



# **B-BBEE ICT SECTOR — COUNCIL —**

**AMENDED BROAD-BASED BLACK ECONOMIC EMPOWERMENT  
(B-BBEE) ICT SECTOR CODE**

## **PREAMBLE**

### **Introduction**

The ICT Sector stakeholders comprising the Broadcasting, Electronics, Information Technology and Telecommunications sub-sectors; together with participants from the social partners, namely Government, Labour, Community, and ICASA, initiated a process of developing a Black Economic Empowerment Code for the ICT Sector.

### **The Need for Economic Empowerment**

- Under the previous apartheid system, a plethora of policies and legislation was promulgated with the sole objective of denying black people, including black women, access to and control of South Africa's economic productive resources and skills based purely on race and gender considerations;
- More than two decades after the demise of this apartheid system, and in spite of the promulgation of a broad range of policy and legislative instruments introduced by the democratic Government aimed at redressing the imbalances of the past, the majority of South Africans are still excluded from ownership and control of economically productive assets and possession of strategic skills to the detriment of economic development, employment creation and poverty eradication;
- Growth and prosperity in South Africa's economy has not been realized to its full potential due to a lack of meaningful participation by the majority of black South Africans, including black women, in the national economy, and particularly in the ICT sector;
- The Broad Based Black Economic Empowerment Act 53 of 2003 (B-BBEE Act) as amended by B-BBEE Act 46 of 2013 and Government's Amended Black Economic Empowerment Codes of Good Practice, aim to address inequities resulting from the systematic exclusion of black people from meaningful participation in the economy. The Amended ICT Sector Code aims to do this for the ICT sector.

## ICT Sector Resolution

Recognising the cross-cutting nature of ICTs and their role in the social and economic development of our country;

Therefore, we, the ICT Sector stakeholders, resolve and commit to:

- The objectives of the B-BBEE Act as amended
- Promote the effective implementation of B-BBEE in the ICT sector;
- Bridge the "digital divide" by actively promoting access to ICTs;
- Stimulate and support growth in the ICT sector;
- Advance economic and social transformation in the ICT sector;
- Contribute towards the reduction of unemployment and poverty alleviation;
- Support skills development and training initiatives;
- Foster equity and address the legitimate economic aspiration of all South Africans;
- Provide an enabling environment conducive to transparency, fairness, and consistency when adjudicating on matters related to B-BBEE in the ICT sector; and
- Comply with the requirements of the ICT Sector Code as defined hereunder and where possible meet and exceed targets across the sector.

Having initiated the process of amending the B-BBEE ICT Sector Code of 06 June 2012, we therefore gazette this Amended ICT Sector Code as a Code of Good Practice for the ICT Sector in terms of Section 9(1) of the B-BBEE Act 53 of 2003 as amended.

B-BBEE ICT Sector Code shall remain in effect until amended, substituted or repealed under Section 9 of the B-BBEE Act 53 of 2003 as amended.

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### Index of Code Series

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AICT400	Measurement of the Enterprise and Supplier Development Element of Broad-Based Black Economic Empowerment
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AICT605	Code Series AICT605	Socio-Economic Development for Qualifying Small Enterprises

**AMENDED B-BBEE ICT SECTOR CODE SERIES AICT000: FRAMEWORK  
FOR MEASURING BROAD-BASED BLACK ECONOMIC EMPOWERMENT**

**STATEMENT AICT000: GENERAL PRINCIPLES AND THE SCORECARD**

Issued under section 9 (1) of the Broad-Based Black Economic Empowerment  
(B-BBEE) Act 53 of 2003 as amended.

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## **1. Objectives of this statement**

The objectives of this statement are to:

- 1.1 Specify interpretative principles of B-BBEE;
- 1.2 Specify the application of the Amended B-BBEE ICT Sector Code and the basis for measurement under the Amended B-BBEE ICT Sector Code;
- 1.3 Specify the qualifying thresholds for businesses to qualify as Exempted Micro-Enterprises (EME) or Qualifying Small Enterprises (QSE);
- 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 Amended B-BBEE ICT Sector Code;
- 1.8 Define the duration for the applicability of the Amended B-BBEE ICT 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 Amended B-BBEE ICT 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 the Amended B-BBEE ICT Sector Code is the B-BBEE compliance of the measured entities at the time of measurement.
- 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 split, separate or divide enterprises as a means of ensuring eligibility as an Exempted Micro-Enterprise, a Qualifying Small Enterprise 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 suitable evidence or documentation. An entity that does not provide evidence or documentation supporting any initiative, 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 Amended B-BBEE ICT Sector Code is silent on certain provisions, the provisions of the Amended Generic Code shall take precedence.

### **3. Application of the Amended B-BBEE ICT Sector Code**

- 3.1 The following entities are measurable under the Amended B-BBEE ICT Sector Code:
  - 3.1.1 All persons, organisations and entities operating in the ICT Sector in South Africa;
  - 3.1.2 All public entities in terms of the B-BBEE Act 53 of 2003 as amended including those listed in schedule 1, schedule 2 or schedule 3 (Parts A, B and C) of the Public Finance Management Act that fall within the ICT sector;
  - 3.1.3 Any public entity listed in schedule 3 (Parts B and D) which are trading entities which undertake any business with any organ of state, public entity or any other enterprise that falls within the ICT Sector; and
- 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 of the Amended Codes of Good Practice, in the case of an Exempted Micro-Enterprise (EME);
  - 3.2.2 The QSE statements in Code Series AICT600, in the case of a Qualifying Small Enterprise (QSE);
  - 3.2.3 The Generic Scorecard, in the case of other enterprises.

### **3.3 Priority Elements, Subminimum and Discounting Principle**

The Priority Elements are as follows:

#### **3.3.1 Ownership**

The subminimum requirement for Ownership is 40% of Net Value (40% of the 8 points) based on the Time Based Graduation factor as provided in Annexure 100(E)

#### **3.3.2 Skills Development**

A Measured Entity must achieve a minimum of 40% of the total targets set out in each of paragraphs 2.1.1 and 2.1.2 of the Skills Development Element of Code Series AICT300 Statement AICT 300.

Non-compliance with this subminimum requirement will result in the achieved B-BBEE status level being discounted.

#### **3.3.3 Enterprise Supplier development**

A Measured Entity must achieve a minimum of 40% of each of the targets set out in 2.1 (i.e. 10 of 25 points), 2.2 (i.e. 4 of 10 points) and 2.3 (i.e. 6 of 15 points) excluding bonus points of the Enterprise and Supplier Development Scorecard Code Series AICT400 and Statement AICT400.

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

- 4.1 The Ownership Element, as set out in Code Series AICT100, measures the effective ownership of enterprises by Black People.
- 4.2 The Management Control Element, as set out in Code Series AICT200, measures the effective control of enterprises by Black People.
- 4.3 The Skills Development Element, as set out in Code Series AICT300, measures the extent to which employers carry out initiatives designed to develop the competencies of Black People.
- 4.4 The Enterprise and Supplier Development Element, as set out in Code Series AICT400, measures the extent to which Enterprises carry out

initiatives intended to assist and accelerate the development and sustainability of other enterprises that are at least 51% Black Owned.

- 4.5 The Socio-Economic Development (SED) and Sector Specific Contributions Element, as set out in Code Series AICT500, measures the extent to which enterprises carry out general and ICT sector specific initiatives that contribute towards SED and that promote access to the economy for black people. All SED spend must be on ICT Sector Specific Initiatives.

## **5. The Amended ICT Sector Scorecard**

- 5.1 The following table represents the Amended B-BBEE ICT Sector Scorecard and contains the:

5.1.1 Elements of the Scorecard:

5.1.2 Weightings, and

5.1.3 Code Series reference that specify the mechanisms for measurement and calculation of each of the Elements of the Scorecard (Code Series AICT(100 – 500))

Element	Weighting points	Code series reference
Ownership	25	AICT100
Management Control	23	AICT200
Skills Development	20	AICT300
Enterprise and Supplier Development		AICT400
Preferential Procurement	25	
Supplier Development	10	
Enterprise Development	15	
Socio-Economic Development initiatives	12	AICT500

5.2 Based on the overall performance of a Measured Entity using the Scorecard, it receives one of the following B-BBEE Status:-

B-BBEE Status	Qualification	B-BBEE recognition level
Level One Contributor	≥120 points on the ICT Scorecard	135%
Level Two Contributor	≥115 but <120 points on the ICT Scorecard	125%
Level Three Contributor	≥110 but < 115 on the ICT Scorecard	110%
Level Four Contributor	≥100 but < 110 on the ICT Scorecard	100%
Level Five Contributor	≥95 but <100 on the ICT Scorecard	80%
Level Six Contributor	≥90 but <95 on the ICT Scorecard	60%
Level Seven Contributor	≥75 but <90 on the ICT Scorecard	50%
Level Eight Contributor	≥55 but <75 on the ICT Scorecard	10%
Non-Compliant Contributor	<55 on the ICT Scorecard	0%

## **6. Enhanced recognition for certain categories of Black People**

Throughout the Amended B-BBEE ICT Sector Code, various criteria appear which advance the interests of certain categories of Black People. These include:

- 6.1 Black Women who should form between 40% and 50% of the beneficiaries of all Elements of the Scorecard: and
- 6.2 Black People with disabilities, Black Youth, Black People living in rural areas and Black Unemployed People who should form between 2% and 3% of the beneficiaries of all Elements of the Scorecard.

## **7. Framework for Reporting by Measured entities and B-BBEE Verification Professionals**

The verification of B-BBEE compliance is encouraged and to this end, the B-BBEE ICT Sector Council will from time to time issue guidelines on the Framework for Reporting by Measured Entities and Verification Professionals.

## **8. Adjustment of Thresholds**

The B-BBEE ICT Sector Council may adjust the thresholds in paragraphs 4 to 6 of the Amended B-BBEE ICT Sector Code in consultation with the Line Minister and the Minister of Trade and Industry.

## **9. Amendments and Duration of the Amended B-BBEE ICT Sector Code**

- 9.1 The Amended B-BBEE ICT Sector Code shall be effective and legally binding from the date of gazette until amended, substituted or repealed under the Act.
- 9.2 The process for the amendment of the Amended B-BBEE ICT Sector Code will follow the process set out in the Amended Generic Codes for the development of the Amended B-BBEE ICT Sector Code. Any amendments to the Amended Generic Codes of Good Practice must result in a review of the Amended B-BBEE ICT Sector Code for purposes of harmonisation.
- 9.3 The Amended B-BBEE ICT Sector Code is effective from the date of publication in the government gazette and applies to entities listed under paragraph 3 above. All verifications in the ICT Sector conducted from the

date of publication must be done in terms of the Amended B-BBEE ICT Sector Code. B-BBEE Certificates issued in terms of the 2012 ICT Sector Code prior to the publication of this Amended BBEE ICT Sector Code, are valid for 12 months from date of issuing of such certificates and should be accepted.

**AMENDED B-BBEE ICT SECTOR CODE SERIES AICT000: FRAMEWORK  
FOR MEASURING BROAD-BASED BLACK ECONOMIC EMPOWERMENT**

**STATEMENT AICT004: SCORECARDS FOR SPECIALISED ENTERPRISES**

Issued under section 9 (1) of the Broad-Based Black Economic Empowerment  
(B-BBEE) Act 53 of 2003 as amended.

