Sanlam Gauge

REPORT

in partnership with

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NOTES

ABOUT THIS PUBLICATION

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DISCLAIMER

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> ***"Asset management is one of the most effective ways to drive inclusion and growth in a country, and so this is a pivotal part of our impact journey too."***

BUILDING AN INCLUSIVE NATION

We are very proud to present the second Sanlam Gauge research report, compiled from a greatly expanded database. The findings are informative and challenging, highlighting some strong progress, but also placing a spotlight on the work the various sectors of our economy still need to do as we collectively journey towards a truly inclusive, diverse society and economy.

It is prudent for me to remind you, before we get into the findings, why our partners at Sunday Times Business Times, our co-founder Andile Khumalo, and ourselves at Sanlam made the decision to conduct this annual research report. We share a deep passion for our country and continent and we know that for us to achieve our common goals – a thriving, inclusive, equal and robust economy – we must successfully transform and include. Not for a scorecard, not for a certificate, but for the sustainability of our country.

We need to do it for all those people still struggling to make ends meet, still living in informal housing, still fetching their own water. For those unthinkably high numbers of unemployed in our country. The inequality in our society cannot be overlooked; we urgently need to address this as corporate SA.

In order to accelerate transformation and empowerment, we must accurately and meaningfully measure our progress, so this is the first aspect of the work we are doing in the Gauge. The research house Intellidex has worked tirelessly to expand the database and deepen the research at all levels. And then we have to use the findings to improve how we are doing this important transformative work in society. To kick-start dialogue, but far more importantly, to catalyse more impactful and urgent strategies and approaches.

Sanlam as a company is embedded deeply in the DNA of the African continent. At times, when many of our competitors were listing on developed market stock exchanges, we always knew that we wanted to keep our listing on this continent. This is where we can make the most meaningful impact, working towards financial inclusion – which for us means access to those financial instruments which allow people to protect themselves and build financial resilience – across Africa.

Over the past year, we have made very meaningful strides in this journey. A joint venture with MTN across Africa has allowed us to reach more than 14 million people in just a few short months, opening up access to affordable financial vehicles. Similarly, a new venture with Allianz will boost our impact by increasing access to products and driving financial inclusion in key high-growth African markets.

Last year we created the largest black-owned asset manager in South Africa. Asset management is one of the most effective ways to drive inclusion and growth in a country, and so this is a pivotal part of our impact journey too.

When there's talk about transformation, these are the things that really get us excited.

We remain excited about the possibilities that the Sanlam Gauge presents in terms of giving us the insights, facts and figures as a nation – both the private and public sectors – to course correct, and improve our journey to an inclusive, diverse and financially thriving nation. A nation living with purpose and financial confidence.

PAUL HANRATTY,
SANLAM GROUP CHIEF EXECUTIVE

TOWARDS AN EFFECTIVE NATIONAL MEASUREMENT OF TRANSFORMATION

BY COLIN ANTHONY

The results of the 2022 Sanlam Gauge are based on the B-BBEE scores of 10,336 companies, by far the largest survey of transformation in South Africa that covers all sectors. This provides a strong platform to build a national database that truly reflects the progress of transformation, which we believe is a pre-requisite for generating policies that serve to accelerate both transformation and economic growth. In the short term, the survey findings and the comments from industry participants highlight numerous problem areas that require immediate attention which the newly formed Presidential B-BBEE Advisory Council is well placed to address.

With South Africa emerging from the devastating effects of the Covid pandemic, B-BBEE sector councils are working hard to get transformation initiatives that had been stalled by the lockdown restrictions back on track. Similarly, sector-wide economic rejuvenation strategies are being implemented across the economy and these are often being integrated with transformation objectives.

There is some tension between the two with some perceiving that transformation comes at the expense of recovery. However, most sector councils are generally positive that the two are not mutually exclusive.

The quest to combine transformation with economic growth is one that will be top of mind for the newly appointed Presidential Broad-Based Black Economic Empowerment (B-BBEE) Advisory Council, established in July by President Cyril Ramaphosa with councillors representing government, business, labour, the youth and other stakeholders. Its primary mandate is to address the issues raised by many of the people we interviewed: that transformation is happening too slowly, that it is not meaningful particularly at the management and ownership levels and that after 28 years of democracy it is time we reassess the B-BBEE framework and address areas that are not working. A strong belief persists that the overall B-BBEE strategy needs to be adapted, or possibly overhauled completely, so that it better reflects transformation on the ground.

In any such assessment, it's important to also look at the elements that are working. Socioeconomic development stands out: the 10,336 companies in our database exceeded the target by an average of 160%. With various bonus points allocated for certain sectors and qualifying small enterprises, as well as additional elements where certain subsectors can attain extra points, it's possible to achieve more than the scorecard weighting.

It's easy to sniff at the high scores for socioeconomic development and accuse companies of throwing money at a problem so that they can tick it off on the scorecard, and indications are that too many companies do so. But most of the bigger companies, particularly those in the public eye, do put in a lot of effort to ensure their contributions make a meaningful impact on the beneficiaries.

UPWEIGHT?

The average scorecard weighting for socioeconomic development is small, however, averaging 6.4 points across sectors – followed by skills development (20) and management control (20.6). Akash Singh, co-founder of Sigma International, a specialist enterprise development and impact company, calls for this element to get an increased weighting. "It offers a great opportunity as a catalyst of and link to the community tourism agenda," he states in our article on the tourism sector.

While upweighting socioeconomic development is something the B-BBEE Advisory Council may consider, it is the other scorecard elements that are more problematic.

President Cyril Ramaphosa summarised them in his weekly newsletter on 30 May this year. "While there has been significant progress over the last two decades, there are some areas where there has been regression. We have gone backwards when it comes to increasing black management control, upscaling skills development, entrenching enterprise development and broadening procurement to give opportunities to black women and the youth." Among the council's goals are to "grow black entrepreneurship, ensure greater black management and ownership of businesses and bring black women into the mainstream of the economy".

Presenting the biggest challenge to the B-BBEE Advisory Council is management control, which achieves only 55.9% of target in the Gauge report with enterprise & supplier development (ESD) next worst at 64.5%. Surveys conducted by sector councils into their industries repeatedly confirm that management control is the worst performing element.

The core problem is reflected by the Commission for Employment Equity in its latest workplace transformation report which found that more than a quarter of private sector employers are not investing in meaningful training and development, and more than 20% do not have clear succession plans for the advancement of African, coloured and female employees to top, senior and middle-management levels.

White males accounted for 63.2% in top management positions, down from 64.7% a year earlier, Africans occupied 17% compared with 15.8% in 2020; Indians accounted for 10.9% from 10.6% in 2020; and coloured people made up 5.9% from 5.7% in 2020, the report said.

JUNIOR MANAGEMENT

At this point the findings from the Banking Association South Africa's transformation surveys are relevant, with Khulekani Mathe, BASA's head of financial inclusion, reporting strong growth in the numbers of junior and middle management levels. Its report on 2019, published in 2021, shows that 85.9% of junior managers and 65% of mid-managers in banks were black people, with the figures having increased in all management levels for three consecutive years. At "top senior" management level, 34,9% are black with 43.2% at "senior" level.

The composition of junior managers at banks therefore closely resembles the country's racial demographics and the pattern of a high percentage of black junior managers is likely to be prevalent at many large companies. While this naturally elicits a feeling of optimism that the large pool of black junior managers will ultimately feed through to senior levels, the question that has to be asked is why has this not happened.

The slow progress in management control is explored more fully on a sector-by-sector basis in the articles in this report as are the problems hampering progress in the other categories – and interviewees repeatedly highlight how interwoven the scorecard elements are. Skills development is linked to both ESD where training and mentoring is often provided to small enterprises and to management control, where theoretically the in-house training courses provided to employees should accelerate their upstream graduation into management positions. Similarly, the high ownership scores reflected in our survey should have resulted in improved management scores.

Black Business Council CEO Kganki Matabane says each sector's management control score should correlate with its ownership score if there was no fronting because "owners usually appoint people who look like them. There are very few companies owned by white people who appoint black people and women in positions of influence – in core business operations instead of human resources and corporate affairs – hence my contention that the ownership figures from the companies are 'cooked'.

"In real life you would expect a correlation between ownership of a business and its management control but we don't see this, especially when black-owned trusts are involved. They look good on paper but when we interrogate them, we cannot trace a shareholder who is black. They make it look like the company is fulfilling its B-BBEE obligations but they have no intention of transferring ownership to black people."

That, however, says Sanlam Gauge co-founder Andile Khumalo, doesn't take into account the advent of black-owned investment companies. "By their very nature BEE investment companies do not often come with their own management teams into the deals they do, so management in the investee companies would not be black overnight. You can quite easily have a majority white managed company that is black majority owned. Unlike a founder-managed business or a family business where indeed the race, culture, language and even the religion of the founder is likely to influence directly who he/she hires over time, these black owners are not involved in the day-to-day management of the business. What we should be doing is holding the black investment companies to account when it comes to transformation once they are shareholders over a period of time, especially at management level. But I don't think it's fair to conclude that just because management of a company is not majority black, it therefore means the black shareholding numbers are not true."

Another theme from last year that is still prevalent this year is the belief that the reality on the ground is far worse than what scorecards suggest. None more so than with ownership – at 74.8% of target, the best performer after socioeconomic development.

Nigel Adriaanse, CEO of the Enterprise Development Property Fund, says companies sometimes focus on building points in the others scorecard elements to avoid equity deals. "For instance, they'll focus on enterprise and supplier development (ESD) by supporting entrepreneurs wanting to become suppliers and they get 39 points because they've done their ESD. Yet, on the ownership side there's very little being done as there are ways to reach a good B-BBEE level without having to change your ownership structure. However, if you want to transform any industry, you've got to look at the ownership side of things."

In the meantime, companies are pressing ahead with BEE deals, with 36 deals recorded in 2021/22, which we list elsewhere in this publication.

ESD'S POTENTIAL

Companies are struggling with ESD, hence it is the second-worst performer in this year's Sanlam Gauge. However there is no doubt in the minds of B-BBEE experts that this element offers huge potential for inclusive economic growth. The concept of procuring from small black-owned businesses, providing other support and developing new enterprises is solid in principle and, if effective, would generate a strong base of small businesses that would grow and hire more people, directly addressing South Africa's triple challenge of poverty, inequality and unemployment.

This is clearly not happening, at least not at a satisfactory level. So is ESD a poor performer because the policy is faulty or should it be viewed in the context of the economy's extremely poor growth rate since the 2007 global financial crisis?

One issue flagged as a particular problem for ESD is the box-ticking approach to the scorecards, a theme which we explored in detail in last year's report and has again been repeatedly pointed to by commentators in this report as being at the root of a lack of true transformation.

Matabane says: "This is one of those easy points to get without any impact. If they did well in enterprise development, where are the black millionaires which were created? I suspect these are just accounting entries with no proper enterprises created, they are not enterprises given real core-business procurement opportunities."

One aspect that the B-BBEE Advisory Council should prioritise is developing policy certainty and tackling onerous compliance requirements. B-BBEE has a complex legislative framework, says Kgolo Qwelane, head of BEE corporate finance advisory at RMB. "You've got the BEE act and the various codes that differ from sector to sector. Coupled with that we've had the introduction of the B-BBEE Commission with which all BEE deals in excess of R25m must be registered for the deal to be regarded as compliant. Previously the deal had simply to be agreed between the parties, so the registration process is an additional requirement."

POLICY UNCERTAINTY

A detailed analysis of the persistent policy uncertainty surrounding procurement and other areas of B-BBEE is presented by Janice Roberts in her article, Preferential procurement's role in achieving SA's transformation objectives. Similarly, Aurelia Mbokazi-Kashe delves into the legal wrangles plaguing the mining sector which finds itself in the bizarre situation of having a dual scoring system. Legal wrangles have seen provisions of the latest Mining Charter set aside, so mining companies are reporting according to the 2010 charter which is designed to suit the industry's conditions. But JSE-listed mining companies and those that supply the likes of Eskom need DTIC-approved scorecards so they have to score according to the generic code, which caters for sectors that do not have their own code. Because of the dual reporting system, we present both the Gauge scores on the mining sector and the Minerals Council's results from its 2019 survey as we believe that presents a fuller picture of transformation in the sector.

The B-BBEE Commission's stance is that there is no mining sector code that has been approved and gazetted in terms of section 9 of the B-BBEE Act. "However, the sector has a Sector Transformational Charter that can only be recognised as a promotional measure to encourage compliance under section 12 of the B-BBEE Act," it wrote in response to our questions. "Therefore, in the absence of a valid mining sector code gazetted in terms of section 9 of the B-BBEE Act, the mining sector is measured on the targets in the generic codes for B-BBEE compliance. The mining sector does not have a separate dispensation on B-BBEE, however, the requirements in mining licences include a requirement for a certain percentage of ownership and performance against the elements in the Mining Charter."

The Minerals Council says it's engaging with government for solutions and hopefully this will be resolved soon, but this is an area that sounds ideal for a third party such as the new Presidential B-BBEE Advisory Council to mediate.

Addressing the problems outlined above will be a formidable challenge for the advisory council. But we should not brush aside the positive elements. Within most sectors, industry participants speak also of success stories, where skills development programmes have produced positive results or other empowerment initiatives have made a meaningful difference.

Another policy issue that needs consideration by the council is that the B-BBEE codes have not kept up with the evolving nature of their sectors. The ICT industry is particularly worried about this – its charter was drawn up before the advent of the fourth industrial revolution and the new skills required for this are not being taught at tertiary institutions. Therefore, as one of the country's leading telcos states: "Companies operating in the ICT sector are currently penalised for ensuring the staff in their employ are reskilled in order to remain relevant."

GAUGE PROCESS

What has become clear over the past two years that Arena, KhumaloCo and Intellidex have been working on the Sanlam Gauge is the need for a credible and effective national measurement process for B-BBEE.

We believe that this year we have taken major steps towards providing the foundation for that to happen for two reasons: fruitful collaboration with sector charter councils and the big jump in the sample size of this year's Sanlam Gauge which more than trebled from 3,154 companies to 10,336 – by far the most comprehensive independent research study on B-BBEE.

A detailed description of how we reached this number of scores is presented in the Methodology at the end of this report but we must acknowledge Mpowered Business Solutions which made scorecards available to us from its Beagle database, to which several verification agencies automatically contribute PDFs of the certificates they issue. To convert the PDFs into usable data, our international data analysts scanned over 93,000 certificates and affidavits and converted them into usable data, from which we extracted valid scores for 8,027 companies. We merged that with our existing database from Who Owns Whom to reach this year's sample size.

While we're still some way from achieving our long-term goal of developing a truly national measurement system for the entire

economy and for each sector, we believe this is a big step forward and we hope to expand further by collaborating with the sector councils as well as the B-BBEE Commission.

The positive responses from the sector councils we have been speaking to is encouraging. Each agreed on the need for an effective measurement system and many agreed in principle to co-operate in future in terms of sharing databases of B-BBEE scores. Many shared one common frustration though: companies refusing to submit their B-BBEE scorecards, and therefore making it difficult for the councils to carry out their mandates. This is a critical issue and a worrying trend that requires immediate attention from the Presidential B-BBEE Advisory Council.

That brings up another important issue: there was a perception after we published our maiden report last year that our findings are in some way in competition to the industry-specific surveys the sector councils themselves conduct. We do not see it that way. With its cross-sectional nature, the Gauge reflects a national picture of transformation but those sector councils that do commission effective surveys of their sectors provide more granular detail of transformation within that industry.

Similarly, we wish to work with the B-BBEE Commission to help it overcome the barriers it is encountering in measuring transformation. Despite it being a legal requirement for firms to submit certificates to the B-BBEE Commission, its 2021 National Status and Trends Report was based on 1,241 certificates of which 890 were large entities.

Collaboration by all social partners is key. We believe that collaborating on research presents South Africa with a truly reflective picture of the country's progress which we can track year by year and the positive response from many of the sector councils has been heartening and we will keep working hard to achieve this goal.

