14.1 **The Financial Sector Council shall, from time to time issue Interpretive Guides / Guidance Notes / Practice Directives and Standards documents.**
- 14.2 **These documents shall be mainly (but not solely) for the purpose of addressing any ambiguities that may exist with regard to the interpretation and application of key measurement principles and/or qualifying criteria contained in any Code Series or Code Statement in this Financial Sector Code.**
- 14.3 **In issuing such documents the Council shall be obliged to provide interpretations that are consistent with the substance of these codes rather than just the legal form.**

**CODE SERIES FS100: MEASUREMENT OF THE OWNERSHIP  
ELEMENT OF BROAD-BASED BLACK ECONOMIC  
EMPOWERMENT**

**STATEMENT 100: THE GENERAL PRINCIPLES FOR  
MEASURING OWNERSHIP  
Issued under Section 9 of the Broad-Based Black Economic  
Empowerment Act of 2003**

**Arrangement of this statement**

1. Objectives of this statement
2. The Ownership Scorecard
3. Key measurement principles
4. Broad-Based Ownership Scheme
5. Private Equity Funds
6. Section 21 companies, companies limited by guarantee
7. Trusts
8. Options and Share Warrants
9. Equity Instruments carrying preferential rights
10. Realisation points
11. Bonus points

## 1. Objectives of this Statement

The objectives of this statement are to:

- 1.1 Specify the scorecard for measuring the Ownership Element of B-BBEE;
- 1.2 Define the key measurement principles associated with the Ownership Element of B-BBEE;
- 1.3 Specify the specific measurement principles applicable to various types of enterprises;
- 1.4 Specify the specific measurement principles applicable to various types of equity instruments; and
- 1.5 Specify the formula for measuring Voting Rights, Economic Interest, Net Value Points, Realisation Points and Bonus Points.

## 2. The Ownership Scorecard

Table 2a represents the indicators and method for calculating a score for ownership for local measured entities:

<b>Table 2a Ownership</b>	<b>Points</b>	<b>Targets</b>
2.1. Voting Rights of Black People	3	25% + 1 Vote
2.2. Voting Rights of Black Women	1	10% + 1 Vote
2.3. Economic Interest of Black People	3	25% + 1 Share
2.4. Economic Interest of Black Women	1	10% + 1 Share
2.5. Economic Interest of Black Designated Groups, Black Participants in Employee Share Ownership Schemes, Black Participants in Broad Based Ownership Schemes and / or Black Participants in Co-ops	1	2.5%
<b>Ownership Fulfillment</b>		
2.6. Net Equity Value (Formula A and B as per para.4 of Annexe 100 (C))	3	
2.7. Direct or Indirect Ownership in Excess of 15%	2	10%
<b>Total</b>	<b>14</b>	
<b>Bonus Points</b>		
2.8. Ownership by Black New Entrants	2	10%
2.9. Ownership by ESOPs and Co-ops	1	10%
<b>Total including Bonus Points</b>	<b>17</b>	

*For 2.7, the target will apply to economic interest as a result of Direct or Indirect B-BBEE ownership in excess of 15%. To avoid any doubt, Ownership and/or Equity Equivalent contributions and/or Asset Sales claimed will count under 2.7.*

*If a measured entity wishes to claim Ownership credits for Indirect Ownership, it must provide a competent person's report that has estimated the value of B-BBEE ownership held through indirect ownership.*

Table 2b represents the indicators and method for calculating a score for Ownership for measured entities that are local branches of foreign banks:

**Table 2b**

Ownership	Points	Targets	Notes
2.1. Additional BEE Transaction Financing or other qualifying Equity Equivalent contributions	14	25%	Target is equal to 25% of the value of the measured entity as at 31 December 2010
<b>Bonus Points</b>			
2.2. Funding of BEE Transactions and/or other Equity Equivalent contributions in the Financial Sector	3	100% of 25%	3 bonus points are available for contributions within the Financial Sector.
<b>Total including Bonus Points</b>	<b>17</b>		

### 3. Key Measurement Principles

#### 3.1 General principles:

- 3.1.1 An Enterprise receives points for participation by Black People in its rights of ownership, using the ownership scorecard in table 2a or 2b of Code Series FS100 Statement 100. Black People may hold their rights of ownership in a Measured Entity as direct participants or as participants through some form of business such as:
- 3.1.1.1 A Company with shares;
  - 3.1.1.2 A Close Corporation;
  - 3.1.1.3 A Co-operative;
  - 3.1.1.4 Any form of juristic person recognised under South African law;
  - 3.1.1.5 A Partnership or other association of natural persons;
  - 3.1.1.6 A Broad-Based Ownership Scheme;
  - 3.1.1.7 An Employee Ownership Scheme; and
  - 3.1.1.8 A Trust (including a Family Trust, will qualify provided that the Trust deed stipulates that the beneficiaries must be Black South Africans and that at least 85% of the proceeds of the Trust accrues to the beneficiaries).
- 3.1.2 Any Measured Entity (Foreign or Domestic) may also receive points under the Ownership Scorecard in table 2a or 2b of Code Series FS100 Statement 100, via Equity Equivalent Contributions. Equity Equivalent Contributions are dealt with in detail under Code series FS100, Statement 103.
- 3.1.3 Any Measured Entity may also receive points under the Ownership Scorecard in table 2a or 2b of Code Series FS100 Statement 100 via Sales of Assets. Sales of Assets are dealt with in detail under Code series FS100, Statement 102.

#### 3.2 The Flow-Through Principle:

- 3.2.1 As a general principle, when measuring the rights of ownership of any category of Black People in a Measured Enterprise, only rights held by natural persons are relevant. If the rights of ownership of Black People pass through a juristic person, then the rights of ownership of Black People in that juristic person are measurable. This principle applies across every tier of ownership in a multi-tiered chain of ownership until that chain ends with a black person holding rights of ownership.
- 3.2.1.1 An exception to this General Principle exists with regard to recognition under the Ownership Scorecard for domestic measured entities, via Equity Equivalents. This exception to the General Principle is dealt with in further detail in Code series FS100, Statement 103.
- 3.2.2 The method of applying the Flow-Through Principle across one or more intervening juristic persons is as follows:
- 3.2.2.1 Multiply the percentage of the participants' rights of ownership in the juristic persons through which those rights pass by the percentage rights of ownership of each of those juristic persons successively to the Measured Enterprise; and
- 3.2.2.2 The result of this calculation represents the percentage of rights of ownership held by the participant.
- 3.3 The Modified Flow-Through Principle:**
- 3.3.1 The Modified Flow-Through Principle applies to any B-BBEE owned or controlled company in the ownership of the Measured Enterprise.
- 3.3.2 In calculating Exercisable Voting Rights under table 2a, paragraph 2.1 and Economic Interest under paragraph 2.3, the following applies: Where in the chain of ownership, Black People have a flow-through level of participation in excess of 50%, then only once in that chain may such black participation be treated as if it were 100% black.
- 3.3.3 The Modified Flow-Through Principle may only be applied in the calculation of the indicators in paragraphs 2.1 (Voting rights of Black People) and 2.3 (Economic Interest of Black People) of table 2a. In all other instances, the Flow-Through Principle applies. For avoidance of doubt, the Modified Flow-Through calculation may be applied once in each chain on ownership.
- 3.4 The Exclusion of specified entities when determining ownership:**
- 3.4.1 When determining ownership in a measured entity, ownership held directly by organs of state or public entities must be excluded. This exemption only applies to organs of the state of the Republic of South Africa and to Public Entities of the Republic of South Africa.
- 3.4.2 In calculating their ownership score, Measured Enterprises must apply the Exclusion Principle to any portion of their Ownership held by Organs of State or Public Entities. This exemption only applies to organs of the state of the Republic of South Africa and to Public Entities of the Republic of South Africa.

- 3.4.3 Despite paragraphs 3.4.1 and 3.4.2, the Minister of Trade and Industry may, by notice in the gazette, designate certain Public Entities as B-BBEE Facilitators. In calculating their Ownership score, Measured Enterprises must treat B-BBEE Facilitators as having rights of Ownership held:
- 3.4.3.1 100% by Black People:
  - 3.4.3.2 40% by Black Women:
  - 3.4.3.3 10% by Black Designated Groups;
  - 3.4.3.4 Without any acquisition debts; and
  - 3.4.3.5 Without any third-party rights.
- 3.4.4 When determining ownership in a Measured Entity, rights of ownership of Mandated Investments may be excluded. The maximum percentage of the ownership of any Measured Entity that may be so excluded is 40%. Mandated Investments are those investments as defined in Schedule 1 of the CoGP as per Gazette No. 29617.
- 3.4.5 Entities that elect not to exclude Mandated Investments when entitled to do so may either treat all of that ownership as non-black or obtain a competent person's report estimating the extent of black rights of ownership measurable in the Measured Entity and originating from that Mandated Investment.
- 3.4.6 A Measured Entity cannot selectively include or exclude Mandated Investments and an election to exclude one Mandated Investment is an election to exclude all Mandated Investments and vice versa.
- 3.4.7 **Dilution due to regulatory requirements**  
Any dilution in the actual percentage of Black Ownership in a Measured Entity that occurs due to the Measured Entity having to increase its capital base as a direct result of regulatory requirements (new or existing) will for the purposes of this Code not result in a dilution of the percentage Black Ownership claimed under the Scorecard contained under paragraph 2, Table 2a.  
A Measured Entity may exclude ownership arising in future as a direct result of any new regulatory requirements to increase the capital base of the Measured Entity. For avoidance of doubt this principle will not apply should the institution be required to raise additional capital due to it having written bad business.
- 3.5 **The recognition of ownership after the sale or loss of shares by Black Participants**
- 3.5.1 Any sale or loss of shares that have occurred on or prior to 31 December 2010 shall be subject to the continuing consequences formula as per paragraph 5 of Annexe 100(C) of this Financial Sector Code.