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## **1. Objective of this statement**

The objectives of this statement are to:

- 1.1 Provide guidance about the treatment of Ownership for the following Specialised Enterprises for Broad-Based Black Economic Empowerment (B-BBEE) purposes:
  - 1.1.1 Companies limited by guarantee;
  - 1.1.2 Higher Education Institutions;
  - 1.1.3 Non-Profit Companies;
  - 1.1.4 Public entities and other enterprises exclusively owned by organs of State; and
  - 1.1.5 Public Benefit Schemes or Public Benefit Organisations.
- 1.2 Specify scorecards applicable to Measured Entities subject to this statement.

## **2 General Principles**

- 2.1 Every organ of State and public entity operating in the ICT Sector must apply the Amended B-BBEE ICT Sector Code issued in terms of the B-BBEE Act 53 of 2003 as amended when:
  - 2.1.1 Determining qualification criteria for the issuing of licences, concessions or other authorisations in respect of economic activity in terms of any law;
  - 2.1.2 Developing and implementing a preferential procurement policy;
  - 2.1.3 Determining qualification criteria for the sale of state-owned enterprises;
  - 2.1.4 Developing criteria for entering into partnerships with the private sector; and
  - 2.1.5 Determining criteria for the awarding of incentives, grants and investment schemes in support of B-BBEE.
- 2.2 Public entities and other enterprises exclusively owned by organs of State are not capable of evaluation of Black ownership under Code Series AICT100.

- 2.3 Higher Education Institutions are not public entities under the Public Finance Management Act of 1999. They are incapable of evaluation of Black ownership under Code Series AICT100.
- 2.4 Companies limited by guarantee have no shareholding. They are not capable of evaluation of Black ownership under Code Series AICT100. This does not imply that companies limited by guarantee and sharing in the ownership of other enterprises cannot contribute towards Black ownership to such enterprises as provided for in Statement AICT100.
- 2.5 Non-Profit Companies and Public Benefit Organisations generally do not have any beneficial ownership and are incapable of evaluation of Black ownership under Code Series AICT100. This does not imply that Non-Profit Companies and Public Benefit Organisations sharing in the ownership of other enterprises as Broad-Based Ownership Schemes cannot contribute towards Black ownership to such enterprises as provided for in Statement AICT100.
- 2.6 Wherever any of the entities listed in paragraphs 1 and 2 require evidence of their own B-BBEE compliance, they will use the Scorecard in this Statement. If those entities are also Qualifying Small Enterprises, they will use the Specialised Qualifying Small Enterprises Scorecard in this Statement.
- 2.7 Entities that are Exempted Micro Enterprises (EME) under this Statement are deemed to have a B-BBEE status of "level four", having a B-BBEE recognition level of 100%.
- 2.8 Enhanced B-BBEE recognition level for an EME:
- 2.8.1 Despite paragraph 2.7, an EME that has at least 75% Black people as beneficiaries qualifies for elevation to "Level One Contributor", having a B-BBEE recognition level of 135%; and
- 2.8.2 Despite paragraph 2.7 and 2.8.1, an EME that has at least 51% Black people as beneficiaries qualifies for elevation to "Level Two Contributor", having a B-BBEE recognition level of 125%.
- 2.9 An EME is only required to obtain a sworn affidavit or CIPC issued certificate annually confirming the following:
- 2.9.1 Annual Total Revenue/Allocated Budget/Gross Receipts of R10 million or less; and

- 2.9.2 Level of percentage of Black people as beneficiaries.
- 2.10 Any misrepresentation in terms of paragraph 2.9 above constitutes a criminal offence as set out in the B-BBEE Act 53 of 2003 as amended.
- 2.11 Entities that are Qualifying Small Enterprises (QSE) will use the Specialised Qualifying Small Enterprises Scorecard.
- 2.12 Despite paragraph 2.11, a QSE that has at least 75% Black people as beneficiaries qualifies for elevation to "Level One Contributor", having a B-BBEE recognition level of 135%.
- 2.13 Despite paragraphs 2.11 and 2.12, a QSE that has at least 51% Black people as beneficiaries qualifies for elevation to "Level Two Contributor", having a B-BBEE recognition level of 125%.
- 2.14 A QSE that has at least 51% Black people as beneficiaries is only required to obtain a sworn affidavit or CIPC issued certificate annually confirming the following:
- 2.14.1 Annual Total Revenue/Allocated Budget/Gross Receipts of R50 million or less; and
- 2.14.2 Level of percentage of Black people as beneficiaries.
- 2.15 Any misrepresentation in terms of paragraph 2.14 above constitutes a criminal offence as set out in the B-BBEE Act 53 of 2003 as amended.

### **3 The Specialised Generic Scorecard**

- 3.1 The following table represents the Specialised Generic Scorecard and contains the:
- 3.2 Elements of the scorecard;
- 3.3 Weightings; and
- 3.4 The Code Series reference that specify the mechanisms for measurement and calculation of each of the Elements of the scorecard (Code Series AICT100 – AICT500).
- 3.5 All other terms of Statement AICT000 - AICT500 apply to Measured Entities subject to this Statement, mutatis mutandis.

Element	Weighting	Code Series reference
Management control	20 points	AICT200
Skills development	25 points	AICT300
Enterprise and Supplier Development	50 points	AICT400
Socio-Economic Development	12 points	AICT500

#### 4 Management Control Specialised Scorecard

The Management Control Scorecard for Specialised Enterprises as contained in Government Gazette No. 38766 (6 May 2015) shall apply to this Statement.

#### 5 Skills Development Specialised Scorecard

The Skills Development Scorecard for Specialised Enterprises as contained in Government Gazette No. 38766 (6 May 2015) shall apply to this Statement.

#### 6 Enterprise and Supplier Development Specialised Scorecard

The following table represents the criteria to derive a score for Enterprise and Supplier Development under this Statement.

Criteria	Weighting points	Compliance targets
<b>6.1 PREFERENTIAL PROCUREMENT</b>		
6.1.1 B-BBEE Procurement Spend from all Empowering Suppliers based on the B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	5	80%

6.1.2 B-BBEE Procurement Spend from all Empowering Suppliers that are Qualifying Small Enterprises based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	4	15%
6.1.3 B-BBEE Procurement Spend from all Exempted Micro-Enterprises based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	5	15%
6.1.4 B-BBEE Procurement Spend from Empowering Suppliers that are at least 51% Black owned based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	11	40%
6.1.5 B-BBEE Procurement Spend from Empowering Suppliers that are at least 30% Black Women owned based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	5	12%
6.1.6 Bonus points		
6.1.6.1 B-BBEE Procurement Spend from Designated Group suppliers that are at least 51% Black owned	2	2%
<b>6.2 SUPPLIER DEVELOPMENT</b>		
6.2.1 Annual value of all Supplier Development Contributions made by the Measured Entity as a percentage of the target	10	2% of Net Profit After Tax (NPAT) or 0.2% Annual Revenue/ Allocated budget/ Gross receipts/ Discretion

		al spend
<b>6.3 ENTERPRISE DEVELOPMENT</b>		
6.3.1 Annual value of Enterprise Development Contributions and Sector Specific Programmes made by the Measured Entity as a percentage of the target.	15	3% of NPAT or 0.3% Annual revenue/ Allocated budget/ Gross receipts/ Discretionary spend
<b>6.4 Bonus Points</b>		
6.4.1 Bonus point for graduation of one or more Enterprise Development beneficiaries to the Supplier Development level.	1	
6.4.2 Bonus point for creating one or more jobs directly as a result of Supplier Development and Enterprise Development initiatives by the Measured Entity	1	

## 7 Socio-Economic Specialised Scorecard

Criteria	Weighting Points	Compliance Target
Annual value of all Socio-Economic Development Contributions by the Measured Entity as a percentage of the target	12	1.5% of NPAT

**AMENDED B-BBEE ICT SECTOR CODE SERIES AICT100: MEASUREMENT OF THE OWNERSHIP ELEMENT OF BROAD-BASED BLACK ECONOMIC EMPOWERMENT**

**STATEMENT AICT100: THE GENERAL PRINCIPLES FOR MEASURING OWNERSHIP**

Issued under section 9 (1) of the Broad-Based Black Economic Empowerment (B-BBEE) Act 53 of 2003 as amended.

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## 1. Objectives of this statement

The objectives of this statement are to:

- 1.1 Specify the scorecard for measuring the Ownership Element of Broad-Based Black Economic Empowerment (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;
- 1.5 Specify the formula for measuring Voting Rights, Economic Interest and Realisation Points.

## 2. The Ownership Scorecard

The following table represents the indicators and method for calculating a score for ownership under this statement:

Category	Ownership indicator	Weighting points	Compliance target
2.1	Voting rights:		
	2.1.1 Exercisable Voting Rights in the Entity in the hands of Black People	4	30%
	2.1.2 Exercisable Voting Rights in the Entity in the hands of Black Women	2	10%
2.2	Economic Interest:		
	2.2.1 Economic Interest in the Entity to which Black People are entitled	4	30%
	2.2.2 Economic Interest in the Entity to which Black Women are entitled	2	10%

	2.2.3	Economic Interest of any of the following Black natural persons in the Measured Entity. NOTE: The maximum points that can be achieved by any of the following is limited to 3.			
		2.2.3.1	Black Designated Groups;	3	3%
		2.2.3.2	Black Participants in Employee Share Ownership Programmes;		
		2.2.3.3	Black People in Broad-based Ownership Schemes;		
		2.2.3.4	Black Participants in Co-operatives		
	2.2.4	New Entrants		2	2%
2.3	Realisation Points:				
	2.3 1	Net Value		8	Refer to Annexure 100 (E) As amended from time to time

### **3. Key Measurement Principles**

#### **3.1 General principles:**

**3.1.1 An Entity receives points for participation by black people in its rights of ownership, using the ownership scorecard in paragraph 2. Black people may hold their rights of ownership in a Measured Entity as direct Participants or as Participants through some form of Entity such as:**

**3.1.1.1 A Company as defined in the Companies Act of 2008 (as amended):**

**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 Share Ownership Programme; and**

**3.1.1.8 A Trust.**

#### **3.2 Sub-Minimum Requirement**

**3.2.1 A Measured Entity is required to achieve a minimum of 40% on Net Value points (i.e. 3.2 of 8 points) based on Annexure 100 (E).**

**3.2.2 Non-compliance with this sub-minimum target, as per paragraph 3.2.1, will result in the achieved B-BBEE status level being discounted in accordance with the discounting principle that is contained in paragraph 3.3 in Statement 000 of Amended Code Series 000 as published in Government Gazette No. 36928 dated 11 October 2013.**

#### **3.3 The Flow-Through Principle:**

**3.3.1 As a general principle, when measuring the rights of ownership of any category of black people in a Measured Entity, 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.

3.3.2 The method of applying the Flow-Through Principle across one or more intervening juristic persons is as follows:

3.3.2.1 Multiply the percentage of the Participant's 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 Entity; and

3.3.2.2 The result of this calculation represents the percentage of rights of ownership held by the Participant.

3.4 Modified Flow-Through Principle:

3.4.1 A Measured Entity applying this Modified Flow-Through Principle cannot benefit from the Exclusion Principle

3.4.2 The Modified Flow-Through Principle applies to B-BBEE owned or controlled company in the ownership of the Measured Entity.