The first two Gauge reports have already emphasised the importance of assessing why transformation at management level is problematic and have highlighted numerous obstacles within each scorecard element and within each sector that require attention. Expanding the survey and developing the sample size will provide further guidance to legislators to provide policy direction that will accelerate transformation.

We agree with what President Ramaphosa wrote in his letter: "Breaking the cycle of underdevelopment through black economic empowerment is not just a moral imperative; it also makes business sense. The continued exclusion of the black majority from the economy's mainstream constrains economic growth, which ultimately affects all business.

"Economic transformation and economic growth are intertwined. There cannot be one without the other."

For that to happen, however, we need the right policies in place. The legislation needs to be carefully crafted so as to facilitate meaningful transformation, not hinder it. And only with an effective national measurement of transformation can such policies be effective.

THE SCORECARD

HOW THE SECTORS PERFORMED

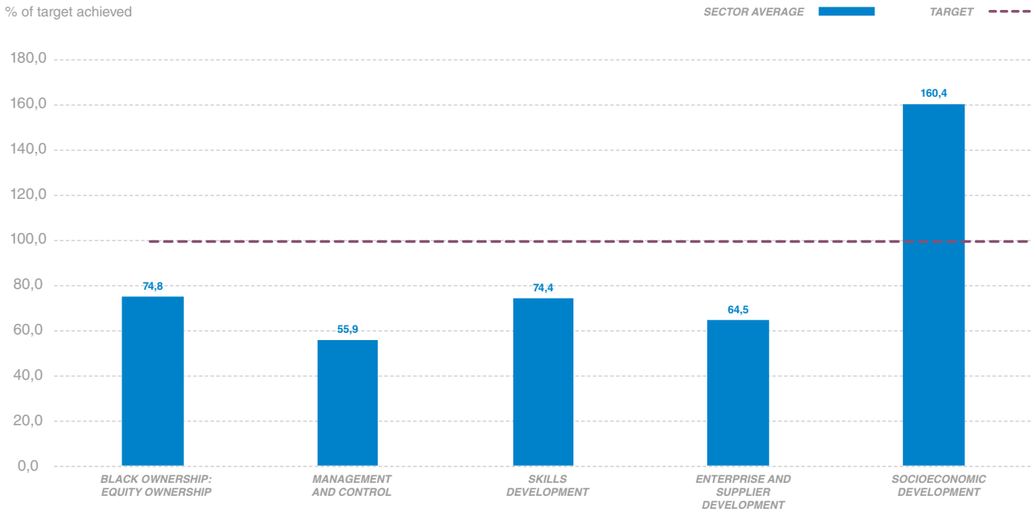
B-BBEE SCORES BY SECTOR: ALL COMPANIES

B-BBEE SECTOR	NUMBER OF COMPANIES	B-BBEE RECOGNITION LEVEL		BLACK OWNERSHIP: EQUITY OWNERSHIP			MANAGEMENT CONTROL		
		POINTS	LEVEL	POINTS	WEIGHTING	% OF TARGET	POINTS	WEIGHTING	% OF TARGET
AGRI-BEE	216	91,44	3	17,0	25	67,9	12,5	19	65,7
CONSTRUCTION	3 929	90,82	3	18,5	27	68,6	12,1	18	67,4
FINANCIAL	759	87,86	4	20,2	25	81,0	12,3	20	61,4
FORESTRY	73	87,46	4	18,0	25	72,1	9,6	19	50,7
ICT	839	86,41	4	18,6	25	74,5	12,4	23	53,9
INTEGRATED TRANSPORT	1 773	85,48	4	18,1	20	90,3	11,1	20	55,3
MARKETING, ADVERTISING, COMMUNICATIONS	208	85,00	4	18,1	25	72,6	12,3	27	45,4
PROPERTY	198	84,79	4	20,1	30	67,2	7.8	22	35,5
TOURISM	176	84,57	4	21,1	27	78,3	12,6	19	66,1
GENERIC	2 165	87,75	4	18,8	25	75,2	11,0	19	57,7
AVERAGE	10 336 (TOTAL)	87.16		18,9			11,4		
SCALED AVERAGE (% OF TARGET ACHIEVED)				74,8			55,9		

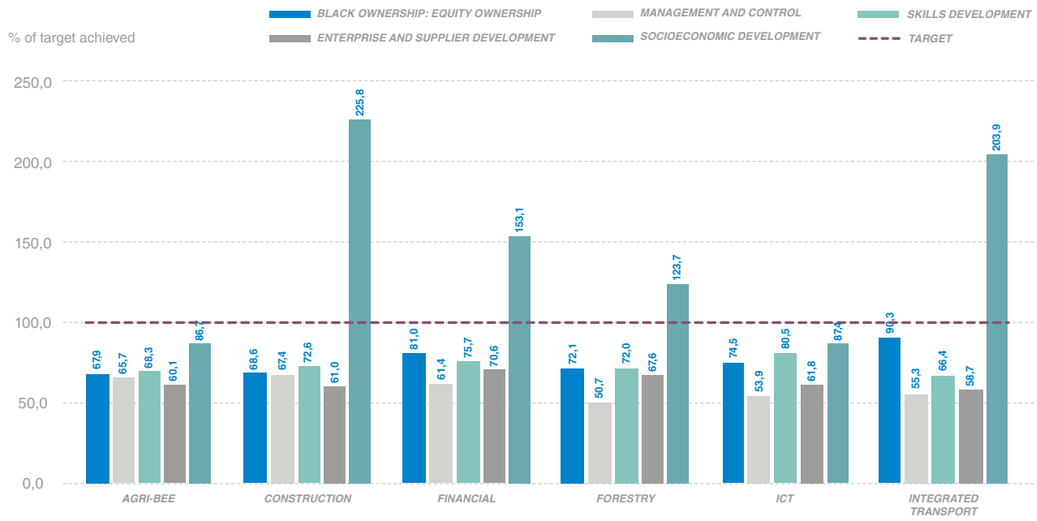
B-BBEE SECTOR	SKILLS DEVELOPMENT			ENTERPRISE & SUPPLIER DEVELOPMENT			SOCIOECONOMIC DEVELOPMENT		
	POINTS	WEIGHTING	% OF TARGET	POINTS	WEIGHTING	% OF TARGET	POINTS	WEIGHTING	% OF TARGET
AGRI-BEE	13,7	20	68,3	24	40	60,1	13,0	15	86,7
CONSTRUCTION	15,2	21	72,6	20,7	34	61,0	11,3	5	225,8
FINANCIAL	15,1	20	75,7	24,7	35	70,6	7,7	5	153,1
FORESTRY	14,4	20	72,0	29,1	43	67,6	6,2	5	123,7
ICT	16,1	20	80,5	30,9	50	61,8	10,5	12	87,4
INTEGRATED TRANSPORT	13,3	20	66,4	20,5	35	58,7	10,2	5	203,9
MARKETING, ADVERTISING, COMMUNICATIONS	17,2	20	86,2	26,1	42	62,2	8,9	5	177,3
PROPERTY	12,7	19	66,6	24,2	39	62,1	4,5	2	224,7
TOURISM	16,2	20	80,8	26,1	40	65,2	9,0	5	179,2
GENERIC	14,9	20	74,5	32,0	42	76.1	7,1	5	142,5
AVERAGE	14,9			25,8			8,8		
SCALED AVERAGE (% OF TARGET ACHIEVED)	74,4			64,5			160,4		

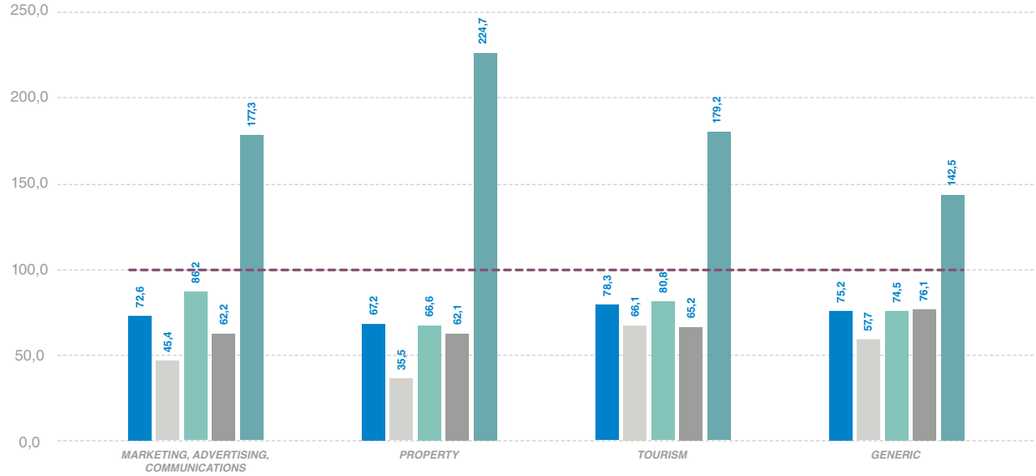
Data sources: Mpowered Beagle database; Who Owns Whom empowerment database; Intellidex research

ALL COMPANIES

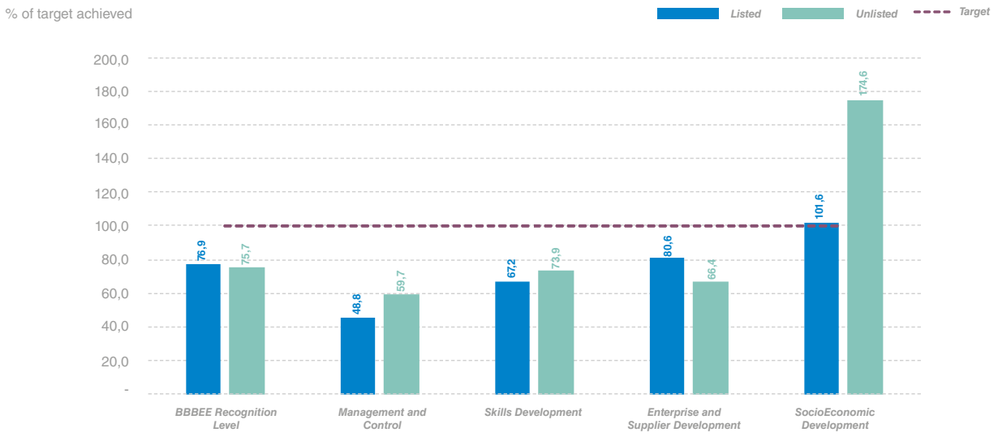


ALL COMPANIES FULL SCORECARDS BY SECTOR

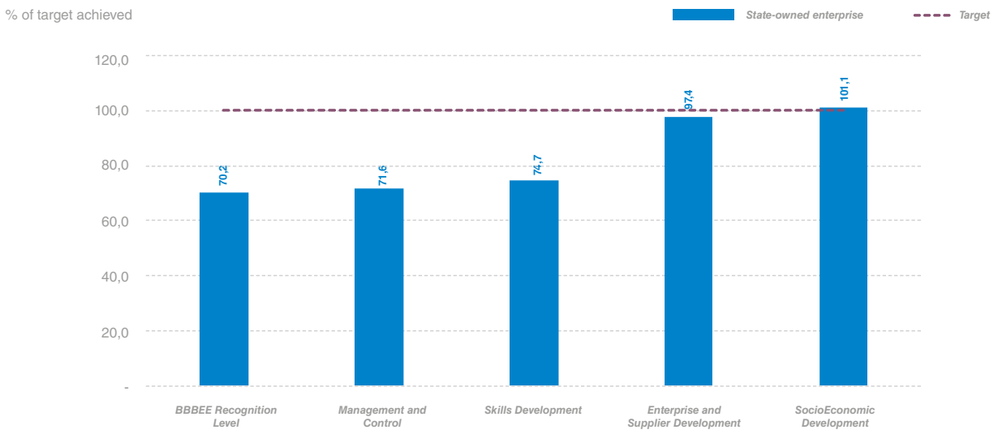


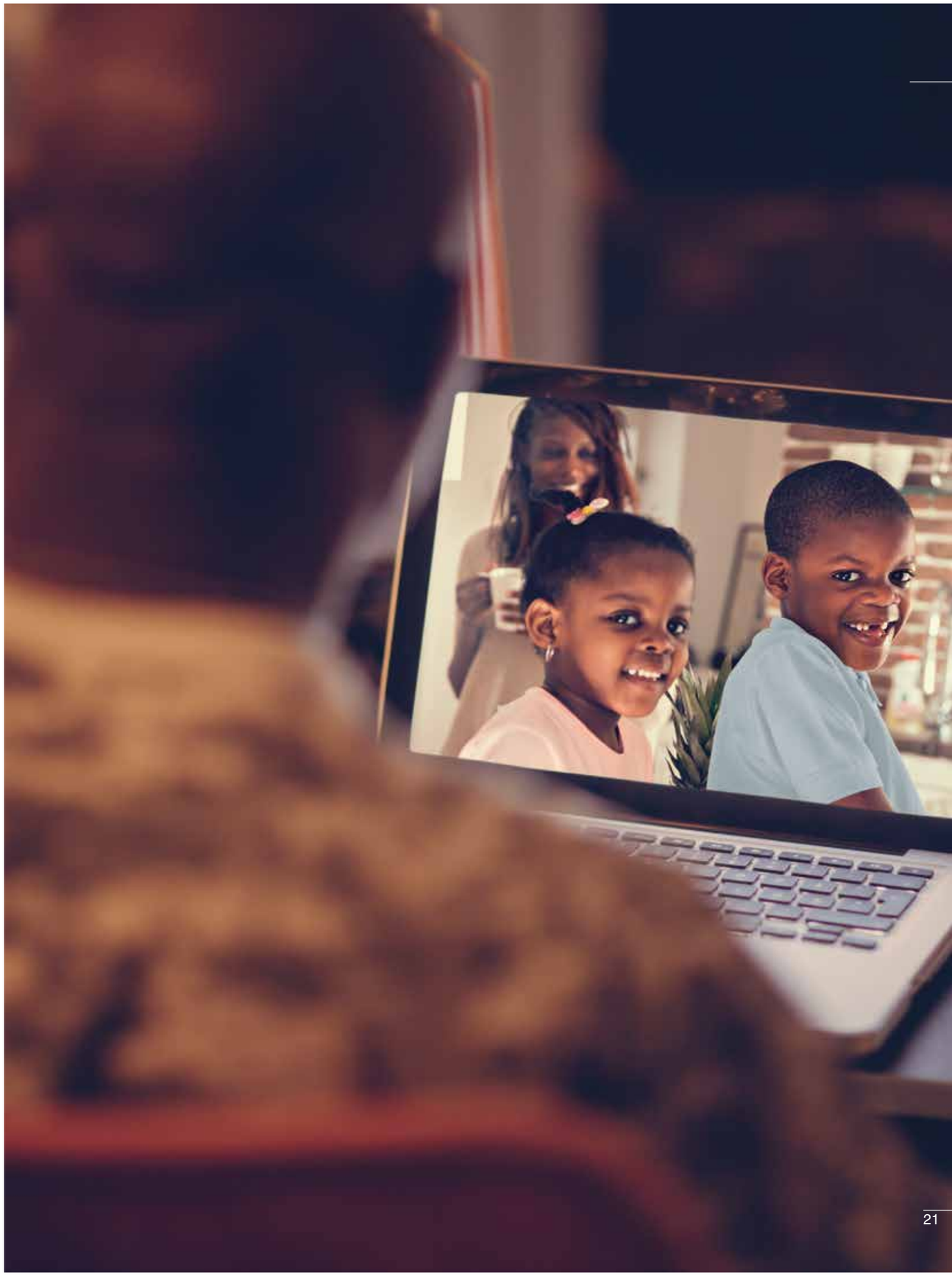


LISTED VS UNLISTED COMPANIES
LISTED COMPANIES: LEVEL 4
UNLISTED: LEVEL 4



STATE-OWNED ENTERPRISES
LEVEL 4





Sanlam's Empowerment & Transformation

1 Support towards SDG Goals

It is essential that Sanlam is intentional and prioritises SDG's that provide the biggest opportunity for shared value creation. The Sanlam Group focuses on all the following SDG's, with the Foundation's work feeding into **SDG 3, 4, 8, 10 and 13**

