



Cape Peninsula
University of Technology

**RESPONSES OF SELECTED ENTERPRISES TO THE AMENDED BROAD-BASED
BLACK ECONOMIC EMPOWERMENT LEGISLATION IN CAPE TOWN, SOUTH
AFRICA**

by

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DECLARATION

I, Jollette Forbes, declare that the contents of this thesis represent my own unaided work and that the thesis has not previously been submitted for academic examination towards any qualification. Furthermore, it represents my own opinions and not necessarily those of the Cape Peninsula University of Technology (CPUT).

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ABSTRACT

Broad-Based Black Economic Empowerment (B-BBEE) has been the epitome of policy reform pervading South Africa (SA) since 1994, the end of apartheid. Often making media headlines, it inherently arrogates itself to all stakeholders engaged in commerce with/within SA.

The impetus for the study ensued owing to recent (2013) changes to the B-BBEE legislative landscape. More specifically, the focus of the study was on one segment: Qualifying Small Enterprises (QSEs), operating within the same realm as Small Medium and Micro Enterprises (SMMEs). The rationale for such a focus stemmed from this market segment's seemingly rigid response to such change, deemed to support this study's results.

The literature review embarked upon in Chapters 2 to 4, that is, collecting secondary data, provided for a solid foundation relative to a subject matter embedded with technical jargon and often driven by highly emotive/subjective inputs from stakeholders. The literature primarily drew from untested assumptions: these were mainly due to the high degree of contentiousness surrounding B-BBEE as subject matter, the lack of research (statistical results) relative to B-BBEE legislative change and more specifically, the lack of the latter relative to this study's scope.

The above introduction initiates the notion of there being inherent demarcations to this study, dictating the most relevant research design and methodology suited thereto. A pragmatic research philosophy was adopted, owing to its qualitative, exploratory enquiry. Furthermore, the unit of analysis, consisting of 16 samples, was conveniently selected. Although convenience sampling was regarded the most suitable approach to collecting data, it gave rise to the study's biggest limitation: its inability to generalise findings.

On that note, its findings were in line with the researcher's precedential assumption upon its initiation: legislative change to Broad-Based Black Economic Empowerment (B-BBEE) for Qualifying Small Enterprises (QSEs) lead(s) to non-compliance and impeded transformation goals. The results give rise to a plethora of valuable insights into the dynamics of the industry, not only for strategic direction to be set for/by stakeholders on both a micro and macro level, but also providing a solid foundation relative to further research to be embarked upon – a notion highly advocated in supporting the integration of sustainable transformation in modern South Africa (SA).

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LIST OF ABBREVIATIONS AND ACRONYMS¹

AA	Affirmative Action
ABET	Adult Basic Education and Training
ANC	African National Congress
ATR	Annual Training Report
BAR	B-BBEE Approved Registered Auditor
B-BBEE	Broad-Based Black Economic Empowerment
BBSDP	Black Business Supplier Development Programme
BBOS	Broad-Based Ownership Scheme
BEE	Black Economic Empowerment
BEECom	Black Economic Empowerment Commission
BFM	Benefit Factor Matrix
BMF	Black Management Forum
BNE	Black New Entrant
B2B	Business-to-Business
CA	Chartered Accountant
CEO	Chief Executive Officer
CFO	Chief Financial Officer
CHIETA	Chemical Industries Education and Training Authority
COO	Chief Operational Officer
Co-Ops	Co-Operatives
CIPC	Companies and Intellectual Property Commission
CPUT	Cape Peninsula University of Technology
CRO	Companies Registration Office
CSI	Corporate Social Investment
CSR	Corporate Social Responsibility

¹ Included in this document is a list of abbreviations and acronyms. However, owing to the large number used in this study and to facilitate reading and comprehension, terms shall (for the most part) be written in full in the body of this document, with their abbreviations/acronyms indicated in brackets.

DG	Discretionary Grant
DNV	Deemed Net Value
DoL	Department of Labour
DTI	Department of Trade and Industry
DS	Detailed Scorecard
EAP	Economically Active Population
ED	Enterprise Development
EE	Employment Equity
EEP	Equity Equivalent Programme
E-mail	Electronic mail
EM	Executive Management
EME	Exempted Micro Enterprise
ES	Empowering Supplier
ESD	Enterprise and Supplier Development
ESOP	Employee Share Ownership Programme
FRSC	Financial Reporting Standards Council
GAAP	Generally Accepted Accounting Principles
GDP	Gross Domestic Product
ICT	Information and Communication Technology
IRBA	Independent Regulatory Board for Auditors
JM	Junior Management
JSE	Johannesburg Stock Exchange
LPM	Learning Programme Matrix
LRA	Labour Relations Act
Ltd	Limited
M&C	Management and Control
MAC	Marketing, Advertising and Communications
MDP	Management Development Programme
MG	Mandatory Grant

MM	Middle Management
MNC	Multinational Corporation
NEF	National Empowerment Fund
NDP	National Development Plan
NGO	Non-Governmental Organisation
NLAT	Net Loss After Tax
No.	Number
NP	National Party
NPAT	Net Profit After Tax
NPBT	Net Profit Before Tax
NPC	National Planning Commission
NPO	Non-Profit Organisation
NQF	National Qualifications Framework
NSDS	National Skills Development Strategy
NSF	National Skills Fund
OECD	Organisation for Economic Co-operation and Development
Part.	Participant
PBO	Public Benefit Organisation
PEF	Private Equity Fund
PM	Profit Margin
PP	Preferential Procurement
PPPFA	Preferential Procurement Policy Framework Act
QLFS	Quarterly Labour Force Survey
QSE	Qualifying Small Enterprise
RA	Registered Auditor
RDP	Reconstruction and Development Programme
RMC	Responsible Social Marketing and Communications
SA	South Africa
SANAS	South African National Accreditation System

SAQA	South African Qualifications Authority
SARS	South African Revenue Service
SASAE	South African Standard on Assurance Engagements
SASSA	South African Social Security Agency
SD	Skills Development
SDA	Skills Development Act
SDL	Skills Development Levy
SDLA	Skills Development Levies Act
SED	Socio-Economic Development
SEDA	Small Enterprise Development Agency
SETA	Sector Education and Training Authority
SM	Senior Management
SME/SMME	Small, Medium and Micro Enterprises
SONA	State of the Nation Address
SPD	Supplier Development
SSP	Sector Skills Plan
STATS SA	Statistics South Africa
TBGF	Time-Based Graduation Factor
TM	Top Management
TMPS	Total Measured Procurement Spend
UK	United Kingdom
US	United States
Unisa	University of South Africa
VA	Verification Agency
VAT	Value-Added Tax
VM	Verification Manual
Vs.	Versus
WITS university	University of the Witwatersrand

WOW	Who Owns Whom
WSP	Workplace Skills Plan
W&R SETA	Wholesale and Retail Sector Education and Training Authority

GLOSSARY

Affirmative Action (AA)	Such policies are generally used to combat differences in groups in earnings and employment
Annual Training Report (ATR)	See 'Sector Education and Training Authority (SETA)'
B-BBEE Act	Refers to the Broad-Based Black Economic Empowerment (B-BBEE) Act (53/2003b), and the amendments thereto in 2013 (46/2013)
B-BBEE certificate	Refers to the end result of the verification in reflecting the measured entity's B-BBEE contributor status level and other relevant credentials, valid for a period of 12 months and accompanied by the Detailed Scorecard (DS)
B-BBEE contributor status level	Represents Broad-Based Black Economic Empowerment (B-BBEE) compliance. A B-BBEE Level 1 contributor status is the highest achievement, while a B-BBEE Level 9 contributor (or non-compliant) status, represents the lowest rating Alternative terms: B-BBEE status/B-BBEE level/B-BBEE status level/B-BBEE contributor status
Black Economic Empowerment (BEE)	Refers to the initial introduction of the concept, in which a narrow-based approach was adopted in the drive for empowering black persons
Black person	Refers to an African, Coloured, Indian or Asian natural person who is a South African citizen
Broad-Based Black Economic Empowerment (B-BBEE)	Adopts a more broad-based approach to the initial introduction of Black Economic Empowerment (BEE), introduced in the BEE strategy document [see Black Economic Empowerment (BEE)]
Black New Entrant (BNE)	This term relates to the ownership element and refers to black equity instrument holders who have not been in possession of total equity to the value of R20 million or more (old Codes)/R50 million or more (new Codes), using a standard valuation method
Commerce	Refers to any activity that directly or indirectly concerns itself with the trade of products and/or services
Deemed Net Value (DNV)	This term relates to the ownership element and refers to the preliminary score achieved in calculating the net value points on the ownership scorecard, relevant to the realisation points sub-category. Refer to realisation points
Department of Trade and Industry (DTI)	A government department responsible for B-BBEE policy development, reform and implementation
Designated employer	A designated employer is an employer who meets certain criteria, and based thereon, is required to comply with the Employment Equity Act

Designated groups	Refers to: the unemployed, youth, disabled persons, people living in rural/underdeveloped areas and/or military veterans.
Detailed Scorecard (DS)	Refers to the rating framework for which B-BBEE points are awarded, which equates to a B-BBEE contributor status level. It is accompanied by a B-BBEE certificate Alternative term: Scorecard
Disability	Refers to a disadvantage or restriction of activity relative to a person who has an impairment resulting in his/her not being able to compete on the same level as his/her peers, and who is therefore excluded from mainstream activity
Discounting principle	See 'sub-minimum requirement'
Economic interest	This term relates to the ownership element and refers to the possible return(s) realised, or entitled to be realised, by an equity instrument holder relative to his/her investment in the measured entity
Element	Refers to the primary categories of measurement in the verification process, each represented by a unique scorecard Alternative terms: B-BBEE element/B-BBEE rating element
Employment Equity Act (EEA)	Refers to the Employment Equity Act (55/1998a) and amendments thereto in 2013
Exempted Micro Enterprise (EME)	Refers to an enterprise with an annual turnover of less than R5 million (old Codes)/less than R10 million (new Codes)
GAP analysis	Within the context of this study, it refers to comparing past B-BBEE performance (relevant to the old Codes) to current B-BBEE performance (relevant to the new Codes)
Generic enterprise	Refers to an enterprise with an annual turnover of more than R35 million (old Codes)/more than R50million (new Codes)
Head count element(s)	Refers to: Ownership, Management and Control (M&C) and Employment Equity (EE) (old Codes)/Ownership, Management and Control (M&C) (new Codes)
Measured entity	Refers to the Exempted Micro Enterprises (EMEs), Qualifying Small Enterprises (QSEs) or Generic Enterprise being verified
New Codes	Refers to the B-BBEE Codes of Good Practice, Gazette No. 36928 of 11 October 2013
New Qualifying Small Enterprise (QSE) Codes	Refers to the B-BBEE Codes of Good Practice, Gazette No. 38076 of 11 October 2014 Alternative term: New Codes
Leviable amount	Represents a measured entity's total remuneration expense for a particular annual period
Old Codes	Refers to the B-BBEE Codes of Good Practice, Gazette No. 29617 of 9 February 2007

Preference point system	A pointing system within the Preferential Procurement Policy Framework Act (PPPFA) setting out allocations for B-BBEE relative to the value of the good(s) to be delivered/service(s) to be rendered
Preferential Procurement Policy Framework Act (PPPFA)	Refers to the Preferential Procurement Policy Framework (5/2000), with additional regulations gazetted on 8 June 2011 and amendments made thereto in January 2017
Priority element(s)	The following elements have been earmarked by the new Codes as priority: Ownership, Skills Development (SD), as well as Enterprise and Supplier Development (ESD)
Qualifying Small Enterprise (QSE)	Refers to an enterprise with an annual turnover of between R10 and R50 million (new Codes)
Radical change	Relates to change that threatens both an organisation's core assets and activities with obsolescence
Recent	refers to the time frame dictated by B-BBEE legislative change, that is, the past five years. More specifically, since 2013, when the B-BBEE Act was amended
Realisation points	This term relates to the ownership element and effectively measures equity held by black participants relative to their (possible) debt associations
Sector Education and Training Authority (SETA)	Responsible for promoting, monitoring and reporting on skills development in a particular sector/industry
Sector code	Refers to the Codes refined for a particular economic sector/industry to accommodate respective and relevant B-BBEE transformation goals
Skills Development Act (SDA)	Refers to the Skills Development Act (97/1998b) and the amendments thereto in 2003 and 2008, respectively
Skills Development Levies Act (SDLA)	Refers to the Skills Development Levies Act (9/1999a) and the amendments thereto in 2010
Skype	A software application using the internet via a webcam, allowing for one-on-one/face-to-face interviews at remote locations
Small, Medium and Micro Enterprises (SMMEs)	Comparable to B-BBEE, it shares the same meaning as Micro Enterprises (EMEs) and Qualifying Small Enterprises (QSEs)
South African National Accreditation System (SANAS)	Assumes the role of being the B-BBEE regulatory body relevant to verifications (new Codes)
Specialised enterprises	Include: companies limited by guarantee, higher education institutions, Non-Profit Organisations (NPOs), public entities and Public Benefit Organisations (PBOs)

Sub-minimum requirement	This requirement is closely linked to earmarked priority elements on the new Codes and the discounting principle. Should a certain sub-minimum requirement not be met within a priority element, the discounting principle becomes effective. The latter results in the points achieved by a measured entity remaining intact, while the B-BBEE status drops with a maximum of one B-BBEE contributor status level
Target	Represents the desired percentage for each sub-category to be achieved, as displayed on the Detailed Scorecard (DS)
Transformation goals	Has the meaning contained in the B-BBEE Act (46/2013), relative to its objectives
Verification	B-BBEE certificates are issued annually based on a verification conducted on the Codes
Verification Manual (VM)	A manual setting out the B-BBEE policies and procedures relevant to South African National Accreditation System (SANAS) accredited Verification Agencies (VAs)
Verification Agency (VA)	Refers to a service provider accredited to issue valid B-BBEE certificates; such accreditation is obtainable via the South African National Accreditation System (SANAS) or the Independent Regulatory Board for Auditors (IRBA)
Voting rights	This term relates to the ownership element of the scorecard and refers to the possible right to vote relative to an equity instrument holders' investment in the measured entity
Weight	As represented on each Detailed Scorecard (DS): relates to a fraction of the points relevant to that sub-category of a particular rating element
Workplace Skills Plan	See Sector Education and Training Authority (SETA)

CHAPTER 1 INTRODUCTION

1.1 Introduction

Broad-Based Black Economic Empowerment (B-BBEE) is a contentious issue as it envelops the economical, political and social factors of the South African (SA) landscape. It inherently arrogates itself to all stakeholders engaged in commerce with/within SA.

Post 1994, the African National Congress (ANC)-led government introduced B-BBEE as a means to redress the inefficiencies effected by South Africa's (SA) infamous non-democratic past. The B-BBEE Act (53/2003b) was gazetted in 2004 and a few years later, the B-BBEE Codes of Good Practice, more colloquially known as the Codes, as a tool to measure and drive economic transformation via the Act, were published.

2013 marked an era of change in the B-BBEE sphere when the B-BBEE Act was amended and soon thereafter, the Codes refined. Upon the release of the amended Codes, the Minister of the Department of Trade and Industry (DTI), Dr Rob Davies, announced that the legislative change symbolised a new beginning by focusing on productive B-BBEE and the growth of black entrepreneurs (Department of Trade and Industry, n.d.a). The Department of Trade and Industry (DTI) is responsible for B-BBEE policy development, reform and implementation.

This exploratory study focused on how such recent B-BBEE legislative change manifests itself in the market, more specifically upon one of the three market segments, its classification of which is based on annual turnover, namely, Qualifying Small Enterprises (QSEs).

1.2 Background to the research

Qualifying Small Enterprises (QSEs) are enterprises, now defined by the amended Codes, with annual turnovers between R10 and R50 million.

An enterprise with an annual turnover below R10 million is regarded as exempt, with a desirable B-BBEE status automatically achieved. This is referred to as an Exempted Micro Enterprise (EME). Hence, the term 'exempt' refers to the notion that a B-BBEE verification (an activity needed for obtaining a B-BBEE status level) is not required.

The final market segment represents enterprises with turnovers exceeding R50 million; these are referred to as generic enterprises (South Africa. Department of Trade and Industry, 2013a:7).

The general perception is that the amended Codes are more onerous than the previous legislative framework for Qualifying Small Enterprises (QSEs) and generic enterprises. Qualifying Small Enterprises (QSEs) are the focal point of this study in that there is an element of fear that legislative change could compel these businesses to deploy resources beyond their means in adapting to increased benchmarks for transformation (Foulds 2014; Lindsay, 2015; Mophethe, 2015). The assumption is that generic enterprises have increased access to resources comparative to their Qualifying Small Enterprise (QSE) counterparts, resulting in their better absorbing the cost of deploying the necessary resources for accommodating relevant adaptations (Levenstein, 2015a; Botha, 2017:34-35).

With all things being equal (*ceteris paribus*), being B-BBEE compliant comes down to a simple equation of perceived income versus the perceived expense and/or opportunity cost of achieving a desired B-BBEE status level. In essence, the threat of cost to amended B-BBEE compliance requirements currently faced by Qualifying Small Enterprises (QSEs) was the impetus for the study.

The implications of exploring a body of knowledge and testing Qualifying Small Enterprises' (QSEs') strategic response to the recent B-BBEE legislative change, relevant to this perceived tendency, are extensive, as they envelop the economical, political and social factors of the South African (SA) landscape (highlighted at the outset of this chapter). One such implication relates to job creation.

Qualifying Small Enterprises (QSEs) are regarded in the same realm as Small and Medium Enterprises (SMEs). This classification has overarching defining characteristics (more of which shall follow in the study's literature review, in Chapters 2 to 4). SMEs have been acknowledged by the South Africa's National Development Plan (NDP) as representing a critical sector for the promotion of employment. The estimate is for 90% of jobs to be created via this sector by 2030 (South Africa. National Planning Commission, n.d.:119).

The following section (problem identification) depicts the scope of the study.

1.3 Problem identification

1.3.1 Problem statement

Legislative change to Broad-Based Black Economic Empowerment (B-BBEE) for Qualifying Small Enterprises (QSEs) situated in Cape Town, South Africa, leads to non-compliance and impeded transformation goals.

1.3.2 Explanation of the problem

This section effectively explains the problem by focusing on the following key words and phrases covered in the statement:

1.3.2.1 Broad-Based Black Economic Empowerment

The term Broad-Based Black Economic Empowerment (B-BBEE) encapsulates the heart of the study. The B-BBEE Act (53/2003b:4) defines this term as: "...the economic [empowerment] of all black people including women, workers, youth, people with disabilities, and people living in rural areas through diverse but integrated socio-economic strategies that include, but are not limited to –

- (a) increasing the number of black people that manage, own and control enterprises and productive assets;
- (b) facilitating ownership and management of enterprises and productive assets by communities, workers, cooperatives and other collective enterprises;
- (c) human resource and skills development;
- (d) achieving equitable representation in all occupational categories and levels in the workforce;
- (e) preferential procurement; and
- (f) investment in enterprises that are owned or managed by black people..."

Further to this definition arises the need to define the concept of 'black people', as referenced above. The Codes (South Africa. Department of Trade and Industry, 2007a:88) contain a useful definition: "...[it refers to Africans, Coloureds or Indians who are] natural persons [and] who are citizens of the Republic of South Africa by birth or descent, or are citizens of the republic of South Africa by naturalisation:

- (a) occurring before the commencement date of the [C]onstitution of the Republic of South Africa Act of 1993; or
- (b) occurring after the commencement date of the Constitution of the Republic of South Africa Act of 1993, but who, without the Apartheid policy would have qualified for naturalization before then..."

In summary: B-BBEE is a contemporary, pragmatic growth strategy striving for equality post apartheid. It serves as a vehicle for wealth redistribution to South African (SA) citizens who are of African, Coloured or Indian racial descent (Schneiderman, 2009; Brand South Africa, 2013).

Another term needing further clarity is Black Economic Empowerment (BEE). BEE, as a concept, refers to the initial introductory years of empowering black persons prior to its being constitutionalised and expanded upon. For the purpose of the study, both these terms [Black Economic Empowerment (BEE) and Broad-Based Black Economic Empowerment (B-BBEE)] shall be used interchangeably.

1.3.2.2 Legislative change

There is a plethora of legislative frameworks for policy setting, reform and implementation relevant to B-BBEE available for review, all of which play a critical role in providing a delineation for the study. However, it is predominantly confined to the B-BBEE Codes of Good Practice, herein referred to as 'the Codes'. The latter was issued under Section 9(1) of the Broad-Based Black Economic Empowerment (B-BBEE) Act (53/2003b) as a framework for measuring B-BBEE (South Africa. Department of Trade and Industry, 2007a:3-5).

Reference is made to:

- the old Codes, gazetted on 9 February 2007; and
- the new Codes, represented by two publications: the first, gazetted on 11 October 2013 and another on 6 May 2015 (South Africa. Department of Trade and Industry, 2007a; South Africa. Department of Trade and Industry, 2013a; South Africa. Department of Trade and Industry, 2015a).

Thus, the focal point of the study was legislative change – the change from the old Codes to the new Codes. This change inherently represents a change to a measured entity's B-BBEE results, as displayed upon its B-BBEE certificate and Detailed Scorecard (DS). More specifically, the B-BBEE contributor status level (that a measured entity achieves) is presented on a B-BBEE certificate, which is accompanied by a Detailed Scorecard (DS), the latter articulating the method for deriving a B-BBEE result. These documents are issued annually based on a measured entity's latest B-BBEE performance.

1.3.2.3 Qualifying Small Enterprises

As indicated at the outset of this document, the interest of the study lies in one of the three market segments, the classification of which is based on annual turnover, namely Qualifying Small Enterprises (QSEs). QSE's are enterprises with annual turnovers between R10 and R50 million (South Africa. Department of Trade and Industry, 2013a:7). Exempted Micro Enterprises (EMEs) and generic enterprises therefore do not fall within the scope of the study.

Also included in this study were Qualifying Small Enterprises (QSEs), regarded as such in the old Codes, as well as in the new Codes. That is, enterprises with an annual turnover of between R5 and R35 million (old Codes) and enterprises with an annual turnover of between R10 and R50 million (new Codes) (South Africa. Department of Trade and Industry, 2007a:9; South Africa. Department of Trade and Industry, 2013a:7). With the legislative change allowing for a difference in turnover thresholds for classifying this group, it is likely for a previously defined QSE to now be regarded as an Exempted Micro Enterprise (EME) under the new Codes, with all other things being equal (*ceteris paribus*).

Another limitation imposed by this study which applies directly to Qualifying Small Enterprises (QSEs), is that B-BBEE sector codes were excluded. Sector codes are generated and gazetted in terms of Sections 9 and 12 of the B-BBEE Act (53/2003b), respectively. They accommodate variations specific to each industry relevant to the overall objectives contained in the Act. Julia Nzimande, a manager at SAGE BEE123, advises that should more than 50% of an organisation's annual turnover be generated from a relevant sector, it falls within the scope thereof (Nzimande, 2018).

The following sector codes have been gazetted:

- agriBEE sector code;
- financial sector code;
- Information and Communication Technology (ICT) sector code;
- property sector code;
- Chartered Accountancy (CA) sector code;
- integrated transport sector code;
- forest sector code;
- Marketing, Advertising and Communications (MAC) sector code; and
- tourism sector code (Department of Trade and Industry, n.d.b).

As with the Codes, sector codes are also revised for alignment to the amended B-BBEE Act (46/2013). However, these revisions call for such to be gazetted at different times. Including sector codes in the scope of the study, was therefore anticipated to have an effect on the findings, and thus the above-listed sector codes have been excluded from the scope of this study. Further limitations are highlighted in the latter part of this chapter.

1.3.2.4 Geographical area of the study: Cape Town, South Africa

B-BBEE is inherently confined to the borders of South Africa (SA), owing to it being a local issue. The geographical location was further narrowed to the Cape Town metropole. In practically contextualising these demarcations, samples within the unit of analysis were to be registered with the Companies and Intellectual Property Commission (CIPC) within the Western Cape.

1.3.2.5 Leads to: establishing an association between variables

It was imperative for the success of this study to be assertive in its aims. Hence, the phrase 'leads to', as referenced in the problem statement, required context from the outset.

The obvious link was the need for the study to establish an isolated association between B-BBEE legislative change and a change to the participants' B-BBEE results, presented on its B-BBEE certificate and Detailed Scorecard (DS). Upon these findings, the overall result of such change was further investigated relative to non-compliance and impeded transformation goals.

1.3.2.6 Non-compliance and impeded transformation goals: the effects of the problem

Non-compliance with B-BBEE occurs in one of two ways:

- When a measured entity undergoes a B-BBEE verification to effectively receive no status as a result, although a B-BBEE certificate and Detailed Scorecard (DS) were issued indicating such status.
- When a measured entity opts not to undergo a B-BBEE verification as a non-compliant status is inevitable. These Qualifying Small Enterprises (QSEs) are not in possession of a B-BBEE certificate and ultimately share in the status of being regarded as a non-compliant B-BBEE contributor.

The B-BBEE Act (53/2003b), and the amendments thereto as revised in 2013, effectively lists its objectives. These represent B-BBEE transformation goals for all stakeholders engaged in commerce relevant to South Africa (SA) on a micro and macro level. The premise of the Codes is to achieve B-BBEE transformation goals, as set out by the Act (46/2013). Thus, there is a direct association between achieving a non-compliant B-BBEE status, on a micro level, and such impeding transformation goals, on a macro level. Both terms represent a complete dependence on each other and can be used interchangeably. Furthermore, both are equally representative of the effects relative to the problem of the study.

However, there is a justification for considering these terms in isolation, and hence, the rationale for recognising both in the problem statement. In some cases the findings of the study indicated a result relative to a participant's B-BBEE compliance and transformation goals, the extent of which could only be determined by adopting a detailed, more isolated perspective. For example, although it was anticipated that some participants would yield B-BBEE non-compliant results, these could not be directly inferred to impeded transformation within its macro-economic landscape. An extended, subjective scope was needed in measuring the effects of the problem. This proved valuable for recommendations and provided for a solid foundation for initiating further research on this matter.

The next section deals with previous research conducted, relative to the scope of this study.

1.4 Previous work done

There is a general lack of research on the changes to B-BBEE legislation. Although there is currently no other research work drawing inferences on the exact scope of the problem identified above for the envisaged study, many relevant secondary sources on the subject matter at large exist for review.

However, the majority of secondary sources of literature proved to be untested assumptions pervading the contentiousness of B-BBEE as a subject matter. Lindsay (2015:3017) concurs in his assessment of B-BBEE: it is a deeply controversial, complex and subjective issue. More on this follows in the next section.

1.5 Literature study

A literature study is a “comprehensive review of the published and unpublished work from secondary sources of data in the areas of specific interest” (Sekaran, 2003:63).

The literature review of this study comprises:

- Chapter 2: The legislative frameworks constituting the rich history of B-BBEE, since its inauguration up until the changes in 2012.
- Chapter 3: Such legislative frameworks within South Africa’s (SA’s) current and unique state of affairs.
- Chapter 4: A more focused approach by reviewing the means of arriving at a B-BBEE status for Qualifying Small Enterprises (QSEs) specifically.

This section briefly introduces the above-mentioned scope of the chapters relevant to the literature review.

1.5.1 B-BBEE: a contemporary, contentious issue

The value of this study lies in it being a current phenomenon. President Jacob Zuma (2017) indicated in his State of the Nation address on 9 February 2017: “Twenty-two years into our freedom and democracy, the majority of black people are still economically disempowered”. He indicated B-BBEE and transformation should be prioritised for the year ahead.

1.5.2 The history of B-BBEE

It is impossible to understand B-BBEE without considering the underpinning historical political genre that emanates from South Africa’s (SA’s) non-democratic past. The history of B-BBEE, within the contextual delineation of this chapter, briefly identifies the following points in time as pivotal:

B-BBEE is effectively regarded as a response to apartheid. Apartheid was introduced in 1948 by the then elected National Party (NP). Apartheid was a regime introduced by government to strengthen its policies of racial segregation in an attempt to decrease political power held by the various racial groups making up South Africa’s (SA’s) rainbow nation (South African History Online, 2011).

Amidst riots and progressive national anarchy toward the latter part of the twentieth century, global exposure to the brutal regime increased, resulting in sanctions imposed by both the United States (US) and the United Kingdom (UK) (History.com, 2010).

In an attempt to revive the economy, B-BBEE (as it is colloquially known today) was gradually introduced. However, it was only in 1994 that transformation was initiated. South Africa's (SA's) first democratic election was won by the African National Congress (ANC), led by the late Nelson Mandela (1964): "I have cherished the ideal of a democratic and free society in which all persons live together in harmony and with equal opportunities."

Nine years later, transformation was formalised with the introduction of the B-BBEE Act (53/2003b). Black Economic Empowerment (BEE) was narrow based in that the focus was on transformation via the ownership and management spheres of the economy. It had set in motion extensive policy reform in an attempt to integrate the current constitution with this new, and now formalised, ideal.

In 2007, the Broad-Based Black Economic Empowerment (B-BBEE) Codes of Good Practice (the Codes) were gazetted as a programme for driving transformation, as encapsulated in Section 9(1) of the B-BBEE Act (53/2003b). Broad-Based Black Economic Empowerment was introduced to include more spheres of the economy. The following seven spheres were identified for restitution by the Codes:

- Ownership measures the effective ownership of enterprises by black people.
- Management and Control (M&C) measures the effective control of enterprises by black people.
- Employment Equity (EE) measures the effective achievement of equity in the workplace.
- Skills Development (SD) measures the effective training initiatives targeted at black people in the workplace.
- Preferential Procurement (PP) measures the extent to which enterprises are driven by transformation and procure from one another based on B-BBEE recognition levels.
- Enterprise Development (ED) measures the extent to which enterprises sustainably support other black enterprises.
- Socio-Economic Development (SED) measures the extent to which enterprises promote access to the economy for black people.

Seven years on (2014) saw the release of the B-BBEE Amendment Act (46/2013) and the refinement of the Codes. What is clear is that there are now two sets of Codes: the old Codes and the new Codes. The focus of the study was on this specific piece of legislature as it is the only tool for measuring B-BBEE compliance, and hence, measuring an entity's progress towards achieving transformation goals.

Amidst these changes were further instructions for industry-specific sector codes to be aligned with the 'new' Codes (South Africa, 2015:3).

The rationale for such profound changes remains debatable, with opposing viewpoints from political leaders. President Jacob Zuma indicated at the National B-BBEE Summit, titled: "A Decade of B-BBEE in SA", that the following economic achievements since 1995 had been noted:

- A 40% increase in per capita income, from R 27,500 in 1993 to R 38,500 in 2012.
- A 43% increase in disposal income per capita.
- An increase in total employment by 3.5% since 1994 (South Africa. Department of Trade and Industry, 2013a:12-13).

Although these achievements are to be celebrated, Dr Rob Davies, Minister of the Department of Trade and Industry (DTI), in his address at the same summit indicated that a 2012/2013 study commissioned by the DTI found that companies were lagging in terms of the implementation of B-BBEE and still "battling to embrace and implement meaningful transformation" (South Africa. Department of Trade and Industry, 2013a:11). Pravin Gordhan, previous minister of finance, agrees that BEE policies have not worked and have not made South Africa (SA) a fairer or more prosperous country (Jeffery, 2013).

As was the case with releasing the B-BBEE Act (53/2003b), the amendments thereto again set in motion extensive policy reform in an attempt to integrate it with current constitutional policies. The current B-BBEE climate (and hence the economical, political and social factors it envelops) is therefore one of change and inherent uncertainty. Based on the above brief review, historical events point to the notion that such a climate is not a novelty in South Africa (SA) with further, continued change expected.

The figure below presents the focal points in time discussed above, briefly outlining the history of B-BBEE:

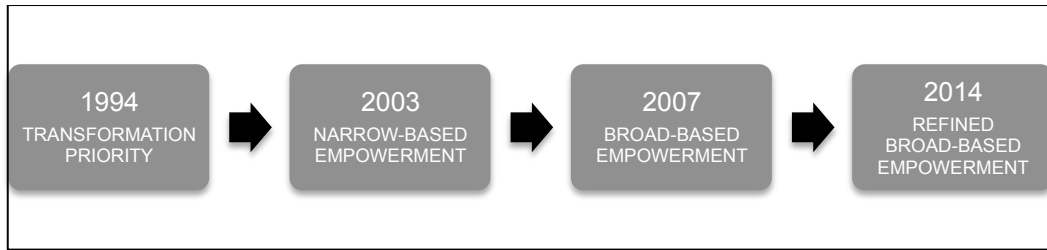


Figure 1.1: The history of B-BBEE, briefly depicting focal points in time

1.5.3 Annotating B-BBEE legislative change

In comparing the old to the new Codes, in the light of this study, the following five areas of change can be regarded as fundamental and are prioritised:

- B-BBEE classifications
- B-BBEE rating elements
- Priority elements
- Pointing system
- Empowering Supplier (ES)

1.5.3.1 B-BBEE classifications

All enterprises verified on the Codes are placed in one of three categories, according to latest annual turnover, as briefly introduced in Section 1.3.2.3. They are (South Africa, Department of Trade and Industry, 2007a:9-11; South Africa, Department of Trade and Industry, 2013a:8-11):

1.5.3.1.1 Exempted Micro Enterprises

Category one refers to Exempted Micro Enterprises (EMEs). These enterprises are awarded an exemption from being verified on the Codes until such time as an annual turnover of R10 million (the threshold was set at R5 million on the old Codes) is achieved.

EMEs are exempted by automatically being awarded a B-BBEE Level 4 contributor status. Such was the case with the old and now with the new Codes. Preference is given to EMEs with a certain proportion of black ownership. More specifically, EMEs enjoying 100% black ownership are enhanced to a B-BBEE Level 1 contributor status, while EMEs with 51% black ownership achieve a B-BBEE Level 2 contributor status. The only leverage these enterprises was given in the past (old Codes) was that EMEs with more than 50% black ownership, moved up to achieve a B-BBEE Level 3 contributor status. The BEE Institute (2015) expresses the opinion that these enterprises “are the real winners from this new shift”.

Start-up enterprises are regarded as EMEs in their first year of trading, irrespective of total annual turnover. This gives these new enterprises time to become acquainted with the compliance requirements of B-BBEE.

1.5.3.1.2 Qualifying Small Enterprises

The following category, Qualifying Small Enterprises (QSEs), is the first to qualify to be verified on the Codes.

The annual turnover for Qualifying Small Enterprises (QSEs) has been amended to yield any value between R10 and R50 million (the threshold was previously set at between R5 and R35 million).

Here too preference is given to Qualifying Small Enterprises (QSEs) with a certain proportion of black ownership. QSEs that are wholly black owned are advanced to a B-BBEE Level 1 status, while QSEs with 51% black ownership achieve a B-BBEE Level 2 contributor status. Owing to these automatic advancements, such QSEs are not required to undergo verification and should obtain a sworn affidavit to this effect – as is the case with EMEs. It should be noted that black ownership recognition for QSEs was never awarded in the past.

Section 2 introduced the notion that the amended Codes are more onerous than the previous legislative framework for Qualifying Small Enterprises (QSEs) and generic enterprises. The study therefore builds on this perceived notion that legislative change results in QSEs deploying resources beyond their means in adapting to increased benchmarks for transformation, while their generic counterparts are better equipped in doing so (Levenstein, 2015a). Research undertaken by Grant Thornton and reported on in the *International Business Report* shows that the new Codes have resulted in increased costs for 65% of South African (SA) businesses (Lawrence, 2016). However, generic enterprises are regarded as large enough to absorb the more onerous legislative requirements, and therefore are not included in the scope of the study.

1.5.3.1.3 Generic enterprises

The final category of B-BBEE enterprises, generic enterprises, is represented by those yielding a total annual turnover above R50 million (the threshold was set at R35 million in the old Codes).

1.5.3.2 B-BBEE rating elements

For Qualifying Small Enterprises (QSEs) with less than 51% black ownership, the elements to be measured have changed from seven (listed in Section 6.2) to five. QSEs now have to comply with all five elements. Each element has a different weighting to equal 100 points, as graphically depicted in Table 1.1 below:

**Table 1.1: The B-BBEE rating elements
(Adapted from South Africa. Department of Trade and Industry, 2015a:21)**

Ownership	25 points
Management and Control (M&C)	15 points
Skills Development (SD)	25 points
Enterprise and Supplier Development (ESD)	30 points
Socio-Economic Development (SED)	5 points

The old Codes allowed for four of the best performing elements out of seven (this shall be addressed in further detail in Chapter 2's literature review) to be selected for measurement, each representing an equal weighting of 25 points to total 100 points.

Some of these (B-BBEE rating elements) have been earmarked by the new Codes as a priority.

1.5.3.3 Priority elements

Compliance with priority elements has been introduced by effecting what is called a discounting principle. The latter is enforceable when a Qualifying Small Enterprise (QSE) does not comply with the minimum requirements set out by the new Codes relevant to two priority elements, one of which has to be ownership. The effect thereof is that the measured entity's B-BBEE status is discounted one level.

The following elements have been identified as priority (South Africa. Department of Trade and Industry, 2013a:7):

- Ownership
- Skills Development (SD)
- Enterprise and Supplier Development (ESD)

1.5.3.4 Pointing system

The fourth of five primary changes relates to adjustments made to the pointing system; herewith an extrapolation:

Table 1.2: The B-BBEE pointing system, indicating B-BBEE points, levels and procurement recognition percentages
 (Adapted from South Africa. Department of Trade and Industry, 2007a:11; South Africa. Department of Trade and Industry, 2013a:12).

BBBEE Status	2007 Qualification	Revised Qualification	Recognition Level
Level 1	≥100 points	≥100 points	135%
Level 2	≥85 points <100	≥90 points <100	125%
Level 3	≥75 points <85	≥85 points <90	110%
Level 4	≥65 points <75	≥80 points <85	100%
Level 5	≥55 points <65	≥75 points <80	80%
Level 6	≥45 points <55	≥70 points <75	60%
Level 7	≥40 points <45	≥55 points <70	50%
Level 8	≥30 points <40	≥40 points <55	10%
Level 9, or Non-compliant	<30	<40	0%

This illustration shows that the mere adjustment to the pointing system results in a B-BBEE status level drop, with the exception of a B-BBEE Level 1 contributor status being achieved. Werksmans Attorneys (n.d) highlights that an enterprise with 65 points would have an ‘old’ B-BBEE Level 4 rating, but a ‘new’ B-BBEE Level 7 rating as indicated in bold in Table 1.2 above.

Oliver (2016) cites Cor van Deventer views relating to the new Codes: “...many companies are now under-scoring which will dramatically affect their ability to not only secure new business, but also to retain clients, which will obviously have an effect on their bottom lines”.

Additionally, with the latest Preferential Procurement Policy Framework Act’s (PPPFA’s) revision in January 2017 to accommodate amendments to the new Codes, no positive change was made to the points awarded in terms of the B-BBEE compliance level scoring system (South Africa. National Treasury, 2017:24-25). With a drop in B-BBEE status levels being inevitable, so are the available points under the PPPFA’s preference point system. The PPPFA stipulates that when government assesses contracts, it must take into account a preference point system which prescribes functionality, price, and reconstruction development programme (RDP) goals” (Department of Trade and Industry, n.d.c).

1.5.3.5 Empowering Supplier

The final primary area of change has its application in terms of Enterprise and Supplier Development (ESD). Qualifying Small Enterprises (QSEs) are required to comply with certain criteria prior to achieving Empowering Supplier (ES) status.

A QSE has to comply with all of the regulatory requirements of South Africa (SA), such as: being in possession of a Tax Clearance Certificate; being registered as an employer by the Department of Labour (DoL); as well as further criteria which shall be detailed in Section 3.3.4.2. of Chapter 3.

These five fundamental legislative changes hold significant consequences for measured entities, resulting in strategic change management strategies to be adopted. Arnél van Ayers advises business owners to continuously strategise on B-BBEE throughout the year, while in the past it was an activity occurring once annually (Oliver, 2016). This is vital for Qualifying Small Enterprises (QSEs) wishing to remain on the B-BBEE radar.

The final need for building a theoretical framework for the study was to understand how a B-BBEE status is derived and its link to non-compliance, which inherently correlates to transformation (discussed in Section 1.3.2.6).

1.5.4 Non-compliance: deriving a B-BBEE status

In building upon the aforementioned means of ascertaining whether B-BBEE compliance/transformation goals are met, lies a critical analysis of a measured entity's B-BBEE certificate and Detailed Scorecard (DS). There is thus a need for a technical review of literature relevant to how such a status is derived. The study (Chapter 4) therefore critically reviews technical changes to these documents [B-BBEE certificates and Detailed Scorecards (DSs)] from the old Codes to the new Codes for Qualifying Small Enterprises (QSEs) of the predetermined unit of analysis.

Following the literature review explaining why this study was conducted, the research methodology shall now be considered relative to how it was conducted.

1.6 Research methodology

This section introduces the research methodology, which will be dealt with in detail in Chapter 5. Furthermore, Chapter 5 notes a variety of views on research by enumerating the following elements encapsulated by the research methodology and design processes:

- Research philosophy
- Approach
- Purpose
- Strategy
- Type of investigation
- Extent of researcher interference
- Location
- Time horizon
- Unit of analysis
- Data collection
- Ethics
- Data analysis and reporting
- Credibility of research findings

What follows is a brief introduction of these elements in terms of how they are related to and integrated into the study:

1.6.1 Philosophy

Research philosophy is an overarching term that relates to the development of knowledge in a particular field (Saunders et al., 2009:107).

The study adopted a pragmatic research philosophy. Pragmatism holds that the most important determinant of the epistemology (reality), ontology (knowledge) and axiology (research) adopted is the research question. Such a philosophy incorporates multiple realities, observable/objective data and subjective meanings, laying the foundation for adopting a study with both qualitative and quantitative elements to best answer the research question (Saunders et al., 2009:107-119). Although quantitative elements of this study are identifiable, it stems from the collection of secondary data. Thus, this study assumes a dominant qualitative disposition.

1.6.2 Approach

Intrinsic to quantitative and qualitative research are its approaches: deductive or inductive. In short, deduction relates to testing theory, while induction relates to building theory (Locke, 2007:867-890). An inductive approach was followed.

1.6.3 Purpose

Sekaran (2003:119) argues that a study may be an explorative one, be descriptive, or require hypothesis testing, with some referring to the latter as an explanatory study. The study assumed an exploratory role as it aimed to explore Qualifying Small Enterprises' (QSEs) strategic response to B-BBEE legislative change.

1.6.4 The target population and its sample

There were numerous factors under consideration in establishing the target population and its sample for this study. There were barriers to accessing the target population. Access was predominantly restricted owing to the sensitive nature of the information needed to demarcate the target population, as well as the data to be collected by the researcher/divulged by the participant. Fortunately the researcher could gain such access via a predetermined B-BBEE Verification Agency (VA), referred to by Maxwell (2018:19-31) as a 'gatekeeper'. The author advocates the use of gatekeepers or other influential persons relevant to qualitative research in establishing relationships; these may control or facilitate access to required settings or participants.

The unit of analysis refers to "the persons or things being studied" (Vogt & Johnson, 2015:333). It refers to individuals, dyads, groups, organisations or cultures. Thus, inherent in considerations relevant to the unit of analysis, is selecting samples. Sampling relates to the decision process for selecting the most appropriate unit of analysis for a study.

Daniel (2012:66-80) provides the following details in identifying the following two sampling techniques:

- Probability or representative sampling, in which each case has an equal chance of being selected from the population (a 'known' probability of being selected).
- Non-probability or judgmental sampling is a sampling procedure that does not give some elements in the population a chance to be in the sample.

A non-probability technique was best suited to this study owing to its pragmatic approach, in that there are many limitations and demarcations set on the population and hence, the sample. This resulted in the probability of each case to be selected from the population not being known.

Furthermore, convenience sampling (one of five non-probability sampling techniques) supported the study's approach as it involved selecting the cases which are easiest to obtain (Saunders et al., 2009:233-243).

The following extensive demarcations provide the rationale for this study's means of selecting its sample:

1.6.4.1 Demarcation of the research

The following points delineate the boundaries of the research:

- Included was the study of Qualifying Small Enterprises (QSEs), while the study of Exempted Micro Enterprises (EMEs) and generic enterprises was excluded.
- Furthermore, the term QSE refers to an enterprise defined as such in the new Codes, as well as in the old Codes between consecutive periods and being measured.
- B-BBEE sector codes were excluded, owing to varying time frames of gazetting and implementation.
- Also excluded from the study were Qualifying Small Enterprises (QSEs) with more than 51% black ownership prior to the B-BBEE legislative amendments (and not as a strategic response thereto).
- Geographically this study was confined to the borders of South Africa (SA). More specifically, clients of an approved B-BBEE Verification Agency located in the Cape Town metropole.
- The term 'non-compliance' carries the meaning contained in this document.
- The scope of the term 'transformation goals' was confined and measured according to the objectives listed in the B-BBEE Act (53/2003b) and the B-BBEE amended Act (46/2013).

The demarcations of the research might seem extensive. However, in reviewing secondary data relevant to research conducted in this field (Chapters 2 to 4), there is currently (2018) no academic literature directed at isolating the effect of B-BBEE legislative change on measured entities; thus all factors possibly influencing such findings were removed. Furthermore there were considerations relevant to the researcher's vested interest in Qualifying Small Enterprises (QSEs) specifically, as well as limitations of cost and time.

The above demarcations were effectively communicated to prompt the predetermined approved B-BBEE Verification Agency (VA) (gatekeeper) to delineate the population. Twenty-eight measured entities were identified as the target population from a total population (total active B-BBEE clients) of over 300 measured entities. The target population was approached in an attempt to gain their approval to participate in the study. A mere 16 positive responses were obtained, each assuming the title of sample, and hence comprising this study's unit of analysis. Again, the above

reiterates the rationale for and relevance of adopting convenience sampling as a non-probability sampling technique.

1.6.5 Strategy

There are five research strategies relevant to the purpose of the research (exploratory research, in this case). They are:

- Experiment: with its purpose being to study causal links between the dependent and independent variables. It strongly features in social science research.
- Survey: relates to quantitative data collection and analysis, using descriptive and inferential statistics.
- Case study: an empirical investigation into a contemporary phenomenon within its real life context.
- Action research: has an explicit focus on action, in particular promoting change in an organisation.
- Grounded theory: data collection here starts with the formation of an initial theoretical framework, resulting in constant reference to data development and testing.
- Ethnography: with its purpose being to describe and explain the social world within the context of the research.
- Archival research: which makes use of administrative records and documents as the principal source of data (Saunders et al., 2009:141-150).

The strategy for the study adopted archival research. B-BBEE certificates and Detailed Scorecards (DSs) of the selected samples were comparatively reviewed between consecutive periods representing B-BBEE results in the old Codes versus in the new Codes in an attempt to numerically/objectively:

- earmark changes to B-BBEE results between consecutive periods;
- establish the rationale (B-BBEE legislative change) for such change;
- determine the areas of such change, the extent thereof; and
- assess the likelihood of any pattern recognition within such results.

B-BBEE strategy documents, where available, were also requested to support the above analysis.

Furthermore, and more importantly, the study mainly drew upon the elements of grounded theory, relative to its exploratory nature. Although the analysis of archival records formed the basis in providing an initial theoretical framework, further data was required in providing a subjective, qualitative framework for solving the research problem.

1.6.6 Data-collection techniques

The researcher collected both primary and secondary data for the purpose of solving the problem identified in Section 1.3 above. Van Wyk (1996:100-120) define secondary data as existing data, which is subdivided into internal and external secondary data. Internal secondary data are generated by an organisation in the course of its business activities, while external secondary data are obtained from sources outside the organisation, as used in the chapters relevant to reviewing the literature. Primary data, in turn, is defined as original data collected specifically for solving the problem at hand.

Thus, internal secondary data was collected via obtaining participants' B-BBEE certificates and Detailed Scorecards (DSs) between consecutive periods representing B-BBEE results in the old Codes versus the new Codes. The content is regarded as highly credible as “[a]ny Verification Professional who issues a Verification Certificate without applying the Guidelines set out in the Verification Manual shall be guilty of unprofessional conduct and the [DTI] may recommend the loss of accreditation of the Verification Agency or approval of the B-BBEE verification Professional” (South Africa. Department of Trade and Industry, 2015a:7). In drawing upon such highly credible secondary sources of data, the criticism at the beginning of this chapter (on previous work done, Section 1.4) relevant to such sources in the realm of B-BBEE was, as far as possible, avoided.

Thereafter data was collected from primary sources via non-standardised, semi-structured, face-to-face interviews. Skype interviews were resorted to in some cases. This allowed for flexibility relevant to the nature of the questions to be covered (generated based on the results of the secondary, quantitative data already collected and analysed), which varied in each interview conducted.

1.6.6.1 Ethical considerations

Inherent in any research conducted are its ethical considerations. The study was conducted in accordance with the Cape Peninsula University of Technology (CPUT's) Code of Practice on Ethical Standards. More specifically, the study:

- was carried out in a scholarly and responsible manner ... taking responsibility for the design, methodology and execution of the research;
- followed the principles of honesty, clarity, comprehensiveness, accountability and openness to public scrutiny;
- respected the right of fellow researchers to research from a variety of paradigms, and to use a range of methods and techniques;
- followed procedures to ensure proper accountability;
- disseminated the findings for peer review;
- acknowledged all sources of information and support; and
- did not misuse a research position, funding or findings (Cape Peninsula University of Technology, 2008:1).

1.6.7 Analysis

As was the case with collecting data, data analysis followed a two-phase process:

On collection of internal secondary data, it was prepared for pre-analysis. Data from B-BBEE certificates, Detailed Scorecards (DSs) and, where possible, strategy documents for at least two consecutive measurement periods were recorded and used to customise the questionnaire. The questionnaire was initially prepared ('customised') for the interview with each sample/participant.

Upon meeting each participant/collecting primary data, it was thematically analysed via coding and categorising on an Excel software program. In the analysis phase, cross-reference was constantly made to the following research questions, in an attempt not to lose sight of the identified problem.

1.7 Research questions

The following research questions were derived from the problem statement:

- Is there a possible change in the respective B-BBEE statuses between consecutive periods of measurement?
- If so, can such change be attributed to B-BBEE legislative change?
- If the above hold true:
 - What effect does the measured entity's response have on its commercial activities and its market penetration, in general?
 - Does the result of such a change cause impediments to the implementation of national B-BBEE policy?
 - Which factors can be earmarked as having changed and what is the extent thereof?

The research questions lead to the heart of the study, its objectives:

1.8 Objectives of the research

The primary aim of the study was to ascertain whether legislative change to Broad-Based Black Economic Empowerment (B-BBEE) for Qualifying Small Enterprises (QSEs) lead to non-compliance and impeded transformation goals.

Irrespective of the findings, the following subsidiary objectives sufficed:

- On a micro level: to provide clarity on the strategic responses of Qualifying Small Enterprises (QSEs) to B-BBEE legislative change in terms of the commercial factors implicated by such a response(s), as well possible relevant patterns.
- On a macro level: to ascertain the likelihood of government's achieving its overall transformation goals, as contained in the revised B-BBEE Act (46/2013).

1.9 Expected outcome

The assumption at the outset of this study was one based on an underlying notion that the criteria for Qualifying Small Enterprises (QSEs) have become too onerous. The expected outcome was for legislative change to Broad-Based Black Economic Empowerment (B-BBEE) to result in non-compliance and impeded transformation goals, for these organisations (QSEs) specifically.

1.10 The results

The study's results were deemed to achieve its objectives and support the above expected outcome. It was found that legislative change to Broad-Based Black Economic Empowerment (B-BBEE) for Qualifying Small Enterprises (QSEs) leads to non-compliance and impeded transformation goals.

Linked with the above were the findings relevant to measured entities' response to the new Codes. A perceived low need for B-BBEE compliance was identified, correlating with an overwhelming majority of participants indicating that such status has not had any effect on its market position. This suggested a current stagnant B-BBEE industry resulting from radical legislative change, pointing to the notion that government's transformation goals are not being met.

1.11 Value of the study

The value of the study lies in that it presents a validated result in identifying a current phenomenon within the specified parameters of the B-BBEE industry, ultimately impacting all stakeholders engaged in commerce with and/or within South Africa (SA). It provides a valid academic source in lieu of the many untested assumptions and writings that pervade much of the B-BBEE policy framework.

Ultimately, the intended rationale of the study was to contribute to the B-BBEE industry and the South African (SA) economy as a whole.

1.12 Summary

This chapter served as an introduction to the research conducted, giving the rationale for embarking upon this study by clearly defining the problem and reviewing previous work done in this field. Academic literature was consulted, laying a solid foundation for Chapters 2 to 4. Further elements to the adopted research method were disclosed, relevant to its qualitative, explorative predisposition.

The chapter closed by noting successful associations between the study's objectives with reference to its expected outcomes and results, and most importantly its value to South Africa's (SA's) commercial standing.

CHAPTER 2

LITERATURE REVIEW: DEVELOPMENT OF THE B-BBEE LANDSCAPE

2.1 Introduction

Broad-Based Black Economic Empowerment (B-BBEE) has been a major policy thrust since 1994 in advocating issues relating to economic emancipation in South Africa (SA) (Ponte et al., 2007).

Chapter 1 set out the structure of collecting externally sourced, secondary data; that is, reviewing relevant literature on the subject matter. The structure of the next three chapters is:

- Chapter 2: Depicts the legislative frameworks in respect of the rich history of B-BBEE, since its inauguration, until the changes in 2012.
- Chapter 3: Further depicts such legislative frameworks in South Africa's (SA's) current and unique state of affairs.
- Chapter 4: Adopts a more specific approach by technically reviewing the means for arriving at a B-BBEE status, for Qualifying Small Enterprises (QSEs) specifically.

The aim of the next two chapters is to explore the body of knowledge on the many pieces of legislation shaping the implementation and measurement of B-BBEE policy. More specifically, to provide meaningful insights into the legislative frameworks outlining the rich history of B-BBEE in South Africa (SA), using a timeline approach. This will provide a perspective of the country's historical roots in fully comprehending the modern landscape of transformation.

2.2 South Africa's historical antecedents

It is impossible to understand B-BBEE as a subject without considering the underpinning historical political genre that emanates from South Africa's (SA's) non-democratic past. South Africa (SA) became progressively notorious for issues such as racial segregation, discrimination, white supremacy, and ultimately, apartheid (History.com, 2010).

Race-based oppression was initiated in the early 1930s and found expression in the late 1940s (Mafuna, 2007:35). More specifically, 1948 earmarked the year in which the National Party (NP) would win the elections under the slogan 'apartheid', the latter holding the meaning of 'separateness'. These elections were tendentiously conducted according to the parameters of the South African Act (1909), an Act of the then British Parliament. Elections occurred via a direct election of the House of Assembly and an indirectly elected Senate, both being largely restricted to white men.

The South African Act (1909) combined the self-governing British colonies of Natal, Cape, Transvaal and the Orange Free State into the Union of South Africa (SA), which served as its constitution until 1961. The apartheid regime was government's strategy to strengthen its policies of racial segregation in an attempt to decrease political power held by these groups (South African History Online, 2011).

Apartheid systematically and purposefully restricted the majority of South Africans from meaningful participation in the economy (South Africa. Department of Trade and Industry, 2003:4). The primary role of black persons was to supply labour to white industry. The highest position to which a black person could aspire was that of a teacher or minister of religion: socially useful, but economically insignificant positions (Pieres, 2007:45). These racial restrictions resulted in the destruction of millions of black people's assets, while wealth was directed and confined to the non-black racial minority. To be more specific with regard to the term 'millions', Terreblanche (2003:373) effectively reports that in the 70s the African labour force totalled 73,5% of the total workforce of South Africa (SA). Including other racial compositions into the equation (to accurately represent all the groups included in the definition of 'black' espoused by B-BBEE), Statistics South Africa (2000:13) recorded black people as comprising 84% of the population a decade later, in 1981.

However, Henrard (2002:39), citing Sash, argues that: "[t]here is no clear majority population in South Africa, against which minorities need to be protected. Linguistically and culturally speaking, there are only minorities in this country." His view gives insight into why government's 'seperatedness' strategy was successful in repressing the 'majority', as the reality is that the latter actually refers to all racial groups classified under the umbrella term of black. Apartheid adroitly exploited obvious differences in South Africa's (SA's) extensively diverse population in terms of ethnicity, culture, language, religion and levels of education.

The decade leading into the 70s was known for its exponential economic growth in response to the apartheid movement, with profits soaring to R501 million in 1970 alone. The latter part of the 70s would see the state owning the bulk of the South African (SA) highly cartelised economy (Innes, 2007:59-61).

The turning point came on June 16, 1976, in Soweto, when a massacre of school children peacefully protesting against having the Afrikaans language as the medium of instruction took place. Government's response resulted in an estimated 200 casualties. Unlike previous riots in 1952 and 1961, the police were unable to suppress the students, even by force. This caused international awareness of SA's then state of affairs. Today, June 16 marks the commemoration of this event and is proclaimed National Youth Day.