- 3.5.2 In addition, a Measured Entity is allowed to recognise a portion of black ownership after a black participant has exited through the sale or loss of shares where such sale or loss occurs after 31 December 2010. The portion recognisable where such sale or loss occurs after 31 December 2010 is as follows:
- 3.5.2.1 In the event of a dilution in the actual percentage of black ownership in a Measured Entity (such dilution having occurred on or after 1 January 2011), as a result of black participant(s) electing to sell their shares and realise the net value attributable to those shares when those shares have become eligible for sale or transfer, any such dilution, will for the purposes of this Financial Sector Code, not result in a dilution of the percentage Black Ownership claimed under the Scorecard contained under paragraph 2, Table 2a above. B-BBEE participants should be encouraged to sell the realisation shares to other Black Participants and, where possible, a measured entity should attempt to provide assistance to B-BBEE participants to sell to other B-BBEE participants. For avoidance of doubt, such assistance is not to be interpreted as the provision of financing (debt or other) to the proposed buyer.
- 3.5.2.2 In the event of a dilution in the actual percentage of black ownership in a Measured Entity, such dilution having occurred on or after 1 January 2011 as a result of all other sales of shares, other than the sale of shares described under paragraphs 3.4.7 or 3.5.2.1 above, a portion of the percentage may be recognisable subject to the following criteria:
- The black participant has held those shares for a minimum period of three years;
  - Net value must have been created in the hands of Black People. (i.e. a portion of the debt acquired to purchase the equity must have been repaid or the selling price of the shares must be higher than the purchase price);
  - Transformation has taken place within the measured enterprise.
- 3.5.3 The formula for calculating continued recognition (for sales of shares) in circumstances as contemplated under paragraph 3.5.2.2 is contained under paragraph 5 of Annexe 100(C) of this Code Statement and black participation arising from continued recognition of black ownership cannot contribute more than 40% of the score on the ownership scorecard.
- 3.5.4 In the case of a loss of shares by the black investor, the following additional rules apply:
- 3.5.4.1 A written tripartite agreement between the Measured Enterprise, the black participant and a lender must record the loan or security arrangement, unless the Measured Entity is the lender; and
- 3.5.4.2 The period over which the points were allocated or recognisable will not exceed the period over which the shares were held.
- 3.5.5 The Ownership points under paragraph 3.5.4 (a loss of shares, unless that loss of shares is outside the control of the measured entity) that are attributable to the Measured Entity will be calculated by multiplying the following elements:



- 3.5.5.1 The value created in black hands as a percentage of the value of the Measured Entity at the date of the loss of shares as a percentage of the Measured Entity's value; The formula for measuring the percentage of continued recognition is as follows:

$$A = B \times C \times D$$

Where

A is the continued recognition after the loss of shares

B is the percentage ownership for each of the indicators in the ownership scorecard held immediately prior to the loss

C is the Net Value as per formula "Loss 1" below

D is the most recent B-BBEE recognition Level of the Measured entity (not more than one year old based on all elements excluding ownership)

Formula: Loss 1:

$$A = (B - C) / D$$

Where

A is the Deemed Net Value

B is the value of the lost shares as at the date of loss

C is the carrying value of any debt in relation to the lost shares as at the date of loss

D is value of the measured entity as at the date of loss

- 3.5.5.2 The B-BBEE status of the Measured Entity based on the balanced scorecard at the date of measurement; and
- 3.5.5.3 The ownership points that were attributable to the Measured Enterprise on the date of sale or loss.
- 3.5.6 In addition to paragraphs 3.5.2 to 3.5.5, prior to 1 January 2015 a Measured Entity shall be entitled (but not compelled) to report, for every year of measurement, the points calculated in terms of its Ownership scorecard as at 31 December 2010. After 31 December 2014, this dispensation shall not be applicable. All the measurement principles and special dispensations contained in this Code Statement shall always be applicable.

#### **4. Broad-Based Ownership and Employee Ownership Schemes**

- 4.1 **Black participants in Broad-Based Ownership Schemes and Employee Share Ownerships Schemes holding rights of ownership in a Measured Entity may contribute:**
- 4.1.1 A maximum of 40% of the total points on the ownership scorecard of the Measured Entity if they meet the qualification criteria set out in Annexe 100(B).
- 4.1.2 100% of the total points on the ownership scorecard of the Measured Entity if they meet the **additional** qualification criteria set out in Annexe 100(B).

## **5. Private Equity Funds**

- 5.1 A Measured Entity may treat any of its ownership arising from a Private Equity Fund as if that ownership were held by Black People, where the Private Equity Fund meets the following criteria:**
- 5.1.1 More than 50% of any Exercisable Voting Rights associated with the Equity Instruments through which the Private Equity Fund holds rights of ownership, are held by Black People;**
  - 5.1.2 More than 50% of profits made by the Private Equity Fund after realising any investment made by it, must by written agreement, accrue to Black People;**
  - 5.1.3 The Private Equity Fund manager is a B-BBEE Owned Company as defined; and**
  - 5.1.4 More than 50% of the value of funds invested by any Private Equity Fund must at all times be invested in black owned enterprises that were at least 25% black owned before the investment of the Private Equity Fund.**

## **6. Special rules for certain companies**

- 6.1 A Measured Entity may elect to include or exclude Section 21 companies or companies limited by guarantee for the purposes of measuring ownership in terms of this statement.**
- 6.2 A Section 21 company or company limited by guarantee that houses a Broad-Based Ownership Scheme or an Employee Ownership Scheme is subject to the provisions governing those types of schemes and not to this paragraph.**
- 6.3 When a Measured Entity elects to exclude such companies, it can do so by excluding up to 40% of the level of their ownership completely from the determination of its compliance with the ownership target.**
- 6.4 A Measured Entity electing not to exclude Section 21 companies or companies limited by guarantee when it is entitled to do so, may either treat all of that ownership as non-black or obtain a competent person's report estimating the extent of black rights of ownership measurable in the Measured Entity and originating from those Section 21 companies or companies limited by guarantee.**
- 6.5 Black Participants in a Section 21 Company holding rights of ownership in a Measured Entity may contribute:**
- 6.5.1 A maximum of 40% of the total points on the ownership scorecard of the Measured Entity if they meet the qualification criteria for Broad-Based Ownership Schemes set out in Annexe 100(B).**

- 6.5.2 100% of the total points on the ownership scorecard of the Measured Entity if they meet the **additional** qualification criteria set out for Broad-Based Ownership Schemes in Annexe 100(B).

## **7. Trusts**

- 7.1 **Black Participants in a Trust, holding rights of ownership in a Measured Entity may contribute:**

7.1.1 A maximum of 40% of the total points on the ownership scorecard of the Measured Entity if the trust meets the qualification criteria for Trusts set out in Annexe 100(B).

7.1.2 100% of the total points on the ownership scorecard of the Measured Entity if they meet the **additional** qualification criteria set out for Trusts in Annexe 100(B).

## **8. Options and share warrants**

- 8.1 **Exercisable voting rights and Economic interest will be recognised where a participant holds an instrument granting the holder the right to acquire an Equity Instrument or part thereof at a future date, if the following requirements are met:**

8.1.1 The Exercisable Voting Rights attached to that instrument are irrevocably transferred to the holder for the option period and are exercisable by the holder before acquiring the Equity Instrument;

8.1.2 The value of any Economic Interest is irrevocably transferred for the option period and paid to the holder of that instrument before the exercise of that right;

8.1.3 The value of an instrument must be determined by using a standard valuation method for calculating the Net value.

## **9. Equity Instruments Carrying Preferential Rights**

- 9.1 **An Equity Instrument carrying preferential rights is measurable in the same manner as an ordinary Equity Instrument.**

9.2 **An Equity Instrument carrying preferential rights that has the characteristics of a debt, regardless of whether the debt is that of an enterprise or of a participant, is an ordinary loan. If the debt is that of a black participantBlack Participant, it may be subject to measurement under Current Equity Interest.**

9.3 **In evaluating an instrument that has a hybrid nature including the characteristics of a debt, only that portion that represents a debt, will be measured under current equity interest. The remainder is measurable as an ordinary equity instrument.**

**10. Net Value**

**10.1 Net value reflects the economic value of Ownership Rights after taking into account the carrying value of any acquisition debt.**

10.1.1 Points are awarded in accordance with the formula in Annexe 100(C). The formula reflects that all acquisition debt should be extinguished within nine (9) years of the acquisition of Equity Interests by participants in order to score full points.