2 Ownership

Black owned **49%**

Industry target **25%**

Black-female owned **23%**

Industry target **10%**

Impumelelo Top Empowered Company * Accredited by Topco Media

3 People, Diversity and Inclusion

20 066 Employees in South Africa

77% Black Employees

62% Female Employees

4 Procurement

Spend with Black -owned businesses **R5bn**

Spend with Black women-owned businesses **R2.5bn**

Supplier Procurement spend with SMEs

R3.2bn

Spend with Black-owned SMEs

Qualifying small enterprises **R1.7bn**

Exempt micro enterprises **R626m**

5 Training and Development

Total Spend:
R908m

Black Male Spend:
R283m

Black Female Spend:
R408m

Approximately 2 000 managers participated in Group leadership enablement programmes

Transformational leadership programmes introduced

Mentorship programmes **– 32 mentors trained**

Digitisation programmes and **Management Development Programmes** introduced

Programme: 90 students from disadvantaged backgrounds awarded five-year scholarships

Sanlam UCT Online High School Scholarship

6 Access to financial products:

Providing access to
500 000
policyholders through products designed specifically for financial inclusion

7 Socio Economic Development

Education

Investment in the Blue Ladder Schools (BLS) Programme focusing on maths, literacy, and leadership:

2016 — Over **R178m** invested through BLS since — Invested **R40m** — **2021**

73 BLS schools supported over five years
3 provinces covered

2021 beneficiaries included:
390 educators and
70 735 learners

Impact of other educational programmes supported by Sanlam Foundation in 2021

Other educational programmes supported by Sanlam Foundation in 2021

292 jobs created

38 269 beneficiaries

92% black beneficiaries

37 879 of the beneficiaries were learners

247 schools beneficiaries

88% of them were female beneficiaries

390 educators were supported

54% of the learners who participated were female

Partnerships for Risk and Resilience (P4RR)

264
school safety officers trained with six schools receiving virtual and physical risk assessment training in partnership with the Department of Basic Education (DBE), and the National Disaster Management Centre (NDMC)

63
municipalities supported through P4RR initiatives **R10.2m** invested in vulnerable communities through the Emthunzini BBBEE Community Trust **R3.7m** contributed towards commercial risk reduction in municipalities

275 130
leaners reached through the partnership with the National Sea Rescue Institute of South Africa to conduct water wise training for learners

Special projects

Sanlam Words Open Worlds (WOW) Spelling Festival: **2905 learners** from **397 schools participated. 68% of the schools** were rural, **57%** of the learners were young female learners.

40 educators trained on Covid protocols.

22 Grants disbursed from the Small Grants Fund

R13.2m spent on grant contributions and **R2.3m in support of socio-economic development.**

Grants totalled **R2m and funded grassroots NPOs**

9 Bursaries awarded to potential CA's through Thuthuka Bursary Fund

40 community coaches

Takalani Sesame: 130 episodes in 5 languages, voted the Best Children's Programme at the 2021 South African Film and Television Awards (SAFTAs).

16 schools in Kroonstad received sports equipment

8 Empowerment Financing

R14.6bn
invested in empowerment financing

R9bn
invested in various structured finance deals

R5.6bn
invested in various tranches for black-owned property and equity acquisition deals

9 Consumer Financial Education

R18.4m
consumer financial education spend

16 776
participants reached though the Wage Wise and Money Fo Sho programmes.

Black **97%**

Female **72%**

Participants based in rural areas **45%**

Participants were between 18 and 35. **57%**

2 807 379
of people reached through CFE awareness initiatives

10 Enterprise and Supplier Development

R146m in loan funding towards Enterprise Supplier Development

R13m Enterprise and supplier development grant funding

The Sanlam Group Enterprise and Supplier Development Programme helped create **502** **sustainable new jobs while supporting 2 964 jobs in total since its inception in 2013.**

Supported **26** **black owned SME's and 15 financial planning practices.**

144 **black intermediaries** empowered through the BBD programme

8 **learners trained** through the BBD learnership programme.

R5.2m invested in Black Broker Development (BBD) support

Reporting period: As at 31 December 2021, unless otherwise stated.

Sanlam Limited is the Licensed Controlling Company of the Sanlam Limited Insurance Group.

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TAKING STOCK OF SANLAM'S EMPOWERMENT JOURNEY

The findings of the Sanlam Gauge - which show that our sector, the financial services sector, is the third best performer - are encouraging. However, there is still much we as an industry and a nation need to do. The research looks at the progress of SA Inc. giving meaningful insights into where improvement must be made.

RAY-ANN SEDRES,
CHIEF TRANSFORMATION OFFICER, SANLAM

At Sanlam, we are embracing this research as an opportunity to deepen our focus on empowerment and transformation. Inequality remains pervasive in our country and on this continent. As a group with a significant presence in 34 countries in Africa, we have the opportunity to really make an impact on the lives of millions.

We have prioritised seven of the United Nation's Sustainable Development goals (3,4,8,10,11,13 and 17) and embedded them as part of our organisational objectives at multiple-levels.

Here is an overview of our own empowerment journey and work in progress.

OUR INTERNAL STRIDES
Our internal journey to transformation has been a long and rigorous one – and we know just how far we still have to go.

This is where we currently stand: Of our 20 066 employees in South Africa, 77% are black and 62% female. We will continue to focus on deliberate transformation, particularly at a senior management and executive level.

We are 49% black owned, and 23% black-female owned, far exceeding industry targets. This sets us ahead of the ownership targets for our industry. Last year, we also became the largest black-owned asset manager in South Africa, via our asset management arm, Sanlam Investments.

We want to see both our employee and ownership diversity figures continue to improve, so we place huge emphasis on training and developing our people.
We spent just over R908-million on training in 2021: R283-million focussed on black male employees and R408-million on black females. 2 000 managers took part in our group leadership programmes, which included mentorship, digitisation, management development and transformational leadership learnings.

IMPACTING OUR SUPPLIERS AND ENTERPRISES
As a major corporate entity we are dependent on our supply chain to fulfil our clients' needs, and we are also deeply aware of the need for a sustainable and impactful supply base.

In 2021, R5-billion of our procurement deliveries were from black owned enterprises, with half of that being from black women-owned enterprises. Procurement from SMMEs amounted to R3.2-billion.

SMALL, MEDIUM AND MICRO ENTERPRISES (SMMES)
Globally, SMMEs are the main drivers of job creation, hence we know that this is where our focus must be placed. At every level of our organisation we are investing heavily in giving SMMEs access to the finance, market and skills they need to thrive.

One of our highlights is our long-running Sanlam Group Enterprise and Supplier Development Programme which has helped create 502 sustainable new jobs, while supporting 2 964 jobs in total, since its inception in 2013.

Our enterprise and supplier development efforts have seen us provide loan funding of R146-million to help SMEs get back on their feet after Covid-19. Additionally, we allocated R13-million for business development support.

As part of our supply chain support our intermediaries and brokers play a key role in sustainability of our business. For this reason, we are supporting 26 black owned SMEs, 15 financial planning practices and 144 black intermediaries. We have also invested R5.2-million in Black Broker Development support.

Funds such as Sanlam Investments' Investors' Legacy Range and the Resilience Fund - which preserved or created desperately needed jobs over the past two years - will be enhanced shortly with further SMME initiatives. As approved recently by our board.

YOUTH EDUCATION
Building a robust economy starts with well educated youth. We consider the foundational work we are doing among young South Africans to be one of the cornerstone pillars of empowerment and transformation.

In 2021, we invested R40-million in educational programmes through the Sanlam Foundation. We have created 292 jobs in the educational sector through this investment. In addition, 247 schools and 38 269 beneficiaries benefited - of which 92% were black.

RESILIENCE THROUGH FINANCIAL EDUCATION
As the continent's largest non-banking financial services group, in many ways our 'north star' is financial education. From a business perspective, our long-term sustainability depends on more and more people understanding how to successfully manage their finances in order to become financially resilient.
So financial education continues to be a pivotal focus, with R18.4-million being spent in 2021, reaching 16 776 participants directly and 2 807 379 people through awareness initiatives.

We also believe in looking for novel approaches to financial education, so have introduced a savings app for young children, called the Sanlam Savings Jar, and South Africa's first financial education TV quiz show, the Sanlam Moola-Money Family Game show, as fresh, modern ways to engage audiences.

At Sanlam we remain proud of our contribution to transformation and empowerment to date. However, as a purpose-led group, we know just how much work still needs to be done and we are energised by the Sanlam Gauge research and the insights and learnings we are receiving through the project.

We have never been more committed to and excited by our mission to help Africans live with financial confidence.

BLACK EMPOWERMENT TRANSACTIONS

COMPANIES BIG AND SMALL PUSH THROUGH BEE DEALS

Several B-BBEE deals that aim to deliver broad-based benefits have recently been inked with Old Mutual's R2.8bn empowerment transaction and SAB's new Zenzele Kabili scheme standing out, but there were also important ones focused on designated target groups, writes Janice Roberts.

It makes business sense, stated insurer Old Mutual in April this year when proposing its R2.8bn empowerment transaction to lift its black ownership from 25% to over 30%, to drive transformation and real empowerment beyond compliance. "The more equal and inclusive society becomes, the more opportunity there is for the company to achieve sustained growth."

Employees, black members of the public and a community trust will participate in the deal, named Old Mutual Bula Tsela, which is Sesotho for open or pave the way.

Old Mutual will issue over 205-million new ordinary shares for cash. Employee share ownership trusts will hold 1.6% of Old Mutual's issued share capital, black members of the public will hold 1.29% and the community trust around 1.29%. Old Mutual will provide notional vendor funding to the employee trusts and the community trust, as well as actual funding to the special purpose vehicle that will facilitate investment by the public. At time of writing, the transaction still required shareholder and other regulatory approval.

SAB ZENZELE KABILI

One of last year's largest BEE transactions – the SAB Zenzele Kabili B-BBEE deal – replaced the SAB Zenzele transaction of 2010. "The first transaction had run its course," says Gareth Armstrong, corporate finance executive at RMB, which was the financial adviser on the transaction. "It reached its expiry date in early 2020, around the onset of Covid-19. We needed to unwind the transaction and distribute the benefits to all the participants. We obviously then wanted to put in place a replacement transaction, but the pandemic delayed the process that was ultimately put on hold for 12 months."

The initial – and extremely successful – SAB Zenzele transaction was established through an issuance of SAB shares to the employee trust, retailers and the SAB Foundation. SAB Zenzele reached a total maturity value of R9.7bn – the highest BEE value creation in the fast-moving consumer goods industry, meaning that retailer shareholders who invested R100 in 2010 received a total pre-tax payout of approximately R77,000 when the transaction was unwound in May 2020.

The new SAB Zenzele Kabili deal has been structured to hold R5.4bn worth of international brewer AB InBev's shares (the previous deal only gave access to the performance of SAB in South Africa). Retailer shareholders and the SAB Foundation were given the chance to reinvest a portion of their unwound proceeds. A new employee share ownership plan was set up for qualifying SAB employees. RMB also facilitated the listing of SAB Zenzele Kabili on the JSE.

"The new BEE deal was set up for success," says Armstrong. "SAB made a significant equity contribution to the transaction and furthermore provided vendor finance on attractive terms."

Successful BEE deals have three important characteristics, says Kgolo Qwelane, head of BEE corporate finance advisory at RMB. "They have strong operational or company performance, a funding rate that is reasonable and a transaction that is long dated. In this transaction we have a 10-year deal and vendor funding at 70% of prime which is quite reasonable. The only thing we can't predict is how the company is going to perform."

BP-WASAA

A landmark B-BBEE transaction was concluded in the Eastern Cape in May this year that greatly improves the participation of black women-owned businesses in the energy sector. British Petroleum Southern Africa sold its liquid bulk fuels import terminal at the Port of East London to Wasaa, a black women-owned and managed independent petrochemicals company.

Commenting on the deal, President Cyril Ramaphosa said that while the 2020 report by the B-BBEE Commission showed that most economic sectors were falling short of their black women ownership targets, "this acquisition by a black and female-owned company of a liquid fuel terminal is a historic development. It contributes to our national effort to redress inequality and ensure there is meaningful participation by the country's majority in our economy."

CAPITEC EMPLOYEE SHARE SCHEME

In January this year Capitec announced a R1bn B-BBEE employee share scheme only to revise the transaction structure a few weeks later. The amended transaction will partly reduce the tax liability of employees who take up the share offer. While Capitec had initially wanted to issue the R1bn in new shares at a 50% discount and allow staff to fund the purchase of those shares via loans it would provide, it decided to issue the shares at their full price and fund half their value at its own cost.

"The transaction rewards employees who have been permanently employed by the group for at least three years," Capitec says. "It aligns the interests of employees and shareholders and improves the bank's B-BBEE ownership status at the same time, and 10,500 employees now call themselves shareholders."

SANLAM-ABSA ASSET MANAGEMENT MERGER

Sanlam and Absa's combination of their asset management businesses into Sanlam Investment Holdings was seen by many as one of last year's most transformative deals. The BEE status of Sanlam Investments had already changed back in August 2020, when it inked a deal with African Rainbow Capital leading to the establishment of one of the biggest black-empowered asset management companies in South Africa. Last year's agreement between Sanlam and Absa has now resulted in a company with over R1-trillion in assets under management.

A positive of this transaction is job creation as larger businesses can employ more people, says Fatima Vawda, managing director of 27four, an investment manager that each year publishes the BEE economics report highlighting transformation in the asset management industry.

"The small emerging black enterprises do not have the ability to do that. Having said that, what really bothers me is the passive black ownership in most transactions. We want to see black giants emerge that have been founded by – and are driven by – black people. It's sad that we haven't seen a bottom-up black enterprise get to a level where it can effectively compete with the bigger players – and that's largely because of the capital challenges that people face."

Vawda believes that the transaction is good for both parties. "I think Absa Asset Management has never really competed with third parties and it's just looked after deal flow that came directly from the various Absa structures, so I think the transaction is very good for Absa and good for Sanlam too because it's gaining access to this other pool of capital and this other pool of opportunities."

However, she says there is a fundamental concern generally in the asset management sector with group reporting structures prejudicing independent black players in a country where large financial institutions dominate. "A large group at the top level may get a level one B-BEE rating – but it may have an all-white subsidiary with no transformation that is competing against an emerging black enterprise, yet that all-white subsidiary is classified as a level one B-BBEE company. If the subsidiary had to stand on its own, it wouldn't get a level one BEE certificate. Group reporting prejudices the smaller companies because the large groups have subsidiaries in every single sector. But the current code is under review – so in its next iteration there's enough support for group reporting not to continue."

Vawda also expresses concern about what she refers to as the dominance of African Rainbow Capital in SA's financial services industry. "The firm has bought a majority stake in Alexander Forbes – and ARC already owns Sanlam indirectly. Those companies own more and more companies and at the end of the day, we're not looking at B-BBEE. ARC owns a stake in almost every single financial services company in the country. And if you combine Alexander Forbes, Sanlam and Absa, we're going to have an issue from a Competition Commission perspective," she says.

Encouragingly, there have been numerous BEE deals in the asset management industry recently, notably the Terebinth Capital and Blue Alpha Investment Managers BEE transactions, Vawda confirms. And, as she explains, the industry is changing. "With the changes in Regulation 28 [of the Pension Funds Act] coming through, the increased investment in offshore, the increased investment in private equity, infrastructure, venture capital and unlisted assets, there's serious growth and development of our industry in the unlisted space. BEE deals have been taking place as firms gear up for the opportunities that come with these changes."

IMPERIAL LOGISTICS

Imperial Logistics entered into an empowerment deal last year which saw three entities – Willowton Group, Afropulse and Converting Trade – taking a 25% stake in Imperial Logistics Group SA, which houses most of the group's operations in the country. The entities are represented on the board of Imperial and are to be closely involved in defining and driving the strategic growth of the business.

Zaid Moola, head of wholesale clients at Standard Bank Group which facilitated the deal, points out that BEE deals are not all the same and each transaction has its own complexities and nuances. "For example, while discussions on the transaction began in early 2019, no one could foresee the oncoming Covid-19 pandemic and its impact. The conclusion of the transaction shows the unwavering commitment and effort from each of the partners to work through these unforeseen circumstances and conclude a deal that was aligned to each party's objectives."