This event caused South Africa (SA) to gain increased exposure and insights into the brutal apartheid regime. Both the United States (US) and the United Kingdom (UK) denounced apartheid by imposing economic sanctions on South Africa (SA) (History.com, 2010). Further events, such as the independence of Mozambique, Angola and Zimbabwe, as well as the 1979 oil crisis, contributed to the economic instability during this time (ironically, taking into account the economic prosperity experienced less than a decade earlier). These developments eventually also contributed to bring apartheid to its knees (Innes, 2007:62-63).

Thus, the late 1970s saw major reform policies introduced. What followed in the 1980s were policies which effected important, albeit incremental changes.

It is uncertain when exactly the notion of Black Economic Empowerment (BEE) was initiated. What is certain is that the 1980s represented a time when black businesses began to get organised. The Black Management Forum (BMF), established in 1976, rallied for increased exposure in playing an advocacy role by challenging corporations to open up more meaningful opportunities for black people. The turbulent environment characterised by strikes, stay-aways and sanctions challenged black managers at this time. Lot Ndlovu, former President of the BMF, characterises this period as emotionally draining in taking a standpoint as a black manager to such activities (Ndlovu, 2007:99).

A paradigm shift occurred when Frederik Willem de Klerk was appointed president in 1989 as he supported South Africa's (SA's) transition to a non-racial democracy, signaling the end of the apartheid edifice. De Klerk's government subsequently repealed most legislation that formed the legal basis of apartheid, leading to extensive constitutional reform. The input of the Riekert and Wiehahn Commissions was sought as institutional vehicles for doing so. The Riekert Commission, on labour legislation, and the Wiehahn Commission, on manpower legislation, included black

persons in the economy and society, at large (Vose, 1985). De Klerk told Smith (2010), a columnist for the *British Sunday Observer*, that had he not made these political changes, "our economy would be non-existent – we would not be exporting a single case of wine and South African planes would not be allowed to land anywhere. Internally, we would have the equivalent of civil war".

2.3 1994: the end of apartheid

A new constitution, which enfranchised black persons, took effect in 1994. Democratic elections that year led to Nelson Rolihlahla Mandela, President of the African National Congress (ANC) since 1991, being appointed the national president, winning 63% of the votes against 20% of the erstwhile ruling party (Lindsay, 2015). 1994 thus marked the end of apartheid.

Mandela, a devoted politician, strove for equality. He served 27 years in prison under the apartheid regime. Upon his release, he worked closely with De Klerk with the aim of effectively eradicating and reconciling the nation. Post 1994, Mandela had the mandate to emancipate a divided nation. Mandela would soon become South Africa's (SA's) cynosure of freedom.

2.4 Theoretical perspectives: reviewing academic literature

Maseko's (2007:74-88) review of the available theoretical perspectives of academic literature relative to whether a viable black capitalist class could have developed and prospered in South Africa (SA) under the apartheid rule; one of the early intentions of B-BBEE. He draws on the following competing arguments:

2.4.1 The liberal-modernisation perspective

The liberal-modernisation theory states that the imperatives of a capitalist economy are inherently rational. Capitalism is governed by the following principles: fairness, merit and objectivity.

This perspective applied to the South African (SA) context asserts that should the capitalist system be left to its own devices (free-market mechanisms), black people would be embraced in all spheres of the economy.

In retrospect, the basic argument of this theory would appear to be correct in that a black bourgeoisie have indeed developed in South Africa (more on this in Section 2.18.1 later in the chapter). The primary criticism is that the effect of this was/is not due to the natural functions of a capitalist economy, but was caused by the occurrence of an unique chain of orchestrated historical events.

2.4.2 The dependency perspective

The dependency theory dismisses the existence and possible emergence of a viable black capitalist class in South Africa (SA). Its foundations are based on the notion that dependent economies (such as SA) are structurally bound to advanced economies via exporting raw materials and importing finished, luxury goods.

The major criticism of this theory, however, is that it does not take into consideration historical processes of capital accumulation and class formation, both issues which are prevalent in the developing South African (SA) economy.

2.4.3 The Marxist perspective

Marxist theory argues that a non-racial capitalism is impossible in South Africa (SA). It draws inferences from the perspective that the variables of race and class are so closely interrelated that one cannot function without the other.

Wolpe, cited by Maseko (2007:80-81), contends that anti-racist movements may, in fact, incorporate alternative class objectives.

The above perspectives provide valuable methodological insights into the development of a viable black middle class in SA. However, against this background, there were several historical events that do not fit the linear development of black businesses underpinning these perspectives. The rise of a black bourgeoisie is a result of a culmination of progressive historical events, from early apartheid policies to the implementation of B-BBEE.

2.5 1996: the Constitution of the Republic of South Africa (108/1996c)

Mandela's first task in initiating restitution was to draw up the fifth Constitution of the Republic of South Africa (SA).

The values that underpin Black Economic Empowerment (BEE) are the very same ones on which the Constitution was founded (Sachs, 2007:17). More specifically, Section 9 of the Constitution (South Africa, 1996c) deals with equality, Affirmative Action (AA) and unfair discrimination, paving the way for the formal introduction of Black Economic Empowerment (BEE) as we know it today and its inherent legislative frameworks.

2.6 2003: a formal introduction of Black Economic Empowerment

In response to the 1994 non-racial elections, the Black Management Forum (BMF) formally established the Black Economic Empowerment Commission (BEECom). The BEE Commission (n.d.) was established to:

- develop a clear and coherent vision and strategy for BEE;
- locate the empowerment project as part and parcel of the transformation of South Africa (SA); and
- examine ways in which black business could speak with a united voice.

These processes had, until then, been conceptualised, controlled and driven purely by the private sector.

Stakeholders from business and labour, as well as politicians and academics, were represented on the Commission. In considering the circumstances for early policy proposals and initiatives on BEE having been developed within a cauldron of unequal power relations, imbalances in knowledge and experience, it is not surprising to Lindsay (2015:139) that it has developed into the complex and controversial phenomenon that it is.

The BEE Commission released a report in 2001, which would be the first meaningful introduction of the then called Black Economic Empowerment (BEE), referred to as the BEE strategy.

The BEE policy was officially introduced via the BEE Strategy in 2003 to address South Africa's (SA's) legacy of economic exclusion and material inequality (Bernstein & Johnston (eds), 2005:141-142). More specifically, it introduced the concept of adopting a yardstick for measuring business' contribution to BEE. Black Economic Empowerment (BEE), which at the time merely took into account shareholding and board participation, expeditiously evolved to become Broad-Based Black Economic Empowerment (B-BBEE). This term would "...include elements of human resource development, employment equity, enterprise development, preferential procurement, as well as investment, ownership and

control of enterprises and economic assets” (South Africa. Department of Trade and Industry, 2003:12). Furthermore, the BEE strategy served as a precursor to the B-BBEE Act. Similarly, many other related legislative documents were generated at this time in response to the BEE strategy, signaling an era of policy reform.

2.7 2003/2004: the B-BBEE Act (53/2003b)

In 2003 the B-BBEE Act (53/2003b) was promulgated. It is relatively short, consisting of six pages. It outlines the following action items for the Minister of Trade and Industry, which are to:

- define a national BEE strategy;
- establish a BEE Advisory Council;
- draft a set of guidelines for BEE; and
- approve BEE charters for relevant economic sectors (South Africa, 2004:1-6).

2.7.1 The importance of Black Economic Empowerment

Also, inclusive of the B-BBEE Act (53/2003b) are its objectives, which inherently highlight the need for, and ultimately the importance of, Black Economic Empowerment (B-BBEE): “ ... [T]o facilitate broad-based black economic empowerment by –

- a) promoting economic transformation in order to enable meaningful participation of black people in the economy;
- b) achieving a substantial change in the racial composition of ownership and management structures and in the skilled occupations of existing and new enterprises;
- c) increasing the extent to which the communities, workers, cooperatives and other collective enterprises own and manage existing and new enterprises and increasing their access to economic activities, infrastructure and skills training;
- d) increasing the extent to which black women own and manage existing and new enterprises, and increasing their access to economic activities, infrastructure and skills training;
- e) promoting investment programmes that lead to broad-based and meaningful participation in the economy by black people in order to achieve sustainable development and general prosperity;
- f) empowering rural and local communities by enabling access to economic activities, land, infrastructure, ownership and skills; and
- g) promoting access to finance for black economic empowerment” (South Africa, 2004:4-5).

At a glance, these seven objectives serve as a benchmark for measuring the progression towards empowerment and sustainable transformation, a vital consideration for driving the problem statement of this study (as set out in Chapter 1). However, the scope of these objectives requires further clarity as it (since 2004) has been exposed to vigorous debate.

Some of the criticism B-BBEE attracts are: empowerment is concentrated in an elite few black people and in doing so, neglects the poor; it does not promote entrepreneurship (the real driver of economic growth); its inability to directly be linked to issues, such as job creation, poverty alleviation, housing, geographical elements relevant to schools, and so forth (Shubane, 2007:168-169; Tangri & Southall, 2008; *The Economist*, 2010; Krüger, 2011; Krüger, 2014).

Saki Macozoma, a prominent businessman in South Africa (SA), challenges such critique in advising stakeholders to stop propagating the idea that the B-BBEE was ever meant to cure all of the ills of our society: It is merely one policy instrument among many (Macozoma, 2007:178).

From the action items, listed in the outset of this section, it is clear that the next step for the Department of Trade and Industry (DTI) was to draft a set of guidelines for B-BBEE, as it was then 'broadly' acknowledged. It would be almost four years before doing so, after which the Codes of Good Practice on Black Economic Empowerment (the 'Codes', as referred to in this study) were gazetted.

2.8 2007: the Codes, a framework for measuring B-BBEE

The Codes (South Africa. Department of Trade and Industry, 2007a) were gazetted on 9 February 2007 as a comprehensive framework for standardising the measurement of B-BBEE. Soon thereafter the Department of Trade and Industry (DTI) released the Interpretive Guide to the Codes, which reads in conjunction with the Codes as a means of providing further clarification (South Africa. Department of Trade and Industry, 2007b).

The technicalities embedded within the Codes as a regulatory regime prove insightful to this study, specifically, as they objectively measure the existence and extent of B-BBEE compliance and transformation on a micro level (that is, for each measured entity independently). This is in strong contrast to the macro-economic scope of the B-BBEE objectives, as referenced from the Act (53/2003b) from the previous section.

The Codes identify three types of enterprises, each with a specific set of requirements for compliance. B-BBEE classifications were highlighted in Chapter 1 of this study and will now be reviewed in further detail.

2.8.1 B-BBEE classifications

All enterprises being verified are placed in one of three categories, according to latest annual turnover. The 2007 Codes, referred to as the 'old Codes' in this study, provide a useful source document dictating the following enterprise classifications (South Africa. Department of Trade and Industry, 2007a:9-11):

2.8.1.1 Exempted Micro Enterprises

Category 1 refers to Exempted Micro Enterprises (EMEs). These enterprises are awarded an exemption from being verified on the Codes until such time as an annual turnover of R5 million is achieved.

Exempted Micro Enterprises (EMEs) are exempted by automatically being awarded a B-BBEE Level 4 contributor status. Preference is given to EMEs with a certain proportion of black ownership. EMEs enjoying more than 50% black ownership, move up to achieve a B-BBEE Level 3 contributor status.

Start-up enterprises are regarded as EMEs in their first year of trading, irrespective of total annual turnover. This awards these new enterprises time to become acquainted with the compliance requirements of B-BBEE.

2.8.1.2 Qualifying Small Enterprises

The following category, Qualifying Small Enterprises (QSEs), is the first to qualify to be verified on the Codes. The annual turnover for these enterprises yields a value of between R5 and R35 million.

2.8.1.3 Generic enterprises

The final category of B-BBEE enterprises is represented by those yielding a total annual turnover above R35 million, referred to as generic enterprises.

While only Qualifying Small Enterprises (QSEs) and generic enterprises require verification, it is imperative for Exempted Micro Enterprises (EMEs) to be mindful of the framework set forth in the Codes for measuring economic transformation as turnover grows. The following elements are set forth in the Codes, which are subject to verification:

2.8.2 B-BBEE elements

The B-BBEE elements presented by the Codes are illustrated in Table 2.1 below. Section 1.5.2 of Chapter 1 provides a handy description of each element.

Table 2.1: B-BBEE rating elements and their respective weightings in the old Codes (Adapted from South Africa. Department of Trade and Industry, 2007a:79)

Rating element	Weighting points: QSE	Weighting points: Generic enterprise
Ownership	*25 points	20 points
Management and Control (M&C)	*25 points	10 points
Employment Equity	*25 points	15 points
Skills Development (SD)	*25 points	15 points
Preferential Procurement (PP)	*25 points	20 points
Enterprise Development (ED)	*25 points	15 points
Socio-Economic Development (SED)	*25 points	5 points
Total	100 points (*select best 4)	100 points

The best performing *four out of the seven elements, as tabled above, are elected by Qualifying Small Enterprises (QSEs) to derive at a rating represented by total points out of 100 (South Africa. Department of Trade and Industry, 2007a:10). Generic enterprises, on the other hand, are required to comply with all seven elements, while different weightings are assigned to them in achieving a score out of 100. Upon measurement of the enterprises' compliance with these elements, a B-BBEE score is allocated which translates into a B-BBEE level.

The Codes effectively provide for a Detailed Scorecard (DS) for each of these elements, clearly indicating sub-areas of compliance via relevant weightings and targets assigned. The Detailed Scorecard (DS) presents the points achieved per element. The points are then tallied to represent a relevant B-BBEE status level, reflected as such on a measured entity's B-BBEE certificate. These documents (B-BBEE certificate and DS) are valid for a period of 12 months, after which a renewal is required. Note that the DS for each element shall be reviewed and graphically illustrated in Chapter 4 where a more elaborate, technical approach to the Codes shall be adopted.

2.8.3 B-BBEE status

The practicality of a measured entity's B-BBEE status refers to the recognition level it translates to, as illustrated in the following Table. It indicates how the points awarded to a measured entity (variations from over 30 to 100 points) translate into a B-BBEE status (variations from one to nine levels), which in turn represents a recognition level (variations from 0% to 135% preferential procurement percentages).

**Table 2.2: The B-BBEE point system, representative of the old Codes
(Adapted from Table 1.2)**

Points	B-BBEE Status	Recognition Level
≥100 points	Level 1	135%
≥85 points <100	Level 2	125%
≥75 points <85	Level 3	110%
≥65 points <75	Level 4	100%
≥55 points <65	Level 5	80%
≥45 points <55	Level 6	60%
≥40 points <45	Level 7	50%
≥30 points <40	Level 8	10%
<30	Level 9/Non-compliant	0%

B-BBEE statuses are best described by the Department of Trade and Industry's (DTIs) Interpretative Guide on comparative reporting effects of B-BBEE procurement spend (Department of Trade and Industry, 2007b:17-18). Assuming a procurement officer spends R1 million on goods and/or services from Company X, Company Y and Company Z respectively (each with its own B-BBEE status), as well as R5 million from another company, Company A (with a B-BBEE non-compliant contributor status), the officer's B-BBEE reporting will be as follows:

**Table 2.3: The practical implications of a B-BBEE status level
(Adapted from South Africa. Department of Trade and Industry, 2007b:17-18)**

Supplier	B-BBEE score	Level contribution	B-BBEE recognition level	Total spend	B-BBEE spend
Company X	55%	Level 5	80%	R1 000 000	R800 000
Company Y	78%	Level 3	110%	R1 000 000	R1 100 000
Company Z	55%	Level 4	100%	R1 000 000	R1 000 000
Company A	15%	Non-Compliant	0%	R5 000 000	R0
Total				R8 000 000	R2 900 000

The B-BBEE procurement percentage will be calculated as follows: B-BBEE spend (R2.9 million) divided by total spend (R8 million), which equates to 36,3%.

The procurement officer receives full and enhanced recognition for procurement from Company Y and Company Z, while s/he receives 80% recognition for his/her spend with Company X and no recognition whatsoever for his/her spend with Company A. In order to improve spend to reach target, s/he will prefer to procure from Company Y and Company Z and may reduce the spend with Company A and Company X over time (unless they transform). This behaviour encourages companies to maintain and even improve on their B-BBEE status in an attempt to become more competitive in the marketplace.

2.8.3.1 The need for a B-BBEE certificate

The above scenario describes the need for B-BBEE from the perspective of the Preferential Procurement (PP) element ingrained in the Codes.

Further, it should be noted that the driving force relative to the need for a B-BBEE certificate is two-fold. The BEE strategy document (South Africa. Department of Trade and Industry, 2003:16-17) effectively describes the importance of a B-BBEE status level in government's procurement processes: "In particular, government will apply BEE criteria, as set out in scorecard (or charter) whenever it:

- grants a licence to engage in a specific regulated economic activity, for example, gambling or mining,
- grants a concession to a private enterprise to operate an asset or enterprise on behalf of the state,
- sells an asset or a state-owned enterprise,
- enters into a public-private partnership,
- engages in any economic activity."

From this perspective, one cannot comprehensively review the need for B-BBEE without consideration of the the Preferential Procurement Policy Framework Act (PPPFA) (5/2000). This Act revolutionised the way business was done in South Africa (SA) by introducing a tool for driving transformation issues. This is achieved by allocating points to economical procurement processes, based on factors such as quality and price. Upon the introduction of B-BBEE post 2003, the National Treasury, under the leadership of Trevor Manuel, was instructed by the Department of Trade and Industry (DTI) to amend the PPPFA to advance the objectives of the B-BBEE Act (53/2003b). This was briefly introduced in Chapter 1, Section 1.5.3.4.

“The PPPFA stipulates that when government assesses contracts, it must take into account a preference point system which prescribes functionality, price and reconstruction development programme (RDP) goals” (Department of Trade and Industry, n.d.c). Hence, B-BBEE would now (post 2011, upon the promulgation of these amendments) be a requirement incorporated into the preference point system.

From the above it is clear that Preferential Procurement (PP) can be regarded as the driving force of B-BBEE (initiated by state and/or private business). It has a trickle-down effect, the implications of which increase market access to black companies and ensure their sustainability by decreasing heavy reliance on the public sector. The criticism of this approach to B-BBEE, however, is that it is slow to come to fruition (Jack, 2007:110-111).

Van der Merwe and Ferreira (2014:545), citing De Villiers and Ferreira, effectively summarise the two reasons as to why an organisation would need a B-BBEE certificate and hence, elect to be B-BBEE compliant:

- The desire to be socially responsible by correcting the inequalities of the past.
- The economic profits as a result of the preferential business treatment afforded to B-BBEE compliant entities in South Africa (SA).

It should be noted that no private business is under any compulsion to participate in B-BBEE empowerment; it is only considered mandatory for government and state-owned companies (Jack, 2007:191; *The Economist*, 2006).

2.9 The Codes and their inherent link to other legislative frameworks

The Codes are considered a far-reaching policy framework as they inherently link to many existing pieces of legislature. This is clear from the review of the Preferential Procurement Policy Framework Act (PPPFA) (5/2000). Marais and Coetzee (2006:536) raised concerns on this issue when the old Codes were promulgated: “The quandary is that many areas in which the codes are to be applied according to the BEE Act, are already regulated by existing legislation. Such legislation often provides its own empowerment mechanisms.” Lindsay (2015) concurs as he critiques an apparent lack of any overarching conception of B-BBEE in the formulation of government policies, with there being very little acknowledgement of the extent of its overlapping. While it is beyond the ambit of this study to review the integration and coherence of B-BBEE to other legislative frameworks, noting such linkages is valuable.

2.9.1 Compliance with the South African Revenue Service

Established in terms of the South African Revenue Service (SARS) as an autonomous agency, this body is responsible for administering the South African (SA) tax system and customs service (South Africa, 1997c).

More specifically, SARS's (n.d.) responsibilities include:

- collecting and administering all national taxes, duties and levies;
- collecting revenue that may be imposed under any other legislation as agreed on between SARS and a state entity entitled to the revenue;
- providing a customs service that facilitates trade, maximises revenue collection and protects our borders from illegal importation and exportation of goods; and
- advising the Minister of Finance on all revenue matters.

B-BBEE-related compliance with SARS is linked to documentary evidence relevant to the verification of the ownership element. SARS also plays a role in measured entities wishing to score points for training, referred to as the Skills Development (SD) element in the Codes (South Africa. Department of Trade and Industry, 2008:63).

Value-Added Tax (VAT), "an indirect tax on the consumption of goods and services in the economy", is a process managed by SARS and a process to be considered in terms of B-BBEE compliance (SARS, 2017a). For the Preferential Procurement (PP) element, a VAT declaration is required from SARS. Additionally, measured entities should ensure VAT is excluded from all contributions considered for expenditure on the following elements: Skills Development (SD), Preferential Procurement (PP), Enterprise Development (ED) and Socio-Economic Development (SED).

2.9.2 Compliance with the Employment Equity Act (55/1998a)

Compliance with the Employment Equity Act (EEA) (55/1998a) links with the elements of Management and Control (M&C) and Employment Equity (EE).

The aims of the Employment Equity Act (EEA) (South Africa, 1998a:2) are to:

- "promote the constitutional right of equality and the exercise of true democracy;
- eliminate unfair discrimination in employment;
- ensure the implementation of employment equity to redress the effects of discrimination;
- achieve a diverse workforce broadly representative of our people;
- promote economic development and efficiency in the workplace; and
- give effect to the obligations of the Republic as a member of the International Labour Organization (ILO)."

The Act requires all designated employers to report on their Employment Equity (EE) status via the submission of EEA2 and EEA4 forms to the Department of Labour (DoL). Furthermore, the Act requires designated employers to keep a completed copy of a single-page EEA1 document on each employee's file. A designated employer is defined as:

- “an employer who employs 50 or more employees;
- an employer who employs fewer than 50 employees, but has a total annual turnover that is equal to or above the applicable annual turnover of a small business in terms of Schedule 4 to this Act...” (South Africa, 1998a:8). Schedule 4 of the EEA, as amended, is presented in Appendix A of this study.

One of the requirements of a designated employer is to submit EEA2 and EEA4 forms:

- on an annual basis for measured entities employing > 50 employees; or
- bi-annually for a designated employer meeting the relevant annual turnover threshold specified in Schedule 4 of the EEA (55/1998a).

The EEA2 form is used to report to the Department of Labour (DoL) on how many employees a designated employer has in terms of numerical totals for race, gender, disabilities, managerial levels, new hires, promotions, demotions, terminations and skills developed; while the EEA4 form represents total remuneration of each race and gender, classified within the managerial levels to report on possible income differentials.

From 2002 to 2012, the number of submissions received and approved by the Department had increased by 215% (Commission for Employment Equity, 2013:15). Such success could be ascribed to the effective subordination of the B-BBEE Act (53/2003b) to the EEA (55/1998a).

Section 54 of the EEA (53/1998a) embodies the Codes of Good Practice on employment and makes provision for a reference point relating to the term 'disability', which is linked to the ownership, Employment Equity (EE) and Skills Development (SD) elements of the Codes.

2.9.3 Compliance with the Skills Development Act (97/1998b) and the Skills Development Levies Act (9/1999a)

To achieve B-BBEE compliance, generic enterprises are to comply with the Skills Development Act (SDA) (97/1998b), and the Skills Development Levies Act (SDLA) (9/1999a), respectively.

The aims of the SDA (South Africa, 1998b:1) are to:

- provide an institutional framework to devise and implement national, sector and workplace strategies to develop and improve the skills of the SA workforce;
- integrate those strategies within the National Qualifications Framework (NQF) contemplated in the South African Qualifications Authority (SAQA) Act of 1995;
- provide for learnerships that lead to recognised occupational qualifications;
- provide for the financing of skills development by means of a levy-grant scheme and a National Skills Fund (NSF); and
- provide for and regulate employment services and provide for matters connected therewith.

The Skills Development Levies Act (SDLA) (97/1998b), accompanies the Skills Development Act (SDA) (9/1999a), as it makes provision for the imposition of a levy of one percent (as of 1 April 2002) of total remuneration payable in an annual period, provided total payroll for the said period does not exceed R250 000. The levy is reported on and paid to SARS via a monthly EMP201 document.

A measured entity can claim their full percent levy paid to SARS via the submission of an Annual Training Report (ATR) and Workplace Skills Plan (WSP). These forms are submitted by April each year to the entity's registered Sectoral Education and Training Authority (SETA), and based on the industry in which it operates.

Submission of the ATR and WSP is referred to as a Mandatory Grant (MG). The Workplace Skills Plans (WSPs) document skills needs in an organisation and describe the range of skills development interventions that an organisation will use to address these needs, while Annual Training Reports (ATRs) indicate how these organisations have addressed the priority skills defined in the WSPs (HRD Toolkit, n.d.).

Entities are then given an opportunity, relevant to the scope of the Sectoral Education and Training Authority (SETA) in which they operate, to submit Discretionary Grants (DGs). DGs are additional funds awarded for allocation towards sector-specific skills programmes, based on the funds available by the SETA upon payment of the Mandatory Grant (MG).

The prerequisites to score Skills Development (SD) points for B-BBEE are:

- a measured entity should be in possession of a Sectoral Education and Training Authority (SETA) approved Workplace Skills Plan (WSP) and Annual Training Report (ATR), containing a Pivotal Report; and
- have implemented priority skills programmes for black persons (South Africa. Department of Trade and Industry, 2007a:43).

Measured entities not meeting their annual remuneration target of R250 000 are not considered under the laws set out in the Skills Development Levies Act (SDLA, 9/1999a) and hence, the reciprocal Skills Development Act (SDA) (97/1998b). These entities may therefore claim B-BBEE points under the Skills Development (SD) element without taking into consideration the aforementioned prerequisites relating to such compliance.

The five Acts reviewed above are directly related to B-BBEE compliance. Non-compliance could lead to points being disallowed and ultimately, a less desirable B-BBEE status. There are, however, many other legislative frameworks linked to the Codes in a lesser degree, which will now be identified:

2.9.4 Other legislative frameworks

The following literature review relates to other legislative frameworks linked to the Codes, in chronological order:

The fourth Schedule of the Income Tax Act (58/1962), together with its amendments, sets out the scope for the subsuming term: leviable amount. This dictates the target for the Skills Development (SD) element under the B-BBEE Codes. Furthermore, Section 18A of the Act provides clarity on donations in respect of the Socio-Economic Development (SED) element.

Additionally, the Labour Relations Act (LRA) (66/1995), with its last amendment in 2002, defines the meaning of an employee, a fundamental term to understand in terms of the Management and Control (M&C), Employment Equity (EE) and Skills Development (SD) elements.

The Skills Development (SD) element, with particular reference to the Learning Programme Matrix (LPM), investigated in detail in Chapter 3, is subject to the provisions included relevant to the Higher Education Act (101/1997a).

The Codes are also linked to the National Youth Commission Act (19/1996b), defining the term 'youth' as persons aged 14 to 35 years, while the Non-Profit Organisation (NPO) Act (71/1997b), released a year later, has relevance to the Socio-Economic Development (SED) element.

The Public Management Finance Act (1/1999b) and its amendments, provide useful schedules for categorising public sector entities, an important consideration for most measured entities in deducing their Preferential Procurement (PP) score. Furthermore, the Codes consider Generally Accepted Accounting Principles (GAAP) in defining Net Profit After Tax (NPAT) (South Africa. Department of Trade and Industry, 2007a:91).

The Companies Act (71/2009) paved the way for the the Companies and Intellectual Property Commission (CIPC) (2007) to fulfil its functions, an important consideration during this time for compliance with the B-BBEE ownership and Management and Control (M&C) elements, which include to:

- register companies, co-operatives and intellectual property rights, such as trade marks, patents, designs and copyright, and maintenance thereof;
- disclose information on business register;
- promote education and awareness of company and intellectual property laws;
- promote compliance with relevant legislation and provide enforcement of relevant legislation;
- monitor compliance with and contraventions of financial reporting standards, and make recommendations to the Financial Reporting Standards Council (FRSC);
- provide licensing to business rescue practitioners; and
- report, research and advise the Minister on matters of national policy relating to company and intellectual property law.

Further to the Management and Control (M&C) element, it is subject to elemental issues contained in the King Report for Corporate Governance (Institute of Directors in Southern Africa, 2009).

In conclusion to the above-mentioned legislative frameworks: from when the Codes were gazetted in 2007 until 2009, it is clear that government's focus was on the implementation of B-BBEE and how it would integrate with the commercial world.

2.10 The three waves of B-BBEE

Vuyo Jack (2007:105-111), founder of Empowerdex, a leading B-BBEE Verification Agency (VA), identify three waves of B-BBEE:

- The first wave signaled the informal introduction of Black Economic Empowerment (BEE) post 1994.
- The second wave relates to the period in which the B-BBEE Commission was established to formally release the BEE strategy. During this time BEE was narrow based and focused on the ownership and control of entities within South Africa (SA).
- The third wave relates to the Preferential Procurement Policy Framework Act (PPPFA) (5/2000) and its effective integration into the broader notion of BEE, to become Broad-Based Black Economic Empowerment (B-BBEE).

2.11 2008/2009: introducing further mechanisms for compliance

The Department of Trade and Industry (DTI) gazetted the B-BBEE Verification Manual (VM) on 18 July 2008 for purposes of accreditation and verification by the South African National Accreditation System (SANAS) and BEE Verification Agencies (VAs). “The Verification Manual provides comprehensive and easy-to-follow guidelines on the authentication and substantiation of B-BBEE reporting, as well as the minimum norms and standards on the ethical conduct and procedures to be employed in ensuring the verification of the B-BBEE Codes of Good Practice” (Department of Trade and Industry, n.d.c).

Soon after the Verification Manual (VM) was gazetted, the South African National Accreditation System (SANAS) (2008) published a document, called the R47, as a guide to B-BBEE Verification Agencies (VAs) on the accreditation process.

The following year (2009) saw the formation of the presidential BEE Advisory Council, as contemplated in the BBEE Act (53/2003b). It is “responsible for providing leadership and direction in the implementation of B-BBEE in the country” (Department of Trade and Industry, n.d.d). The DTI (n.d.d) further sets out the Council’s functions, which are to:

- advise government on black economic empowerment;
- review progress in achieving black economic empowerment;
- advise on draft transformation charters; and
- facilitate partnerships between organs of state and the private sector that will advance the objectives of this Act.

Notwithstanding the above vital functions of the Council, Tembakazi Mnyaka, deputy president of the Black Management Forum (BMF), was of the opinion that it had taken an acquiescent role with her having accused the Council as being “...toothless...” and which “...needs to become a fully-fledged chapter nine institution that has a full-time secretariat to handle problems” (INet Bridge, 2011).

The current state of affairs proves that the final action item (as contained in the B-BBEE Act) set for the Minister of Trade and Industry, was to approve B-BBEE sector charters for relevant industries (South Africa, 2004:10).

2.12 2009: the Department of Trade and Industry gazettes the first set of B-BBEE sector charters/codes

B-BBEE sector charters are generated in terms of Sections 9 and 12 of the B-BBEE Act 53/2003b). It is the responsibility of the Department of Trade and Industry (DTI) to ensure that sector charters/codes are published and are sufficiently aligned to the B-BBEE Act and the codes; and more importantly, that they advance the objectives of sustainable B-BBEE (Department of Trade and Industry, n.d.b).

The DTI (n.d.b) further explains: A B-BBEE sector charter, gazetted in terms of Section 12 of the B-BBEE Act (53/2003b), means that it has no bearing on state organs and departments, and:

- has been developed and agreed upon by major stakeholders in the industry;
- is published for information purposes only and used as a statement of intent by industry players; and
- is fully binding between and among businesses operating in the industry.

A B-BBEE sector charter, gazetted in terms of Section 9(5) of the B-BBEE Act (53/2003b), means that it:

- is a draft sector code, which has complied with the provisions of Section 12 of the B-BBEE Act, in that major stakeholders have agreed to the stipulations of the charter; and
- is a draft sector code, which has been published nationally for public comment and input, for a period of sixty (60) days.

A B-BBEE draft sector code, gazetted in terms of Section 9(1) of the B-BBEE Act (53/2003b), means that it:

- becomes a sector Code of Good Practice (sector code) and shares the same status as the Codes; and
- is fully binding between and among businesses operating in the industry.

Thus, going forward, the term 'sector code(s)' shall be used.

The tourism sector code was gazetted on 22 May 2009. It sets out to "...advance sector initiatives to empower black South Africans, and, in so doing, to make the sector more accessible, more relevant and more beneficial to all South Africans" (South Africa. Department of Trade and Industry, 2009a:6). Its scope includes:

- accommodation: hotels, resort properties, timeshare, bed and breakfasts, guesthouses, game lodges, backpackers and hostels;
- hospitality and related services: restaurants, conference venues, professional catering, attractions, consulting and processional services companies; and
- travel distribution systems: tour wholesalers, tour operators, travel agents, tourist guides, car rental companies, coach operators (South Africa. Department of Trade and Industry, 2009a:7-8).

Soon thereafter the forest sector code was released, including all “enterprises involved with commercial forestry and first level processing of wood products”. The code refers to the sector as being largely white and male dominant (South Africa. Department of Trade and Industry, 2009b:7-8).

The same year saw the integrated transport sector code being released, including the following sub-sectors (South Africa. Department of Trade and Industry, 2009c):

- Bus commuter and coach services
- Domestic aviation
- Forwarding and clearing
- Maritime transport and services
- Public sector
- Rail
- Road freight
- Taxi

2.13 2010: formalisation of the B-BBEE industry

2010 was earmarked as the turning point for B-BBEE as self-assessments were soon regarded as a thing of the past and unscrupulous service providers were to be eradicated from the market. Rob Davies, Minister of Trade and Industry, published a notice (South Africa, 2009:2), indicating that from 1 February 2010, only B-BBEE certificates issued by accredited Verification Agencies (VAs) or VAs in possession of a valid pre-assessment letter from the South African National Accreditation System (SANAS), would be regarded as valid. Although the Verification Manual (VM) was released in 2008, which makes reference to accreditation by VAs by the South African National Accreditation System (SANAS), it was only in 2010 that B-BBEE would be formalised.

Soon thereafter, Davies’ notice was repealed as the Department of Trade and Industry (South Africa, 2011a:23) now provided a mandate for B-BBEE certificates to not only be issued by VAs accredited by the South African National Accreditation System (SANAS), but to include Registered Auditors (RAs) approved by the Independent Regulatory Board for Auditors (IRBA); the latter referred to as B-BBEE-approved registered auditors (BARs).

The acclaimed introduction of the IRBA did not ward off all criticism directed at the DTI's efforts in formalising the B-BBEE industry. Pityana (2015:16-17) warns these B-BBEE rating agencies of their perceived quantitative audit style approach in box ticking, which excludes holistically reviewing the aims set out by the B-BBEE Act, as listed in Section 2.4 above. He argues that if "...we don't factor these goals into our review, we regress to a superficial, self-serving and chauvinist self-aggrandisement based on racial redress..." Ratsoma (2017:4) concurs in stating that "...the only way to make a tangible difference in BEE is to go back to basics and seriously look at the substance that underpins true transformation. We must conceive that giving a score to substance and impact is difficult due to its intangibility and the inherent subjectivity involved".

Another initiative came in 2012 by the Department of Trade and Industry (DTI) via the introduction of the Management Development Programme (MDP). This is a standardised national curriculum, offered by the University of South Africa (Unisa) and Wits University, which results in a National Qualifications Framework (NQF) level 7 qualification. The programme is aimed at ensuring consistency in the application and implementation of B-BBEE, while targeting Verification Agencies (VAs), accountants, B-BBEE-Approved Registered Auditors (BARs), governmental supply chain management practitioners and employers being verified (University of South Africa, 2017:1).

The same year saw the Preferential Procurement Framework Act (PPPFA) (5/2000) amended to include what is referred to as the Preferential Procurement (PP) regulations.

2.14 2011: Preferential Procurement regulations introduced

Although the Preferential Procurement Policy Framework Act (PPPFA) (5/2000) has been introduced, it should be noted that it was only in this period (2011) that it was aligned to integrate with B-BBEE. Such integration would materialise in:

- an 80/20 preference point system for the procurement of products and/or services by government with a value of no less than R30 000.00 up to R1 million. This links to B-BBEE in that up to 20 points are allocated to a tenderer in respect of its B-BBEE status level; and
- a 90/10 preference point system for the procurement of products and/or services by government for values above R1 million. This links to B-BBEE in that up to 10 points are allocated to a tenderer in respect of its B-BBEE status level (South Africa, 2011c:5-7).

2.15 2011: introducing more sector codes

The Chartered Accounting (CA) sector code was gazetted on 10 May 2011 as “Black Chartered Accountants have been identified as possessing critical skills that are in short supply and yet in great demand in South Africa” (South Africa. Department of Trade and Industry, 2011).

The subsequent year (2012) saw four distinctive sector codes released:

- The Information and Communication Technology (ICT) sector code on 6 June. The ownership target is set at 30%, as opposed to the 25% of Codes to accelerate the pace of transformation in this sector (South Africa, Department of Communications, 2012).
- The property sector code on 1 June which sets out transformation targets for the following sub-sectors: asset-based, service-based and estate agents (South Africa. Department of Public Works, 2012).
- The financial services sector code on 26 November, aims to “establish an equitable society by providing accessible financial services to black people and by directing investment into targeted sectors of the economy” (South Africa. Department of Trade and Industry, 2012a:5).
- The AgriBEE sector code (South Africa. Department of Agriculture, Forestry and Fisheries, 2012:7), gazetted on 28 December, includes any entity deriving the majority of its turnover from:
 - the primary production of agricultural products;
 - providing inputs and services to entities engaged in the production of agricultural products;
 - the beneficiation of agricultural products; and
 - storing, distributing and / or trading related to non-beneficiated agricultural products.

2.16 2012: more on the Independent Regulatory Board for Auditors

What followed in 2012 was the introduction of the South African Standard on Assurance Engagements (SASAE) 3502: Assurance Engagements on B-BBEE Verification Certificates by the Independent Regulatory Board for Auditors (IRBA) (Independent Regulatory Board for Auditors, 2012). The SASAE 3502 serves a similar purpose to B-BBEE-approved registered auditors as the Verification Manual (VM) to accredited Verification Agencies (VAs) in that it deals with assurance engagements to report on a measured entity’s B-BBEE scorecard, as reflected on the B-BBEE certificate, determined in accordance with the Codes and relevant sector codes. Reference is also made to the R47 in this document (see Section 2.11).

2.17 2012: Codes – introducing new targets

The Codes, as released in 2007, make provision for increased targets to take effect on their inherent scorecards within 6–10 years of being gazetted. What is clear is that the Codes provided for a five-year introductory period in which measured entities were given the opportunity to get acquainted with B-BBEE compliance, after which the intent of transformation acceleration should be evident.

Thus, all verifications based on annual financial periods ending post 9 February 2012 ought to apply increased targets (South Africa. Department of Trade and Industry, 2012b:3). EconoBEE (2012) notes: “[T]he new targets will have a very serious effect on your scorecard – there can be nearly 14 points difference compared to the old targets and potentially a two level drop.”

Proclamations of government’s intention to amend the B-BBEE Act, and naturally the Codes, occurred soon after the targets were modified, resulting in a media brawl with news headlines reading: “Confusion over new BEE Act causes business panic” (Steyn, 2015); “Concerns over revision of BEE Codes” (Fin24, 2012) and New BEE codes: Confusing and complex” (Levenstein, 2015b).

2.18 2012: the effectiveness of B-BBEE

The next chapter (Chapter 3) reviews literature based on the amendments to B-BBEE legislature already reviewed in this chapter (Chapter 2). In an attempt to understand the rationale for introducing changes to the current (2012) B-BBEE landscape, it is imperative to ascertain whether B-BBEE (at this time) achieved its goals.

From the reviewed literature, the objectives of B-BBEE can be used as a benchmark for measuring the effectiveness of B-BBEE at a macro level. However, Lindsay (2015) is of the opinion that this could be a daunting task, owing to his doctoral study concluding that there does not exist, nor has there ever existed in the past, any reliable measure of B-BBEE policy performance. Concurring with Lindsay (2015), it was noted in Section 2.7.1 that the scope of these objectives requires further clarity as it currently (since 2004) has exposed itself to vigorous debate. This study does not rely on a flawless mechanism for measuring the effectiveness of B-BBEE. The aim of this review is merely to identify progress towards empowerment in understanding the rationale for change. This will be further elaborated in the next section.

Another, more objective means to draw inferences, relevant to the effectiveness of B-BBEE, is to review its market penetration and possible progression of compliance by measured entities since its inception (the release of the Codes in 2007) to date (2012) on a micro level. In laymen's terms, comparing progressive B-BBEE status levels of measured entities should provide valuable insights into the effectiveness of B-BBEE on a micro level.

The first major research project mandated by the Department of Trade and Industry (DTI) relevant to this topic was a baseline research study conducted in 2007 on the progress of B-BBEE in all sectors within South Africa (SA). The study reported low levels on its progress, with a national scorecard equivalent of a B-BBEE Level 8 contributor status being achieved. This came as no surprise as 2007 earmarked the start of B-BBEE implementation with the period coinciding with the Codes being released.

The second relates to a DTI-funded survey conducted in 2010 measuring the perceptions of the impact of B-BBEE on the performance of South African (SA) businesses. Factors measured were: domestic and global competitiveness; service excellence and client satisfaction; quality and acceptance of products and services; productivity; entrepreneurial spirit; production performance; human development and staff morale; business ethics; sales and access to markets; and financial performance. Irrespective of its findings, which were mostly negative, it added fuel to debates centred around the many uncontested views on B-BBEE as a subject matter (Krüger, 2011).

Two more studies were conducted in 2016/2017 and 2018, respectively, in which the B-BBEE Commission reported on the national state of transformation (South Africa. Department of Trade and Industry, B-BBEE Commission, 2017; South Africa. Department of Trade and Industry, B-BBEE Commission, 2018). The aims were to provide insights into the transition to the new codes. Unfortunately these studies do not, nor does other academic literature, directly link measured entities' compliance with B-BBEE, comparative to these periods (2007 versus 2012). This is concerning as it is a direct indication of the weak/inadequate current B-BBEE monitoring and enforcement mechanisms (Dludlu, 2017).

With a single body for accreditation now existing in terms of B-BBEE compliance, that is, the South African National Accreditation System (SANAS), sound record keeping should be simplified.

With B-BBEE being a controversial issue, various private research studies have been embarked upon, all of which are based on demarcated focus areas under the all-encompassing subject matter of B-BBEE. Hence, with there being no credible answer to whether B-BBEE is working on a micro level (measured entity specific), with debates being the order of the day between idealists and pragmatists alike, the next step is to conduct an assessment on secondary data relevant to the effectiveness thereof on a macro level (nationally).

The next section therefore draws upon the objectives of B-BBEE, as contained in the Act (53/2003b) and listed in Section 2.7.1 above, in providing a framework for assessing the general effectiveness of B-BBEE. This should be considered within the context of providing clarity on the rationale for B-BBEE legislative change implemented in 2013 (South Africa, 2004:4-5). A comparative review between the periods 2003 and 2012/2013 proves relevant, incorporating the successes and challenges during this time.

2.18.1 The objectives of the B-BBEE Act (53/2003b): successes and challenges in 2012/2013

The first aim in promoting economic transformation in order to enable meaningful participation of black people in the economy (South Africa, 2004:4) includes a host of interpretations. One viewpoint could be to compare the proportion of black workers in the labour market in identifying progression through time.

Unemployment levels dropped slightly: from 27,1% in 2003 to 24,6% a decade later (BusinessTech, 2015). However, these levels of unemployment (directly linked to poverty) are regarded by the Department of Trade and Industry (DTI) as unacceptable (South Africa. Department of Trade and Industry. 2013b:13).

In comparing statistics relevant to the Economically Active Population (EAP) between these two periods relevant to labour force movement, the following can be noted in terms of racial composition:

- Africans increased by 2,1% (75,2%)
- Coloureds increased by 0,2% (10,6%)
- Indians / Asians decreased by 0,4% (3,1%)
- Whites decreased by 1,8% (10,8%) (Statistics South Africa, 2004; Statistics South Africa, 2014)

What is important to note from the above statistics is not only the positive increase in the EAP targets between periods, but that the total figure for all black people was set at 88,9%, this being the benchmark for future comparisons relevant to progress.

Additionally the following managerial positions prove meaningful for black persons:

- Top management positions increased by 9,5% (33,2%)
- Senior management positions increased by 12,7% (40%)
- Middle management positions increased by 6,2% (57%)
- Junior management positions increased by 14,7% (76,5%) (Statistics South Africa, 2014).

Although positive change can be noted relevant to advances within managerial positions for black persons, the overall percentages for these groups were still far off the 88,9% target (as represented by the EAP target for black persons) a decade after the implementation of B-BBEE. Minister Davies made direct reference to this objective at the National B-BBEE Summit in 2013, stating that black participation in the economy had not reached the levels envisaged in the B-BBEE policy (South Africa. Department of Trade and Industry, 2013b).

The focus shifts to Objective 2: “achieving a substantial change in the racial composition of ownership and management structures and in the skilled occupations of existing and new enterprises” (South Africa, 2004:4), in which the following statistics prove effective penetration.

The then Finance Minister, Pravin Gordhan, reported in the 2013 budget speech that B-BBEE ownership transactions to the value of R600 billion had occurred since 1995 (*City Press*, 2013). Despite this achievement, a study conducted by Alternative Prosperity in 2013 reported direct black ownership of South African (SA) assets on the Johannesburg Stock Exchange (JSE) amounted to a mere 10%, while other commentators argued that one should include indirect ownership to the equation. The latter painted a more positive picture, set at 14% (Dlamini, 2017). Tangri and Southall (2008) concur that black business has expressed criticism at the slow pace of reducing white domination of the corporate world. Another area of concern is that of there being no black industrialists in the country.

In terms of progress relevant to management structures and skilled occupations, black directorships increased by 47% in five years, from 2006 to 2011, while the black middle class increased at a rate of 250% from 2004 to 2012 (South Africa. Department of Trade and Industry, B-BBEE Commission, 2017:1-12). Despite these findings, Mans-Kemp and Viviers (2015:392, 408) report in their study, conducted between 2002 and 2012 on 1542 organisations, that most black directors were appointed as non-executive board members over the research period.

One of the biggest attacks on B-BBEE is that of ownership in that it has created a black business elite, only benefiting the minority (*The Economist*, 2010; Mangcu et al. (eds), 2007:228; Krüger, 2014). The abbreviation 'BEE' is referred to by critics as 'Black Elite Enrichment'. The underlying problem with ownership in the realm of B-BBEE is that it links to the fundamental principle of wealth aggregation – one must have capital to create capital. Considering black people's historical predisposition (neither having capital of their own, nor the assets for securing traditional loans), many resort to empowerment financing. This has often required a form of financial alchemy, using a host of complex financial structures and equity derivative instruments – structured financing. In short, empowerment financing often results in structured financing options utilised when there is inadequate capital.

The critical variables here are the cost of financing, the security required and the terms attached to that security. It ultimately gives rise to one of the most difficult challenges facing empowerment. It ties up working capital and eschews corporate – and ultimately – economic growth (Lucas-Bull, 2007:144-173). Additionally, Minister Davies raised concerns relevant to passive shareholding deals, which did not work during this period (2003–2013) and resulted in the least real empowerment of people. He further identified the risks of fronting through the use of complex transactions (South Africa. Department of Trade and Industry, 2013b).

Adding to this criticism is the African National Congress (ANC), Secretary General, Kgalema Motlanthe's, statement that "certain individuals are not satisfied with a single bout of empowerment" (Shubane, 2007:166). B-BBEE, via the ownership element, thus feeds on the notion of enlightened self-interest. Davies, Minister of the Department of Trade and Industry (2013), wished to move away from narrow share ownership by black people in South Africa (SA) to meaningful and genuine empowerment that leads to the creation of sustainable black organisations.

A research study conducted by Preisendoerfer et al. (2014:175) on entrepreneurial activities, concludes that black South Africans are under-represented in the sector of formal, officially registered businesses and in the sector of successful larger companies, but not in the sector of informal business ventures. These findings provide valuable insight into another aim stipulated by the B-BBEE Act: "[I]ncreasing the extent to which the communities, workers, cooperatives and other collective enterprises own and manage existing and new enterprises and increasing their access to economic activities, infrastructure and skills training" (South Africa, 2014:5).

The following achievements should be noted:

- The Black Business Supplier Development Programme (BBSDP) was launched by the Department of Trade and Industry (DTI) in 2010 and has approved applications worth R797 million.
- Black-owned Small, Medium and Micro Enterprises (SMMEs²) have been supported to the value of R451 million in one financial year (2012/13).
- The National Empowerment Fund (NEF) has approved transactions worth more than R5 billion, with 60% of its beneficiaries being SMMEs with support given to the creation of 44 000 jobs.
- In excess of 200 cooperatives have been supported through a special incentive programme, with the creation of more than 200 jobs and 700 temporary job opportunities (South Africa. Department of Trade and Industry, 2013:13-14).

Moeletsi Mbeki, an analyst, entrepreneur and brother of the former president, Thabo Mbeki, contests the above, claiming that BEE has struck a "fatal blow against the emergence of black entrepreneurship by creating a small class of unproductive but wealthy black crony capitalists" (*The Economist*, 2010). Shubane, prior Chief Executive Officer (CEO) of the Nelson Mandela Foundation agrees: B-BBEE distracts black entrepreneurs and Small, Medium and Micro Enterprises (SMME's) by creating opportunities to make money without the assumed risk (Fakude, 2007:198).

² Note that a comparative review between QSEs and SMEs/SMMEs is conducted in the next chapter.

The road to increasing the extent to which black women own and manage existing and new enterprises, and increasing their access to economic activities, infrastructure and skills training, seems bright. While all statistics point to the fact that men trump women in issues surrounding literacy levels and workforce presentation, it is less severe than South Africa's (SA's) emerging market counterparts, with the exception of Brazil. SA was ranked among the top 20 countries as measured by the World Economic Forum's Global Gender Gap Report that demonstrates increasing equality between men and women. Also in support of this objective being met, the International Women's Forum South Africa (2011:39-41) effectively illustrates that female executive directors increased from 7,1% representation in 2005 to 15,8% in 2011.

With the total corporate investment expenditure in South Africa (SA), excluding government grant beneficiaries, growing by R5 billion from 2001 to 2012 according to *City Press* (2013), the following goals should be considered, for the most part, as being met:

- Promoting investment programmes that lead to broad-based and meaningful participation in the economy by black people in order to achieve sustainable development and general prosperity.
- Promoting access to finance for black economic empowerment.
- Empowering rural and local communities by enabling access to economic activities, land, infrastructure, ownership and skills.

The above findings provide slight insights into the progress of South Africa's (SA's) transformation through empowerment. Although substantial progress can be noted in every objective identified in government's B-BBEE policies, there are undoubtedly challenges to the implementation of this national imperative. The B-BBEE Amendment Bill seeks to introduce corrective measures (South Africa. Department of Trade and Industry, 2013:12).

2.18.2 The rationale for radical³ change

Further to the identified progress and challenges, a reasonable justification for change lies in former President Jacob Zuma's concerns regarding the slow progress of South Africa's (SA's) transformation (*The Economist*, 2017). However, deduced from the literature thus far is that the overarching dilemma does not merely relate to the policy itself (and possible changes thereto), but in the lack of measuring the extent of progress relevant to the national performance of B-BBEE, hence, making it impossible to ascertain the extent for corrective measures. This brings one back to Lindsay's (2015) critique at the outset of this section that there is no reliable measure of B-BBEE policy performance on a macro scale. Acemuglo et al. (2007) also acknowledge the current problematic nature of B-BBEE policy in that it is both open ended and there is no mechanism in place for evaluating its impact on any of the outcomes it is supposed to influence.

Mangcu et al. (eds) (2007:228) further state that the length of time the policy framework promoting B-BBEE needs to be in place, requires examination. Evidently, many superficially raise an opinion on whether the aims of B-BBEE have been met by assessing an issue, perspective, an entity, a sector, in isolation (Shangase, 2008; Smith, 2016). Discussions around B-BBEE have become highly personalised (Mangcu et al. (eds), 2007:229).

The conclusion here is that the answer to the question: "How effective was/is B-BBEE?" does not present a simple, objective result. It is a deeply controversial, complex and subjective issue, neither inherently malign nor benign (Lindsay, 2015: 307). Although this matter calls for further investigation, it is beyond the ambit of this study.

In short, the scope of the body of literature contained in this chapter points to the notion that the need for government actioning radical change to B-BBEE policy is not clearly understood. It therefore indirectly engenders a gap in the foundation of assessing feedback from the participants of this study to such change.

³ The term 'radical' in describing change relevant to B-BBEE legislation is justified in Chapter 4 of the literature review.

2.19 Summary

This chapter explored the legislative frameworks within the rich history of B-BBEE in South Africa (SA), using a timeline approach. It covered literature from the onset of apartheid to investigating the mechanisms for its redress a decade into policy reform.

The chapter concluded that the rationale for radical B-BBEE policy reform going into 2013 was not clearly identifiable:

- On a micro level: in reviewing relevant secondary sources of data no credible data to this effect exists.
- On a macro level: owing to the 'current' inherent lack of a reliable instrument for holistically measuring B-BBEE performance relevant to national transformation.

The next chapter continues to comprehensively analyse the B-BBEE landscape, using a timeline approach.

CHAPTER 3 LITERATURE REVIEW: DEVELOPMENT OF THE B-BBEE LANDSCAPE CONTINUED

3.1 Introduction

This chapter is a continuation of Chapter 2's journey on the exploration of literature relevant to legislation shaping the implementation and measurement of B-BBEE policy. Here a comprehensive foundation of the modern landscape of empowerment and transformation in South Africa (SA) is presented, since B-BBEE and related legislative amendments were effected in 2013.

3.2 2013/2014: B-BBEE Act (53/2003b) is amended

Following the effects of applying increased targets in the verification process came the issuing of the B-BBEE Amendment Bill, for public comment (South Africa, 2011b). Three years later (2013/2014) came the amendments to the B-BBEE Act (46/2013).

The refinement served the following purposes, as contemplated in the Act (South Africa, 2013:2):

So as to insert certain definitions and to amend others; to clarify interpretation; to provide for the remuneration of Council members; to promote compliance by organs of state and public entities and to strengthen the evaluation and monitoring of compliance; to include the creation of incentive schemes to support black owned and managed enterprises in the strategy for broad-based black economic empowerment; to provide for the cancellation of a contract or authorisation; to establish the Broad-Based Black Economic Empowerment Commission to deal with compliance of broad-based black economic empowerment; to provide for offences and penalties; and to provide for matters connected therewith.

In short, the amendment seeks to overcome the challenges of B-BBEE, as comprehensively reviewed at the end of Chapter 2.

Another fundamental amendment, specifically relevant to this study, is the amendment to the B-BBEE objectives for South Africa's (SA's) renaissance.

3.2.1 B-BBEE objectives revised

The objectives of the Act (South Africa, 2014:6) have been amended in terms of their being added to, with only two changes (refer to the specific changes in italics), which read:

“...(g) promoting access to finance for black *start-ups, small, medium and micro enterprises, co-operatives and black entrepreneurs, including those in the informal business sector; and*
(h) increasing effective economic participation and black owned and managed enterprises, including small, medium and micro enterprises and co-operatives and enhancing their access to financial and non-financial support.”

From these amendments/inclusions, it is clear that there is a new-found heightened interest in transforming Small, Medium and Micro Enterprises (SMMEs), as this category of enterprises is the single change to have been repeated in both the amendments made to the Act. Firstly, however, it is imperative to define SMMEs accurately in drawing inferences of their scope in respect of B-BBEE and more specifically, to earmark congruences with Qualifying Small Enterprises (QSEs).

3.2.1.1 Small, Medium and Micro Enterprises defined

The National Small Business Act (102/1996a) and its amendments in 2003 define the size of a business in terms of the following categories: sector, number of full-time employees, total turnover, and total gross asset value. as depicted in the table overleaf

Table 3.1: Defining Small, Medium and Micro Enterprises
(Adapted from South Africa, 1996a:15-16; South Africa, 2003a)

Size	Sector	Total full-time employees	Total turnover	Total gross asset value
Medium	Agriculture	100	R5m	R5m
Small		50	R3m	R3m
Very Small		10	R0.50m	R0.50m
Micro		5	R0.20m	R0.10m
Medium	Mining and Quarrying	200	R39m	R23m
Small		50	R10m	R6m
Very Small		20	R4m	R2m
Micro		5	R0.20m	R0.10m
Medium	Manufacturing	200	R51m	R19m
Small		50	R13m	R5m
Very Small		20	R5m	R2m
Micro		5	R0.20m	R0.10m
Medium	Electricity, Gas and Water	200	R51m	R19m
Small		50	R13m	R5m
Very Small		20	R5.10m	R1.90m
Micro		5	R0.20m	R0.10m
Medium	Construction	200	R26m	R5m
Small		50	R6m	R1m
Very Small		20	R3m	R0.50m
Micro		5	R0.20m	R0.10m
Medium	Retail, Motor Trade and Repair Services	200	R39m	R6m
Small		50	R19m	R3m
Very Small		20	R4m	R0.60m
Micro		5	R0.20m	R0.10m
Medium	Wholesale Trade and Allied Services	200	R64m	R10m
Small		50	R32m	R5m
Very Small		20	R6m	R0.60m
Micro		5	R0.20m	R0.10m
Medium	Catering, Accommodation and other Trade	200	R13m	R3m
Small		50	R6m	R1m
Very Small		20	R5.10m	R1.90m
Micro		5	R0.20m	R0.10m
Medium	Transport, Storage and Communications	200	R26m	R6m
Small		50	R13m	R3m
Very Small		20	R3m	R0.60m
Micro		5	R0.20m	R0.10m
Medium	Finance and Business Services	200	R26m	R5m
Small		50	R13m	R3m
Very Small		20	R3m	R0.50m
Micro		5	R0.20m	R0.10m
Medium	Community, Social and Personal Services	200	R13m	R6m
Small		50	R6m	R3m
Very Small		20	R1m	R0.60m
Micro		5	R0.20m	R0.10m

Chapters 1 and 2 indicated that, in terms of B-BBEE classifications, Exempted Micro Enterprises are defined as enterprises with an annual turnover of below R5 million, while Qualifying Small Enterprises (QSEs) are those with an annual turnover between R5 and R35 million.