3.4.3 In calculating Exercisable Voting Rights under paragraph 2.1.1. and Economic Interest under paragraph 2.2.1 of the Ownership scorecard the following applies:

3.4.3.1 Where in the chain of ownership, black people have a flow-through level of participation of at least 51%, and then only once in the entire ownership structure of the Measured Entity, such black participation may be treated as if it were 100% Black.

3.4.4 The Modified Flow-Through Principle may only be applied in the calculation of the indicators in paragraphs 2.1.1 and 2.2.1 of the ownership scorecard. In all other instances, the Flow-Through Principle applies.

3.5 The Exclusion of specified entities when determining ownership:

3.5.1 When determining ownership in a Measured Entity, ownership held by Organs of State or Public Entities must be excluded.

3.5.2 Exclusion of ownership held by Organs of State or Public Entities is to be effected before any other ownership discounting methods are to be applied.

3.5.3 In calculating their Ownership score, Measured Entities must apply the Exclusion Principle to any portion of their Ownership held by Organs of State or Public Entities.

### 3.6 B-BBEE Facilitator Status

3.6.1 Despite paragraph 3.5.1 and 3.5.3, the Minister of Trade and Industry may by notice in the gazette, designate certain Organs of State or Public Entities as B-BBEE Facilitators. In calculating their Ownership score, Measured Entities must treat B-BBEE Facilitators as having rights of Ownership held:

3.6.1.1 100% by Black People:

3.6.1.2 40% by Black Women:

3.6.1.3 20% by Black Designated Groups;

3.6.1.4 Without any acquisition debts; and

3.6.1.5 Without any third-party rights.

### 3.7 Mandated Investments

3.7.1 When determining ownership in a Measured Entity, rights of ownership of Mandated Investments may be excluded.

3.7.2 The maximum percentage of the ownership of any Measured Entity that may be so excluded is 40%.

3.7.3 A Measured Entity electing not to exclude Mandated Investments 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 that Mandated Investment.

3.7.4 A Measured Entity cannot selectively include or exclude Mandated Investments and therefore an election to exclude one Mandated Investment is an election to exclude all Mandated Investments and vice versa.

3.7.5 A Measured Entity applying the Exclusion Principle to Mandated Investments cannot benefit from the Modified Flow-Through Principle.

- 3.8 Recognition of ownership after the sale or loss of shares by Black Participants:**
- 3.8.1 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 subject to the following criteria:**
- 3.8.1.1 The Black participant has held shares for a minimum period of 3 years;**
- 3.8.1.2 Net Value based on the Time Based Graduation Factor as per Annexure 100 (E) as amended from time to time must have been created in the hands of Black people:**
- 3.8.1.3 Transformation has taken place within the Measured Entity using the B-BBEE Recognition Level from the period of entry of Black participants to the exiting period.**
- 3.8.2 Black participation arising from continued recognition of Black ownership cannot contribute more than 40% of the score on the Ownership Scorecard.**
- 3.8.3 In the case of a sale or loss of shares by the Black participant, the following additional rules apply:**
- 3.8.3.1 A written tripartite agreement between the Measured Entity, the Black participant and a lender must record the loan or security arrangement, unless the Measured Entity is the lender; and**
- 3.8.3.2 The period over which the continued recognition points are allocated or recognised after the sale or loss of shares will not exceed the period over which the shares were held.**
- 3.8.4 The Ownership points under this paragraph that are attributable to the Measured Entity will be calculated by multiplying the following elements;**
- 3.8.4.1 The value created in the hands of Black participants as a percentage of the total value of the Black participants' shareholding in the Measured Entity at the date of sale or loss of shares as a percentage of Measured Entity's value;**
- 3.8.4.2 The B-BBEE status of the Measured Entity based on the scorecard at the date of measurement; and**

- 3.8.4.3 The Ownership points that was attributable to the Measured Entity on the date of sale or loss of shares.

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

- 4.1 Black Participants in Broad-Based Ownership Schemes and Employee Share Ownership Programmes 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 Annexure 100(B) and Annexure 100(C) as amended from time to time.

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 Annexure 100(B) and Annexure 100(C) as amended from time to time.

#### **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 At least 51% of any of the Private Equity Manager's Exercisable Voting Rights associated with the Equity Instruments through which the Private Equity Fund holds rights of Ownership, must be held by black people;

5.1.2 At least 51% of profits made by the Private Equity Fund Manager after realising any investment made by it, must by written agreement, accrue to Black people;

5.2 The term profit in this instance is deemed as profit from the operations of the Private Equity Fund Manager and the carried interest that the Private Equity Fund Manager (and/or its associated entities, provided that at least 51% of the profits of the associated entities accrue to the Private Equity Fund Manager) receives after realising any investment made by it;

5.3 The Private Equity Fund Manager must be a B-BBEE Owned Company as defined;

- 5.4 The Private Equity Fund Manager must seek to invest at least 51% of the value of funds under management in companies that have at least a 30% direct Black shareholding using the Flow-Through Principle.
- 5.5 The Private Equity Fund Manager can facilitate direct Black shareholding at the time of entering into the transaction should the target company not meet the requirement of at least 30% Black shareholding at the time that the transaction is concluded;
- 5.6 This determination will be made at each measurement date and the status given to the Private Equity Fund Manager will be applicable for a period of 12 months;
- 5.7 In recognition of the fact that it is currently a challenge for Private Equity Fund Managers to find companies to invest in that already have a significant Black shareholding, in practice it should be allowed to achieve the 51% target over a period of time based on the formulation detailed below. (It must be noted that this formulation is in line with that of the Net Value calculation). This rule will apply to all investments made after the effective date of this Amended ICT Sector Code.
- 5.8 Within one year from the commencement date, more than 5% of the value of funds invested by the Private Equity Fund must at all times be invested in enterprises that have at least 30% direct Black shareholding;
- 5.9 Within two years from the commencement date, more than 10% of the value of funds invested by the Private Equity Fund must at all times be invested in enterprises that have at least 30% direct Black shareholding;
- 5.10 From the first day of the third year to the last day of the fourth year from the commencement date, more than 20% of the value of funds invested by the Private Equity Fund must at all times be invested in enterprises that have at least 30% direct Black shareholding;
- 5.11 From the first day of the fifth year to the last day of the sixth year from the commencement date, more than 30% of the value of the funds invested by the Private Equity Fund must at all times be invested in enterprises that have at least 30% direct Black shareholding;
- 5.12 From the first of the seventh year to the last day of the eighth year from the commencement date, more than 40% of the value of the funds invested by the Private Equity Fund must at all times be invested in the enterprises that have at least 30% direct Black shareholding;

- 5.13 From the first day of the ninth year and beyond, at least 51% of the value of the funds invested by the Private Equity Fund must at all times be invested in enterprises that have at least 30% direct Black shareholding;
- 5.14 It should be noted that the measurement of at least 51% of the value of funds invested by any Private Equity Fund that must be invested in enterprises with at least 30% direct Black shareholding is to be measured with reference to the cost of the investment made by the Private Equity Fund;
- 5.15 In the case of Private Equity Funds that were fully invested prior to the effective date of this Amended ICT Sector Code, investments by the fund managers will be considered as being made by Black people if the Private Equity Fund Management entities meet the following criteria:
- 5.15.1 At least 51% of any of the Private Equity Fund Manager's Exercisable Voting Rights associated with the Equity Instruments through which the Private Equity Fund holds rights of ownership in a Measured Entity, must be held by Black people;
- 5.15.2 At least 51% of the profits accruing to the Private Equity Fund Manager after realizing any investment made by it, must by written agreement, accrue to Black people; and
- 5.15.3 Private Equity Fund Manager must be a B-BBEE owned company.

## **6. Not-for-profit Companies (NPCs) and Companies Limited by Guarantee**

- 6.1 A Measured Entity may elect to include or exclude NPCs or Companies Limited by Guarantee for the purposes of measuring ownership in terms of this statement;
- 6.2 An NPC or Company Limited by Guarantee that houses a Broad-Based Ownership Scheme or an Employee Share Ownership Programme 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 NPCs 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 NPCs or Companies Limited by Guarantee.

**6.5 Black Participants in an NPC 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 and Employee Share Ownership Programmes as set out in Annexure 100(B) and Annexure 100(C) respectively .**

**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 and Employee Share Ownership Programmes as set out in Annexure 100(B) and Annexure 100(C) respectively.**

## **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 Annexure 100 (D).**

**7.1.2 100% of the total points on the Ownership scorecard of the Measured Entity if the Trust meets the additional qualification criteria set out for Trusts in Annexure 100(D).**

## **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 to the holder for the option period and paid to the holder of that instrument before the exercise of that right; and**

8.1.3 The value of the instrument must be determined by using a Standard Valuation Method for calculating the Net Value.

**9. Equity Instruments carrying Preference 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 Entity or of a participant, must be treated as an ordinary loan. If the debt is that of a Black Participant, it may be subject to measurement under Net Value.

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.

For Annexures refer to Government Gazette No. 36928 dated 11 October 2013

Annexure 100 (A) - Examples of Mandated Investments

Annexure 100 (B) – Rules for Broad-Based Ownership Schemes

Annexure 100 (C) – Rules for Employee Share Ownership Programmes

Annexure 100 (D) – Rules for Trusts

Annexure 100 (E) – Measurement and Calculations

**AMENDED B-BBEE ICT SECTOR CODE SERIES AICT100: THE MEASUREMENT OF THE OWNERSHIP ELEMENT OF BROAD-BASED BLACK ECONOMIC EMPOWERMENT**

**STATEMENT AICT102: RECOGNITION OF OWNERSHIP IN THE SALE OF ASSETS**

Issued under section 9 (1) of the Broad-Based Black Economic Empowerment (B-BBEE) Act 53 of 2003 as amended.

**Arrangement of this statement**

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4. Measurement principles .....	3
5. Recognition of Sale of Assets, Equity Instruments and Businesses .....	4

## **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 and Supplier 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 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 arms-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 2.3.2. 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; and
  - 4.1.3 The carrying value of the Acquisition Debt of Black Participants in the Associated Enterprise.
- 4.2 All calculations in terms of paragraph 4.1.1 to 4.1.3 must use a Standard Valuation Method.
- 4.3 The Seller may claim the point for Ownership Fulfilment only if both the Seller and the Associated Enterprise comply with the requirements for the award of that point.
- 4.4 Equivalency Percentages under this statement:
  - 4.4.1 Apply only to the Ownership Indicators in paragraphs 2.1 and 2.2 of the Ownership Scorecard;
  - 4.4.2 Do not apply to the Ownership Indicators in paragraph 2.3 of the Ownership Scorecard.

4.5 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 Equivalent Percentages for the indicators in paragraphs 2.1 and 2.2 of the Ownership Scorecard can be calculated in terms of Annexure 102(A).

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

5.1 A Seller seeking recognition of a Transaction in its Ownership Scorecard must determine that recognition under paragraph 4 is in compliance with paragraph 2.3 of Statement AICT000:

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.

ANNEXURE 102 (A) as contained in Government Gazette No. 38766 dated 6 May 2015 shall apply to this statement.

**AMENDED B-BBEE ICT SECTOR CODE SERIES AICT100: THE MEASUREMENT OF THE OWNERSHIP ELEMENT OF BROAD-BASED BLACK ECONOMIC EMPOWERMENT**

**STATEMENT AICT103: THE RECOGNITION OF EQUITY EQUIVALENTS FOR APPLICANTS**

Issued under section 9 (1) of the Broad-Based Black Economic Empowerment (B-BBEE) Act 53 of 2003 as amended.