He says that empowerment partnership deals such as Imperial's are about so much more than a regulatory box-ticking exercise. "They're about understanding the ambitions and pain points of the parties involved. They're about forging strategic relationships in backing the right people and integrating the complexities of the regulatory environment with the strategic imperatives of all parties in creating true value."

IMPLEMENTATION CHALLENGES

While B-BBEE deals have a positive effect on South Africa's transformation objectives, some stakeholders believe that the implementation of these transactions has become challenging.

BEE has a complex legislative framework, says RMB's Qwelane. "You've got the BEE act and the various codes that differ from sector to sector. Coupled with that we've had the introduction of the B-BBEE Commission with which all BEE deals in excess of R25m must be registered for the deal to be regarded as compliant. Previously the deal had simply to be agreed between the parties, so the registration process is an additional requirement."

He adds that Ebrahim Patel, the Minister of Trade, Industry and Competition, made a significant intervention when he issued a practice note in May last year. The note was issued in terms of the B-BBEE Act on the rules for entities such as broad-based ownership schemes, employee share ownership programmes, trade unions, not-for-profit companies, co-operatives and trusts, for purposes of B-BBEE measurement and recognition. The aim was to address the misalignment in the way in which the B-BBEE Commission, verification agencies and B-BBEE advisers have been interpreting the treatment of discretionary collective enterprises in terms of B-BBEE legislation, particularly the issue of ownership recognition.

"The note clarified exactly what is required and we're grateful for that," Qwelane says. "Since the note was issued, a number of BEE transactions have been implemented, meaning that companies are more comfortable with the rules around the deals."

BURGER KING

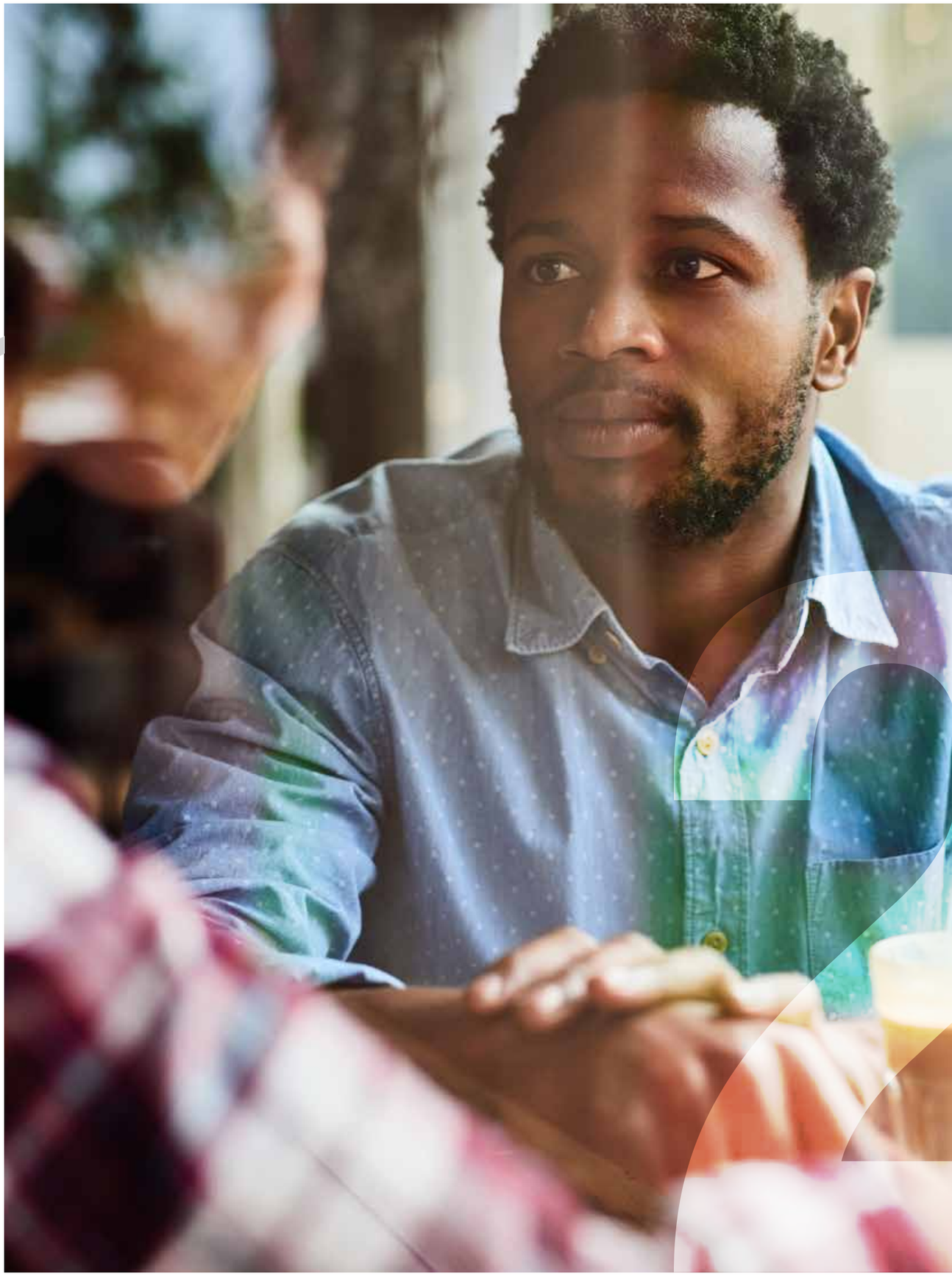
Last year, the acquisition of Burger King from Grand Parade Investments by US private equity firm Emerging Capital Partners made headlines as the transaction was initially blocked by the Competition Commission because it would have led to a significant reduction in the shareholding of historically disadvantaged persons in the target firm, from more than 68% to 0% as a result of the merger. This effectively prevented black entrepreneurs from exiting an investment because they were selling to a foreign company.

The commission then reversed its decision but imposed strict conditions on the merger. "The Competition Commission is essentially saying that whenever you're doing a deal, make sure that workers are being brought into the mix," Qwelane says. "I think this creates an alignment of interest between the company and employees, as well as reinforcing the whole concept that BEE begins at home. Even local companies that are not necessarily engaged in mergers and acquisitions are taking the view that employee type ownership deals are important."

BEE TRANSACTIONS 2021/22				
Information supplied by DealMakers				
YEAR	NATURE OF DEAL	PARTIES	ASSET	ESTIMATED DEAL VALUE
LISTED 2021				
2021	Disposal by	Oceana Group to the employee trust and strategic black partners	6,5% stake in Oceana (6% and 0,5% respectively)	R570m
2021	Disposal by	Northam Platinum to BEE consortium	26,5% effective stake in Northam Platinum	R33,1bn
2021	Disposal by	Anheuser-Busch InBev to BEE parties (SAB Zenzele Retail Shareholders, The SAB Foundation and qualifying SAB employees)	AB InBev shares held in SAB Zenzele Kabili (to be listed)	R5,4bn
2021	Disposal by	Exxaro to Overlooked Colliery	Total equity interest in Exxaro Coal Central	Undisclosed
2021	Disposal by	Imperial Logistics to BEE parties (Afropulse Group, Willowton Group Investments One)	15,1% stake in Imperial Logistics Group South Africa	R502,8m
2021	Disposal by	Balwin Properties to Tatovect (BEE Consortium comprising Zeldadex 51%, Tazinetix 25% and Zeldacraft 24%)	10% stake in Balwin Properties	R214,4m
2021	Disposal by	EOH Mthombo (EOH) to K2020893770 South Africa consortium (IK1V and Crossfin Technology and BEE partners)	100% stake in Sybrin (Guernsey) and Sybrin Systems	R334,35m
2021	Disposal by	Ellies to Imvula Education Empowerment Fund Trust	185 242 070 Ellies shares	R18,54m
2021	Joint Venture	Absa Bank (Absa) and African Rainbow Energy and Power	African Rainbow Energy	R6,5bn
2021	Disposal by	Reunert to Rebatona consortium (Rebatona Educational Trust and ESOP Trust)	Further 3% stake (5 549 076 shares) in Reunert	R278m
2021	Disposal by	Ethos Private Equity (EPE Capital Partners) to Corruseal Group	Neopak Holdings	Not publicly disclosed
2021	Disposal by	Momentum Metropolitan Life (Momentum Metropolitan) to consortium of investors	15% stake in Momentum Health Solutions	Not publicly disclosed
UNLISTED 2021				
2021	Acquisition by	Séché Environnement from Agile Capital	Spill Tech	Undisclosed
2021	Disposal by	Coca-Cola Beverages South Africa (CCBSA) to employees	An additional 10% stake in CCBSA	Undisclosed
2021	Acquisition by	Beryl Group from Africoal	The remaining stake in Eyethu Coal	Undisclosed
2021	Acquisition by	Ascension Capital Partners	35% stake in DRA South Africa, a 25% stake in Minerals Operations Executive (Minopex) and a 25% stake in SRA Projects	Undisclosed
2021	Acquisition by	Sefate-Umthi Investments	100% of ACG Fruit and 25% of The Health Food Group	R650,9m
2021	Acquisition by	Imbani Private Equity	Stake in Insulation Thermal Acoustic Security Company (ITAS)	Undisclosed
2021	Acquisition by	DLO Resources	51% stake in Conco Energy Solutions	Undisclosed
2021	Acquisition by	Joe Public United	Majority stake in newly named Joe Public Durban	Undisclosed
2021	Acquisition by	Sakhumnotho Group	Up to 30% of Everlectric	undisclosed
2021	Disposal by	Botswana Diamonds to Baroville Trade and Investements 02	26% stake in Vutomi Mining	$316,333
2021	Acquisition by	Sakhumnotho Group	Up to a 20% stake in Ennova	Undisclosed
2021	Acquisition by	Sakhumnotho Group	26% in the Refinex and SA Tank Terminals holding company	Undisclosed

LISTED 2021 - GENERAL CORPORATE FINANCE				
2021	Unbundling	Vunani	Unbundling of private equity assets to Vunani Capital Partners, the distribution to Vunani shareholders by way of a distribution in specie and separate listing on EESE	R223,48m
2021	Unbundling	Oceana	Unwind of the 2006 Oceana Empowerment Trust BEE transaction (repurchase of 8 478 067 shares at R67,90 per share) and replacement with new BEE ownership transaction	R575,7m
2021	Unbundling	Northam Platinum	Unwind of the 2015 Zambezi BEE transaction (repurchase of c.35,1 million shares at R152 per share) and replacement with new BEE ownership transaction	R5,3bn
2021	Unbundling	Anglo American	Demerger of its thermal coal operations in South Africa to a new holding company, Thungela Resources with a primary listing on the JSE and standard listing on the LSE. Shareholders will receive one Thungela share for every 10 Anglo American shares.	R2,99bn
2021	Restructuring	Imperial Logistics	Restructure of BEE shareholder Converting Trade's 25% stake in Imperial Logistics Advance into a 9,9% stake in Imperial Logistics South Africa on a value for value basis	R411,8m
LISTED Q1 2022				
2022	Acquisition by	RMB Corvest (RMB Holdings), Umoya Capital Partners, Calibre Capital and management	investment in Brunel Laboratoria	Undisclosed
2022	Acquisition by	Tharisa from BEE parties (Thari Resources [20%] and The Tharisa Community Trust [6%])	26% stake in Tharisa Minerals settle via the issue of Tharisa shares (c. 5% stake)	R390m
2022	Disposal by	Zaad (Zeder Investments) to Sakhumnotho Group	51% stake in African Seeds Group	Undisclosed
2022	Disposal by	Old Mutual to African Women Chartered Accountants Investment	21,2% stake in Futuregrowth	Undisclosed
LISTED Q1 2022 - GENERAL CORPORATE FINANCE				
2022	Specific Issue	Capitec Bank	480,561 shares issued to BEE transaction - open to staff	R1bn
UNLISTED Q1 2022				
2022	Investment by	Agile Capital	In Séché South Africa, which includes Interwaste, Spill Tech and Envirosure	Undisclosed
2022	Acquisition by	Tacenda Consulting and Thembani Shipping	51% stake in Subtech South Africa	Undisclosed

THE SECTORS

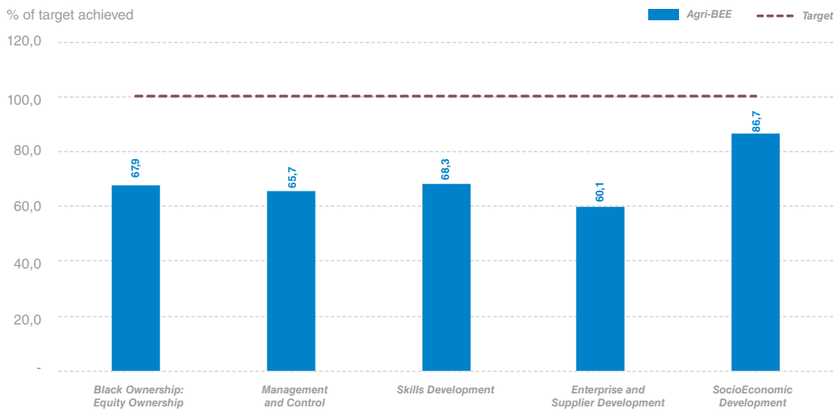


CHALLENGE IS TO DRIVE TRANSFORMATION IN TANDEM WITH FOOD SECURITY

BY LYNETTE DICEY

AGRI-BEE

LEVEL 3



The Agri-BEE sector codes were originally aligned to the joint vision for agriculture as contained in the Strategic Plan for South African Agriculture. It aims for a united and prosperous agricultural sector designed to meet the challenges of constrained global competitiveness and low profitability, skewed participation, low investor confidence, inadequate support and delivery systems, and poor and unsustainable management of natural resources.

The whole idea behind a sector plan and code is to tailor-make the generic codes for the sector, explains Annelize Crosby, head of Legal Intelligence at the Agricultural Business Chamber (Agbiz). "When the generic codes are amended, the sector codes are usually also amended to align them with the generic codes."

She concedes, however, that the sector code in itself is not sufficient to ensure sustainable transformation.

With an average of 91.44 points, the Agri sector is a level 3 contributor in this year's Sanlam Gauge report.

One of the biggest challenges facing the Agri-BEE Charter Council is that very few businesses report on their BEE compliance. This has made it impossible for the charter council to ever provide a report on the status of transformation in the agricultural sector even though this is legal requirement of all charter councils. The Sanlam Gauge sample for the agri sector, for example, was just 216.

Industry stakeholders say a more efficient approach is required to monitor and analyse the impact of the code on transformation in the sector. Without legal enforcement, the charter council relies on voluntary compliance. Ultimately, therefore, it is largely those who need BEE points that provide reports.

An Agricultural Agro-processing Masterplan was signed earlier this year after extensive negotiations between government, business, labour and civil society organisations in the agriculture and agro-processing sectors. According to agriculture, land reform and rural development minister Thoko Didiza, the masterplan will enable government to reimagine a sector that is both globally competitive and inclusive.

Inclusive growth requires the right building blocks to be in place. On the infrastructure side, the country needs road, rail and port infrastructure to be functioning and efficient for produce to be exported on time when needed.

A number of sub sectors within the agricultural sector have set themselves particular targets in terms of growing the number of black farmers, says Christo van der Rheede, executive director of agricultural industry association Agri SA.

Key to growing the sector, he says, is to bring more land into production, particularly land that is lying fallow. Government has extensive land available for redistribution. Of this, approximately 1,000 hectares has been transferred to specific owners. Van der Rheede questions what is happening to the remaining available land.

Simply transferring ownership to black farmers, he argues, is not viable. "It's difficult to just transfer ownership, particularly if it's to a group of people to whom ownership is being transferred. Farmers need to be able to prove ownership in order to use the land as collateral for financing."