**11. The Points for Direct or Indirect Ownership in excess of 15% in Table 2a**

**11.1 A Measured Entity with 15% direct black Economic Interest, can receive a maximum of 2 points for an additional 10% Economic Interest held by Black Participants held either as Direct or Indirect Ownership, measured in increments of 0.5 points for every 2.5% additional Economic Interest.**

**12. The Bonus Points**

**12.1 The bonus points relating to paragraphs 2.8 and 2.9 of Table 2a are only available to domestic Measured Entities.**

12.1.1 For avoidance of doubt all contributions that are considered as ownership (including Sales of Assets, Sales of Shares, Equity Equivalents and Indirect Ownership) shall count under paragraphs 2.7, 2.8 and 2.9 of Table 2a.

**12.2 The bonus points relating to paragraph 2.2 of Table 2b are only available to local branches of foreign entities. Measured Entities that qualify as local branches of foreign entities may meet their entire ownership targets by applying Code series FS100, Statement 103.**

12.2.1 To this end a foreign branch may receive a maximum of three bonus points should it satisfy its Equity Equivalent Contribution requirements (as per Code series FS100, Statement 103) by contributing the total required amount for B-BBEE transaction financing or other qualifying Equity Equivalents within the financial sector. Therefore, if a foreign branch funds transactions to the value of 12.5% in the financial sector it may receive 1.5 bonus points –  $[(12.5\% / 25\%) \times 3]$ .

12.2.2 A Measured Entity with 25% black Economic Interest can receive a maximum of two bonus points for a 10% holding of Economic Interest by black new entrants.

12.2.3 A Measured Entity with 25% black Economic Interest can receive a maximum of one bonus point for a 10% holding of Economic Interest by Black Participants in:

12.2.3.1 Employee Ownership Schemes;

12.2.3.2 Broad-Based Ownership Schemes; and

12.2.3.3 Co-operatives.

**Annexe 100(A)****Examples of Mandated Investments**

<b>Description Of Investment</b>	<b>Portion Subject to Exclusion Principle</b>
Investments made by or for a collective investment scheme as defined in the Collective Investments Control Act of 2002	Full Value
Investments made by or for a pension fund as defined in the Pension Fund Act of 1956	Full Value
Investments made by or for a medical scheme as defined in the Medical Schemes Act of 1998, out of members' funds	Portion recorded as made out of members' funds
Investments made by or for long-term insures as defined in the Long-term Insurance Act of 1998, out of policy holders' funds	Portion recorded as made out of policy holders' funds
Investments made by or for friendly societies as defined in the Friendly Societies Act of 1956	Full Value
Investments made by or for a bank as defined in the Banks Act of 1990, out of depositors' funds as opposed to own reserves	Depositor portion determined by apportioning investment in the ratio that the depositor funds to own reserves
Investments made by or for a mutual bank as defined in the Mutual Banks Act of 1993, out of depositors' funds as opposed to own reserves	Depositor portion determined by apportioning investment in the ratio that the depositor funds to own reserves

**Annexe 100(B)****RULES ON CERTAIN TYPES OF ENTERPRISES****1. Rules for Broad-Based Ownership Schemes****1.1 The following rules apply to Broad-Based Ownership Schemes:**

- 1.1.1 The management fees of the scheme must not exceed 15%;
- 1.1.2 The constitution of the scheme must record the rules governing any portion of economic interest received and reserved for future distribution or application;
- 1.1.3 At least 85% of the value of benefits allocated by the scheme must accrue to Black People;
- 1.1.4 At least 50% of the fiduciaries of the scheme must be independent persons having no employment with or direct or indirect beneficial interest in the scheme;
- 1.1.5 At least 50% of the fiduciaries of the scheme must be Black People and at least 25% must be Black Women;
- 1.1.6 The chairperson of the scheme must be independent; and
- 1.1.7 On the winding-up or termination of the scheme, all accumulated Economic Interest must be transferred to beneficiaries or an entity with similar objectives.

**2. Rules for Employee Share Ownership Schemes****2.1 The following rules apply to Employee Share Ownership Schemes (ESOP):**

- 2.1.1 The scheme constitution must define the participants and the proportion of their claim to receive distributions;
- 2.1.2 A written record of the name of the participants or the use of a defined class of natural person satisfies the requirement for identification;
- 2.1.3 A written record of fixed percentages of claim or the use of a formula for calculating claims satisfies the need for defining proportion of benefit; and
- 2.1.4 The fiduciaries of the scheme must have no discretion on the above-mentioned terms;

**2.2 The participants must take part in:**

- 2.2.1 Appointing at least 50% of the fiduciaries of the scheme;

- 2.2.2 Managing the scheme at a level similar to the management role of shareholders in a company having shareholding;
- 2.2.3 The constitution, or other relevant statutory documents of the scheme must be available, on request, to any participant in an official language in which that person is familiar; and
- 2.2.4 All accumulated Economic Interest of the scheme is payable to the participants at the earlier of a date or event specified in the scheme constitution or on the termination or winding-up of the scheme; and
- 2.2.5 The scheme fiduciaries must present the financial reports of the scheme to participants yearly at an annual general meeting of the scheme.

### **3. Rules for Trusts**

#### **3.1 The qualification criteria for the recognition of Trusts are as follows:**

- 3.1.1 The trust deed must define the beneficiaries and the proportion of their entitlement to receive distributions;
- 3.1.2 A written record of the names of the beneficiaries or the use of a defined class of natural person satisfies the requirement for identification;
- 3.1.3 A written record of fixed percentages of entitlement or the use of a formula for calculating entitlement satisfies the need for defining proportion of benefit; and
- 3.1.4 The trustees (including trustees of a family trust that will qualify provided that the Trust deed stipulates that the Beneficiaries must be Black South Africans and that at least 85% of the proceeds of the Trust accrue to the beneficiaries) must have no discretion on the above mentioned terms, and on winding-up or termination of the trust, all accumulated Economic Interest must be transferred to the beneficiaries or to an entity representing the interest of the participants or class of beneficiaries.

#### **4. Additional Criteria Applicable to Trusts:**

- 4.1 **For a Measured Entity to obtain the maximum points on its Ownership scorecard from shareholding by a Trust, the Measured Entity must be in possession of a certificate issued by a competent person to the effect:**
  - 4.1.1 That the Trust was created for a legitimate commercial reason, which must be fully disclosed; and;
  - 4.1.2 That the terms of the Trust do not directly or indirectly seek to circumvent the provisions of the Codes and the Act.

- 5. Additional Criteria Applicable to Broad-Based Ownership Schemes and Employee Ownership Schemes:**
- 5.1 For a Measured Entity to obtain the maximum points on its ownership scorecard, the following additional requirements must be met by a Broad-Based Scheme or Employee Share Ownership Scheme:**
- 5.1.1 A track-record of operating as a Broad-Based Ownership Scheme or Employee Share Ownership Scheme, or in the absence of such a track-record demonstrable evidence of full operational capacity to operate as a Broad-Based Ownership Scheme or Employee Share Ownership Scheme**
- 5.1.2 Operational capacity must be evidenced by suitably qualified and experienced staff in sufficient number, experienced professional advisors, operating premises and all other necessary requirements for operating a business.**



**Annexe 100(C)****1. Measurement of Voting Rights****1.1 The calculation of the ownership indicators provided for in paragraphs 2.1 and 2.2 is as follows:**

$$A = B/C \times D$$

Where

**A** is the score achieved for the Enterprise for the measured ownership indicator

**B** is the percentage that Exercisable Voting Rights in the hands of the category of participants who are Black People in that Enterprise holds to all Voting Rights held by all participants of that Enterprise

Where Equity Equivalents are utilised, the Equity Equivalents shall be deemed to hold Voting Rights that rank *equally* with ordinary shareholder voting rights and 50% of the deemed voting rights shall be deemed to be in favour of Black Women.

**C** is the percentage compliance Target for Exercisable Voting Rights for the applicable measured ownership indicator in paragraphs 2.1 and 2.2

**D** is the Weighting points allocated to the applicable measured ownership indicator in paragraphs 2.1 and 2.2

**1.2 If an Enterprise gains a score in the formula above that is more than the Weighting points in paragraphs 2.1 and 2.2, that Enterprise will only receive the Weighting points.**

**2. Measurement of Economic Interest****2.1 The calculation of the ownership indicators provided for in paragraphs 2.3, 2.4 and 2.5 is as follows**

$$A = B/C \times D$$

Where

**A** is the recognisable percentage of a black participant's claim to Economic Interest in the Enterprise

**B** is the percentage of Economic Interest, which participants who fall within the category of Black People in that Enterprise hold to all Economic Interest which all participants of that Enterprise hold

Where Equity Equivalents are utilised, the Equity Equivalents shall be deemed to hold Economic Interest that rank equally with ordinary shareholder Economic Interest and 50% of the deemed Economic Interest shall be deemed to be in favour of Black Women and 50% shall be deemed to be in favour of designated groups.