**Arrangement of this statement**

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## **1. Objectives of this statement**

The objectives of this statement are to:

- 1.1 Define the means by which Applicants may apply for recognition of Equity Equivalent Programmes;
- 1.2 Specify how contributing towards the Ownership Element of B-BBEE by Applicants applying for recognition of equity equivalents is measurable.

## **2. Key Measurement Principles**

Any Equity Equivalent Contributions towards the Ownership Element of B-BBEE made by Applicants applying for recognition of equity equivalents are measurable against the value of their operations in the Republic of South Africa.

## **3. Recognition of Equity Equivalent Investment Programmes (EEIP)**

- 3.1 The Minister of Trade and Industry must, in consultation with the ICT Sector Council and the Line Minister, approve Equity Equivalent Investment. The process is as follows:
  - 3.1.1 Measured Entity to apply to the B-BBEE ICT Sector Council.
  - 3.1.2 B-BBEE ICT Sector Council to recommended to the relevant Line Ministry;
  - 3.1.3 The relevant Line Ministry to consider the recommendations and support the application for approval to the dti.

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

- 4.1 The Ownership Score of an Applicant participating in an Equity Equivalent programme is calculated in terms of paragraph 4.3. An Applicant participating in an Equity Equivalent programme cannot receive any points for ownership under any statement in Code Series AICT100 other than this statement.
- 4.2 Contributions to Equity Equivalent programmes are measured as actual contributions made using the general principle set out in Code Series AICT400 and AICT500 against any of the following targets:

- 4.2.1 30% of the value of the South African operations of the Applicant, determined using a Standard Valuation Method; or
- 4.2.2 4% of Total Revenue from its South African operations annually over the period of continued measurement.
- 4.3 The Ownership Score under an Equity Equivalent Programme using either of the targets in paragraph 4.2 must be calculated in terms of Annexure 103 (A).

#### **5. EEIP Ownership Points Certificate**

The EEIP Ownership Points Certificate awarded in terms of this statement will be valid for an investment period agreed upon in terms of paragraph 9 below.

#### **6. Topping-Up**

If an Applicant wants to retain its EEIP Ownership Points at the date of expiry of its Certificate in terms of paragraph 5 above, then the Applicant will have to reinvest and make an additional contribution into a new Equity Equivalent Programme using the Topping-Up principle.

#### **7. Partial Contributions**

- 7.1 Applicants can make partial contributions to the EEIP on proportional ratio basis for the recognition of Ownership points. The Ownership points will be awarded and determined in terms of the provisions of both Statement 100 and Statement 103 as amended from time to time.
- 7.2 The minimum partial contributions that can be made towards EEIP, as allowed in terms of paragraph 7.1 above, must be at least 40% of the compliance target for the Ownership Scorecard.

#### **8. Investment Periods**

- 8.1 Total contributions that are more than R100 million can be considered for an investment period of up to 10 years;
- 8.2 Total contributions between R75 million and R100 million can be considered for an investment period of up to seven years;

8.3 Total contributions between R50 million and R75 million can be considered for an investment period of up to five years; and

8.4 Total contributions that are less than R50 million can be considered for an investment period of up to three years.

## **9. Rules for the Administration of the Programme**

9.1 If the administration of the programme is outsourced then the rules stated below will apply:

9.1.1 the Economic Interest and Voting Rights of the Administrator must be at least 51% Black owned;

9.1.2 the Administrator must be B-BBEE compliant and be a superior B-BBEE contributor;

9.1.3 the Administration fee for the programme must not exceed 15%;

9.1.4 the Administrator must possess the appropriate skill and experience;

9.1.5 the Programme Manager responsible for overseeing the implementation of the programme by the Administrator must be in possession of the B-BBEE Management Development Programme;

9.1.6 the Programme Manager must sign off on all reports to the Applicant and to the B-BBEE ICT Sector Council;

9.1.7 all goods and services procured for the purposes of implementing this programme must be sourced and procured from Service Providers that are B-BBEE compliant with a minimum B-BBEE Level Four; and

9.1.8 the B-BBEE ICT Sector Council shall on annual basis receive reports on EEIP including but not limited to the B-BBEE verification certificate and report of both the Administrator and the Service Provider(s) of goods and services procured in terms of paragraph 9.1.7 above.

9.1.9 As and when the need arises, the B-BBEE ICT Sector Council may request EEIP reports from Measured Entity

9.2 If the administration of the programme is carried out by the Applicant, then the rules stated below will apply:

- 9.2.1 the staff assigned to the administration of the programme must possess the appropriate skill and experience;
- 9.2.2 the Programme Manager responsible for overseeing the implementation of the programme must be in possession of the B-BBEE Management Development Programme;
- 9.2.3 the administration fee for the programme must not exceed 15% of the total value of the programme;
- 9.2.4 all goods and services procured for the purposes of implementing this programme must be sourced and procured from Service Providers that are B-BBEE compliant with a minimum B-BBEE Level Four;
- 9.2.5 the Programme Manager and the CEO must sign off on all reports to the B-BBEE ICT Sector Council; and

## **10. Specific Rules on Applicants**

- 10.1 Any contributions towards the Ownership Element of B-BBEE made by Applicants, in terms of this Statement, are measurable against the value of their operations in the Republic of South Africa.
- 10.2 In calculating Ownership points awarded, Applicants 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.
- 10.3 In calculating Ownership points awarded, Applicants may recognise sales of Equity Instruments in non-South African companies to Black people on the following basis:
  - 10.3.1 the non-South African company and the Applicant in South Africa must form part of the same chain of ownership and be owned by the same ultimate parent company; and
  - 10.3.2 the transaction must comply with South African exchange control requirements; and
  - 10.3.3 the percentage of the value of the Equity Instruments (i.e. in the non-South African company) sold to or held by South African Black people in the non-

South African company to the value of the Applicant based in South Africa represents the recognisable Black claim to Economic Interest; and

10.3.4 the percentage of Exercisable Voting Rights ceded to the buyers of the Equity Instruments in the Applicant represents the recognisable Black right to Exercisable Voting Rights; and

10.3.5 The rights of Ownership in the Equity Instruments are comparable to rights that would have accrued to Black people had the Equity Instrument been held in the Applicant in South Africa.

Annexure 103 (A) contained in Government Gazette No. 38766 dated 6 May 2015 shall apply to this statement.

**AMENDED B-BBEE ICT SECTOR CODE SERIES AICT200: MEASUREMENT OF THE MANAGEMENT CONTROL ELEMENT OF BROAD-BASED BLACK ECONOMIC EMPOWERMENT**

**STATEMENT AICT 200: THE GENERAL PRINCIPLES FOR MEASURING MANAGEMENT CONTROL**

Issued under section 9 (1) of the Broad-Based Black Economic Empowerment Act 53 of 2003 as amended.

Arrangement of this statement

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## 1. Objectives of this statement

The objectives of this statement are to:

- 1.1 Specify the scorecard for measuring the Management Control contributions to B-BBEE;
- 1.2 Define the key measurement principles for measuring the contributions; and Management Control Element of B-BBEE; and
- 1.3 Define the formula for calculating the score for Management Control.

## 2. Management Control Scorecard

The following table represents the criteria used for deriving the score for Management Control under this statement:

	Measurement Category and Criteria	Weighting points	Compliance Target
2.1	Board participation:		
	2.1.1 Exercisable voting rights of Black board members as a percentage of all board members	3	50%
	2.1.2 Exercisable voting rights of Black female board members as a percentage of all board members	2	25%
	2.1.3 Black Executive Directors as a percentage of all executive directors	2	50%
	2.1.4 Black females Executive Directors as a percentage of all executive directors	1	25%
2.2	Other Executive Management:		
	2.2.1 Black Executive Management as a percentage of all executive management	3	60%
	2.2.2 Black female Executive Management as a percentage of all executive management	2	30%

2.3	Senior Management			
	2.3.1	Black employees in Senior Management as a percentage of all senior management	2	60%
	2.3.2	Black female employees in Senior Management as a percentage of all senior management	1	30%
2.4	Middle Management			
	2.4.1	Black employees in Middle Management as a percentage of all middle management	2	75%
	2.4.2	Black female employees in Middle Management as a percentage of all middle management	1	38%
2.5	Junior Management			
	2.5.1	Black employees in Junior Management as a percentage of all junior management	1	88%
	2.5.2	Black female employees in Junior Management as a percentage of all junior management	1	44%
2.6	Employees with Disabilities			
	2.6.1	Black employees with disabilities as a percentage of all employees	2	2%

2.7 The compliance target for 2.3, 2.4 and 2.5 of Management Control Scorecard are based on the overall demographic representation of Black People as defined in the regulations of Employment Equity Act and the Commission on Employment Equity Report as amended from time to time.

2.8 In determining a Measured Entity's score, the target should be further broken down into specific criteria according to the different race sub-

groups within the definition of Black in accordance with the Employment Equity Act on equitable representation weighted accordingly.

### **3. Key Measurement Principles**

- 3.1 A Measured Entity receives points by meeting the targets for participation of Black People and Black Women at Board, Executive Management, Senior Management, Middle Management, Junior Management levels and Black employees with disabilities.
- 3.2 A Measured Entity must use the current payroll data in calculating its score under the Management Control Scorecard
- 3.3 A Measured Entity that does not distinguish between Other Executive Management and Senior Management, then Executive Management is measurable as a single indicator with a weighting of 8 points under paragraph 2.2.1 and 2.2.2 split as 5 and 3 point respectively

### **4. General Principles**

- 4.1 Executive Management position include the following – Chief Executive Officer, Chief Operating Officer, Chief Financial Officer, Chief Information Officer, Chief Technology Officer and other Executive Managers that serve on the Board of Directors.
- 4.2 Other Executive Management positions include all executive management that do not serve on the board, such as human resource executive, transformation executive and other people holding similar positions.

### **5. Measurement of the Management Control Criteria**

The criteria in the management control scorecard is measured in terms of the formula "1, 2, 3" as is set out in Annexure 200(A) of Government Gazette No. 38765 dated 6 May 2015 as amended from time to time

**AMENDED B-BBEE ICT SECTOR CODE SERIES AICT300: MEASUREMENT OF THE SKILLS DEVELOPMENT ELEMENT OF BROAD-BASED BLACK ECONOMIC EMPOWERMENT**

**STATEMENT AICT 300: THE GENERAL PRINCIPLES FOR MEASURING SKILLS DEVELOPMENT**

Issued under section 9 (1) of the Broad-Based Black Economic Empowerment (B-BBEE) Act 53 of 2003 as amended.

**Arrangement of this statement**

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## 1 Objectives Of This Statement

The objectives of this statement are to specify:

- 1.1 The scorecard for measuring the Skills Development Element of B-BBEE;
- 1.2 The key measurement principles associated with the Skills Development Element; and
- 1.3 The formula for measuring the Skills Development Element of B-BBEE.