It's also not enough to simply have access to land. "Land itself does not produce food, it is farming expertise that produces food," says Van der Rheede. Agri SA has proposed to government that its members be used to share expertise and act as mentors to emerging black farmers to transfer skills. "Farming is not like up opening up a KFC franchise with instant returns: many farmers have to wait at least 8 to 10 years before they're able to offer produce of any tangible value."

He argues that if South Africa is serious about establishing black farmers it needs to go back to the drawing board and come up with innovative ideas in terms of its approach to agriculture and food security. Critical to the establishment of a new cohort of black commercial farmers is equity. "Without equity we're going to run into serious trouble when to comes to largescale food security for the country," he says.

One of the biggest constraints to transformation in the agri sector is a lack of financing, particularly tailored financing instruments such as blended financing. Government has recognised this constraint. At the signing of the Agricultural Agro-processing Masterplan earlier this year, Didiza said it is important that financial institutions appreciate that agriculture needs "patient money like other land-based industries". She added that non-financial services to producers are equally important in order to reduce the default rate from farmers.

In 2021 the Industrial Development Corporation, in partnership with the department of agriculture, land reform and rural development established the R1 billon Agri-Industrial Fund. The fund is aimed at addressing the funding constraints faced by black farmers and breaking entry barriers to commercial farming. Offering blended finance, the fund will be used to develop and implement high impact black-owned large scale commercial agricultural projects. The department has to date transferred R400m of the committed R1bn grant to the fund. In its first year of operation the facility funded nine black-owned and operated projects valued at R384m, which facilitated the creation of 229 new jobs. According to the minister, there are a further 31 additional projects in the pipeline which collectively require R2.2bn to fund. Of this figure, R623m will be provided in grant funding.

There is debate around whether small-scale farmers have a role to play in the agricultural sector in the future – and even whether they be included in agri BEE ratings. Agbiz's Crosby believes there is a scope for a range of farming businesses in South Africa, from quite small to macro farms. She points out, however, that small farmers have unique needs that need to be catered for.

Van der Rheede has a different take on the situation: "The cost of farming has become too costly for small farmers to run a profitable or sustainable business," he says. To be successful, he argues, farming has to be done at scale. "Many of our traditional small-scale farmers have fallen by the wayside because both the cost of production and the cost of capital have become too expensive."

And when it becomes too expensive to produce locally, the risk is that it is ultimately cheaper to import agricultural commodities. "Rather than undermining progress we should be using BEE legislation to create something different that is better oriented to the future," says Van der Rheede, adding that South Africa's future food security will depend heavily on good commercial farmers, including black commercial farmers.

Crosby agrees: "Food security for the majority of South Africa's urbanised population will probably always be provided for by the larger commercial farmers. However, both groupings and all sizes of farmers need to be nurtured and assisted, but in different ways. It probably will not be practical to require small-scale farmers to comply with BEE legislation because of the administrative burden that this will place on them and also because they have limited capacity to comply with most of the elements on the scorecard."

> ***This pandemic ... had quite a severe impact on equity deals. There were some big companies that were at the point of creating ownership deals or co-ownership deals, but that fell by the wayside.”***

OWNERSHIP AND MANAGEMENT CONTROL

One of the biggest impediments to increasing the ownership score, argue industry stakeholders, is that the nature of many agri businesses does not make it easy to simply transfer ownership. Crosby points out that it is particularly difficult for smaller farming business to comply with the ownership element of the scorecard. “In the primary sector, which is made up of many small family-owned farms, options for BEE ownership and management are limited.”

She says transferring land to black South Africans won’t on its own create wealth or grow the number of black farmers. “Access to land on its own is meaningless and may even cause beneficiaries of land reform programmes to get trapped in poverty. New farmers require access to affordable financing, market access, skills transfer, good infrastructure and insurance in order to become successful.”

Van der Rheede concurs. “For a farmer to simply provide his or her farmworkers with a share of the farm does not often make sense. Farming is a high risk business: one year you are profitable and the next you are not.”

What a growing number of famers are doing, he reveals, is buying an additional farm and putting 51% of the shares of the newly acquired farm into a workers’ trust. “Over a period of 20 years, the farmworkers gradually assume more equity as the farm begins to show a profit. However, even before the workers own the farm outright, they benefit by being able to use the farm’s profits to pay off their debt, as well as fund a pension scheme and pay for medical aid membership for the families of the workers.” Van der Rheede says this is a “brilliant idea”.

Unfortunately, there are many examples of black farmers farming on state land who don’t have a proper lease agreement in place. “Secure tenure is of critical importance,” says Crosby. “Title remains the most secure form of tenure. It may not be the only model but it remains the one that lending institutions prefer.”

And without title deeds, the ability of emerging farmers to secure funding is almost impossible, which means the majority are forced to remain small-scale subsistence farmers.

SKILLS DEVELOPMENT, ENTERPRISE DEVELOPMENT AND SOCIOECONOMIC DEVELOPMENT

One of the challenges inherent in the code is that some empowerment initiatives that agri businesses practice with their beneficiaries are not recognised by the code. Crosby says broader recognition and scoring for skills development, enterprise development and socioeconomic development would be welcomed by many agribusinesses. “One could, for example, look at bonus points for skills development. Greater weighting could also be considered for job creation and procurement from rural enterprises.”

She reports that there are a number of training and skills transfer initiatives in place which are being driven by commodity organisations and agri businesses. In addition, some individual farmers also assist and mentor new black farmers. Agri businesses also contribute to the skills levy. AgriSETA uses these funds to provide training for farm workers, amongst other beneficiaries. “These programmes make a huge difference, but the need is greater and funds are limited,” she says.

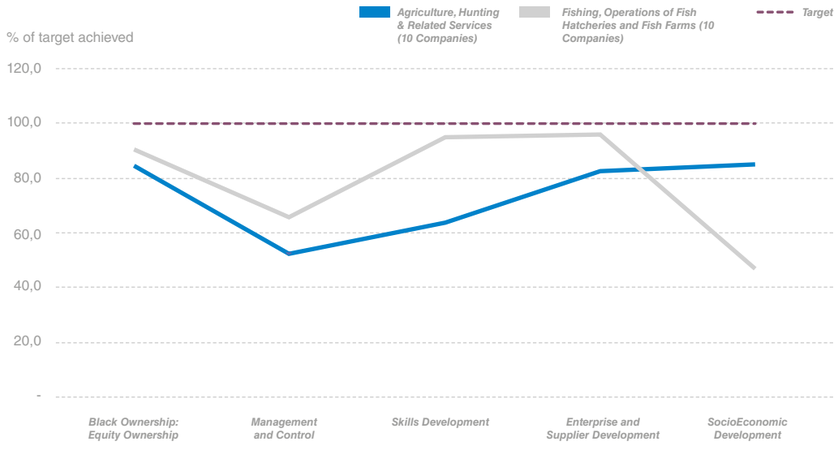
One aspect that receives scant attention is the reality that a growing number of commercial farms will likely be automating to a large degree within the next decade or so. What happens to all their farm workers when these farms are largely automated?

“Farming is becoming more mechanised and technologically advanced globally, which means it is going to be important to upskill the workforce continually to keep abreast of these developments,” says Crosby.

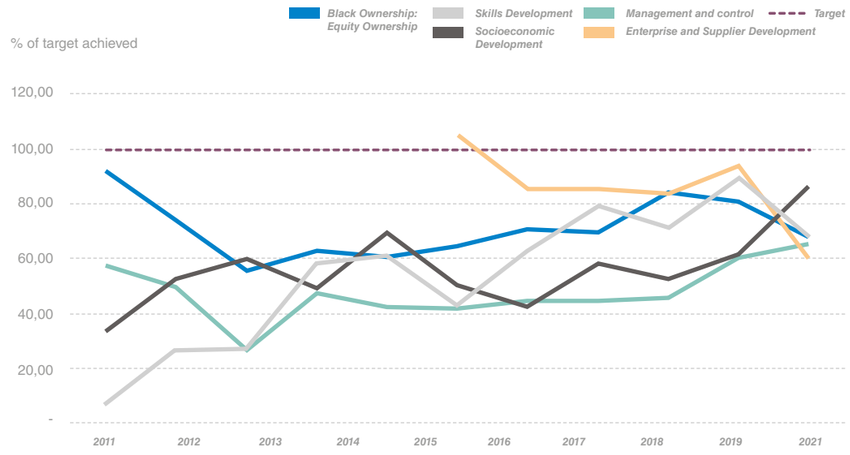
Van der Rheede is less upbeat about this, arguing that many of today’s farmworkers will be obsolete within the next two decades as largescale mechanisation is substituted for manual labour. The challenge is exacerbated by the fact that the majority of farmworkers are largely illiterate with outdated skills. His solution is to create new opportunities including tourist-oriented villages to underpin a new rural ecosystem.

There is no denying that farming is a high-risk business with a number of different factors that make an impact on productivity, including climate change, lasting droughts, floods, disease, crime, poor rural infrastructure, escalating input prices and financially constrained consumers. Farming is a tough way to make a living, agrees Crosby, adding that this is likely contributing to many new farmers being unsuccessful and ultimately leaving the industry. The challenges faced by farmers has a knock-on impact on agri businesses that depend on agricultural commodities. For the agri sector, the big challenge will be to ensure sustainable transformation in tandem with food security.

AGRICULTURAL SUBSECTORS



AGRI-BEE: 10-YEAR HISTORY



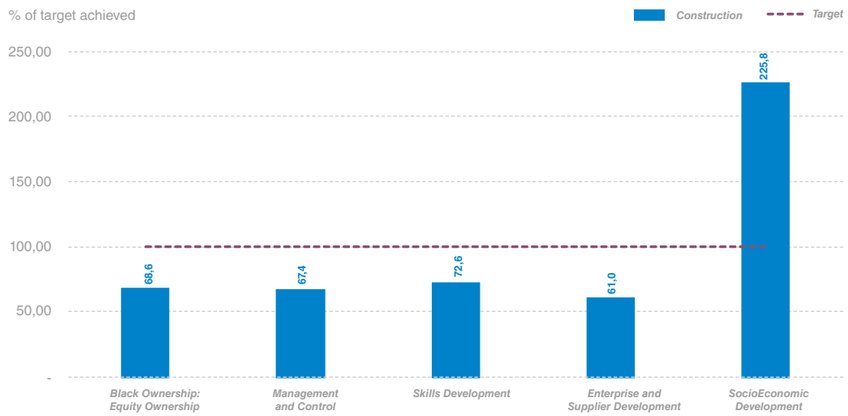
Note on methodology for subsector and 10-year history scores. In the graphs accompanying each article on the sectors, the first graph of the overall sector’s scores are drawn from the full sample of 10,336 companies. The scores for the subsectors, however, are drawn only from our original sample database of 2,300 companies in which companies were allocated to a subsector and we publish those for which we have sufficient scores. The subsectors are classified according to the international Standard Industrial Classification (SIC) Codes, which differ from the B-BBEE codes. These SIC Code subsectors scores were not available for the balance of the companies in our total database. Furthermore, with the 10-year history graphs which are derived only from the original database of 2,300 companies, the scores are not like for like because the composition of companies differ year by year.

CHARTER COUNCIL BATTLING A LACK OF FUNDING

BY LYNETTE DICEY

CONSTRUCTION

LEVEL 3



The construction sector achieves a level 3 contribution rating, with its 90.82 points second only to the Agri-BEE sector.

The Construction Sector Charter believes that its sector code doesn't provide much lattitude for "box-ticking". It makes training spend a priority, even for 100% black-owned companies. Furthermore, as the sector council's Ingrid Campbell points out, most charter codes allow companies to write out a cheque to an NGO in return for which they receive points. It's not that easy to get the points in the Construction Sector Charter Code.

The construction sector was one of the first to develop sector specific codes with the code applying to businesses which derive more than 50% of their income from construction-related activities. The Construction Sector Charter Council was established in 2012. A year later, in 2013, the sector council published its first state of the industry research report, based on 3,500 scorecards.

The sector council has faced numerous challenges in recent years because its funding model has not been approved by the department of trade, industry and competition (DTIC). A proposal for the sector council to self-fund was tabled in 2017. When that proposal was refused, the charter council submitted another proposal based on the same funding model as the one tabled by the ICT Sector Charter Council. Although the ICT Sector Charter Council's proposal was accepted, the Construction Sector Charter Council has yet to receive a response from the DTIC regarding this second proposal. In the absence of an alternative proposal from the DTIC for how the sector council should be self-sustained, volunteer associations in the sector are doing their best to keep the sector council going. However, a lack of funding is making it harder to track, measure and drive transformation in the sector.

Despite these financial challenges, industry insiders speak highly of the Construction Sector Charter Council and say that the code is appropriate and fit for purpose. Suggested improvements to the codes are offered on a regular basis by the industry. Volunteers sitting on the technical committee of the sector council are then responsible for proposing these changes to the B-BBEE Commissioner.

Chris Campbell, CEO of industry association Consulting Engineers South Africa (CESA), says the code factors in the specific dynamics and challenges of the sector and makes it possible to definitively track transformation in the industry. "Specifically, it promotes the need for diversity and inclusivity both to meet B-BBEE targets to secure business as well as a value-add to a business."

The sector council is justifiably proud of what it has achieved, most significantly for ensuring that its codes are not merely a tick-boxing exercise. "Our codes require that every company invests in sustainable training in rural areas which don't typically have as many services on offer," says Ingrid Campbell.

The sector council's Gregory Mofokeng explains that the code was designed in a way that makes it every company's responsibility to invest in creating a pool of skilled people. He concedes that this has required a mindset change because some companies are under the impression that being 100% black-owned means they don't have to do anything else to be awarded points.

One of the biggest constraints to transformation in the construction sector has been the slowdown in government procurement, which has put a number of companies at risk. In the consulting engineering space, for example, MPA acquired 100% equity in engineering and development firm Mott MacDonald Africa, the South African subsidiary of Mott MacDonald to form MPAMOT, the largest 100% black women-owned engineering and infrastructure development consulting firm of its size, capacity and capability in South Africa.

Concor and Murray and Roberts construction divisions were sold to a black-owned consortium in 2016 while Aveng Grinaker-LTA was also sold to a black consortium in 2019. Inefficient government procurement processes, however, means that projects are not materialising and putting all these empowered companies under significant pressure, reveals Campbell.

THE SCORES

The Construction Sector Code prioritises ownership and this is reflected in the fact that the sector is one of the higher scoring sectors when it comes to ownership, scoring 18.5 out of a possible 27 points, achieving 69% of target.

CESA statistics for 2021 indicate that 70% of the association's 580 member companies are 51% or more black owned. The bulk of these companies – at least 90%, says CESA's Chris Campbell – are QSEs and EMEs. "We have seen a growth in membership and a host of new companies entering the sector as consulting engineering companies which largely accounts for the growth in recognition," he says.

MANAGEMENT CONTROL

Management control is the one scorecard element that all sectors struggle with. The construction sector is no exception, achieving 67% of target.

Taken over a 10-year period, although management control was seeing a steady improvement, since 2019 this improvement has started to taper off.

In the built environment, the biggest struggle is ensuring sufficient black professionals in top management, says Mofokeng. Larger companies tend to include black professional engineers in their listing of top management but then fail to help these executives get professional registration which makes it harder for them to progress in the industry. The code, he adds, tries to accelerate the development and registration of black professionals so that they are in line to get to top management. As a result, the number of black professionals in junior and middle management has almost tripled in the last decade.

CESA's Campbell says the weaker management control score in the construction sector is primarily a skills pipeline problem driven by poor throughput at a basic education level. "Over the past decade, out of the 500,000 average number of matric learners, the 250,000 learners who wrote matric maths (as opposed to maths literacy) each year, only around 12% achieved a pass of 60% or more that

> ***"Our codes require that every company invests in sustainable training in rural areas which don't typically have as many services on offer..."***

would gain them entry into a tertiary education career in the built environment. This does not factor in the reality that some of these 12% will opt for other career paths."

He says that given the standard at which mathematics examinations are pitched, even those who achieve a 60% or 70% pass mark may struggle through engineering courses and drop out. "If there are insufficient numbers of engineering graduates to start with there will be an inevitable shortage of management level candidates. We're not going to change this reality any time soon unless we have a pipeline of suitably qualified graduates coming through. In the current economic environment, it's not sustainable for companies to have inadequately experienced and qualified people in management positions simply to reflect target requirements."