What is notable from the table above, is that Small, Medium and Micro Enterprises (SMMEs) fall within the same turnover classifications as EMEs and QSEs alike, with the exception of wholesale trade and allied services. Thus, owing to such congruency between the terms, SMME/EME/QSE shall be used interchangeably throughout this document.

3.2.1.2 A burden placed on Small, Medium and Micro Enterprises?

Comparative to 2007, when the old Codes were released, the Department of Trade and Industry (DTI) made their intention known that SMMEs were singled out as vital in the fight for job creation and economic growth (South Africa. Department of Trade and Industry, 2007c:7). According to the Small Enterprise Development Agency (2016), small enterprises then contributed approximately 35% of the country's Gross Domestic Product (GDP) and employed over half the number of people who work in the private sector.

In an attempt to ease the regulatory burden placed on SMMEs, many of which were noted to be struggling under financial and capacity constraints, the Codes granted EMEs an exemption from being verified and further required Qualifying Small Enterprises (QSEs) to merely comply with four out of seven elements, with set lower targets within these elements, relevant to their generic enterprise counterparts. This was illustrated in Table 2.1 in Chapter 2.

Today (2016) SMMEs contribute between 52% and 57% of South Africa's (SA's) Gross Domestic Product (GDP). Further meaningful insights into SMMEs' dominance within South Africa's (SA's) commercial landscape can be identified relevant to the following statistics taken from the South African Revenue Service (SARS) in 2012.

**Table 3.2: The practical implications of a B-BBEE status level
(Adapted from South Africa. Department of Trade and Industry, B-BBEE Commission, 2017:5)**

Classification	Number	Percentage	BEE Compliance
Survivalist, Micro and Very Small EMEs	*878 032	95	No compliance
QSEs	*34 118	3	Relaxed compliance
Large	*11 871	2	Full Compliance

*Includes economically active companies totalling 924 021

From the above it is clear that 98% of entities fall within the scope of SMMEs. What is more is that the demarcated population for this study (QSEs) represents 74% of all entities subject to a verification in the Codes. These findings should take into account that owing to the subsequent B-BBEE threshold changes relevant to the new Codes (more on this in Section 3.3.1), they grant 'Micro', 'Very Small' and, in some cases, 'Small' enterprises relevant to the definition of SMMEs set forth in Table 3.1 above, the option to now be exempt relative to a B-BBEE verification. This is not the case for certain 'Small' and 'Medium' classified SMMEs and hence, the demarcated classification for QSEs relative to B-BBEE.

A study conducted by SBP Business Development Specialists (2013:23) on the effect of 'red tape' on small firms in SA, found that the compliance burden for small firms is on the rise, resulting in retarded growth and development for the economy. The SBP's report on growth and competitiveness for small businesses in South Africa found that 60% of small businesses are unsure of the regulations they have to comply with (Lewis & Gasealahwe, 2017; OECD, 2017:11). Furthermore South Africa (SA) is ranked 82nd in the World Bank's 2017 Ease of Doing Business (Trading Economics, 2018). Frequent changes to regulation add to the compliance burden.

The question is: What has changed; why the renewed focus on B-BBEE compliance on SMMEs already burdened with red tape to the cost of developing the country's economic climate? The above points to the DTI's desire for increased penetration of B-BBEE policy. In strong contrast is the National Development Plan for 2030's aim to dramatically reduce costs associated with regulatory burdens, especially for SMMEs (South Africa. National Planning Commission, n.d.). Nolitha Fakude, executive director of Sasol, opines that South Africa (SA) has been relying on big corporates to create jobs and generate growth for far too long. Entrepreneurship and Small, Medium and Micro Enterprises (SMMEs) are often overlooked (Fakude, 2007:198; Sasol South Africa, 2016). Although this study does not attempt to answer this

question, its scope overlaps with the elements ingrained therein, giving rise to a platform for further research on the subject.

More specifically, this chapter details B-BBEE legislative change. The next section, specifically, investigates the amendments made to the Codes. The amendments were introduced by the Department of Trade and Industry's (DTI's) (n.d.a) Minister, Dr Rob Davies: "...the refined Codes symbolise a new beginning in the re-orientation of the transformation policy to focus more on productive B-BBEE and the growth of black entrepreneurs through Enterprise and Supplier Development elements". Upon considering such change, the position of SMMEs/QSEs will resurface later in this chapter.

3.3 2013: amendments to the Codes

The new Codes were gazetted on 11 October 2013, allowing for a transitional period of 12 months. Hence, the designated implementation date was set for 11 October 2014. During this time, the proposed change was not welcomed, as Foulds (2014:24) effectively summarises:

...an entity that achieves a particular B-BBEE status under the prevailing regime will achieve a lower status under the proposed regime. This is of concern to many companies operating in South Africa who have provided warranties in their contracts of maintaining a particular B-BBEE status without any exceptions for a change in laws.

Foulds' (2014) opinion is supported by Fin24's (2012) report relevant to a survey conducted by the South African Chamber of Commerce and Industry in 2012 on the proposed revised changes to the Codes. It resulted in shifting almost 70% of the sample from a B-BBEE Level 4 contributor status and higher to that of a B-BBEE Level 5 and below contributor status. Levenstein (2015b), a leading consultant in the B-BBEE field, states that the new Codes are believed to encourage more fronting, because the Codes are so much more difficult to achieve.

More time (six months) was granted when Davies released a formal notice extending the transitional period from 11 October 2014 to 1 May 2015 (South Africa, 2015:3). All B-BBEE verifications based on annual financial periods ending before 30 April 2015, were still bound by the old Codes, while B-BBEE verifications based on annual financial periods ending after 1 May 2015 were subject to the new Codes.

Consider the following:

- Most South African (SA) registered entities have financial year ends dated February (owing to the South African income tax period closing in February), hence prior to 30 April 2015.
- the Companies Act (71/2008) requires annual financial statements to be filed with the Companies Registration Office (CRO) within a maximum of 10 months from the close this period.

Translating the above into what manifests in practice, most measured entities could strategically delay verifications in the new Codes for up to two years, that is, until 2017. Levenstein (2015b) states: “All those companies that rushed to be verified before [30 April 2015] have wasted their time – they could have delayed for another year or more and could have been verified next year. Those that tried to be proactive are being punished.” Botha (2017:34-35) concurs, stating that “the revision has not yet affected many companies, as it will only apply to current [2017] certificate verifications”. The industry’s perceived increased benchmarks for compliance result in measured entities manipulating time frames to delay their B-BBEE verification.

Relevant to the Qualifying Small Enterprise (QSE) legislative framework, an important consideration is that the QSE Codes were omitted from the new Codes document, as gazetted on 11 October 2013. Short of two years on (6 May 2015), the QSE Codes were released, with no transitional period. To eliminate any confusion between the two sets of amended legislation, both will be referred to as the ‘new Codes’, that is:

- Broad-Based Black Economic Empowerment Codes of Good Practice, as gazetted on 11 October 2013 (South Africa. Department of Trade and Industry, 2013a), the Codes relating to EMEs and generic enterprises.
- Broad-Based Black Economic Empowerment Codes of Good Practice, as gazetted on 6 May 2015 (South Africa. Department of Trade and Industry, 2015a), the Codes relating to QSEs.

Taking time frames with the new Codes into consideration, the same principle applies here as stated in the DTI’s notice of 1 May 2015, as previously cited, in that all QSE verifications based on annual financial periods ending before 30 April 2015, were still bound by the old Codes, while B-BBEE verifications based on annual financial periods ending after 1 May 2015 are subject to the new Codes. Again, this could translate into manipulated delay in a verification on the new Codes until 2017.

Here too (as was the case with reviewing the old Codes in Chapter 2), the new Codes will be reviewed in terms of classifications, elements and status level. Naturally, the focus is on significant changes to these areas. Additional areas of compliance will also be introduced in this section relevant to the new Codes. This leads to answering a fundamental question posed by this study: Why is the study demarcated to Qualifying Small Enterprises (QSEs)?

3.3.1 B-BBEE classifications

The *Government Gazette* of 2013 (South Africa. Department of Trade and Industry, 2013a:8-11), is a useful source document dictating the following enterprise classifications:

3.3.1.1 Exempted Micro Enterprises

Exempted Micro Enterprises (EMEs) are still awarded an exemption from being verified in the Codes until such time as an increased annual turnover of R10 million is reached. Note from the previous chapter that the total annual turnover threshold for these enterprises under the old Codes was set at R5 million (South Africa. Department of Trade and Industry, 2007a:9).

Exempted Micro Enterprises (EMEs) are exempted by automatically being awarded a B-BBEE Level 4 status. Preference is given to EMEs with a certain proportion of black ownership. EMEs with 100% black ownership are promoted to a B-BBEE Level 1 contributor status, while EMEs with 51% black ownership achieve a B-BBEE Level 2 contributor status. The BEE Institute (2015) contends that these enterprises “are the real winners from this new shift”.

An EME is only required to obtain a sworn affidavit or certificate issued by the Companies and Intellectual Property Commission (CIPC) on an annual basis, confirming the following:

- Annual total revenue of R10 million or less.
- Level of black ownership (SA News, 2015).

“Any misrepresentation in terms of [the content of these affidavits] constitutes a criminal offence as set out in the B-BBEE Act as amended” (South Africa. Department of Trade and Industry, 2015a:12-13).

Exempted Micro Enterprise (EME) certificates are now being issued by the Companies Intellectual Property Commission (CIPC) via self-service terminals, as opposed to via an accounting officer, which was the requirement under the old Codes. Trade and Industry Deputy Minister, Mzwandile Masina, launched the system in 2015, the purpose of which “is to make doing business in SA easier” (Small Business Connect, 2015). These terminals assist businesses with obtaining such a certificate, free of charge, when registering a new business or filing an annual return (SA News, 2015). Masina reckons this system will be “...more affordable as it will cut out any fees accountants may charge...” and that it “aims to overcome ...unregulated fees experienced in the BEE certification process” (Small Business Connect, 2015).

Start-Up enterprises are still awarded time in which to become acquainted with the compliance requirements of B-BBEE. These enterprises are again automatically regarded as EMEs in their first year of trading, irrespective of total annual turnover.

3.3.1.2 Qualifying Small Enterprises

The annual turnover for Qualifying Small Enterprises (QSEs) has been amended to yield any value between R10 and R50 million. The total annual turnover threshold of these enterprises was previously set at between R5 and R35 million (South Africa. Department of Trade and Industry, 2007a:9).

Here too preference is given to Qualifying Small Enterprises (QSEs) with a certain proportion of black ownership. QSEs that are wholly black owned are advanced to a B-BBEE Level 1 contributor status, while QSEs with 51% black ownership achieve a B-BBEE Level 2 contributor status. Because of these automatic advancements, such QSEs are not required to undergo verification and should obtain a sworn affidavit to this effect – as is the case with EMEs. Refer to Appendix B for the Department of Trade and Industry’s (DTI’s) standard template for QSEs with black ownership.

Black ownership recognition for QSEs was never awarded in the past. There is thus a new importance placed on the ownership element. Mantis Networks (2015) notes that “...the fact that a 51%+ Black Owned QSE can avoid all BEE costs and disruption puts ‘black ownership’ very much in focus”. Goldberg (2015) refers to this amendment as “[a] big shift back to narrow-based transformation”.

Another area not previously noted included in the old Codes is that of 'Specialised Enterprises', including:

- companies limited by guarantee;
- higher education institutions;
- non-profit organisations (NPOs);
- public entities and other enterprises exclusively owned by organs of State; and
- public benefit schemes or public benefit organisations (PBOs) (South Africa. Department of Trade and Industry, 2015a:11).

To ensure relevance, literature confined to specialised Qualifying Small Enterprises (QSEs) will be included in the review (see Chapter 4). Similarly, the new Codes make provision for such QSEs with a minimum beneficiary base of 75% to be automatically elevated to a B-BBEE Level 1 contributor status, while a QSE with a minimum of 51% black beneficiaries achieves a B-BBEE Level 2 contributor status. This is done via an affidavit. Refer to Appendix C for the Department of Trade and Industry's (DTI's) standard template for specialised QSEs, should their black beneficiary base be more than 51%. Furthermore, the B-BBEE rating elements, as well as its weightings and targets for these QSEs will be reviewed in the next chapter (Chapter 4).

3.3.1.3 Generic enterprises

Generic enterprises are those enterprises yielding a total annual turnover above R50 million. This threshold was set at R35 million in the old Codes (South Africa. Department of Trade and Industry, 2007a:10), as previously stated in this chapter.

3.3.1.4 Multinational Corporations

A relevant sub-section here to be included are Multinational Corporations (MNCs). MNCs refer to enterprises 100% owned by a foreign entity and naturally cannot score points on the ownership scorecard. The new Codes (South Africa. Department of Trade and Industry, 2015a:29-37) make provision for these enterprises by introducing a concept called: Equity Equivalent Programmes (EEPs), an ownership alternative in lieu of selling equity. The general consensus is that most MNCs would want to comply with the Codes (in support of the objectives of B-BBEE). The main issue, however, has been ownership, which is now being addressed by the formal introduction of these programmes (Katz, 2007:153).

3.3.2 B-BBEE elements

The following five elements are rated according to their inherent requirements, each represented by a compliance target to achieve the total weighting, set out for that particular element, as represented in the following table.

Table 3.3: B-BBEE rating elements and their respective weightings in the new Codes (Adapted from South Africa. Department of Trade and Industry, 2013a:11; South Africa. Department of Trade and Industry, 2015a:40)

Rating element	Weighting points: Generic	Weighting points: QSE
Ownership	25 points	25 points
Management and Control (M&C)	15 points	15 points
Skills Development (SD)	20 points	25 points
Enterprise and Supplier Development (ESD)	40 points	30 points
Socio-Economic Development (SED)	5 points	5 points
Total	100 points	100 points

The rating a measured entity achieves for each of the five elements manifests in a total score out of 100. The score translates into a B-BBEE level.

More specifically, Qualifying Small Enterprises (QSEs) and generic enterprises have their own unique set of requirements and scorecards for each rating element. Each element, in turn, is represented by a sub-area of compliance via relevant weightings and targets assigned. The next chapter (Chapter 4) presents the technical specifications relevant to the changes for each element and their respective weightings and targets.

The following changes can be noted in studying the revised B-BBEE rating elements and their respective weightings from the table above:

- The Employment Equity (EE) element has been removed, with the Management and Control (M&C) element now representing a combination of what was previously referred to as Employment Equity (EE) and Management and Control (M&C).
- The elements Preferential Procurement (PP) and Enterprise Development (ED) have merged to be replaced by an element called Enterprise and Supplier Development (ESD).
- Qualifying Small Enterprises (QSEs) no longer have the liberty to select better performing elements, each having had an equal weighing of 25 points to total 100 points.

3.3.3 B-BBEE status level

The point system has been adapted, best highlighted from Chapter 1's Table 1.2 and here again illustrated in Table 3.4.

**Table 3.4: The pointing system: old Codes vs. new Codes
(A reiteration of Table 1.2)**

B-BBEE Status	old Codes	new Codes	Recognition %
Level 1	≥100 points	≥100 points	135%
Level 2	≥85 points <100	≥90 points <100	125%
Level 3	≥75 points <85	≥85 points <90	110%
Level 4	≥65 points <75	≥80 points <85	100%
Level 5	≥55 points <65	≥75 points <80	80%
Level 6	≥45 points <55	≥70 points <75	60%
Level 7	≥40 points <45	≥55 points <70	50%
Level 8	≥30 points <40	≥40 points <55	10%
Level 9/Non-compliant	<30	<40	0%

This illustration foregrounds that the mere adjustment to the pointing system results in a B-BBEE status level drop, with the exception of a B-BBEE Level 1 contributor status being achieved. Werksmans Attorneys (n.d.) highlight that an enterprise with 65 points would have an ‘old’ B-BBEE Level 4 rating, but a ‘new’ B-BBEE Level 7 rating. Thus, the amendments made to the pointing system, in isolation, have a fundamental impact on a measured entity’s overall B-BBEE result.

3.3.3.1 Linking B-BBEE elements and status levels

The relationship between the rating elements and the B-BBEE contributor status level is a progressive one: each rating element has sub-categories of compliance. These are measured in terms of their weight (fraction of the points relevant to that element) and the assigned target (the desired percentage to achieve the assigned weight). These sub-categories are presented via a Detailed Scorecard (DS) for each rating element.

Each rating element’s sub-categories are tallied to derive a result relative to the total score assigned to that particular element. The respective total scores for each element are then tallied to arrive at an overall total score out of 100. The ownership rating element, for example, represents 25 out of 100 points. The overall total, and final, score links in with a particular B-BBEE contributor status level.

The following graphical depiction best illustrates this explanation, using the ownership Detailed Scorecard (DS) relevant to Qualifying Small Enterprises (QSEs).

Table 3.5: A graphical depiction of the link between the B-BBEE rating elements and the B-BBEE contributor status level
 (Adapted from South Africa. Department of Trade and Industry, 2013a:12;
 South Africa. Department of Trade and Industry, 2015a:40-41)

The ownership Detailed Scorecard (DS)

INDICATOR	WEIGHT	TARGET(%)
Measurement of the Ownership element		
Exercisable voting rights in the entity in the hands of black people	5	25% + 1 vote
Exercisable voting rights in the entity in the hands of black women	2	10%
Economic interest in the entity to which black people are entitled	5	25%
Economic interest in the entity to which black women are entitled	2	10%
Economic interest in the entity to which BNE or black designated groups are entitled	3	2%
Net value	8	
Ownership element score	25	

Displayed as one out of five rating elements, representing 25% of the total weighting points (25 points out of the total available 100 points)

Rating element	Weighting points
Ownership	25 points
Management & Control (M&C)	15 points
Skills Development (SD)	25 points
Enterprise and Supplier Development (ESD)	30 points
Socio-Economic Development (SED)	5 points
Total	100 points

Which indirectly links with the B-BBEE contributor status level

Weighting points	B-BBEE Contributor Status Level
≥100 points	Level 1
≥95 points <100	Level 2
≥90 points <95	Level 3
≥80 points <90	Level 4
≥75 points <80	Level 5
≥70 points <75	Level 6
≥55 points <70	Level 7
≥40 points <55	Level 8
<40	Level 9/Non-compliant

3.3.4 Further significant amendments effected by the new Codes

The following two issues elaborated on in this section were introduced by the new Codes and have a significant impact on measured entities' ratings:

- Priority elements: The term 'priority elements' has been introduced, ascribing importance to certain elements.
- Empowering Supplier (ES): The term 'empowering supplier' has been introduced within the procurement realm.

3.3.4.1 Priority elements

A significant issue introduced by the new Codes is that of priority elements. These link up with the five B-BBEE elements (as per Section 3.3.2 above) in essentially awarding three elements priority. They are:

- Ownership
- Skills Development (SD)
- Enterprise and Supplier Development (ESD)

Its importance lies within each of these identified elements' inherent sub-minimum requirement(s), and linked to a term called the discounting principle. Should a relevant sub-minimum requirement not be achieved within a particular priority element, the discounting principle will preside. Effecting the discounting principle results in the points achieved by a measured entity remaining intact, while the B-BBEE status drops by a maximum of one B-BBEE contributor status level. For example, should 40% of the total weighting points (sub-minimum requirement) for the Skills Development (SD) element (an earmarked priority element), not be achieved, the discounting principle shall be enforced, resulting in the measured entity's B-BBEE status level dropping. This novel concept has elicited considerable criticism (Mophethe, 2015; Taylor, 2017).

Furthermore, Qualifying Small Enterprises (QSEs) are required to comply with two of the three priority elements, with ownership being a compulsory priority element. This provides QSEs with an option to choose between compliance with either the Skills Development (SD) or Enterprise and Supplier Development (ESD) elements, respectively, to avoid being discounted a B-BBEE contributor status level (South Africa. Department of Trade and Industry, 2013a:7). Generic enterprises are required to comply with all three priority elements. The following graphical depiction of the B-BBEE categories illustrates the priority element requirements.

CATEGORY CLASSIFICATION	EME Exempted Micro Enterprise	QSE Qualifying Small Enterprise	Generic
ANNUAL TURNOVER	<R10 MILLION	BETWEEN R 10 MILLION –	>R50 MILLION
VERIFICATION METHODOLOGY	EXEMPTED CERTIFICATE Automatic B-BBEE Level 4 status (min requirements)	COMPLY WITH 2 OUT OF 3 PRIORITY ELEMENTS	COMPULSAR Y 3 PRIORITY ELEMENTS

Figure 3.1: Priority element requirements, per enterprise classification (Adapted from South Africa. Department of Trade and Industry, 2015a:7-10)

This concept is highlighted again in Chapter 4, relevant to reviewing the technical specifications on the changes of the new Codes for each element and its respective weightings and targets.

3.3.4.2 Empowering Supplier

Empowering Supplier (ES) is the final (out of five) significant issue amended and/or introduced by the new Codes (see section 1.5.3.4 of Chapter 1). The importance placed on this term refers to its link to the Preferential Procurement (PP) sub-element of Enterprise and Supplier Development (ESD). The available points on this scorecard refer to procurement spend by empowering suppliers. Thus, a supplier that does not meet the Empowering Supplier (ES) criteria will not be considered for measurement under the PP element, irrespective of its B-BBEE contributor level status. The implications are immense.

One of the following criteria has to be met by a QSE in order to be awarded ES status (South Africa. Department of Trade and Industry, 2013a:96):

- At least 25% of cost of sales, excluding depreciation and labour costs, should be representative of local products and / or services procured. For measured entities rendering a service, labour costs are capped at 15%.
- At least 25% of transformation of raw materials should include local manufacturing and / or production and / or assembly and/or packaging.
- At least 50% of new jobs created should be for black persons. This should be measured in light of maintaining the total number of black employees from the previous measurement period.
- At least 12 days per annum should be spent assisting black-owned EMEs or QSEs to enhance their operational or financial capacity.
- At least 85% of labour cost should be paid to South African employees by service industry entities.

Exempted Micro Enterprises (EMEs) automatically achieve Empowering Supplier (ES) status, while generic enterprises have to comply with three of the five requirements listed above (South Africa. Department of Trade and Industry, 2015a:6).

Taylor (2017) identifies a major challenge for importers. The first criterion cannot be met as almost all costs of sales expenses are imports. The second is only possible for local manufacturers that import raw materials. Anyone who imports ready-made, high-end products (the bulk of this country's imports) will not be adding any value locally. The fifth (final) criterion would not apply as importers of products would not fall into the services industry. So, with three out of the five criteria out of reach for most importers, such enterprises cannot qualify as Empowering Suppliers (ES). This scenario has nothing to do with such measured entities' contributions to B-BBEE, but is simply the effect of their business models not aligning with these requirements.

Dr Rob Davies, Minister of Trade and Industry (DTI), announced during the transitional period to the new Codes (2016) that all measured entities were to automatically achieve Empowering Supplier (ES) status (South Africa, 2016b:293). Soon thereafter (2016), the DTI took a decision to place the ES provisions on hold. The DTI's rationale for this delay was ascribed to their response to the "current economic climate", as well as to "feedback received from measured entities on their readiness" to meet certain ES requirements. They intend to re-launch this provision when they can ensure its effective and practicable implementation, the time frame of which remains unknown (Department of Trade and Industry, 2016). The World Bank's Social Development Department's (2006) report on policy change warns that failure to anticipate political and institutional challenges is a chief cause of unsuccessful policy reform processes. The DTI's reaction to the market response on a matter relating to B-BBEE legislative change is proof of this.

In earmarking the significant areas of change to five in a plethora of literature relevant to the changes effected by the new Codes, the following question arises: why focus on Qualifying Small Enterprises (QSEs)?

3.4 Demarcation to Qualifying Small Enterprises, specifically: the ‘red tape’ burden revisited

The rationale for demarcating this study to Qualifying Small Enterprises (QSEs), specifically, can be analysed in summarising the above review relevant to the comprehensive amendments and/or the introduction of:

- B-BBEE classification thresholds: QSEs’ definitional requirements are now congruent with SMMEs, representing 74% of all entities subject to a verification (South Africa. Department of Trade and Industry, B-BBEE Commission, 2017:5);
- B-BBEE elements: QSEs can no longer gear themselves towards selected areas of transformation, as all elements are now required to be measured. Furthermore, the B-BBEE elements now have increased requirements/targets/thresholds, analytically reviewed in Chapter 4;
- B-BBEE status level: QSEs and generic enterprises are both subject to similar increased thresholds relevant to the pointing system;
- priority elements: although leniency is shown to QSEs relevant to their generic counterparts, this requirement has substantial effects on a verification result; and
- Empowering Supplier (ES): here too further leniency is accorded to QSEs, although it is a new requirement needing strategic consideration on the part of these measured entities.

From the above it is clear that legislative change to B-BBEE is expected to have a substantial effect on QSEs. This accords with the literature reviewed at the outset of the chapter relevant to the renewed focus on SMMEs. There has been a clear shift in focus to include such enterprises (Section 3.2.1). The argument is that introducing increased requirements for compliance, increases ‘red tape’ and ultimately, costs.

Balshaw (2013) concurs that many regard these amendments “as another compliance cost”. His views are supported by research conducted by Grant Thornton, as reported in their International Business Report, indicating that the new Codes have resulted in increased costs for almost two-thirds (65%) of South African businesses (Lawrence, 2016). Compliance cost is therefore a vital factor to take into consideration in any research related to the new Codes.

Foulds (2014), Lindsay (2015) and Mophethe (2015) note it is difficult to imagine how even the most educated Qualifying Small Enterprise (QSE) could be expected to address the requirements of the revised Codes, without recourse to its financial resources, for the services of expensive B-BBEE consultants and for implementing its amended B-BBEE strategy.

Botha (2017:34-35) concurs: “[T]he average SME will not be able to afford the skills necessary to implement a B-BBEE strategy to their full advantage.” Additionally, the BEE Institute (2015) points out a verification for QSEs on the new Codes “...is far more difficult to do...” and that it “...comes with significant cost implications...”. Levenstein (2015a) explains that Qualifying Small Enterprises (QSEs) generally had a competitive advantage over larger, generic entities in the old Codes as they typically enjoy better B-BBEE status levels. This encouraged big businesses to support small businesses. However, with the new Codes, B-BBEE levels of small business are expected to be worse compared with big businesses, resulting in their not being supported as much as they used to be. Levenstein believes that B-BBEE should encourage the growth of small businesses: “We want to encourage small black businesses, but we also want to encourage (and not demotivate) small white businesses. In fact, we want to create many small businesses” (Hogg, 2014). His concern relevant to the Small, Medium and Micro Enterprises (SMMEs) and large business disconnect is reiterated by the views of Pooe (2016:3), citing Morales-Nieto (2008), in that structural problems affecting the development of SMMEs, particularly in emerging economies such as South Africa (SA), can be attributed to the tenuous connection of the small enterprise sector with the dynamics of the formal, modern economy.

In fact, the cost issue in light of the radical⁴ change brought on by the new Codes, forms the heart of the study in that generic enterprises are regarded as having the necessary resources to absorb increased costs effected by B-BBEE legislative change, which is not the case with their Qualifying Small Enterprise (QSE) counterparts. Teddy Daka, CEO of Ansys Ltd (classified a generic enterprise), saw Ansys Ltd being awarded the status of the most empowered company in 2017, proving such enterprises’ ability to overcome the cost challenge presented by the new Codes. He indicated that the “conversion from the old to the new codes has worked in [Ansys’s] favour” (Kunene, 2017). Foulds (2014) and Mophethe (2015) believe that if investors were to understand the policy, they would capitalise on the significant commercial advantages it offers.

⁴ Here too, the use of the term ‘radical’ in describing change relevant to B-BBEE legislation is substantiated in the next chapter, Chapter 4.

Papenfus (2015) also voices an opinion on the recalibration of B-BBEE policies: “The biggest potential job creator (existing SMMEs) is effectively side-lined. The consequences are obvious.” This links to the increased ‘red tape’ burden imposed on SMMEs/QSEs with limited means to absorb these relative to the resources at their disposal. This was introduced at the outset of this chapter.

In light of the above, Werksmans Attorneys (n.d.) advises organisations (particularly applicable to QSEs) that they “will have to review their current B-BBEE strategy to assess the impact of these changes and take steps to try and maintain their existing BBEE ratings”. Levenstein assents: “It will be important to understand how the new codes work and therefore a change in strategy is required” (Foulds, 2014:25).

3.5 Measured entities called to revise B-BBEE strategy

Against the background of the preceding section’s content (fundamental five areas of change as contained in the new Codes), measured entities, with particular reference to Qualifying Small Enterprises (QSEs), are faced with revising their current B-BBEE strategy, by asking the following questions:

- Are we still regarded as a QSE based on the adjusted turnover thresholds?
- How do the amendments to the B-BBEE rating elements and targets affect us?
- Additionally, do we comply with the sub-minimum requirement for ownership and Skills Development (SD) or Enterprise and Supplier development (ESD) to avoid the discounting principle taking effect?
- How do the adjustments to the pointing system affect our B-BBEE status?
- Do we comply with one of the five set requirements of being an empowering supplier?

Each measured entity is faced with revising its B-BBEE strategy according to the results from the above questions. This study forecasts such a strategy to be one of opting for non-compliance, willingly or unwillingly (see Section 1.9 of Chapter 1 dealing with this study’s expected outcome). However, the following options are at these measured entities’ disposal.

3.5.1 Opting for non-compliance, willingly

Chapter 2 highlighted that B-BBEE compliance is not compulsory with regard to business-to-business dealings in the private sector. In short, obtaining a B-BBEE certificate may be due to one or all of the following reasons. A measured entity:

- supports the objectives of B-BBEE and integrates such policies into its Corporate Social Responsibility (CSR) endeavours;
- wishes to secure current and/or future business (market share) owing to its preferred B-BBEE status relevant to its competitors; and/or
- wishes to be awarded a tender/contract by a public sector entity.

In redirecting the focus on Qualifying Small Enterprises (QSEs), these enterprises seldom have substantial resources to allocate towards Corporate Social Responsibility (CSR) endeavours (as per the first bullet in the list above). This attests that the rationale for QSEs being compliant can be ascribed to obtaining a competitive B-BBEE certificate (to secure current and/or future business, or the aim of being awarded a state tender/contract). In both cases the Qualifying Small Enterprise (QSE) is faced with a trade-off between the expected cost of obtaining a B-BBEE certificate, versus the expected income it may generate. Thus, the reason for obtaining a B-BBEE certificate is directly linked to the cost.

It was stated in Section 3.4 that the threat of cost to amended B-BBEE compliance requirements currently faced by Qualifying Small Enterprises (QSEs), specifically, created the impetus for the study.

In summary to the first strategy Qualifying Small Enterprises (QSEs) may adopt in response to the new Codes: some may anticipate the cost of B-BBEE to outweigh its benefits and thus, willingly opt for non-compliance. Hence, no B-BBEE certificate is issued and distributed in the market.

3.5.2 Undergo a verification on the new Codes and/or opt for non-compliance, unwillingly

Another B-BBEE strategy in respect of the revised Codes could be to undergo a verification. Here the Qualifying Small Enterprise (QSE) may expect the benefits of B-BBEE to outweigh the cost. In some cases, the measured entity may not be equipped with the necessary tools to accurately anticipate the outcome, resulting in a non-compliant (or B-BBEE Level 9 contributor status) B-BBEE certificate to be issued.

Mophethe (2015), however, opines that the new Codes should be regarded as an opportunity for measured entities opting to embrace change, to hold competitive advantage in the market. He further estimates the cost of obtaining a competitive B-BBEE certificate to be anywhere between R100 000 to R400 000 per annum. Should the cost be well spent, there would be a residual benefit for the measured entity.

3.5.3 Revise ownership

Section 3.3.1.2 outlined the following: Qualifying Small Enterprises (QSEs) that are wholly black owned are advanced to a B-BBEE Level 1 contributor status, while QSEs with 51% black ownership achieve a B-BBEE Level 2 contributor status.

Some QSEs may concur with Von Maltitz (2015) who states that the new Codes for QSEs “are significantly more onerous than before, making it in many cases, easier (and potentially more cost effective) to implement a 51% ownership transaction than to comply with all the other aspects of the code”. Naturally, QSEs meeting such an ‘exception’ requirement prior to B-BBEE legislative change (and not as a response thereto) are excluded from the study (more on this in Chapter 5: Research Methodology).

In essence, and based on the body of knowledge embedded in this section, Qualifying Small Enterprises (QSEs) may employ the following strategies in response to recent legislative change:

- Opt for a non-compliant B-BBEE result, willingly, owing to cost implications.
- Settle on a non-compliant B-BBEE result, unwilling to formally confirm such predicted results, or as a result of ignorance.
- Achieve a B-BBEE status level by effectively integrating the appropriate B-BBEE strategies into its current policies and procedures.
- Introduce more than 51% black ownership.

This chapter prompts one to question a Qualifying Small Enterprise’s (QSE’s) appetite for revising its B-BBEE strategy to obtain a valid B-BBEE certificate in the new Codes. This would be dependent on the trade-off between the costs associated with the QSE’s renewing its B-BBEE certificate, versus the income (actual and forecasted) derived.

Shortly after the new Codes were released (2013), the daunting task of aligning B-BBEE sector codes to them followed.

3.6 2015: amending the sector codes

Existing sector codes were given a period of two years (from October 2013 until November 2015) to be aligned with the new Codes (Department of Trade and Industry, 2016). Sector codes not aligned were considered for repeal. To this effect, a notice was published (South Africa, 2016a:4), repealing the following sector codes: Construction, and Chartered Accountancy (CA).

Measured entities operating within these sectors were bound by the new Codes. Fortunately, the following sector codes were aligned and successfully amended during the period 2015 to 2016:

- Tourism sector code, gazetted on 20 November 2015 (South Africa. Department of Tourism, 2015).
- Information and Communication Technology (ICT) sector code, gazetted on 6 November 2016 (South Africa. Department of Telecommunications and Postal Services, 2016).

The Marketing, Advertising and Communications (MAC) sector code was introduced and gazetted on 1 April 2016. Joubert (2016) lists five ways in which the MAC sector code differs from the new Codes:

- It provides for higher targets, to be achieved by 31 March 2018, which appear to be binding targets.
- The targets for voting rights and economic interest embedded in the ownership element, are much higher than those contained in the new Codes and other already aligned sector codes.
- Significantly more points are available under the Management and Control (M&C) and Skill Development (SD) elements.
- Although the compliance target for the Socio-Economic Development (SED) element is 1% of Net Profit After Tax (NPAT), it increases to 2,5% of NPAT by 2018.
- It includes an additional element, Responsible Social Marketing and Communications (RMC), which refers to the annual value of contributions and participation in sector-specific programs to promote responsible behavioral changes in line with government's strategic objectives. The target for RMC is 1% of NPAT, increasing to 2,5% of NPAT by 2018.

At this time, the following sector codes were still valid until amended:

- AgriBEE sector code; and
- integrated transport sector code.

Each of the already amended sector codes includes the framework for Qualifying Small Enterprises (QSEs). However, what is clear from the above amended sector code dates, is that each sector code was aligned with the codes at different times, resulting in the response of each sector based on the implementation thereof naturally occurring at different times. Further to this, is the consideration of measured entities that may strategically manipulate time frames based on annual financial year-ends in relation to an amended sector code being published, which was dealt with in Section 3.3.

AQrate (2015), a leading B-BBEE Verification Agency (VA), provides clarity to Qualifying Small Enterprise (QSE) stakeholders:

If falling within a Sector Code, the old Turnover Thresholds apply and a QSE Sector Code Certificate **can** be issued ... If falling outside of a Sector Code and [the] financial period is prior to 1 May 2015, the old Turnover Thresholds apply and a QSE Old Code Certificate **can** be issued ... If falling outside of a Sector Code, [and the] financial period is post 1 May 2015, the Amended Codes apply, with the new Turnover Thresholds, and a QSE Amended Code Certificate **can** only be issued for QSEs with less than 51% Black Ownership.

Thus, should any sector code QSE undergo a verification in 2015, the old legislative framework applies for issuing B-BBEE certificates, debatably a case of double standards. It is for this reason that sector codes are not included in the scope of the study, lending itself to a demarcation of QSEs verified in the general Codes.

3.7 The Codes and their inherent link to other legislative frameworks

The ripple effect caused by the amended B-BBEE Act (46/2013) to related legislative frameworks is significant. Levenstein (2015b) puts this into perspective:

The codes are not one document. Instead, there are various codes for different types of businesses: large businesses that follow the generic codes, specialised enterprises, smaller ones using the qualifying small enterprises (QSE) codes, exempt micro enterprises (EMEs) and companies falling into one of the nine sectors that have their own codes: transport, construction, tourism, ICT, forestry, finance, property, accountancy and agriculture. In addition to the codes, there are other documents that must be issued including the verification manual which is a document that agencies use to guide them when verifying an entity and SASAE 3502, used by auditors for verification. SANAS also needs to go through the process of re-accreditation for 52 agencies before they will be allowed to verify using the amended codes.

The focus of this section is on conducting a comparative review from Chapter 2 in ascertaining how the amended B-BBEE legislative framework affects compliance with the Preferential Procurement Policy Framework Act (PPPFA), the South African Revenue Service (SARS), the Skills Development Act (DSA) and the Skills Development Levies Act (SDLA), as well as any other relevant statutory regulations specific to commerce in South Africa (SA).

3.7.1 Preferential Procurement Policy Framework Act (5/2000)

Following Chapter 2's introduction of the Preferential Procurement Policy Framework Act (PPPFA) (5/2000) as the driving force of B-BBEE, amendments took effect in 2017 (R32/2017). The PPPFA (South Africa. National Treasury, 2017:22-23) notes B-BBEE to be a fundamental requirement for any organ of state in its respective supplier management process:

“An organ of state must -

- (a) determine and stipulate in the tender documents -
 - i) the preference point system applicable to the tender as envisaged in regulation 6 or 7; or
 - ii) if it is unclear which preference point system will be applicable, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system...”

The latest amendments relate predominantly to the values, which have been updated, creating a direct link between the PPPFA (5/2000) and the Preferential Procurement (PP) element enclosed in the Codes.

Should an organ of state now tender for goods or services for values between R30,000 and R50 million, the 80/20 preference point system applies.

Table 3.6: The Preferential Procurement Policy Framework Act (5/2000) 80/20 preference point system, as amended (South Africa. National Treasury, 2017:24-25)

B-BBEE Status Level	Number of Points
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

Should an organ of state tender for goods or services to the value of R50 million or more, the 90/10 preference point system applies.

Table 3.7: The Preferential Procurement Policy Framework Act (5/2000) 90/10 preference point system, as amended (South Africa. National Treasury, 2017:26)

B-BBEE Status Level	Number of Points
1	10
2	9
3	6
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

What is noticeable from both these tables is that the largest variance in points has been allocated between B-BBEE status Levels 2 and 3: a 4-point variance (as opposed to 2 points) relative to the 80/20 system and a 3-point variance (as opposed to 1 point) relative to the 90/10 system. The rationale therefore can be linked to the amended B-BBEE Act (46/2013) in which preference is given to black-owned Qualifying Small Enterprises (QSEs) that are promoted automatically to assume a B-BBEE Level 1 or 2 contributor status.

Within the private sector (business-to-business transactions), procurement continues to be encouraged between suppliers with superior B-BBEE statuses, creating an ingenious link between B-BBEE and the demand and supply forces of commerce in South Africa (SA).

3.7.2 Compliance with the South African Revenue Service

The B-BBEE compliance requirements for the South African Revenue Service (SARS) remain unchanged.

3.7.3 Compliance with the Employment Equity Act (46/2013)

Compliance with the Employment Equity Act (EEA) (55/1998a), and the amendments thereto in 2013, relates to the Management and Control (M&C) element of the new Codes. A fundamental amendment relates to the term, 'designated employer'. The latter is now classified merely based on total annual turnover, of which increased thresholds are now applicable. It can be noted that further congruency is achieved between the thresholds relevant to the Qualifying Small Enterprise (QSE) classification (between R5 and R50 million) of the B-BBEE Act (53/2013b) and the Employment Equity Act's (EEA's) (46/2013) updated turnover thresholds per industry

(which are between R6 and R75 million), illustrated in Appendix A of this document. Furthermore, EEA form submissions are now an annual requirement.

Compliance with the Employment Equity Act (EEA) (46/2013) is no longer a prerequisite for scoring points relative to the Management and Control (M&C) element, although it is relative to Empowering Supplier (ES) status, a term which was elaborated on in Section 3.3.4.2 (South Africa. Department of Trade and Industry, 2015a:65-66).

Furthermore, the new Codes now allow for a distinction in point allocations between various racial groups (Black/Indian/Coloured) for generic enterprises relevant to the Management and Control (M&C) and Skills Development (SD) elements, thus enhancing the significance of reviewing compliance with the Employment Equity Act (EEA) (46/2013). Here Henrard's (2002:39) argument, cited from Chapter 2, Section 2.2, now further resonates, in that linguistically and culturally speaking, there are only minorities in this country. The Department of Trade and Industry's (DTI's) rationale for isolating race groups in measuring B-BBEE compliance, as opposed to classifying all non-white persons under the umbrella term of 'black', could be a valuable research study.

3.7.4 Compliance with the Skills Development Act (37/2008) and the Skills Development Levies Act (24/2010)

B-BBEE compliance is now a requirement for all enterprises (Qualifying Small Enterprises [QSEs] and generic enterprises) relevant to the Skills Development Act (SDA) (97/1998b), and its amendments in 2008, and the Skills Development Levies Act (SDLA) (9/1999a), and its amendments in 2010. Non-compliance results in no points being awarded for the Skills Development (SD) element. However, measured entities not meeting an annual remuneration target of R500,000 (this increased threshold, from R250,000, has been effective since the amendments to the SDA in 2010) are not deemed to comply under the laws set out in these Acts (SARS, 2017b).

Reference to these two reciprocal Acts and the Department of Labour (DoL) remains significant when it comes to B-BBEE-related references to the National Skills Development Strategy (NSDS) and each Sector Skills Plan (SSP). Stakeholders should be familiar with their content as no mandatory sector training can be claimed as a skills development expense.

3.7.5 Other legislative frameworks

The only significant change noted to other relevant legislative frameworks, linked to B-BBEE, is that of the Companies Act (71/2009). It now has an important role in issuing Exempted Micro Enterprise (EME) and black-owned Qualifying Small Enterprise (QSE) certificates via the introduction of self-service terminals, via the Companies and Intellectual Property Commission (CIPC). Alternatively, Exempted Micro Enterprises (EMEs) and Qualifying Small Enterprises (QSEs) are required to present a sworn affidavit in proving such status.

3.8 2015: introducing the B-BBEE Commission

A second BEE Commission, now referred to as the BEECom2, was established in 2015 by Section 13B of the refined B-BEE Act (46/2013), with jurisdiction throughout South Africa (SA). It addresses many of the purposes contained in the Act and therefore serves as an invaluable tool for enforcing B-BBEE compliance. It:

- allows for complaints to be lodged relating to a circumvention of the Act (46/2013);
- initiates investigations into measured entities believed to be involved in fronting practices;
- manages the B-BBEE compliance reporting process of all JSE-listed and public sector entities; a little publicised inclusion of the amended Act is for such entities to now report on their B-BBEE compliance;
- provides advisory opinions to the public relevant to B-BBEE transactions, structures or practices; and
- has the mandate to house the functions of the B-BBEE Advisory Council, introduced in Chapter 2 (B-BBEE Commission, 2017a).

Introducing a statutory body responsible for overseeing such major activities in the B-BBEE industry was a major step forward. Busisiwe Ngwenya, executive compliance officer of the B-BBEE Commission, indicated that: “A lot of complaints came in once the legislation became effective” (Anthony, 2017). This holds true, as Ensor (2017) reports on current investigations probing possible fronting practices by major corporates, such as, Netcare, Nokia, MTN, Eskom and the South African Social Security Agency (SASSA); as well as three Gupta-linked companies [controversial for their unscrupulous business dealings in South Africa (SA)]: Trillian, Optimum, and Tegeta (BEE News, 2018).

The B-BBEE Commission is required to publicise findings of its investigations into such complaints, and severe cases of fronting are handed over for prosecution. Measured entities engaged in fronting practices can have current contracts with government cancelled and fined up to 10% of their annual turnover. Fronting relevant to natural persons could result in imprisonment for up to ten years (B-BBEE Commission, 2017b:9). Anthony (2017) goes on to state: "...all sorts of companies – big and small, listed and private – are guilty of fronting". The revised B-BBEE Act (South Africa, 2013:4) defines a fronting practice as: "A transaction, arrangement or other act or conduct that directly or indirectly undermines or frustrates the objectives of this Act or the implementation [of its] provisions..."

The previous chapter concluded that perhaps the most contested criticism of B-BBEE policy was the lack of measuring the extent of progress relevant to national performance. The B-BBEE Commission (2017b:8) acknowledges this previous dispensation of B-BBEE in its failure to monitor key and strategic initiatives and compliance with the B-BBEE Act. They further raise concerns over the lack of independent and objective testing of ownership assumptions underlying B-BBEE transactions to ensure that an appropriate level of true ownership is vested in black hands.

Remedial action can be found in Section 13G of the B-BBEE Act (46/2013), now the responsibility of the Commission. It requires all spheres of government, organs of state and public entities to report on their B-BBEE compliance in their audited annual financial statements and annual reports in terms of the section. The Commission is responsible for the establishment and maintenance of an official database containing every rating certificate issued by a Verification Agency (VA), referred to as the B-BBEE certificates portal. To ensure the database remains current, Verification Agencies (VAs) are required to upload every certificate they issue (B-BBEE Commission, 2017b:9). Furthermore, Johannesburg Stock Exchange (JSE) listed entities are to report on their B-BBEE compliance, while Sectoral Education and Training Authorities (SETAs) are to report on skills development spending and programmes to the B-BBEE Commission. This allows the Commission to be cognisant of what the real state of economic transformation is as a result of B-BBEE, and more importantly provide the necessary framework for measuring B-BBEE performance at a macro level (nationally) and micro level (specific to each measured entity).

3.8.1 2016: research prioritised by the B-BBEE Commission

In 2016, the B-BBEE Commission appointed Who Owns Whom (WOW) (n.d.) to conduct a research study on South Africa's (SAs) current state of transformation, as introduced in Chapter 2 (Section 2.18) (South Africa. Department of Trade and Industry, B-BBEE Commission, 2017). Seemingly, this would be the first (and only, up until 2018) formal study aimed at addressing the effects of new legislature relevant to B-BBEE.

WOW researched the B-BBEE statuses of entities within two annual financial periods from 1 April 2014 to 31 March 2016. More specifically, it assessed:

- 3 874 entities in year one: 1 April 2014 to 31 March 2015; and
- 4 034 entities in year two: 1 April 2015 to 31 March 2016 (Who Owns Whom, n.d.).

Naturally, one would assume that year one would represent verification results based on the old Codes, and year two on the new Codes (the latter having been gazetted). However, in considering the reviewed literature relevant to measured entities potentially delaying verifications until 2017, many of the 4 034 entities comparatively reviewed with those of the previous periods were based on the same set of legislative frameworks. Of the 4 034 entities verified on the new Codes, a formula was utilised to fairly equate the old elements of the Codes with the new. However, this delineation did not bring into the equation entities bound by a B-BBEE sector code.

WOW's reported statistical results show that of the sample of 4 034 companies, 60,09% achieved a rating at the desired B-BBEE level of 4 or higher contributor status, which was slightly up on the 58,52% of the previous year.

This proves promising in light of transformation in South Africa (SA) and its progress. It links in with (and now statistically proves) Chapter 2's conclusion in acknowledging progress relative to the empowerment of black persons. Unfortunately, these findings lack the ability to draw inferences from the effects of industry's response to the new Codes.

The B-BBEE Commission also appointed Mthente Research and Consulting Services to "conduct an impact assessment study of the empowerment Codes of Good Practice", with a focus on the new Codes. With the study currently underway, the scope and results have yet to be published (B-BBEE Commission, 2016:1-8).

3.9 2015: modifications to the Verification Manual

In Chapter 2, the purpose of the Verification Manual (VM) was introduced. It outlines the minimum procedural requirements in terms of obtaining, verifying and calculating data relevant to B-BBEE verifications for Verification Agencies (VAs). Furthermore, it effectively highlights the link between B-BBEE and other legislative frameworks, the changes of which were noted in the preceding review. The VM was revised in 2015 to reflect changes effected by the Codes (South Africa. Department of Trade and Industry, 2015b).

3.10 2016: withdrawal by the Independent Regulatory Board for Auditors

During this period of change (since 2013), the Independent Regulatory Board for Auditors (IRBA) had taken it upon themselves to engage with the Department of Trade and Industry (DTI) and other stakeholders on their vision for regulating the B-BBEE industry. After careful consideration, IRBA removed itself as a regulating body in terms of B-BBEE verifications, a role secured just short of six years. They set in motion the steps to discontinue the board's regulation of B-BBEE Approved Registered Auditors (BARs) as of 30 September 2016 (Independent Regulatory Board for Auditors, 2017). Subsequently, the necessary adjustments to the B-BBEE Amendment Act (2013) were made, and the SASAE 3502 Assurance Engagements on B-BBEE Verification Certificates (2012) document was withdrawn.

The South African National Accreditation System (SANAS) was to remain the regulating body for all accredited Verification Agencies (VAs) with the R47 remaining effective in its purpose of guiding B-BBEE VAs on the accreditation process (South African National Accreditation System, 2007).

The next year (2017) would see further alignment of sector codes.

3.11 2017: further amendments to sector codes

The following sector codes were aligned and successfully amended in 2017:

- property sector code, gazetted on 9 June 2017 (South Africa. Department of Public Works, 2017);
- forest sector code, gazetted on 21 April 2017 (South Africa. Department of Agriculture, Forestry and Fisheries, 2017a);
- construction sector code, gazetted on 1 December 2017 (South Africa. Department of Trade and Industry, 2017); and
- AgriBEE sector code, gazetted on 8 December 2017 (South Africa. Department of Agriculture, Forestry and Fisheries, 2017b).

At the beginning of 2018, the integrated transport sector code remained unchanged and effective, while the Chartered Accounting (CA) sector code was repealed. Measured entities operating in these sectors were now bound by the new Codes.

3.12 2018: South Africa's unique current state of affairs

2013 and beyond have been characterised by stringent changes to the B-BBEE landscape, with 2018 being no exception. The Department of Trade and Industry's (DTI's) (South Africa. Department of Trade and Industry, 2018:10-11) gazette number 41546 issued on 29 March proposes further significant changes to the Codes. One such proposed change is to extend the preference of black ownership, originally extended to QSEs, to further include generic enterprises, meeting certain conditions. Effectively, this will mean that any enterprise operating in the realm of South Africa (SA) that is wholly black owned is advanced to a B-BBEE Level 1 contributor status, while enterprises with 51% black ownership achieve a B-BBEE Level 2 contributor status. Such advancements would exempt these enterprises from a verification on the revised Codes. The implications of this change, in isolation, require a separate research study. What is important to note from this, however, is this reality: for the effective introduction, implementation and alignment of B-BBEE, the industry requires increased stability, which is unlikely to occur in 2018 in light of the recent, further proposed amendments to the Codes.

For now, however, all measured entities wishing to be B-BBEE compliant are bound by the new Codes (it is unavoidable), with the exception of certain sector codes (another reason for their not being included in the scope of this study). The South African National Accreditation System (SANAS) has been singled out as the sole accreditation body for B-BBEE Verification Agencies (VAs), while their roles and responsibilities have been tightened, as contained in the revised Verification Manual (VM). Finally, promising and extensive progress has been made by the appointment of a B-BBEE Commission, and, in turn, by the general formalisation of the B-BBEE industry. A comprehensive study conducted by the B-BBEE Commission in 2018 relating to the national status and trends of B-BBEE proves just that (South Africa, Department of Trade and Industry, B-BBEE Commission, 2018). The following section elaborates.

3.12.1 More research prioritised by the B-BBEE Commission

In the B-BBEE Commission's mandate to monitor compliance with and adherence to the revised B-BBEE Act (46/2013), the latest study is one of its kind as it reports on B-BBEE data of 1 139 Exempted Micro Enterprises (EMEs), 851 Qualifying Small Enterprises (QSEs) and 871 generic enterprises for the 2017 calendar year, as per the information obtained via the newly launched B-BBEE certificates portal (see Section 3.8) (South Africa. Department of Trade and Industry, B-BBEE Commission, 2018:7).

In essence, focusing on the results obtained from QSEs, specifically, 37,43% of measured entities have been rated as being non-compliant contributors to B-BBEE. This is ascribed to “..likely attributable to more certificates being issued against the amended codes” (South Africa. Department of Trade and Industry, 2018:20). The study's limitations are that QSEs which are exempt from a verification (that is, having more than 50% black ownership) have not been included. More specific limitations, relevant to the scope of this study, are that it includes all sector code B-BBEE certificates (some of which are still representative of the previous legislative framework) and it only reports on QSEs that wished to comply with and/or to formally obtain a B-BBEE certificate in the new Codes.

The above literature prompts a further assessment relevant to the successes and challenges of B-BBEE, now in 2018. Here too the (amended) objectives of the B-BBEE Act (46/2013) will be considered as the platform for the following review.

3.13 The objectives of the B-BBEE Act (46/2013): Successes and challenges in 2017/2018

Although this section comprehensively reviews the successes and challenges of B-BBEE in 2018, five years since the release of the B-BBEE Amendment Act (46/3013), its findings cannot, at this point, be associated explicitly with the effects of the market in response to the refined Codes (in light of its currency and factors affecting its implementation). This, in turn, highlights the value of the study: a demarcated exploration on the effects of the amended Codes for Qualifying Small Enterprises (QSEs). The value of this section thus lies in reviewing the progress of B-BBEE, following a similar review in Chapter 2 relevant to the period 2003 to 2013, now reviewing the period 2003 to 2017.

Objective one: "...promoting economic transformation in order to enable meaningful participation of black people in the economy..." (South Africa, 2014:6).

South Africa's (SA's) unemployment rate (27,7%) in the second quarter of 2017 has been the highest since 2003 (Maré, 2017).

In comparing statistics relevant to the Economically Active Population (EAP) between these two periods (2003 and 2017) relevant to labour force movement, the following can be noted in terms of racial composition:

- Africans increased by 2,8% (78%).
- Coloureds, decreased by 0,9% (9,8%).
- Indians / Asians, decreased by 0,3% (2,8%).
- Whites, decreased by 1,3% (9,5%) (Statistics South Africa, 2004; Statistics South Africa, 2017a).

The total EAP figure for black persons was set at 90,6%, representing a 1,7% increase. The following managerial positions were also compared with statistics relevant to 2003 for black persons:

- Top Management (TM) positions decreased by 5,1% (28,1%).
- Senior Management (SM) positions increased by 0,5% (40,5%).
- Middle Management (MM) positions increased by 2,7% (59,7%).
- Junior Management (JM) positions increased by 0,9% (77,4%) (Statistics South Africa, 2017a).

From the above, underperformance in achieving employment equity can be noted relative to overall progress and movement in EAP statistics for the said period.

Objective two: "...achieving a substantial change in the racial composition of ownership and management structures and in the skilled occupations of existing and new enterprises..." (South Africa, 2014:6).

A central issue of ownership in the context of B-BBEE is effectively summarised by Dr Blade Nzimande (2007:180), Minister of Transport: "South Africa can be characterized by a democracy with substantial political power in the hands of the majority, but whose substantial economic power still resides with the same old (white) capitalist class as under apartheid." The previous chapter referred to criticism directed at B-BBEE as having created a black business elite. With the newfound importance placed on ownership by the revised B-BBEE Codes in eradicating claims to such an elite class, criticism has not abated, as it is now being attacked for regressing, taking a "[a] big shift back to narrow-based transformation" (Goldberg, 2015).

Objective three: “...increasing the extent to which the communities, workers, cooperatives and other collective enterprises own and manage existing and new enterprises and increasing their access to economic activities, infrastructure and skills training...” ties in with objectives five and six: “...promoting investment programmes that lead to broad-based and meaningful participation in the economy by black people in order to achieve sustainable development and general prosperity...” and “...empowering rural and local communities by enabling access to economic activities, land, infrastructure, ownership and skills...” (South Africa, 2014:6).