## 2 The Amended Skills Development Scorecard

The following table represents the criteria used for deriving a score for Skills Development under this statement:

2.1 Skills Development Element Scorecard				
Category	Skills Development Element		Weighting points	Compliance Target
2.1.1	Skills Development Expenditure on any program specified in the Learning Programmes Matrix for Black People as a percentage of the Leviable Amount:			
	2.1.1.1	Skills Development Expenditure on Learning Programmes specified in the Learning Programmes Matrix for Black People as a percentage of Leviable Amount	8	6%
	2.1.1.2	Skills Development Expenditure on Learning Programmes specified in the Learning Programmes Matrix for Black People with disabilities as a percentage of Leviable Amount	4	0.3%
2.1.2	Learnerships, Apprenticeships and Internships			
	2.1.2.1	Number of Black People participating in Learnerships, Apprenticeship and Internships as a percentage of total employees.	4	2.5%
	2.1.2.2	Number of Black Unemployed People participating in training specified in the Learning Programme Matrix as a percentage of number of employees	4	2.5%
2.1.3	Bonus points:			
		Number of Black People absorbed by the Measured Entity or in the economy at the end of the Learnerships, Apprenticeship, Internships and Graduate programmes	5	100%

## **2.2 The Weighting Points**

The Weighting points in the Skills Development Scorecard represent the maximum number of points possible for each of the criteria.

## **2.3 The Compliance Targets**

The compliance targets for 2.1.1.1, 2.1.1.2, 2.1.2.1, 2.1.2.2 and 2.1.3 of the Skills Development Scorecard are based on the overall demographic representation of Black people as defined in the Employment Equity Act. For scoring purposes, the targets should be further broken down into specific criteria according to the different race sub-groups within the definition of Black in accordance with the Employment Equity Act requirements on equitable representation and weighted accordingly.

## **3 Key Measurement Principles**

- 3.1 Measured Entities receive points on the Skills Development Scorecard only if:
  - 3.1.1 They have developed the following SETA Approved documents: Workplace Skills Plan, an Annual Training Report and Pivotal Report; and
  - 3.1.2 They have implemented programmes targeted at developing B-BBEE ICT Sector Council Priority Skills list generally, and specifically for Black People
- 3.2 The 6 % compliance target under paragraph 2.1.1.1 also includes external training expenditure for unemployed Black people.
- 3.3 It is the Measured Entity's sole responsibility to prove the subsequent employment of the trainees for purpose of scoring under paragraph 2.1.3.
- 3.4 If less than 100% of the trainees are absorbed under paragraph 2.1.3, the percentage achieved or absorbed will be recognised.
- 3.5 Expenses on scholarships and bursaries for employees do not constitute Skills Development Expenditure if the Measured Entity can recover any portion of those expenses from the employee or if the grant of the scholarship or bursary is conditional. Despite the afore going, if the right of recovery or the condition involves either of the following obligations of the employee, the expenses are recognisable:

- 3.5.1 The obligation of successful completion in their studies within the time period allocated; or
  - 3.5.2 The obligation of continued employment by the Measured Entity for a period following successful completion of their studies is not more than the period of their studies.
- 3.6 Legitimate training expenses includes:
- 3.6.1 Costs of training materials;
  - 3.6.2 Costs of trainers;
  - 3.6.3 Costs of training facilities including costs of catering;
  - 3.6.4 Scholarships and bursaries;
  - 3.6.5 Course fees;
  - 3.6.6 Accommodation and travel; and
  - 3.6.7 Administration costs such as the organization of training including, where appropriate, the cost to the Measured Entity of employing a Skills Development Facilitator or a training manager.
  - 3.6.8 Reasonable accommodation costs to enable persons with disabilities to participate.

#### **4 Subminimum and Discounting Principle**

- 4.1 A Measured Entity must achieve a minimum of 40% of the total targets set out in each of paragraphs 2.1.1 and 2.1.2 of the Skills Development Element.
- 4.2 Non-compliance with this subminimum requirement will result in the achieved B-BBEE status level being discounted.

#### **5 General Principles**

- 5.1 Skills Development in ICT Sector must contribute to the achievement and enhancement of core ICT Sector skills that contributes to economic growth and social development goals.
- 5.2 Promote the development of an industrial skills base in critical ICT Sector areas of production and value-added manufacturing.
- 5.3 Support 'Professional, Vocational, Technical and Academic Learning' programmes, achieved by means of professional placements, work-integrated learning, apprenticeships, learnerships and internships, that meet the critical needs for economic growth and development.
- 5.4 Strengthen the skills and human resource base by encouraging the support of ICT Sector skills development initiatives with an emphasis on skills

development and career pathing for all working people in order to support employment creation.

- 5.5 Skills Development Expenditure includes any legitimate expenses incurred for any Learning Programme offered by a Measured Entity to its employees evidenced by an invoice or appropriate internal accounting record.
- 5.6 Skills Development Expenditure arising from Informal and workplace Learning Programmes or from Category F and G Learning Programmes under the Learning Programmes Matrix cannot represent more than 15% of the total value of Skills Development Expenditure.
- 5.7 Legitimate training costs such as accommodation, catering and travelling (non-exhaustive) cannot exceed more than 15% of the total value of Skills Development Expenditure.
- 5.8 Salaries or wages paid to an employee participating as a learner in any Learning Programme only constitute Skills Development Expenditure if the Learning Programme is a Learnership, Internship and Apprenticeship (Category B, C and D) of the Learning Programme Matrix.
- 5.9 Mandatory Sectoral Training does not qualify as skills development contribution.
- 5.10 Training in line with the Learning Programme Matrix under Annexure 300(A) of Government Gazette No. 38765 dated 6 May 2015 as amended is also measurable for recognition if it is in the B-BBEE ICT Sector Council Priority Skills list.

**AMENDED B-BBEE ICT SECTOR CODE SERIES AICT400: MEASUREMENT OF THE ENTERPRISE AND SUPPLIER DEVELOPMENT ELEMENT OF BROAD-BASED BLACK ECONOMIC EMPOWERMENT**

**STATEMENT AICT 400: THE GENERAL PRINCIPLES FOR MEASURING ENTERPRISE AND SUPPLIER DEVELOPMENT ELEMENT**

Issued under section 9 (1) of the Broad-Based Black Economic Empowerment (B-BBEE) Act 53 of 2003 as amended.

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## 1 Objectives of this statement

- 1.1 The Enterprise and Supplier Development Focus areas:
  - 1.1.1. Preferential Procurement;
  - 1.1.2. Supplier Development;
  - 1.1.3. Enterprise Development.
- 1.2 Specify the scorecard for measuring Enterprise and Supplier Development;
- 1.3 The key measurement principles applicable to calculating Preferential Procurement contributions to B-BBEE and Qualifying Enterprise and Supplier Development Contributions;
- 1.4 Principles applicable when calculating B-BBEE Procurement Spend and Enterprise and Supplier Development Spend; and
- 1.5 The formula for calculating the individual criteria specified in the Enterprise and Supplier Development scorecard as defined in the Amended ICT Sector Code.

## 2 Amended Enterprise and Supplier Development Scorecard

The following table represents the criteria for deriving a score for Enterprise and Supplier Development Scorecard

Criteria	Weighting points	Compliance targets
<b>2.1 Preferential Procurement</b>		
2.1.1 B-BBEE Procurement Spend from all Empowering Suppliers based on the B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	5	80%
2.1.2 B-BBEE Procurement Spend from all Empowering Suppliers that are Qualifying Small Enterprises based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	3	15%

2.1.3 B-BBEE Procurement Spend from Exempted Micro-Enterprises based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	4	15%
2.1.4 B-BBEE Procurement Spend from Empowering Suppliers that are at least 51% Black owned based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	9	40%
2.1.5 B-BBEE Procurement Spend from Empowering Suppliers that are at least 30% Black Women owned based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	4	12%
2.1.6 Bonus points		
B-BBEE Procurement Spend from Designated Group Suppliers that are at least 51% Black Owned.	2	2%
2.2 Supplier Development		
2.2.1 Annual value of all Supplier [or Partner or Vendor] Development Contributions made by the Measured Entity as a percentage of the target.	10	2% of NPAT
2.3 Enterprise Development		
2.3.1 Annual value of Enterprise Development Contributions and Sector Specific Programmes made by the Measured Entity as a percentage of the target for Black Owned ICT Entities.	15	3% of NPAT
2.4 Bonus points		

2.4.1 Bonus point for graduation of one or more Enterprise Development beneficiaries to Supplier Development Level.	1	
2.4.2 Bonus point for creating new jobs up to 10% of the workforce directly as a result of Supplier Development and Enterprise Development initiatives by the Measured Entity; OR	1	
2.4.3 Bonus point for creating new jobs 11% or more of the workforce directly as a result of Supplier Development and Enterprise Development initiatives by the Measured Entity.	2	

### **3 Key Measurement Principles**

3.1 The Enterprise and Supplier Development consist of,

3.1.1 Preferential Procurement;

3.1.2 Supplier Development

3.1.3 Enterprise Development

3.2 Enterprise Development and Supplier Development Contributions will be recognised as a percentage of annual Net Profit After Tax (NPAT).

### **4 Sub-minimum and Discounting Principle**

4.1 A Measured Entity must achieve a minimum of 40% of each of the targets set out in 2.1 (i.e. 10 of 25 points), 2.2 (i.e. 4 of 10 points) and 2.3 (i.e. 6 of 15 points) excluding bonus points of the Enterprise and Supplier Development Scorecard.

4.2 Non-Compliance to any one of the subminimum requirement will result in the overall achieved B-BBEE status level being discounted in accordance with paragraph 3.3 of Statement AICT000 of Amended ICT Sector Code Series AICT000.

4.3 An Empowering Supplier within a context of B-BBEE is a B-BBEE compliant entity that complies with all the regulatory requirements of the country with respect to the Employment Equity Act, Skills Development Act and Skills Development Levies Act and should meet at least three, if it is a large enterprise or one, if it is a QSE of the following criteria:

- a) At least 25% of cost of sales, excluding labour cost and depreciation, must be produced from local producers or local suppliers in SA. For the service industry, labour costs are included but capped at 15%.
  - b) Job Creation – 50% of jobs created are for Black people provided that the number of Black employees since the immediate prior verified B-BBEE measurement is maintained.
  - c) At least 25% of raw material has been transformed/beneficiated by the Measured Entity in South Africa including local manufacturing, production, and/or assembly and/or packaging.
  - d) Skills transfer – at least 12 days per annum of productivity is spent in assisting at least 51% Black Owned EMEs and QSEs beneficiaries to increase their operational or financial capacity.
  - e) At least 85% of labour costs should be paid to South African employees by ICT Sector entities.
  - f) Has aggregated at least 30% of the total value of a contract implemented / executed and managed by a Black Owned ICT EMEs/QSEs.
  - g) Has entered into a Joint Venture partnership with Black Owned ICT entities where two or more entities come together for the purpose of executing a contract awarded to a joint venture, provided that at least 40% of the total operating profit from the contract is allocated to the Black Owned ICT entities.
- 4.4 Exempted Micro Enterprises and Start-Ups are automatically recognised as Empowering Suppliers.
- 4.5 The Weighting points in the Enterprise and Supplier Development scorecard represent the maximum number of points possible for each of the criteria.
- 4.6 If a Measured Entity procures goods and services from a supplier that is:
- 4.6.1 A recipient of a Supplier Development contribution from a Measured Entity under ICT Code Series AICT400 has a minimum 3 year contract with the Measured Entity, the recognisable B-BBEE spend that can be attributed to that supplier is multiplied to the factor of 1.2,
  - 4.6.2 A Black Owned QSE or EME which is not a Supplier Development beneficiary but has a minimum 3 year contract with the Measured Entity, the recognisable B-BBEE procurement spend that can be attributed to that supplier is multiplied by a factor of 1.2.
  - 4.6.3 A first time Black Owned Entity Supplier to the Measured Entity, the recognisable B-BBEE procurement spend that can be attributed to that Supplier is multiplied by a factor of 1.2.