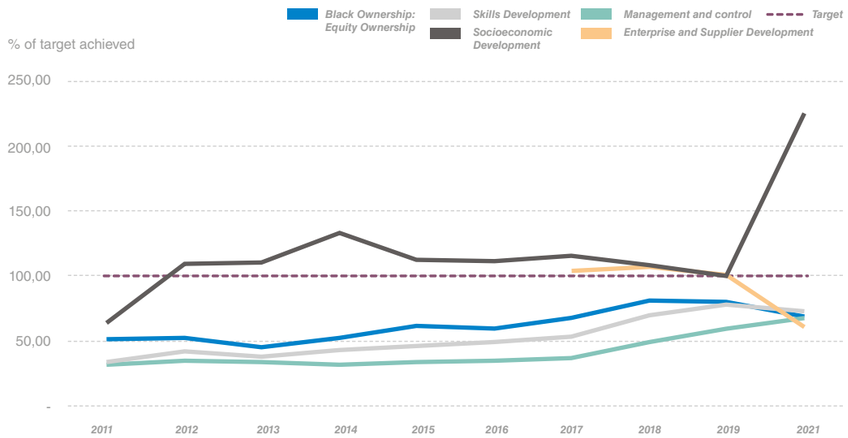
Roy Mnisi, executive director of Master Builders South Africa, does not buy the narrative that there are insufficient skilled people to fill the management level positions. "Though this argument may sound compelling, it is simplistic and short of understanding the ultimate purpose of transformation. Each sector needs to be responsible for establishing and maintaining effective systems of skills development and career development."

He says not all companies appear to be as willing to embrace the country's transformation aspirations as others with the result that transformation is not happening as quickly as it should be. "As a policy maker, government must ensure that transformation goals are prioritised and achieved and sectoral stakeholders – like Master Builders South Africa, regulators and financiers, among others – must go back to the drawing board and work together to find a way to drive and accelerate transformation," says Mnisi.

Mofokeng says there is no question that more black professionals need to be coming through the ranks. "The benefit of a sector specific charter code is that we can tailor the code to drive this. Ultimately, policy has to be in place to drive progress and create an incentive and an environment that is conducive to change. We are confident that the sector is making progress although obviously more progress still needs to be made."

Construction achieved 72.6% of target for skills development, 61% for ESD and 225% in socioeconomic development.

CONSTRUCTION: 10-YEAR HISTORY

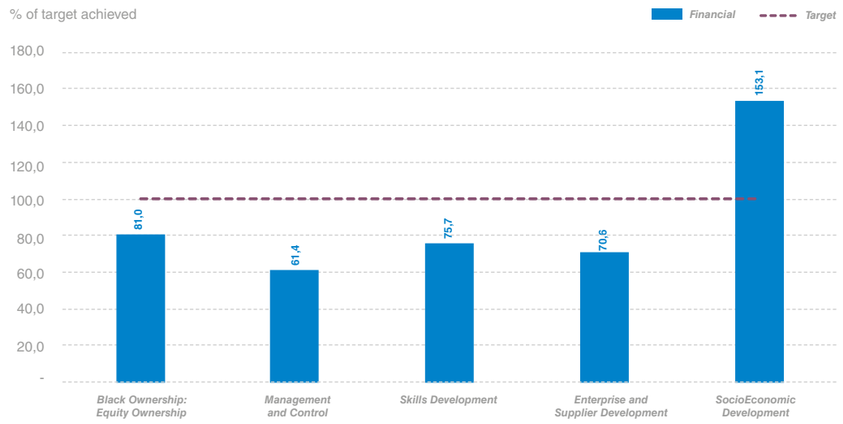


FSCA DRAFT POLICY SETS OUT STRATEGY TO DRIVE TRANSFORMATION

BY HERB PAYNE

FINANCIAL

LEVEL 4



The financial sector, as a key contributor to the South African economy and a vital transformation driver, perhaps gets more attention than most sectors. But concerns about the limited extent of broader participation in the sector remain a major challenge which could lead to tighter controls over its activities.

The Financial Sector Conduct Authority (FSCA), the market conduct regulator for all financial institutions, recently published its draft transformation strategy which, according to the organisation's head of policy support, Kershia Singh, sets out how the FSCA can better drive meaningful progress toward commitments made by financial institutions under the Financial Sector Code.

Werksmans attorneys, in an analysis of the FCA draft, states that the strategy aims to enable the FSCA to hit the ground running when it takes on increased responsibility for the regulation of financial sector transformation – on enactment of the Conduct of Financial Institutions Bill (COFI). It won't usurp the authority of the Financial Sector Transformation Council as the custodians of the financial sector code but will supervise transformation requirements at an institutional level. It suggests doing this through the initiation of a series of regulatory and supervisory measures that will not only enhance engagement with all stakeholders but will facilitate more effective engagement of the financial institutions on the effectiveness of their current transformation compliance. It also proposes training initiatives to support small businesses to cope with licensing and compliance issues.

Certainly, the Gauge research, which included data from an unprecedented 759 financial sector organisations, shows there is room for improvement with the financial sector on a B-BBEE contribution level 4.

Based on the Standard Industrial Classification (SIC) codes for sector allocations (which differ from the B-BBEE sectors), the financial

> *a huge challenge particularly for people coming from a disadvantaged background"*

sector incorporates three subsectors: financial intermediation with the exception of insurance and pension funds, but including banks; activities auxiliary to financial intermediation; and insurance and pension funding with the exception of compulsory social security. Within the three sectors there are a further 13 subsectors ranging from activities such as auxiliary to financial intermediation through to security dealing activities.

Within these groupings are more than 10,000 licensed entities, most of them small operations such as brokerages and one-man shop financial advisers – many of whom don't have to be measured because of the size of their turnover but should submit B-BBEE affidavits. However, reporting, as was highlighted in last year's report, remains a problem.

The Gauge research shows that the sector has failed to meet any of its targets, except in socioeconomic development with an overall contribution score of 88 points. The sector achieved 81% of its ownership target and only 62% for its management control target.

When it came to skills development the financial sector achieved 76% of target and 71% of target for enterprise & supplier development. Like most sectors, the only target to be met and exceeded is socioeconomic development where it achieved 154% of target.

Singh argues that more needs to be done to transform the financial sector. "Financial sector regulators should be playing a more active role in driving transformation. They can set requirements on regulated entities at licensing stage, on an ongoing basis, and then enforce the achievement of these requirements."

She believes the Conduct of Financial Institutions (COFI) Bill – due to be published later this year – will help strengthen its hand as a transformation driver by making transformation an explicit function of the FSCA and giving it powers to ensure that financial institutions live up to their transformation commitments.

Both the Banking Association South African (BASA) and the Association for Savings and Investment South Africa (Asisa) conducted their own transformation surveys. Asisa, which represents asset managers, collective investment scheme management companies, linked investment service providers, multi-managers and life insurance companies, is busy finalising its 2022 report.

Khulekani Mathe, BASA's head of financial inclusion, does not believe that additional legislation is necessarily the way to effectively accelerate transformation, although he concedes that, given South Africa's history, "we can't be happy with the levels of transformation achieved and we need to do better". He says it is not true that the private sector is unwilling to transform. "What we really need is a better understanding of some economy wide factors in order to better drive transformation instead of introducing more draconian measures and legislation."

That's not to say that the banks don't have challenges. Mathe notes that although there are fewer than 40 banks in total (over half of which are South African-owned), data collection on transformation is a challenge. "We don't get submissions every year from all the banks for our own transformation report or for the FSCA. The challenges are many times greater in other parts of the financial sector where there are thousands of players." He says it is however encouraging that those reporting represent 90% to 95% of assets under control.

On ownership, he says the banks have performed better than the financial sector code targets of 25%, with black ownership at around 28%, although there has been a recent decline in ownership. This relates to the fact that the banks were among the first industries to conclude BEE deals in the mid-2000s, some of which began maturing after 2015 so they became unencumbered, allowing BEE shareholders to freely trade the stock. "These shares are being sold off gradually – some to invest in other sectors, some to capitalise, others to start-up businesses, and a host of other reasons. We don't decry this, it is what any investor is entitled to do and even with this trend, black ownership exceeds code targets," says Mathe.

Absa, which claims to have been the first South African bank to undertake a significant empowerment transaction in 2004 – transferring 10% of the group to black owners – is now instituting a second, R10bn, employee ownership scheme involving 8% of the group's issued share capital – only ownership by black employees will count towards the bank's ownership score.

Mathe describes management control as the next most contested element of transformation with two primary elements within banks – one relates to board level composition and the other to top management.

Although both of these remain below target, there has been a year-on-year improvement. He says there isn't a huge pool of talent available. "So, what happens is that we celebrate the appointment of a black CEO at one bank only to discover that he or she came from a similar position at another bank. It's not always the case, but the reality is that we are all fishing from the same pond."

What is more encouraging, he adds, is the strong growth in the numbers of junior to middle management levels – people who should ultimately feed through to senior management and executive level. He says there has been a similar improvement in black and female representation on boards, although the numbers are still very low.

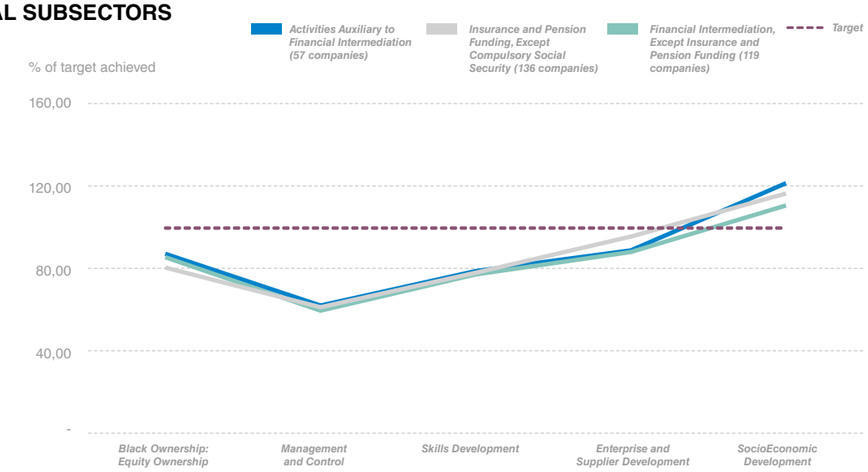
He declined to comment on the appointment of Arrie Rautenbach as CEO of ABSA Bank earlier this year – an appointment that some have labelled a transformation reversal, although the bank has strongly defended the appointment and emphasised its own B-BBEE track record. It's recognition level, for example rose from a level 4 in 2012 to level 1 in 2021. Furthermore, more than half its senior managers are black, compared to less than a third a decade ago.

Mathe points out that banking is a generator of top-end skills rather than simply an absorber of them, spending over R3.5bn annually on black skills development. Even when some of these people are lost to other sectors, he says it isn't a bad thing because they become an economy wide management resource. "That's what keeps the labour market dynamic – the movement of people and skills from one sector to another. Only training managers for our own sectors is a zero-sum game."

The wider financial sector, including asset managers and insurers, has "some fairly obvious challenges", says Japie Britz, commercial director of BDO B-BBEE Verification Services. One is the high level of regulation required and the various licensing requirements, particularly relating to equity investment and ownership. These, he says, could provide fairly daunting barriers, particularly to empowerment entities intent on entering the sector, perhaps through the establishment of (or partnerships in) a brokerage.

In tandem with that, he believes that although there are many channels available to fund such ventures, these are not always as accessible as they might seem. This could be further complicated by the high levels of red tape and documentation required in order to succeed which is "a huge challenge particularly for people coming from a disadvantaged background", says Britz.

FINANCIAL SUBSECTORS



> ***"That gives rise to its own challenges in the implementation of employment equity because at the top level you're competing for scarce talent."***

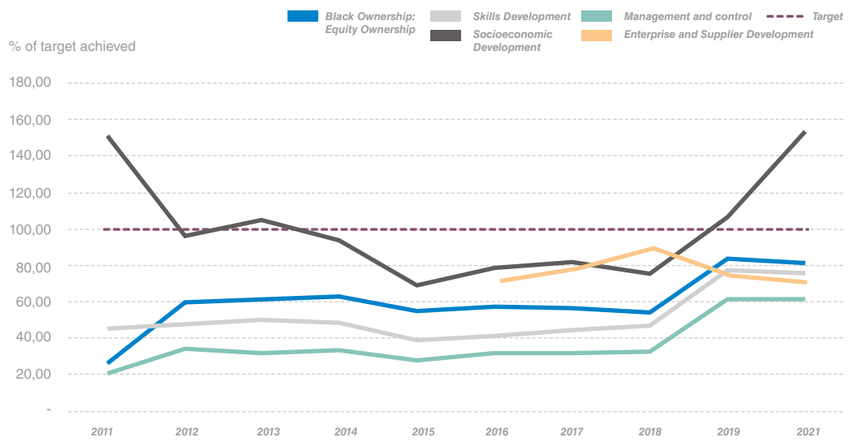
At the other end of the scale are foreign-owned companies that are unwilling to relinquish ownership locally as a price of doing business. While these have been accommodated through government's Equity Equivalent Programme operated by the Department of Trade and Industry and Competition whereby, on application, a foreign-owned entity will commit to a monetary equivalent transformation initiative in lieu of ownership points. "The company gets the scorecard points (valid for a decade) that they would have received for a BEE equity transaction, without relinquishing shares – and is, therefore, not certified as a black entity."

Another challenge for the smaller operations is hiring skilled personnel. Even if they are willing to promote transformation through the promotion of skills development and management control, he says, they often find that people of the desired calibre and potential tend to prefer the larger institutions and companies where they might feel they have better prospects and greater security.

Ideally this gap should be filled on an ongoing basis with matriculant school leavers but, says Britz, there is a substantial gap between the competency levels of school leavers and the tertiary education skills necessary to negotiate the various tests and qualifications of people wanting to become brokers – financial services advisor or insurance brokers – to prove the competency necessary to give sound investment advice.

Overall, transformation within the financial sector is important for the entire economy as businesses from all sectors as well as individuals are plugged into it through banks, insurance companies and investments. Fuller transformation at ownership and management levels in financial companies will be a key driver to accelerate the allocation of capital to small black businesses.

FINANCIAL:
10-YEAR HISTORY

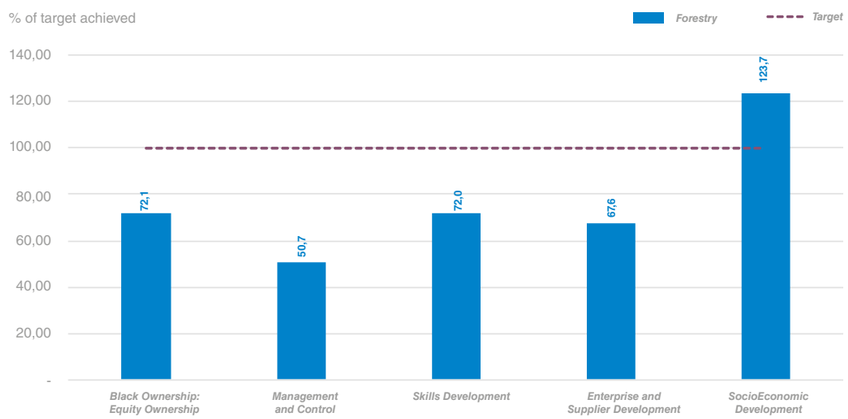


KEY SECTOR PLAYERS COMMIT TO B-BBEE IMPLEMENTATION DESPITE AN ONSLAUGHT OF CHALLENGES

BY AURELIA MBOKAZI-KASHE

FORESTRY

LEVEL 4



The forestry sector is critical to South Africa's economic growth and long-term transformation. It has been undergoing a steady transition, managing to almost treble its export earnings in a decade. It now contributes 25% of agricultural GDP and is responsible for an estimated 700,000 jobs. Not withholding its importance, its transformation has been sluggish.