Based on Deloitte’s 2016/2017 Annual Human Capital Report, only 28% of South African (SA) employers help their employees build skills (Botha, 2018). This comes before an analysis on demographics, such as race. There are further concerns relative to wealth distribution. The Gini index estimates from the World Bank ranked South Africa (SA) as the most unequal country in terms of income distribution. Statistics South Africa reports that the richest 20% of the population account for more than 65% of consumption, while the bottom 20% account for less than 3% (Maré, 2017).

Fortunately, government’s recent agenda in utilising learnerships, with the new Codes supporting such policies, proves promising. President Cyril Ramaphosa, in his maiden State of the Nation Address (SONA), draws on learnerships as a solution to youth unemployment via the upliftment of skill development, growing the economy in the process. Learnerships are structured programmes in which a learner engages in theoretical and practical learning (Rayne, 2018).

The issue of a lack of black industrialists was raised in Chapter 2. Following the B-BBEE Amendment Act (46/2013) was the Black Industrialists Incentive Scheme (inception in 2015). Since then, 50 projects with an estimated grant value of R1.3 billion have been supported. This is matched by approximately R3.6bn of private sector investment across all sectors with 8 000 jobs supported (Department of Trade and Industry, n.d.e).

Objective four: “...increasing the extent to which black women own and manage existing and new enterprises, and increasing their access to economic activities, infrastructure and skills training...” (South Africa, 2014:6).

According to Thulo (2018), women entrepreneurs continue to face a plethora of challenges in creating and growing their own businesses. A study conducted in March 2017 by Grant Thornton and published in their Women in Business Report proves just that. It reveals that 31% of South African companies have no women in senior management positions (Xulu, 2017). However, within the context of B-BBEE, there has been a two-year upward trend following a somewhat static period in placement statistics relative to executive positions between 2012 and 2015, with the tide turning notably in 2016. More specifically, black female appointments were up from 13% in 2016 to 25% in 2017 (BEE News, 2018).

Objectives seven and eight: "...promoting access to finance for black start-ups, small, medium and micro enterprises, co-operatives and black entrepreneurs, including those in the informal business sector..." ; and "...increasing effective economic participation and black owned and managed enterprises, including small, medium and micro enterprises and co-operatives and enhancing their access to financial and non-financial support..." (South Africa, 2014:6).

The challenges faced by Small, Medium and Macro Enterprises (SMMEs) are the barriers to entry due to produce: there is an underlying scepticism that products and/or services provided by such enterprises are of sufficient quality (Fakude, 2007:202). Fortunately, government's support in this sphere creates opportunities for those like Boitumelo Mofikoe, who aims to build Africa's largest venture capital fund and whose mission is to "find and nurture high-growth entrepreneurs through funding, incubation and enterprise development" (Mkentane, 2018). Further support is provided the allocation of a R2.1 billion fund being developed (2018) to benefit Small, Medium and Micro Enterprises (SMMEs), as announced by Malusi Gigaba, Minister of Finance. Effective application of such resources could also have significant effects on South Africa's (SA's) current dire unemployment rate.

The above findings provide further (to Chapter 2) insights into the progress of South Africa's (SA's) transformation. Again, substantial progress can be noted in every objective identified in government's B-BBEE policies, but there are undoubtedly challenges to the implementation of this national imperative, most of which may be overcome by initiatives sprouting from the amended B-BBEE Act (46/2013).

The biggest challenge, at this point, is that B-BBEE is an all-encompassing issue. There will thus always be valid arguments for and against the system. Until such time as the B-BBEE Commission introduces and presents a yardstick for measuring the implementation of national B-BBEE policy and the extent thereof, its successes and failures will remain subjective. Mangcu et al. (eds), (2007:230) argue: “The debate is ideological, heated and runs the danger of becoming paralysing and self-defeating.”

3.14 Drawing inferences from other countries

South Africa (SA) is not the only country to have passed legislation in an attempt to prohibit further exploitation of certain population group(s) within the labour market. In fact, the term Affirmative Action (AA) was first introduced by the United States of America (USA) in 1961 in response to earmarked discrimination relative to race (black persons) and gender (females) in the country. Affirmative Action (AA) policies are used to combat differences in groups in earnings and employment (Coate & Loury, 1993). The rationale behind these policies is that they redress past discrimination by giving preference in hiring and promotion to members of groups that have been discriminated against in the past (Mor Barak, 2016).

Although each country has its own circumstances that manifest in the design of rules and legislation, there are a large number of countries with their own interpretation of such policies, some dubbing it as ‘reservation’ and some as ‘positive action’:

- Africa: South Africa, Namibia, Zimbabwe and Ethiopia.
- Asia: China, Israel, India, Malaysia, Sri Lanka, Taiwan, Vietnam.
- Europe: Hungary, Ireland, Finland, France, Germany, Norway, Romania, Russia, Slovakia, Sweden, United Kingdom (UK).
- North America: Canada.
- Oceania: Australia, New Zealand.
- South America: Brazil (Mor Barak, 2016; Mathe, 2008; Warikandwa & Osode, 2017).

South Africa’s (SA’s) system is best compared with its neighbouring country, Namibia. Both countries adopted Affirmative Action (AA) via the introduction of Employment Equity (EE) legislation, both of which were promulgated in 1998 and geared towards redressing inequalities between racial groups, women and people with disabilities (and referred to as ‘designated groups’) (Van Rooyen, 2000). Furthermore, Namibia is set to table B-BBEE comparative laws towards the end of 2018. In drawing correlative experiences from South Africa (SA), the bill outlines six areas to increase black citizens’ participation in business (Nhongo, 2018).

From the above it is clear that many inferences can be drawn with other countries on issues such as racial segregation, discrimination, political unrest, compliance barriers, and so forth. However, parallels cannot be drawn with the holistic system of B-BBEE (with Affirmative Action (AA) being a mere sub-category thereof) embedded by the legacy of apartheid. If we compare South Africa's (SA's) B-BBEE policies to those of other countries, our system proves to be one of a kind. SA is currently the only country in the world where policies are applied to protect the majority against the minority (Roets, 2015).

South Africa's (SA's) uniqueness can be best described by Madi's (2015:269) analogy in his book on B-BBEE:

If I were to stand in the middle of Times Square in New York and shout: We want transformation!, passers-by would look at me with a smirk on their faces and conclude that I am in need of psychiatric help ... However, if I were to stand in Paul Kruger Square in Pretoria and shout the same phrase, the reaction would be entirely different.

3.15 Summary

This chapter (Chapter 3), along with Chapter 2, reviewed the rich history of B-BBEE, since its inauguration (a response to apartheid) to date [denoting South Africa's (SA's) unique current state of affairs]. More specifically, the events surrounding B-BBEE were assessed and presented via reviewing legislative frameworks, adopting a timeline approach.

The focus of this chapter was on that of the new Codes. More specifically, on their implementation relative to an analytical review of the predetermined five fundamental areas of change. Further perspective was furnished in presenting the rationale for this study's focus on an earmarked category of enterprises, that is, Qualifying Small Enterprises (QSEs). The available strategies at these enterprises' disposal in responding to the new Codes were also presented, contextualising the study's support of a possible notion to non-compliance. The B-BBEE Commission's essential role in supporting such implementation policies was also introduced. In doing so, it addressed the closing questions of Chapter 2, in that although there still is no yardstick for the successful measurement of national B-BBEE policy, the necessary infrastructure has been put in place via the re-establishment of the B-BBEE Commission, while its recent activities prove promising on both a micro and macro level. Furthermore, credible secondary data now exists proving measured entities' progress towards B-BBEE compliance, signaling that the Department of Trade and

Industry's (DTI's) need for radical⁵ reform of its B-BBEE policy was due to perceived 'slow' progress to compliance.

The next chapter (Chapter 4) is a purely technical presentation of the Codes. Its importance lies in providing the necessary context for this study in assuming the ability to earmark technical variations in the B-BBEE scores achieved by the study's participants and successfully linking it to the theoretical framework presented in these preceding chapters (Chapters 2 and 3). This allows for the successful analysis and presentation of the research results, and ultimately, for proposing valuable recommendations.

⁵ As indicated by Footnote 4, the term 'radical' in describing change relevant to B-BBEE legislation is justified in the next chapter, Chapter 4.

CHAPTER 4

LITERATURE REVIEW: THE TECHNICAL FRAMEWORK

4.1 Introduction

The literature reviewed thus far provides for a solid foundation in adducing the landscape of transformation in South Africa (SA). This chapter has a narrower focus in critically reviewing the changes to the Codes (the legislative framework for the implementation of B-BEE) for Qualifying Small Enterprises (QSEs), specifically. The rationale for constructing a technical, deductive framework links with the study's quantitative elements, which are investigated in further detail in Chapter 5 (Research Methodology).

More specifically, an analytical, comparative review between the old Codes and the new Codes is conducted. The latter are presented by the Detailed Scorecards (DSs) as dictated by the elements. Each sub-section is concluded with an illustration of the calculations relevant to its inherent Detailed Scorecard (DS).

This chapter provides the foundation for identifying any change in a measured entity's score by establishing its link with transformation on a micro- economic level.

4.2 B-BBEE rating elements

Although the preceding Chapters 2 and 3 presented the B-BBEE rating elements as a whole and how they translate into a total score out of 100, the aim of this chapter is to further focus on this fundamental area of change in isolation. This chapter draws direct comparisons between the B-BBEE rating elements of the old and the new Codes.

The new Codes have been amended to represent only five elements, illustrated in Table 4.1 below, as referenced in Tables 3.3 and 3.5 of Chapter 3.

Table 4.1: B-BBEE rating elements and their respective weightings in the new Codes (Adapted from Tables 3.3 and 3.5 of Chapter 3)

Rating element	Weighting points
Ownership	25 points
Management & Control (M&C)	15 points
Skills Development (SD)	25 points
Enterprise and Supplier Development (ESD)	30 points
Socio-Economic Development (SED)	5 points
Total	100 points

The old Codes, on the other hand, are represented by seven elements, illustrated in Table 4.2 below, as referenced in Table 2.1 of Chapter 2. The best performing four out of seven elements were elected by Qualifying Small Enterprises (QSEs) in the past to also derive at a rating represented by total points out of 100.

Table 4.2: B-BBEE rating elements and their respective weightings in the old Codes (Adapted from South Africa. Department of Trade and Industry, 2007a:79)

Rating element	Weighting points
Ownership	*25 points
Management and Control (M&C)	*25 points
Skills Development (SD)	*25 points
Preferential Procurement (PP)	*25 points
Enterprise Development (ED)	*25 points
Socio-Economic Development (SED)	*25 points
Total	*Best 4 = 100 points

The so called ‘head-count elements’: Ownership, Management and Control (M&C) and Employment Equity (EE), are rated as at date of measurement. The other elements: Skills Development (SD), Preferential Procurement (PP), Enterprise Development (ED) and Socio-Economic Development (SED), are rated based on B-BBEE events that occurred within the measurement period. The Department of Trade and Industry (DTI) advises “the measurement period means the immediate twelve (12) months preceding the measurement date” (South Africa. Department of Trade and Industry, 2012:3). Friedman (n.d.) points out that this “...sounds so simple. The measurement period is the period of your financial year under review, on which your verification will be based, and the measurement date is the last date of that financial year”. She further notes that in practice the measurement date manifests in its being the day of the verification site visit. With uncertainty surrounding this term, the new Codes now clearly indicate current data to be used for these ‘head-count’ elements.

In Chapter 2 it was evidently noted that Qualifying Small Enterprises (QSEs) are now (based on the revised Codes) to be mindful of adopting an all-encompassing approach to implementing B-BBEE. This strategy is expected to take precedence over measured entities structuring their B-BBEE compliance around certain, better performing areas of transformation.

Although Chapter 3 summarised five fundamental areas of change to the new Codes: B-BBEE classifications, B-BBEE elements, B-BBEE status levels, priority elements, and Empowering Supplier (ES) status, the focus of this chapter is on one perspective: the B-BBEE elements. Isolating one fundamental area of change can be ascribed to the inherent comprehensiveness of each B-BBEE rating element and the need to fully understand the intricacies of each relative to the changes effected.

Thus, in isolating the changes to the B-BBEE rating elements, holistically, the amendments introduced are regarded as extensive. For example, a measured entity could have achieved a B-BBEE Level 1 contributor status in the past without having any black ownership or top management/executives within its corporate structure. For measured entities not incorporating these two elements relative to the new Codes, a B-BBEE Level 7 contributor status, discounted to a B-BBEE Level 8 contributor status, is the reality. The following review underscores further intricate changes to each of the Detailed Scorecards (DSs), as represented by the elements of the tables above.

More specifically, each element is introduced relevant to the old Codes (South Africa. Department of Trade and Industry, 2007a:78-86). The latter provide for a comparative review in presenting the B-BBEE rating elements relative to the new Codes (South Africa. Department of Trade and Industry, 2015a:38-50). Thereafter, a summary of the fundamental changes to each B-BBEE rating element is presented. Note that sector codes are excluded from this narrative.

4.3 Rating element: ownership

The ownership element measures the effective ownership of enterprises by black people. Ownership by black persons, passing through a juristic person, is also measurable.

From the preceding review, the importance of the ownership element is to be considered here. To recap, preference is given to Qualifying Small Enterprises (QSEs) with a certain percentage of black ownership. QSEs that are wholly black owned are advanced to a B-BBEE Level 1 contributor status, while QSEs with 51% black ownership achieve a B-BBEE Level 2 contributor status. With recognition of black ownership of QSEs not having been awarded in the past, there is a new-found importance placed on the ownership element. Steyn (2015) argues: “The amended broad-based black economic empowerment (BEE) Codes of Good Practice have moved the goal posts for business and placed more emphasis on direct black ownership and control of companies.” The reality is that many QSEs may elect to introduce black ownership only as their renewed B-BBEE strategy. In such cases, any further consideration(s) to B-BBEE become inconsequential.

Reference here can be made to the 2017 amendments to the Preferential Procurement Policy Framework Act (PPPFA) (5/2000) from Chapter 3 in which preference is given to black-owned Qualifying Small Enterprises (QSEs). The pointing system allows for suppliers with B-BBEE Level 1 or 2 contributor status to progressively be awarded more points than suppliers with a B-BBEE Level 3 or lower status. This clearly steers Qualifying Small Enterprises’ (QSEs’) procurement with the public sector in the direction of opting to introduce black ownership as their renewed B-BBEE strategy.

In addition to the above, the value of this element (ownership) should not be underestimated in real terms. For example, in 2015 Old Mutual reported a net value of over R7.9 billion on its B-BBEE transactions (Fin24, 2015). Hence, considerations relevant to this element specifically, have a profound effect on many overarching factors of the South African (SA) landscape, from uplifting the country’s social burden to stimulating economic growth. Papenfus (2015), however, warns against forced business marriages as a result of the amendments to B-BBEE legislation; more specifically, forced ownership transactions for the purpose of short-term commercial gain, or even survival.

4.3.1 Measurement of the ownership element in the old Codes

The following table represents the Detailed Scorecard (DS) for the ownership element, as represented by the old Codes. It will be used as a reference point for the following discussion (South Africa. Department of Trade and Industry, 2007a:22-31, 80-81).

Note the columns in Table 4.3 contain the following terms, which are linked to all of the Detailed Scorecards (DS) to follow:

- 'weight', representing a fraction of the points relevant to that sub-category of a particular rating element; and
- 'target (%)', representing the desired percentage to achieve the assigned weighting.

Take further note of the following discussions and how the numbered sub-headings from the table link to the numbered sub-headings from the discussions to follow.

**Table 4.3: The ownership scorecard, in the old QSE Codes
(Adapted from South Africa. Department of Trade and Industry, 2007a:79)**

INDICATOR	WEIGHT	TARGET
4.3.1 Measurement of the ownership element in the old Codes		
4.3.1.1 Exercisable voting rights in the entity in the hands of black people	6	25% + 1 vote
4.3.1.2 Economic interest in the entity to which black people are entitled	9	25%
4.3.1.3 Realisation points:		
Ownership fulfillment	1	
Net value	9	
4.3.1.4 Bonus points		
Involvement in the ownership of the enterprise by black women	2	10%
Involvement in the ownership of the enterprise by black participants in Employee Share Ownership Programmes (ESOPs), Co-operatives (Co-Ops), or Broad-Based Ownership Schemes (BBOs).	1	10%
Ownership element score	25	

4.3.1.1 and 4.3.1.2 Exercisable voting rights and economic interest

Voting rights and economic interest are measurable relative to a black person's portion of equity held directly or indirectly within the measured entity, unless otherwise stated in a shareholder/similar agreement.

From the sub-categories 4.3.1.1 and 4.3.1.2 in Table 4.3 above, it can be noted that 60% (6+9 = 15 out of 25) of the ownership scorecard is representative of black people having rights to vote (representing the equity instrument holder's 'voice') and the means to realise a possible return(s) on their investment (should a dividend or similar equity instrument reward be declared for a particular period).

The Codes, together with their accompanying legislative frameworks, make provision for all sorts of scenarios in calculating and assigning the accurate portions of ownership to a black person(s). What is relevant here is to ensure that there are no contractual restrictions on the black owners' voting rights and economic interest, superseding the evident portion of equity instrument awarded via obvious channels. For example, a black shareholder in a private company could be awarded 40% equity within a measured entity. However, should the shareholder agreement limit his/her voting rights substantially and only allow for a dividend to be realised after a set period, the shareholder cannot be awarded the said 40% ownership on the ownership scorecard for B-BBEE purposes.

Calculating exercisable voting rights and economic interest

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

Figure 4.1: Calculation for sub-section 4.3.1.1 and 4.3.1.2 (South Africa. Department of Trade and Industry, 2007a:32)

Where:

- A is the score achieved for sub-sections 4.3.1.1 and 4.3.1.2;
- B is the percentage of voting rights/economic interest held by black people relative to all voting rights/economic interest;
- C is the compliance target set out in Table 4.3 above of 25%+1 vote/25%; and
- D is the weighting points set out in Table 4.3 above of 6/9.

First National Bank (n.d.) provides a practical example of how the '25% + 1 vote' target under this sub-section is dealt with: "Exercisable voting rights in the hands of black people = 500 / 1 500 = 33,3%. The target is set at 25% plus one vote. In this example the company scores 33,3% black ownership and therefore will score the full 3 points." In First National Bank's practical example, the '+ 1 vote' represents 0,06%. If, for example, the total voting rights were 100, the single vote would have represented a full percentage.

4.3.1.3 Realisation points

Forty percent (9+1 = 10 out of 25) of the ownership scorecard relates to realisation points, an umbrella term encapsulating net value (9 points) and ownership fulfillment (1 point), both of which effectively measure equity held by black participants relative to its (possible) debt associations.

More specifically, the term 'net value' essentially determines if (an) equity instrument(s) held by (a) black person(s) creates value for that person(s); simply put and as the term dictates, measuring net value. The formula for calculating net value effectively takes into consideration the current value of the measured entity relative to the current value of a particular equity instrument(s), the value of the debt associated with that particular equity instrument(s), as well as the period (how long) in which the black participant has held the equity instrument(s). The formula allows the participant a maximum of nine years to repay any affiliated debt. Friedman (n.d.) explains that in order to earn full points for this sub-category on the scorecard, a percentage of the debt associated with the equity instrument should be paid off in a certain period of it being acquired.

The following list best outlines the foundation for this concept, referred to as the Time-Based Graduation Factor (TBGF):

- 10% for the first year after the current equity interest date;
- 20% for the second year after the current equity interest date;
- 40% from the first day of the third year after the current equity interest date to the last day of the fourth year after the current equity interest date;
- 60% from the first day of the fifth year after the current equity interest date to the last day of the sixth year after the current equity interest date;
- 80% from the first day of the seventh year after the current equity interest date to the last day of the eighth year after the current equity interest date; and
- 100% from the first day of the ninth year after the current equity interest date to the last day of the tenth year after the current equity interest date (South Africa. Department of Trade and Industry, 2007a:44).

Further to the above, the Time-Based Graduation Factor (TBGF) is best explained as follows: a concept that allows for a reasonable time in which an equity instrument can have debt associated therewith. Should the equity instrument still not have been paid within nine years after its acquisition by the black participant, achieving the full nine points on the ownership scorecard relevant to net value, shall be relinquished.

Furthermore, the point for ownership fulfillment is awarded when:

- a minimum of 9 points has been achieved (as indicated in 4.3.1.3 in Table 4.3 above); and
- upon the release of debt for all black equity instrument holders in a measured entity, or in the event of there not ever having been debt associated with an equity instrument held by a black person(s) (South Africa. Department of Trade and Industry, 2007a:28).

Calculating realisation points

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

Figure 4.2: Pre-calculation for sub-section 4.3.1.3: Deemed Net Value (DNV)
(South Africa. Department of Trade and Industry, 2007a:33)

Where:

- A is the score achieved for sub-section 4.3.1.3, referred to as Deemed Net Value (DNV);
- B is the value of the equity instruments in the hands of black people on date of measurement;
- C is the value of the acquisition debts associated with the relevant equity instruments in the hands of black people on date of measurement;
- D is the value of the measured entity on date of measurement.

The Deemed Net Value (DNV) result is then used to calculate the net value. This latter term holds two distinct formulas, that is, Formula A and Formula B calculations. The outcome yielding the lowest score is the one to assume the result for net value.

Formula A

$$A = B \times \left(\frac{1}{25\% \times C} \right) \times 7$$

Figure 4.3: Formula A: calculation for sub-section 4.3.1.3
(South Africa. Department of Trade and Industry, 2007a:33)

Where:

- A is the score achieved for sub-section 4.3.1.3 relating to net value;
- B is the DNV result obtained in the pre-calculation;
- C is the Time-Based Graduation Factor (TBGF); and
- D is the value of the measured entity on date of measurement.

Formula B

$$A = \frac{B}{C} \times 7$$

Figure 4.4: Formula B: calculation for sub-section 4.3.1.3
(South Africa. Department of Trade and Industry, 2007a:34)

Where:

- A is the score achieved for sub-section 4.3.1.3 relating to net value;
- B is DNV result obtained in the pre-calculation, as per Figure 4.2; and
- C represents the compliance target set out in Table 4.3 above of 25%.

Note in Figures 4.3 and 4.4, the multiplier of '7' for both Formula A and B is misrepresented and should be replaced with a '9' to accommodate for the compliance target for QSEs, as set out in the Detailed Scorecard (DS) illustrated in Table 4.3 above.

4.3.1.4 Bonus points

Three bonus points are set aside in the ownership scorecard, the implications being that a maximum of 28 out of 25 points is available.

Bonus points are awarded here in the event of 10% or less of ownership being held via:

- black women; or
- Employee Share Ownership Programmes (ESOPs), Co-Operatives (Co-Ops), or Broad-Based Ownership Schemes (BBOs).

Calculating bonus points

$$A = \frac{B}{C} \times \frac{D}{25} \times E$$

Figure 4.5: Calculation for sub-section 4.3.1.4.
(South Africa. Department of Trade and Industry, 2007a:35)

Where:

- A is the scores achieved for sub-section 4.3.1.4;
- B is the percentage of economic interest held by black people relative to all economic interest;
- C represents the compliance target set out in Table 4.3 above of 25%;
- D is the percentage of economic interest held by black people on date of measurement, up to 25%; and
- E is the weighting points set out in Table 4.3 above of 2 and 1 respectively.

4.3.1.5. Recognising black ownership after a loss or sale

Ownership may be recognised after the loss or sale of an equity instrument(s) by (a) black participant(s) should certain criteria be met. The end of this section deals with this.

Calculating the recognition of black ownership after a loss or sale

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

Figure 4.6: Calculation for recognising black ownership after a loss or a sale. (South Africa. Department of Trade and Industry, 2007a:34)

Where:

- A is the percentage ownership that survives after the loss or sale of an equity instrument(s);
- B is the percentage of equity instruments awarded to the black participant prior to the loss or sale;
- C is the Deemed Net Value (DNV) calculation result (Figure 4.2: Pre-calculation to Formula A/B); and
- D is the measured entity's latest B-BBEE level status, using the procurement recognition percentage.

It should be noted that “black participation arising from continued recognition of black ownership cannot contribute more than 40% of the score on the ownership scorecard” (South Africa, Department of Trade and Industry, 2007a:25).

The ownership scorecard, represented by the new Codes, will be discussed below (South Africa. Department of Trade and Industry 2013a:14-35; South Africa. Department of Trade and Industry, 2015a:41). Keith Levenstein opines on the new Codes: “[It] forces racial transformation of South African business ownership. A very blunt tool that is sure to have unintended consequences the bureaucrats have not even thought about” (Hogg, 2014).

4.3.2 Measurement of the ownership element in the new Codes

**Table 4.4: The ownership scorecard, in the new QSE Codes
(Adapted from South Africa. Department of Trade and Industry, 2015a:41)**

INDICATOR	WEIGHT	TARGET
Measurement of the Ownership element in the new Codes		
4.3.2.1 Exercisable voting rights in the entity in the hands of black people	5	25% + 1 vote
4.3.2.2 Exercisable voting rights in the entity in the hands of black women	2	10%
4.3.2.3 Economic interest in the entity to which black people are entitled	5	25%
4.3.2.4 Economic interest in the entity to which black women are entitled	2	10%
4.3.2.5 Economic interest in the entity to which BNE or black designated groups are entitled	3	2%
4.3.2.6 Net value	8	
Ownership element score	25	

4.3.2.1 - 4.3.2.5 Exercisable voting rights and economic interest

Sixty-eight percent ($5+2+5+2+3 = 17$ out of 25) of the ownership scorecard is now representative of voting rights and economic interest for black people, as opposed to the previously allocated 60%. Such a change can be regarded as a progression to create equilibrium between South Africa's (SA's) current unequal political and economical power struggle, a challenge indicated in terms of B-BBEE during 2017/2018, as observed in Chapter 3 (Nzimande, 2007:180).

Note that additional sub-categories now exist for black women, demarcating 16% ($2+2 = 4$ out of 25) of the scorecard to enforce gender equality. No recognition, except for two possible bonus points, was awarded to black women in the past, relevant to ownership. From the literature reviewed in Chapter 3, the need for black female empowerment is great. However, with Xulu (2017) reporting that 31% of companies in South Africa (SA) do not have any women in senior management positions (irrespective of race), the concern arises whether measured entities [especially on the part of Qualifying Small Enterprises (QSEs) with fewer resources at their disposal] will have access to suitable black female candidates for their ownership needs.

The terms, Black New Entrants (BNEs) and black designated groups, in the past only rated on the generic ownership scorecard, have been introduced.

Black New Entrants (BNE) are defined by the Codes as: “[B]lack participants who hold rights of ownership in a Measured Entity and who, before holding the Equity Instrument in the Measured Entity, have not held equity instruments in other Entities which have a total value of more than R50,000,000.00, measured using a standard valuation method” (South Africa. Department of Trade and Industry, 2013a:93). BNEs enjoy 8% representation on the new ownership scorecard for QSEs. In short, the intention of the Codes is to reward measured entities for allocating equity instruments to black persons who have not already been enriched by B-BBEE or similar. More specifically, the focus is on empowering black persons who have not entered into ownership deals to the value of R50 million or more, using a standard valuation method. B-BBEE now seeks to do away with the ramifications of historical empowerment via the ownership element in which a select few black persons, the elite, were sought to have achieved the most benefit, as is the opinion of Du Preez (2017): BEE refers to ‘Black Elite Enrichment’.

Designated groups (South Africa. Department of Trade and Industry, 2013a:93) refer to the following natural persons:

- “(a) unemployed black people not attending and not required by law to attend an educational institution and not awaiting admission to an educational institution;
- (b) black people who are youth as defined in the National Youth Commission Act of 1996;
- (c) black people who are persons with disabilities as defined in the Code of Good Practice on employment of people with disabilities issued under the Employment Equity Act;
- (d) black people living in rural and underdeveloped areas;
- (e) black military veterans who qualify to be called a military veteran in terms of the Military Veterans Act 18 of 2011.”

Calculating exercisable voting rights and economic interest

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

Figure 4.7: Calculation for sub-sections 4.3.2.1 – 4.3.2.5 (South Africa. Department of Trade and Industry, 2015a:36)

Where:

- A is the score achieved for sub-sections 4.3.2.1 – 4.3.2.5;
- B is the percentage of voting rights/economic interest held by black people and black women respectively relative to all voting rights/economic interest;
- C represents the compliance target set out in Table 4.4 above of 25% + 1 vote and 10%, respectively / of 25%, 10% and 2%, respectively; and
- D is the weighting points set out in Table 4.4 above of 5 and 2/and 3, respectively.

4.3.2.6 Net value

The revised Detailed Scorecard (DS) for ownership does not make reference to realisation points, nor its ownership fulfillment sub-category. Net value, however, is still recognised with a mere 32% (8 out of 25) of the points on the ownership scorecard, as opposed to the 40% (as reviewed in Section 3.3.1.3) representation in the old Codes.

Conversely, compliance with the priority element has been linked to this sub-category. Forty percent of this sub-category is to be achieved not to be discounted a level (hence, 3.2 points out of the available 8). The implication is the increased importance placed on debt associated with ownership and the tenure thereof [the Time-Based Graduation Factor (TBGF)]. More, specifically, the following are to occur for the discounting principle to not take effect:

- 10% of black shareholder's debt should be paid by the end of year 1;
- 20% by the end of year 2;
- 40% by the end of year 4 (from day 1 of year 3 to the end of year 4);
- 60% by the end of year 6 (from day 1 of year 5 to the last day of year 6);
- 80% by the end of year 8 (from day 1 of year 7 to the last day of year 8); and
- 100% by the end of year 10 (from day 1 of year 9 to the end of year 10).

Thus, the introduction of ownership as a priority element, with its implications being directly linked to the net value sub-category, addresses a fundamental challenge reviewed in Chapter 3, given South Africa's (SA's) progressive history relevant to empowerment financing.

Calculating net value

The net value calculation is no different from the realisation points calculation specified in Section 4.3.1.3 relevant to the old Codes. In calculating net value points, a result for the Deemed Net Value (DNV) is to be determined for its use in Formula A's calculation. The exception is, however, due to the increased weighting points to 8, that the multipliers in Formulas A and B have subsequently been amended. Here too, the lowest score between Formula A or B shall represent the result for net value.

4.3.2.7 Additional, indirect ownership changes

There are further changes effected to the ownership scorecard, and although such changes cannot be identified in merely comparing Detailed Scorecards (DSs) between the two sets of legislation, their implications are immense. The following additional changes to ownership indirectly impacting the scorecard are:

- recognition of ownership after the loss or sale of shares by black participants;
- criteria for measuring black ownership via Private Equity Funds;
- criteria for measuring black ownership via BBOs; and
- rules for Family Trusts.

The Codes make provision for black ownership to be recognised after the sale or loss of equity, provided that the following criteria are met:

- “the black participant has held shares for a period of 3 years;
- value must have been created in the hands of black people;
- transformation has taken place within the measured entity” (South Africa. Department of Trade and Industry, 2013a:25).

Thus, should a black participant sell or lose his/her equity instrument, the Codes allow (by way of a complex formula) for the measured entity to still recognise such ownership should such an event occur, on condition that the above criteria have been met. Furthermore, the measured entity may not benefit for a period longer than the period after which the black person sold or lost his/her equity.

With the latter two requirements being somewhat subjective, the new Codes now provide clarity on how the terms ‘value’ and ‘transformation’ should be measured, by clarifying:

- net value based on the Time-Based Graduation Factor (TBGF) must have been created in the hands of black people, which links to the set formula for calculating net value as per the sub-category on the ownership scorecard; and
- transformation should have taken place within the measured entity using a comparative approach to the B-BBEE recognition level achieved, from the period of entry by the black participant to that of him/her exiting the measured entity (South Africa. Department of Trade and Industry, 2013a:21).

As the Codes now eliminate any subjectivity associated with these terms, they limit unscrupulous B-BBEE verification practices of awarding ownership points to measured entities not fully meeting the intended criteria of the Codes relevant to the recognition of ownership after the sale or loss of equity by (a) black participant(s).

Furthermore, it can be noted that the calculation for recognising such black ownership remains unchanged (refer to Section 4.3.1.5: calculating the recognition of black ownership after the loss or sale of equity in the old Codes).

The previous criterion to award points for a Private Equity Fund (PEF) has increased from 4 to 15. The rationale may be traced to Chapter 2's introduction to empowerment financing. In considering black people's historical predisposition (neither having capital of their own, or the assets for securing traditional loans), many resort(ed) to structured financing as a means to empowerment. In short, empowerment financing often results in structured financing options, utilised when there is inadequate capital (Lucas-Bull, 2007:144-145). Such empowerment financing vehicles are often in the form of Private Equity Funds (PEFs), Broad-Based Ownership Schemes (BBOSs) and Trusts. Hence, the rationale for introducing further requirements to such vehicles prior to awarding B-BBEE points, demonstrates government's intention to further regulate the B-BBEE industry.

A summary of the new requirements as set out by the new Codes (South Africa. Department of Trade and Industry, 2013a:22-25):

- At least 51% of the Private Equity Fund (PEF) manager's exercisable voting rights must be held by black people. Furthermore, at least 51% of executive and / or senior management must be black persons.
- At least 51% of the profits realised by the PEF managers should accrue to black people, by written agreement. The term 'profits' in this context refers to the profits and interest which accrue from the operations of the PEF manager after realising any investment made by it.
- The PEF manager must be a B-BBEE owned company, i.e. having a minimum of 51% black ownership.
- The PEF shall seek to invest at least 51% of its funds in enterprises that have a minimum 25% black ownership. Should an enterprise not meet the requirement of having 25% black ownership, the PEF manager can facilitate black ownership to be achieved at the time of entering into the transaction with the particular enterprise. The value of the funds is measured according to the cost of that particular investment. This shall be measured at each verification and such status will be given to the PEF for a period of 12 months.
- The Department of Trade and Industry (DTI) recognises the challenge for PEF managers to find enterprises with significant black shareholding. It is for this reason that the 51% target is achievable over a period of time, using a set formula, which is in line with the net value calculation for ownership and listed clearly in the new Codes. This rule applies to all investments made after 11 October 2014.
- In the case of PEF being fully invested prior to 11 October 2014, such investments shall be considered as being made by black people, should the following hold true: the PEF manager must be a B-BBEE owned company and with that have at least 51% of the PEF manager's exercisable voting rights and profits accruing to black people.

As is the case of Private Equity Funds (PEFs), the previous set of criteria relevant to Broad-Based Ownership Schemes (BBOs) has increased from 7 to 13. The full list of criteria as set out by the new Codes:

- “1.1.1 the management fees of the scheme must not exceed 15%;
- 1.1.2 the constitution of the scheme must record the rules governing any portion of Economic Interest received and reserved for future distribution or application;
- 1.1.3 the constitution of the scheme must define the Participants and the proportion of their claim to receive distributions;
- 1.1.4 a written record of the name of the Participants or the use of a defined class of natural person satisfies the requirement for identification;
- 1.1.5 a written record of fixed percentages of claim or the use of as formula for calculating claims satisfies the need for defining proportion of benefit; and
- 1.1.6 the fiduciaries of the scheme must have no discretion on the above mentioned terms;
- 1.1.7 at least 85% of the value of benefits allocated by the scheme must accrue to black people;
- 1.1.8 at least 50% of the fiduciaries of the scheme must be independent persons having no employment with or direct or indirect beneficial interest in the scheme;
- 1.1.8 at least 50% of the fiduciaries of the scheme must be black people and at least 25% must be black women;
- 1.1.10 the chairperson of the scheme must be independent;
- 1.1.11 the constitution, or the relevant statutory documents, of the scheme must be available, on request, to any Participant in an official language in which that person is familiar;
- 1.1.12 the scheme fiduciaries must present the financial reports of the scheme to Participants yearly at an annual general meeting of the scheme; and
- 1.1.13 on winding up or termination of the scheme, all accumulated Economic Interest must be transferred to the beneficiaries or an entity with similar objectives” (South Africa. Department of Trade and Industry, 2013a:30-31).

A controversial event occurred when the Department of Trade and Industry (DTI) released a statement on 5 May 2015 (South Africa, 2015:4), which reads: “Black participants in Broad-Based Ownership Schemes and Employee Share Ownership Programmes holding rights of Ownership in a Measured Entity must only score points under paragraph 2.2.3 [economic interest of black natural people in the measured entity; for 3 out of the 25 available points] under the Ownership scorecard.”

In a newsletter circulated by EconoBEE (2015), reference was made to the fact that many BEE verification agencies and consultants were shocked and surprised by the Department of Trade and Industry (DTI) decision to only award a maximum of 3 points, should ownership be in the form of BBOs and/or Employee Share Ownership Schemes (ESOPs). Sandile Zungu, adviser to President Jacob Zuma and a member of the Broad-Based Black Economic Empowerment Advisory Council, opines that ESOPs are very vulnerable to fronting, perhaps indicating a possible justification for releasing such a statement (Van Rensburg, 2015). Soon thereafter the DTI would

retract this clause. Nonetheless, with uncertainty still prevalent in respect of these ownership structures, QSEs are naturally hesitant to implement new black ownership based on such structures, in turn limiting available options to currently redress B-BBEE ownership relevant to the new Codes (Wild, 2015).

The final amendment indirectly impacting the ownership scorecard, was the introduction of qualification criteria specific to Family Trusts (South Africa. Department of Trade and Industry, 2013a:34):

- “5.1.1 the trust deed must define the beneficiaries and the proportion of their entitlement to receive distributions;
- 5.1.2 a written record of the names of the beneficiaries or the use of a defined class of natural persons satisfies the requirements of defining beneficiaries;
- 5.1.3 a use of a formula for calculating entitlement satisfies the need for defining proportion of benefit;
- 5.1.4 only the trustees must have discretion on the above-mentioned terms; and
- 5.1.5 on winding up or termination of the trust, all accumulated Economic Interest must be transferred to the beneficiaries or to an entity representing the interest of the participants or class of beneficiaries.”

4.3.3 Ownership changes (summarised)

The preceding review indicated the available literature relevant to the changes to the ownership element between the old and the new Codes. This section presents the most prevalent changes, in summary. Although both Detailed Scorecards (DSs) present 25 points for this element, the following fundamental changes can be noted:

- there is an 8% increase in voting rights and economic interest (combined) representation for black persons;
- 16% of the ownership scorecard has been assigned to equity held by black women;
- recognition for Black New Entrants (BNEs) and designated groups has been introduced;
- the net value category now enjoys increased significance (via the introduction of ownership as a priority element), although it is representative of fewer points on the scorecard;
- no bonus points have been allocated; and
- further compliance requirements have been set for the allocation of points to Private Equity Funds (PEFs), Broad-Based Ownership Schemes (BBOs) and Family Trusts.

According to Mpowered (2013), the biggest change to impact the ownership element is that it is now considered a priority (earmarked as one of three priority elements, as reviewed in Chapter 3 and in Section 4.3.2.6 above). This has a significant impact on Multi-National Corporations (MNCs), which have historically relied on higher scores in other elements to compensate for their lack of black ownership. Also, measured entities that have recently engaged in a B-BBEE ownership transaction where much of the equity is still encumbered, may not exceed the minimum threshold on net value. In this instance, it is conceivable that they could achieve a high score on other ownership indicators, but still be discounted a level for not meeting the net value requirements.

With ownership constituting a quarter of the entire scorecard for Qualifying Small Enterprises (QSEs) and its being regarded a priority element, compliance here should and cannot be neglected.

4.4 B-BBEE rating element: Management and Control

The Management and Control (M&C) element measures the effective strategic management of enterprises by black people, as well as the degree to which the staff complement is black.

The new Management and Control (M&C) scorecard (representing 15 points) merges what was previously referred to as Management and Control (M&C) and Employment Equity (EE) (in the past, each represented 25 points). Hence, two elements will be evaluated and compared with the amended/merged M&C element to highlight the prevalent changes QSEs now are required to comply with.

On the issue of reduced available points assigned to this element, Foulds (2014:24) reports that Employment Equity (EE) has improved dramatically in the past few years and that B-BBEE points are the incentive for businesses to become compliant. By dropping the available points (thus, making the weightings more onerous), business could be discouraged from assigning importance to it. The old Management and Control (M&C) and Employment Equity (EE) scorecards follow.

4.4.1 Measurement of the Management and Control element in the old Codes

**Table 4.5: The Management and Control scorecard, in the old QSE Codes
(Adapted from South Africa. Department of Trade and Industry, 2007a:82)**

INDICATOR	WEIGHT	TARGET
Measurement of the Management and Control element in the old Codes		
4.4.1.1 Black representation at Top Management (TM) level	25	50.1%
4.4.1.2 Bonus points: black women representation in TM	2	25%
Management and Control element score	25	

4.4.1.1 and 4.4.1.2 Top management and bonus points

The Management and Control (M&C) element is fully representative of black persons in top management positions, while a maximum of two bonus points are allocated to black women in such positions.

The old Codes (South Africa. Department of Trade and Industry, 2007a:91) refer to Top Management (TM) as

...employees of a Measured Entity who hold rights of ownership, serve on the Board, undertake the day-to-day management, have overall responsibility for the overall financial management and are actively involved in developing and implementing the overall strategy for the Measured Entity's overall strategy.

They further provide practical examples of TM positions which include, but are not limited to, the Chief Executive Officer (CEO), Chief Operating Officer (COO), Chief Financial Officer (CFO), head of marketing, head of sales, head of Human Resources (HR) and persons holding similar positions (South Africa. Department of Trade and Industry, 2007a:82). However, Simanye (2014), a B-BBEE service provider, is of the opinion that there is no consistency in practice in classifying Top Management (TM).

Calculating Top Management and bonus points

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

Figure 4.8: Calculation for sub-section 4.4.1.1 and 4.2.1.2 (South Africa. Department of Trade and Industry, 2007a:49)

Where:

- A is the score achieved for sub-section 4.4.1.1 and 4.4.1.2;
- B is the percentage of black employees/black female employees in Top Management (TM) positions relative to all such employees;
- C represents the compliance target set out in Table 4.5 above of 50,1%/25%; and
- D is the weighting points set out in the table above of 25/2.

The Employment Equity (EE) element in the old Codes (South Africa. Department of Trade and Industry, 2007a:82-83,50-52) is discussed below.

4.4.2 Measurement of the Employment Equity element in the old Codes

The Employment Equity (EE) element measured the ratio of black persons in a measured entity's staff complement, with further recognition awarded to management.

Table 4.6: The Employment Equity scorecard, in the old QSE Codes (Adapted from South Africa. Department of Trade and Industry, 2007a:82)

INDICATOR	WEIGHT	TARGET
Measurement of the Employment Equity element in the old Codes		
4.4.2.1 Black employees of the measured entity who are management as a percentage of all management adjusted using the adjusted recognition for gender.	15	60%
4.4.2.2 Black employees of the measured entity as a percentage of all employees adjusted using the adjusted recognition for gender.	10	70%
4.4.2.3 Bonus points for meeting or exceeding the EAP targets in each category above	2	
Employment Equity element score	25	

4.4.2.1 and 4.4.2.2 Management and employees

Sixty percent (15 out of 25) of the Employment Equity (EE) scorecard is representative of black managers, irrespective of their managerial level: senior, middle, or junior. The target is set at 60%. The remaining 40% (10 out of 25) of the points on the EE scorecard is allotted to all employees. The target is marginally higher here, set at 70%.

Embedded in these calculations is a term called 'adjusted recognition for gender'. It effectively provides for enhanced recognition of a specific category in which females enjoy double recognition relative to the measured entity's current ratio of black people, capped to a maximum of 50% of the target awarded to the relevant category.

Calculating management and employees

First, a calculation called the adjusted recognition for gender is determined.

$$A = \frac{B}{2} + C$$

Figure 4.9: Pre-calculation for sub-sections 4.4.2.1 and 4.4.2.2 (South Africa. Department of Trade and Industry, 2007a:53)

Where:

- A is the adjusted recognition for gender;
- B is the percentage of black managers/employees in the measured entity; and
- C is the percentage of black women managers/employees in the measured entity. C is limited to 50% of the compliance target in Table 4.6 above of 30%/35%.

The adjusted recognition for gender result is then used to calculate the final result for sub-sections 4.4.2.1 and 4.4.2.2. of the Employment Equity (EE) element.

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

Figure 4.10: Calculation for sub-section 4.4.2.1 – 4.4.2.2 (South Africa. Department of Trade and Industry, 2007a:53)

Where:

- A is the score achieved for sub-section 4.4.2.1 and 4.4.2.2;
- B is the result of the pre-calculation, the adjusted recognition for gender;
- C represents the compliance target set out in Table 4.6 of 60%/70%; and
- D is the weighting points set out in the table above of 15/10.

4.4.2.3 Bonus points

Two bonus points are available to measured entities exceeding South Africa's (SA's) employment target for that sub-category. Verification Agencies (VAs) use Statistics South Africa (STATS SA) as a source for comparing the current Economically Active Population (EAP) targets with the measured entity's employment status on the date of verification. The *Business Dictionary* (2017) defines the term 'EAP' as representing members of the population who are either employed or actively seeking employment.

Calculating bonus points

The Economic Active Population (EAP) targets are obtainable from Statistics South Africa (2017b) via downloading the Quarterly Labour Force Survey (QLFS) and comparing these figures with the results obtained in sub-sections 4.4.2.1 and 4.4.2.2 respectively, to determine if the bonus point(s) may be awarded.

As mentioned at the outset of this section, the amendments to the new Codes call for a merger of the previously known Management and Control (M&C) and Employment Equity (EE) elements. These are now known only as M&C, and depicted in Table 4.7.

4.4.3 Measurement of the Management and Control element in the new Codes

Table 4.7: The Management and Control scorecard, in the new QSE Codes (Adapted from South Africa. Department of Trade and Industry, 2013a:42-43)

INDICATOR	WEIGHT	TARGET
Measurement of the Management and Control element in the new Codes		
4.4.3.1 Black Executive Management (EM) as a percentage of all EM	5	50%
4.4.3.2 Black female EM as a percentage of all EM	2	25%
4.4.3.3 Black employees in senior, middle and junior management as a percentage of all such management	6	60%
4.4.3.4 Black female employees in senior, middle and junior management as a percentage of all such management	2	30%
Management and Control element score	15	

4.4.3.1 and 4.4.3.2 Executive Management

The term 'Executive Management' (EM) can be regarded as synonymous with the term 'Top Management' (TM) – the latter used in the old Codes as discussed in the preceding section. Forty-seven percent of the scorecard is allocated to the first two categories, both representing EM, with the target of 50% remaining intact.

Noticeable from sub-section 4.4.3.2 is the removal of the adjusted recognition for gender calculation in favour of a separate measure for black females. In doing so, the new Codes not only simplify the calculation, but also make its intention of promoting black females clear (Simanye, 2014).

Chapter 3 (Section 3.12.1) reported on underperformance in Executive Management (EM) roles (28.1% representative of black persons) compared with the Economically Active Population (EAP) trends (90.6% representative of black persons) for the period 2013 to 2017. Furthermore, such representation decreased by over 5% during this four-year span (Statistics South Africa, 2004; Statistics South Africa, 2017). Although these statistics indicate that increased emphasis should be placed on the new Codes in redressing these trends, a mere seven points was allocated to this category (for EM) in the new Codes, as opposed to the previous 25 (plus two bonus points) allocation in the old Codes.

4.4.3.3 and 4.4.3.4 Management

The next two categories (sub-sections 4.4.3.3 and 4.4.3.4) are representative of the Employment Equity (EE) element in the old Codes. Here too, black managers are grouped together. Fifty-three percent of the scorecard is allocated to these categories, with the target of 60% remaining intact.

Section 3.12.1 of Chapter 3 also reported on underperformance on management levels compared with the Economically Active Population (EAP) trends for this period (2013 to 2017). Fortunately, there has been growth in each management level (Statistics South Africa, 2004; Statistics South Africa, 2017). Now a mere eight points are allotted to management in the new Codes (representing 53%), as opposed to the previous 15 (representing 60%), plus one bonus point allocation as per the old Codes.

No points have been allocated to the general workforce. With unemployment levels soaring (2017), the revised B-BBEE policy framework clearly does not provide any incentive for organisations to employ the masses; in fact, it proves contrary to its aims (Maré, 2017). In contrast, Cyril Ramaphosa (2018) prioritised youth unemployment in his first State of the Nation Address (SONA) as the newly appointed President in 2018, resulting in an employment tax incentive scheme being rolled out later in the year. Businesses receive R1000 every month in remuneration if a black youth (aged between 18 and 29 years) is employed (*The Citizen*, 2018). It would seem that the current B-BBEE policy does not support this movement.

Calculating Executive Management and management

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

Figure 4.11: Calculation for sub-section 4.4.3.1 – 4.4.3.4 (South Africa. Department of Trade and Industry, 2015a:42)

Where:

- A is the score achieved for all sub-sections included from 4.4.3.1 – 4.4.3.4;
- B is the percentage of black executive management/management listed above, relative to all such executive managers/management;
- C represents the compliance targets set out in Table 4.7 above of 50%/25%/60%/30%; and
- D is the weighting points set out in Table 4.7 above of 5/2/6/2.

4.4.4 Management and Control changes (summarised)

The most prevalent changes to the Management and Control (M&C) scorecard are:

- With the revised M&C scorecard effectively being a collation of the old M&C and Employment Equity (EE) scorecards, the obvious change is the drop in 35 points. Measured entities verified in the new Codes now automatically forfeit these points.
- Adjusted recognition for gender has been done away with. A distinction is now made between black males and black females.
- Total employees, as a category for measurement, are not measured.
- No bonus points have been allocated.

4.5 B-BBEE rating element: Skills Development

The Skills Development (SD) element measures the extent to which black people are empowered via education, training and development.

Phumzile Mlambo-Ngcuka (2006), then Deputy President, in a statement prior to the old Codes being released, and making governments intent on the issue of Skills Development (SD) for B-BBEE known, declared: “We have to overcome the shortage of suitable skilled labour if our dreams for this economy are to be realised.” More than two decades later, Skills Development (SD) remains a priority issue on government’s agenda, as it proves to be the essence of sustainable transformation (Booyesen, 2017; Gordhan, 2017). The National Skills Development Strategy (NSDS) III, covering the periods 2011 to 2020, acknowledges that the economy remains constrained by a severe lack of skills. Government is committed to continue to prioritise skills development in an effort to improve economic growth, as well as to redress inequality and poverty (South Africa. Department of Higher Education and Training, 2011; Ramaphosa, 2018).

4.5.1 Measurement of the Skills Development element in the old Codes

**Table 4.8: The Skills Development scorecard in the old QSE Codes
(Adapted from South Africa. Department of Trade and Industry, 2007a:83)**

INDICATOR	WEIGHT	TARGET
Measurement of the Skills Development element in the old Codes		
4.5.1.1 Adjusted skills development spend on learning programmes for black employees as a percentage of leviable amount.	25	2%
Skills Development element score	25	

4.5.1.1 Skills Development spend

The Skills Development (SD) target was previously set at 2% of a measured entity’s total leviable amount/annual remuneration to be spent on black employees. The term ‘leviable amount’ was briefly introduced in Chapter 2, and is defined by the Skills Development Levies Act (9/1999a) as:

[T]he total amount of remuneration, paid or payable, or deemed to be paid or payable, by an employer to its employees during any month, as determined in accordance with the Fourth Schedule to the Income Tax Act for the purposes of determining the employer’s liability for any employees’ tax in terms of that Schedule, whether or not such employer is liable to deduct or withhold such employees’ tax.

Here too consideration is made for black females via the provision for the adjusted recognition for gender calculation.

Skills Development (SD) is inherently linked to learning programmes, effectively allowing for its measurement. These programmes are classified by the Codes via what is referred to as the 'Learning Programme Matrix (LPM)'. The matrix becomes significant when extrapolating the rand value spent on training and development by a measured entity.

**Table 4.9: The Learning Programme Matrix
(South Africa. Department of Trade and Industry, 2007a:57)**

CAT	DESCRIPTION	DELIVERY MODE	LEARNING SITE	LEARNING ACHIEVEMENT
A	Institution-based theoretical instruction alone, formally assessed by the institution	Institutional instruction	Institutions such as universities and colleges, schools, ABET providers	Recognised theoretical knowledge resulting in the achievement of a degree, diploma or certificate issued by an accredited or registered formal institution of learning
B	Institution-based theoretical instruction as well as some practical learning with an employer or in a simulated work environment, formally assessed through the institution	Mixed mode delivery with institutional instruction as well as supervised learning in an appropriate workplace or simulated work environment	Institutions such as universities and colleges, schools, ABET providers and workplace	Theoretical knowledge and workplace experience with set requirements resulting in the achievement of a degree, diploma or certificate issued by an accredited or registered formal institution of learning
C	Recognised or registered structured experiential learning in the workplace that is required after the achievement of a qualification, formally assessed by a statutory occupational or professional body	Structured learning in the workplace with mentoring or coaching	Workplace	Occupational or professional knowledge and experience formally recognised through registration or licensing
D	Occupationally directed instructional and work-based learning programme that requires a formal contract, formally assessed by an accredited body	Institutional instruction together with structured supervised experiential learning in the workplace	Institution workplace	Theoretical knowledge and workplace learning, resulting in the achievement of a South African Qualifications Authority registered qualification, a certificate or other similar occupational or professional qualification issued by an accredited or registered formal institution of learning
E	Occupationally directed instructional and work-based learning programme that does not require a formal contract, formally assessed by an accredited body	Structured, supervised experiential learning in the workplace which may include some institutional instruction	Workplace and some institutional as well as ABET providers	Credits awarded for registered unit standards
F	Occupationally directed informal instructional programmes	Structured information sharing or direct instruction involving workshops, seminars, conferences and short courses	Institutions, conferences and meetings	Continuing professional development attendance certificates and credits against registered unit standards (in some instances)
G	Work-based informal programmes	Informal training	Workplace	Increased understand of job or work context or improved performance of skills

An important factor to consider on the matrix is that all Category G training is limited to 15% of the total Skills Development (SD) spent, and claimed for, in an annual period (South Africa. Department of Trade and Industry, 2007a:56).

Calculating Skills Development spend

Here too, as was the case with Management and Control (M&C), the adjusted recognition for gender is to be determined.

$$A = \frac{B}{2} + C$$

**Figure 4.12: Pre-calculation for sub-section 4.5.1.1
(South Africa. Department of Trade and Industry, 2007a:58)**

Where:

- A is the adjusted recognition for gender;
- B is the percentage of the skills value spent on black employees in the measured entity; and
- C is the percentage of the skills value spent on black women employees in the measured entity. C is limited to 50% of the compliance target set out in Table 4.8 above of 1%.

The adjusted recognition for gender result is then used to calculate sub-section 4.5.1.1 of the Skills Development (SD) element.

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

**Figure 4.13: Calculation for sub-section 4.5.1.1
(South Africa. Department of Trade and Industry, 2007a:58)**

Where:

- A is the score achieved for sub-section 4.5.1.1;
- B is the result of the pre-calculation, the adjusted recognition for gender;
- C represents the compliance target set out in Table 4.8 of 2%;
- D is the weighting points set out in Table 4.8, indicating 25 points.

4.5.2 Measurement of the Skills Development element in the new Codes

As previously noted, Skills Development (SD) remains a priority in public policy. It is pronounced in observing the recalibration of the SD scorecard, represented in Table 4.10 below. Although it still represents 25 points (as is the case with ownership), its extensive amendments are obvious (South Africa. Department of Trade and Industry, 2013a:49-57; South Africa. Department of Trade and Industry, 2015a:43).

**Table 4.10: The Skills Development scorecard in the new QSE Codes
(Adapted from South Africa. Department of Trade and Industry, 2015a:43)**

INDICATOR	WEIGHT	TARGET
Measurement of the Skills Development element in the new Codes		
4.5.2.1 Skills Development (SD) expenditure on learning programmes specified in the Learning Programme Matrix (LPM) for black people as a percentage of leviable amount	15	3%
4.5.2.2 SD expenditure on learning programmes specified in the LPM for black females as a percentage of leviable amount	7	1 %
4.5.2.3 SD expenditure on learning programmes specified in the LPM for black people with disabilities as a percentage of leviable amount	3	0.15 %
4.5.2.4 Bonus Points: number of black people absorbed by the measured and industry entity at the end of the learnerships programme	5	100%
Skills Development element score	25	

Prior to considering the changes to the Skills Development's (SD's) Detailed Scorecard (DS), Qualifying Small Enterprises (QSEs) now are required to consider that in order to score any points on this element, certain prerequisites are to be achieved. A measured entity is to:

- be in possession of a Sector Education and Training Authority (SETA) approved Workplace Skills Plan (WSP) and Annual Training Report (ATR), containing a Pivotal Report; and
- have implemented priority skills programmes for black persons (South Africa. Department of Trade and Industry, 2015a:43).

In the past, such prerequisites were only applicable to generic enterprises under the old Codes.

As introduced in Section 2.9.3 of Chapter 2, the following takes effect in practice: the Mandatory Grant (that is, the Workplace Skills Plan (WSP) and Annual Training Report (ATR), the latter of which the Pivotal Plan is a part, is to be submitted by enterprises wishing to claim a portion of their annual Skills Development Levies (SDLs). SDLs are paid to the South African Revenue Service (SARS) on a monthly basis via the submission of a document, called the EMP201. “Where an employer expects that the total salaries will be more than R500 000 over the next 12 months, that employer becomes liable to pay SDL” (SARS, 2017b). Measured entities not achieving this payroll target, or who have in the past regarded these Mandatory Grant (MG) submissions as too time consuming relative to the monetary incentive of up to 20% SDL rebate, will have to reconsider such compliance. Thus, the Mandatory Grant (MG) submission is an unavoidable activity for most concerned with achieving a maximum 20% rating on their overall B-BBEE result.