- 4.7 Procurement of goods and services and any other activities that fall under 2.1 will not qualify for scoring under 2.2 and 2.3 and vice versa.
- 4.8 Beneficiaries of Supplier Development and Enterprise Development are EMEs or QSEs which are at least 51% Black Owned or at least 51% Black Women Owned.

## **5 General Principles**

- 5.1 To strengthen local procurement in order to help build South Africa's ICT industries.
- 5.2 To increase local procurement through capacity building, achieved by incentivising appropriate local Supplier Development Programmes by businesses supplying goods and services to the ICT Industry.
- 5.3 The imports provisions do not apply to the ICT Sector and products for local production as and when published.
- 5.4 To actively support procurement from Black Owned QSEs and EMEs by identifying opportunities to increase procurement from local ICT suppliers in order to support employment creation.
- 5.5 To support procurement from Black Owned and Black Women Owned businesses in order to increase the participation of these businesses in the ICT Sector.
- 5.6 To promote the use of Black Owned Professional Service Providers and entrepreneurs as suppliers in the ICT Sector.
- 5.7 Measured Entities receive recognition for any Enterprise and Supplier Development Contributions that are quantifiable as a monetary value using a Standard Valuation Method.
- 5.8 Measured Entities are encouraged to align their Enterprise and Supplier Development initiatives with the designated sectors of government's localisation and valued adding programmes.
- 5.9 Measured Entities are encouraged to align their Enterprise and Supplier Development initiatives with their supply chain requirements thereby linking Enterprise and Supplier Development with Preferential Procurement.

- 5.10 Qualifying Enterprise and Supplier Development Contributions of an ICT Measured Entity are recognisable on an annual basis.
- 5.11 Contributions, programmes and/or initiatives that span over multiple years, the total contribution amount must be divided by the number of years, and the average per year is then to be utilised for the annual contribution.
- 5.12 Measured Entities are encouraged to develop and implement an Enterprise Development and Supplier Development plan for Qualifying Beneficiaries. The plan should include:
  - 5.12.1 Clear objectives
  - 5.12.2 Priority interventions
  - 5.12.3 Key performance indicators; and
  - 5.12.4 A concise implementation plan with clearly articulated milestones.
- 5.13 Measured Entities will not get recognition for same activities undertaken under 2.2 and 2.3, they only get recognition for one of the two i.e. 2.2 or 2.3.
- 5.14 No portion of the value of any Qualifying Enterprise and Supplier Development Contribution that is payable to the beneficiary after the date of measurement can form part of any calculation under this statement.

## **6 Total Measured Procurement Spend**

The following procurement is measurable within Total Measured Procurement Spend:

- 6.1 Cost of sales: all goods and services procured that comprise the cost of sales of the Measured Entity,
- 6.2 Operational expenditure: all goods and services procured that comprise the operational expenditure of the Measured Entity;
- 6.3 Capital expenditure: all capital expenditure incurred by the Measured Entity.
- 6.4 Public Sector Procurement:
  - 6.4.1 All goods and services procured from organs of state and public entities.

Despite this, procurement by a Measured Entity from a local government authority, which is a reseller of that service, is measurable at the B-BBEE Recognition Level of the primary Supplier of the service; and

- 6.4.2 in any event, any procurement of any goods or services from any organ of state or public entity that enjoys a statutory or regulated monopoly in the supply of such goods or services, is excluded.
- 6.5 Monopolistic procurement: all goods and services procured from suppliers that enjoy a monopolistic position;
- 6.6 Third-party procurement: all procurement for a third-party or a client, where the cost of that procurement is an expense recorded in the Measured Entity's annual financial statements;
- 6.7 Labour brokers and independent contractors: any procurement of the Measured Entity which is Outsourced Labour Expenditure;
- 6.8 Pension and medical aid contributions: payments made to any post retirement funding scheme or to a medical aid or similar medical insurer by a Measured Entity for its employees, excluding any portions of such payments which are a contribution to a capital investment of the employee. The scheme or insurer must issue a certificate dividing payments between the capital investment portion and the balance to establish the amount that is measurable within Total Measured Procurement Spend;
- 6.9 Trade commissions: any commissions or similar payments payable by a Measured Entity to any other person pursuant to the business or trade of the Measured Entity;
- 6.10 Empowerment related expenditure: all goods and services procured in carrying out B-BBEE. The Total Measured Procurement Spend does not include the actual contribution portion recognised under ICT Code Series AICT500 but does include any expenditure incurred in facilitating those contributions;
- 6.11 Imports: all goods and services that are imported or procured from a non-South African source; and
- 6.12 Intra-group procurement: all goods and services procured from subsidiaries or holding companies of the Measured Entity (BEE credentials of the entity supplying goods and/or services must be confirmed by way of a valid BEE certificate).

## **7 Exclusion from Total Measured Procurement Spend**

The following list provides permissible exclusions from Total Measured Procurement Spend recognisable in terms of paragraph 5:

- 7.1 Taxation: any amount payable to any person which represents a lawful tax or levy imposed by an organ of state authorised to impose such tax or levy, including rates imposed by a municipality or other local government;
- 7.2 Salaries, wages, remunerations, and emoluments: any amount payable to an employee as an element of their salary or wage and any emolument or similar payment paid to a director of a Measured Entity;
- 7.3 Pass-through third-party procurement: all procurement for a third-party or a client that is recorded as an expense in the third-party or client's annual financial statements but is not recorded as such in the Measured Entity's annual financial statements;
- 7.4 Empowerment related procurement:
  - 7.4.1 investments in or loans to an Associated Enterprise;
  - 7.4.2 investments, loans or donations qualifying for recognition under any statement under ICT Code Series AICT300 or AICT400.
- 7.5 Imports: the following imported goods and services:
  - 7.5.1 imported capital goods or components for value-added production in South Africa provided that:
    - a) there is no existing local production of such capital goods or components; and
    - b) importing those capital goods or components promotes further value-added production within South Africa;
  - 7.5.2 imported goods and services other than those listed in paragraph 7.5.1 if there is no local production of those goods or services including, but not limited to, imported goods or services that –
    - a) carry a brand different to the locally produced goods or services; or have different technical specifications to the locally produced goods or services.

7.5.3 For the Exclusion of imports above Measured Entities are encouraged to develop and implement Enterprise Development and Supplier Development plans for imported goods and services above. This plan shall include:

- 7.5.3.1. Clear objectives
- 7.5.3.2. Priority interventions
- 7.5.3.3. Key performance indicators; and
- 7.5.3.4. A concise implementation plan with clearly articulated milestones

7.5.4 The Department of Trading and Industry from time to time will consult with the industry and issue practice notes with regard to the provision on import exclusion.

## **8 Measurement of B-BBEE Procurement Spend**

8.1 B-BBEE Procurement Spend is the value of the procurement falling within paragraph 6 and not excluded by paragraph 7. If a supplier falls within a category of supplies listed in paragraph 4.6, the value of procurement from that supplier is multiplied by the applicable factor listed in that paragraph.

8.2 B-BBEE Procurement Spend can be measured in terms of formula "A" in Annexure 400 (A) as published in Government Gazette 36928 dated 11 October 2013 which shall apply to this statement.

8.3 The B-BBEE Procurement Spend for a Measured Entity in respect of a supplier is calculated by multiplying the spend contemplated by paragraph 6 (and not excluded by paragraph 7) in respect of that supplier by the supplier's B-BBEE Recognition Level.

8.4 A Measured Entity's Total Procurement Spend is the total of all amounts calculated in terms of paragraph 8.3.

## **9 The Calculation of Preferential Procurement Contributions to B-BBEE**

9.1 A Measured Entity receives a score for procurement in proportion to the extent that it meets the compliance target.

9.2 The Measured Entity's score for Preferential Procurement contributions to B-BBEE under the preferential procurement scorecard can be calculated in terms of formula "A and B" in Annexure 400(A) as published in

Government Gazette No. 36928 dated 11 October 2013.

## **10 Enterprise Development and Supplier Development Contributions**

10.1 The following is a non-exhaustive list of Recoverable Enterprise and Supplier Development Contributions:

10.1.1 investments in beneficiary entities;

10.1.2 loans made to beneficiary entities;

10.1.3 guarantees given or security provided on behalf of beneficiaries;

10.1.4 credit facilities made available to beneficiary entities;

10.1.5 grant contributions to beneficiary entities;

10.1.6 direct costs incurred by a Measured Entity in assisting and hastening development of beneficiary entities;

10.1.7 overhead costs of a Measured Entity directly attributable to Enterprise and Supplier Development Contributions;

10.1.8 preferential credit terms granted by a Measured Entity to beneficiary entities;

10.1.9 preferential terms granted by a Measured Entity in respect of its supply of goods or services to beneficiary entities;

10.1.10 contributions made to settling service costs relating to the operational or financial capacity or efficiency levels of beneficiary entities;

10.1.11 discounts given to beneficiary entities in relation to the acquisition and maintenance costs associated with the grant to those beneficiary entities of franchise, licence, agency, distribution or other similar business rights;

10.1.12 the creation or development of capacity and expertise for beneficiary entities needed to manufacture or produce goods or services previously not manufactured, produced or provided in the Republic of South Africa is provided for in Government's economic growth and local supplier development policies and initiatives;

10.1.13 facilitating access to credit for beneficiary entities without access to similar credit facilities through traditional means owing to a lack of credit history,

- high-risk or lack of collateral;
- 10.1.14 provision of training or mentoring by suitably qualified entities or individuals to beneficiary entities which will assist the beneficiary entities to increase their operational or financial capacity;
- 10.1.15 the maintenance by the Measured Entity of an Enterprise and Supplier Development unit which focuses exclusively on support of beneficiary entities or candidate beneficiary entities;
- 10.1.16 new projects promoting beneficiation by the Measured Entity for the benefit of Enterprise and Supplier Development Beneficiaries;
- 10.1.17 provision of preferential credit facilities to a beneficiary entity by a Measured Entity may constitute an Enterprise and Supplier Development Contribution. Examples of such contributions include without limitation:
- 10.1.18 provision of finance to beneficiary entities at lower than commercial rates of interest;
- 10.1.19 relaxed security requirements or absence of security requirements for beneficiary entities unable to provide security for loans; and
- 10.1.20 settlement of accounts with beneficiary entities over a shorter period of time in relation to the Measured Entity's normal payment period, provided the shorter period is no longer than 15 days;
- 10.1.21 providing training or mentoring to beneficiary communities by a Measured Entity. (Such contributions are measurable by quantifying the cost of time (excluding travel or commuting time) spent by staff or management of the Measured Entity in carrying out such initiatives. A clear justification, commensurate with the seniority and expertise of the trainer or mentor, must support any claim for time costs incurred);
- 10.1.22 maintaining an Enterprise and Supplier Development unit by the Measured Entity. (Only that portion of salaries and wages attributable to time spent by the staff in, and the other expenses related to, promoting or implementing Enterprise and Supplier Development constitute contributions.);
- 10.1.23 payments made by the Measured Entity to suitably qualified and experienced third parties to perform Enterprise and Supplier Development on the Measured Entity's behalf.