This year the Sanlam Gauge survey incorporated 73 forestry companies, up from only 13 last year, to present a fuller picture of the sector's transformation. With an average of 87.46 recognition points it is on level 4.

Having achieved 72.1% of the ownership target, it is ahead of agriculture, construction and property. In management control it is third worst with 50.7% while for skills development it achieves 72% of target; 67.6% for ESD and 123% for socioeconomic development.

When the Covid-19 pandemic hit, the forestry sector had already been struggling and was flagged as an underperforming sector by the B-BBEE Commission in its 2020 annual report.

As forestry companies began picking up the pieces from the devastating effects of the pandemic, they reimagined their transformational strategies and focused on saving jobs. But this change in strategy resulted in a significant decline in the number of companies that filed their B- BBEE scorecard reports.

> *"This year the Sanlam Gauge survey incorporated 73 forestry companies, up from only 13 last year"*

Discrepancies between its targets and the reality of the communities meant to benefit from the implementation of B-BBEE in the sector were highlighted in the commission's report.

The 2020/21 Forest Charter Council (FSCC) Annual Report points to a sector that is at odds with implementing its transformation mandate. The purpose of the report was to assess the impact of the Covid-19 pandemic on the sector, moving beyond evaluating the performance of the scorecard elements.

FSCC executive director Makhosazana Mavimbela cautions against viewing the sector through the skewed lens of non-compliance and says despite the challenges relating to the implementation of B-BBEE, companies in the sector are committed to transformation.

While acknowledging a decline in the number of businesses that reported for the 2020/21 period, particularly among QSEs and EMEs, Mavimbela reiterated the commitment of companies in the sector to transformation, adding that results show that medium and large enterprises (MLEs) improved in all the scorecard elements from the previous year with the exception of management.

"Most of the larger companies report annually and are fully committed to the scorecard elements. We have built a relationship with these companies," she says, adding that while some entities in the sector were questioning the relevance of the implementation of B-BBEE during the pandemic, these were not a reflection of sentiments shared by the entire sector.

The FSCC report relied on a sample size of 18 MLEs, including Safcol. This amounted to only 55%, that reported in 2020/2021. MLEs in the sector are required to have at least 25% black ownership in either existing or new companies. In 2021, they achieved 87.2% of this target for ownership, marking an improvement from the score of 78.12% for the 2019/2020 reporting period. However, the report states that black women control in the sector remains very low.

The report shows MLEs maintained a level 4 B-BBEE rating despite the economic impact of Covid-19 and apart from the problematic management control, all other scorecard elements improved. "Management control continues to be one of the weakest elements in the sector. Most companies are family owned and struggle to pass down a share of their companies as part of a B-BBEE scheme", says Mavimbela.

Diveshan Rao, managing director of BEE Online verification agency, says there was a shift in 2021 with entities across sectors reassessing their B-BBEE implementation strategies owing to budget constraints. In the thick of the economic uncertainty, companies shifted their focus to saving jobs and keeping operations running.

"We've seen skills development budgets being slashed and this reduction in expenditure leads to entities losing points on the scorecard," he says. "The biggest failure was due to companies not aligning their BEE strategies to their strategic objectives, such as the organisation's skills development requirements."

Rao says advising clients to comply with the transformation process is an important role. "We have clients who believe that B-BBEE is a waste of money and is not worth it. Their main objective has been to save jobs and reduce the unemployment rate in SA. They want to see a return on their investment and feel pressured to implement the scorecard elements despite the immediate challenges."

Bruce Strong, CEO of Mpact, the listed paper and plastics manufacturer which reports according to the forestry sector code, says as part of his organisation's continued support of the B-BBEE agenda, it pursued alternative means to provide employees with skills development, another critical element of the scorecard. This included a new online learning platform with 22 courses for employees. "Investing in our people is another critical aspect of ensuring the group's sustainability. Transformation is a key focus of Mpact's HR initiatives. We are embracing new ways of learning and encouraging skills improvement through alternative means of providing training and development, particularly as Covid-19 has triggered a massive leap forward in our digital evolution," he says.

Forestry is responsible for a significant contribution to the country's rural economy and development through ESD investments, which continue to be one of the best-performing elements. In the FSCC report, ESD achieved 89.2% of target (38.4 points out of a weighting of 43), slightly up on the previous year while the Gauge's ESD score

AS RURAL COMMUNITIES WERE GRAPPLING WITH THE EFFECTS OF COVID-19, OTHER FORESTRY ENTITIES ALSO CONTRIBUTED SIGNIFICANTLY TO NEIGHBOURING COMMUNITIES WITH FOOD PARCELS, MASKS AND SANITISERS AND DONATIONS TO SCHOOLS.

of 67.6% of target ranks it third, behind the generic and financial sectors.

In its annual results report, Mondi reported that it continued its support of forestry SMEs and smallholders via its social projects, focusing on providing sustainable training opportunities. The group also provided healthcare and support from its nine mobile health clinics to forestry contractor employees and their families as well as income-generating projects implemented by Mondi Zimele, the company's small business development enterprise.

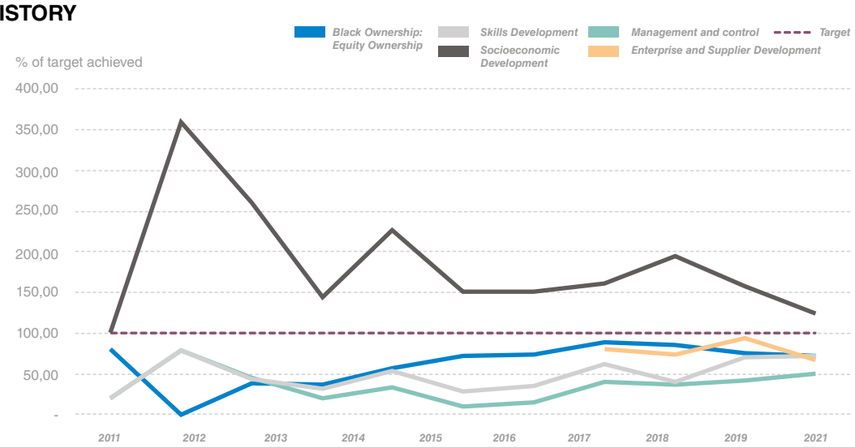
Despite suffering losses of approximately R220m in its fourth quarter due to temporary closures of their operations during the July riots, Sappi reported that it maintained a strong focus on social responsibility, contributing towards the development of the communities surrounding its operations.

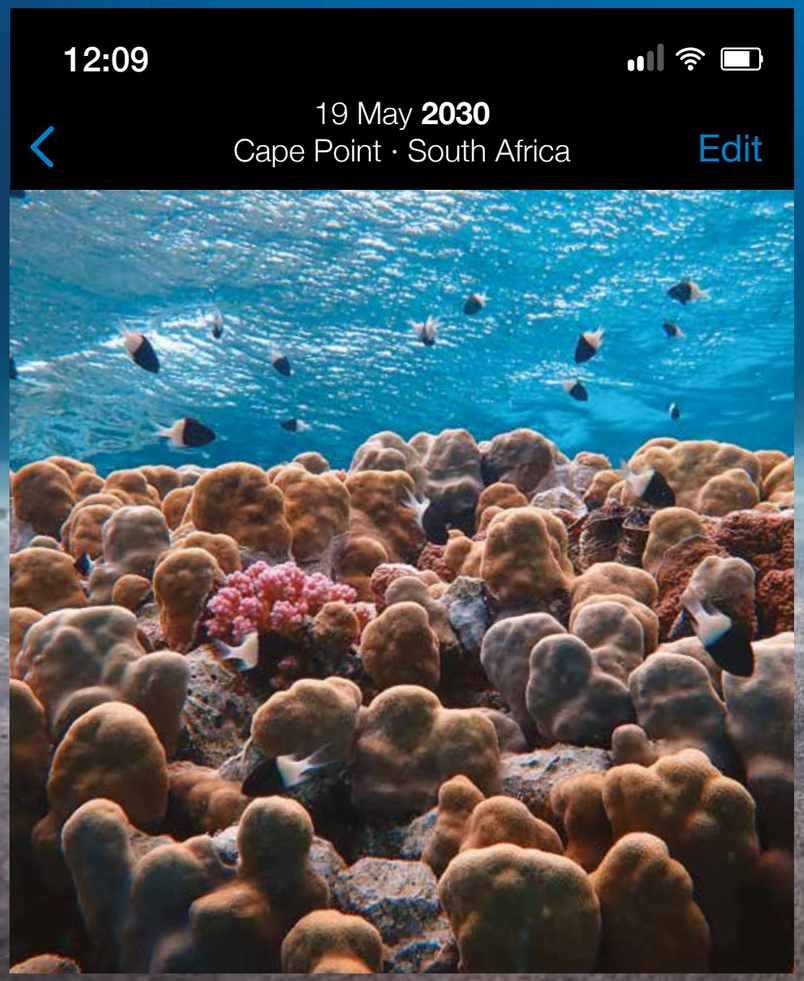
As rural communities were grappling with the effects of Covid-19, other forestry entities also contributed significantly to neighbouring communities with food parcels, masks and sanitisers and donations to schools.

In the post-Covid environment, the challenges facing the sector are formidable, particularly in developing small black-owned forestry companies as part of its economic recovery efforts which are being driven by the Forestry Sector Masterplan that was prepared by Strategy Execution Advisers and submitted to the Department of Environment, Forestry and Fisheries in September 2020.

Its broad objectives are to support growth and inclusivity in the sector with two main thrusts. The first is to increase community ownership and economic benefits related to the primary subsector; and the second is to expand community and black business opportunities throughout the sector with improved commercial viability.

FORESTRY: 10-YEAR HISTORY





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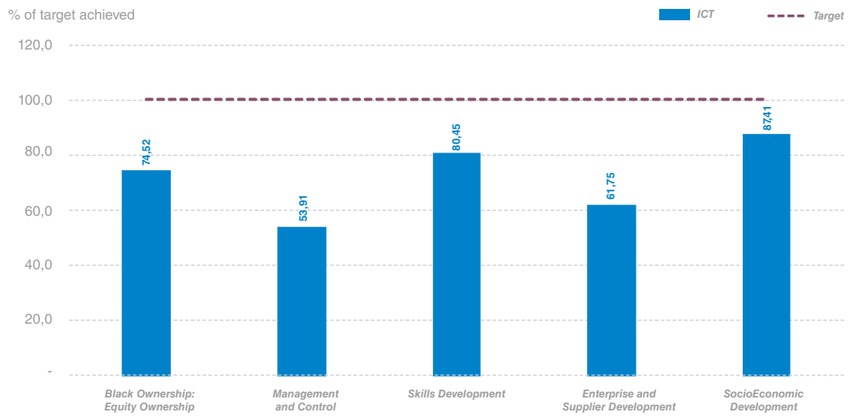
SECTOR CODE OVERDUE FOR A REFRESH

BY LYNETTE DICEY

INFORMATION AND COMMUNICATIONS TECHNOLOGY

LEVEL 4



Information and communication technology evolves rapidly and empowerment regulations are struggling to keep up, resulting in a mismatch between the code's requirements and the industry's needs, such as those related to the fourth industrial revolution (4IR).

The ICT sector code was published in 2012 and amended in 2016. The sector charter council concedes that it's a tough code to comply with given that it sets high targets for ownership, management control, enterprise and supplier development and socioeconomic development compared to most codes, including the generic codes – and even though more points are available.

The ICT sector, which includes telecommunications and broadcasting companies, had revenue of R243.6bn in 2021, according to industry regulator Icasa's latest report on the state of the ICT sector in South Africa, which was published in March this year. While the ICT sector's transformation progress might not be as fast as many would like, there are some positive signs. Icasa's report revealed that 85.2% of the telecommunications services procurement spend and 72% of total broadcasting services spend went to suppliers based on their B-BBEE rating level.

The ICT sector is dominated in terms of spend by a small number of large companies. According to the charter council's 4th Annual ICT B-BBEE Monitoring Report published in March 2020, 72% of medium and large enterprises achieved level 4 contributor status. The sector's Gauge recognition level score of 84.2, based on a sample of 839 companies, also puts it on level 4.

However, the majority of businesses in this sector – more than 95% – are small players who are not required to report their transformation progress. It's likely that if the scores of these smaller companies were included in this report, the sector's overall contribution score would be lower.

The challenge, says Deon Oberholzer, CEO of Gestalt Growth Strategies, is that a level 1 contribution level does not always translate to more business opportunities. Unless businesses see a discernible business benefit they won't be incentivised to maintain a higher level BEE rating.

The ICT sector charter council has been determined to ensure that transformation in the sector is not a tick box exercise but rather results in sustainable change.

THE SCORECARD ELEMENTS

The ICT sector achieves 74.5% of its target for black ownership, a drop from 2021's 84% but with far more companies in this year's sample.

Like most sectors, management control is an area where the ICT sector battles and it achieved only 53.9% of target. Black Business Council CEO Kganki Matabane says each sector's management control score should correlate with its ownership score if there was no fronting because "owners usually appoint people who look like them. There are very few companies owned by white people who appoint black people and women in positions of influence – in core business operations instead of human resources and corporate affairs – hence my contention that the ownership figures are 'cooked', he says.

However it is worth noting that because many black shareholders especially in larger companies tend to be investment holding companies and private equity firms, black ownership does not always result in black management, as these shareholders do not often get operationally involved in the day-to-day management of their investee companies. This is a reality that needs to be addressed deliberately if we are to see a correlation between ownership and management scores.

The industry has long pointed to a small local talent pool and a global war for ICT talent as one of the reasons for its low scores in this pillar. Similar to the construction sector, ICT is challenged by the low number of school leavers who matriculate with sufficiently high mathematics marks to be admitted to tertiary studies in the field of ICT. And while initiatives are in place to grow this pool of talent, it's not fast enough to meet the needs of the industry.

Admire Gwanzura, president of the Institute for Information Technology Professionals South Africa (IITPSA), says it's important to note that IT professionals are not necessarily business professionals and may lack business management skills – even though their technical skills are in high demand. He notes also that not only is the sector's skills pipeline inadequate to meet local needs, there is also a gender gap.

> ***"The moment a stream of money is going into a vacant space, opportunists will take advantage"***

The IITPSA has identified these industry-specific problems and has programmes in place to address them, he adds. These include networking forums, webinars and round table forums to help IT professionals rise through the ranks and develop strategic business skills. To help grow the skills pipeline it is hosting events to spark interest in IT at school level. And to address the gender imbalance in the industry it has reignited its Women in IT chapter.

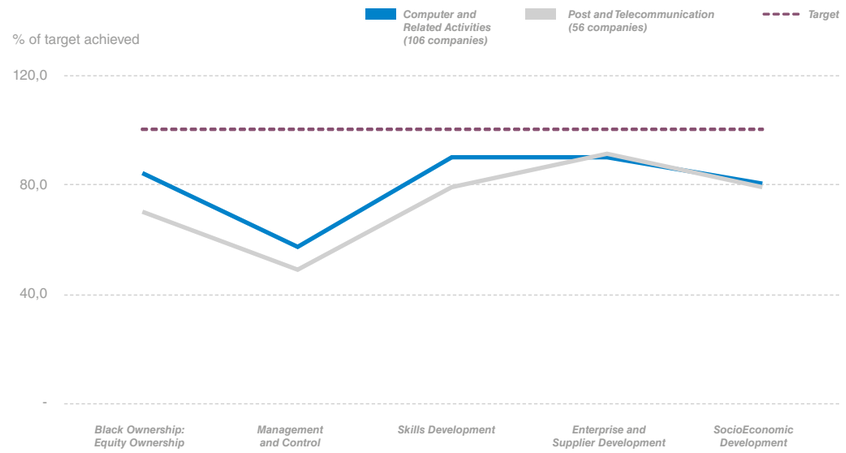
Gwanzura says government also needs to create a conducive environment to support these skills development initiatives, mentioning the spectrum auction held earlier this year as one initiative that would bring down data costs, which would "enable people to self-learn and use IT to build their own businesses".