**C** is the percentage compliance target for Economic Interest for the applicable measured ownership indicator in paragraphs 2.3, 2.4 and 2.5

**D** is the Weighting points allocated to the applicable measured ownership indicator in paragraphs 2.3, 2.4 and 2.5

**2.2 If an Enterprise gains a score in the formula above that is more than the Weighting points in paragraphs 2.3, 2.4 and 2.5, that Enterprise will only receive the Weighting points.**

### 3. Calculation of Deemed Net Value

In calculating the 'Deemed Net Value' referred to in paragraph 4 below, the following formula applies:

$$A = (B - C)/D$$

Where

**A** is the Deemed Net Value

**B** for the purposes of paragraph 4 below is the value of the Equity Instruments relevant to the calculation, determined on the date of measurement

**C** for the purposes of paragraph 4 below is the carrying value of any acquisition debts of the relevant Black Participants on the date of measurement

**D** for the purposes of paragraph 4 below is the value of the Measurable Portion (Value of South African Operations) of the Measured Entity on the date of measurement

**4. Net Value****4.1 The "Net Value" points in paragraph 2.6 is the lower result of Formula A and Formula B as follows:**

Formula A

$$A = B \times (1 / (25\% \times C)) \times 3$$

Where

**A** is the score under paragraph 2.6

**B** is the Deemed Net Value for all Black Participants in the Measured Entity determined using Formula 3 above

**C** is the time-based graduation factor of the Economic Interest compliance target outlined below:

- 10% for the first year after the current equity interest date.
- 20% for the second year after the current equity interest date.
- 40% from the first day of the third year after the current equity interest date to the last day of the fourth year after the current equity interest date.
- 60% from the first day of the fifth year after the current equity interest date to the last day of the sixth year after the current equity interest date.
- 80% from the first day of the seventh year after the current equity interest date to the last day of the eighth year after the current equity interest date.
- 100% from the first day of the ninth year after the current equity interest date to the last day of the tenth year after the current equity interest date.

Formula B

$$A = B / C \times 3$$

Where

**A** is the score under paragraph 2.6

**B** is the percentage Economic Interest in the Measured Entity of Black Participants

**C** is the target for the ownership indicator in paragraph 2.3

**4.2 If an Enterprise gains a score in paragraph 4.1 that is more than the Weighting points in paragraph 2.6, that Enterprise will only receive the Weighting points.**

## 5. Calculation of the Recognition of Ownership after the Sale of Shares by Black Participants:

The calculations referred to in paragraphs 3.5.1.2 of Code series FS100, Statement 100, use the following formula:

### 5.1 For paragraphs 2.1 and 2.3 of the Ownership Scorecard

$$A=B \times C \times D$$

Where

**A** is the percentage of rights of ownership that survive the sale of an Equity Instrument by a black participant in paragraph 3.5.1.2 to 3.5.4.3.

**B** is the percentage of rights of ownership for each of the indicators in the ownership scorecard that were attributable to the black participant immediately before their sale.

**C** The net value realised/created in black hands after the liquidation of debt as a % of the value of the Sale Shares of each of the indicators immediately prior to exit. The net value created in black hands is equal to the current value of the shares less any own contribution made by the B-BBEE party at the inception date of the transaction.

**D** is the most recently determined BEE Recognition Level of the Measured Entity (which must be less than 1 year old) based on its Generic Scorecard result for all Elements other than ownership determined using Code series FS000, Statement 000.

For paragraphs 2.2, 2.4 and 2.5, A shall be equal to the percentage held by Black Women/designated groups immediately before their sale of shares multiplied by the result of the calculation under paragraph 5.1.

### 5.2 For paragraph 2.6 of the Ownership Scorecard

In relation to calculating the percentage of ownership rights that survive after the sale of shares specifically for paragraph 2.6 of the Ownership Scorecard the following calculation shall apply:

$$A= B \times C \times D$$

Where A is the percentage of rights of ownership that survive the sale of an Equity Instrument by a black participant in paragraphs 3.5.1.2 to 3.5.4.3.

**B** is the percentage of the Equity Instruments diluted, determined on the date of measurement immediately before their sale.

**C** is the value of the equity interests sold (less) the value of any own contribution made at the inception date of the deal in relation to the shares sold (less) the carrying value of any acquisition debts of the relevant Black Participants on the date of sale or loss divided by the value of the measured entity at the date of sale or loss.

**D** is the recognition level of the measured entity excluding ownership immediately prior to the loss or sale.

***Illustrative example***

- Assume B-BBEE Consortium holds 10% of a measured entity at 01/01/2009 (the commencement date). 50% of this holding is attributable to Black Women and 50% is attributable to Black Designated Groups
- As at the commencement date the value of this holding is R150 (enterprise value R1500) and the value of the associated debt is R100.
- B-BBEE Consortium provided R10 own cash contribution and R90 was debt funded in lieu of the purchase price of R100 for 10%
- Through corporate action this holding is diluted fully at 31/12/2012
- At 31/12/2012, the value of this holding has grown to R180 and the debt is R80. The value of the business is therefore R 1800.
- The measured entity is a level 3 contributor excluding ownership as at 31/12/2012.

Calculation for paragraphs 2.1 and 2.3 of the Ownership Scorecard:

$$A = B \times C \times D$$

$$B = 10\%$$

$$C = ((180-80-10)/180) = 50\%:$$

*R180 is the value of the shares sold, R80 is the debt outstanding and R10 is the value of the consortium's own contribution at the inception of the transaction.*

$$D = 110\%$$

***The continued recognition under paragraphs 2.1 and 2.3 of the scorecard will therefore be:***

$$10\% \times 50\% \times 110\% = 5.5\%.$$

***The continued recognition under paragraphs 2.2, 2.4 and 2.5 of the scorecard will therefore be:***

$$50\% \times 5.5\% = 2.75\%$$

Calculation for paragraph 2.6 of the Ownership Scorecard:

$$A = B \times C \times D$$

$$B = 10\%$$

$$C = (180 - 80 - 10) / 1800 = 5\%$$

$$D = 110\%$$

***The continued recognition under paragraph 2.6 is therefore:***

$$10\% \times 5\% \times 110\% = 0.55\%.$$

## **6. The Bonus Points**

### **6.1 The calculation of the bonus points as it relates to paragraphs 2.8 and 2.9 of the ownership scorecard uses the following formula:**

$$A = B/C \times D/25 \times E$$

Where

**A** is the bonus points awarded in paragraphs 2.8 and 2.9

**B** is the percentage that Economic Interest to which participants who fall within that category of Black People in that Enterprise holds to the total of all Economic Interest of that Enterprise

**C** is the percentage compliance Target for Economic Interest for the measured ownership indicator in paragraph 2.8 and 2.9

**D** is percentage of the Economic Interest in the Measured Entity of Black People up to a maximum of 25%

**E** is the Weighting points allocated to the applicable measured ownership indicator in paragraph 2.8 and 2.9

**CODE SERIES FS100: THE MEASUREMENT OF THE OWNERSHIP  
ELEMENT OF BROAD-BASED BLACK ECONOMIC EMPOWERMENT**

**STATEMENT 102: RECOGNITION OF THE SALE OF ASSETS  
Issued under Section 9 of the Broad-Based Black Economic  
Empowerment Act of 2003**

**Arrangement of this statement**

1. Objectives of this statement
2. Application
3. Key Measurement Principles
4. Measurement Principles
5. Recognition of Sale of Assets, Equity Instruments and Business

**1. Objectives of this statement**

The objectives of this statement are to:

- 1.1 **Set out the conditions where the Sale of Assets, Equity Instruments and other Businesses will be recognised.**
- 1.2 **Set out how the Ownership points will be determined.**

**2. Application**

**2.1 A transaction in terms of this statement may involve the sale of:**

- 2.1.1 An asset;
- 2.1.2 A business; or
- 2.1.3 Equity Instruments in an Enterprise.

**3. Key Measurement Principles**

**3.1 General principles:**

- 3.1.1 A Seller that has concluded a transaction involving a Sale of Asset, Equity Instrument or Business with an Associated Enterprise may claim the benefits provided for in this statement in its own Ownership Scorecard.



3.1.2 Where a Seller has claimed benefit in terms of the Ownership scorecard for the Sale of Asset, Equity Instrument or Business it may not claim benefits under the Enterprise Development Element.

**3.2 Qualification Criteria:**

3.2.1 For Ownership points to be recognised the transaction:

3.2.1.1 Must result in the creation of sustainable businesses or business opportunities in the hands of Black People; and

3.2.1.2 Result in the transfer of specialised skills or productive capacity to Black People.

3.2.2 A Sale of Asset, Equity Instrument and Business must involve a separate Associated Enterprise, which has:

3.2.2.1 No unreasonable limitations (generally accepted arms length limitations may be imposed and may include but not be limited to limitations such as normal arms length restraints of trade limitations); as to its clients or customers; and

3.2.2.2 Clients, customers or suppliers other than the Seller.

3.2.3 Any operational outsourcing arrangements between the Seller and the Associated Enterprise must be negotiated at arm's-length on a fair and reasonable basis.

3.2.4 The following transactions do not constitute Qualifying Transactions:

3.2.4.1 Transfers of business rights by way of license, lease or other similar legal arrangements not conferring unrestricted ownership; and

3.2.4.2 Sales of franchises by franchisors to franchisees, but includes sales of franchises from franchisees to other franchisees or to new franchisees.

