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Broad-Based Black Economic Empowerment (B-BBEE)

Introduction

In South Africa, where social and economic imbalances existed for many decades, transformation is a constitutional, business and social imperative. It is critical for the sustainability of a healthy society and business environment.

The empowerment and advancement of previously disadvantaged individuals and in particular, black women, youth, workers and people with disabilities (hereinafter collectively referred to as black people) should be based on the premise that they are equal partners in the corporate sphere and that their contribution is potentially valuable.

Integrating sustainability and social transformation in a strategic and coherent manner will give rise to greater opportunities, efficiencies, and benefits, for both the company and society.

The critical onus on the business sector is to uphold the law in a manner that goes beyond a mere "checkbox" approach to compliance, towards a commitment to the underlying objectives with an overall guideline of substance over form.

It should be pointed out that if the corporate world does not rise to the challenge of facilitating transformation in an effective manner, further obligations may be imposed through legislation. Clearly, this is not the ideal route to follow and should be avoided as far as possible. This is also a risk that the board should mitigate against by ensuring that B-BBEE is sufficiently implemented.

Purpose of Broad-Based Black Economic Empowerment (B-BBEE) practice note

The purpose of this practice note is to give guidelines on how to best integrate into strategy and report on B-BBEE in such a way that will provide stakeholders with a sufficient overview of the compliance level.

Objectives

The objectives of the B-BBEE Act are to facilitate broad-based black economic empowerment by:

- (a) promoting economic transformation in order to enable meaningful participation of black people in the economy;
- (b) achieving a substantial change in the racial composition of ownership and management structures and in the skilled occupations of existing and new enterprises;
- (c) increasing the extent to which communities, workers, cooperatives and other collective enterprises own and manage existing and new

enterprises and increasing their access to economic activities, infrastructure and skills training;

(d) increasing the extent to which black women own and manage existing and new enterprises, and increasing their access to economic activities, infrastructure and skills training;

(e) promoting investment programmes that lead to broad-based and meaningful participation in the economy by black people in order to achieve sustainable development and general prosperity;

(f) empowering rural and local communities by enabling access to economic activities, land, infrastructure, ownership and skills; and

(g) promoting access to finance for black economic empowerment.

Effective leadership on B-BBEE

- B-BBEE, social transformation and redress are matters for the board and as such should be elevated to board level and integrated into sustainability considerations.
- The board should be responsible for ensuring that an organisation develops an overall B-BBEE policy, in line with the determined strategy. B-BBEE matters should form part of the business performance and risk management targets. The strategy and clear targets should be institutionalized by integration into the organisation's performance management system. The organisation's performance on B-BBEE should be reported on, in the integrated report and disclosed to stakeholders.
- Overall accountability for determining the B-BBEE agenda should lie with the board of directors' responsibility for prioritising and implementing specific B-BBEE interventions should however be the responsibility of the Executive Committee of the Board of Directors.
- The board itself, alternatively a committee of the board that has been established for that purpose, should in addition to other responsibilities, be responsible for monitoring compliance with the objectives of B-BBEE. Such board committees should be chaired by an independent director to ensure that objective oversight is given and is seen to be exercised over these B-BBEE matters.

Incorporating reporting on B-BBEE in integrated reporting

Reporting on B-BBEE should be regarded as good governance practice and should be incorporated into the sustainability reporting which will supplement and contextualise the financial component of the integrated report to stakeholders.

Companies should use a uniform standard of reporting their compliance with the B-BBEE legislation in order to allow benchmarking against prior years' performance and against the performance of other companies in the market. The following are guidelines in this regard:

- Companies should report on the sustainability of their B-BBEE transactions as a matter of practice to give shareholders and stakeholders a sense of comfort.
- Apart from disclosing the percentage of spending on empowered firms, it may be worthwhile and useful for the boards to:
 - o name and list empowerment credentials of its five biggest suppliers;
 - o disclose the categories of goods and services procured from empowered entities;
 - o report the impact of such expenditure on job creation.
- Companies should provide comparative figures for previous years and substantiate the reasons for progress or lack thereof against the targets.
- Where possible, companies should provide comparative data, e.g. against industry B-BBEE benchmarks, to provide the reader with context.
- Companies' B-BBEE performance should be measured with primary reference to progress made towards achieving agreed B-BBEE objectives.
- Companies should include their B-BBEE rating scorecard in the report. In addition to the scorecard, the disclosure of the following details will be useful to stakeholders:
 - o The extent to which human capital constitutes black people.
 - o Reporting on the proportion of senior management remuneration paid to black people.
 - o In addition to black skills acquired and employment equity progress made, organisations should also be encouraged to report on the development and retention of key black skills (intellectual capital) relevant to the sector such as those identified through the relevant SETAs.
 - o The significance of roles played by black people, on the board, remuneration committees, nomination committees and other board committees.
 - o The empowerment impact made in the communities where companies operate.

Conclusion

All businesses in South Africa, acknowledge that successfully implementing B-BBEE is not only morally and ethically right, but also commercially prudent. B-BBEE is a necessary measure for the normalisation of South African society given the emphasis that it places on the socio-economic upliftment of black people. B-BBEE will improve the buying power of the

broader South African demographic, thereby expanding the markets in which companies trade and increasing demand for the products that companies sell.

The board should be encouraged to probe B-BBEE matters and to receive and consider detailed responses from management as part of their responsibilities.

Reporting should be done in a sufficiently transparent manner to enable stakeholders to establish a full picture in assessing compliance with B-BBEE. The report should sufficiently cover the current situation and the future intentions of companies.