Chapter 3 (Section 3.2.1) introduced the regulatory barriers (‘red tape’) facing Small and Medium Enterprises (SMEs). This accords with the notion that SETAs acknowledge the administrative burden placed on SMEs in complying with their grant systems. It is for this reason that many, on an ad hoc basis, make available voucher projects to small businesses in easing access to funding for skills development initiatives (Squire, 2011; W&RSETA, 2014; CHIETA, 2018).

4.5.2.1 and 4.5.2.2 Skills Development spend

Eighty-eight percent of the Skills Development (SD) scorecard is assigned to all categories of training to be spent on black people, while a third is assigned to black women. The target has increased by a percentage. However, this assignment of points relates to training of black people, as opposed to the previously confined specification of training of black employees. The inclusion of all black persons to be trained is welcomed and regarded as a positive move by many stakeholders (Orpen, 2013; Foulds, 2014; Mpowered Business Solutions, 2015).

Calculating Skills Development spend

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

**Figure 4.14: Calculation for sub-sections 4.5.2.1 – 4.5.2.2
(South Africa. Department of Trade and Industry, 2015a:44)**

Where:

- A is the score achieved for sub-sections 4.5.2.1 – 4.5.2.2;
- B is the percentage of qualifying SD spent on black people/females, relative the measured entity's leviable amount;
- C is the compliance targets set out in Table 4.10 above of 3%/1%; and
- D is the weighting points set out in Table 4.10 above of 15/7.

4.5.2.3 Skills Development spend: disabilities

Twelve percent of the scorecard is representative of training of black people with disabilities. This category yields the first and only introduction of points to be allocated for disabled persons on the new QSE codes. The term 'disability' is a vague one with even the South African Social Security Agency (SASSA) relying on medical reports to assess such status on a case-by-case basis prior to awarding grants (South African Social Security Agency, n.d.). The Western Cape Government (2014) derives the definition from the British Council of Organizations of Disabled People as: "[T]he disadvantage or restriction of activity caused by a society that takes little or no account of people who have impairments and thus excludes them from mainstream activity."

Marumoagae (2012), a senior lecturer at WITS University, is of the opinion that persons with disabilities are not fully catered for by existing societal structures and that they have a right to participate fully in society and the labour market, in particular.

Based on the 2011 census, Statistics South Africa (2011:a) reports that approximately 2.8 million people in South Africa (SA) are disabled, comprising over seven percent of the population. According to Woolley (2009), a company with demographics representative of the population gives the message that it does not discriminate and seeks to understand its customers. Perhaps a more realistic target for Skills Development (SD) designated for this group would have been a five percent representation on the Detailed Scorecard (DS) in better representing the demographics of the population in achieving the notion of an all-inclusive workplace,

as opposed to the assigned 12%. The 2011 census further reveals that there is a low rate of labour market absorption of people with disabilities (Statistics South Africa, 2011:x11). Marumoagae (2012) concurs: persons with disabilities are not fully catered for by existing societal structures and they have a right to participate fully in society and the labour market, in particular. In catering for disabled employees in the workplace, considerations relevant to 'reasonable accommodation' are to be made for such employees, relevant to the conditions as contained in the Employment Equity Act (55/1998a).

Examples of 'reasonable accommodation' for disabled staff include, but are not limited to:

- hanging existing equipment or acquiring new equipment including computer hardware or software;
- re-organising work stations;
- changing training and assessment materials and systems;
- restructuring jobs so that non-essential functions are reassigned;
- providing readers, sign language interpreters or allowing the person with a disability to obtain them for themselves;
- adjusting working time and leave; and
- providing specialised supervision, training and support in the workplace (South Africa. Department of Labour, 2001:6).

Fortunately, the Codes now allow the employer to improve the skills of black disabled person(s) not employed by the measured entity. This is particularly valuable for Qualifying Small Enterprises (QSEs) with no infrastructure to accommodate disabled staff. However, consideration is to be taken in light of such upskilling not affecting a measured entity's staff performance, and as such, increasing bottom-line profits.

Calculating Skills Development spend: disabilities

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

**Figure 4.15: Calculation for sub-sections 4.5.2.2
(South Africa. Department of Trade and Industry, 2015a:44)**

Where:

- A is the score achieved for sub-section 4.5.2.2;
- B is the percentage of qualifying SD spent on black people with disabilities, relative to the measured entity's leviable amount;
- C is the compliance targets set out in Table 4.10 above of 0,15%; and
- D is the weighting points set out in Table 4.10 above of 3.

4.5.2.4 Bonus points

Five bonus points are made available for 'absorbing' black people into the measured entity post the implementation of a learnership, now regarded as Category C or Category D training on the Learning Programme Matrix (LPM), the amendments of which are discussed in a subsequent section. Firstly, however, the term 'absorption' refers to: "[T]he Measured Entity's ability to successfully secure formal permanent or long-term contract employment for the Learner or to assist the Learner's proceed [sic] with further education and training" (South Africa. Department of Trade and Industry, 2013a:91).

The funding of learnerships is linked to the SETA's discretionary grant system. This adds to the prior criticism identified relevant to the administrative/regulatory burden of the Skills Development (SD) element applicable to Qualifying Small Enterprises (QSEs) specifically.

Calculating bonus points

The target here for bonus points is 100%. Thus, all effective Category C or Category D programmes are to be continued or employment is to be secured for all learners to be awarded all five bonus points. Should this not be the case, the ratio of such learners shall be recognised and translated into a score out of five. The revised Codes state: "If less than 100% of the trainees are absorbed under paragraph 2.1.3 [sub-section 4.4.2.4], the percentage achieved or absorbed will be recognised" (South Africa. Department of Trade and Industry, 2013a:51).

4.5.2.5 Further adjustments

A programme specification has been introduced to each category of the Learning Programme Matrix (LPM), with the rest of the contents of the matrix predominantly remaining unaltered. They are (South Africa. Department of Trade and Industry, 2015a:55-57):

- Category A: bursaries
- Category B: internships
- Category C: learnerships
- Category D: learnerships of apprenticeships
- Category E: work-integrated learning
- Category F and G: informal training

Both Categories F and G, where no National Qualifications Framework (NQF) credits are awarded, now refer to informal training as the programme specification. Hence, the 15% limitation thus now extends to Category F training. In practice, this manifests in the value of all internal, informal training to be capped at 15% of the total training spend. An investigation by Badroodien (2004:150) in understanding skills in South Africa (SA), found that entities that train in SA seem to prefer in-house/informal training.

On the other hand, although this limitation prohibits the possible abuse of claiming Skills Development (SD) values for costs directly or indirectly incurred relating to informal training, it also forces measured entities to explore skills development initiatives beyond the internal training realm, perceived to hold many benefits (Frazer, 2000; Cosser, 2002). However, Westwood (2015) warns that although bringing in external parties to conduct training can yield drastic improvements in productivity, it can be costly. Orpen (2013), from the Institute of People Development, further contends that the combination of a skills' short market and high unemployment rates of graduates is stunting South Africa's (SA's) ability to achieve its growth objectives. He advises measured entities that it is important to engage in skills development activities that will enhance economic growth, achieve company objectives, and, as added value, gain the desired B-BBEE Skills Development (SD) scorecard points. These can now only be achieved through accredited, quality, training providers, presenting yet another regulatory barrier facing QSEs.

Additionally, all legitimate training expenses are now capped at 15% of the value of the total annual training spend. There was no such limit to these types of expenses in the past. Examples include, but are not limited to, accommodation and travel, administration courses, scholarships and bursaries, training material, catering, trainers, and facilities (South Africa. Department of Trade and Industry, 2007a:53-54).

Another change to the Skills Development (SD) element is disallowing spend relevant to mandatory sectoral training. For example, first aid training spend on a welder cannot be included in the SD spend calculation for B-BBEE purposes. Raymer (2015), from LabourWise, explains this change:

The amended codes place a great deal of emphasis on organisations assisting and transferring hard skills (qualifications and accredited courses) to black employees and black unemployed persons. The result of this is that little weight is given to soft skills; i.e. customer service, firefighting, etc.

This remark goes beyond the aforementioned introduction of limiting informal training.

This element has been earmarked as being one of priority (as introduced in Chapter 3). The discounting principle takes effect should 40% to the overall score not be achieved for this element (hence, 10 points out of the available 25).

4.5.3 Skills Development changes (summarised)

The most prevalent changes to the Skills Development (SD) scorecard are:

- the introduction of prerequisites to scoring SD points;
- an increase in the target of overall spend from 2% to 3% of leviabale amount;
- the inclusion of all black persons as legitimate training spend;
- placing increased importance on training and developing black disabled persons – 12% to be precise;
- category F and G training costs, as well as any training related expense, are now capped at 15%;
- not recognising the value of soft skills relevant to mandatory training within a sector; and
- SD, along with ownership, is another assigned priority element.

The SD element has always taken the back seat when Qualifying Small Enterprises (QSEs) undertake strategic planning for B-BBEE and/or business growth (Business Essentials, 2015). The revisions prove this element now to be somewhat unavoidable. This element now represents 25% of the total available B-BBEE points and is earmarked as a priority element. Its importance is thus undeniable.

4.6 B-BBEE rating element: Enterprise and Supplier Development

Enterprise and Supplier Development (ESD) constitutes the fourth (out of five) B-BBEE rating elements and represents the highest weighting of 30 points (out of 100 points).

As is the case with Management and Control (M&C), the Enterprise and Supplier Development (ESD) scorecard merges with two elements: what was previously referred to as Preferential Procurement (PP) and Enterprise Development (ED). These elements each represented 25 points in the old Codes. It has not been merged to total 30 points, as previously mentioned. Additionally, another category is introduced: Supplier Development (SPD). This comprises five of the allocated 30 points. Hence, two distinct elements will be evaluated (PP and ED) and then compared with the amended Enterprise and Supplier Development (ESD) element, now representing three categories to include Supplier Development (SPD). Enterprise

and Supplier Development (ESD) is thus a single concept and designated as the last of three priority elements.

Firstly, literature relevant to the Preferential Procurement (PP) scorecard in the old Codes is reviewed (South Africa. Department of Trade and Industry, 2007a:59-63, 84-85).

4.6.1 Measurement of the Preferential Procurement element in the old Codes

Table 4.11: The Preferential Procurement scorecard in the old QSE Codes (Adapted from South Africa. Department of Trade and Industry, 2007a:84)

INDICATOR	WEIGHT	TARGET
Measurement of the Preferential Procurement element in the old Codes		
4.6.1.1 BEE procurement spend from all suppliers, based on the B-BBEE procurement recognition levels as a percentage of Total Measured Procurement Spend (TMPS)	25	50%
Preferential Procurement element score	25	

4.6.1.1 Preferential Procurement spend

The Preferential Procurement (PP) element measures the extent to which measured entities procure from B-BBEE-compliant suppliers.

As noted in previous literature in Chapter 2, Preferential Procurement (PP) was described as the driving force of B-BBEE. Friedman (2013) explains that Preferential Procurement (PP) is conceptually the single most important aspect of the Codes. Its intended consequence is that each measured entity is required to ask each of its suppliers for a B-BBEE certificate. The more B-BBEE procurement spend a measured entity can secure from its suppliers (based on the status of their B-BBEE certificates), the better its score will be for Preferential Procurement (PP) and, in general, its overall B-BBEE status level (refer to Section 2.8.3 from Chapter 2, explaining the concept of B-BBEE procurement spend). Each B-BBEE certificate therefore results in a domino effect. Furthermore, this element is derived from the Preferential Procurement Policy Framework Act (PPPFA) (5/2000) and amendments.

Calculating Preferential Procurement spend

Prior to analysing the calculation for Preferential Procurement (PP), there are two steps to follow:

Step one: calculate the measured entity's target of Total Measured Procurement Spend (TMPS). More specifically, the target for the Preferential Procurement (PP) element relates to a term, Total Measured Procurement Spend (TMPS). TMPS is calculated by summing all purchases within cost of sales, its operating expenses and any capital additions made during this period, then deducting from this total any item for which a B-BBEE certificate is impossible to obtain, for the most part. The list is inexhaustible, which includes items, but is not limited to, bad debts, depreciation, salaries and wages, imports (in the event of certain criteria being met), monopolistic procurement, etc. (South Africa. Department of Trade and Industry, 2007a:62-63).

The values are extracted from the measured entity's latest annual financial statements, and the level of assurance contained therein as accepted by the assigned Verification Agent (VA), that is, extrapolating relevant values from audited annual financial statements or signed management accounts (South Africa. Department of Trade and Industry, 2008:68; South Africa. Department of Trade and Industry, 2015b: Appendix 5).

Step two: calculate the measured entity's B-BBEE procurement spend. Table 2.2 and 2.3 in Chapter 2 illustrate the workings of Preferential Procurement (PP) – the rationale of how B-BBEE procurement spend relates to a B-BBEE status level. A simple example for ease of reference: a measured entity procures goods to the value of R1,000 from Company A, a B-BBEE level 6 contributor. Therefore, $R1,000 \times 60\% = R 600$ is recognised as B-BBEE procurement spend.

Other considerations relevant to calculating a measured entity's B-BBEE procurement spend are enhanced recognition. This is awarded when:

- a measured entity earmarks a supplier(s) to be its Enterprise Development (ED) beneficiary. The spend is then multiplied by 1.2; and
- a measured entity procures from a value-added supplier. B-BBEE procurement spend is multiplied by 1.25. A value-adding supplier status is earned when a supplier is a Value-Added Tax (VAT) vendor and when its Net Profit Before Tax (NPBT), together with its total labour cost, exceeds 25% of the total revenue amount within a particular annual financial period (South Africa. Department of Trade and Industry, 2007a:93).

Upon following the above-mentioned two steps, the results can now be entered into the assigned Preferential Procurement (PP) formula:

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

Figure 4.16: Calculation for sub-section 4.6.1.1 (South Africa. Department of Trade and Industry, 2007a:64)

Where:

- A is the score achieved for sub-section 4.6.1.1;
- B is the percentage of total B-BBEE procurement spend (step two) relative to its calculated TMPS (step one);
- C represents the compliance target set out in Table 4.11 above of 50%; and
- D is the weighting points set out in Table 4.11 above of 25.

In short, a measured entity's B-BBEE procurement spend from all its suppliers for a relevant annual period is totaled and compared with its calculated Total Measured Procurement Spend (TMPS), with the target being set at 50% to derive a score out of 25.

Reviewing literature relevant to the Enterprise Development (ED) scorecard on the old Codes now takes priority (South Africa. Department of Trade and Industry, 2007a:59-63, 84-85):

4.6.2 Measurement of the Enterprise Development element in the old Codes

Table 4.12: The Enterprise Development scorecard, in the old QSE Codes (Adapted from South Africa. Department of Trade and Industry, 2007a:85)

INDICATOR	WEIGHT	TARGET
Measurement of the Enterprise Development element in the old Codes		
4.6.2.1 Average annual value of all qualifying contributions made by the measured entity as a percentage of the target	25	2%
Enterprise Development element score	25	

4.6.2.1 Enterprise Development spend

The Enterprise Development (ED) element measures the extent to which measured entities support black owned enterprises. More specifically, however, qualifying Enterprise Development (ED) contributions are defined as: “monetary or non-monetary contributions carried out for the following beneficiaries, with the objective of contributing to the development, sustainability and financial and operational independence of those beneficiaries:

- (a) Category A Enterprise Development Contributions involves Enterprise Development Contributions to Exempted Micro-Enterprises or Qualifying Small Enterprises which are 50% black owned or black women owned;
- (b) Category B Enterprise Development Contributions involves Enterprise Development Contributions to any other Entity that is 50% black owned or black women owned; or 25% black owned or black women owned with a BEE status of between Level 1 and Level 6” (South Africa. Department of Trade and Industry, 2007a:89).

Furthermore, Enterprise Development (ED) contributions to Category A enterprises result in a 1.25 multiplier being applied to the value as a reward for supporting such enterprises (South Africa. Department of Trade and Industry, 2007a:67). This B-BBEE policy effectively integrates with the aims of the Small Business Act (102/1996a) and its amendments from 2003; it creates a commercial environment in which small enterprises can flourish by rewarding measured entities for supporting small black-owned enterprises having an annual turnover of R50 million or less.

Calculating Enterprise Development spend

As was the case with the Preferential Procurement (PP) element, prior to examining the calculation for Enterprise Development (ED), there are two steps to follow:

Step one: consider the measured entity’s target of Net Profit After Tax (NPAT) or Net Loss After Tax (NLAT). From the Enterprise Development (ED) scorecard, set out in Table 4.12 above, the target is fixed at 2% of a measured entity’s Net Profit After Tax (NPAT). Should the measured entity have made a loss, or should the NPAT achieved be lower than industry standards within a particular period, an indicative Profit Margin (PM) calculation comes into effect. In consideration of the PM calculation, a more reliable industry-specific NPAT is calculated for the measured entity to form the target for the ED element. NPAT industry standards are obtainable from the Statistics South Africa website and released quarterly.

Furthermore, the old Codes make provision for Enterprise Development (ED) contributions made outside the measured entity's annual financial period under review to be taken into account, via a calculation called the cumulative method. A five-year average ED contribution is calculated in line with a five-year average Net Profit After Tax (NPAT)/indicative PM to derive a relevant ED contribution for the measurement period. This method allows measured entities to benefit from large ED contributions made in previous measurement periods (South Africa. Department of Trade and Industry, 2007a:66).

Here too, the level of assurance contained in the measured entity's annual financial statements is of vital importance; in this instance, for ensuring a valid NPAT figure is used in the Enterprise Development (ED) calculation.

Step two: calculate the measured entity's Enterprise Development (ED) spend. Enterprise Development (ED) contributions are classified by the Codes via what is referred to as the Benefit Factor Matrix (BFM). The matrix becomes significant when determining the rand value of the ED contribution to be realised, that is valid ED spend. An extrapolation follows:

**Table 4.13: The Enterprise Development Benefit Factor Matrix
(South Africa. Department of Trade and Industry, 2007a:70)**

CONTRIBUTION TYPE	AMOUNT	BENEFIT FACTOR
Grant and related contributions		
Grant contribution	Full grant amount	100%
Direct cost incurred in supporting approved projects or enterprise development	Verifiable cost (including both monetary and non-monetary)	100%
Discounts in addition to normal business practices supporting approved projects or enterprise development	Discount amount (in addition to normal business discount)	100%
Overhead costs incurred in supporting enterprise development (including people appointed in enterprise development)	Verifiable costs (including both monetary and non-monetary)	80%
Loans and related contributions		
Interest-free loan with no security requirements supporting approved projects or enterprise development	Outstanding loan amount	100%
Standard loan to black owned EMEs and QSEs	Outstanding loan amount	70%
Standard loan provided to other beneficiary enterprises	Outstanding loan amount	60%
Guarantees provided on behalf of a beneficiary entity	Guarantee amount	3%
Lower interest rate	Outstanding loan amount	Prime rate minus actual rate
Equity investments and related contributions		
Minority investment in black-owned EMEs and QSEs	Investment amount	100%
Minority investment in other beneficiary enterprises	Investment amount	80%
Enterprise development investment with lower dividend to financier	Investment amount	Dividend rate of ordinary shareholders minus actual dividend rate
Contributions made in the form of human resource capacity		
Professional services rendered at no cost and supporting approved projects or enterprise development	Commercial hourly rate of professional	80%
Professional services rendered at a discount and supporting approved projects or enterprise development	Value of discount based on commercial hourly rate of professional	80%
Time of employees of measured entity productively deployed in assisting beneficiaries	Total annual cost to company of the employee (monthly cost divided by 160)	80%
Other contributions		
Shorter payment periods	Percentage of invoiced amount	% of 15 days less number of days from statement to payment

Inherent in this step is the recognition of a 1.25 multiplier to the value recognised in the event of such spent being directed to a Category A ED beneficiary, as contemplated in the previous section.

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

**Figure 4.17: Calculation for sub-section 4.6.2.1
(South Africa. Department of Trade and Industry, 2007a:71)**

Where:

- A is the score achieved for sub-section 4.6.2.1;
- B is the percentage of total qualifying ED contributions made relative to the confirmed NPAT to be used;
- C represents the compliance target set out in Table 4.12 above of 2%; and
- D is the weighting points set out in the table above of 25.

Enterprise Development (ED) is regarded as an accepted global practice for effectively combating poverty. However, a study conducted on 60% of JSE-listed companies (representing some of the largest ED programmes) by Impact Amplifier and New York University's Centre for Global Affairs, reported that despite the injection of billions of rands into ED, the potential of its impact on economic transformation has not been realised (Miemieć, 2013). These findings correlate with suggestions made by the B-BBEE Advisory Council that 75 % of large South African enterprises are "disregarding their obligations with regard to enterprise development" (Rogerson, 2012:280). Also, with reference to Mbeki's views stated in Chapter 2 – he believes that the market is represented by "...a small class of unproductive but wealthy black crony capitalists" (*The Economist*, 2010).

Fortunately the Enterprise Development (ED) report, released by Impact Amplifier and New York University's Centre for Global Affairs, identified three main challenges that are hampering the transformative potential of ED. These are:

- business skills deficiencies of small entrepreneurs;
- the gap between the objectives of enterprise development and their application; and
- the lack of measurement frameworks to monitor the impact of enterprise development programmes (Miemieć, 2013).

The revised Codes adequately address these challenges in overcoming their effective implementation, highlighted in the next section (South Africa. Department of Trade and Industry, 2013a:60-77).

Enterprise and Supplier Development (ESD) calls for a merger of the previous Preferential Procurement (PP) and Enterprise Development (ED) elements, as per the preceding review. The following table is representative of three sub-sections: Preferential Procurement (PP), Supplier Development (SPD) and Enterprise Development (ED).

4.6.3 Measurement of the Enterprise and Supplier Development element in the new Codes

Table 4.14: The Enterprise and Supplier Development scorecard in the new QSE Codes (Adapted from South Africa. Department of Trade and Industry, 2015a:45)

INDICATOR	WEIGHT	TARGET
Measurement of the Enterprise and Supplier Development element in the new Codes		
Preferential Procurement in the new Codes		
4.6.3.1 B-BBEE procurement from all Empowering Suppliers based on the B-BBEE procurement recognition levels as a percentage of Total Measured Procurement Spend (TMPS)	15	60%
4.6.3.2 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 TMPS	5	15%
4.6.3.3 Bonus Points: B-BBEE procurement spend from designated group suppliers that are at least 51% black owned based on the B-BBEE procurement recognition level	1	1%
Supplier Development in the new Codes		
4.6.3.4 Annual value of all Supplier Development (SD) contributions made by the measured entity as a percentage of the target	5	1% of NPAT
Enterprise Development in the new Codes		
4.6.2.5 Annual value of Enterprise Development (ED) contributions made by the measured entity as a percentage of Net Profit After Tax (NPAT)	5	1% of NPAT

INDICATOR	WEIGHT	TARGET
Measurement of the Enterprise and Supplier Development element in the new Codes, continued		
Enterprise Development in the new Codes, continued		
4.6.3.6 Bonus point for graduation of one or more Enterprise Development beneficiaries to the Supplier Development level.	1	
4.6.3.7 Bonus point for creating one or more jobs directly as a result of SD and/or ED initiatives by the measured entity.	1	
Enterprise and Supplier Development element score	30	

4.6.3.1 Preferential Procurement spend

Fifty percent (15 of the available 30 points) of the Enterprise and Supplier Development (ESD) scorecard measures overall B-BBEE procurement spend relative to Total Measured Procurement Spend (TMPS). This is representative of an overall 15% status of the total B-BBEE points, as opposed to the 25% representation in the old Codes. With such decreased representation, the target increases from 50% to 60%. This essentially means that there is a 10% increased requirement for spending on B-BBEE compliant suppliers in securing 10% less B-BBEE points overall – it has a ‘double-barrel’ effect. With inflation decreasing by over a point in the decade from 2007 (6,17%) to 2017 (5,19%), such an increase in preferential procurement requirements is seemingly unjust (Inflation.eu, 2007; inflation.eu, 2017).

Further adjustments to Preferential Procurement (PP) spend are as follows.

The term ‘value-adding supplier’ is no longer recognised, and hence, it is no longer conducive to a multiplier being applied to B-BBEE procurement spend. A new term, however, has been introduced, referred to as ‘Empowering Supplier’ (ES), comprehensively reviewed in Chapter 3. The intention of the Department of Trade and Industry (DTI) in incorporating such a term is that procurement from non-empowering suppliers will not result in points being awarded on the PP scorecard for such B-BBEE spend, irrespective of the supplier’s B-BBEE status level. Nevertheless, the following events cause a set multiplier of 1.2 to take effect:

- Having a minimum 3-year contract in place with a supplier.
- A first-time supplier of the measured entity also calls for a multiplier factor of 1.2 to be awarded (South Africa. Department of Trade and Industry, 2013a:65).

An additional requirement for excluding imports from the Total Measured Procurement Spend (TMPS) target has been added to the PP element. It therefore has a direct impact on calculating the PP score. This should not be confused with the challenge for importers noted in Chapter 3 relevant to empowering Supplier status (see Section 3.3.4.2). The exclusion of imports is now also subject to the measured entity's having developed and implemented an Enterprise Development (ED) and Supplier Development (SD) plan for imported goods and services. The plan should have:

- clear objectives;
- priority interventions;
- key performance indicators; and
- a concise implementation plan, with clearly articulated targets (South Africa. Department of Trade and Industry, 2013a:70).

The common thread to these further adjustments to PP is discernable. At the very least, it places an administrative burden on measured entities, particularly on Qualifying Small Enterprises (QSEs) with typically fewer resources to accommodate these. Such criticism was previously introduced and reviewed, for different reasons, relevant to the Skills Development element.

Contesting such increased regulation, however, is Rogerson's (2012) view (prior to the introduction of the new Codes) that South Africa (SA) had an urgent need to establish a set of guidelines, benchmarks, and standards for supplier-diversity development linked to procurement and small-enterprise development. The new Codes sets out to achieve exactly that.

Calculating Preferential Procurement spend

As with the old Code, here too the two steps in calculating Preferential Procurement (PP) are prevalent.

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

Figure 4.18: Calculation for sub-sections 4.6.3.1 (South Africa. Department of Trade and Industry, 2015a:78)

Where:

- A is the score achieved for sub-section 4.6.3.1;
- B is the percentage of total B-BBEE procurement spend (step two) on all suppliers relative to its calculated TMPS (step one);
- C represents the compliance targets set out in Table 4.14 above of 60%; and
- D is the weighting points set out in the table above of 15.

4.6.3.2 Preferential Procurement spend on black-owned suppliers

Seventeen percent of the points relate to B-BBEE procurement spend by 51% or more black-owned suppliers. Lawrence (2016) highlights this new requirement for Qualifying Small Enterprises (QSEs) as a significant change of B-BBEE towards purchasing from black-owned suppliers. In essence, clever businesses will start the process of identifying such black businesses relative to their procurement needs (Foulds, 2014:24).

The 5% target is expected to be very difficult to achieve. Rogerson (2012:287-288) lists the reasons for this:

- The first core challenge is the lack of suitable black suppliers due to limited supplier development programmes and the concentration of black SMMEs in South Africa (SA).
- There are problems relating to lack of trust about quality of product, skills and delivery, issues considered as particularly problematic in respect of inexperienced and emerging SMMEs.
- The unfavourable and uncompetitive pricing by black SMMEs.
- The existence of insufficient spending and support for preferential procurement both by large private sector firms and state-owned enterprises.
- There is the problem of “fronting” by white entrepreneurs to secure procurement spend which is allocated to black-owned SMMEs.
- Finally, there is a critical gap in terms of no accessible and comprehensive data bases on eligible black suppliers.

Further to the above, the Preferential Procurement (PP) sub-element of Enterprise and Supplier Development (ESD) has been earmarked as being one of priority. The discounting principle takes effect should 40% of the overall score for this sub-element (PP) not be achieved (hence, 8 points out of the available 20).

Calculating Preferential Procurement spend on black-owned suppliers

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

**Figure 4.19: Calculation for sub-sections 4.6.3.2
(South Africa. Department of Trade and Industry, 2015a:78)**

Where:

- A is the score achieved for sub-section 4.6.3.2;
- B is the percentage of B-BBEE procurement spend (step two) on black suppliers relative to its calculated TMPS (step one);
- C represents the compliance targets set out in Table 4.14 above of 15%; and
- D is the weighting points set out in the table above of 5.

4.6.3.3 Bonus points

Additionally, a bonus point has been made available should a percentage of Total Measured Procurement Spend (TMPS) be spent on designated group suppliers. This categorical term was reviewed in Section 4.3.2.1 – 4.3.2.2. In practice, the initial period of reviewing such status could prove challenging to both measured entities and Verification Agencies (VAs) alike, as B-BBEE certificates and/or Detailed Scorecards (DSs) issued under the old Codes do not contain such information.

With regard to the revisions of Preferential Procurement (PP) is the statement by Keith Levenstein, who places great importance on this sub-element of Enterprise and Supplier Development (ESD): “If procurement works, BEE will have succeeded” (Foulds, 2014:24). His statement underscores the importance of this element: PP is regarded the driving force of B-BBEE. If measured entities continue to use B-BBEE as a tool in business-to-business transactions with one another (hence, if procurement works), the need for B-BBEE within the private sector would be reinforced and the success of B-BBEE would be confirmed.

Calculating bonus points

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

**Figure 4.20: Calculation for sub-section 4.6.3.3
(South Africa. Department of Trade and Industry, 2015a:78)**

Where:

- A is the score achieved for sub-section 4.6.3.3;
- B is the percentage of total B-BBEE procurement spend (step two) on black designated group suppliers relative to its calculated TMPS (step one);
- C represents the compliance targets set out in Table 4.14 above of one percent; and
- D is the weighting points set out in the table above of 1.

4.6.3.4 Supplier Development spend

As previously indicated, Supplier Development (SPD) is a new term introduced by the revised Codes, which links to the Enterprise and Supplier Development (ESD) scorecard. However, the concept of supplier development beyond the realm of B-BBEE is not new. Supplier development was practised as early as during and after the Second World War by Toyota in Japan and started to gain traction in the West as recently as the 1990s when firms began to focus on their core competencies and consequently outsourced activities they did not consider core to their operations (Pooe, 2016, citing Wagner, 2008).

Pooe (2016:6-7) further draws the following theoretical basis in making sense of the introduction of the Supplier Development (SD) element to the revised B-BBEE framework:

- Supplier adaptation: an achievement of a favourable B-BBEE status by a measured entity is considered a good enough incentive to invest in a supplier development programme, thus calling on the measured entity to implement some changes to its current supplier relationships.
- Rational view theory: in linking this theory to the SD element of B-BBEE, it can be surmised that upon the measured entity and suppliers' inimitable and combined investment of its resources, productivity gains follow.
- Learning and perspective theory: postulates that strategic alliances via SD create knowledge and organisational learning.

Qualifying Supplier Development (SPD) contributions are defined by the revised Codes as: "...monetary or non-monetary contributions carried out for the benefit of value-adding suppliers to the Measured Entity, with the objective of contributing to the development, sustainability and financial and operational independence of those beneficiaries:

- a) Supplier Development Contributions to suppliers that are Exempted Micro Enterprises or Qualifying Small Enterprises which are at least 51% black owned or at least 51% black women owned..." (South Africa. Department of Trade and Industry, 2013a:105).

For ease of reference, the parallels which can be drawn with this term in the context of the old Codes is that a Supplier Development (SPD) beneficiary meets the same definitional requirements of an Enterprise Development (ED) beneficiary with the addition of two requirements:

- The measured entity procured from that enterprise in the said measurement period, thus being regarded as a supplier.
- With regard to turnover thresholds, can be regarded as a Category A enterprise, as previously defined.

It should be noted that contributions to a Supplier Development (SPD) beneficiary cannot also be regarded a qualifying Enterprise Development (ED) contribution for the same measurement period on the Enterprise and Supplier Development (ESD) scorecard, and vice versa.

Five points are available to measured entities under the ESD scorecard should qualifying SPD contribution(s) be made to the value of 1% of NPAT. As is the case with the old Codes, should the Net Profit After Tax (NPAT) be lower than industry standards within a particular period, an indicative Profit Margin (PM) calculation comes into effect. In such cases, a more reliable industry-specific NPAT is calculated for the measured entity to form the target for the Supplier Development (SPD) element. The cumulative method is not recognised here.

Supplier Development (SPD) effectively taps into the gap of strengthening and/or establishing relationships with a measured entity's existing suppliers, regarded as previously disadvantaged.

As was the case with the Preferential Procurement (PP) sub-element, the Supplier Development (SPD) sub-element of Enterprise and Supplier Development (ESD) has been earmarked as a priority. The discounting principle takes effect should 40% of the overall score for this sub-element (SPD) not be achieved (hence, 2 points out of the available 5).

Calculating Supplier Development spend

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

**Figure 4.21: Calculation for sub-sections 4.6.3.4
(South Africa. Department of Trade and Industry, 2015a:81)**

Where:

- A is the scores achieved for sub-section 4.6.3.4;
- B is the percentage of total qualifying Supplier Development (SPD) contributions made relative to the confirmed NPAT to be used;
- C represents the compliance targets set out in Table 4.14 above of 1%; and
- D is the weighting points set out in Table 4.14 above of 5.

4.6.3.5 Enterprise Development spend

The Enterprise Development (ED) definition still stands, with the exception of the terms Category A and Category B enterprises, as they are no longer recognised, and hence, are no longer conducive to a multiplier being applied to qualifying ED spend. In fact, all ED suppliers are now categorised as being Category A type enterprises (South Africa. Department of Trade and Industry, 2013a:102). Such a policy change now further supports the aims of the Small Business Act (102/1996a) and its amendments.

As noted in the preceding section, it is clear that there are many parallels which can be drawn between the concepts Enterprise Development (ED) and Supplier Development (SPD) in the realm of Enterprise and Supplier Development (ESD). Pooe (2016:8), however, eradicates any confusion: “[E]nterprise development is the development of businesses or prospective suppliers that are outside the buying firm’s supply chain, whereas supplier development is the development of suppliers that are part of the buying firm’s supply chain.” Simply put, ED is concerned with the relationship between the measured entity and a beneficiary beyond the realm of procurement, while ESD is concerned with the relationship between the measured entity and a supplier within the realm of procurement.

The target is reduced to half, set at one percent of Net Profit After Tax (NPAT). Total representation on the scorecard has reduced to a compulsory five percent versus a possible 25%. Here too, should the measured entity not meet NPAT industry targets, the indicative Profit Margin (PM) calculation shall take effect.

Again, the cumulative method has been done away with as the new Codes now only make provision for contributions to be recognised annually.

Here too the Enterprise Development (ED) sub-element of Enterprise and Supplier Development (ESD) has been earmarked as being one of priority. The discounting principle takes effect should 40% of the overall score for this sub-element (ED) not be achieved (hence, 2 points out of the available 5).

Calculating Enterprise Development spend

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

**Figure 4.22: Calculation for sub-sections 4.6.3.5
(South Africa. Department of Trade and Industry, 2015a:81)**

Where:

- A is the scores achieved for sub-section 4.6.3.5;
- B is the percentage of total qualifying Enterprise Development (ED) contributions made relative to the confirmed NPAT to be used;
- C represents the compliance targets set out in Table 4.14 above of 1%; and
- D is the weighting points set out in Table 4.14 above of 5.

4.6.3.6 – 4.6.3.7 Bonus points

There are two vacant bonus points available within the Enterprise and Supplier Development (ESD) element, relating to Supplier Development (SPD) and Enterprise Development (ED) specifically. In the event of the following occurring in the measurement period, bonus point(s) may be awarded:

- should an ED beneficiary become a supplier of the measured entity; and
- in the event of job creation as a direct result of the SPD or ED relationship.

4.6.3.8 Enterprise and Supplier Development changes (summarised)

The most prevalent changes to the Enterprise and Supplier Development (ESD) scorecard are:

- the introduction of ESD as a priority element, applicable to each of the three sub-elements, jointly and severally;
- Preferential Procurement (PP): the term Empowering Supplier (ES) replaces that of a value-adding supplier, although they have different criteria and implementations;
- PP: possible points available for B-BBEE procurement spend has decreased by 33%, while the target has increased by 10%. B-BBEE procurement spend on designated groups has been introduced;
- PP: there has been a change in events causing a multiplier to take effect on B-BBEE spend;
- Supplier Development (SPD) as an element has been introduced, representing 5% of the total points available;
- Enterprise Development (ED): a change in the definition has taken effect, causing amendments to implementation;
- ED: the target has been reduced by a percentage; and
- ED: the cumulative method has been done away with.

4.7 B-BBEE rating element: Socio-Economic Development

The Socio-Economic Development (SED) element measures the extent to which measured entities provide black people with access to the economy. More specifically, Qualifying Socio-Economic Development (SED) contributions are defined as: “monetary or non-monetary contributions actually initiated and implemented in favour of beneficiaries by a Measured Entity with the specific objective of facilitating sustainable access to the economy for those beneficiaries” (South Africa. Department of Trade and Industry, 2007a:74).

It is commonly referred to, and/or links with measured entities’ Corporate Social Responsibility (CSR)/Corporate Social Investment (CSI) practices. SED ties in with the CSR/CSI movement and is, in many instances, regarded as an adaptation thereof.

Many drivers of CSR exist:

- Economic (such as image/reputation, competitiveness, pressure from consumers and pressure from investors).
- Social (such as pressure from Non-Government Organisations (NGOs)/Non-Profit Organisations (NPOs) and pressure from local communities.
- Political (such as shareholder or investor activism, reporting requirements requiring businesses to voluntarily or involuntarily report).

Economic drivers of CSR best explain the position of B-BBEE within its realm. In essence, B-BBEE is regarded as an economic driver of CSR (Kloppers, 2014:58-79).

In 2015 the World Bank reported on the Gini co-efficient rates, a tool that measures the gap between the rich and the poor. South Africa (SA) was rated as the worst of 140 countries in terms of income distribution. Other bottom performing countries included Namibia, Haiti, Botswana, and Central African Republic (*The Guardian*, 2017).

A narrower perspective of this topic paints a more positive picture: the gap has in fact narrowed in the past decade as the population living in poverty declined from 66.6% (31.6 million persons) in 2006 to 55.5% (30.4 million) in 2015 (Statistics South Africa, 2017c). Furthermore, B-BBEE via its socio-economic development policy can be regarded as a tool for narrowing this gap.

The following highlights the changes from the old Codes (South Africa. Department of Trade and Industry, 2007a:72-76, 86), to the new Codes (South Africa. Department of Trade and Industry, 2013a:82-88, 48-49).

4.7.1 Measurement of the Socio-Economic Development element in the old Codes

Table 4.15: The Socio-Economic Development scorecard in the old QSE Codes (Adapted from South Africa. Department of Trade and Industry, 2007a:86)

INDICATOR	WEIGHT	TARGET
Measurement of the Socio-Economic Development element in the old Codes		
4.7.1.1 Average annual value of all qualifying contributions made by the measured entity as a percentage of the target	25	1%
Socio-Economic Development element score	25	

4.7.1.1 Socio-Economic Development spend

As is the case of Enterprise Development (ED) in the old Codes, this element has a 25-point weighting with a target also based on Net Profit After Tax (NPAT), alternatively the indicative Profit Margin (PM) calculation taking effect. However, the NPAT target representation is set at 1%. Here too the cumulative method is allowed.

Calculating Socio-Economic Development spend

As is the case with Enterprise Development (ED), there are two steps prevalent prior to examining the formula for calculating Socio-Economic Development (SED) spend:

Step one: consider the measured entity's target of Net Profit After Tax (NPAT) or Net Loss After Tax (NLAT). From the Socio-Economic Development (SED) scorecard, set out in Table 4.15 above, the target is fixed at 1% of a measured entity's Net Profit After Tax (NPAT). Should the measured entity have made a loss, or should the NPAT achieved be lower than industry standards within a particular period, an indicative Profit Margin (PM) calculation takes effect. In consideration of the PM calculation, a more reliable industry-specific NPAT is calculated for the measured entity to form the target for the ED element. As mentioned earlier, NPAT industry standards are obtainable from the Statistics South Africa website and released quarterly.

Here too, the level of assurance contained in the measured entity's annual financial statements is of vital importance in ensuring a valid NPAT figure is used in the Socio-Economic Development (SED) calculation.

Step two: calculate the measured entity's Socio-Economic Development (SED) spend. Such contributions are classified by the Codes via the Benefit Factor Matrix (BFM), which becomes significant when determining the rand value of the SED contribution to be realised, that is, valid ED spend. An extrapolation is given below:

Table 4.16: The Socio-Economic Development Benefit Factor Matrix (South Africa. Department of Trade and Industry, 2015a:49)

CONTRIBUTION TYPE	AMOUNT	BENEFIT FACTOR
Grant and Related Contributions		
Grant Contribution	Full Grant Amount	100%
Direct Cost incurred in supporting socio-economic development or sector-specific initiatives	Verifiable Cost (including both monetary and non-monetary)	100%
Discounts in addition to normal business practices supporting socio-economic development or sector-specific initiatives	Discount Amount (in addition to normal business discount)	100%
Overhead costs incurred in supporting socio-economic development or sector-specific initiatives	Verifiable Costs (including both monetary and non-monetary)	80%
Contributions made in the form of human resource capacity		
Professional services rendered at no cost supporting socio-economic development or sector-specific initiatives	Commercial hourly rate of professional	80%
Professional services rendered at a discount and supporting socio-economic development or sector-specific initiatives	Value of discount based on commercial hourly rate of professional	80%
Time of employees of Measured Entity productively deployed in assisting beneficiaries and supporting socio-economic development or sector-specific initiatives	Total annual cost to company of the employee (monthly cost divided by 160)	80%

In addition to the above considerations to the BFM in this step, the old Codes make provision for the SED beneficiary base to be limited to 75% of the full value of the qualifying contribution to be recognised. In the event of a smaller percentage beneficiary base gaining from the SED contribution by the measured entity, that percentage will apply to the value of the contribution being recognised.

Following the above considerations, is that of the formula used to calculate Socio-Economic Development (SED), relative to the old Codes:

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

**Figure 4.23: Calculation for sub-section 4.7.1.1
(South Africa. Department of Trade and Industry, 2007a:71)**

Where:

- A is the score achieved for sub-section 4.7.1.1;
- B is the percentage of total qualifying SED contributions made relative to the confirmed NPAT to be used;
- C represents the compliance target set out in Table 4.15 above of 1%; and
- D is the weighting points set out in the table above of 25.

4.7.2 Measurement of the Socio-Economic Development element in the new Codes

**Table 4.17: The Socio-Economic Development scorecard in the new QSE Codes
(Adapted from South Africa. Department of Trade and Industry, 2015a:48)**

INDICATOR	WEIGHT	TARGET
Measurement of the Socio-Economic Development Element in the new Codes		
4.7.2.1 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	5	1%
Socio-Economic Development Element Score	5	

4.7.2.1 Socio-Economic Development spend

Total representation on the scorecard has been reduced to a compulsory 5% versus the previously assigned 25% for this element. In comparing changes effected by the revised Codes to the generic scorecard for this element, no changes took effect, with the total available points remaining at five. Most experts review the effects of legislative change to the generic Codes with this immense reduction in points for Qualifying Small Enterprises (QSEs) apparently going under the radar at this point (Foulds, 2014). Kloppers (2014) recommends the opposite, that the weighting allocated to elements focusing on community development should be increased in order to encourage businesses to become involved with their local communities.

The indicative Profit Margin (PM) calculation has not been done away with should the measured entity not meet NPAT industry targets. However, the application of the cumulative method has been scrapped with SED contributions now only being recognised annually, that is, within the measurement period.

The definition has been slightly amended, with an emphasis on the following, "...facilitating sustainable access to the economy..." (South Africa. Department of Trade and Industry, 2007a:74), to now read: "monetary or non-monetary contributions actually initiated and implemented in favour of beneficiaries by a Measured Entity with the specific objective of facilitating income-generating activities for targeted beneficiaries" (South Africa. Department of Trade and Industry, 2013a:74). The change in criteria lends itself to more objectivity for compliance (from the perspective of the measured entity) and verification [from the perspective of the Verification Agency (VA)] alike.

4.7.3 Socio-Economic Development changes (summarised)

The most prevalent changes to the Socio-Economic Development (SED) scorecard are:

- total representation reduced from possible 25% to a maximum of 5%;
- the scrapping of the cumulative method; and
- providing objective clarity on the criteria for achieving SED points.

Literature on specialised enterprises will now be reviewed. These enterprises have their own set of rules and scorecards governing their verification. The primary reason can be ascribed to their absence of ownership. They do not form part of any sector codes (which are not included in the scope of this study) and are inherently associated with the general Codes of Good Practice on B-BBEE.

Specialised enterprises include the following (South Africa. Department of Trade and Industry, 2007a:21):

- companies limited by guarantee;
- higher education institutions;
- Non-Profit Organisations (NPOs);
- public entities and other enterprises exclusively owned by organs of state; and
- Public Benefit Organisations (PBOs).

4.8 The Specialised QSE Scorecard

The only guidance given in the old Codes for these Qualifying Small Enterprises (QSEs) were for them to elect four of the best performing six elements (not seven, as the ownership element is naturally excluded here) to be rated on, which in turn translates into a relevant B-BBEE contributor status level. Hence, literature in this section is confined to that of the new Codes.

The market segment representing such enterprises is negligible. Although the new Codes provide meaningful insights into how these enterprises are to be treated, further literature adding to the study is non-existent. The new Codes represent each rating element and its respective total weighting that extends to its own adjusted scorecard.

Table 4.18: B-BBEE rating elements and their respective weightings in the new Codes for specialised enterprises (South Africa. Department of Trade and Industry, 2015a19-20)

Rating element	Weighting points
Management and Control (M&C)	25 points
Skills Development (SD)	30 points
Enterprise and Supplier Development (ESD)	30 points
Socio-Economic Development (SED)	15 points
Total	100 points

The above four specialised Detailed Scorecards (DSs) relevant to QSEs are graphically depicted in the following Tables 4.19 - 4.22, presented below.

4.8.1 Management and Control for specialised enterprises

Table 4.19: The Management and Control specialised scorecard in the new QSE Codes (Adapted from South Africa. Department of Trade and Industry, 2015:20)

INDICATOR	WEIGHT	TARGET
Measurement of the Management and Control element for specialised enterprises		
Black Executive Management (EM) as a percentage of all EM	8	50%
Black female EM as a percentage of all EM	3	25%
Black employees in senior, middle and junior management as a percentage of all such management	11	60%
Black female employees in in senior, middle and junior management as a percentage of all such management	3	30%
Management and Control element score	25	

The only difference from the generic Management and Control (M&C) scorecard for QSEs is the increased weights to accommodate for the additional 10 points allocated to this element.

4.8.2 Skills Development for specialised enterprises

Table 4.20: The Skills Development specialised scorecard in the new QSE Codes (Adapted from South Africa. Department of Trade and Industry, 2015a:20-21)

INDICATOR	WEIGHT	TARGET
Measurement of the Skills Development element for specialised enterprises		
Skills Development (SD) expenditure on learning programmes specified in the Learning Programme Matrix (LPM) for black people as a percentage of leviable amount	24	3%
SD expenditure on learning programmes specified in the LPM for black females as a percentage of leviable amount	6	1 %
Skills Development element score	30	

What is notable on the Skills Development (SD) specialised scorecard is that no recognition is given to SD expenditure for black people with disabilities and no bonus points are to be awarded in the event of absorption occurring. Only one amendment made to the remaining two sub-categories is an increase in the weighting points for all SD expenditure from 15 to 24 points.

4.8.3 Enterprise and Supplier Development for specialised enterprises

Table 4.21: The Enterprise and Supplier Development specialised scorecard in the new QSE Codes
(Adapted from South Africa. Department of Trade and Industry, 2015a:21)

INDICATOR	WEIGHT	TARGET
Measurement of the Enterprise and Supplier Development element for specialised enterprises		
Preferential Procurement		
B-BBEE procurement from all Empowering Suppliers (ES) based on the B-BBEE procurement recognition levels as a percentage of Total Measured Procurement Spend (TMPS)	25	60%
B-BBEE procurement spend from ES that are at least 51% black owned based on the applicable B-BBEE procurement recognition levels as a percentage of TMPS	5	10%
Preferential Procurement element score	30	

The sub-categories: Supplier Development (SPD) and Enterprise Development (ED) prevalent in the new Codes for QSEs have been done away with for specialised enterprises relevant to the Enterprise and Supplier Development (ESD) element, with only the Preferential Procurement (PP) element remaining. Hence, B-BBEE spend on all suppliers remains intact, here representing an increase in the weighting points from 15 to 25. Also, B-BBEE spend on 51% black-owned suppliers remains intact, representing a decrease in the compliance target from 15% to 10%.

4.8.4 Socio-Economic Development for specialised enterprises

Table 4.22: The Socio-Economic Development specialised scorecard in the new QSE Codes
(Adapted from South Africa. Department of Trade and Industry, 2015a:21-22)

INDICATOR	WEIGHT	TARGET
Measurement of the Socio-Economic Development element for specialised enterprises		
Annual value of all Socio-Economic Development (SED) contributions and qualifying SED contributions made by the measured entity as a percentage of the target	15	1% of NPAT 0,1% Annual Revenue / Allocated Budget / Gross Receipts/ Discretionary Spend
Socio-Economic Development element score	15	

The differences noted relevant to the Socio-Economic Development (SED) scorecard for specialised QSEs are:

- the increased weighting to accommodate an additional 10 points allocated to this element; and
- the option of an amended target in the case of a specialised QSE not reporting on NPAT figures.

The new Codes (South Africa. Department of Trade and Industry, 2015a:22) provide important clarification here in that the status of SED contributions made to these entities are dependent on the nature of the contribution itself and the identity of the beneficiaries for that contribution.

As with the Codes, the points achieved for each element translate into a total score out of 100, representative of a relevant B-BBEE contributor status. Compliance with the priority elements remains, with the exception of ownership for these enterprises.

4.9 Contextualising the detailed amendment to the B-BBEE rating elements

The purpose of this chapter was to further detail the intricacies embedded in a fundamental area of change identified in Chapters 2 and 3, the B-BBEE rating elements.

In reviewing the effectiveness of B-BBEE prior its amendments in 2013, Chapter 2 closed with a statement that the ‘radical’ change to B-BBEE policy was not clearly understood. Chapter 3 sought to shed light on this in presenting the modern landscape of empowerment and transformation in South Africa (SA), that is, post the refinements to the B-BBEE Act (53/2003b) and the Codes. This chapter augmented this by presenting the technicalities embedded within the Codes by measuring the extent of such change on a micro level (that is, for each measured entity independently).

Chapter 3 highlighted the three change management strategies a Qualifying Small Enterprise (QSE), specifically, has at its disposal in response to the new Codes: opt for non-compliance, willingly; revise ownership; or undergo a verification of the new Codes/opt for non-compliance unwillingly. The latter option is applicable to this chapter as it dealt with the changes to the B-BBEE rating elements – one perspective of five in terms of fundamental areas of change.

In addition, for Qualifying Small Enterprises (QSEs) to now be mindful in adopting an all-encompassing approach to implementing B-BBEE (as indicated at the outset of this chapter), is the trend presented by each rating element of having to do more (new requirements and/or increased targets) with fewer available points (weight(s) assigned thereto), with a few exceptions. This common thread effects an increased cost burden for these enterprises in obtaining a B-BBEE certificate on the new Codes relative to the old Codes, directly (via increased financial targets per element, appointing a subject matter expert/consultant, and so forth) and indirectly (via increased administrative task(s), possible new hire(s), time-related barrier(s), and so forth) (Balshaw, 2013; Lawrence, 2016; Botha, 2017).

Antithetical to this notion are Mophethe’s (2015) views, highlighted in Chapter 3, that should the cost be well spent, there would be a residual benefit for the measured entity. The new Codes have opportunities for measured entities opting to embrace change to maintain competitive advantage in the market.

As noted in Chapter 3, ultimately, the decision to obtain a B-BBEE certificate in the new Codes for Qualifying Small Enterprises (QSEs) hinges on the trade-off between the costs associated with compliance, versus the income (actual and forecasted) derived.

In making sense of the change presented in the review thus far, the term ‘change’ and or the assumed term ‘radical change’ inevitably requires further investigation.

4.10 Four trajectories of change

McGahan’s (2008:51-55) research indicates that industries evolve along four distinct trajectories of change:

- radical;
- progressive;
- creative; and
- intermediating.

These four trajectories are defined by two types of threats. The first is when new, outside alternatives threaten to weaken or make obsolete core activities that have historically generated profits for an industry, while the second threatens an industry’s core assets. Industries undergo radical change when both core activities and assets are threatened with obsolescence, while progressive change occurs when neither core activities nor assets are threatened. The table below best illustrates the four trajectories of change in terms of these threats:

Table 4.23: Trajectories of industry change (McGahan, 2008:55)

		Core Activities	
		Threatened	Not Threatened
Core Assets	Threatened	Radical Change	Creative Change
	Not Threatened	Intermediating Change	Progressive Change

Within the realm of B-BBEE, specifically, its change trajectory can be regarded as being one of radical change. The five B-BBEE rating elements reviewed in this chapter inherently affect the core activities and assets of B-BBEE compliant measured entities. Further regard to the other four fundamental areas of change to

the B-BBEE Codes, as noted in Chapter 3, confirms such a finding relative to radical change.

McGahan (2008:52) advises that if a company's innovation strategy is not aligned with its industry's change trajectory, its plan for achieving returns on invested capital cannot succeed. Hence, each measured entity wishing to obtain a B-BBEE certificate in the new Codes will have to consider carefully its industry's alignment with B-BBEE in establishing its change trajectory. This consideration is vital in the revision of current B-BBEE strategies.

4.11 Summary

The literature review from Chapter 2 and 3 covered the rich history of B-BBEE.

This auxiliary chapter to Chapter 3, which highlighted the five fundamental areas of change to the Codes for Qualifying Small Enterprises (QSEs), produced a technical presentation in focusing on one such area, the B-BBEE rating elements. Its importance lies in providing the necessary context for this study in assuming the ability to earmark technical variations in the possible B-BBEE scores achieved by the study's participants.

More specifically, this chapter confirmed the notion assumed in the previous review relating to radical change within the context of the amendments to the B-BBEE policy. Furthermore, the direct result of such change to Qualifying Small Enterprises (QSEs) is regarded as one of cost. QSEs are to adopt change management strategies relative to the effect of radical change within the B-BBEE realm on their respective industries in considering the cost of compliance.

CHAPTER 5 RESEARCH METHODOLOGY

5.1 Introduction

Marczyk et al. (2005:22) refer to research methodology as “encompassing the entire process of conducting research, [that is], planning and conducting the research study, drawing conclusions, and disseminating the findings...”. The authors further distinguish between ‘research methodology’ and the term ‘research design’, as these are often used interchangeably, with the latter defined as “the many ways in which research can be conducted to answer the question being asked”.

Thus, in adopting the most suitable research design, and hence, methodology, for this study, the research question was carefully considered. It reads: Does legislative change to Broad-Based Black Economic Empowerment (B-BBEE) for selected enterprises [Qualifying Small Enterprises (QSEs)] lead to non-compliance and impeded transformation goals?

Furthermore, the views of Sekaran (2003) and Saunders et al. (2009) on research were consulted as they provide direction by revealing the elements encapsulated by the research methodology and design processes, and serving as the roadmap for answering the above research question affiliated to this study: research philosophy; approach; purpose; strategy; type of investigation; extent of researcher interference; location; time horizon; unit of analysis; data collection; ethics; data analysis and reporting; and credibility of research findings.

These elements dictate the plan for this study and hence, the structure of this chapter. It details the most appropriate research methodology adopted by, and design suited to, this study. The starting point is that of considering the most fitting research philosophy, as any study should start with a philosophy. Holden and Lynch (2004) advise that a study’s methodological choice should be consequential to the researcher's philosophical stance.

5.2 Research philosophy

In essence, research philosophy relates to how the researcher perceives the situation and what is found to best solve the research problem/answer the research question(s). Myers (2012:24) adds that too often philosophical assumptions are implicit in a researcher's mind and that it is important to make them known, as it provides the foundation for everything that follows.

Thus, in explicitly verbalising the perceived situation: to elicit useful information to best solve the research problem/answer the research question(s), specific sources are to be tapped. These were found to be organisations defined as Qualifying Small Enterprises (QSEs), naturally meeting certain demarcations (to be identified later in this chapter), which have been impacted by the recent amendments to B-BBEE legislation – more specifically, the Codes. Furthermore, in-depth empirical, qualitative enquiries relevant to these organisations' experiences were thought to be most useful – obtaining rich, deep-rooted information from these sources/participants would best solve the research problem/answer the research questions.

Saunders et al. (2009:119) provide a useful tabular comparison of four research philosophies: positivism, realism, interpretivism, and pragmatism.

