

How is automatic top level BBBEE accreditation possible?

In October 2013, the Minister of Trade and Industry (dti) gazetted the revised Broad-Based Black Economic Empowerment (Codes of Good Practice) Codes. These new BEE Codes of Good Practice came into operation 30 April 2015, replacing the existing BEE Codes of Good Practice.



By [Nicolene Schoeman-Louw](#) 29 Mar 2017



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Priority items under the new codes are:

- Ownership
- Skills development
- Enterprise and Supplier Development

Method of scoring

Compliance with BBBEE is a turnover-based consideration. Businesses are categorised into three levels for this purpose namely: Exempt Micro Enterprises (EME), Qualifying Small Enterprises (QSE) and Generic enterprises (Generic).

EME's compliance is much more lenient than the other levels, as scoring and issuing a certificate is done by way of an auditor's certificate or affidavit. QSE's on the other hand, have relieved compliance in terms of the scorecard while Generic businesses require full scorecard compliance (without any relief).

Entities are measured on turnover as set out below:

- EME: Annual Turnover \leq R10 million
- QSE: Annual Turnover of R10-50 Million
- Generic: Annual Turnover $>$ R50 Million

Priority items under the new codes

The new codes list three priority elements:

- Ownership

- Skills development
- Enterprise and Supplier Development

A QSE must achieve 40% of the points for two of the three priority elements, with Ownership being a compulsory one. Non-compliance with the thresholds for the above priority elements will result in a penalty by one level on the QSE scorecard.

Therefore, where businesses do not comply with ownership or any of the priority elements they will be penalised. In my view this will result in many non-compliant businesses. We will now see compliant businesses and non-compliant businesses and nothing in between.

EME

Because EME are small businesses, they have always enjoyed a decreased compliance requirement and automatically qualified as a level 4 contributor.

In terms of the new codes however, if an EME has 51% black ownership, it automatically qualifies as a level 2 contributor and 100% black owned as a level 1 contributor. This by only submitting an affidavit attesting that it qualifies as an EME and confirming the ownership percentage in question.

This is obviously a great advantage from compliance, administrative and cost perspectives.

QSE

An interesting development in terms of the new codes is that QSE now stand to benefit from the same arrangement. Particularly in regards to companies with 51% black shareholding an automatic level 2 BBBEE accreditation and 100% black shareholding with a level 1.

Naturally, this extends the same practical and financial benefits previously only available to small businesses. Logically this benefit to small businesses makes sense, but extending it to businesses that could potentially have a turnover of as much as R50 million per year? Who can easily afford the compliance, administrative and financial implications of having to be verified in terms of the new codes? It seems strange.

Therefore, the question is, is this an oversight or does it indicate the lawmaker's intention to move away from the broad based empowerment approach?

Many writers are of the opinion this was just an oversight and will be corrected in future. Others think it is a case of direct empowerment that will enjoy the focus it did before the broad based approach.

Either way, it is crucial for businesses that have leveraged this to ensure that they start planning for either eventuality. In particular, to adopt a broad based approach that will ensure compliance sustainability.

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