**4. Measurement Principles**

4.1 **The calculation of the ownership points in terms of paragraph 2 of the Ownership Scorecard must be based on:**

4.1.1 The value of the transaction;

4.1.2 The value of Equity Instruments held by Black Participants in the Associated Enterprise;

4.1.3 The carrying value of the Acquisition Debt of Black Participants in the Associated Enterprise; and

4.2 **All calculations in terms of paragraph 4.1.1 to 4.1.3 must use a Standard valuation method.**

4.3 **Equivalency Percentages under this statement apply to all paragraphs of the Ownership scorecard except bonus points;**

**4.4 The Seller must include the Equivalency percentages in its own Ownership Scorecard as if those percentages arose from black ownership of Equity Instruments in the Seller. The Equivalency percentages for the indicators in paragraphs 2.1 and 2.2 of the Ownership Scorecard can be calculated in terms of Annexe 102(A).**

**5. Recognition of Sale of Asset, Equity Instruments and Businesses**

**5.1 A Seller seeking recognition of a Transaction in its Ownership Scorecard must determine that recognition under paragraph 4 in compliance with paragraph 2.3 of Statement 000:**

**5.1.1 For the first three years after the transaction, based on data current on date of measurement;**

**5.1.2 For each year thereafter, based on:**

**5.1.2.1 The Indicator Percentages at the date of measurement; and**

**5.1.2.2 The values of the Qualifying Transaction and benefit to the Seller at the date of measurement in the third year after the transaction.**

**Annexe 102(A)**

This formula determines the Equivalency Percentages under paragraphs 2.1 to 2.5 of Table 2a of the Ownership Scorecard.

Where

$$A = B/C \times D$$

**A** is the Equivalency Percentage

**B** is the value of the Qualifying Transaction to the Associated Enterprise determined using a Standard valuation method

**C** is the value of the Seller determined using a Standard valuation method

**D** is the Indicator Percentages of the Associated Enterprise

**CODE SERIES FS100: THE MEASUREMENT OF THE OWNERSHIP  
ELEMENT OF BROAD-BASED BLACK ECONOMIC EMPOWERMENT  
STATEMENT 103:**

**THE RECOGNITION OF EQUITY EQUIVALENTS**

**Issued under Section 9 of the Broad-Based Black Economic  
Empowerment Act of 2003**

**Arrangement of this statement**

1. Objectives of this statement
2. Key measurement principles
3. Recognition of Equity Equivalent Programmes
4. Measurement of Equity Equivalent Contributions on the Ownership Scorecard
5. Two Specific Examples of Equity Equivalent Programmes
6. Specific rules on Multinationals

**1. Objectives of this statement**

The objectives of this statement are to:

- 1.1 **Define the means by which measured entities may recognise Equity Equivalent Programmes;**
- 1.2 **Specify how contributing towards the Ownership Element of B-BBEE by entities applying equity equivalents is measurable.**

**2. Key Measurement Principles**

- 2.1 **Any Equity Equivalent contributions towards the Ownership Element of B-BBEE made by an entity recognising equity equivalents are measurable against the value of their operations in the Republic of South Africa.**
- 2.2 **Equity Equivalent contributions may take the form of, but is not limited to, additional B-BBEE Transaction Finance, Access to Financial Services, Targeted Investments, Enterprise Development etc. These additional contributions may only be counted under either Equity Equivalents or the respective element, not under both.**
  - 2.2.1 For avoidance of doubt, where an Equity Equivalent contribution may qualify under, for example, Empowerment Financing it must only be included under either Empowerment Financing or Ownership.

2.2.2 Further, any "single" Equity Equivalent contribution may only be counted as an Equity Equivalent contribution in its entirety under either Ownership or the pillar scorecard. Measured entities may not split a contribution and attribute part of that contribution to Ownership and part of the contribution to a specific pillar. However, should a measured entity have achieved 100% of its target in a qualifying pillar, it may apply to the Council to allocate the excess portion of a particular qualifying transaction to another pillar.

- The target for Equity Equivalents shall be the Rand Value of 5% (for local entities) /or 25% (foreign branches) of the measured enterprise measured using a standard valuation as at 31 December 2010.

2.3 **Local measured entities seeking to utilise Equity Equivalent Contributions may only utilise these contributions for a maximum of 5% of the Measured Entity (calculated as a percentage of South African operations of that measured entity at 31 December 2010) with respect to its ownership target of 15% direct ownership.**

2.4 **Lending types of Equity Equivalent contributions will be recognised as follows:**

- The origination amounts shall be recognised under paragraphs 2.1 to 2.5 of the Ownership Scorecard:
  - For the purpose of paragraph 2.1 of the ownership scorecard Equity Equivalent contributions shall be deemed to hold voting rights;
  - For the purpose of paragraph 2.2 of the ownership scorecard 50% of the voting rights recognised under paragraph 2.1 shall be deemed to be held by Black Women;
  - For the purpose of paragraph 2.3 of the ownership scorecard Equity Equivalent contributions shall be deemed to hold Economic interest;
  - For the purpose of paragraph 2.4 of the ownership scorecard, 50% of the economic interest recognised under paragraph 2.3 shall be deemed to be held by Black Women;
  - For the purpose of paragraph 2.5 of the ownership scorecard, 50% of the economic interest recognised under paragraph 2.3 shall be deemed to be held by Black Designated Groups.
- Only the balance sheet exposure as at measurement date shall be recognised under paragraph 2.6 of the ownership scorecard.

### **3. Recognition of Equity Equivalent Programmes**

3.1 **The Minister of Trade and Industry may approve certain Equity Equivalent Programmes after the entity applying for recognition of Equity Equivalents has consulted with the Minister of Finance with respect to their Equity Equivalent proposal and the Minister of Finance has forwarded a recommendation to the Minister of Trade & Industry.**

3.2 **Notwithstanding 3.1, any Equity Equivalent Programme forming part of this Sector Code constitutes an approved programme. Specifically, the Equity**

**Equivalent Programmes described in paragraph 8 constitute approved programmes and no further application as envisioned in 3.1 is necessary.**

**3.3 Equity Equivalent Programmes are preferably Sector Specific, but the Minister of Finance may consider requests for approval of programmes that are not Sector Specific.**

**3.4 Equity Equivalent Programmes may involve:**

3.4.1 Programmes that support:

3.4.1.1 The Accelerated and Shared Growth Initiative for South Africa;

3.4.1.2 The Joint Initiative for Priority Skills;

3.4.1.3 The National Skills Development Strategy;

3.4.1.4 The National Treasury policy priorities referred to in the document "A Safer Financial Sector to Serve South Africa better";

3.4.1.5 Programmes aimed at supporting the Governments NGP;

3.4.1.6 Programmes aimed at supporting the DBSA's Jobs Fund;

3.4.2 Programmes that promote enterprise creation in respect of co-operatives that are:

3.4.2.1 More than 50% owned by Black People; or

3.4.2.2 More than 30% owned by Black Women; or

3.4.2.3 More than 50% owned by members of Black Designated Groups;

3.4.3 Any other programmes that promote Socio-Economic advancement or contributes to the overall social development of the Republic of South Africa.

**3.5 Equity Equivalent Programmes must include:**

3.5.1 A full description of programme objectives and projected outcomes;

3.5.2 Qualification criteria for participation in the programme;

3.5.3 Timelines for implementation and delivery with milestones against which progress is measurable; and

3.5.4 Details regarding the sponsors of the programme.

**3.6 Equity Equivalent Programmes are not limited to Multinationals subject to a Global Practice or local branches of foreign banks, but are available to all Measured Entities in the Sector, subject to the limitation on local measured entities as per paragraph 2.3 above.**

- 3.7 Equity Equivalent Programmes may have any of the following as their beneficiaries:**
- 3.7.1 Enterprises in which:
- 3.7.1.1 Black People hold more than 50% of the exercisable voting rights and more than 50% of the economic interest;
- 3.7.1.2 Black Women hold more than 30% of the exercisable voting rights and more than 30% of the economic interest; and
- 3.7.1.3 Black Designated Groups hold more than 50% of the exercisable voting rights and more than 50% of the economic interest; or
- 3.7.1.4 Communities, natural persons or groups of natural persons where at least 75% of the beneficiaries are Black People and the same percentage of economic value is derived by Black People.

#### **4. Measurement of Equity Equivalent Contributions on the Ownership Scorecard**

- 4.1 **The ownership score of a Measured Entity participating in an Equity Equivalent Programme is calculated in terms of paragraph 4.3. A foreign Multinational (including local branches of International Banks) participating in an Equity Equivalent Programme cannot receive any points for ownership under any Statement in Code Series 100 other than this statement. For avoidance of doubt local banks or domestic multinationals may only utilise Equity Equivalents to a maximum of 5% of its measurable portion and may, therefore receive points for Ownership under any Statement in Code series 100.**
- 4.2 **Contributions to Equity Equivalent Programmes are measured as actual Rand Value of contributions made using the general principles as set out in paragraph 8 of this Statement 103 and Code series FS600, FS700 and FS800 (Note that certain general principles defined under paragraph 8 may be the same as certain general principles in Code series FS600, FS700 and FS800) against the following target:**
- 4.2.1 25 % of the value of the South African operations of the Foreign Multinational or branch of a foreign bank qualifying for the recognition of Equity Equivalents. The 25% value is determined by using a Standard Valuation and calculated as at 31 December 2010; or
- 4.2.2 A maximum of 5% of the Rand value of the South African operations for Local Measured Entities calculated as at 31 December 2010.
- 4.3 **The Ownership Score under an Equity Equivalent Programme using the target in paragraph 4.2 must be calculated in terms of Annexe 103(A) using the principles as defined under paragraph 2.1 to 2.4 of this Statement 103.**

**5. Examples of Equity Equivalent Programmes****5.1 Enterprise creation:**

5.1.1 If the Equity Equivalent contribution of the entity involves the creation of a new enterprise:

5.1.1.1 The new enterprise must qualify as a Value-Adding enterprise;

5.1.1.2 The creation of the new enterprise must comply with the requirements for a Qualifying Transaction as defined in statement 102;

5.1.1.3 The creation of the new enterprise cannot contribute to the entity's score under Code series FS600; and

**5.2 Investment in social advancement:**

5.2.1 An Equity Equivalent contribution of the entity applying for recognition of Equity Equivalentents that involves enhanced Socio-Economic Development.