**Table 5.1 Research philosophies
(Saunders et al., 2009:119)**

	Positivism	Realism	Interpretivism	Pragmatism
Ontology <i>The researcher's view of the nature of reality or being</i>	External, objective and independent of social factors	Objective. Exists independently of human thoughts and beliefs or knowledge of their existence, but is interpreted via social conditioning	Socially constructed, subjective, may change, multiple	External, multiple view chosen to best enable answering of research question
Epistemology <i>The researcher's view regarding what constitutes acceptable knowledge</i>	Only observable phenomena can provide credible data, facts. Focus on causality and law like generalisations, reducing phenomena to simplest elements	Observable phenomena provide credible data, facts. Insufficient data means inaccuracies in sensations (direct realism). Alternatively, phenomena create sensations which are open to misinterpretation (critical realism). Focus on explaining within a content or contexts	Subjective meanings and social phenomena. Focus upon the details of situation, a reality behind those details, subjective meanings motivating actions	Either or both observable data and subjective meanings can provide acceptable knowledge dependent upon the research question. Focus on practical applied research, integrating different perspectives to help interpret the data
Axiology <i>The researcher's view of the role of values in research</i>	Research is undertaken in a value-free way; the researcher is independent of the data and maintains an objective stance	Research is value laden; the researcher is biased by world views, cultural experiences and upbringing. These will impact the research	Research is value bound, the researcher is part of what is being researched, cannot be separated and so will be subjective	Values play a large role in analysing the results, the researcher adopting both objective and subjective points of view
Data-collection techniques	Highly structured, large samples, measurement quantitative, but can use qualitative	Methods chosen must fit the subject matter, quantitative or qualitative	Small samples, in-depth investigations, qualitative	Mixed or multiple method designs, quantitative and qualitative

Further to earmarking the most suitable research philosophy adopted by this study, a distinction between qualitative and quantitative research is required. This is presented in the table overleaf. Note the descriptions relevant to the concepts of 'ontology', 'epistemology' and 'axiology' derived from Table 5.1 in Table 5.2 overleaf, in italics.

Table 5.2 Qualitative vs. quantitative research
 (Adapted from Morse & Mitcham, 2002:34; Dahlberg & McCaig, 2010:13-28)

	Qualitative research	Quantitative research
Kind of descriptions	General and detailed descriptions, difference in kind	Numerical descriptions, quantifications, difference in number/degree
Hypotheses	Hypotheses emerge in the process of collecting data	Hypotheses formulated prior to collecting data
Cases	Few cases: small number of samples studied in depth	Many cases: large statistically determined sample of subjects
Examples of methods	Focus groups, in-depth interviews, diaries, observations/ethnography, content analysis	Questionnaire surveys, observations, content analysis
Generalisation to population at large	Limited potential	Possible (if accurate sampling)
Theory development	Inductive approach	Deductive approach
<i>Ontology/perception of reality</i>	<i>No reality exists outside our perceptions: emic perspective</i>	<i>The reality is independent of our perception: etic perspective</i>
<i>Epistemology/theory of knowledge</i>	<i>Knowledge is subjective, bias cannot be avoided</i>	<i>Aim to collect objective data</i>
<i>Axiology/understanding and explanation</i>	<i>Understand meaning</i>	<i>Describe and explain</i>

This study is concerned with a detailed, subjective and inductive approach to understanding the relationship between B-BBEE legislative change and non-compliance. The need for such an emic perspective called for a select few cases to be investigated. This resulted in the presence of an innate bias and an inability to generalise the study's findings. The study was therefore regarded as one of qualitative enquiry.

Gillham (2000:11) further provides useful pointers to what qualitative methods enable one to do, all of which are encompassed within the realm of this study:

- To carry out an investigation where other methods (for example, experiments) are either not practical or ethical.
- To investigate situations where little is known about what there is, or what is going on.
- To explore complexities that are beyond the scope of more 'controlled' approaches.
- To 'get under the skin' of a group or organisations to find out what really happens; the informal reality which can only be perceived from the inside; to see it from the perspective of those involved.
- To carry out research into the processes leading to results, rather than into the significance of the results.

Staller (2010:1159-1163) summarises qualitative designs as emergent and flexible. In reality, such designs are often characterised as 'messy' – not owing to the researcher being careless, but owing to the process not being strictly controlled and often having to adapt to the realities of the environment.

In contrast, quantitative research refers to gathering an array of numerical, objective data, usually with the aim of testing a hypothesis. Quantitative research is concerned with investigating well-defined phenomena in search of causal relations described from the etic perspective of a non-participant observer. Thus, it typically begins not with an exploration of phenomena or data collection, but with the analytic formulation of a hypothesis about causal relations existing in the phenomena and the establishment of experimental controls for confirming or disproving the hypothesis. It also uses statistics to determine an appropriately large data set, which will then only be investigated from the perspective predetermined by the hypothesis under investigation (Morse & Mitcham, 2002:34).

Table 5.2 serves as a point of reference for the rest of this chapter in that it summarises the strategic direction relevant to the desired research methodology, established as being governed by its qualitative predisposition. However, it does bring to the fore this study's marginal quantifiable component as it highlights the initial need for an etic perspective in search of collecting objective, numerical data relevant to a measured entity's B-BBEE status. Fortunately Dahlberg and McCaig (2010:13-28), citing Read and Marsh (2002), advise that combining methods (whether mainly qualitative or mainly quantitative), addresses many different aspects of a research question. Doing so also increases the reliability (a term which shall be elaborated on in closing this chapter) of the data-collection methods, since one method serves as a check of another method.

From the above it is discernible that a pragmatic research philosophy was adopted, as illustrated in Table 5.1 in the outset of this section. “Pragmatism holds that the most important determinant of the epistemology, ontology and axiology adopted, is the research question” (Saunders et al., 2009:128). On that note, the overall research question for this study reads (recapitulated from Chapter 1): Does recent legislative change to Broad-Based Black Economic Empowerment (B-BBEE) for Qualifying Small Enterprises (QSEs) lead to non-compliance and impeded transformation goals?

5.3 Approach

Introduced in the previous section, intrinsic to qualitative and quantitative research are their respective approaches: deduction or induction. More specifically, yet simply put: deduction relates to testing theory (quantitative research), while induction, is often referred to as building theory (qualitative research) (Locke, 2007:867-890).

Morse and Mitcham (2002) set out to determine if analytical induction is a possible phenomenon in qualitative research, the results of which prove valuable in light of this study’s marginal need to rely on quantitative elements. They found that qualitative research is often criticised for failing to meet the standards generally applicable to quantitative work, when in fact different standards apply. They advise that awareness of the stage of development of the concept being researched is imperative, and that how one uses previous enquiry, will expedite enquiry and enhance, rather than threaten, validity.

5.4 Purpose

Sekaran (2003:119) argues that a study may be an explorative one, be descriptive, or require hypothesis testing; some refer to the latter as an explanatory study. The author further notes that the nature of any study depends on the stage to which knowledge about the research topic has advanced and that methodological rigor increases as one moves progressively from an exploratory study to one of hypothesis testing.

Davies (2006:111) sheds light on the term: ‘exploratory study’, in that it is primarily concerned with discovery (“a process of continuous discovery”) and with building theory. Sekaran (2003:119) states that it is undertaken when not much is known about the situation at hand. Knowledge of the topic of the influence of legislative change to Broad-Based Black Economic Empowerment (B-BBEE) for Qualifying Small Enterprises (QSEs) on non-compliance and impeded transformation goals, was

lacking. In short, Qualifying Small Enterprises' (QSEs') responses to recent B-BBEE legislative change in the context of compliance was explored, while basic methodological rigor was followed.

"A descriptive study is undertaken in order to ascertain and be able to describe the characteristics of the variables of interest in a situation" (Sekaran, 2003:121). Although this study lent itself to elements of a descriptive study, many of the variables' descriptions (directly and/or indirectly linked to B-BBEE legislative change and non-compliance) could be linked to the literature reviewed in Chapter 2 to 4.

Finally, studies based on explanatory research, that is hypothesis testing, at the very least, express a relationship between two variables (Cramer & Howitt (eds), 2004:76). It has been established that the nature of this study did not lend itself to the testing of a hypothesis.

The ultimate purpose of this study was to explore variables linked to B-BBEE, legislative change, non-compliance and transformation goals; not to discover it, nor to express its relationship(s). Hence, its purpose was an explorative one.

The over-arching terms set out in Sections 5.2 to 5.4, research philosophy, approach and purpose, provide direction in that this study adopts a pragmatic philosophical approach. It has a qualitative influence inducing an exploratory role in a process of continuous discovery. The next consideration is that of the need for a clear research strategy.

5.5 Strategy

There are different research strategies to employ relevant to the purpose of the research (exploratory research, in this case, as set out above):

- Experiment: its purpose being to study causal links between the dependent and independent variables. It strongly features in social science research.
- Survey: relates to quantitative data collection and analysis, using descriptive and inferential statistics.
- Case study: an empirical investigation into a contemporary phenomenon within its real-life context.
- Action research: has an explicit focus on action, in particular promoting change in an organisation.
- Grounded theory: data collection here starts with the formation of an initial theoretical framework, resulting in a constant reference to data development and testing.
- Ethnography: its purpose being to describe and explain the social world within the context of the research.
- Archival research: makes use of administrative records and documents as the principal source of data (Saunders et al., 2009:141-150).

There were two strategies adopted in achieving the objectives of the research, as specified in Chapter 1.

The first strategy adopted for the study constitutes archival research. B-BBEE certificates and Detailed Scorecards (DSs) were reviewed comparatively between consecutive periods representing B-BBEE results in the old Codes versus the new Codes in an attempt to numerically and objectively:

- earmark changes to B-BBEE results between consecutive periods;
- identify whether B-BBEE legislative change was the reason for such change;
- determine the areas of such change, the extent thereof; and
- assess the likelihood for any pattern recognition within such results.

The participants' B-BBEE strategy documents, where they could be made available (as not all organisations verified in the B-BBEE Codes are in possession of such documents), were also analysed to support the above analysis.

The second strategy adopted draws upon elements of grounded theory. Critically analysing the above-mentioned archival records formed the basis for establishing an initial theoretical framework. Further data was collected in providing a subjective, qualitative framework in achieving the pragmatic research philosophy; in order to solve the research problem, as set out in Chapter 1. Barbour (2018:217-230) advises that the reason for the emphasis given to grounded theory lies in the goal to elicit 'rich' nuanced data by giving research participants enough scope to theorise. This strategy is very different from analysing archival research in that it overtly addresses the qualitative predisposition encapsulating the heart of this study.

The next area to be examined is the type of investigation utilised in the study: a causal versus a correlational one.

5.6 Type of investigation

Causation has two components: cause and effect, while a correlational study provides for a mere identification of the important factors 'associated with' the problem (Sekaran, 2003:126).

On face value, the overall type of investigation may be perceived to be a causal one: does the recent B-BBEE legislative change cause impeded transformation goals? However, many correlations exist in this realm. The reality is that exploring the following variables and their associations progressively added insight into solving the research problem: recent, B-BBEE legislative change, stakeholders' perceptions, B-BBEE strategy amendments, cost implications, compliance considerations, transformation goals. Based on the above, the type of investigation can therefore be regarded as a correlational one.

However, many authors refer to correlation as an investigation into the statistical relationship between variables, leaving little, to no, room for qualitative inquiry: in qualitative research no hypotheses or relationships of variables are tested (Kenny, 2004:1-3; Reinard, 2011:88-117). Thus, for the purpose of the study, the term 'associations' shall be used to refer to the quest to subjectively explore the relationship(s) of the above-mentioned variables.

The sixth of ten elements considered in planning the most appropriate research methodology is the extent of the researcher's interference. This is directly linked to the type of investigation.

5.7 Extent of researcher interference

The extent of researcher interference can be noted in the inherent activities relevant to the data-collection process, depicted in Figure 5.1 – to follow.

Although a predetermined B-BBEE Verification Agency (VA), Exceed Empowerment Services (Pty) Ltd, was conveniently sampled to gain access to a particular unit of analysis meeting the demarcations relevant to the scope of this study, the researcher's involvement in selecting participants was regarded as minimal. All the cases within the target population that were approached and that willingly agreed to participate in this study, made up its sample. Section 5.10 (unit of analysis) deals with sampling in further detail.

Maxwell (2018:19-31) contends that to obtain data for qualitative research purposes, relationships need to be established, both with potential participants, and with gatekeepers or other influential persons who may control or facilitate access to required settings or participants. In this case, the predetermined VA was regarded as

the gatekeeper. The author does, however, warn that such relationships in the realm of research carry a potential validity threat in respect of its conclusions.

The involvement by the researcher in collecting the necessary secondary information was also minimal. Secondary information was supplied via electronic mail upon request to Exceed Empowerment Services (Pty) Ltd (the VA) and/or to each sample, the latter relevant where the information was not in possession of the VA. Collecting primary data required more interference as on-site (in the participants' natural work environment) one-on-one interviews were conducted with a relevant representative from each case/measured entity. In some cases, Skype interviews were arranged as they were found to have the same effect – to establish a relationship between the researcher and the participant, as well as to provide support relating to certain questions, owing to the nature of information to be obtained relevant to the often complex essence of B-BBEE as subject matter.

Finally, the level of involvement by the researcher in preparing the data for analysis and analysing it was dependent on the findings contingent to the extent of the researcher's knowledge of the subject matter. Owing to the preceding comprehensive review of literature (Chapters 2 to 4), as well as the forthcoming correlating patterns recognised in the introductory phase of analysis, the extent of interference here too was regarded as marginal.

In summary, the research process lent itself to minimal opportunity for manipulation and interference by the researcher, directly manifesting in increased credibility of this study's findings (the concept of 'credibility' is addressed later in this chapter).

The following element under scrutiny is that of the study's location. It has been established above that researcher interference was minimal, as data was generally collected in a non-contrived environment, in the participants' natural work environment.

5.8 Location

Studies conducted within an organisation(s) are called field studies (Sekaran, 2003:130). Alston (2018) advises that field studies are to be carefully planned and prepared for, in order to ensure that the data collected is accurate, valid, and collected efficiently. Fortunately, having established a solid, objective foundation by first adopting an archival research strategy, allowed for increased validity (again, this term enjoys preference later on) during the initial data-collecting phase. Field studies were conducted subsequently via formally scheduled on-site meetings with participants.

More specifically, the first point of contact with participants was in the sample selection process for the purpose of obtaining formal approval from participants and ethical clearance from the Faculty of Business and Management Sciences at the Cape Peninsula University of Technology's (CPUT's) Research Ethics Committee. A consent letter was obtained from each participant, therefore a total of 16 consent letters were collected, constituting the study's unit of analysis. Refer to Appendix D for a sample consent letter. Note that a randomly selected sample consent letter was chosen to maintain confidentiality.

Upon receipt of such approval, participants were notified of the researcher's availability and readiness to commence the data-collection process and, where necessary, were requested to supply certain documentation (secondary, internal data-collection phase). Additionally options of suitable dates were provided via electronic mail, after which formal meetings were scheduled (and as previously noted, in some cases, Skype meetings) with participants. Participants were representative of person(s) accountable and/or responsible for B-BBEE policy setting and implementation in the measured entity under investigation. Meetings were held with participants for no longer than 60 minutes within a non-contrived setting, usually within a private meeting room (primary data-collection phase).

In acknowledging the duration of such meetings (above), it gives rise to another important element for consideration: time.

5.9 Time horizon

A distinction is made between cross-sectional and longitudinal studies. Hall (2008:171-172) elucidates: A cross-sectional study refers to collecting data from participants at one point in time. In practice, it is worth noting that in such a study all participants do not provide data at one exact time; one has to allow for some duration of time. Longitudinal studies, on the other hand, refer to the opposite: collecting data from participants at multiple points in time.

In essence, it would seem as though this study lent itself to being longitudinal, as B-BBEE compliance was compared prior and post amendments made to the relevant legislative frameworks. As is evident in the preceding literature reviewed, B-BBEE certificates are renewed annually. There were three points in time in which data was gathered from participants:

- Upon receipt of its B-BBEE certificate in the old Codes.
- Upon receipt of its B-BBEE certificate in the new Codes.
- After allowing for sufficient time of the measured entity to strategically respond to these relevant changes.

Thus, this study has all of the characteristics of a longitudinal study. In practice, this was not the case. Astutely, however, this study was positioned to be a cross-sectional one. Within the demarcations delineated in Chapter 1 of this study, along with limitations of time and cost, it was identified that the objectives of this study could be achieved once all three of the above-mentioned events had occurred. Hence, all three events were studied at a particular point in time, resulting in the study's cross-sectional designation. Naturally, timing was of the essence: data collection was to occur upon the successful fulfillment of the above points. Although this strategy called for a retrospective approach, the outcomes of this study were not compromised in doing so.

5.10 Unit of analysis

The unit of analysis refers to "the persons or things being studied" (Vogt & Johnson, 2015:333). It refers to individuals, dyads, groups, organisations or cultures. Thus, inherent in considerations relevant to unit of analysis, is selecting samples. Sampling relates to the decision process for selecting the most appropriate unit of analysis for a study. Furthermore, a particular unit of analysis is called a case.

Daniel (2012:66-80) provides the following details as this author effectively identifies the following two sampling techniques:

- probability or representative sampling: each case has an equal chance of being selected from the population (a 'known' probability of being selected); while
- non-probability or judgemental sampling: a sampling procedure that does not give some elements in the population a chance to be in the sample.

Briefly introduced in Section 5.7.1 above was the use of convenience sampling as a non-probability sampling technique. In justifying the use of this technique, the limitations relevant to this study become clear.

5.10.1 Limitations of this study, as dictated by the unit of analysis

Yin (2014) argues that critical to the design of a study, is defining the unit of analysis, as well as setting some limits. Thus, boundaries are to be set around each case.

The following boundaries/demarcations were imposed by this study as briefly pointed out in Chapter 1:

- Included is the study of Qualifying Small Enterprises (QSEs), while the study of Exempted Micro Enterprises (EMEs) and generic enterprises was excluded.
- Furthermore, the term QSE refers to an enterprise defined as such in the new Codes (with an annual turnover between R10 and R50 million), as well as in the old Codes (with an annual turnover between R5 and R35 million) between consecutive periods and being measured.
- B-BBEE sector codes were excluded, owing to varying time frames of gazetting and implementation.
- Also excluded from the proposed study were Qualifying Small Enterprises (QSEs) with more than 51% black ownership prior to the B-BBEE legislative amendments (and not as a strategic response thereto).
- The study was confined to the borders of South Africa (SA). More specifically, clients of an approved B-BBEE Verification Agency (VA) located in the Cape Town metropole.
- The term 'non-compliance' carries the meaning contained in this document.
- The scope of the term 'transformation goals' is confined to and measured according to the objectives listed in the B-BBEE Act (53/2003b) and the B-BBEE amended Act (46/2013).

Once the target population had been clearly identified by the gatekeeper/predetermined Verification Agency (VA) according to the above, the next implementation issue was that of the unit of analysis itself. Firstly, the target population consisted of 28 Qualifying Small Enterprises (QSEs), of which 16 were representative of QSEs that were willing to participate actively in the study; hence, making up the total sample/unit of analysis.

A further consideration for this study's unit of analysis was that Qualifying Small Enterprises (QSEs) not in possession of a current B-BBEE verification result were not excluded from the population. The decision to include such cases was determined on a case-by-case basis, as there could be a host of reasons for this occurring. An expected hypothetical example scenario was that a case was proactive in obtaining an informal verification result. The result of their less desired B-BBEE status level (or non-compliance) prior to undergoing an official B-BBEE verification was known, thus rendering such an exercise pointless. At the same time, such cases' contributions to the study would prove most meaningful.

At this point, the target population was evidently defined via clear, demarcated boundaries, making up the unit of analysis of this qualitative, explorative study. The following, however, sheds light on some of the limitations experienced in conducting the research, which in turn represents the rationale for adopting a non-probability sampling technique:

A major limitation of this study was that the population of QSEs operating within these clearly demarcated boundaries (as specified in the prerequisites listed above) was seemingly unknown: this is not public knowledge. The only stakeholders with access to this information are B-BBEE Verification Agencies (VAs). VAs are extremely hesitant to divulge client lists because of their containing sensitive information, and in doing so, their risking losing a share of the market segment they service. It is for this reason that this study focused on one such B-BBEE Verification Agency (VA), as its intention to share this information was known. This limitation gives rise to the notion of non-probability sampling being the most suited technique for this study; each case not having a 'known' probability to be selected.

Time and cost constraints were also identified as a limitation in the data-collection process, strengthening the decision for adopting non-probability sampling. Costs associated with collecting primary data (conducting personal one-one-one, semi-structured interviews), such as travelling costs, were seemingly higher than the costs associated with collecting secondary data (reviewing documents and archival records). However, more on data collection later. As previously noted in Section 5.9, owing to the limitation of time, this study was set to be a cross-sectional one. All of the research questions were answered at a particular point in time, adopting a retrospective approach. The time horizon in collecting and analysing data did not exceed a period of one month.

Another limitation caused by these constraints (nature of information, cost and time) is that this study's findings were not only confined to South Africa (SA) (with B-BBEE being a local phenomenon) but also to a particular B-BBEE Verification Agency (VA) operating within the demographic boundaries of Cape Town, specifically (as identified in boundary five listed at the outset of this section). Thus generalising findings of this study is acknowledged to be a true limitation of this study.

These limitations clearly assert the rationale for non-probability or judgemental sampling, as the probability for each case selected from the population was not known. The following section sheds more light on the matter.

5.10.2 Non-probability sampling techniques

Non-probability sampling is an umbrella term, relevant to five sampling techniques:

- Quota: has the complete opposite meaning as stratified in that the selection of cases within a strata is not random.
- Purposive: enables the researcher to use his/her judgement in selecting cases to best answer the research questions.
- Snowball: is commonly used when members of the desired population are unknown; as the researcher commences the data-collecting process, more cases in the population are identified.
- Self-selection: occurs when each case (usually individuals) make their desire known to participate in the research.
- Convenience: involves selecting the cases easiest to obtain as the sample for the research (Saunders et al., 2009:233-243).

Here too, and more specifically, the above limitations clearly state the rationale for convenience sampling as a non-probability sampling technique, as the probability of each case selected from the population was not known owing to the convenience of employing the most suited unit of analysis.

This section introduced the importance of the concept of collecting data from the unit of analysis. Thus, considerations relevant to collecting data are now discussed.

5.11 Data collection

Chapters 2 to 4 (literature reviews) related to exploring secondary data relevant to the subject matter of B-BBEE. This study adopts an approach of not only collecting primary data, but that of secondary data as well (as briefly introduced in Chapter 1).

Van Wyk (1996:100-120) define secondary data as existing data which is subdivided into internal and external secondary data. Internal secondary data are generated by an organisation in the course of its business activities, while external secondary data

are obtained from sources outside the organisation, as used in the literature reviews. Primary data, in turn, is defined as original data collected specifically for solving the problem at hand. Thus, in addition to investigating secondary data sources, there was a need to collect internal secondary sources, together with primary data.

5.11.1 Collecting secondary data

As per the initial research strategy adopted for this study, archival research (see Section 5.5) affects the collection of internal secondary data. The following was considered.

Further to the secondary data reviewed in the literature review of Chapters 2 to 4, there was a need to collect B-BBEE Certificates, Detailed Scorecards (DSs) and relevant strategy documents for analysis relevant to each case in the sampled unit of analysis.

Soni (2014:Slides 16-18), citing Yin (2003:83-96), effectively illustrates the strengths and weaknesses of archival records (Table 5.3) and documents (Table 5.4) as secondary sources for collecting data.

Table 5.3: Sources of evidence: archival records as a secondary source (Soni, 2014:Slide 17, cited in Yin, 2003:83-96)

Archival records		
Forms	Strengths	Weaknesses
Service records, organisational records, maps and charts, lists, survey data and personal records	Stable, can be viewed repeatedly	Retrievability can be low
	Unobtrusive	Biased selectively, if collection is incomplete
	Exact, contain exact names, references and details of an event	Reporting bias, reflects bias of authors
	Broad coverage, long span of time, many events and many settings	Access may be deliberately blocked
	Precise and quantitative	Accessibility due to privacy reasons

Table 5.4: Sources of evidence: documents as a secondary source (Soni, 2014:Slide 16 cited in Yin, 2003:83-96)

Documentation		
Forms	Strengths	Weaknesses
Letters, memoranda, communications, agendas, announcements, minutes of meetings, written reports on events, administrative documents (proposals, progress reports, internal records), formal studies, newspaper clippings	Stable, can be viewed repeatedly	Retrievability can be low
	Unobtrusive	Biased selectively, if collection is incomplete
	Exact, contain exact names, references and details of an event	Reporting bias, reflects bias of authors
	Broad coverage, long span of time, many events and many settings	Access may be deliberately blocked

5.11.2 Collecting primary data

Grounded theory, the primary research strategy adopted for this study, affects the collection of primary data, ensuing the need to explore further the research question(s). Such data can be collected via:

- observation(s)
- interview(s)
- questionnaire(s)

In defining the term ‘observation’, Byrne (2017) distinguishes between:

- structured observation, in which the observer stands outside the processes being observed; while
- unstructured observation, which might be the passive (and perhaps covert) recording of aspects without deploying any pre-coded schedule.

Primary data can also be conducted via interviews. As with observation, interviews can range from being very formal to relatively unplanned. Saunders et al. (2009:320-321) group interviews as being:

- standardised
- non-standardised

Standardised interviews are termed ‘structured interviews’. They are structured in that they use questionnaires based on a predetermined and identical set of questions, often referred to as interviewer-administered questionnaires. These are ideal for a quantitative analysis.

Non-standardised interviews are dubbed semi-structured or unstructured interviews, and are ideal for a qualitative analysis. In semi-structured interviews the researcher has a list of questions to be covered, which may vary from interview to interview. Unstructured interviews are informal, allowing the researcher to explore an area of interest in depth. Non-standardised interviews can be conducted one-on-one or one-to-many (focus groups), occurring face-to-face, telephonically, or electronically.

The final method for collecting primary data is by utilising a questionnaire(s). Trobia (2008:653-655) indicates that a questionnaire is a set of standardised questions which follow a fixed scheme in order to collect individual data about one or more specific topics. Questionnaires should not be confused with interviews; interviews are a separate data-collecting method, as described above.

This study relied on non-standardised, semi-structured interviews as the most relevant means of collecting primary data. On-site/one-on-one/face-to-face interviews were conducted. In some instances, interviews were conducted remotely via Skype. A questionnaire was used for a customised list of questions for each participant, relative to a pre-analysis of the internal, secondary data already collected.

Below is another illustration by Soni (2014), citing Yin (2003:83-96), as it effectively illustrates the strengths and weaknesses of interviews as a primary source for collecting data.

Table 5.5: Sources of evidence: interviews as a primary source (Soni, 2014:Slide 18, cited in Yin, 2003:83-96)

Interviews		
Forms	Strengths	Weaknesses
Guided conversations (instead of structured queries), open-ended questions and surveys	Targeted, direct focus on the participant	Bias due to poorly constructed questions
	Insightful, provides perceived causal inferences	Response bias
		Inaccuracies due to poor recall
		Reflexivity – interviewee gives what interviewer wants to hear

5.11.3 The data-collection process depicted

Preparations for the collection of data for this study relate to the established relationship between the researcher and the dedicated Verification Agency (VA), the gatekeeper. As mentioned, the issue of confidentiality was pivotal in collecting data from the VA.

The VA was tasked to present a client list, within the specified delineations set out in Section 5.10.1 above, in accurately defining the population. Another task imposed upon the VA was to assess the willingness of each member of the population to participate in the study, whereafter willing members formally made such intentions known by means of a consent letter (refer to Appendix D for a randomly sampled letter).

Cape Peninsula University of Technology (CPUT) granted permission to commence with the data-collection process by giving ethical clearance. The first step in the data-collection process, upon such approval, was to consult secondary sources (archival records and/or documents) from the VA relevant to each sample within the unit of analysis:

- two sets of B-BBEE certificates and Detailed Scorecards (DSs); and
- two sets of B-BBEE strategies, or similar documents.

Where such information was not in the possession of the VA, this second step proved prevalent, which entailed consulting the predetermined primary sources in the journey of collecting data (via an interview conducted with each sampled case).

The aim of collecting two sets of B-BBEE certificates and Detailed Scorecards (DSs) was to identify the differences in the samples' B-BBEE scores between the two periods. The first score reflected the samples' B-BBEE verification result relevant to the old Codes, while the second score reflected the samples' B-BBEE verification result in the new Codes. Note that samples not in the possession of a B-BBEE verification result were not excluded from analysis, as these samples were expected to represent proactive responses in their intention with regard to non-compliance prior to undergoing a B-BBEE verification.

Furthermore, the samples' B-BBEE strategy documents (where available) were also requested for analysis. The aim was to identify the samples' (pre- and post- B-BBEE legislative amendments) perceptions of B-BBEE, using a more objective approach.

This step (collecting data from secondary sources) allowed for a GAP analysis be conducted for each participant as far as reasonably possible:

- relevant to the B-BBEE scores awarded to the case over two consecutive measurement periods; and
- the B-BBEE strategies adopted in both cases.

The term 'GAP analysis', in this context, refers to comparing past B-BBEE performance (relevant to the targets set out in the old Codes) with current B-BBEE performance (relevant to the targets set out in the new Codes). Embarking upon a GAP analysis aimed to identify areas of change and the extent thereof, relevant to the impact of the recent B-BBEE amendments on each sample, and earmarking area(s) of transformation. Furthermore, conducting a GAP analysis allowed for expected, valuable insights into each sample's possible justifications, reactions and/or perceptions, in light of the identified areas of change prior to meeting with them.

The next step comprised scheduling interviews. As mentioned, these occurred on-site, one-on-one, face-to-face, or remotely via technology, that is, Skype. Interviews were conducted with each participant – the person(s) responsible for B-BBEE compliance in that organisation. More specifically, a customised questionnaire, containing both closed and open-ended questions, was used in the interview. The questionnaire provided the necessary structure to make inferences from responses to easily identify recurring patterns and consistent regularities, while flexibility was maintained in respect of the results of the secondary data collected, as well as the direction the interview took.

The following graphical depiction best illustrates the actual process of collecting data for this study:

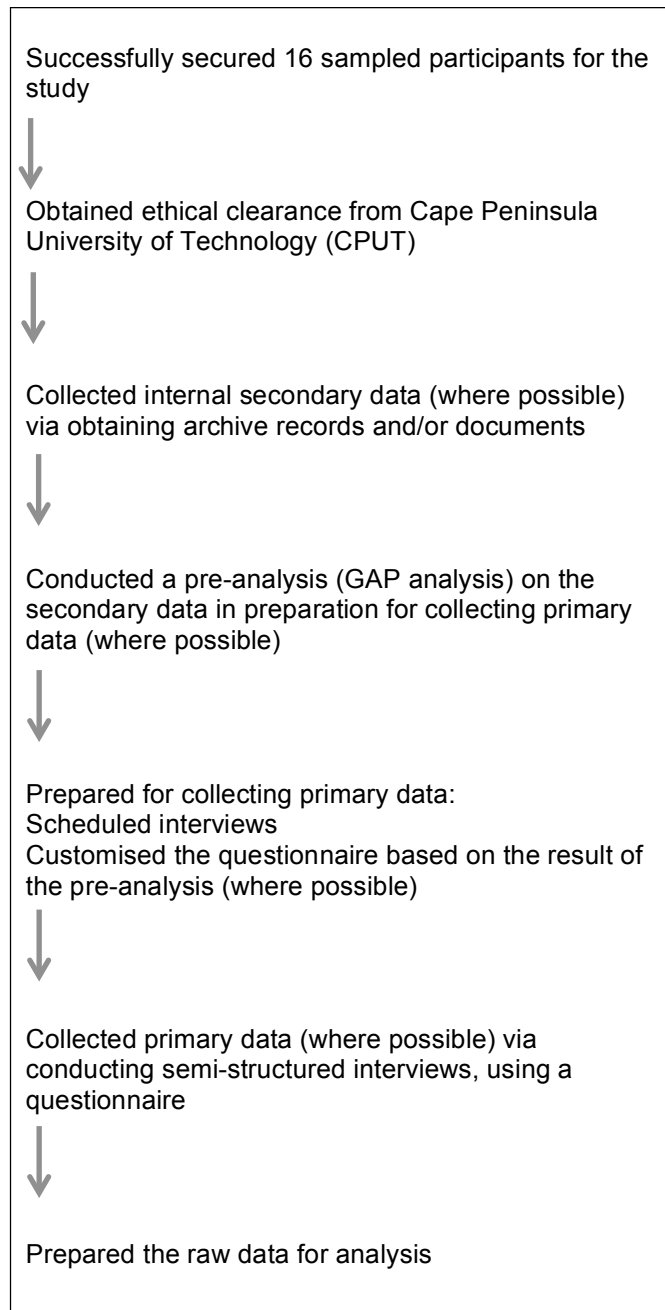


Figure 5.1: Collecting data: the steps

From the above it is evident that more than one data-collection instrument was adopted.

5.11.4 Using different data-collection techniques

Gillham (2000:13), Rothbauer (2008), Soni (2014) and Moyo (2017:285-295) indicate that different data-gathering techniques have different strengths and weaknesses. If they converge (agree), then they reasonably provide a true picture. If they don't agree, then caution should be taken in basing an understanding on any one set of data. That doesn't mean that one set of data is wrong (or any of them) but that the picture is more complicated than expected. Thus, utilising different data gathering techniques increases a study's credibility, which is naturally widely encouraged.

Furthermore, the strength(s) of each data-gathering technique is expected to curtail the weakness(es) of another technique, thereby adding to this study's credibility. For example, reference to bias as a proposed weakness for interviews as a data-collection technique is expected to be offset by the objectivity achieved by analysing documents and archival records as other techniques. More follows in the next section.

Bearing this in mind, Demetriou (2017:131) advises that "[t]he researcher must collect and store multiple sources of evidence comprehensively and systematically, in formats that can be referenced and sorted so that converging lines and patterns can be uncovered". Collecting data with this in mind aided the next step of analysing the data. Analysing data is intrinsically linked with collecting data in that the raw data that has been collected are to be prepared appropriately for analysis. The outcomes of the chosen data-collection techniques determined the simplicity (and flow) of the data-collection process (Figure 5.2). This is clear from the need to conduct a GAP analysis in preparation for collecting secondary data.

The following section sheds light on the adopted data-analysis process. First, however, ethical considerations for this study are outlined.

5.12 Ethics

The preceding section (collecting data) introduced the notion of ethics, which remains a vital consideration throughout the remainder of this study. Summer (2008:96) and Edwards and Mauthner (2012:14-28) effectively simplifies the term in that it is a field of philosophy concerned with the morality of human conduct.

The 'human conduct' of this study was guided by the Cape Peninsula University of Technology (CPUT) Faculty of Business code of ethics (Cape Peninsula University of Technology, 2009). Although Chapter 1 highlighted this, this section in particular elaborates on the practicality of the participants' rights relevant to this study. Prior to doing so, however, it should be noted that a third party, the B-BBEE Verification Agency (VA), divulged its client list containing highly sensitive information for the purpose of selecting the most appropriate unit of analysis for this study. In doing so, they risked losing a share of the market segment they service(d). This information was therefore kept confidential, with the exception of sharing a list of the names of the organisations that willingly agreed to participate in this study, while its use was confined to the purpose of the study.

As mentioned, organisations/measured entities that willingly agreed to participate in this study, supplied formal consent of their intention by way of a written and signed consent letter. Such agreement to participate was in the form of making available certain B-BBEE documents and related information, and more importantly, offering no more than 60 minutes of their time for an interview/meeting to be formally scheduled, at a time most convenient to these participants. Meetings were scheduled with the participants, that is the person(s) responsible for B-BBEE compliance in each particular organisation.

After ethical clearance from CPUT's Research Ethics Committee, participants were informed that this study had no significant ethical implications. More specifically, participants were informed of their rights:

- Participation was entirely voluntary.
- Participants had the right to withdraw at any time and for whatever reason, without any penalty whatsoever.
- The intention of treating the information obtained from the questionnaire with full confidentiality was made known, as it was merely used for academic purposes.
- In light thereof, the questionnaire used in the interview (semi-structured) contained no sensitive information and was purely based on each participant's B-BBEE performance and their perceptions of such performance.
- Participants could, at any time, omit a question(s) they did not want to answer/did not feel comfortable in answering.
- As with confidentiality, anonymity was maintained: particular responses were/are not identifiable to a particular organisation.
- Copies of the completed questionnaires were shared with each participant within one month upon meeting with their representative(s).

5.13 Data analysis and reporting

Flick (2013:3-18) defines qualitative data analysis as the classification and interpretation of linguistic or visual material to make statements about implicit and explicit dimensions and structures of meaning-making in the material and what is represented in it. Thus, with the aim of making meaning of the data collected, thematic analysis, the process of establishing patterns in analysing and presenting data, was undertaken (King & Brooks, 2018:219-236).

According to Sekaran (2003), getting the data ready for analysis, involves:

- editing data
- handling blank responses
- coding/categorising data
- creating a data file
- programming.

5.13.1 Edit data

As the study adopted two phases for collecting data, so did the editing:

- the first phase represented collecting the relevant B-BBEE certificates, Detailed Scorecards (DSs) and strategy documents;
- the second phase involved using the newly obtained secondary data to formulate a suitable questionnaire in preparation for an interview. This phase occurred once a GAP analysis had been conducted (as far as reasonably possible), which allowed the researcher to extract the necessary data from each selected sample at the on-site meeting.

Any data collected in the second phase, which was directly related to data not obtained during the first phase, was indicated by means of a blue-coloured pen. Furthermore, the GAP analysis was also indicated in a blue-coloured pen, as this represented initial edits made to the original data collected.

Any edits made to data collected thereafter, via primary sources (questionnaires and interviews) were done with a red-coloured pen.

In short, edits made to data collected in phase one (internal secondary data) were indicated in blue, while edits made to data collected in phase two (primary data) were done in red.

5.13.2 Handling blank responses

Blank responses, or the lack of information in collecting data from secondary sources, were mitigated as they were addressed in the interview. However, provision was made for handling possible blank responses in that an informal, telephonic interview was then arranged to clarify any missing information. Participants were given the opportunity to omit information they did not feel comfortable with in answering a question(s). Fortunately, these events did not occur as no participants omitted any information in the scheduled meetings.

Similarly, where any data obtained was in major conflict with patterns already identified, a follow-up meeting (informal, telephonic) was required. Any additional data was to be added by way of a red-coloured pen.

5.13.3 Coding/categorising data

Saunders et al. (2009:490-493) distinguish between three types of data analysis procedures:

- summarising (condensation) of meanings;
- categorisations (groupings) of meanings; and
- structuring (ordering) of meanings.

This study adopted all three procedures in coding data. Data was structured around quantitative (numerical) and qualitative (meaningful) subsets. Data was summarised, relevant to B-BBEE strategies and interview responses. Additionally, data was categorised into meaningful sections in identifying patterns, and ultimately trends.

5.13.4 Creating a data file

The above-mentioned procedures were done via electronic input; hence, creating data files.

5.13.5 Programming

Although various B-BBEE software programs exist and are used to derive B-BBEE scores, all numerical data was presented via Microsoft® Excel and accompanied by a descriptive Microsoft® Word file.

It is important to note that irrespective of the program used in any qualitative data analysis process, every aspect relies heavily on the interpretative and analytic procedures carried out by the researcher (Staller, 2010:1159-1163).

5.13.6 Reporting

A report is a way of communicating the results of the evaluation and providing evidence from your study (Brophy, Snooks & Griffiths, 2008:172-181). As evident from reviewing the literature relevant to the technicalities embedded in B-BBEE policy (Chapter 4), the aim was to simplify the subject matter by resorting to transparent, clear and concise reporting in best answering the research questions posed in Chapter 1, in Chapter 6. This was achieved by having each research question lead the themes for analysis.

5.14 Credibility of research findings

Saunders et al. (2009:156-157) are of the opinion that attention has to be paid to reliability and validity in ensuring that the research findings of a particular study are credible. These two terms are now considered in terms of the degree to which credibility was achieved in the study:

Reliability is concerned with the extent to which research findings are reproducible, that is, whether a different researcher who replicated the study would come to the same or similar conclusions. It can be argued that reliability is an impossible criterion to achieve in practice as different researchers will always produce different versions of the social world – which is especially true within the realm of qualitative studies (Bloor & Wood, 2006:148-150).

Dick (2014:803-805) describes validity as pertaining to the relationship between the research and the situation researched and that valid research adequately depicts what was researched.

A factor directly impacting the validity of this study was the extent of the researcher's interference (the extent to which the research and its situation was being influenced). Although one cannot ignore the relationship between the researcher and the predetermined Verification Agency (VA), with the use of convenience sampling and its inherent limitation to generalising the findings of the study, Section 5.7.1 surmised that although such interference was present, the research process generally lent itself to minimal opportunity for manipulation and interference by the researcher.

Section 5.3 referenced Morse and Mitcham (2002) relevant to their advice on ensuring validity in qualitative research. This was meaningful in light of an innate bias associated with the subjectivity and flexibility surrounding investigating, and essentially building theory impacting a select few cases, in turn making up this study's unit of analysis. The authors advise that awareness of the stage of development of the concept being researched is imperative, and that how one uses previous enquiry, will expedite enquiry and enhance, rather than threaten, validity. This was achieved throughout the data-collection, analysis and reporting phases of the study.

Having utilised a variety of data-collection techniques meant increased credibility: reliability via earmarking similarities in data via the use of different collection instruments, as well as validity via increasing the researcher's understanding of the data collected.

From the above it is clear that this study was not free from factors affecting its credibility. What is important to note, however, was the researcher's awareness of such factors and the means used to minimise their threat. In general, the study was regarded as credible as it ensured that reliability and validity were achieved.

5.15 Summary

In finalising the considerations relevant to the elements comprising this study's research methodology and design processes, a summarised rendition follows:

- research philosophy: pragmatism (qualitative);
- approach: induced;
- purpose: exploratory study;
- strategy: archival research and grounded theory;
- type of investigation: subjectively exploring associations between variables
- extent of researcher interference: minimal;
- location: non-contrived, field study;
- time horizon: cross-sectional;
- unit of analysis: 16 participants, demarcated Qualifying Small Enterprises (QSEs);
- data collection: principally primary data via interviews;
- ethics: regulated via Cape Peninsula University of Technology (CPUT);
- data analysis and reporting; and
- credibility of research findings: sound reliability and validity achieved.

This study lent itself to a qualitative enquiry, with the foundation of a pragmatic research philosophy. An induced approach to this exploratory study proved meaningful in describing the associations of factors relevant to a contemporary phenomenon, while using different data-collection techniques in collecting primary data. The research was embarked upon predominantly in a non-contrived setting at a

particular point in time, averaging a time span of one month. Participants were conveniently selected owing to the many demarcations, paving the way for the scope of the research.

CHAPTER 6 DISCUSSION OF RESULTS

6.1 Introduction

The focus of this chapter is on the destination, that is, the study's results. In doing so, this chapter draws from the following fundamentals of the preceding chapters:

Chapter 1 set out the following research questions (as derived from the problem statement):

- Is there a possible change in the respective B-BBEE statuses between consecutive periods of measurement?
- If so, can such change be attributed to B-BBEE legislative change?
- If the above holds true:
 - What effect does the measured entity's response have on its commercial activities and its market penetration, in general?
 - Does the result of such change cause impediments to the implementation of national B-BBEE policy?
 - Which factors can be earmarked as having changed and what is the extent thereof?

Chapters 2 to 4 presented secondary data in the review of relevant literature, while Chapter 5 outlined a roadmap for collecting primary data relevant to the envisaged qualitative, explorative study.

In essence, this chapter aims to process the primary data collected, draw inferences from the primary data to the collected and reviewed secondary data and present these by concisely answering the research questions listed above. Prior to doing so, a synopsis of the research methodology and design process, and of some modifications, is given.

6.2 Practicalities of the research process

All 16 measured entities that initially formally agreed to participate in this study and are clients of the predetermined B-BBEE Verification Agency (VA) (Exceed Empowerment Services (Pty) (Ltd), met their obligations. Twelve out of the 16 participants were interviewed individually at their premises and the remaining four via Skype interviews, remotely, at the participants' and researcher's premises, respectively.

Relevant supporting documentation was obtained from either the Verification Agency (VA) or the participant prior to the meeting, which allowed for appropriate planning prior to such meetings. In some instances, further supporting documentation was provided at the on-site meeting, or afterwards, via electronic mail (e-mail) by the participants, relevant to the nature of the questions asked. However, the latter did not have an impact on the effectiveness of planning for these meetings. Furthermore, owing to the qualitative nature of the study, all the participants agreed to a follow-up telephonic interview, should the need arise. It was later (on analysing and processing data) deemed not necessary.

Upon commencing the data-collection process there were some exceptions to/modifications of the predetermined demarcations set on the target population and sample. Firstly, however, the demarcations recapitulated (refer to Sections 1.6.4.1 and 5.10.1 of Chapters 2 and 5):

- Included is the study of Qualifying Small Enterprises (QSEs), while the study of Exempted Micro Enterprises (EMEs) and generic enterprises, was excluded.
- Furthermore, the term QSE refers to an enterprise defined as such in the new Codes (with an annual turnover between R10 and R50 million), as well as in the old Codes (with an annual turnover between R5 and R35 million) between consecutive periods and measured.
- B-BBEE sector codes were excluded, owing to varying time frames of gazetting and implementation.
- Also excluded from the proposed study were Qualifying Small Enterprises (QSEs) with more than 51% black ownership prior to the B-BBEE legislative amendments (and not as a strategic response thereto).
- It was confined to the borders of South Africa (SA), more specifically, clients of an approved B-BBEE Verification Agency (VA) located in the Cape Town metropole.
- The term 'non-compliance' carries the meaning contained in this document.
- The scope of the term 'transformation goals', is confined to and measured according to the objectives listed in the B-BBEE Act (53/2003b) and the B-BBEE amended Act (46/2013).

Two participants (Participants 3 and 14), for the first period subject to verification in the new Codes, received an Exempted Micro Enterprise (EME) status certificate. Such participants were regarded as a Qualifying Small Enterprise (QSE) in the old Codes, and although such status was expected to transfer into the new Codes, it did not manifest in practice. This was ascribed to the following reasons:

- A direct result of legislative change, owing to an increase in turnover thresholds causing a participant to be reclassified as an EME.
- A participant (previously classified as an EME) elected to be verified in the past as a QSE in an attempt to improve its automatic B-BBEE Level 4 contributor status. Naturally, its EME status was confirmed in the new codes and the participant did not elect to be verified as a QSE on the amended, more onerous framework.

Do note that the above events or statuses were not known to the Verification Agency (VA) proposing these participants as part of the target population and were only brought to the fore on commencing the data-collection process.

Furthermore, one participant (Participant 10) was classified under the Chartered Accounting (CA) sector code. As recalled in Chapter 3's literature review (Section 3.11), this sector code was repealed early in 2018, resulting in all measured entities previously bound by such legislation now subject to the legislative framework imposed by the new Codes.

These participants were treated on a case-by-case basis in assessing the possible impact of their participation on the results of this study. All three have made proactive efforts in evaluating the impact of the new Codes on their organisation as a Qualifying Small Enterprise (QSE), and therefore are considered genuine B-BBEE strategy interventions. It is for this reason that including these samples in the unit of analysis was not expected to affect the results of the study. However, some results presented below have excluded them, as explained.

To summarise, three of the participants were found not to meet the initially set demarcations; however they did not influence the overall credibility of the study.

6.3 Establishing themes in discussing and interpreting results

Barbour (2013:6) asserts that a researcher should pay attention to patterns in analysing and presenting data. These 'patterns' are more formally referred to as thematic analysis or coding and are widely used in analysing qualitative data (King & Brooks, 2018:219-236). These authors cite King and Horrocks (2010:150) in further defining a theme as a "recurrent and distinctive [feature] of participants' accounts, characterising particular perceptions and/or experiences, which the researcher sees as relevant to the research question". This section aims at establishing themes, guided by the research questions (outlined in Section 6.1 above), to present relevant data in discussing and interpreting results.

6.3.1 Theme one: B-BBEE status change

Research Question 1 reads: *Is there a possible change in the respective B-BBEE statuses between consecutive periods of measurement?* It addresses the theme of B-BBEE status comparisons.

Prior to examining the effect of the new Codes, an insightful starting point of comparing respondents' respective B-BBEE statuses between consecutive periods of measurement in the old Codes (thus representing the two consecutive measurement periods prior to any amendments) were thought necessary.

Table 6.1: Comparison of B-BBEE status levels for consecutive periods of measurement under the old Codes

PARTICIPANT	B-BBEE STATUS OLD CODES PERIOD ONE	B-BBEE STATUS OLD CODES PERIOD TWO	CHANGE NOTED
1	2	2	No
2	3	3	No
4	3	5	Yes
5	4	3	Yes
6	2	2	No
9	3	4	Yes
10	2	3	Yes
11	3	3	No
13	5	5	No
14	3	3	No
16	2	2	No
Average	3	3	

An average B-BBEE Level 3 contributor status was achieved by participants in the period preceding the change to the B-BBEE landscape (period two). Similarly, an average B-BBEE Level 3 contributor status was achieved by participants in the preceding period of measurement (period one). Both periods represent results in the old Codes. A marginal average variance was noted, although it did not indicate an adjustment to these participants' overall B-BBEE contributor status levels between periods.

Within this trend of B-BBEE status level change, most of these participants experienced no change in their respective B-BBEE statuses between consecutive periods of measurement relevant to the old codes.

Do note that five participants (Participants 3, 7, 8, 12 and 15) were not included in the above comparisons as they were classified as Exempted Micro Enterprises (EMEs) for the initial measurement period under investigation (period one).

The following table directly answers the initial research question by taking into account the effect of the new Codes.

Table 6.2: Comparison of B-BBEE status levels for consecutive periods of measurement under the old and new Codes, respectively

PARTICIPANT	B-BBEE STATUS OLD CODES PERIOD TWO	B-BBEE STATUS NEW CODES PERIOD THREE	CHANGE NOTED
1	2	9	Yes
2	3	9	Yes
3	4	9	Yes
4	5	9	Yes
5	3	9	Yes
6	2	9	Yes
7	7	9	Yes
8	5	9	Yes
9	4	9	Yes
10	3	9	Yes
11	3	9	Yes
12	6	7	Yes
13	5	9	Yes
14	3	9	Yes
15	8	8	No
16	2	9	Yes
Average	4	9	

An average B-BBEE Level 4 contributor status was achieved by participants in the period preceding the change to the B-BBEE landscape (period two), while an average B-BBEE Level 9 (non-compliant) contributor status was achieved by participants in the consecutive period of measurement (Period 3), the latter constituting participants bound by the new Codes. An average variance of five B-BBEE contributor status levels was compromised.

Contrary to the old Codes, most of these participants experienced a change in their respective B-BBEE statuses between consecutive periods of measurement in response to the introduction of the new Codes.

Note that all 16 participants were included in the above comparisons, thus altering the results of period two from an initial average B-BBEE Level 3 contributor status achieved (Table 6.1) versus an average B-BBEE Level 4 contributor status reported on (Table 6.2). Also, the two participants classified as Exempted Micro Enterprises (EMEs) in the new codes (Participants 3 and 14) have comprehensive scenario plans to prove such expected B-BBEE level contributor statuses as Qualifying Small Enterprises (QSEs).

6.3.1.1 Summarising the results of theme one

An average variance of five B-BBEE contributor status levels was compromised in response to the new Codes. These results are associated with most of the participants having experienced a change in their B-BBEE statuses, which is in contrast to the results obtained from the previous measurement period. This calls for further interpretation relevant to the possible stability experienced by the market with the previous, unaltered legislative framework.

6.3.1.2 Theme one: interpreting results relative to B-BBEE status change

The result of Research Question 1: a change in the participants' respective B-BBEE statuses between consecutive periods of measurement is noted. Additionally, specific change can be earmarked: a drop from an average B-BBEE Level 3/4 contributor status in the old Codes to that of an average non-compliant/B-BBEE Level 9 contributor status in the new Codes. This resulted in participants compromising a minimum of five levels in their respective B-BBEE contributor statuses between consecutive periods of measurement. In isolating these results, this indicates an extraordinary event having occurred, in light of no change being noted in the same participants' B-BBEE contributor statuses between prior consecutive periods of measurement. This gives meaningful insight into the research question: *Can such change be isolated to the amendments to the B-BBEE legislative framework?*

Another important consideration in steering away from generalising findings on the B-BBEE levels achieved is the actual variance in B-BBEE levels experienced, irrespective of outcome. This gauges the volatility in the market and here too, provides meaningful insight into isolating B-BBEE level changes pertaining to B-BBEE legislative change.

As noted above, most of the participants experienced a change in their B-BBEE statuses in response to the new Codes. This is in contrast to the results obtained from the previous measurement period in that most of the participants did not experience a change in their B-BBEE statuses relative to the old Codes. More specifically, these participants (whom indicated a B-BBEE status change in response to the new Codes), were awarded a non-compliant/B-BBEE Level 9 contributor status in the new Codes, tying in with some elements contained in Chapter 1's documented aim. This study wishes to indicate that legislative change to Broad-Based Black Economic Empowerment (B-BBEE) for the majority of Qualifying Small Enterprises (QSEs) results in non-compliance and impeded transformation goals.

6.3.1.3 Linking the study's results with the reviewed literature relative to B-BBEE status change

The results presented in Table 6.1 can be compared with research conducted by Who Owns Whom (WOW), appointed by the Department of Trade and Industry (DTI) in 2016 to address the state of transformation in South Africa (SA). Section 3.8.1 of Chapter 3 pointed out that 60,09% of the measured entities assessed were in possession of B-BBEE Level 4 and above contributor statuses for the first period assessed (2015/2016), while a marginally lower 58,82% indicated the said status in the second period (2014/2015). This accords with the results of this study relevant to comparisons in the old Codes.

These findings are also congruent with the above-mentioned volatility in the market indicator in that such incremental changes in presenting the majority across both studies' results indicates consistency in B-BBEE contributor statuses achieved relevant to consecutive periods of measurement in the old Codes.

Another factor under consideration is the borderline research conducted by the DTI on initial release of the (old) Codes (refer to Section 2.18 of Chapter 2). Here a B-BBEE Level 8 contributor status was reported, not far removed from the non-compliant/B-BBEE Level 9 contributor status presented above, relevant to the response on the release of the new Codes, indicating a similar response to change between the two periods (2007 versus 2013).

Balshaw (2013), Foulds (2014), Lindsay (2015), Mophethe (2015), Botha (2017) and Werksmans Attorneys (n.d.), as referenced in the literature review (Section 3.4 in Chapter 3) concur, noting a major change between results obtained by Qualifying Small Enterprises (QSEs) verified on the old versus the new Codes. The notion of black ownership was introduced, linked to the automatic advancement in QSEs with more than 51% black ownership to a minimum B-BBEE Level 2 contributor status, while measured entities with no black ownership and/or Executive Managers (EMs) are destined for B-BBEE Level 7 contributor status, more of which follows towards the end of this chapter. As presented above, the results of this section indicate a non-compliant/B-BBEE Level 9 contributor status achieved, pointing to the literature's indication of the new importance placed on black ownership. Prior to examining the reasons for the non-compliant result obtained here, the next theme first identifies any associations of such non-compliant status/change with that of B-BBEE legislative change.

6.3.2 Theme two: B-BBEE legislative change

Research Question 2 reads (on the back of Question 1's results): *If so, can such change be attributed to B-BBEE legislative change?* In addition to the findings above, all respondents who experienced a change in their respective B-BBEE statuses between consecutive periods of measurement, in comparing the results of the old Codes and the new Codes, indicated that B-BBEE legislative change was the single factor to have contributed to the significant change in their respective B-BBEE contributor status levels.

In drawing inferences from the above, more objectively based data, the following is deduced: a minimum of five B-BBEE level contributor statuses have been compromised, with a conservatively deduced high probability; such change is linked to an extraordinary event, substantiated below.

- Significant changes were noted in comparing the average B-BBEE status result between periods one and two (no variance) with periods two and three (five B-BBEE contributor status level variance), pointing to the feasibility of an extraordinary event's having occurred.
- Similarly, this was matched with significant changes being noted relative to how many participants experienced a change in their respective B-BBEE status results in response to the new Codes.
- Both these findings are comparable to preceding literature reviewed on the matter (as indicated in Section 6.3.1.3).

The above analysis thus proves that the overwhelming majority change noted in participants' B-BBEE statuses to that of non-compliance (theme one) is associated with B-BBEE legislative change (theme two).

6.3.2.1 Linking the study's results with the reviewed literature relative to B-BBEE legislative change

The association between changes in participants' B-BBEE compliance and changes made to the B-BBEE legislative framework is best inferred from Chapter 3's statement: "...it is clear that legislative change to B-BBEE is expected to have a substantial effect on QSEs".

The above results engendered the emergence of the following sub-themes:

- Drawing inferences from the B-BBEE strategies adopted resulting in such noted change, and addressing levels of knowledge and cost associations.
- The need to expand on the past and/or current notion of non-compliance in terms of B-BBEE certificate renewal.