## **11 Monetary and Non-monetary Contributions**

**11.1** Subject to the definition of Qualifying Enterprise and Supplier Development Contributions, the following monetary/non-monetary contributions will, without limitation, be considered:

**11.1.1** the provision of seed or development capital;

**11.1.2** contributions made towards the settlement of the cost of services relating to the operational or financial capacity and/or efficiency levels of a Qualifying Enterprise and Supplier Development Beneficiary including, without limitation:

- a) professional and consulting services;
- b) licensing and/or registration fees;
- c) Industry specific levies and/or other such fees; and
- d) IT services;

**11.2** subject to paragraph 11.1, creation or development of capacity and expertise for Beneficiary Entities required to manufacture or produce goods and/or services previously not manufactured, produced or provided in the Republic of South Africa;

**11.3** subject to paragraph 11.2 provision of preferential credit facilities;

**11.4** subject to paragraph 11.1 facilitation of access to credit for Beneficiary Entities unable to access similar credit facilities through traditional means owing to a lack of credit history, high risk and/or lack of collateral;

**11.5** subject to paragraph 11.3 provision of training and/or mentoring to Beneficiary Entities which will assist the Beneficiary Entities to increase their operational and/or financial capacity; and

**11.6** subject to paragraph 11.4, the maintenance by the Measured Entity of an Enterprise and Supplier Development unit which focuses exclusively on support of Beneficiary Entities or candidate Beneficiary Entities.

**11.7** The creation and/or development of the capacity of Beneficiary Entities which will enable them to manufacture and produce goods and/or provide

services previously not available in the Republic of South Africa, may constitute a Qualifying Enterprise and Supplier Development Contribution, and will be measured as the rand value of monetary contributions made as well as investments into, loans made to or guarantees given for a Beneficiary Entity.

11.8 Provision of preferential credit facilities to a Beneficiary Entity by a Measured Entity may constitute a Qualifying Enterprise and Supplier Development Contribution. Examples of such contributions include without limitation:

11.8.1 provision of finance to Beneficiary Entities at rates of interest below the applicable rate. Such contributions will be measured as the value of the differential between the actual interest rate provided to the Beneficiary Entity and the applicable rate;

11.8.2 relaxed security requirements or absence of security requirements for Beneficiary Entities unable to provide security for loans. Such contributions shall be measured as being 3% (three percent) of any positive differential between the initial capital value of the loan and the value of security taken; and

11.8.3 Settlement of accounts with Beneficiary Entities over a shorter period of time in relation to the Measured Entity's normal payment period, provided that the shorter period is no longer than 15 days. Preferential payment terms which extend beyond 15 days will not qualify as Qualifying Enterprise and Supplier Development Contributions;

11.9 Provision of training and/or mentoring to a Beneficiary Entity by a Measured Entity may constitute a Qualifying Enterprise and Supplier Development Contribution. Such contributions will be measured by quantifying the cost of time spent by staff or management of the Measured Entity in carrying out such initiatives. Any travel or commuting time may not be included in this cost. Furthermore, a clear justification must be supplied with respect to the calculation of such time costs incurred, commensurate with the level of seniority and expertise of the trainer or mentor. Common forms of such contribution include without limitation:

11.9.1 Professional and consulting services;

11.9.2 IT services; and

11.9.3 any other services which help to increase the entity's financial and/or operational capacity and which have not also been accounted for under skills development.

11.10 The maintenance of an Enterprise and Supplier Development unit by the Measured Entity may constitute a Qualifying Enterprise and Supplier Development Contribution. Common examples of such contributions include without limitation the salaries and wages of staff and other expenses involved in the operation of such Enterprise and Supplier Development unit. Notwithstanding the afore going, only that portion of salaries and wages which relate to time spent by the staff and other expenses related to the promotion and implementation of Enterprise and Supplier Development in respect of Beneficiary Entities or candidate Beneficiary Entities should be taken into consideration under Enterprise and Supplier Development Contributions.

## **12 Measurement of Enterprise and Supplier Development Contributions**

12.1 A Measured Entity receives a score for Enterprise Development and Supplier Development in proportion to the extent that it meets the compliance target.

12.2 Qualifying Contributions are measurable using the Benefit Factor Matrix and formula "A" contained in Annexure 400(B) as published in Government Gazette 36928 dated 11 October 2013 which shall apply to this statement.

**AMENDED B-BBEE ICT SECTOR CODE SERIES AICT500: MEASUREMENT OF THE SOCIO-ECONOMIC DEVELOPMENT ELEMENTS OF BROAD-BASED BLACK ECONOMIC EMPOWERMENT**

**STATEMENT AICT 500: THE GENERAL PRINCIPLES FOR MEASURING THE SOCIO-ECONOMIC DEVELOPMENT ELEMENT**

Issued under section 9 (1) of the Broad-Based Black Economic Empowerment (B-BBEE) Act 53 of 2003 as amended.

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## **1. Objectives of this statement**

The objectives of this statement are to specify:

- 1.1 the Socio-Economic Development (SED) which is Sector Specific Contributions;
- 1.2 the key measurement principles applicable when calculating Socio-Economic Development Contributions; and
- 1.3 the formula for calculating the individual criteria specified in the SED scorecard.

## **2. The Amended SED Scorecard**

- 2.1. The Net Profit After Tax (NPAT) or average target applies unless:
  - 2.1.1 the company did not make a profit in the measurement period or on average over the last five years
  - 2.1.2 the net profit margin is less than a quarter of the Industry Norm.
- 2.2 If the Turnover is to be used, the target will be set at:
  - 2.2.1  $1.5\% \times \text{Indicative Profit Margin (NPAT/Turnover)} \times \text{Turnover}$
  - 2.2.2 Indicative Profit Margin is the profit margin in the measurement period where the company's profit margin is at least one quarter of the Industry Norm.
- 2.3 The following table represents the criteria and method used for deriving a score for Socio-Economic Development under this statement:

Criteria	Weighting Points	Compliance Target
Annual value of all Socio-Economic Development Contributions by the Measured Entity as a percentage of the target	12	1.5% of NPAT

- 2.4 The weighting points in the SED scorecard represent the maximum number of points possible for each of the criteria.
- 2.5 The ICT Sector recognizes that bridging the digital divide requires enterprises to undertake certain obligations in terms of access to ICTs so as to improve the lives of the people. Such programmes could be in the form of providing ICTs in education, health and programmes aimed at enhancing the lives of Black communities or Black people.

### **3. Key Measurement Principles**

#### **3.1 General principles:**

3.1.1 Measured Entities receive recognition for any Socio-Economic Development Contributions that are quantifiable as a monetary value using a Standard Valuation Method.

3.1.2 Socio-Economic Development Contributions of any Measured Entity are recognisable annually;

3.1.2.1 No portion of the value of any Socio-Economic Development Contribution that is payable to the beneficiary after the date of measurement can form part of any calculation under this statement.

#### **3.2 Socio-Economic Development Contributions:**

3.2.1 Socio-Economic Development Contributions consist of monetary or non-monetary contributions initiated and implemented in favour of beneficiaries by a Measured Entity to create sustainable access to the economy for those beneficiaries.

- 3.2.2 The full value of Socio-Economic Development Contributions made to beneficiaries is recognisable if at least 75% of the value directly benefits Black people.
- 3.2.3 If less than 75% of the full value of Socio-Economic Development Contributions directly benefits Black people, the value of the contribution made multiplied by the percentage that benefits Black people, is recognisable.
- 3.2.4 The following is a non-exhaustive list of Socio-Economic Development Contributions:
- 3.2.4.1 Grants to beneficiaries of Socio-Economic Development Contributions;
  - 3.2.4.2 Guarantees given or security provided for beneficiaries;
  - 3.2.4.3 Direct costs incurred by a Measured Entity in assisting beneficiaries;
  - 3.2.4.4 Overhead costs of a Measured Entity directly attributable to Socio-Economic Development Contributions;
  - 3.2.4.5 Developmental capital advanced to beneficiary communities;
  - 3.2.4.6 Preferential terms granted by a Measured Entity for its supply of goods or services to beneficiary communities;
- 3.2.5. Providing training or mentoring to beneficiary communities by a Measured Entity. (Such contributions are measurable by quantifying the cost of time (excluding travel or commuting time) spent by staff or management of the Measured Entity in carrying out such initiatives. A clear justification must support any claim for time costs incurred, commensurate with the seniority and expertise of the trainer or mentor).
- 3.2.6 Maintaining a Socio-Economic Development unit by the Measured Entity. (Only that portion of salaries and wages attributable to time spent by the staff in, and the other expenses related to, promoting and implementing Socio-Economic Development constitute contributions).
- 3.2.7 Payments made by the Measured Entity to third parties to perform Socio-Economic Development on the Measured Entity's behalf.

3.2.8 A measured entity who as a result of sector legislation (as recognised by the ICT Sector Council) is subject to obligations aimed at enhancing the Socio-Economic Development of Black people, and/or annual payments to a body tasked with Socio-Economic Development may count those contributions as part of its compliance with the target.

#### **4. Measurement of Socio-Economic Development Contributions**

Socio-Economic Development Contributions are measurable using the Benefit Factor Matrix in Annexure 500 (A) and formula in Annexure 500 (B) as contained in Government Gazette No. 36928 date 11 October 2013 as amended from time to time.

4.1 It is a requirement that all Socio-Economic Development spend must be spent on ICT Sector specific initiatives..

#### **5. The Benefit Factor Matrix**

The B-BBEE ICT Sector Council may from time to time, revise or substitute the Benefit Factor Matrix as applicable to the ICT Sector in consultation with the Line Ministry and **the dti.**

## **AMENDED B-BBEE ICT SECTOR CODE SERIES AICT600**

### **STATEMENT AICT 600: THE FRAMEWORK FOR QUALIFYING SMALL ENTERPRISE SCORECARD**

Issued under section 9 (1) of the Broad-Based Black Economic Empowerment (B-BBEE) Act 53 of 2003 as amended.

#### Arrangement of this statement

<b>1</b>	<b>Index for Qualifying Small Enterprises</b>	<b>2</b>
<b>2</b>	<b>Specialised Qualifying Small Enterprise Scorecard</b>	<b>2</b>
<b>3</b>	<b>The Qualifying Small Enterprise Scorecard</b>	<b>3</b>
<b>4</b>	<b>Statement AICT601: Ownership for QSEs</b>	<b>5</b>
<b>5</b>	<b>Statement AICT602: Management Control for QSE</b>	<b>6</b>
<b>6</b>	<b>Statement AICT603: Skills Development for QSEs</b>	<b>7</b>
<b>7</b>	<b>Statement AICT604: Enterprise and Supplier Development for QSE</b>	<b>8</b>
<b>8</b>	<b>Statement AICT605: Socio-Economic Development for QSE's</b>	<b>11</b>

## 1. Index for Qualifying Small Enterprises

Statement Number	Code Series	Statement Title
AICT600	AICT600	The Qualifying Small Enterprises Scorecard and Exempted Micro-Enterprises
AICT601	AICT601	Ownership for Qualifying Small Enterprises
AICT602	AICT602	Management Control for Qualifying Small Enterprises
AICT603	AICT603	Skills Development for Qualifying Small Enterprises
AICT604	AICT604	Enterprise and Supplier Development for Qualifying Small Enterprises
AICT605	AICT605	Socio-Economic Development for Qualifying Small Enterprises

## 2. Specialised Qualifying Small Enterprise Scorecard

2.1. The following table represents the Specialised Qualifying Small Enterprise Scorecard and contains the:

2.1.1. Elements of the scorecard;

2.1.2. Weightings; and

2.1.3. The Amended Code Series reference that specify the mechanisms for measurement and calculation of each of the elements of the scorecard (Amended Code Series AICT602 - AICT605).