5.2.1.1 Must comply fully with Code series FS700; and

5.2.1.2 Cannot form part of the score of the entity applying for recognition of Equity Equivalentents under Code series FS700.

**5.3 Empowerment Finance:**

5.3.1 An Equity Equivalent contribution of the entity applying for recognition of Equity Equivalentents that involves enhanced Empowerment Finance.

5.3.1.1 Must comply fully with Code series FS600; and

5.3.1.2 Cannot form part of the score of the entity applying for recognition of Equity Equivalentents under Code series FS600.

**5.4 Investment in Access to Financial Services:**

5.4.1 An Equity Equivalent contribution of the entity applying for recognition of Equity Equivalentents that involve enhanced Access to Financial Services:

5.4.1.1 Must comply fully with Code series FS800; and

5.4.1.2 Cannot form part of the score of the entity applying for recognition of Equity Equivalentents under Code series FS800.

**6. Specific Rules on Entities Applying for Recognition of Equity Equivalentents**

6.1 **Any contributions towards the Ownership Element of B-BBEE made by entities applying for recognition of Equity Equivalentents are measurable against the value of their operations in the Republic of South Africa.**



- 6.2 In calculating their ownership score, entities applying for recognition of Equity Equivalents must apply the Exclusion Principle to any portion of the business value of their South African operations gained from non-South African sources. A Standard valuation method must be used to determine the value of the South African operations.**
- 6.3 In calculating their ownership score, entities applying for recognition of Equity Equivalents may recognise sales of Equity Instruments in non-South African Enterprises to Black People, on the following basis:**
- 6.3.1 The non-South African Enterprise must form part of the chain of ownership between the entities applying for recognition of Equity Equivalents and its eventual holding company; and**
- 6.3.2 The transaction must comply with South African exchange control requirements; and**
- 6.3.3 The percentage of the value of the Equity Instruments sold to the value of the business of the entity applying for recognition of Equity Equivalents represents the recognisable black claim to Economic Interest; and**
- 6.3.4 The percentage of Exercisable Voting Rights ceded to the buyers of the Equity Instruments in the business of the entity applying for recognition of Equity Equivalents represents the recognisable black right to Exercisable Voting Rights; and**
- 6.3.5 The rights of ownership in the Equity Instruments are comparable to rights that would have accrued had the Equity Instrument been in the business of the entity applying for recognition of Equity Equivalents.**

## **7. Specific Rules on Multinationals**

### **7.1 Bonus points for Multinationals:**

- 7.1.1 Multinationals are not restricted to Equity Equivalent Programmes in the Financial Sector. However in order to qualify for the bonus point under paragraph 2.2 of Table 2b of the Ownership scorecard the 25% Direct Ownership target must be achieved via Equity Equivalent Programmes targeted within the Financial Sector.**

## **8. Empowerment Financing and Access to Financial Services Equity Equivalent Programmes**

- 8.1 Measured Entities must register every programme, other than paragraph 8 programmes, that constitutes Empowerment Financing and Access to Financial Services Equity Equivalent Programmes with the Financial Sector Council at the commencement of the programme.**

- 8.1.1 The registration will include details of the B-BBEE status of the recipient/s where relevant, a description of the transaction/s in the context of Code series FS600 and/or FS700 and/or FS800 and the Rand value of the Equity Equivalent and term over which it is claimed.
- 8.1.2 The transaction cannot form part of the score of the entity under Code series FS600 and/or FS700 and/or FS800.
- 8.1.3 Contributions to Equity Equivalent programmes that are the same in nature to contributions contemplated under Code series FS600 and/or FS700 and/or FS800 and have already been claimed under Code Series FS600 and/or FS700 and/or FS800 may not be claimed under paragraph 2 of Code FS100, Statement 100. For avoidance of doubt no double counting of the same contribution will be allowed under Ownership and any other element.

**8.2 Measurement principles:**

**8.2.1 Equity Equivalent contributions will be recognised as follows:**

- The target for Equity Equivalents shall be the Rand Value of 5% (for local entities) or 25% (for foreign multinationals/branches of foreign multinationals) of the measured enterprise measured using a standard valuation as at 31 December 2010
- For local entities, the origination amounts shall be recognised under paragraphs 2.1 to 2.5 of the Ownership Scorecard
- For the purpose of paragraph 2.1 of the Ownership scorecard equity equivalent contributions shall be deemed to hold voting rights
- For the purpose of paragraph 2.2 of the Ownership scorecard 50% of the voting rights recognised under paragraph 2.1 shall be deemed to be held by Black Women
- For the purpose of paragraph 2.3 of the Ownership scorecard equity equivalent contributions shall be deemed to hold Economic interest
- For the purpose of paragraph 2.4 of the Ownership scorecard, 50% of the economic interest recognised under paragraph 2.3 shall be deemed to be held by Black Women
- For the purpose of paragraph 2.5 of the Ownership scorecard, 50% of the economic interest recognised under paragraph 2.3 shall be deemed to be held by Black Designated Groups.

**8.2.2 Only the balance sheet exposure as at measurement date shall be recognised under paragraph 2.6 of the Ownership scorecard (Table 2a) for local entities.**

**Annexe 103(A)**

This formula is for determining the Ownership Score under an Equity Equivalent Programme using either of the targets in paragraph 4.2.1 or 4.2.2.

For Foreign Branches:

$$A = B/C \times 14$$

Where

A is ownership points of the entity in any year arising from its Equity Equivalent contribution

B is the balance sheet value of contributions made, as at Measurement Date

C is the target of 25% of the standard value of its South African operations as at 31 December 2010

For Local Measured Entities:

$$A = (B/C \times 2) + [(B \times 50\%) / D \times 0.67] + [(B \times 50\%) / E \times 0.33] + (F/G \times 1.33)$$

Where

A is ownership points of the entity in any year arising from its Equity Equivalent contribution

B is the Origination value of contributions made

C is the target of 5% (15%/3) of the standard value of its South African operations as at 31 December 2010 – relating to paragraphs 2.1 and 2.3 of the Ownership Scorecard

D is the target of 2% (6%/3) of the standard value of its South African operations as at 31 December 2010 relating to paragraphs 2.2 and 2.4 of the Ownership Scorecard

E is the target of 3.33% (10%/3) of the standard value of its South African operations as at 31 December 2008 - relating to paragraph 2.5 of the Ownership Scorecard

F is the balance sheet value of contributions made as at Measurement Date

G is the target as per Formula A and Formula B

This formula is for determining the Ownership Score under an Equity Equivalent Programme using either of the targets in paragraphs 4.2.1 and 4.2.2, where the contribution is made on an annual basis towards a ten year target is as follows:

$$A = B/C \times (1/(5\% \text{ or } 25\% \times D) \times 13 \text{ or } 4.33)$$

Where

**A** is ownership points of the entity in any year arising from its equity equivalent contribution

**B** is the value of total contributions made prior to the date of measurement

**C** is the financial value of the target in paragraph 4.2.1 or 4.2.2 or the ten year value of contributions to be made over the life of this statement

**D** is the time-based graduation factor outlined below:

- 10% for the first year after the commencement of statement 000.
- 20% for the second year after the commencement of statement 000.
- 40% from the first day of the third year after the commencement date of statement 000 to the last day at the end of the fourth year after the commencement date of statement 000.
- 60% from the first day of the fifth year after the commencement date of statement 000 to the last day at the end of the sixth year after the commencement date of statement 000.
- 80% from the first day of the seventh year after the commencement date of statement 000 to the last day at the end of the eighth year after the commencement date of statement 000.
- 100% from the first day of the ninth year after the commencement date of statement 000 to the last day at the end of the tenth year after the commencement date of statement 000.