6.3.3 Important sub-themes to note, relative to change: B-BBEE and legislative

Based on the above, it is necessary to explore further B-BBEE Level 9/non-compliant contributor statuses achieved by the overwhelming majority of the study's participants relative to the new Codes. How were these non-compliant statuses achieved? And what were the strategies adopted? Fortunately, inferences can be drawn from the framework provided in Section 3.5 of Chapter 3, relevant to the collection of primary data on this subject matter and recalling that participants may call on the following strategies in response to the recent legislative change:

- Opt willingly for a non-compliant B-BBEE result, owing to cost implications.
- Settle unwillingly for a non-compliant B-BBEE result, to confirm formally such predicted results, or as a result of ignorance.
- Achieve a B-BBEE status level by effectively integrating the appropriate B-BBEE strategies with current policies and procedures.
- Introduce more than 51% black ownership.

In linking the above to the data presented in Table 6.2:

- Fourteen participants (87,5%) achieved a non-compliant B-BBEE result. Thus, the first two strategy options, listed above, apply to them.
- Participants 12 and 15 both received a B-BBEE status level in the new Codes.
- It is clear that no participants introduced more than 51% black ownership to their organisations. This links to theme one above in further justifying the overwhelming majority result of participants achieving a non-compliant status.

Thus, the focus here is on the strategy for non-compliance relevant to 14 participants and the strategy for achieving a B-BBEE Level 7 and 8 contributor status, respectively, by two of the participants:

Eleven of the 14 (79%, a large majority) of the participants willingly opted for non-compliance in choosing not to undergo a B-BBEE verification and hence, opted not to have their B-BBEE certificate renewed. Seven (out of 11) did so by internally deciding the exercise “not worth it”. This links to the cost factor, as listed in the first bullet point above (opt for a non-compliant B-BBEE result, willingly, owing to cost implications). Prior to investigating the increased burden of cost, a notion seemingly supported by various experts in the field of B-BBEE as indicated in the preceding literature review, an important consideration here is that of the level of knowledge of participants relevant to the new Codes.

An overwhelming majority of participants were found to have a low level of knowledge of the new B-BBEE requirements and landscape. These participants were aware of (some of) the changes and new terms in “having heard of such”, but did not have any idea of their implications for their organisations. More specifically, these participants are representative of those who internally dismissed the verification exercise as “not worth it”, with the exception of one. These findings are in strong contrast with one another in that one would expect participants with a low level of knowledge of a subject to seek external guidance for sound decision making.

Furthermore, all 16 participants in this study could not indicate the newly required cost implications in order to achieve their desired B-BBEE status result in the new Codes. This ties in with the low level of knowledge expressed by participants. What is more, is that participants indicated an average estimated cost of R57 000 (all inclusive) to secure their compliance with the old Codes. This finding results in there being no opportunity for comparisons to be drawn to Mophethe’s (2015) views, as expressed in Chapter 3’s literature review, regarding his estimation of costs needed to obtain a competitive B-BBEE certificate in the new Codes of between R100 000 and R400,000 per annum.

To summarise above: participants are willingly expressing non-compliance with B-BBEE, because of perceived barriers of entry. Participant's perceptions are formed based on their expressed low levels of knowledge and incremental insights into the effects of B-BBEE on their organisation. This does not tie in with Keith Levenstein's views: "It will be important to understand how the new codes work and therefore a change in strategy is required" (Foulds, 2014:25).

Linking with the above B-BBEE strategy adopted, three of the participants opted to have their B-BBEE certificates renewed. Two were "surprised" by the results (as a result of ignorance), while one participant felt the need to formally confirm a predicted result.

Two participants achieved B-BBEE contributor statuses in the new Codes. Table 6.1 indicates that Participant 7 achieved a B-BBEE Level 7 contributor status in the new Codes. This participant's stance on the subject is unique. Their B-BBEE need is regarded as low, which is matched by no motivation to excel on the Detailed Scorecard (DS). Furthermore, the measured entity indicated relative consistency in its shift in B-BBEE contributor status from the old (Level 6) to the new Codes (Level 7). The participant ascribed this to the use of an external consultant who guided the organisation in respect of compliance, with such services also not remaining consistent (B-BBEE consultants had changed in every verification for the past three measurement periods). Participant 15 also featured on the DS in achieving a B-BBEE Level 8 contributor status in the new Codes. This participant also expressed consistency in its shift of B-BBEE contributor status from the old (Level 8) to the new Codes (Level 8), the rationale here being more plausible. Prior to the B-BBEE Level 8 contributor status achieved in the old Codes, the participant was regarded as an Exempted Micro Enterprise (EME). Thus, the previous two verifications prepared the participant for compliance and aided the decision to appoint a B-BBEE consultant. Furthermore, Participant 15 indicated a medium to high need for compliance. This is addressed in further detail in the next section, theme three. It should be noted that the entire Chapter 4 was devoted to literature relevant to these three participants as it dealt solely with the operation of a B-BBEE verification in the new Codes.

Less than 21% (3 out of 14 participants) of the study's scope relates to the 2018 B-BBEE Commission's study relevant to assessing B-BBEE certificates uploaded on its portal. The reason for such a marginal congruence to the B-BBEE Commission's study may be ascribed to the fact that this research includes participants who willingly opted for a non-compliant result and did not have a B-BBEE certificate issued to prove such (perceived) status (see strategy one, listed at the outset of this section).

Currently (mid-2018) 15 of the 16 of participants are not in possession of a valid B-BBEE certificate, with the exception of the two participants now classified as Exempted Micro Enterprises (EMEs). The remaining one participant, who is in possession of a valid B-BBEE certificate (Participant 10), was previously classified as operating within the Chartered Accounting (CA) sector code; this could be ascribed to the general drive within the profession for overall compliance.

Furthermore, the average period these participants has not been in possession of a valid B-BBEE certificate in the new Codes, that is, being regarded as a non-compliant contributor to B-BBEE, has been just short of two years (one year and ten months), while the average period of being in possession of a B-BBEE certificate prior to this period is that of eight years, although time frames within this period in which statuses were not renewed, were not established. This indicates participants' loyalty to the previous programme and provides an indication of the significant effect change has had on these participants, which will be dealt with in further detail in Section 6.3.4.

In summary, further to the non-compliant/B-BBEE Level 9 contributor status effected by policy reform, as reported in this section. Participants have not been in possession of a valid B-BBEE certificate, on average, for just short of two years.

6.3.4 Theme three: the effect of change; a micro-economic focus

The third theme continues to remain within the overall ambit of change. Here the focus is on presenting the effects of change (B-BBEE status and legislative) on the participant, hence, on a micro level. It also ties in with Research Question 3: *What effect does the measured entity's response have on its commercial activities and its market penetration, in general?*

The natural starting point is to investigate further the established trend of non-compliance by establishing the reasons for this. Why are participants opting not to be B-BBEE compliant? The results draw inferences from Chapter 2's primary data of Van der Merwe and Ferreira's (2014:545) reasons why an organisation would need a B-BBEE certificate and therefore, elect to be B-BBEE compliant:

- The desire to be socially responsible by correcting the inequalities of the past.
- The economic profits as a result of the preferential business treatment afforded to B-BBEE compliant entities in South Africa (SA).

The latter (economic profits) tie in with the notion of Preferential Procurement (PP) as the driving force of B-BBEE in the marketplace, whether via the Preferential Procurement Policy Framework Act (PPPFA) (5/2000) and its amendments, with its requirements for tendering to government, or via demand and supply forces in the market relevant to such enhancing suppliers' purchasing power (as noted in Section 2.8.3.1 of Chapter 2). The table overleaf presents each participant's need for B-BBEE, as well as further comments relative to this need.

Table 6.3: A summary of participants' need for B-BBEE compliance

PART.	NEED FOR B-BBEE COMPLIANCE	PERCEIVED NEED SUMMARISED	FURTHER COMMENTS, RELATIVE TO PARTICIPANT'S MARKET POSITION	FAMILY BUSINESS
1	Marginal customer pressure is experienced, as B-BBEE certificate is requested	Low	Participant's customer base is regarded as loyal, irrespective of B-BBEE status	Yes
2	Marginal customer pressure is experienced, as B-BBEE certificate is requested	Low	Participant forms part of a group of five similar organisations, all of which are part of a family-owned dynamic	Yes
3	Combined drivers of being socially responsible and economically driven. Substantial customer pressure experienced as B-BBEE certificate is often requested	Low-Medium	Participant is currently regarded as an Exempted Micro Enterprise (EME), while proving its non-compliant status in being verified as a Qualifying Small Enterprise (QSE). Participant has a global footprint	No
4	Driven by the desire to be socially responsible	Low	About 95% of the participant's income is derived from a long-standing contract, containing no B-BBEE status demands	No
5	Combined drivers of being socially responsible and economically driven. Marginal customer pressure experienced via B-BBEE certificate requests and the opportunity to tender	Low-Medium	Participant claims there is no direct competition in the market and the business has a local footprint	No
6	Economically driven. Substantial customer pressure experienced as B-BBEE certificate is often requested	Medium	Participant services big corporate customers, often B-BBEE driven	Yes
7	Marginal customer pressure is experienced, as B-BBEE certificate is requested	Low	Participant is regarded as a manufacturer, with its customer base often being the 'middle-man', relieving them from B-BBEE pressures often placed by large retailers	Yes
8	Economically driven. Participant often tenders to government	Medium-High	Participant forms part of a group of organisations, considering options for restructuring and part of a family-owned dynamic	Yes
9	Marginal customer pressure is experienced, as B-BBEE certificate is requested	Low	The value of the commodity sold by the participant is low, marginally affecting its customers' B-BBEE statuses. Also, customer base is regarded as loyal, irrespective of participant's B-BBEE status	Yes
10	Economically driven. Participant often tenders to government (Auditor-General requirements applicable to Registered Auditors (RAs))	Low-Medium	Participant was previously classified for measurement under the realm of the Chartered Accounting (CA) sector code	No, but strict regulations imposed on RAs/CAs relevant to ownership
11	Combined drivers of being socially responsible and economically driven. Marginal customer pressure experienced via B-BBEE certificate requests	Low	Participant not aware of any direct competition in the market	Yes

PART.	NEED FOR B-BBEE COMPLIANCE	PERCEIVED NEED SUMMARISED	FURTHER COMMENTS, RELATIVE TO PARTICIPANT'S MARKET POSITION	FAMILY BUSINESS
12	Driven by the desire to be socially responsible	Low	B-BBEE certificate is seldom requested. Although ample tender opportunities are presented to the participant, it elects not to tender, for various reasons	Yes
13	Marginal customer pressure is experienced, as B-BBEE certificate is requested	Low	Participant forms part of a group consisting of two similar organisations regarded as a generic enterprise, all of which are part of a family-owned dynamic	Yes
14	Economically driven. Participant often tenders to government	High	Participant is currently regarded as an Exempted Micro Enterprise (EME) and claims to be non-compliant if they continued to elect to be verified as a Qualifying Small Enterprise (QSE)	Yes
15	Economically driven. Participant often tenders to government	Medium-High	Participant aims to achieve the highest B-BBEE level possible in standing the best chance of being awarded a tender, although they claim to have no direct competition in the market	Yes
16	Marginal customer pressure is experienced, as B-BBEE certificate is requested	Low	Participant predominantly sells goods to the end consumer and is very seldom involved in business-to-business transactions	Yes

In understanding a participant's need for B-BBEE compliance, its appetite for embracing change can be better understood. This section's discussions are based on this table and present the effect of change on these participants. More specifically, Table 6.3 presents the following:

- Participants' need for B-BBEE compliance.
- A summary of this perceived need (low/low-medium/medium/medium-high/high).
- Any further notes, relevant to the participants' market position, further justifying their need for B-BBEE.
- Whether the participant is considered a family business, owned and managed, giving insight into its appetite for introducing black ownership.

Firstly, it is imperative to identify an association with the participants' perceived B-BBEE need and their response to change relevant to their:

- initial B-BBEE status (initially manifested response) in the new Codes; and
- perceptions (perceived response).

Table 6.4 presents such associations, drawing upon the data presented in Table 6.3.

Table 6.4: A summary of participants' perceived response to change relative to the perceived need for B-BBEE compliance, version one

PART.	PERCEIVED NEED SUMMARISED	B-BBEE STATUS NEW CODES (PERIOD THREE)	PERCEIVED RESPONSE
1	Low	9	No interest in continuing; not worth it. Participant has not lost any business/income since B-BBEE non-compliant status
2	Low	9	No interest in continuing; not worth it. Participant has not lost any business/income since B-BBEE non-compliant status
3	Low–Medium	9	Participant aims to feature on the Detailed Scorecard (DS) and realistically aims for a B-BBEE Level 8 contributor status for the next verification period
4	Low	9	No interest in continuing; not worth it. Participant has not lost any business/income since B-BBEE non-compliant status
5	Low–Medium	9	Participant aims to feature on the DS and realistically aims for a B-BBEE Level 8 contributor status for the next verification period
6	Medium	9	Participant aims to feature on the DS and realistically aims for a B-BBEE Level 8 contributor status for the next verification period
7	Low	9	No interest in continuing; not worth it. Participant has not lost any business/income since B-BBEE non-compliant status
8	Medium–High	9	Participant seeks the highest possible rating and without black ownership recognises this is not realistic. Hence, participant is strategising other alternatives, beyond the realm of the organisation itself
9	Low	9	No interest in continuing; not worth it. Participant has not lost any business/income since B-BBEE non-compliant status
10	Low–Medium	9	Participant aims to feature on the DS and realistically aims for a B-BBEE Level 8 contributor status for the next verification period
11	Low	9	Participant is unsure of future plans
12	Low	7	Participant aims to continue to feature on the DS, although achieving a particular B-BBEE status level is not regarded as important. Participant has not lost any business/income since B-BBEE non-compliant status
13	Low	9	No interest in continuing; not worth it. Participant has not lost any business/income since B-BBEE non-compliant status
14	High	9	Participant seeks the highest possible rating and without black ownership recognises this is not realistic. Hence, participant is strategising other alternatives, beyond the realm of the organisation itself
15	Medium–High	8	Participant seeks the highest possible rating and without black ownership recognises this is not realistic. Hence, participant is strategising other alternatives, beyond the realm of the organisation itself
16	Low	9	No interest in continuing; not worth it. Participant has not lost any business/income since B-BBEE non-compliant status

There are no concrete comparisons to be drawn from the participants' perceived B-BBEE needs and the B-BBEE status achieved for the first period under review in the new Codes. Similarly, no inferences can be drawn from the B-BBEE status achieved and the participants' perceived responses to change. See the arrows on Table 6.4 above, as reference. The common thread here is the B-BBEE status. This trend can be ascribed to participants' reactive responses to the revised Codes, in that there is a mismatch between what has been achieved (B-BBEE status: initial manifested response) relative to what is needed and the participants' future plans/lack thereof (perceived response).

There are, however, associations which can be observed between the participants' perceived B-BBEE needs and their perceived response, thus reinforcing the credibility of the above assumption (a lack of proactive responses to the new Codes). See the red arrow indicated on Table 6.4 above, as reference.

Most participants (nine) participants indicated a low need for B-BBEE compliance. Some differences in the perceived responses from these participants were noted: Seven had no intention of renewing their B-BBEE certificate, one was undecided/unsure of its future B-BBEE plans, and the other participant had a more positive response in intending to feature (achieve at least a B-BBEE Level 8 contributor status) on the Detailed Scorecard (DS). Three participants indicated a low to medium B-BBEE need and wished to feature on the DS, while another three indicated a medium B-BBEE need. The medium to high categorised participants (two) relative to their perceived needs, indicated that they were considering restructuring strategies. The same applied to Participant 14, the only participant associated with a high need to achieve a B-BBEE contributor status.

The only category relative to participants' perceived B-BBEE needs in which variances were noted in the associations made between such needs and their respective responses were sought to be representative of the significant majority of participants. This is highly correlated with a single response. The other needs were perfectly matched by their respective responses, as shown above. The following illustration (Table 6.5) emanates from Table 6.4 in summarising the association between participants' perceived B-BBEE needs and their perceived responses, which are indicative of their current stance on the matter, as well as their future intentions to comply.

Table 6.5: Participants' associated B-BBEE needs and their responses

Perceived B-BBEE need	Perceived response
Low	No intention to renew (excluding minor variances)
Low–Medium	Wish to feature on the Detailed Scorecard (DS)
Medium	Wish to feature on the DS
Medium–High	Considering other alternatives
High	Considering other alternatives

In short, this section indicated that, for the first time, a more conciliatory approach to change is noted by the majority of participants, although still confined to their intentions.

Contingent to Section 6.3.3's claim that not a single participant has introduced more than 51% black ownership in response to changes on the B-BBEE landscape, is the following observation.

Table 6.6: A summary of participants' perceived responses to change relative to the perceived need for B-BBEE compliance, version two

PART.	PERCEIVED NEEDS SUMMARISED	PERCEIVED RESPONSES SUMMARISED	FAMILY BUSINESS
1	Low	No interest in continuing	Yes
2	Low	No interest in continuing	Yes
3	Low-Medium	Realistically aims to feature on the Detailed Scorecard (DS)	No
4	Low	No interest in continuing	No
5	Low-Medium	Realistically aims to feature on the DS	No
6	Medium	Realistically aims to feature on the DS	Yes
7	Low	No interest in continuing	Yes
8	Medium-High	Strategising other alternatives	Yes
9	Low	No interest in continuing	Yes
10	Low–Medium	Realistically aims to feature on the DS	No, but strict regulations imposed on RAs/CAs relevant to ownership
11	Low	Participant is unsure/undecided of future plans	Yes
12	Low	Realistically aims to feature on the DS	Yes
13	Low	No interest in continuing	Yes
14	High	Strategising other alternatives	Yes
15	Medium–High	Strategising other alternatives	Yes
16	Low	No interest in continuing	Yes

From the above it can be noted that an overwhelming majority of participants (12) are structured as family businesses. Strong emotions were raised in the data-collection process while addressing ownership as a strategy for bettering participants' respective B-BBEE statuses. In fact, the overall theme of the study can be viewed as ownership, as each enquiry (16) in the primary data-collection process led to an in-depth discussion on this topic, more of which follows later in the chapter.

Table 6.5 illustrates (in grey) that each participant with an above-average perceived B-BBEE need (medium-high/high) is structured as a family-owned and managed business. This gives insight into participants' perceived responses and their arguments for not introducing black ownership as a solution for redressing their B-BBEE status levels. In fact, these participants are strategising other alternatives beyond the ambit of their organisations. Such intentions could be regarded as fronting (although further investigation was not done in this regard as it falls beyond the scope/intent of this study).

The above clearly illustrates the motives for participants' strategic response of non-compliance. The next step is to explore the effect of change on participants, relative to their commercial position and market penetration.

An overwhelming majority of participants (11 out of 14 participants; 79%) have not reported a loss of income or reduced market penetration relevant to their non-compliant/B-BBEE Level 9 contributor status, enjoyed for a minimum average period of two years. Although the remaining three participants (21%) indicated no loss of income from their customer base, as they rely on income from tendering to government, a possible loss of income (possibly) not being awarded is difficult to ascribe to B-BBEE as there are various factors relevant to the tendering system dictated by the Preferential Procurement Policy Framework Act (PPPFA) (5/2000) and the amendments thereto.

6.3.4.1 Summarising the results of theme three

Theme three addressed a plethora of factors, adding to the significance of this section's summary.

The section commenced by indicating each participant's need for B-BBEE relevant to its commercial stance. This was summarised as low/low–medium/medium/medium–high/high, with the results indicating that most of the participants perceived a low need for B-BBEE compliance within their respective markets. This was successfully correlated with their response to change, that is, their current stance and future intentions for compliance.

Participants' needs were further analysed in terms of ownership. It was found that participants with an above-average perceived need for B-BBEE compliance, still yielding a current result of no higher/better than a B-BBEE Level 8 contributor status, were found to be family owned, thereby justifying the reason for such higher B-BBEE needs not to have been accommodated by the introduction of more than 51% black ownership.

The section closed by showing that most participants have not lost income because of their current B-BBEE status.

6.3.4.2 Theme three: interpreting results relative to the effect of change on a micro level

The result of Research Question 3, simply put, is that there was no effect on participants' commercial activities and their market penetration in response to B-BBEE-related change.

To recap from themes one and two: An overwhelming majority of participants have experienced a change in their B-BBEE status, which is attributed to the amendments to the B-BBEE legislative framework.

Theme three reports on a low perceived need of these participants to be B-BBEE compliant. Although this correlates with the findings of theme one and two, further results presented in this theme afford a slightly more positive perspective with a large majority of participants wishing to renew their B-BBEE status in the future. This indicates that participants are willing to improve their current B-BBEE level contributor status to be more congruent with their future intentions/prospects.

This theme also sheds light on the reason why participants have not opted to introduce more than 51% black ownership as a solution/response/strategy to B-BBEE legislative change (as indicated in Section 6.3.3). The reviewed literature highlighted that Qualifying Small Enterprises (QSEs) with more than 51% black ownership could, at least, achieve a B-BBEE Level 2 contributor status automatically, more of which in the next section. Owing to the current ownership structure of participants confined to this study being family owned and managed, such restructuring strategies were not considered a viable option, even in the light of perceived medium to high/high B-BBEE needs associated with these organisations.

Currently, however, the 'majority' theme persists as an overwhelming majority of participants indicated not having lost income, and therefore not having adjusted their commercial activities and/or jeopardised their market share as a result of change to their B-BBEE level contributor status. A possible reason could be that there currently are no ramifications noted to participants' reactive B-BBEE strategic responses to change as "everyone is in the same boat" and that this particular point in time is representative of all such stakeholders adjusting to change. Based on these findings, the B-BBEE industry can currently be regarded as somewhat stagnant relevant to business-to-business transactions in the realm of Preferential Procurement (PP) driving B-BBEE via demand and supply forces.

The following draws from literature to support or challenge the findings of theme three and their interpretation.

6.3.4.3 Linking the study's results with the reviewed literature relative to the effect of change on a micro level

The study indicated at the outset that owing to its contemporaneity a gap in the literature could be identified as there was no evidence pertaining to studies conducted on measured entities' responses to the new Codes (refer to Section 1.4 of Chapter 1 on previous work done, and confirmed in Section 3.8.1 of Chapter 3). Although the newly appointed B-BBEE Commission has appointed Mthente Research and Consulting Services to assess the effect of change, its results have not yet been made public (B-BBEE Commission, 2016:1-8).

What is important is that the literature review indicates that the ultimate decision to obtain a B-BBEE certificate in the new Codes for Qualifying Small Enterprises (QSEs) hinges on the trade-off between the costs associated with compliance, versus the income (actual and forecasted) derived, as summarised in Section 4.9 of Chapter 4. With no actual loss of income experienced thus far by participants in respect of their not being B-BBEE compliant, this is not accommodated with an outlay of costs. The same stance can be assumed in taking a different viewpoint. Participants stating that B-BBEE compliance is “not worth it” (theme two), indicates that the expected cost relative to compliance is not matched by actual/forecasted income derived.

The other alternative lies within black ownership (indirectly linked to costs), as previously noted. QSEs that are wholly black owned are advanced to a B-BBEE Level 1 contributor status, while QSEs with 51% black ownership achieve a B-BBEE Level 2 contributor status. Owing to these automatic advancements, such QSEs are not required to undergo verification and should obtain a sworn affidavit, as recapitulated from Section 3.3.1.2 of Chapter 3. This chapter further indicated that Small, Medium and Micro Enterprises (SMMEs), a term which has been confirmed by the literature review as synonymous with QSEs, are set to have anywhere between 5 and 200 full-time employees (referenced in Table 3.1). This study highlighted the notion of owner-managed organisations often operating within the realm of SMMEs/QSEs. With these insights one can understand participants’ resistance to introduce black ownership and Executive Managers (EMs) in their organisations. Furthermore measured entities with no black ownership and/or EMs are destined for B-BBEE Level 7 contributor status, as noted in theme one and deduced from the reviewed literature. More specifically, as inferred from Chapter 3’s literature review, the following table best illustrates this (see also Table 3.4 in Chapter 3).

Table 6.7: Participants’ expected points displaying the best-case scenario in a tabular format relevant to the rating element and weighting points for QSEs

Rating element	Weighting points	Expected points
Ownership	25 points	0 points
Management & Control (M&C)	15 points	8 points
Skills Development (SD)	25 points	25 points
Enterprise and Supplier Development (ESD)	30 points	30 points
Socio-Economic Development (SED)	5 points	5 points
Total	100 points	68 points

In the unlikely event of full points scored for every category/sub-category on the Detailed Scorecard (DS) for Qualifying Small Enterprises (QSEs) with no black ownership and Executive Managers (EMs) in place, a maximum of 68 points can be achieved. This translates into a B-BBEE Level 6 contributor status, as indicated in the table overleaf (also see Table 3.4 in Chapter 3), discounted a level owing to the priority element of ownership not being achieved.

Table 6.8: Participants' expected B-BBEE contributor status displaying the best case scenario in a tabular format relevant to the weighting points as per the new Codes

Weighting points	B-BBEE Contributor Status Level
≥100 points	Level 1
≥95 points <100	Level 2
≥90 points <95	Level 3
≥80 points <90	Level 4
≥75 points <80	Level 5
≥70 points <75	Level 6
≥55 points <70	Level 7
≥40 points <55	Level 8
<40	Level 9/Non-compliant

Hence, a B-BBEE Level 7 contributor status is the best-case scenario for the majority of the participants in this study, as they are family owned and managed. This does not take into account any cost associations, employment (in light of the few employees in permanent positions in SMMEs highlighted at the outset of this subsection) and supplier restructuring options, etc., relevant to scoring full points on the remaining elements.

As mentioned previously, black ownership is perceived as the single most important change to the Codes with costs being a secondary challenge. Participants indicated (and rightfully so, as supported by the literature reviewed, and with their limited knowledge of the subject), that in excluding the cost factor altogether, they were aware that a B-BBEE Level 6 and higher B-BBEE contributor status would realistically not be achievable without the introduction of black ownership.

This is accords with the many authors referenced in Chapters 2 to 4 that there is a newfound importance on the ownership element and that narrow-based transformation has been re-prioritised by government's reform policies. This is in contrast to Mophethe's (2015) views, as highlighted in Chapter 3, that there will be a residual benefit for the measured entity should costs be well spent. It was found that, currently, the new Codes hold few or no opportunities for an overwhelming majority of participants to gain a competitive advantage in the market.

The following theme adopts a broader approach.

6.3.5 Theme four: the effect of change – a macro-economic focus

Theme four ties in with Research Question 4: *Does the result of such a change cause impediments to the implementation of national B-BBEE policy?*

A recap on the scope of national B-BBEE policy:

The following B-BBEE objectives were outlined in Chapters 2 and 3, as contained in the B-BBEE Act (53/2003b) and its amendments, providing a meaningful yardstick in assessing national transformation:

- Promoting economic transformation in order to enable meaningful participation of black people in the economy.
- Achieving a substantial change in the racial composition of ownership and management structures and in the skilled occupations of existing and new enterprises.
- Increasing the extent to which the communities, workers, cooperatives and other collective enterprises own and manage existing and new enterprises.
- Increasing the extent to which black women own and manage existing and new enterprises.
- Promoting investment programmes that lead to broad-based and meaningful participation in the economy by black people in order to achieve sustainable development and general prosperity.
- Empowering rural and local communities by enabling access to economic activities, land, infrastructure, ownership and skills.
- Promoting access to finance for black start-ups, small, medium and micro enterprises, co-operatives and black entrepreneurs.
- Increasing effective economic participation and black-owned and managed enterprises, including small, medium and micro enterprises and co-operatives and enhancing their access to financial and non-financial support (South Africa, 2004:4-5; South Africa, 2014:6).

The results of theme one indicated that participants mostly achieved a non-compliant/B-BBEE Level 9 contributor status for the first period under review subsequent to B-BBEE legislative change. This indicates that although transformation has been perceived to have continued to a lesser degree within some of participants' organisations, this cannot be attributed to B-BBEE as the driving force. Thus, the result of Research Question 4 is that for these participants (representative of an overwhelming majority), B-BBEE legislative change caused impediments to the implementation of national B-BBEE policy.

6.3.5.1 Linking the study's results with the reviewed literature relative to the effect of change on a macro level

Chapter 3 concluded that the need for B-BBEE policy reform was due to its slow progress. Dr Rob Davies, Minister of the Department of Trade and Industry (DTI) (n.d.) agrees that the new Codes focus more on productive B-BBEE (see Section 3.2.1.2 of Chapter 3). The results of this study indicate the opposite: It has resulted in regressive responses, further impeding the slow progress of B-BBEE, as reported in the past.

6.3.6 Theme five: the factors of change

Theme five is driven by the need to answer the final research question: *Which factors can be earmarked as having changed and what is the extent thereof?*

Although Chapters 2 to 4 comprehensively noted various factors of change to B-BBEE policy, assessing change relevant to participants' perceptions gave meaningful insight into their knowledge of the subject matter, and in turn further underscored their response(s). The following are the factors of change to B-BBEE policy as extrapolated from Section 1.5.3 in Chapter 1 and elaborated upon in Chapter 3:

- B-BBEE classifications
- B-BBEE rating elements
- Priority elements
- Pointing system
- Empowering Supplier (ES)

Furthermore, participants' level of knowledge relevant to changes to the national B-BBEE policy framework was also assessed. Although theme three indicated participants' low level of knowledge relevant to the new Codes, the reasons for this conclusion are outlined below.

Section 6.3.3 put forth that most participants were found to have a low level of knowledge of the new B-BBEE requirements and landscape. These participants were aware of (some of) the changes and new terms in “having heard of such”, but did not have any idea of their implications for the organisation.

Three participants (out of the 16, 19%) were found to have a low to intermediate level of knowledge of the subject matter. These participants were aware of (most of) the changes and new terms, while displaying a slight degree of knowledge relevant to their implications for the organisation.

The remaining one participant was found to have an intermediate level of knowledge relevant to the new B-BBEE requirements and landscape. This participant was aware of the changes and new terms, as well as their implications (to a marginal degree) for the organisation.

This correlates with the following results:

- Although low levels of knowledge were noted, all participants indicated that B-BBEE legislative change brought about radical change.
- All the participants in this study could not indicate the newly required cost implications in order to achieve their desired B-BBEE status result in the new Codes, again mentioned in theme three in referencing the association between low levels of knowledge and its implications for sound decision making.
- Furthermore, participants reported that they had previously used a B-BBEE consultant to introduce them to the B-BBEE framework relevant to the old Codes, while the minority (5 of the 16 participants [31%] still made use of a consultant relative to their last rating in the old Codes. This indicates that although they may not have had the necessary expertise/knowledge at the time internally, this function was outsourced and hence, prioritised.
- Nine of the 16 (a significant majority of 56%) of the participants formally confirmed their B-BBEE rating status in the new Codes, either by obtaining a valid B-BBEE certificate, or by appointing a consultant to prepare a scenario plan.

6.3.6.1 Theme five: interpreting results relative to the factors of change

In interpreting the above, the following can be noted. An overwhelming majority of participants indicated a low level of knowledge relevant to the latest B-BBEE developments. This pertained to those participants who internally decided to forego verification in the new Codes and did not formally appoint a B-BBEE consultant and/or Verification Agency (VA) to aid in planning for compliance relative to such change. In spite of this, all of the participants failed to conduct an assessment pertinent to costing - this having enjoyed such preference in the past.

Although participants indicated a low level of knowledge of the revised B-BBEE framework, they all shared the commonality of being cognisant of the essential changes made to ownership, the exemption requirement introduced to Qualifying Small Enterprises (QSEs) and the impact thereof on their organisation. This was the driving force behind their confirming radical change to B-BBEE.

6.3.6.2 Linking the study's results with the reviewed literature relative to the five factors of change

Chapter 4 noted radical change when both core activities and assets are threatened with obsolescence (refer to Section 4.10 of Chapter 4) (McGahan, 2008:51-55). The results of the study indicate that introducing black ownership and/or B-BBEE-compliant strategies into the participants' organisations threaten them with obsolescence. Although this is based on untested perceptions of participants in light of their low level of knowledge and preparation relative to these changes, it coincides with evidence in that participants indicated a low need for B-BBEE compliance, driven by no loss of income and market share due to the current stagnant industry's response to such change. Thus, enforcing B-BBEE compliance on these participants is expected to threaten their core activities and assets, and will not have any residual, commercial benefit.

6.3.7 Concluding remarks on themes one to five

A concurrent theme of change can be noted, presented from various perspectives. Furthermore, a dominant theme relative to emotive responses on the subject of black ownership should also not be ignored. The following illustration best simplifies the overall findings of the study and its results.

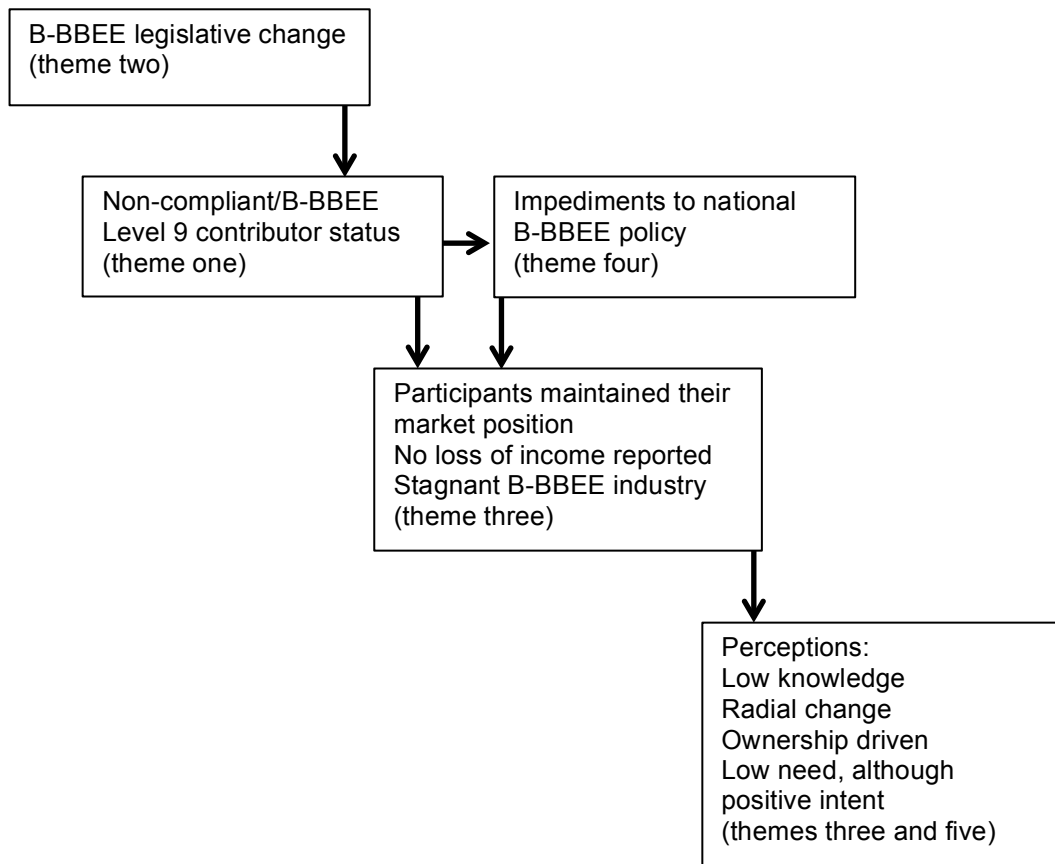


Figure 6.1: Five thematical summaries of this study's results

B-BBEE legislative change was introduced in 2013/2014 via the amendment of the B-BBEE Act (53/2003b), although this was only implemented in 2016/2017 when measurement periods called for participants to be fully bound by the new Codes, for Qualifying Small Enterprisers (QSEs), specifically (refer to Section 3.3 of Chapter 3).

Theme one indicated a non-compliant/B-BBEE Level 9 contributor status as a direct result of B-BBEE legislative change. These results indirectly caused impediments to national B-BBEE policy, as presented in theme four.

Experiencing such alterations to B-BBEE contributor statuses had no effect on participants' income and hence their market penetration. This could be ascribed to the industry's response to change in that it is currently considered as stagnant/'on hold'.

The current approach to B-BBEE is dictated by participants' assessed low level of knowledge of the subject matter, dominated by an overall negative perception of B-BBEE being solely driven by black ownership, reiterating participants' limited need for current compliance. Contrastingly, however, the large majority of participants' future intentions to comply are regarded as positive, serving as a valid justification for projecting increased compliance in the future and best described as: "There seems to be light at the end of the tunnel."

6.4 Summary

This chapter drew from fundamental elements in Chapters 1 to 5 in presenting the analysed data. This was obtained via 16 samples comprising the unit of analysis via qualitative enquiry.

The results were analysed according to a thematic analysis framework, dictated by the research questions. It was imperative not to get lost in the plethora of data obtained from participants' often emotively driven inputs. Five themes were therefore presented, all centered on the primary theme of change.

Chapter 7 presents the summarised findings within the context of this study's aims. It attempts to provide valuable recommendations in dealing with B-BBEE legislative change, all of which are confined to the scope of this study (its unit of analysis). This chapter also links the results of the study to the content of Chapter 1.

CHAPTER 7 CONCLUSIONS AND RECOMMENDATIONS

7.1 Introduction

Chapter 6 presented the results of this explorative study's qualitative enquiry by way of thematic analysis. Five themes were presented, all centered on the primary theme of change in answering the research questions posed in Chapter 1.

This chapter arrives at meaningful conclusions by drawing upon the elements introduced in Chapter 1 of this study. The chapter then focuses on recommendations by:

- presenting the overall findings from Chapter 6 relative to the research objectives, as set out in Chapter 1, thus restructuring the results not only to answer the research questions (as was the case in Chapter 6), but also to also address the study's objectives;
- earmarking the associations and any gaps identified in the data-collection processes: secondary data-collection process (literature review: Chapters 2–5) versus the primary data-collection process (results: Chapter 6). Any gaps identified here will form the basis for initial recommendations, the structure of which will be dictated by the study's objectives;
- further earmarking any gaps/limitations encountered in the research process. These will form the basis for recommendations relative to the process itself; and
- highlighting the value of this study relative to what has been discovered and how it can benefit further research in the field.

7.2 Conclusions

As mentioned above, the study's conclusions are elicited from the elements contained in Chapter 1 as a means of finalising the initially set areas of importance and thus adopting somewhat of a similar sequence.

7.2.1 Problem statement and results

Legislative change to Broad-Based Black Economic Empowerment (B-BBEE) for Qualifying Small Enterprises (QSEs) situated in Cape Town, South Africa (SA), leads to non-compliance and impeded transformation goals.

The results pointed to remarkably robust findings in support of this problem statement.

7.2.2 Previous work done and literature review

Upon commencing the secondary data-collection process it was found that many untested assumptions and debates pervade the B-BBEE industry, as a result of its influence on commerce and driven by its underlying political, social and economic fabric. It was noted previously that no similar studies have been conducted to date, reiterating the importance of this study; thus this study should serve as a point of departure for a deeper intellectual discourse on this topic.

7.2.3 Research methodology

A pragmatic research philosophy was adopted in executing an induced, qualitative enquiry relevant to 16 participants' responses to B-BBEE legislative change. More specifically, this was structured around semi-structured, one-on-one interviews, guided by a customised questionnaire. Furthermore, adherence to the Cape Peninsula University of Technology's ethical guidelines for conducting research was continuously enforced during the data preparation, collection and presentation phases.

7.2.4 Research questions and results

The research questions were successfully addressed in the thematic analysis adopted in presenting the results of the study in Chapter 6.

To recap, the research questions read:

- Is there a possible change in the respective B-BBEE statuses between consecutive periods of measurement?
- If so, can such change be attributed to B-BBEE legislative change?
- If the above hold true:
 - What effect does the measured entity's response have on its commercial activities and its market penetration, in general?
 - Does the result of such a change cause impediments to the implementation of national B-BBEE policy?
 - Which factors can be earmarked as having changed and what is the extent of such change?

7.2.5 Research objectives and recommendations

The research objectives are addressed in the following section by presenting the conclusion of Chapter 6's results relative to recommendations in this chapter, Chapter 7.

The set primary objective was to ascertain whether legislative change to Broad-Based Black Economic Empowerment (B-BBEE) for Qualifying Small Enterprises (QSEs) leads to non-compliance and impeded transformation goals, giving rise to the following secondary objectives:

- On a micro level: To provide clarity on the strategic responses of Qualifying Small Enterprises (QSEs) to B-BBEE legislative change in terms of the commercial factors implicated by such a response(s), as well possible patterns identifiable relevant thereto, while
- On a macro level: To ascertain the prospect of government's achieving its overall transformation goals, as contained in the revised B-BBEE Act (46/2013).

7.2.6 Expected outcome

As noted at the outset of this section, the problem statement was supported, and hence the expected outcomes.

To conclude; the study indicated that legislative change to Broad-Based Black Economic Empowerment (B-BBEE) resulted in non-compliance for Qualifying Small Enterprises (QSEs) and impeded transformation goals.

The remainder of this chapter's focus comprises recommendations. First, however, the study's findings are reiterated as precursor to evaluating the necessary recommendations. These are presented within the ambit of this study's objectives.

7.3 Presenting the study's summarised findings within the realm of its objectives

Section 7.2.5 above outlines the objectives of the study. The following are further insights into how the secondary objectives were derived from the primary objective:

- The term 'non-compliance', as noted in the primary objective statement (see Section 7.2.5 above), directly relates to a measured entity's B-BBEE contributor status, and is thus representative of micro factors, while
- The term 'transformation goals', also used in the primary objective statement (see Section 7.2.5 above), relates to the overall state of the industry, and is thus representative of macro factors.

From the preceding section, it is clear that the primary objective has been met. More specifically, on a micro level, the following findings were noted:

7.3.1 Presenting the study's summarised findings on a micro level

The new Codes precipitated the drop of Qualifying Small Enterprises (QSEs) from an average B-BBEE Level 3/4 contributor status (old Codes) to that of an average non-compliant/B-BBEE Level 9 contributor status (new Codes). This resulted in participants compromising a minimum of five levels in their respective B-BBEE contributor statuses between consecutive periods of measurement. In addition were the results that pointed to a variance of 7 out of 11 participants (64%, a significant majority) who indicated a change (irrespective of the result) relative to their ratings on the old Codes. These findings indicate not only general non-compliance in the market, but also assert its current volatility, followed by uncertainty.

The market's uncertainty was underscored in establishing that most participants have not lost income owing to their current B-BBEE non-compliant/B-BBEE Level 9 contributor status. Note that such status was voluntarily decided on; in other words, participants chose not to undergo a B-BBEE verification and chose not to have their B-BBEE certificate renewed. A time frame for such uncertainty is just short of two years as this is the average period for which participants have not complied with the new Codes. Correlating with this is that participants indicated a low need of B-BBEE compliance, and although this was somewhat matched to correlate with their current stance and future intentions for compliance, further enquiry revealed discrepancies. This indicates an element of optimism relative to the above negative results, forming a compelling argument for a non-compliant trend.

Further robust results were presented in Chapter 6 relevant to participants' strategic responses to the new Codes; low levels of knowledge of the new B-BBEE requirements and landscape were noted. This accords with the finding that participants could not indicate newly required cost implications to achieve their desired B-BBEE status result in the new Codes.

Further to the topic of participants' perceptions is that the overall theme of change identified in Chapter 6 was confirmed by all participants as "radical". All participants had highly negative emotions relating to the renewed focus on black ownership, with the cost factor/red tape reason for non-compliance following closely.

On a macro level the following findings were noted:

7.3.2 Presenting the study's summarised findings on a macro level

Findings on a macro level are directly derived from the results obtained on a micro level, as the latter was the area under investigation. Thus, the above findings (Section 7.2.1) indirectly indicate that B-BBEE legislative change caused impediments to the implementation of national B-BBEE policy. More specifically, the following points form the basis of this statement:

- Non-compliance on a micro level has a collateral effect on the entire economy. The principles underpinning and driving B-BBEE implementation, as contained in the Codes, directly correlate with the objectives of B-BBEE (as contained in the B-BBEE Act (53/3003) and amendments, which have been found to be (at this point) irrelevant.
- Although most participants indicated continuing with transformation (relative to their knowledge of the old Codes and historical actions), further enquiry resulted in their confirming that this was not diligently and/or accurately enforced, as there was no measurement in place assessing compliance. In summary, participants acknowledged less compliance and by analogy, transformation, internally.
- The above acknowledgements were inferenced by most of the participants' views on national transformation. Participants indicated that they believed the new Codes have/would impede national transformation.

The above results are indicative of this study's majority findings from which many pertinent associations could be drawn. Although some obvious gaps/mismatches could/can be identified, the results indicative of the minority findings/variations became significant in supporting these gaps/mismatches as they provide further insight into the area under investigation (what would happen if the respondents had responded/reacted differently)?

The next section is an extension of the inferences from the findings and the collected and reviewed secondary data/literature addressed in Chapter 6 relative to each theme; it again addresses these inferences, from a different perspective – associations and gaps between the literature and the results relative to the study's objectives.

7.4 Identifying areas in which literature supports this study's findings

In short, the results of this study prove remarkably robust in their association with the secondary data collected in Chapters 2 to 4: Literature review. This can be most effectively summarised in matching the findings of this study as: Legislative change to B-BBEE has a considerable effect on Qualifying Small Enterprises (QSEs) (see Section 3.4 of Chapter 3).

This study indicated an average B-BBEE Level 3 contributor status achieved by participants between consecutive periods of measurement under the old Codes. A marginal difference was noted in the study conducted by Who Owns Whom (WOW) in 2016, which reported on a majority B-BBEE Level 4 contributor status achieved in comparing two similar periods of measurement. What is important to note is the inference which can be drawn with regard to the market's stability relevant to the old Codes in that both studies pointed out that, on average, a B-BBEE level contributor status was not compromised. Also, in the overlapping scope between this study's results and the 2018 study conducted by the B-BBEE Commission (see Section 6.6.3, indicating less than 21%), associations could be found in the dominant non-compliant B-BBEE statuses as a result of the introduction of the revised Codes (South Africa. Department of Trade and Industry, B-BBEE Commission, 2018:7, 20).

The literature review revealed no other research study having done the same comparison relevant to the new Codes. Although Chapter 3 highlighted the B-BBEE Commission's report that the biggest category of Qualifying Small Enterprises (QSEs) achieved a B-BBEE non-compliant status, the sample still included sector code QSEs, and thus was not fully representative of statuses achieved in the new Codes. Thus, the new Codes' technical framework was referenced, as well as experts' views on such B-BBEE status change, both of which were presented throughout Chapters 3 and 4. Again, robust associations were drawn in support of the study's findings of a minimum of five B-BBEE contributor status levels being compromised in the transition to the new Codes. Here too supporting inferences can be drawn from the literature and the results obtained from participants alike, supporting the notion of radical change in respect of amended B-BBEE legislation and attributing this to a current uncertain market (Mophethe, 2015; South Africa. Department of Trade and Industry, 2015a:38-50; Taylor, 2017). More specifically, Levenstein's (2015a) views are supported by the participants in this study in his explanation: Qualifying Small Enterprises (QSEs) generally had a competitive advantage over larger, generic entities in the old Codes as they typically enjoyed better B-BBEE status levels; this is perceived no longer to be the case. This gives rise to the issue of black ownership in that participants believe they cannot compete with black-owned enterprises, irrespective of their size. Hence, another correlating theme is that of black ownership; participants' perceptions match both Mantis Networks' (2015) and Goldberg's (2015) views in that black ownership is now very much in focus and that B-BBEE has regressed to narrow-based transformation.

Chapter 3 (Section 3.3) noted that the industry's perceived increased benchmarks for compliance resulted in measured entities manipulating time frames to delay their B-BBEE verification. This was matched by studying the dates on participants' B-BBEE certificates, with renewals in the new Codes for most of the periods being late (2016/2017).

The literature review's focus was on additional compliance for Qualifying Small Enterprises (QSEs), summarised by a study conducted by SBP Business Development Specialists (2013:23) on the effect of 'red tape' on small firms in South Africa (SA), which found that the compliance burden for small firms was on the rise, resulting in retarded growth and development for the economy. The report further indicated 60% of small business to be unsure of the regulations they had to comply with (OECD, 2017:11). This correlates with the confirmed cost/compliance burden by participants, as well as their low level of knowledge of the revised B-BBEE framework, while the economical implications support participants' views in that the new Codes have/will impede national transformation on a macro level.

Mentioned at the outset of this section, the above associations were pertinent in conducting a comparative assessment of the results of the study (Chapter 6) with its academically deduced framework (Chapters 2 to 4). The gaps, however, were less obvious (and, in most cases, elements were matched with reviewed literature), yet imperative to the study, adding value.

7.5 Recommendations based on the gaps identified in the data collected on a micro level

The following five recommendations, which have direct relevance to participants operating on a micro level (as presented in the summary of findings in Section 7.3.1 above) are discussed in this section:

7.5.1 Recommendation one:

The first gap identified, noted from Section 7.3.1, relates to the unmatched low levels of knowledge expressed by participants, linked to their decisive stances in willingly opting for non-compliant results, based on internal assessments.

Botha (2017) expected such low levels of knowledge relevant to the new Codes as cited in Chapter 3's literature review: "[T]he average SME will not be able to afford the skills necessary to implement a BBEE strategy to their full advantage." This is also supported by the BEE Institute (2015), pointing out that a verification for Qualifying Small Enterprises (QSEs) in the new Codes "...is far more difficult to do..."

It is recommended that participants address their incremental insights relative to the theoretical framework embedded in the new Codes and their effect on their organisation. The justification for this can be traced to Chapter 4 (Section 4.9), which indicated that (although now identified as in the face of adversity), the new Codes may have opportunities for measured entities opting to embrace change to hold competitive advantage in the market. This is seemingly disregarded by participants, without taking into consideration the process of sound decision making. Thus, this recommendation accords with sound decision-making theories: "[D]ecision making is one of the most important – if not the most important – of all management activities" (Lunenburg, 2011:1).

Myatt (2012) asserts that the key to understanding how to make great decisions is learning how to synthesise the overwhelming amount of incoming information organisations deal with on a daily basis in making the best decisions possible, in a timely fashion. The author outlines the following process in making sound decisions, linked to practical advice relative to the current B-BBEE landscape, as assessed:

- Perform a situation analysis: the first step participants are advised to do is to conduct a sound scenario plan, that is, to use their current status (latest measurement period) in estimating a mocked-up B-BBEE result.
- Subject the decision to public scrutiny: strategic decision makers are advised to share results by opening them up to public scrutiny. The aim is to get as many as possible inputs from internal stakeholders in supporting or rejecting the situation analysis, and to further present recommendations, where/if possible.
- Conduct a cost/benefit analysis: this analysis and scrutiny should include a realistic cost analysis in assessing whether allocating the necessary resources to B-BBEE compliance is worthwhile. This will result in comprehensively deducing the participants' B-BBEE need.
- Assess the risk/reward ratio: such an assessment links in with the above cost/benefit analysis to include other elements, such as opportunity cost.
- Assess whether it is the right thing to do: B-BBEE hinges on a moral principle in that it underpins this consideration – Is it the right thing to do? For example, upskilling staff, making donations, supporting small businesses – all of which are linked to previously disadvantaged individuals because of South Africa's (SA's) rich history, as highlighted in Chapter 2.
- Make the decision: participants' current decisions do not indicate their consideration of the above elements, and should the participants' decisions be of a willingly elected non-compliant B-BBEE status, this would then be regarded as sound and just.

- Always have a black-up plan ('plan B'): participants are advised to consider alternatives; this holds especially true in the current volatile/uncertain B-BBEE industry.

7.5.2 Recommendation two:

Participants' low level of knowledge (dealt with in recommendation one) influences the manner in which they deal with change.

Chapter 4 referred to McGahan (2008:51-55), in noting four distinct trajectories of change: radical, progressive, creative and intermediating. It was established that radical industry revolution was initiated by B-BBEE legislative change. Qualifying Small Enterprises (QSEs) operating in the industry are faced with the threat of obsolescence to both their core activities and assets. Furthermore, all the participants in the study confirmed the notion of radical change effected by the refined Codes (see Section 6.3.6 of Chapter 6). However, linking the (possible) effects of radical change to their organisations appeared to be lacking.

The author further advises that if a company's innovation strategy is not aligned with its industry's change trajectory, its plan for achieving returns on invested capital cannot succeed (McGahan, 2008:52). Hence, each measured entity wishing to obtain a B-BBEE certificate in the new Codes will have to carefully consider its industry's alignment with B-BBEE in establishing its change trajectory. This ties in with recommendation one in making sound decisions. Participants will have to deduce carefully their B-BBEE need relative to radical industry change.

More specifically, organisations are advised to accept the inevitability of the change (although not likely to happen overnight) and chart a course that maximises returns without accelerating commitment to the troubled business. The author opines that this is "...much easier said than done" (McGahan, 2008:57).

7.5.3 Recommendation three:

Another gap can be identified, also noted in Section 7.3.1: the mismatch between participants' current B-BBEE standing (non-compliance) and their future/intended B-BBEE standing (perceived response).

The possible rationale for this mismatch could be ascribed to the time factor. McGahen (2008:57), as referenced above in recommendation two, states that radical change does not happen overnight: “It usually takes decades for change to become clear and play out.” This ties in with the conclusion in Chapter 6 (Section 6.3.7) that the B-BBEE industry’s response to change seems somewhat stagnant.

Although this study sheds light on the fact that participants’ non-compliance is currently not supported by sound and decisive strategy setting, it is still advised that this should occur (recommendation one and two). Upon such empowerment, participants are advised to use this ‘delayed’ time factor to their advantage. Participants who have accurately established their B-BBEE need as medium to high, can capitalise on this in that a possible loss of their market share is not imminent, while introducing reform strategies gradually, over time; similarly, participants who have accurately established their B-BBEE need as being low to medium, should continue with business as usual, while being in a position of power should any unforeseen change in the industry occur requiring them to reassess their B-BBEE need.

7.5.4 Recommendation four:

This gap presents itself in that the results of the study dealing with family-owned and managed organisations, relative to SMMEs/QSEs, could not be traced in and/or compared with reviewed literature. This was seen as the ‘surprise’ element in that it was a fundamental factor which influenced the results of the study, not considered prior to collecting and analysing data. It is, however, a typical phenomenon in an explorative study based on grounded theory principles (see Chapter 4, Section 5.5).

PricewaterhouseCoopers (2016:4) reported in their 2016/2017 ‘Family Business Survey’ that more than a third of family businesses in South Africa (SA) plan to pass the business ownership and management onto the next generation. This gives some insight into the noted reluctance from participants in addressing alternative options to these structures.

The gap in literature can indirectly be traced to the statement by Von Maltitz (2015), that the new Codes for QSEs “are significantly more onerous than before, making it in many cases, easier (and potentially more cost effective) to implement a 51% ownership transaction than to comply with all the other aspects of the code”. With participants’ responses not following suit in pursuing this as a strategy, this could be because of their businesses being family owned.

Family-owned and managed QSEs are advised to carefully consider their B-BBEE need relative to the factors specified in Section 7.5.1 above for making sound decisions, as well as take into account the industry’s change trajectory and expected time frames. The option to forego some ownership and control for these participants may prompt (an) opportunity(ies) of real, residual growth and value.

The next recommendation, recommendation five, is to some extent a continuation of recommendation four as it introduces the topic of black ownership.

7.5.5 Recommendation five:

This gap is also derived from the mismatch between the content of Chapters 2 to 4 and Chapter 6 in support of the researcher’s perception that the impetus for the study was that the cost/red tape burden was/is the leading cause of participants’ non-compliance. Although not disregarded in the findings, it was established that the introduction of revised black ownership requirements to the new Codes was the driving force associated with non-compliance with B-BBEE.

Participants’ highly emotive responses to the topic of black ownership are seemingly linked to their unwillingness to take into account further options for compliance, and this hinders sound decision making/strategy setting processes relative to the industries’ radical change trajectory. Thus, in order to ensure the successful implementation of the above recommendations, it is advised that emotive responses to B-BBEE legislative change, particularly surrounding the topic of black ownership, be replaced by more objective/factual considerations to ensure sound decision-making (recommendation one).

More specifically, the introduction of Broad-Based Ownership Schemes (BBOs) and Employee Share Ownership Schemes (ESOPs) as ownership solutions was addressed. Chapter 4 introduced the limits to such structures introduced in 2015, and retracted soon after. This has caused further uncertainty for some participants considering the introduction of black ownership via such structures. These participants' concerns are regarded as valid and it is recommended that in these cases the factor of time ('stagnant/uncertain market') should be capitalised upon, especially in the current climate of change.

7.6 Recommendations based on the gaps identified in the data collected on a macro level

The results of this study point to the seemingly obvious conclusion that participants are exiting the B-BBEE market, and while their intention to comply is still apparent, government is advised to take urgent action by means of further research in overcoming the demarcations of this qualitative study, thereby limiting its scope (outlined in Chapter 1, Section 1.6.4.1). It has been noted that although B-BBEE legislative change is the single contributing factor to this exodus, and hence, radical industry reform, the study illustrates a market that is somewhat stagnant (for an average period estimated at short of two years) in response. Thus, the opportunity for government to proactively effect further appropriate strategies relative to current B-BBEE reform policies has been identified.