2.2. All other terms of Statement AICT000 - AICT500 apply to Measured Entities subject to this Statement, mutatis mutandis.

2.3. A QSE is required to comply with all the applicable elements for purposes of measurement under the Specialised Qualifying Small Enterprise Scorecard.

Element	Weighting	Code Series
Management control	25 points	AICT602
Skills development	30 points	AICT603
Enterprise and Supplier Development	30 points	AICT604
Socio-Economic Development	15 points	AICT605

### **3. The Qualifying Small Enterprise Scorecard**

- 3.1. The following table represents the Qualifying Small Enterprise Scorecard and contains the:
- 3.1.1. Elements of the scorecard;
  - 3.1.2. Weightings; and
  - 3.1.3. Code Series reference that specify the mechanisms for measurement and calculation of each of the elements of the scorecard (Code Series AICT601 - AICT605).
- 3.2. All other terms of Statement AICT000 - AICT500 apply to Measured Entities subject to this Statement, mutatis mutandis.

Element	Weighting points	Code Series
Ownership	25 points	AICT601
Management control	15 points	AICT602
Skills development	25 points	AICT603
Enterprise and Supplier Development		AICT604
Preferential procurement	20 points	
Supplier Development	5 points	
Enterprise Development	5 points	
Socio-Economic Development	12 points	AICT605

#### 4. Statement AICT601: Ownership for QSEs

##### 4.1. The QSE Ownership Scorecard

The following table represents the indicators and method for calculating a score for ownership under this statement:

Category	Ownership indicator		Weighting points	Compliance Target
4.1.1	Voting rights:			
	4.1.1.1	Exercisable Voting Rights in the Enterprise in the hands of black people	5	30%
	4.1.1.2	Exercisable Voting Rights in the Enterprise in the hands of black people	2	10%
4.1.2	Economic Interest:			
	4.1.2.1	Economic Interest of black people in the Enterprise	5	30%
	4.1.2.2	Economic Interest of black women in the Enterprise	2	10%
	4.1.2.3	New Entrants or Black Designated Groups	3	2%
4.1.3	Realisation points:			

	4.1.3. 1	Net Value	8	Refer to Annexure 100 (E)
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**4.2. Key Measurement Principles and Sub-minimum Requirements**

**4.2.1. General principles:**

4.2.2. Key Measurement Principles and sub-minimum requirements under Statement AICT100 are applicable to this statement.

4.2.3. Any interpretation or calculation of a QSE score for ownership must be made in accordance with Statement AICT100.

**5. Statement AICT602: Management Control for QSE**

**5.1. The QSE Management Control Scorecard**

The following table represents the indicators and method for calculating a score for management control under this statement:

Criteria	Weighting points	Compliance Target
<b>5.1.1. Executive Management</b>		
5.1.1.1. Black representation at Executive Management	5	50%
5.1.1.2 Black female representation at Executive Management.	2	25%
<b>5.1.2 Senior, Middle and Junior Management</b>		
5.1.2.1 Black representation at Senior, Middle and Junior management	6	60%

5.1.2.2 Black female representation at Senior, Middle and Junior management	2	30%
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**5.2. Key Measurement Principles**

- 5.2.1. The purpose of the QSE scorecard, Executive Management include other Executive Management as described under the general principles of Statement AICT200.
- 5.2.2. The demographic representation of Black people as defined in the Regulations of the Employment Equity Act and Commission on Employment Equity report are not applicable to the QSE Scorecard.
- 5.2.3. A Measured Entity must use the recent payroll data in calculating its score under the Management Control Scorecard.

**6. Statement AICT603: Skills Development for QSEs**

**6.1. The QSE Skills Development Scorecard**

The following table represents the indicators and methods for calculating a score under this statement:

6.1.1. Skills Development Element	Weighting points	Compliance Target
6.1.1.1. Skills Development expenditure on learning programmes specified in the Learning Programme Matrix for Black people as a percentage of Leivable Amount.	15	3%
6.1.1.2 Skills Development expenditure on learning programmes specified in the Learning Programme Matrix for Black Women as a percentage of Leivable Amount.	7	1%

6.1.1.3 Skills Development expenditure on learning programmes specified in the Learning Programme Matrix for Black People with Disabilities as a percentage of Leivable Amount.	3	0.15%
Bonus Points		
6.1.1.4 Number of Black people absorbed by the Measured Entity and or in the economy at the end of the learning programme.	5	100%

## 6.2. Key Measurement Principles and Sub-minimum Requirements

- 6.2.1. Sub-minimum requirements and Discounting principle under Statement AICT300 are applicable to this Statement.
- 6.2.2. The demographic representation of Black people as defined in the Regulations of the Employment Equity Act and the Commission on Employment Equity report are not applicable to the QSE Scorecard.
- 6.2.3. Where applicable, the following criteria must be fulfilled in order for the Measured Entity to receive points on the Skills Development Scorecard.
- 6.2.4. Workplace Skills Plan, an Annual Training Report and Pivotal Report which are SETA approved; and
- 6.2.5. Implementation of Priority Skills programme generally, and more specifically for Black people.
- 6.2.6. The Learning Programme Matrix under The Amended Code Series AICT300 is applicable to this Statement.
- 6.2.7. The Learning Programme Matrix that explains the method of measurement of the criteria under the Skills Development Scorecard must be in accordance with Amended ICT Code Series AICT300.

## 7. Statement AICT604: Enterprise and Supplier Development for QSE

- 7.1. The QSE Enterprise and Supplier Development Scorecard.

The following table represents the criteria for deriving a score for Enterprise and Supplier Development under this statement.

Criteria	Weighting points	Compliance targets
<b>7.1.1. Preferential Procurement</b>		
7.1.1.1. B-BBEE Procurement Spend from all Empowering Suppliers based on the B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	15	60%
7.1.1.2 B-BBEE Procurement Spend from Empowering Suppliers that are at least 51% Black Owned based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	5	15%
<b>Bonus Points</b>		
7.1.1.3 B-BBEE Procurement Spend from Designated Group of suppliers that are at least 51% Black owned based on the B-BBEE Recognition Level.	1	1%
<b>Supplier Development</b>		
7.1.1.4 Annual value of all Supplier Development Contributions made by the Measured Entity as a percentage of the target.	5	2% of Net Profit After Tax (NPAT)
<b>Enterprise Development</b>		
7.1.1.5 Annual value of Enterprise Development Contributions and Sector	5	2% of NPAT

Specific Programmes made by the Measured Entity as a percentage of the target to Black Owned ICT Entities.		
Bonus Points		
7.1.1.6 Bonus point for graduation of one or more Enterprise Development beneficiaries to graduate to the Supplier Development level.	1	
7.1.1.7 Bonus point for creating new jobs up to 10% of the workforce directly as a result of Supplier Development and Enterprise Development initiatives by the Measured Entity; OR	1	
7.1.1.8 Bonus point for creating new jobs 11% or more of the workforce directly as a result of Supplier Development and Enterprise Development initiatives by the Measured Entity.	2	

**7.2. Key Measurement Principles and sub-minimum requirements**

7.2.1. Key Measurement Principles and sub-minimum requirements under Statement AICT400 are applicable to this Statement.

7.2.2. In calculating the compliance of a Measured Entity the following Net Profit After Tax (NPAT) target applies unless:

7.2.2.1. the company does not make a profit in the measurement period or on average over the last five years.

7.2.2.2. the net profit margin is less than a quarter of the norm in the industry.

7.2.3. If the turnover is to be used, the target will be set at:

7.2.3.1.  $2\% \times \text{Indicative Profit Margin (NPAT/turnover)} \times \text{turnover}$ .

7.2.3.2. Indicative Profit Margin is the profit margin in the measured period where the company's profit margin is at least one quarter of the industry norm.

7.2.4. Any interpretation or calculation of a QSE's score for Enterprise and Supplier Development must be made in accordance with Statement AICT400.

**8. Statement AICT605: Socio-Economic Development for QSE's**

8.1. The QSE Socio-Economic Development (SED) Scorecard

8.1.1. In calculating the compliance of a Measured Entity the following Net Profit After Tax (NPAT) target applies unless:

8.1.1.1. the company does not make a profit in the measurement period or on average over the last five years.

8.1.1.2. the net profit margin is less than a quarter of the norm in the industry.

8.1.1.3. If the Turnover is to be used, the target will be set at:

8.1.1.4.  $1\% \times \text{Indicative Profit Margin (NPAT/Turnover)} \times \text{Turnover}$ .

The following table represents the criteria and method used for deriving a score for Socio-Economic Development under this Statement:

Criteria	Weighting Points	Compliance Target
Annual value of all Socio-Economic Development Contributions and Qualifying Socio-Economic Development Contributions made by the Measured Entity as a percentage of the target.	12	1% of NPAT

**8.2. Key Measurement Principles**

- 8.2.1. Measured Entities receive recognition for any Qualifying Contributions that are quantifiable as a monetary value using a Standard Valuation Method.**
- 8.2.2. Socio-Economic Development Qualifying Contributions of any Measured Entity are recognisable annually;**
- 8.2.3. No portion of the value of any Qualifying Contribution that is payable to the beneficiary after the date of measurement can form part of any calculation under this statement.**
- 8.2.4. Payments made by the Measured Entity to third parties to perform social development on the Measured Entity's behalf may constitute a SED Contribution.**
- 8.2.5. The recognition of SED Contributions must be determined in accordance with Amended Code Series AICT500.**

# **AMENDED B-BBEE ICT SECTOR CODE: INTERPRETATION AND DEFINITIONS**

## **SCHEDULE AICT1**

The AMENDED B-BBEE ICT SECTOR CODE must be interpreted according to the provisions in Schedule 1 of the Amended Generic Codes of Good Practice

The "Information & Communication Technology Sector" shall without in any way limiting the ordinary meaning of the terms, mean the sector in which employers and employees are associated with carrying on any one or more of the following activities:

Marketing, manufacturing, assembling, servicing, installing, maintaining and/or repairing systems, software, equipment, machines, devices and apparatus, whether utilising manual, photographic, optical, mechanical, electrical, electrostatic or electronic principles or any combination of such principles, that are primarily intended for the recording and/or processing and/or monitoring and/or transmission of voice and/or data and/or image and/or text or any combination thereof for use in any one or more of the following activities:

Accounting, calculating, data processing, data transmission, duplicating, test processing, document reproduction, document transmission, record keeping and record retrieval, broadcast or transmission for entertainment or information purposes of voice and/or image text or any combination thereof and/or: the provision of services relating to the above.

<b>"AMENDED B-BBEE ICT SECTOR CODE"</b>	<b>CODE SERIES AND RESPECTIVE STATEMENTS</b>
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