**Interpretation Note on Code FS100, Statement 100****1. The Ownership Scorecard**

<b>Ownership</b>	<b>Points</b>	<b>Targets</b>
2.1. Voting Rights of Black People	3	25% + 1 Vote
2.2. Voting Rights of Black Women	1	10% + 1 Vote
2.3. Economic Interest of Black People	3	25% + 1 Share
2.4. Economic Interest of Black Women	1	10% + 1 Share
2.5. Economic Interest of Black Designated Groups, Black Participants in Employee Share Ownership Schemes, Black Participants in Broad Based Ownership Schemes and / or Black Participants in Co-ops	1	2.5%
<b>Ownership Fulfillment</b>		
2.6. Net Equity Value (Formula A and B as per para.4 of Annexe 100 (C))	3	
2.7. Direct or Indirect Ownership in Excess of 15%	2	10%
<b>Total</b>	<b>14</b>	
<b>Bonus Points</b>		
2.8. Ownership by Black New Entrants	2	10%
2.9. Ownership by ESOPs and Co-ops	1	10%
<b>Total including Bonus Points</b>	<b>17</b>	

**2. Illustrative example**

The following is an illustrative example:

- BEE (Pty) Ltd purchases 10 ordinary shares in Bank A for R100 on 30 June 2005. The total number of ordinary shares in issue of Company A as at that date is 120. i.e. the value of Bank A at R10 per share on 30 June 2005 is R1,200
- All ordinary shares rank equally in terms of economic flows and voting rights
- The purchase price is paid for as follows:
  - BEE (Pty) Ltd contributes R10 from its own reserves
  - Bank A subscribes for Preference shares in BEE (Pty) Ltd to the value of R90, i.e. BEE (Pty) Ltd provides R10 own contribution and secures financing of R90 to fund the purchase of 10 shares in Bank A for R100
- Bank A is a local multinational but it has been reasonably estimated that 90% of Bank A's operations are South African; and;
- Eight of Bank A's shares are held by Public Entities and Bank A has no Mandated Investments
- The baseline number of shares to be used in calculating the percentage of Company A held by BEE (Pty) Ltd on the transaction date is as follows:
  - Total shares in issue = 120 (less) 8 shares held by public entities (less) 10% of 120 shares (12 shares) for foreign operations
  - Baseline number of shares =  $(120 - 8 - 12) = 100$
- Therefore percentage held by BEE (Pty) Ltd at inception =  $10 / 100 = 10\%$
- The shareholders of BEE (Pty) Ltd is comprised as follows:

- 50 shares held by black men (25 of the 50 are held via an Employee Trust). Therefore, black men have an effective interest of 5% in Company A; and
- A Broad-Based BEE Scheme holds 2.5% effective economic interest in Company A
- 50 shares are held by Black Women who are all defined as new entrants. Therefore, Black Women hold an effective interest of 5% in Co. A; and
- New entrants hold a 5% effective interest in Co. A

**Ownership Scorecard of Bank A as at 31 December 2005:**

**Calculations:**

Effective Voting Rights and Economic Interest attributable to Black People (paragraphs 2.1. and 2.3 of the scorecard):

= total number of shares (voting rights) attributable to Black People / total number of baseline shares

= 10 /100

= 10%

Effective Voting Rights and Economic Interest attributable to Black Women (paragraphs 2.2. and 2.4 of the scorecard):

= total number of shares (voting rights) attributable to Black Women / total number of baseline shares

= (50% of 10) /100

= 5%

Effective Voting Rights and Economic Interest held by Black Designated Groups (paragraph 2.5 of the scorecard):

= total number of shares (voting rights) attributable to Black Designated Groups / total number of baseline shares

= ((2.5 - employee trust) + (5 - new entrants)) /100

= 7.5%

Net Equity Value attributable to Black People (paragraph 2.6 of the scorecard):

= the lower of Formula A or Formula B

Formula A:

= (1%/2.5%) x 3

= 1.2 points

Formula B:

$$= (10\%/25\%) \times 3$$

$$= 1.2 \text{ points}$$

Direct or Indirect Ownership in excess of 15% (paragraphs 2.7 of the scorecard):

$$= 0\%$$

Bonus Points

- Ownership Attributable to black new entrants (paragraph 2.8 of the scorecard)  
= (50% of 10) / 100  
= 5%
- Ownership Attributable to black ESOPs and Co-Ops (paragraph 2.9 of the scorecard)  
= (50% of 5) / 100  
= 2.5%

#### Ownership Scorecard of Bank A as at 31 December 2005

Ownership	Points	Targets	Bank A	Points Scored
2.1. Voting Rights of Black People	3	25% + 1 Vote	10%	1.2
2.2. Voting Rights of Black Women	1	10% + 1 Vote	5%	0.5
2.3. Economic Interest of Black People	3	25% + 1 Share	10%	1.2
2.4. Economic Interest of Black Women	1	10% + 1 Share	5%	0.5
2.5. Economic Interest of Black Designated Groups, Black Participants in Employee Share Ownership Schemes, Black Participants in Broad Based Ownership Schemes and / or Black Participants in Co-ops	1	2.5%	7.5%	1
<b>Ownership Fulfillment</b>				
2.6. Net Equity Value (Formula A and B as per para.4 of Annexe 100 (C))	3	A/B	A	1.2
2.7. Direct or Indirect Ownership in Excess of 15%	2	10%		0
<b>Total</b>	<b>14</b>			<b>5.6</b>
<b>Bonus Points</b>				
2.8. Ownership by Black New Entrants	2	10%	5%	1
2.9. Ownership by ESOPs and Co-ops	1	10%	2.5%	0.25
<b>Total Including Bonus Points</b>	<b>17</b>			<b>6.85</b>

Illustrative example continued:

- On 1 June 2009 a portion of the deal matures and BEE (Pty) Ltd elects to sell 2 shares on the open market at R12 a share. The company is therefore valued at R1,440 as at that date
- BEE (Pty) Ltd now holds 8 shares and has received R24 for the 2 shares that were sold. The debt outstanding amounted to R8 per share, i.e. the BEE shareholders realize R4 per share
- Bank A is a Level 3 Contributor excluding any ownership points
- On 1 January 2011, the lock-in period expires (the balance of the deal matures) and BEE (Pty) Ltd decides to sell their entire 8 shares on the open market for an average price of R12 per share, i.e. the company is still valued at R1,440
- The proceeds are used to settle the outstanding debt of R7 per share and the balance of R5 per share is realized by the shareholders of BEE (Pty) Ltd.

As per the Financial Sector Code any dilutions of Ownership that occur on or before 31 December 2010 may only be claimed to the extent of the Continuing Consequences Formula. Any dilutions that occur on or after 1 January 2011 may be claimed as per the protections afforded for dilutions occurring:

- As a result of regulatory requirement and/or;
- As a result of deals maturing and BEE shareholders electing to sell to Non-BEE parties

#### **Scorecard of Bank A as at 31 December 2010:**

##### ***Calculations:***

- a) Effective Voting Rights and Economic Interest attributable to Black People (paragraphs 2.1. and 2.3 of the scorecard):

= (total number of shares (voting rights) attributable to Black People (less) number of shares (voting rights) sold as a result of the June 2009 dilution) / total number of baseline shares

= 8/100

= 8%

*Add percentage allowable via continuing consequences:*

$A = B \times C \times D$

Where

**A** is the percentage of rights of ownership that survive the sale/loss of an Equity Instrument by a black participant in paragraph 3.5.1.2 to 3.5.4.3.



**B** is the percentage of rights of Ownership for each of the indicators in the ownership scorecard that were attributable to the black participant immediately before his or her sale.

**C** The net value realized/created in black hands after the liquidation of debt as a % of the value of the Sale Shares of each of the indicators immediately prior to exit. The net value created in black hands is equal to the current value of the shares less any own contribution made by the BEE party at the inception date of the transaction.

**D** is the most recently determined BEE Recognition Level of the Measured Entity (which must be less than 1 year old) based on its Generic Scorecard result for all Elements other than ownership determined using statement 000.

For paragraphs 2.2, 2.4 and 2.5, **A** shall be equal to the percentage held by Black Women/Designated Groups immediately before their sale of shares multiplied by the result of the calculation under this paragraph 5.1.

$$A = 2\% \times ((24 - 16 - 2) / 24) \times 110\%$$

$$= 0.55\%$$

**Therefore performance under paragraphs 2.1 and 2.3 of the scorecard = 8.55%**

- b) Effective Voting Rights and Economic Interest attributable to Black Women (paragraphs 2.2. and 2.4 of the scorecard):

= total number of shares (voting rights) attributable to Black Women / total number of baseline shares

$$= (50\% \text{ of } 8.55) / 100$$

$$= 4.28\%$$

- c) Effective Voting Rights and Economic Interest held by Black Designated Groups (paragraph 2.5 of the scorecard):

= total number of shares (voting rights) attributable to Black Designated Groups / total number of baseline shares

$$= (75\% \text{ of } 8.55) / 100$$

$$= 6.41\%$$

- d) Net Equity Value attributable to Black People (paragraph 2.6 of the scorecard):

= the sum of points from Formula "A" and Formula "B" below

Where:

Formula A is the points available for Net value attributable to the actual remaining shares as per the standard formulas; and

Formula "B" is the points from Net Value attributable to the sale shares as per Formula B below.

Formula "B"

$$A = B \times C \times D$$

**B** is the percentage of the Equity Instruments diluted, determined on the date of measurement immediately before his or her sale.

**C** is the value of the equity interests sold (less) the value of any own contribution made at the inception date of the deal in relation to the shares sold (less) the carrying value of any acquisition debts of the relevant Black Participants on the date of sale or loss divided by the value of the measured entity at the date of sale or loss.