In short, there is an obvious gap indicated by the results of this study to government's intent, as stated by Department of Trade and Industry's (DTI's) (n.d.) Minister, Dr Rob Davies, in Section 3.2.1.2 of Chapter 3: "...the refined Codes symbolise a new beginning in the re-orientation of the transformation policy to focus more on productive B-BBEE and the growth of black entrepreneurs through Enterprise and Supplier Development elements".

What needs to be done? Again, this study only serves as indicative of the limited responses of participants subject to the scope of the thesis, and so the following recommendations to government should be regarded as a starting point for further investigations/research prior to any action/further change.

7.6.1 Recommendation six:

The Small Enterprise Development Agency (2016:21-22) reported that the majority black ownership in SMMEs was represented by the black population group in 2015, with less than half attributed to informal SMMEs (that is, not legally registered organisations). The expected effect is that the driver of economic transformation, Preferential Procurement (PP), is superfluous for the majority of these organisations as an automatic B-BBEE contributor status level is now awarded to these organisations.

This study does not include in its scope Qualifying Small Enterprises (QSEs) with black ownership prior to the amendments to the Codes. The results are thus indicative of the 'minority' SMMEs. The study indicated that without black ownership, a QSE would (best case scenario) achieve a B-BBEE Level 7 contributor status. There is thus a mismatch in the expected levels of B-BBEE achievement in the industry: those with black ownership, representative of top-performing statuses (Level 2 and higher) and those with no black ownership, representative of low-performing statuses (Level 7 and lower), although an average of non-compliance is noted. It is unlikely that a QSE will decide to add to its resource burden by introducing less than 51% black ownership to achieve a B-BBEE level contributor status lower than potential black-owned competitors operating at higher B-BBEE statuses (Levels 1 and 2). It is also expected that, over time, the low-performing QSEs (currently indicative of non-compliant statuses) will follow suit.

In short, the results of the study indicate that it is relatively safe to assume that if the 'minority' SMMEs are not addressed in terms of their current non-compliant responses to the new Codes, that the driving force of B-BBEE, which is Preferential Procurement (PP), will become redundant and so too the entire notion of black ownership relative to business-to-business (B2B) transactions. (This analogy does not take into account transactions with government.)

Further supporting the potential redundancy of Preferential Procurement (PP) in driving economic transformation via the new Codes, is the fact that Exempted Micro Enterprises (EMEs) continue to be awarded automatic B-BBEE Level 4 contributor status, as well as the possible introduction of the same black ownership advancement for generic enterprises, as noted in Section 3.12 of Chapter 3. This has the potential of attributing these assumptions regarding Qualifying Small Enterprises (QSEs) to the entire industry.

Another point of 'concern' imperative for government to address is that a mere 34% of black-owned SMMEs trade in the formal sector, with the majority being white owned. Though the study might seem to address the minority, in commercial terms relative to an impact assessment, this is seemingly not the case.

It is therefore highly recommended that government not disregard the effect of SMMEs/QSEs with less than 51% black ownership on B-BBEE and the economy, as a whole. Again, further research is needed here.

7.6.2 Recommendation seven:

Following the above is the recommendation to government to change current compliance requirements for Qualifying Small Enterprises (QSEs) to be less onerous.

The aim should be for these organisations to realistically achieve a minimum:

- B-BBEE Level 4 contributor status without black ownership and management to enable white-owned and managed organisations to compete in their respective markets with automatically advanced Exempted Micro Enterprises (EMEs). Doing so also addresses the family-owned and managed businesses addressed earlier in this chapter; and
- B-BBEE Level 2 contributor status with less than 51%, but more than 25% black ownership and management to enable these organisations to compete with automatically advanced black-owned organisations, thereby addressing their red tape and compliance cost burden.

The above does not detract from awarding black-owned (>51%) QSEs the opportunity of automatically advancing to a B-BBEE Level 1/2 contributor status; it merely addresses the realistic opportunity for organisations (specifically, the participants in this study) currently regarding B-BBEE as 'not worth it', the opportunity to compete with the aforementioned. In doing so, B-BBEE is expected to continue to be driven by demand and supply forces in the economy, via commercial business-to-business (B2B) transactions.

The following technical framework, as delineated in Chapter 4, is used as a point of reference in these recommendations.

7.6.2.1 Recommendation for treating white-owned and managed (family) Qualifying Small Enterprises relative to the new Codes

As mentioned earlier, the aim is to make available the opportunity for white-owned and managed Qualifying Small Enterprises (QSEs), often structured as family-owned and managed organisations, to compete in the B-BBEE sphere in achieving an ‘average’ B-BBEE status, that is a B-BBEE Level 4 contributor status, relevant to their Exempted Micro Enterprise (EME) counterparts.

Chapter 6 summarised that such organisations could, best case scenario, achieve a B-BBEE Level 8 contributor status: 68 points translate into a B-BBEE Level 7 contributor status with the discounting principle taking effect.

Table 7.1: Illustration of how a white-owned and managed QSE is treated in the new Codes, best case scenario (Adapted from Tables 1.2 and 3.4, respectively)

Rating element	Weighting points	Expected points
Ownership	25 points	0 points
Management & Control (M&C)	15 points	8 points
Skills Development (SD)	25 points	25 points
Enterprise and Supplier Development (ESD)	30 points	30 points
Socio-Economic Development (SED)	5 points	5 points
Total	100 points	68 points

B-BBEE Status	old Codes	new Codes	Recognition %
Level 1	≥100 points	≥100 points	135%
Level 2	≥85 points <100	≥90 points <100	125%
Level 3	≥75 points <85	≥85 points <90	110%
Level 4	≥65 points <75	≥80 points <85	100%
Level 5	≥55 points <65	≥75 points <80	80%
Level 6	≥45 points <55	≥70 points <75	60%
Level 7	≥40 points <45	≥55 points <70	50%
Level 8	≥30 points <40	≥40 points <55	10%
Level 9/Non-compliant	<30	<40	0%

Also, to recap on Chapter 1’s summary of the five fundamental changes to the Codes (and elaborated upon in the preceding literature review chapters), the following were highlighted:

- B-BBEE classifications
- B-BBEE rating elements
- priority elements
- pointing system
- Empowering Supplier (ES)

The recommendations are thus geared towards these overall changes, as amendments to the technicalities embedded within the B-BBEE rating elements (detailed in Chapter 4, specifically), are regarded as a likely cause of further uncertainty and confusion for measured entities.

From the above scenario, it can be noted that a mere change to the treatment of the discounting principle and the allocated weighting point changes calls for further attention. Should the discounting principle be removed in its entirety and the weighting point system used in the old Codes be reintroduced for Qualifying Small Enterprises (QSEs), specifically, such a change could achieve the desired result: QSEs with no black ownership and Executive Management (EM) could, best-case scenario, now achieve a B-BBEE Level 4 contributor status: 68 points translates into a B-BBEE Level 4 contributor status without a discounting principle taking effect.

Table 7.2: Illustration of how a white-owned and managed QSE is recommended to be treated in the new Codes, best-case scenario (Adapted from Tables 1.2 and 3.4, respectively)

Rating element	Weighting points	Expected points
Ownership	25 points	0 points
Management & Control (M&C)	15 points	8 points
Skills Development (SD)	25 points	25 points
Enterprise and Supplier Development (ESD)	30 points	30 points
Socio-Economic Development (SED)	5 points	5 points
Total	100 points	68 points

B-BBEE Status	old Codes	new Codes	Recognition %
Level 1	≥100 points	≥100 points	135%
Level 2	≥85 points <100	≥90 points <100	125%
Level 3	≥75 points <85	≥85 points <90	110%
Level 4	≥65 points <75	≥80 points <85	100%
Level 5	≥55 points <65	≥75 points <80	80%
Level 6	≥45 points <55	≥70 points <75	60%
Level 7	≥40 points <45	≥55 points <70	50%
Level 8	≥30 points <40	≥40 points <55	10%
Level 9/Non-compliant	<30	<40	0%

7.6.2.2 Recommendation for treating white-owned and managed (family) Qualifying Small Enterprises wishing to introduce a marginal portion of black ownership to the organisation, relative to the new Codes

As mentioned earlier, the aim is to make available the opportunity for white-owned and managed Qualifying Small Enterprises (QSEs), often structured as family-owned and managed organisations, to further compete in the B-BBEE sphere should they wish to achieve a B-BBEE status higher than the ‘average’; that is, a B-BBEE Level 4 contributor status. In doing so, it would address the cost/red tape burden of such organisations undergoing a B-BBEE verification in the new Codes as another alternative to introducing a majority black ownership structure, yet achieving transformation objectives relative to these elements.

The following scenario presents such QSEs wishing to introduce 26% black ownership to their organisation, using the revised ownership Detailed Scorecard (DS) as is.

Table 7.3: Illustration of how a white-owned and managed QSE is recommended to be treated in the new Codes relative to the ownership Detailed Scorecard, best case scenario
(Adapted from Table 4.4)

INDICATOR	WEIGHT	TARGET(%)	RESULT
Exercisable voting rights in the entity in the hands of black people	5	25% + 1 vote	5
Exercisable voting rights in the entity in the hands of black women	2	10%	2
Economic interest in the entity to which black people are entitled	5	25%	5
Economic interest in the entity to which black women are entitled	2	10%	2
Economic interest in the entity to which Black New Entrants (BNEs) or black designated groups are entitled	3	2%	3
Net value	8		8
Ownership element score	25		25

The following assumptions were made in devising an expected ownership score:

- The measured entity has 100 voting rights, equally divided among shareholders.
- Twenty-six percent black ownership; a minimum 10% black female ownership and minimum 2% in the hands of a Black New Entrant (BNE), as defined.
- Ownership was awarded to (a) black candidate(s) in the year of measurement, hence a graduation factor of 10% was used.
- There are no debt associations with the equity held by this(these) candidate(s).

Furthermore, the following scenario presents the preliminary results leading to an introduction of 26% black Executive Managers (EMs) to a Qualifying Small Enterprise (QSE), using the revised Management and Control (M&C) Detailed Scorecard (DS) as is.

Table 7.4: Illustration of how a white-owned and managed QSE is recommended to be treated in the new Codes relative to the Management and Control Detailed Scorecard, best-case scenario (Adapted from Table 4.7)

INDICATOR	WEIGHT	TARGET(%)	RESULT
Black Executive Management as a percentage of all Executive Management	5	50%	2,6
Black female Executive Management as a percentage of all Executive Management	2	25%	0,8
Black employees in senior, middle and junior Management as a percentage of all such management	6	60%	6
Black female employees in senior, middle and junior management as a percentage of all such management	2	30%	2
Management and Control element score	15		11,4

The following assumptions were made in presenting an expected Management and Control (M&C) score:

- Each EM has equal rights in the organisation.
- Twenty-six percent black EMs, minimum 10% representative of (a) black female EM.

The combined effect of the following changes (the introduction of more than 25% black ownership and EM) to QSEs is now presented. Bear in mind that the previous recommendations are still valid. The discounting principle is removed and the pointing system adapted to again be representative of that of the old Codes.

Table 7.5: Illustration of how a white-owned and managed QSE is recommended to be treated in the new Codes relative to ownership and Executive Management, best-case scenario (Adapted from Tables 1.2 and 3.4, respectively)

Rating element	Weighting points	Expected points
Ownership	25 points	25 points
Management & Control (M&C)	15 points	11,4 points
Skills Development (SD)	25 points	25 points
Enterprise and Supplier Development (ESD)	30 points	30 points
Socio-Economic Development (SED)	5 points	5 points
Total	100 points	96,4 points

BBBEE Status	old Codes	new Codes	Recognition %
Level 1	≥100 points	≥100 points	135%
Level 2	≥85 points <100	≥90 points <100	125%
Level 3	≥75 points <85	≥85 points <90	110%
Level 4	≥65 points <75	≥80 points <85	100%
Level 5	≥55 points <65	≥75 points <80	80%
Level 6	≥45 points <55	≥70 points <75	60%
Level 7	≥40 points <45	≥55 points <70	50%
Level 8	≥30 points <40	≥40 points <55	10%
Level 9/Non-compliant	<30	<40	0%

Such measured entities are now expected to achieve a B-BBEE Level 2 contributor status, best-case scenario: 96 points translates into a B-BBEE Level 2 contributor status without a discounting principle taking effect.

In summary, the following recommendations have been made, relative to recommendation seven:

- Eliminate the discounting principle in its entirety for Qualifying Small Enterprises (QSEs).
- Revert to the pointing system used in the old Codes for QSEs.

In effecting the above marginal changes to current legislation, the perceived focus relative to ownership in the new Codes is expected to shift from only including the elite few black persons, indirectly securing the ultimate driving force of B-BBEE relative to business-to-business (B2B) transactions for QSEs, which is Preferential Procurement (PP) (Shubane, 2007:168-169; Tangri & Southall, 2008; *The Economist*, 2010; Krüger, 2011; Krüger, 2014).

The following recommendation is also based on the perceived ‘black ownership focus’ on the part of government relative to the new Codes.

7.6.3 Recommendation eight:

This recommendation is built on the notion of: ‘where there is a will there is a way’. Participants with an above average identified B-BBEE need indicated that they would consider alternative strategies in solving their dilemma occasioned by non-compliance. As mentioned in Chapter 6 (see also Table 6.6 for a concise illustration), this could be regarded as fronting. This recommendation, although presented as a gap in the system, also presents an association with reviewed literature, more specifically, the views of Keith Levenstein (2015a), in that the new Codes are believed to encourage more fronting, because the Codes are so much more difficult to achieve (see Section 3.3 in Chapter 3).

Participants currently believe that there is no other alternative to effectively compete in the B-BBEE sphere without more than 51% black ownership incorporated into their present structures. It is for this reason that some are considering restructuring strategies, all of which seemingly relate to their commercial stance underpinned by B-BBEE motives.

The current system requires measured entities to appoint Verification Agencies (VAs) solely directed at assessing the measured entity’s B-BBEE status for a particular annual period. No further investigations are done relative to a measured entity’s group structure – Multinational Corporations (MNCs) operations/subsidiaries/related organisations.

It is therefore recommended that the Verification Manual (VM) be assessed in terms of the practices set out for Verification Agencies (VAs) in assessing a measured entity’s relationship with other organisations (currently beyond its ambit) when appointed to conduct a verification. In doing so, VAs are made accountable to report any possible unscrupulous findings relative to such activities to the B-BBEE Commission (now responsible for overseeing fronting).

7.6.4 Recommendation nine:

Recommendation nine is closely linked to recommendation one, as it relates to education. The knowledge gap is recommended to be addressed also at a macro (national) level in affecting the micro (organisational) level; in turn again affecting the macro level/economical climate.

Should government (perhaps via the B-BBEE Commission) drive B-BBEE educational workshops on an annual basis, in a similar fashion to the Sectoral Education and Training Authority (SETA) workshops, it is expected to include the following benefits: improvement of stakeholders' low levels of knowledge relevant to B-BBEE, as well as improvement of current negative perceptions surrounding B-BBEE. Government would thereby demonstrate its commitment to B-BBEE and be seen to be more approachable on such issues.

It is also advised that government introduce a B-BBEE-oriented approved National Qualifications Framework (NQF) level qualification, similar to the Management and Development Programme (MDP) introduced in Section 2.13 of Chapter 2, accessible to relevant undergraduate students as part of their curriculum. B-BBEE is becoming an integral part of doing business, and educating students now will ensure a future workforce with sound knowledge of the subject matter. Empowerment through education is key.

The following recommendations are based on the research process itself:

7.7 Recommendations based on the gaps identified in the research process

This section elaborates on any gaps identified in the research process, most of which are directly linked to the initially set demarcations, giving rise to certain limitations of the study (see Section 5.10.1 of Chapter 5). Each demarcation/limitation is presented in this section in which gaps/elements for improvement were identified relative to this study's research process.

Included is the study of Qualifying Small Enterprises (QSEs), while the study of Exempted Micro Enterprises (EMEs) and generic enterprises was excluded. For the purpose of clarity (furthermore), the term QSE refers to an enterprise defined as such in the new Codes (with an annual turnover between R10 and R50 million), as well as in the old Codes (with an annual turnover between R5 and R35 million) between consecutive periods and being measured.

This demarcation was not fully adhered to. Chapter 6(Section 6.2) indicated that two participants had, for the first period subject to verification in the new Codes, received an Exempted Micro Enterprise (EME) status certificate. Such participants were regarded as a Qualifying Small Enterprise (QSE) in the old Codes, and although such status was expected to carry over into the new Codes, it did not manifest in practice.

This was not known to the Verification Agency (VA) indicating these participants as part of the target population and was only brought to the fore upon commencing the data-collection process. In Chapter 6, a reasonable validation for including these samples in the study's unit of analysis was provided, concluding that including these was not expected to materially affect the results of the study. It did, however, complicate the analysis and presentation of findings. In reverting to the findings, there was no need to include these participants, as the study was a qualitative enquiry with increased numbers of participants not achieving anything other than unnecessarily complicating the process.

B-BBEE sector codes were excluded, owing to varying time frames of gazette and implementation.

Similar to the previous demarcation, this was also not fully adhered to as one participant was classified under the realm of the Chartered Accounting (CA) sector code. Here too, reasonable validation for including this sample in the study's unit of analysis was provided, concluding that including it was not expected to materially affect the results of the study. It did, however, result in some variances which had to be treated differently, and therefore also complicated the analysis and presentation of the findings. Fortunately, future researchers will have had the benefit of sufficient time elapsing to include measured entities bound by sector codes, as all measured entities will have been subject to the same parameters relevant to achieving compliance on their respective B-BBEE legislative frameworks. It is, however, recommended that each sector code is analysed and presented separately to take into account the effect that the industry has on compliance relative to its unit of analysis.

Excluded from the study were Qualifying Small Enterprises (QSEs) with more than 51% black ownership prior to the B-BBEE legislative amendments (and not as a strategic response thereto).

In contrast to the above two delineations, including these organisations in the sample is now expected to have provided more depth to the findings. The following serves as valid justification. Since black-owned SMMEs/QSEs dominate the market, further investigation into their role and prevalence in the industry would have contributed to the value of the findings, even though the focus was never on this market segment.

The study was confined to the borders of South Africa (SA). More specifically, clients of an approved B-BBEE Verification Agency (VA) located in the Cape Town metropole.

This study draws upon a national issue, and so, a major limitation relative to the value this study has (an issue which will be dealt with shortly) is traced to its inability to generalise findings to the bigger population; thus, the results are confined to the 16 participants of the study. More specifically, one Verification Agency (VA) was conveniently sampled relative to collecting primary data, with little potential for deducing its findings beyond the unit of analysis. Although this was imperative in reaching a result and currently is still regarded as a unique value add due to the sensitivity of information surrounding the data collected, analysed and presented, future recommendations are to adopt a different philosophy altogether. Chapter 3 indicated that the B-BBEE Commission now is responsible for the establishment and maintenance of an official database containing every rating certificate issued by a Verification Agency (VA). To ensure the database remains current, VAs are required to upload every certificate they issue (B-BBEE Commission, 2017b:9). This is yet to be implemented (2018), but should be a most useful source in achieving the primary aim of this study. This would require a more quantifiable philosophy relative to positivism and would allow for credible inferences to be drawn to the entire population as it would stretch beyond the ambit of one VA and one region.

This recommendation serves as a solution to another, more personal limitation experienced, relating to the researcher's Type A personality which did not match the workings of adopting grounded theory as a research strategy. This strategy allowed for fundamental issues to come to the fore **front** upon collecting and analysing primary data, without the foundation established in a literature review in anticipating this. It results in the feeling that the secondary data-collection process has not been finalised.

Another recommendation, linked to an initially set demarcation, contrastingly relates to the value of the study instead of its gaps/weaknesses.

Included is the study of Qualifying Small Enterprises (QSEs), while the study of Exempted Micro Enterprises (EMEs) and generic enterprises was excluded.

The value of the study lies in that it is demarcated to QSEs found not to meet the demands of red tape/cost burden placed on them via the revised Codes in the same fashion as their generic enterprise counterparts, while a similar investigation relative to Exempted Micro Enterprises (EMEs) would prove pointless (as these are not required to undergo a verification). This does not necessarily mean that generic enterprises' response to the revised Codes is any different, as these were not investigated. In fact, there is value expected in conducting a similar investigation on generic enterprises, especially in light of the recent proposed exclusion of black-owned generic enterprises from the verification process (referenced in Section 7.6.1: Recommendation six). It is therefore recommended that research be done on this issue once such a proposed amendment has been gazetted and sufficient time has elapsed for the industry to respond.

The next section outlines the overall value of this study and how it can benefit current stakeholders, as well as proposing future research to be conducted in this field.

7.8 The value of this study

Although there are substantial gaps presented by the study, it is of significant value to all stakeholders engaged in commerce with and/or within South Africa (SA). Its value can be ascribed to:

- Impeccable timing: the contemporaneity of the market's response to B-BBEE legislative change.
- The researcher's ability and/or resources in eliciting such sensitive information from the market relative to the data-collection process.
- No similar studies have been conducted to date. A marginal exception to this statement can be made, however, due to a similar study undertaken in 2018 by the B-BBEE Commission, with its congruency in scope having proved to be restricted. Thus, the results of this study are expected to depose the many untested assumptions, debates and opinions surrounding the current B-BBEE policy.

It should be noted, however, although this study's contemporaneity authenticates its value, this is regarded as the single reason for the study's obsolescence within the next five to ten years.

In light of the above, the real value of this study lies in its potential for further research on the topic. It should be regarded as a starting point for future research. In short, the results of this study indicate that participants are exiting the B-BBEE market, and while their intention to comply is still apparent, urgent action is required by further research aimed at overcoming this expected event.

7.9 Summary

This chapter commenced in drawing conclusions from all the elements presented in Chapter 1 of the thesis.

Next, the overall findings (Chapter 6) of the study, relative to its objectives (Chapter 1), were discussed. It further earmarked associations and eight gaps in comparing secondary data collected (from the literature review, Chapters 2 to 5) to the primary data-collection process (the results of the study, Chapter 6); the identified gaps formed the basis for recommendations. Another six gaps were identified as encountered in the research process, and these formed the basis for recommendations relative to the process itself. The recommendations formed the basis for further reiterating the value of the study, best expressed in the following key words/phrases: contemporary, authentic, potential, starting point.

CHAPTER 8 SUMMARY

8.1 Introduction

This thesis intended to deduce empirically the perception that B-BBEE legislative change leads to non-compliance and impeded transformation goals for Qualifying Small Enterprises (QSEs) situated in Cape Town, South Africa (SA). In essence, the results of the study pointed to remarkably robust findings in support of this problem statement.

This chapter provides for a retrospective approach in summarising each phase in the research process. Firstly, however, an extract from Chapter 1 relevant to the problem statement and objectives of the study.

8.2 The problem statement

As noted above, the problem statement reads: Legislative change to Broad-Based Black Economic Empowerment (B-BBEE) for Qualifying Small Enterprises (QSEs) situated in Cape Town, South Africa, leads to non-compliance and impeded transformation goals.

8.3 Objectives

The primary aim of the study was to ascertain whether legislative change to Broad-Based Black Economic Empowerment (B-BBEE) for Qualifying Small Enterprises (QSEs) leads to non-compliance and impeded transformation goals.

Irrespective of the findings, the following subsidiary objectives sufficed:

- On a micro level: to provide clarity on the strategic responses of Qualifying Small Enterprises (QSEs) to B-BBEE legislative change in terms of the commercial factors implicated by such a response(s), as well possible relevant, identifiable patterns.
- On a macro level: to ascertain the likeliness of government's achieving its overall transformation goals, as contained in the revised B-BBEE Act (46/2013).

8.4 Literature review

In summary, the literature review provided the necessary academic framework to fully understand the problem stated in the outset of this chapter (Section 8.2). More specifically, it shed light on the following concepts:

- *(Broad-Based) Black Economic Empowerment [(B-B)BEE]* is a policy introduced post apartheid to redress an array of injustices to citizens of African, Coloured or Indian racial descent, as a result of South Africa's (SA's) non-democratic past (Schneiderman, 2009; Brand South Africa, 2013).
- Amid the plethora of *legislative* frameworks for policy setting, reform and implementation relevant to B-BBEE, the study is predominantly confined to its tool of measurement: The 'Codes', of which this study made reference to:
 - the old Codes, gazetted on 9 February 2007; and
 - the new Codes, represented by two publications: the first, gazetted on 11 October 2013 and the second on 6 May 2015 (South Africa. Department of Trade and Industry, 2007a; South Africa. Department of Trade and Industry, 2013a; South Africa. Department of Trade and Industry, 2015a).
- *Qualifying Small Enterprises (QSEs)* are enterprises with annual turnovers between R10 and R50 million with overarching similarities noted in the literature review with Small, Medium and Micro Enterprises (SMMEs) (South Africa. Department of Trade and Industry, 2013a:7). This categorical delineation, together with the exclusion of B-BBEE sector codes, was presented in collecting and reviewing secondary data.
- B-BBEE is inherently confined to the borders of *South Africa (SA)*, owing to its being a local issue. The geographical location was further demarcated to the *Cape Town* metropole.
- The literature review theoretically outlined the link (as denoted by the term '*leads to*' within the problem statement) between B-BBEE legislative change and a change to the QSE's B-BBEE results, presented in its B-BBEE certificate and Detailed Scorecard (DS).
- *Non-compliance with B-BBEE* was highlighted as occurring in one of two ways:
 - when a measured entity undergoes a B-BBEE verification to effectively receive no status as a result, although a B-BBEE certificate and Detailed Scorecard (DS) were issued indicating such status; or
 - when a measured entity opts not to undergo a B-BBEE verification, as a non-compliant status is inevitable. These QSEs are not in the possession of a B-BBEE certificate and ultimately share in the status of being regarded as non-compliant B-BBEE contributors.
- Lastly, the literature review proceeded to draw associations between achieving a non-compliant B-BBEE status (on a micro level) and impeded transformation goals (on a macro level).

B-BBEE is a pervasive phenomenon in modern South Africa (SA). Lindsay (2015:308) asserts that it has been subject to little analysis of a conceptual nature and is not well understood, inhibiting effective policy formation. This study further explored this view in elucidating measured entities' strategic responses to policy amendments.

Collecting secondary data, that is, reviewing literature, was critical to this study as it provided a solid foundation relative to a subject matter embedded in technical jargon and often driven by highly emotive/subjective inputs from stakeholders.

The literature study explored the legislative frameworks contributing to the rich history of B-BBEE in South Africa (SA), using a timeline approach. It covered literature from the onset of apartheid (1900s), and then investigated the mechanisms for its redress a decade into policy reform (2013/2014). However, the rationale for B-BBEE policy reform during this time was not clearly identifiable, owing to the following:

- On a micro level: In reviewing relevant secondary sources of data, little credible data exists.
- On a macro level: The 'current' inherent lack of a reliable instrument for holistically measuring performance relevant to B-BBEE.

Fortunately, in continuing an exploration of the legislative frameworks within the rich history of B-BBEE in South Africa (SA) from 2013/2014 to date (2018), the rationale became clear. The need for B-BBEE policy reform could be ascribed to its perceived 'slow' progress of transformation on a micro level, while the necessary infrastructure was put in place on a macro level to formalise compliance in support thereof.

With the literature review having clarified the rationale for B-BBEE legislative change, the next natural sequence of investigations was about its extent. The notion of radical change was introduced in producing a technical presentation of how B-BBEE is measured, adopting a comparative approach (old versus new legislation/Codes).

To conclude, the literature review provided a comprehensive and necessary academic framework in fully understanding the problem delineated at the outset of this chapter and in finding the most relevant roadmap for the research.

8.5 Research methodology

The research method was outlined in Chapter 5 of this study, auxiliary to the literature review in Chapters 2 to 4. It hinged on Sekaran's (2003) views and those of Saunders et al. (2009) on research relative to these authors' earmarked elements, encapsulated by the research methodology and design processes, the latter serving as the roadmap in conducting the study.

To summarise, this study lent itself to a qualitative enquiry, built on the foundation of a pragmatic research philosophy. An induced approach to this exploratory study of 16 participants, conveniently selected, proved meaningful in describing the associated factors relevant to a contemporary phenomenon, by way of conducting semi-structured interviews in collecting the relevant data. The Cape Peninsula University of Technology's (CPUT's) ethical code of conduct was adhered to. The research was embarked upon predominantly in a non-contrived setting at a particular point in time, averaging a time span of one month. There were plenty of demarcations to take into account, giving rise to notable limitations. These increased the need to achieve credibility: reliability and validity were sought, resulting in an outcome of sound empirical findings.

8.6 Discussion of results

The plethora of primary data collected via semi-structured interviews with the 16 participants was structured, analysed and presented according to a thematic analysis framework. This was dictated by the research questions, as set forth at the outset of this study, in Chapter 1:

- Theme one: Is there a possible change in the respective B-BBEE statuses between consecutive periods of measurement?
- Theme two: If so, can such change be attributed to B-BBEE legislative change?
- If the above hold true:
 - Theme three: What effect does the measured entity's response have on its commercial activities and its market penetration, in general?
 - Theme four: Does the result of such a change cause impediments to the implementation of national B-BBEE policy?
 - Theme five: Which factors can be earmarked as having changed and what is the extent thereof?

Five themes were therefore presented, all centred on the primary theme of change.

Theme one indicated a non-compliant/B-BBEE Level 9 contributor status as a direct result of B-BBEE legislative change, the latter regarded as radical (theme two and five). The results indicate impediments to national B-BBEE policy, as presented in theme four.

Experiencing such alterations to B-BBEE contributor status had no effect on participants' income and hence their market penetration (theme three).

Theme five allowed for a more explorative approach in arguing that participants' current approach to B-BBEE is dictated by their low level of knowledge of the subject matter. This is dominated by an overall negative perception of B-BBEE being solely driven by black ownership, reinforcing participants' low need for current compliance. Contrastingly, however, a large majority of participants' future intentions to comply are regarded as positive. This serves as valid justification in projecting increased compliance in the future and best described as: 'There seems to be light at the end of the tunnel.'

The next step was to draw realistic inferences from this study's findings to obtain a deeper understanding – to get to the roots of the opinions of participants. This was done via drawing relative conclusions and assessing the theoretical implications of the research findings, that is, in providing valuable recommendations.

8.7 Conclusions and recommendations

From the above it is clear that the results of the study fully supported the expected outcome in Chapter 1 that legislative change to B-BBEE for QSEs leads to non-compliance and impeded transformation goals. Chapter 7 concluded in presenting this study's findings within the context of its objectives (listed in Section 8.3 above), that is, beyond the five themes of change presented in Chapter 6. Further to drawing conclusions on all the elements presented in Chapter 1 of this study, it set out to identify associations and gaps throughout the research process as a means of providing useful recommendations, thereby adding to its value.

Eight gaps/recommendations were noted in comparing secondary data collected (from the literature review in Chapters 2 to 4) to the primary data-collection process (the results of the study in Chapter 6). They were:

- Recommendation one sought to address the unmatched low levels of knowledge expressed by participants, linked to their decisive stances in willingly opting for non-compliant results based on internal assessments.
- The above (lack of knowledge) indicates the manner in which participants deal with change. Organisations are advised to accept the inevitability of change (although this is not likely to happen overnight) and chart a course that maximises returns without accelerating commitment to the affected business.
- The third gap identified the mismatch between participants' current B-BBEE standing (non-compliance) and their future/intended B-BBEE standing (perceived response).

- The next gap showed that the results of the study dealing with family-owned and managed organisations, relative to SMMEs/QSEs, could not be traced to and/or compared with reviewed literature.
- The costs/red tape burden was the leading cause of participants' non-compliance, although the findings pointed to its being related to black ownership.
- Recommendations six to eight relate to a shifted macro-level perspective, recommending government to revise (and provide the means to do so) the onerous legislative framework imposed on Qualifying Small Enterprises (QSEs), as well as its regulatory system, the Verification Manual (VM).

Another six recommendations were made relevant to the practicalities encountered in the research process. These recommendations formed the basis in further reiterating the value of the study. However, it was also evident that this study should serve as a point of departure for a deeper intellectual discourse on this subject matter, as is always the case with research findings. Great benefit can be derived from the content of this document's being shared, debated and further analysed.

8.8 Summary

The main purpose of this study was to understand a predetermined market segment's response to B-BBEE legislative change – this was fully and methodologically achieved. More specifically, it was mentioned prior in this chapter that its results indicated remarkably robust findings in support of its problem statement. In essence, the study indicated that legislative change to Broad-Based Black Economic Empowerment (B-BBEE) resulted in a non-compliant result for Qualifying Small Enterprises (QSEs) and hence, impeded transformation goals.

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APPENDICES

APPENDIX A

AN EXTRAPOLATION OF SCHEDULE FOUR OF THE EMPLOYMENT EQUITY ACT, INDICATING ANNUAL TURNOVER THRESHOLDS FOR DESIGNATED EMPLOYERS, AS REVISED IN JANUARY 2014

(South Africa, 2014:22)

INDUSTRIAL SECTOR	OLD TOTAL ANNUAL TURNOVER	NEW TOTAL ANNUAL TURNOVER
Agriculture	R 2,00m	R 6,00m
Mining and Quarrying	R 7,50m	R 22,50m
Manufacturing	R10,00m	R30,00m
Electricity, Gas and Water	R10,00m	R30,00m
Construction	R 5,00m	R 15,00m
Retail and Motor Trade and Repair Services	R15,00m	R45,00m
Wholesale Trade, Commercial Agents and Allied Services	R25,00m	R75,00m
Catering, Accommodation and Other Trade	R 5,00m	R 15,00m
Transport, Storage and Communications	R10,00m	R30,00m
Finance and Business Services	R10,00m	R30,00m
Community, Social and Personal Services	R 5,00m	R 15,00m

APPENDIX B

AN EXTRAPOLATION OF THE SWORN AFFIDAVIT TEMPLATE FOR QUALIFYING SMALL ENTERPRISES (QSEs)

(Adapted from Department of Trade and Industry, n.d.f)

SWORN AFFIDAVIT FOR B-BBEE QUALIFYING SMALL ENTERPRISES - GENERAL

I, the undersigned,

Full name & Surname:	
Identity number	

Hereby declare under oath as follows:

1. The contents of this statement are to the best of my knowledge a true reflection of the facts.
2. I am a member/director/owner of the following enterprise and am duly authorised to act on its behalf:

Enterprise Name:	
Trading Name (If Applicable):	
Registration Number:	
Enterprise Physical Address:	
Type of Entity (CC, (Pty) Ltd, Sole Prop etc.):	
Nature of Business:	
Definition of "Black People"	As per the Broad-Based Black Economic Empowerment Act 53 of 2003 as Amended by Act No 46 of 2013 "Black People" is a generic term which means Africans, Coloureds and Indians – (a) who are citizens of the Republic of South Africa by birth or descent; or (b) who became citizens of the Republic of South Africa by naturalisation - i. before 27 April 1994; or ii. on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalization prior to that date;"
Definition of "Black Designated Groups"	"Black Designated Groups means: (a) unemployed black people not attending and not required by law to attend an educational institution and not awaiting admission to an educational institution; (b) Black people who are youth as defined in the National Youth Commission Act of 1996; (c) Black people who are persons with disabilities as defined in the Code of Good Practice on employment of people with disabilities issued under the Employment Equity Act; (d) Black people living in rural and under developed areas; (e) Black military veterans who qualifies to be called a military veteran in terms of the Military Veterans Act 18 of 2011;"

3. I hereby declare under Oath that:

- The Enterprise is _____% Black Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- The Enterprise is _____% Black Female Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- The Enterprise is _____% Black Designated Group Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- Black Designated Group Owned % Breakdown as per the definition stated above:
 - Black Youth % = _____%
 - Black Disabled % = _____%
 - Black Unemployed % = _____%
 - Black People living in Rural areas % = _____%
 - Black Military Veterans % = _____%
- Based on the Financial Statements/Management Accounts and other information available on the latest financial year-end of _____, the annual Total Revenue was between R10,000,000.00 (ten million rands) and R50,000,000.00 (fifty million rands),
- Please confirm on the table below the B-BBEE level contributor, by ticking the applicable box.

100% Black Owned	Level One (135% B-BBEE procurement recognition level)	
At Least 51% Black Owned	Level Two (125% B-BBEE procurement recognition level)	

4. I know and understand the contents of this affidavit and I have no objection to take the prescribed oath and consider the oath binding on my conscience and on the owners of the enterprise which I represent in this matter.
5. The sworn affidavit will be valid for a period of 12 months from the date signed by commissioner.

Deponent Signature: _____

Date: _____

 Commissioner of Oaths
 Signature & stamp

APPENDIX C

AN EXTRAPOLATION OF THE SWORN AFFIDAVIT TEMPLATE FOR SPECIALISED QUALIFYING SMALL ENTERPRISES (QSEs)

(Adapted from Department of Trade and Industry, n.d.f)

SWORN AFFIDAVIT FOR B-BBEE QUALIFYING SMALL ENTERPRISES - SPECIALISED ENTITY

I, the undersigned,

Full name & Surname:	
Identity number	

Hereby declare under oath as follows:

3. The contents of this statement are to the best of my knowledge a true reflection of the facts.
4. I am a director of the following enterprise and am duly authorised to act on its behalf:

Enterprise Name:	
Trading Name (If Applicable):	
Registration Number:	
Enterprise Physical Address:	
Type of Entity (NPO, PBO, etc.):	
Nature of Business:	
Definition of "Black People"	As per the Broad-Based Black Economic Empowerment Act 53 of 2003 as Amended by Act No 46 of 2013 "Black People" is a generic term which means Africans, Coloureds and Indians – (a) who are citizens of the Republic of South Africa by birth or descent; or (b) who became citizens of the Republic of South Africa by naturalisation - i. before 27 April 1994; or ii. on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalization prior to that date;"
Definition of "Black Designated Groups"	"Black Designated Groups means: (a) unemployed black people not attending and not required by law to attend an educational institution and not awaiting admission to an educational institution; (b) Black people who are youth as defined in the National Youth Commission Act of 1996; (c) Black people who are persons with disabilities as defined in the Code of Good Practice on employment of people with disabilities issued under the Employment Equity Act; (d) Black people living in rural and under developed areas; (e) Black military veterans who qualifies to be called a military veteran in terms of the Military Veterans Act 18 of 2011;"

3. I hereby declare under Oath that:

- The Enterprise has _____% Black Beneficiaries as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- The Enterprise has _____% Black Female Beneficiaries as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- The Enterprise has _____% Black Designated Group Beneficiaries as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- Black Designated Group Owned % Breakdown as per the definition stated above:
 - Black Youth % = _____%
 - Black Disabled % = _____%
 - Black Unemployed % = _____%
 - Black People living in Rural areas % = _____%
 - Black Military Veterans % = _____%
- Based on the Financial Statements/Management Accounts and other information available on the latest financial year-end of _____, the annual Total Revenue was between R10,000,000.00 (ten million rands) and R50,000,000.00 (fifty million rands)
- Please confirm on the table below the B-BBEE level contributor, by ticking the applicable box.

At Least 75% Black Beneficiaries	Level One (135% B-BBEE procurement recognition level)	
At Least 51% Black Beneficiaries	Level Two (125% B-BBEE procurement recognition level)	

4. I know and understand the contents of this affidavit and I have no objection to take the prescribed oath and consider the oath binding on my conscience and on the owners of the enterprise which I represent in this matter.
5. The sworn affidavit will be valid for a period of 12 months from the date signed by commissioner.


Deponent Signature: _____

Date: _____

 Commissioner of Oaths
 Signature & stamp

APPENDIX D

CONSENT LETTER EXAMPLE, OBTAINED FROM A RANDOM SAMPLE

Think Lab. Think 

23 May 2018

Cape Peninsula University of Technology

C/O Keizersgracht and Tennant Street

Zonnebloem

8000

Dear Faculty of Research Ethics Committee

Consent letter

As a representative of **LTS CONSULTING (PTY) LTD**, with registration number: **1998/010436/07**, we hereby agree to participate in an on-site one-on-one interview with Ms. Jolette Forbes, a registered student at Cape Peninsula University of Technology, with student number: 217303943, in fulfillment of the requirements for the degree Master of Human Resource Management.

Should you require any further information, please do not hesitate to contact us.

Regards



ALBERTUS NOLTE

FINANCE DIRECTOR

CAPE TOWN
SOUTH AFRICA

Tel: +27 21 913 8959
Vineyards Square South
Vineyards Office Estate
99 Jip de Jager Drive
Bellville, 7530, South Africa

LTS Consulting (Pty) Ltd – Reg No. 1998/010436/07
Registered Address – Suite 207 Tyger Lake Building 2 Niagara Road Tyger Waterfront Bellville 7530, RSA.
Directors: Wilhelm J Boshoff Pr.Eng.; Christiaan DT Fourie Pr.Eng.; Christoff Coetzee Pr.Eng.;
Menno Schagen Pr.Eng.; Albertus A Nolte (Finance)
LTSHealth.com | Info@LTSHealth.com

APPENDIX E
QUESTIONNAIRE, STANDARD FORMAT PRIOR TO AMENDMENTS MADE



SEMI-STRUCTURED INTERVIEW QUESTIONNAIRE

conducted in fulfillment of the requirements for the degree

MASTER OF HUMAN RESOURCE MANAGEMENT

in the

Dept of Human Resource Management

Faculty of Business and Management Sciences

PROJECT TITLE:

RESPONSES OF SELECTED ENTERPRISES TO AMENDED BROAD-BASED BLACK
ECONOMIC EMPOWERMENT (B-BBEE) LEGISLATION IN CAPE TOWN, SOUTH AFRICA

PRIMARY INVESTIGATOR:

Ms. Jollette Forbes

COVER LETTER

Dear research participant

Request for permission to conduct an on-site, semi-structured interview with your organisation

As a trusted client of Exceed Empowerment Services (Pty) Ltd (herein referred to as 'Exceed'), you are invited to participate in an on-site semi-structured interview, conducted in fulfillment of a research project for a Masters Degree within the Faculty of Business and Management Sciences at the Cape Peninsula University of Technology (herein referred to as 'CPUT').

The research project aims to measure the responses of selected enterprises (Qualifying Small Enterprises) to amended Broad-Based Black Economic Empowerment (B-BBEE) legislation in Cape Town, South Africa. The impetus for the project came about the recent amendments to the B-BBEE Act (53/2013) and the subsequent amendments to the Codes of Good Practice, the tool for measuring B-BBEE compliance.

The project is undertaken by Ms. Jollette Forbes, a registered Masters student at the CPUT and previous founder of Forbes BEE (Pty) Ltd: a boutique provider of B-BBEE specialist services.

For organisations kindly participating in this research project, an on-site interview/meeting shall be formally scheduled at a time most convenient to you. It is requested that the meeting is scheduled with the person(s) responsible for B-BBEE compliance in your organisation and that certain B-BBEE and related information be made available, upon further request. The duration of the meeting is not intended to exceed 60 minutes.

Your participation in this study is entirely voluntary. You have the right to withdraw at any time and for whatever reason, without any penalty whatsoever. The information obtained from the questionnaire shall be treated with full confidentiality and shall only be used for academic purposes. Anonymity shall be maintained, as responses are not identifiable to your organisation. Furthermore, the research project has received ethical clearance from the CPUT's Ethics Committee and therefore has been found to not hold any significant ethical implications.

Enclosed is the semi-structured questionnaire, which shall dictate the structure of the on-site interview/meeting. It consists of about 40 open-ended questions the primary investigator wishes to present to you. The questionnaire contains no sensitive information and is purely based on your organisation's B-BBEE performance and perceptions thereto. However, you have, at any time, the option to omit a question(s) you do not want to answer. Copies of the completed questionnaire shall be shared with your organisation's representative electronically within one month upon completion.

Written consent of your participation is required by means of electronically making such intentions known, that is, by replying to the mail in which this document was attached.

Your participation in this research is greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jo Forbes', with a large, stylized initial 'J' and a trailing flourish.

Jo Forbes

072 833 6744; jo@forbesbee.co.za

OLD CODES, SPECIFICALLY

Question 1:

What is your organisation's need for B-BBEE (importance)?

Question 2:

What is the realistic, yet desired B-BBEE status level (prior to change)?

Question 3:

Are you aware of your competitors B-BBEE statuses?

Question 4:

If answered 'yes' to question 3, what effect do their statuses have on your organisation's bottom line/profits?

Question 5:

Can you recall the first time your entity obtained a B-BBEE compliant certificate?

Question 6:

Can you recall the B-BBEE statuses for the past 3 years, based on the old Codes (more/less)?

Question 7:

Can you recall the last time your entity obtained a B-BBEE certificate on the old Codes/legislation?

Question 8:

Did you make use of a B-BBEE consultant (old Codes)?

Question 9:

Did you have a B-BBEE strategy in place (old Codes)?

Question 10:

Give an indication (more/less) on the cost of obtaining a B-BBEE certificate on the old Codes?

Question 11:

Further to question 9, elaborate on any trade off you experienced: income derived from B-BBEE certificate versus the cost of obtaining a B-BBEE certificate.

Question 12:

What was your overall experience in preparing for and obtaining a B-BBEE certificate on the old Codes?

Question 13:

Indicate the B-BBEE result (B-BBEE certificate status level) achieved on the old Codes (*cross reference to physical B-BBEE certificate*).

NEW CODES: PLANNING

Question 14:

Can you recall the first time your organisation obtained a B-BBEE certificate, based on the new Codes/legislation?

Question 15:

Has your organisation undergone a subsequent B-BBEE verification since?

(for the purpose of this study we are only interested in comparing the results to Question 14. Direct the sample back to the previous verification result, that is, the first time a B-BBEE certificate was obtained on the new Codes)

Question 16:

If answered 'yes' to question 15, how many B-BBEE verifications has your organisation undergone on the new Codes?

Question 17:

Did you make use of a B-BBEE consultant (new Codes)?

Question 18:

Did you have a B-BBEE strategy in place (new Codes)?

Question 19:

Give an indication (more/less) on the cost of obtaining a B-BBEE certificate on the new Codes?

Question 20:

Further to question 19, elaborate on trade off you experienced: income derived from B-BBEE certificate versus the cost of obtaining a B-BBEE certificate.

Question 21:

What was your overall experience in preparing for and obtaining a B-BBEE certificate on the new Codes?

NEW CODES: THE FIVE FUNDAMENTAL AREAS OF CHANGE

Question 22:

How has the **threshold change** from R5-35 million to R10-R50 million affected your organisation?

Question 23:

Comment on the **reduction** of seven (7) **elements** to five (5).

Question 24:

Comment on the changes brought on to the **B-BBEE pointing and level system**.

Question 25:

Comment on the introduction of the **three priority elements** [ownership, Management and Control (M&C), as well as Enterprise and Supplier Development (ESD)].

Question 26:

Further to question 25, has the discounting principle affected your originally assigned B-BBEE status level via the introduction of the three priority elements?

Question 27:

What are your views on **Empowering Supplier (ES)** status?

Question 28:

Further to question 27, upon actioning Empowering Supplier (ES) status, do you believe your organisation will comply?

COMPARATIVE REVIEW: OLD CODES VERSUS NEW CODES, SPECIFIC

The following questions are based on the premise of comparing the measured entities' consecutive B-BBEE results between the old Codes and the new Codes (first B-BBEE result on the new Codes).

For the purpose of saving time, where available, the 'RESULT' shall be indicated in the applicable column hereon prior to the interview in a different coloured pen. This serves as a point of reference for discussions with the respondent.

Question 29:

INDICATOR	WEIGHT	RESULT
4.3.1 Measurement of the ownership element in the old Codes		
4.3.1.1 Exercisable voting rights in the entity in the hands of black people	6	
4.3.1.2 Economic interest in the entity to which black people are entitled	9	
3.3.1.3 Realisation points:		
Ownership fulfilment	1	
Net value	9	
3.3.1.4 Bonus points		
Involvement in the ownership of the Enterprise by black women	2	
Involvement in the ownership of the enterprise by black participants in Employee Share Ownership Programme (ESOP's), Co-operatives (Co-Ops), or Broad-Based Ownership Schemes (BBOS).	1	
Ownership element score	25	

INDICATOR	WEIGHT	RESULT
Measurement of the Ownership element in the new Codes		
4.3.2.1 Exercisable voting rights in the entity in the hands of black people	5	
4.3.2.2 Exercisable voting rights in the entity in the hands of black women	2	
4.3.2.3 Economic interest in the entity to which black people are entitled	5	
4.3.2.4 Economic interest in the entity to which black women are entitled	2	
4.3.2.5 Economic interest in the entity to which BNE or black designated groups are entitled	3	
4.3.2.6 Net value	8	
Ownership element score	25	

Question 30:

INDICATOR	WEIGHT	RESULT
Measurement of the Management and Control element in the old Codes		
Black representation at Top Management level	25	
Bonus points: black women representation as Top Management	2	
Management and Control element score	25	

INDICATOR	WEIGHT	RESULT
Measurement of the Employment Equity element in the old Codes		
Black employees of the measured entity who are management as a percentage of all management adjusted using the adjusted recognition for gender.	15	
Black employees of the measured entity as a percentage of all employees adjusted using the adjusted recognition for gender.	10	
Bonus point for meeting or exceeding the EAP targets in each category above	2	
Employment Equity element score	25	

INDICATOR	WEIGHT	RESULT
Measurement of the Management and Control element in the new Codes		
Black Executive Management as a percentage of all Executive Management	5	
Black female Executive Management as a percentage of all Executive Management	2	
Black employees in senior, middle and junior Management as a percentage of all such management	6	
Black female employees in in senior, middle and junior management as a percentage of all such management	2	
Management and Control element score	15	

Question 30.1:

Highlight the variance noted between the overall Management and Control (M&C) element scores.

Question 31:

INDICATOR	WEIGHT	RESULT
Measurement of the Skills Development element in the old Codes		
Adjusted skills development spend on learning programmes for black employees as a percentage of leviabale amount.	25	
Skills Development element score	25	

INDICATOR	WEIGHT	RESULT
Measurement of the Skills Development element in the new Codes		
Skills Development expenditure on learning programmes specified in the learning programme matrix for black people as a percentage of leviabale amount	15	
Skills Development expenditure on learning programmes specified in the learning programme matrix for black female as a percentage of leviabale amount	7	
Skills Development expenditure on learning programmes specified in the learning programme matrix for black people with disabilities as a percentage of leviabale amount	3	
Bonus points: number of black people absorbed by the measured and industry entity at the end of the learnerships programme	5	
Skills Development element score	25	

Question 31.1:

Highlight the variance noted between the overall Skills Development (SD) element scores.

Question 32:

INDICATOR	WEIGHT	RESULT
Measurement of the Preferential Procurement element in the old Codes		
BEE procurement spend from all suppliers, based on the B-BBEE procurement recognition levels as a percentage of Total Measured Procurement Spend (TMPS)	25	
Preferential Procurement element score	25	

INDICATOR	WEIGHT	RESULT
Measurement of the Enterprise Development element in the old Codes		
Average annual value of all qualifying contributions made by the measured entity as a percentage of the target	25	
Enterprise Development element score	25	

INDICATOR	WEIGHT	RESULT
Measurement of the Enterprise and Supplier Development element in the new Codes		
Preferential Procurement		
B-BBEE procurement from all empowering Suppliers based on the B-BBEE procurement recognition levels as a percentage of Total Measured Procurement Spend (TMPS)	15	
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 TMPS	5	
Bonus points: B-BBEE procurement spend from designated group suppliers that are at least 51% black owned based on the B-BBEE procurement recognition level	1	
Supplier Development		
Annual value of all Supplier Development contributions made by the measured entity as a percentage of the target	5	
Enterprise Development		
Annual value of Enterprise Development contributions and sector specific programmes made by the measured entity as a percentage of	5	
Bonus point for graduation of one or more Enterprise Development beneficiaries to graduate to the Supplier Development level.	1	

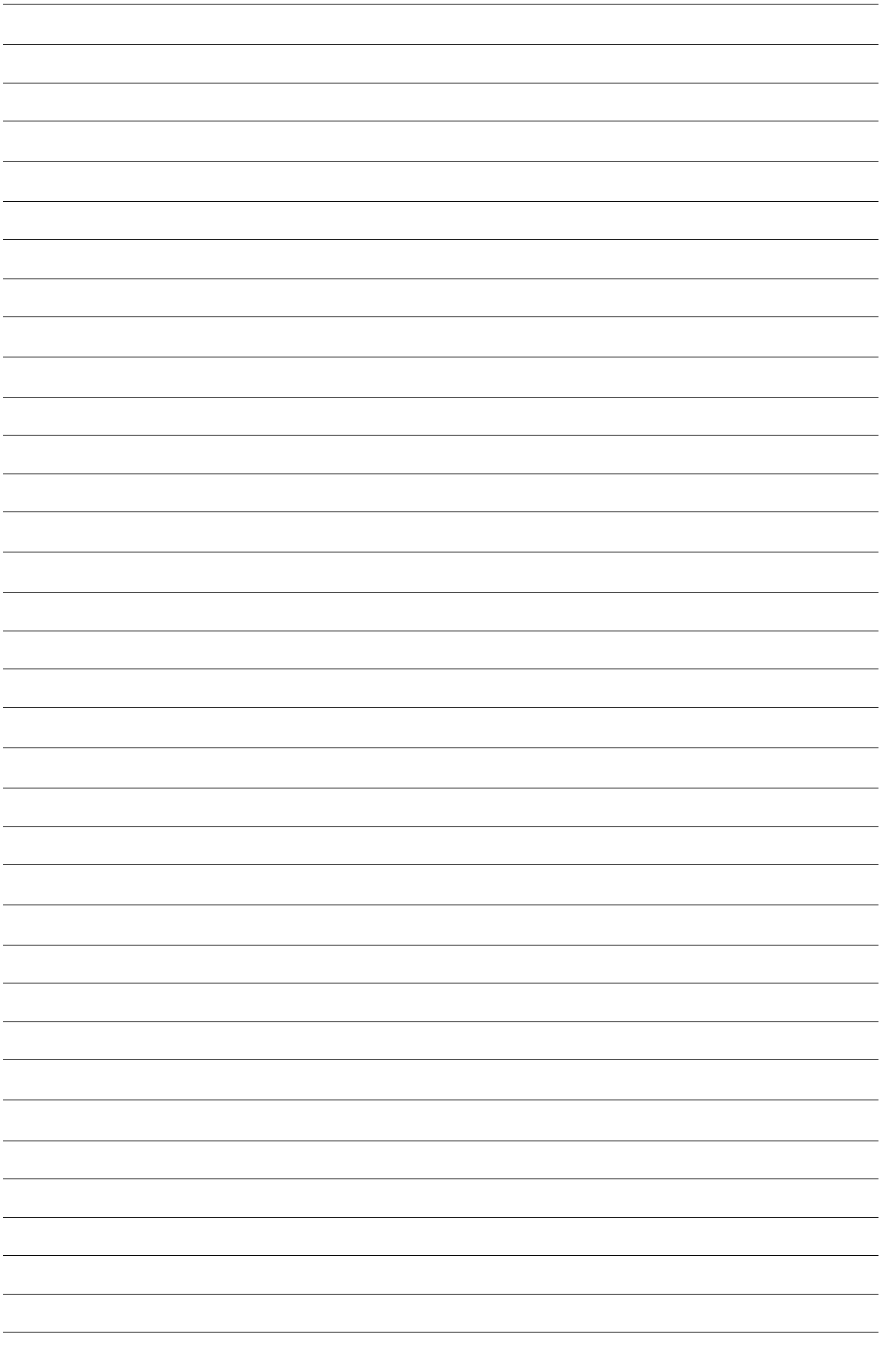
INDICATOR	WEIGHT	RESULT
Enterprise and Supplier Development element score	30	

Question 32.1:

Highlight the variance noted between the overall Enterprise and Supplier Development (ESD) element scores.

Question 32.2:

Highlight the variance noted, between the sub-categories of the five Detailed Scorecards (DSs).



Question 33:

INDICATOR	WEIGHT	RESULT
Measurement of the Socio-Economic Development element in the old Codes		
Average annual value of all qualifying contributions made by the measured entity as a percentage of the target	25	
Socio-Economic Development element score	25	

INDICATOR	WEIGHT	RESULT
Measurement of the Socio-Economic Development element in the new Codes		
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	5	
Socio-Economic Development element score	5	

Question 33.1:

Highlight the variance noted between the overall Socio-Economic Development (SED) element scores.

Question 33.2:

Highlight the variance noted, between the sub-categories of the two Detailed Scorecards (DSs).

COMPARATIVE REVIEW: OLD CODES VERSUS NEW CODES, OVERALL

Question 34:

Indicate the B-BBEE result (B-BBEE certificate status level) achieved on the new Codes
(*cross reference to physical B-BBEE certificate*)

Question 35:

How many B-BBEE levels were compromised or gained since the past verification on the old Codes?

Question 36:

Further to question 35, what are the reasons for this?

Question 36:

In your opinion, has there been a 'radical change' to B-BBEE compliance?

The meaning of 'radical change' refers to such change having an effect on your organisations' core assets and core activities.

Question 37:

How has the change (in your organisation's B-BBEE result) affected transformation internally (how committed is your organisation to transformation)?

Question 38:

(How) do you believe it will affect transformation nationally?

Question 39:

What is your organisation's future plans with regards to B-BBEE compliance (what is the likelihood of your entity renewing its B-BBEE certificate next year and the periods thereafter)?