**D** is the the recognition level of the measured entity excluding Ownership immediately prior to the loss or sale.

$$A = 2\% \times ((24 - 2 - 16) / 1440) \times 100\% \\ = 0.01\%$$

$$\text{Points available} = 0.01$$

e) Direct or Indirect Ownership in excess of 15% (paragraphs 2.7 of the scorecard):

$$= 0\%$$

f) Bonus Points

- Ownership Attributable to black new entrants (paragraph 2.8 of the scorecard)
  - = (50% of 8.55) / 100
  - = 4.28%
- Ownership Attributable to black ESOPs and Co-Ops (paragraph 2.9 of the scorecard)
  - = (50% of 4.28) / 100
  - = 2.14%

**Ownership Scorecard of Bank A as at 31 December 2010**

Ownership	Points	Targets	Bank A	Points Scored
2.1. Voting Rights of Black People	3	25% + 1 Vote	8.6%	1.03
2.2. Voting Rights of Black Women	1	10% + 1 Vote	4.3%	0.43
2.3. Economic Interest of Black People	3	25% + 1 Share	10%	1.2
2.4. Economic Interest of Black Women	1	10% + 1 Share	8.6%	0.86
2.5. Economic Interest of Black Designated Groups, Black Participants in Employee Share Ownership Schemes, Black Participants in Broad Based Ownership Schemes and / or Black Participants in Co-ops	1	2.5%	6.4%	1
<b>Ownership Fulfillment</b>				
2.6. Net Equity Value (Formula A and B as per para.4 of Annexe 100 (C))	3	A/B	A	0.01
2.7. Direct or Indirect Ownership in Excess of 15%	2	10%	0%	0
<b>Total</b>	<b>14</b>			<b>4.52</b>
<b>Bonus Points</b>				
2.8. Ownership by Black New Entrants	2	10%	4.3%	0.85
2.9. Ownership by ESOPs and Co-ops	1	10%	2.1%	0.21
<b>Total including Bonus Points</b>	<b>17</b>			<b>5.58</b>

The Ownership scorecard from 31 December 2011 will be unchanged because the dilution that occurs on 1 January 2011 is as a result of the deal maturing and BEE (PTY) Ltd electing to sell to non-BEE parties.

**CODE SERIES FS200: THE MEASUREMENT OF THE  
MANAGEMENT AND CONTROL ELEMENT OF BROAD-BASED  
BLACK ECONOMIC EMPOWERMENT**

**Issued under Section 9 of the Broad-Based Black Economic  
Empowerment Act of 2003**

**Arrangement of this statement**

1. Objectives of this statement
2. The Management Control scorecard
3. Key measurement principles

**1. Objectives of this Statement**

The objectives of this statement are to specify:

- 1.1 **The scorecard for measuring the Management Control Element of B-BBEE;**
- 1.2 **Define the key measurement principles associated with the Management Control Element of B-BBEE; and**
- 1.3 **The calculations for measuring compliance.**

## 2. The Management Control scorecard

Management Control – Measurement Criteria	Weighting	Target
<b>2.1 Board Participation</b>		
2.1.1 Voting rights of Black board members as a percentage of voting rights of all board members	0.5	50%
2.1.2 Voting rights of Black women board members as a percentage of voting rights of all board members	0.5	25%
2.1.3 Black executive members of the Board as a percentage of all executive members of the board	1.0	50%
2.1.4 Black women executive members of the Board as a percentage of all executive members of the board	1.0	25%
<b>2.2 Top Management</b>		
2.2.1 Black Senior Top Management as a percentage of all Senior Top Management	1.5	40%
2.2.2 Black women Senior Top Management as a percentage of all Senior Top Management	1.5	20%
2.2.3 Black Other Top Management as a percentage of all Other Top Management	1.0	40%
2.2.4 Black women Other Top Management as a percentage of all Other Top Management	1.0	20%
Total	8	
<b>2.3 Bonus Points</b>		
2.3.1 Black Independent Non-Executive Board Members as a percentage of all Independent Non-Executive Board Members*	1.0	40%

\*As defined in terms of the Latest King Report

## 3. The Board and Common Examples of Top Management

### Board Participation:

- Board means the body consisting of persons appointed to undertake the executive management of the enterprise. Their main functions are to design, formulate and implement policy and undertake strategic planning, as well as to plan, direct and co-ordinate the overall policies and activities of the enterprise. These are also the persons responsible for governance of the enterprise as defined in the King Report.
- Board participation refers to the level of control exercised by a person over the decisions of the Board.
- Measured entities that do not have a Board of Directors may apply to the Charter Council for dispensation to deem their Executive Committee to be a Board. Any measured entity that does not have a formal Board of Directors may apply to the Charter Council for a dispensation to deem their Executive Committee as a Board.
- Notwithstanding this provision, the onus shall be on the measured entity applying for this dispensation to provide sufficient evidence to the Sector Council that members claimed as part of an Executive Committee do in fact hold responsibility that can be deemed to be of such a senior nature as to justify their claim.

The inclusion of the following examples of Top Management is for guidance purposes only:

- 3.1 **Senior Top Management positions include the chief executive officer (managing director), the chief operating officer, the chief financial officer and other people holding similar positions.**
- 3.2 **Other Top Management positions include the chief information officer, the head of marketing, the head of sales, the head of public relations, the head of transformation, the head of human resources and other people holding similar positions.**

#### **4. Key measurement principles**

##### **4.1 Subject matter of this paragraph:**

4.1.1 This paragraph relates to the following statements within the Generic CoGP:

4.1.1.1 Code 200 Statement 200; and

4.1.1.2 Code 800 Statement 802.

4.2 **Applicability of the CoGP: The provisions and principles contained in the relevant statements apply to all financial institutions, subject to the following variations:**

4.2.1 The following terms when used in this FSCode have these meanings:

4.2.1.1 Top Management means employees of a financial institution who are members of the occupational category of "Top Management" as determined using the EE Regulations and as defined in Code 200 of the CoGP.

4.2.1.2 Senior Top Management means any Top Management of a financial institution, appointed by or on the authority of the Board to undertake the day-to-day management of that financial institution and who:

- Have individual responsibility for the overall management and for the financial management of that financial institution; and
- Are actively involved in developing and implementing the financial institution's overall strategy, as defined in Code 200 of the CoGP.

4.2.1.3 Other Top Management means any Top Management of a financial institution that does not meet the definitional requirements of the category Senior Top Management.

- 4.2.2 The measurement principle referred to as the Adjusted Recognition for Gender does not apply to measurement of Management Control contributions under this Code.
- If, in terms of a Global Policy to which a financial institution, that is a 100% owned local subsidiary of a multinational or external company (Section 1 of the Companies Act (Act 71 of 2008, as amended, repealed or superseded) or branch of a multinational or external company, is subject
  - Any Board members, executive or senior managers (who are not South African citizens) who are imposed on the local operation, those personnel will not be taken into account for the purposes of calculating ratios in terms of this paragraph.
- 4.2.3 Notwithstanding the provisions of paragraph 4.2.2 above, any such exclusion of "imposed" personnel shall be limited to a maximum of 20% of the total number of individuals within the specified category of Management. There shall be a sub-minimum of 1 person allowed to be excluded.
- 4.2.3.1 Notwithstanding 4.2.3 above, should an institution subject to global policy, send black South African employees, who are the intended beneficiaries of this Code, on secondment or rotation to branches abroad, they shall be allowed to exclude one (1) additional foreign imposed staff for every one (1) intended beneficiary sent abroad in addition to the 20% cap.
- 4.2.4 A financial institution that is a branch of a multinational or external company that does not have a local Board of Directors will be exempt from the Management Control provisions for Board representation, but may elect to deem their Executive Committees as a Board of Directors, subject to the deeming provisions of paragraph 3 above. To avoid any doubt, an entity must elect to deem its Executive Committee or elect to be excluded from the provisions for Board representation and once that election has been made, the measured entity must maintain that election until the first full review of this Code to be conducted after 31 December 2017.
- 4.2.4.1 Measured Entities electing to be excluded from the provisions for Board representation will still be measured for Top Management as per paragraph 2.2.
- 4.2.5 Notwithstanding the provisions of paragraph 4.2.4, any person including non-South African citizens serving on the Board or the Top Management of a financial institution and not excluded from measurement under that paragraph, shall be subject to the definition of a Black person as stipulated in part 2 of Schedule 1 of Section 9(1) of the B-BBEE Act.
- 4.3 **A Measured Entity must use the data, in calculating its score under the Management Control scorecard, used in its return with the Department of Labour under the Employment Equity Act. This does not apply to Measured Entities exempt from filing such returns.**

- 4.4 A Measured Entity that does not distinguish between Top Management and Senior Management may include its Senior Management under this statement. If a Measured Entity adopts this approach:**
- 4.4.1 The corresponding targets for Senior Management in Code FS300 will apply to the Management Control scorecard.
- 4.4.2 Senior Management included in this statement is not measurable under Statement FS300.
- 4.5 If a Measured Entity does not distinguish between Senior Top Management and Other Top Management, then Top Management is measurable as:**
- 4.5.1 Top Management - 2,5 Points
- 4.5.2 Black Women Top Management - 2,5 Points
- 4.6 If Measured Entities do appoint Independent Non-Executive Board Members, they are encouraged to appoint persons who do not serve in that capacity for any other Measured Entity.**
- 5. Calculating Compliance**
- 5.1 **The Management Control indicators provided for in the Management Control scorecard must be calculated in terms of formulas "B" and "C" in Annexe FS200(A).**
- 5.2 **If a Measured Entity gains a score for a Management Control indicator that is more than the relevant weighting points, that Entity will only receive the maximum weighting points.**