Industry regulator Icasa's latest report on the state of the ICT sector found that progress is being made in certain areas. In the telecommunications sector, for example, employment of top black management (exco members) increased by 25.3% from 83 in 2020 to 104 in 2021 while black top female management increased by 29.7% from 37 in 2020 to 48 in 2021.

In ESD, the ICT sector's score fell sharply from 83.6% of target last year with 346 companies included, to 61.8% this year with 839 companies in the sample. Matabane believes this as well as skills development, where ICT scored 80.5%, are elements where scores are inflated. "I suspect these companies just call people outside the organisation for simple training and claim the points. This is one of those easy points to get without any impact. If they did well in enterprise development, where are the black millionaires which were created? I suspect these are just accounting entries with no proper enterprises created not enterprises given real core-business procurement opportunities."

The unintended consequence of the enterprise and supplier development element, says Oberholzer, is that a plethora of supportive industries have emerged to provide development training. However, the value that the beneficiaries of this training receive is often not commensurate with the investment being made by the contributing company. "The moment a stream of money is going into a vacant space, opportunists will take advantage," he says.

ICT SUBSECTORS



Many of the larger players have made impressive strides in their transformation efforts. Vodacom, for example, has achieved and maintained a level 1 B-BBEE status for the past three years and has every intention of retaining this status.

A Vodacom spokesperson says the current ICT Sector Code was drafted and written before the advent of fourth industrial revolution (4IR) which means it is now overdue for a refresh to ensure that it is fit for purpose. "For instance, the sector is currently driving the implementation of the 4IR which requires new skills that are currently not being taught at our tertiary institutions. What this means that is that companies operating in the ICT sector are currently penalised for ensuring the staff in their employ are reskilled in order to remain relevant."

The spokesperson says the current ICT Code, implemented in November 2016, had a number of unintended consequences that remain a challenge to the industry, particularly from an implementation perspective. This has resulted in many transformation initiatives falling by the wayside across the industry, which then led to companies losing their recognition levels. "In order for the code to be fit for purpose the requirements need to be relevant to the changing times – which is not the case in the code's current form."

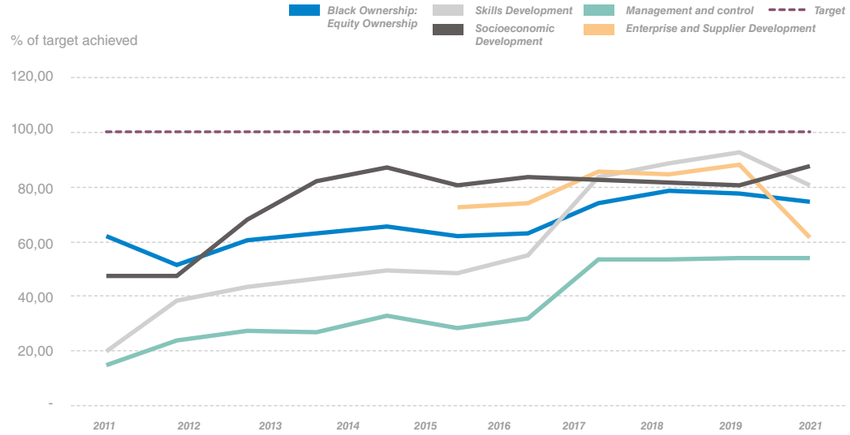
A prime example of the flaws in the code, says Vodacom, is the lack of a standalone glossary of terms together with appendixes to sub-codes. This has resulted in the industry constantly challenging the codes, which ultimately defeats the aims and objectives of a sector code. A draft amendment to the ICT sector code is imminent to address these issues. Earlier this year Icasa published new draft employment equity regulations for the ICT sector aimed at promoting equity ownership by historically disadvantaged persons and to promote B-BBEE. The changes will be introduced through the implementation of a revised ICT sector code and will be accompanied by "strict punishments" for non-compliance, said Icasa.

Vodacom says that for transformation to be sustainable and effective it is critical that policies and legislative mechanisms are aligned to mitigate uncertainty, fragmentation and confusion for those tasked with implementation.

As an industry representative body for internet service providers (ISPs) and related companies, the Industry Service Providers' Association (ISPA) assists members to be compliant with the ICT sector code. However, given that most of its members hold service licences issued by Icasa, its primary focus is on Icasa regulation relating to control and ownership of service licences. Since March 2021, Icasa regulation covers transformation from two separate angles: ownership by historically disadvantaged individuals or groups, and secondly, maintenance of a minimum certification status under the ICT sector code.

ISPA's view is that this dual approach is creating challenges and that it would be preferable for Icasa to focus only on certification under the ICT sector code. The association has conducted various initiatives to promote transformation and empowerment at an industry level, including providing training to teachers, entrepreneur workshops and holding industry events.

ICT: 10-YEAR HISTORY

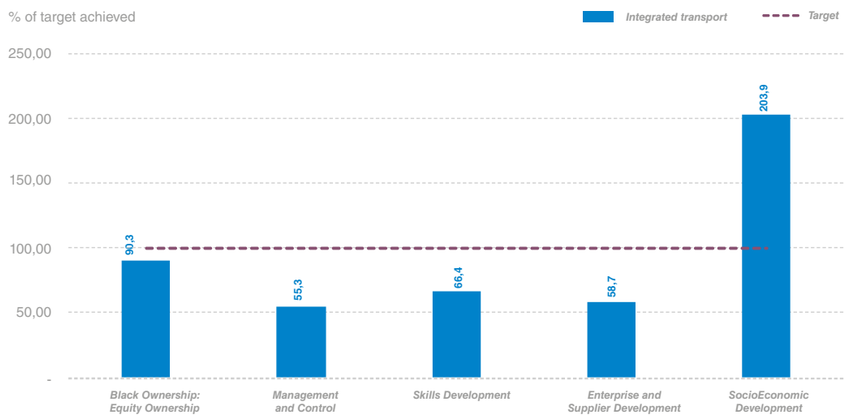


NEW CHARTER COUNCIL AWAITING APPROVAL BUT REVISED SCORECARD STILL A LONG WAY OFF

BY HERB PAYNE

INTEGRATED TRANSPORT

LEVEL 4



The relatively "easy ride" experienced by the integrated transport sector in terms of B-BBEE transformation looks set to end, although it will in all probability be a gradual process spread over several years.

The sector has been operating on B-BBEE codes of good practice that haven't been revised since 2013 and its charter council – which is at the core of policing B-BBEE progress – was, according to an insider, after two extensions, labelled ineffective and phased out in 2017 by ministerial decree. Although the process of establishing a new council began immediately, progress was repeatedly stalled because of changing perceptions and priorities.

However, a new draft framework and council short list was submitted for approval to Transport Minister Fikile Mbalula earlier this year. Once endorsed it will go to Trade, Industry and Competition Minister Ebrahim Patel to be legally formalised.

These delays have deprived the sector of an effective monitoring authority. There is also an anomaly in the way that the sector is measured in that the older codes scored companies on seven factors (ownership, management control, employment equity, skills development, preferential procurement, enterprise development, and socioeconomic development) whereas these were combined into five elements under the revised codes: ownership, management control, skills development, enterprise & supplier development and socioeconomic development. This makes it difficult, if not impossible, to compare transport's performance against other sectors.

One challenge facing the new charter council will be to ensure an alignment with the five scorecard elements. A quick solution would be to simply adopt the generic scorecard – which incorporates all sectors that don't have their own codes and includes manufacturing and retail & wholesale. But this is unlikely to be acceptable to the industry which will, in all probability, prefer aligned codes to be drafted through a process of stakeholder engagement – where scorecard targets can be appropriate to specific subsectors – a process that is likely to take many years to conclude. For comparative purposes, employment equity is merged into management control and procurement into enterprise & supplier development.

With 85.5 recognition points the sector is a level 4 contributor. In terms of the individual elements the transport sector's one standout area is black ownership at 90.3% of target, the highest of all sectors by some margin with the financial sector next highest at 81%.

Tony D'Almeida, a participant in consultations with the revised transport sector codes on behalf of the Road Freight Association, believes this is because the freight industry is driven by procurement. Successful procurement in turn hinges strongly on the extent to which freight companies contribute to their customers' B-BBEE performances. This has resulted in the realisation that while a freight company could be a level 4, 5, or 6, what really matters are high levels of black ownership and levels of designated group and female representation, because they are what really earn "a bunch of golden nugget points" for customers.

Over the past decade this has helped drive black ownership growth faster than the other scorecard elements from around 50% in 2011. One consequence, however, according to D'Almeida, has been a focus on narrow-based, rather than broad-based transformation.

In contrast motor manufacturing – also part of integrated transport – faced a different ownership challenge. Mikel Mabasa, CEO of the National Association of Automobile Manufacturers of South Africa (Naamsa), points out that SA's seven major motor manufacturers are all foreign-owned and were reluctant to dilute that ownership through local shareholdings The solution, with DTI endorsement, was through the Equity Equivalent Investment programme, in which foreign companies can generate points in other areas in lieu of a direct sale of equity. This led to the establishment of the R6bn Industry Transformation Fund which is used to establish local component suppliers in the motor manufacturing supply chain. "This has led to increased local production, increased black ownership and increased job creation" says Mabasa.

In contrast to black ownership, the worst-performing element for transport, as with most sectors, is management control, which sits at 55.5% of target

While D'Almeida admits that the freight sector struggles to attract women, Mabasa in contrast says that management control is progressing within the motor manufacturing sector. "Three years ago when I joined [Naamsa], only a couple of the 43-member brands had black CEOs. Now there are about 11 and things are also progressing well in other layers of top management."

Attracting women to motor manufacturing has also proved challenging but Mabasa says there are now more women coming through taking shopfloor rather than clerical positions. The industry is also going through the process of a skills gap analysis to address future needs.

Although slightly better when it comes to skills development, transport is the worst-performing sector at 66.4%. But it is also the worst performer with ESD at 58.7% with Agri-BEE next at 60.1%

As with many sectors, transport comfortably exceeded its socioeconomic scorecard weighting. One question raised was whether sufficient socioeconomic development effort is directed towards the sector itself through such programmes such as owner driver schemes or is it focused instead on unrelated softer initiatives like laptop donations to under-privileged schools.

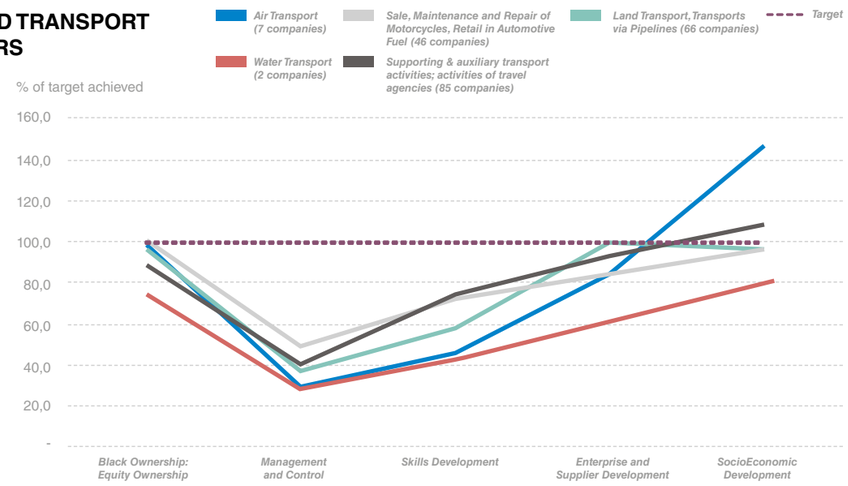
While some transport participants including Naamsa or freight companies (with their focus on black ownership) may have strived

... THE AVIATION SUBSECTOR WAS VIRTUALLY GROUNDED BY THE COVID-19 PANDEMIC AND HAS SIMPLY FOCUSED ON SURVIVAL RATHER THAN TRANSFORMATION.

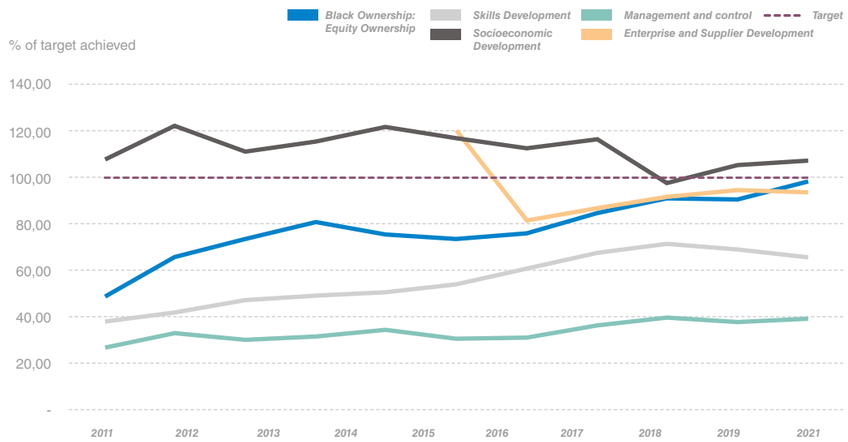
to drive the B-BBEE agenda, the aviation subsector was virtually grounded by the Covid-19 pandemic and has simply focused on survival rather than transformation. And some, like Comair, which had a level 6 B-BBEE certificate, have not survived – after 76 years in business the company filed for liquidation in early June with a liquidity shortfall of R125 million.

Mike Clark, MD of Absolute Aviation, says that although B-BBEE is overarching and is relevant whatever the circumstances, the industry has been "decimated" by the pandemic regardless of the complexion of the company and that although there are now opportunities emerging, the overall survival of companies has been paramount. "This is one of the most regulated industries and that has meant compliance as well in terms of transformation regulations," says Clark.

INTEGRATED TRANSPORT SUBSECTORS



INTEGRATED TRANSPORT: 10-YEAR HISTORY

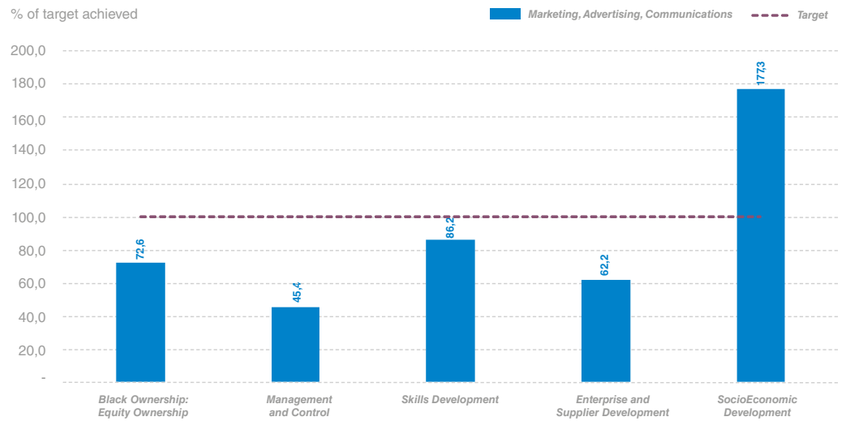


TIME TO REJUVENATE B-BBEE IN THE MAC SECTOR

BY SHIRLEY FAIRALL

MARKETING, ADVERTISING, COMMUNICATIONS

LEVEL 4



The marketing, advertising, communications (MAC) sector achieved 72% of target for ownership and a lowly 45.5% for management control, the second-worst of all sectors after property.

The disparity between the ownership score and the management control score, believes Kganki Matabane, CEO of the Black Business Council, is a telling indictment of performance versus reality.

The sector scored 86.2% for skills development, 62.2% for ESD and like most sectors over-achieved on socioeconomic development with a score of 177%.

Matabane doesn't pussyfoot around the issue. "In real life you would expect a correlation between ownership of a business and its management control but we don't see this, especially when black-owned trusts are involved. They look good on paper but when we interrogate them, we cannot trace a shareholder who is black. They make it look like the company is fulfilling its B-BBEE obligations but they have no intention of transferring ownership to black people; they're more likely to make a gesture like donating shoes to poor schoolkids."

He is equally outspoken on the importance of management control. "Companies have no qualms about appointing black people to senior positions … provided they are in cost centres such as HR or corporate affairs. The truth is that if you don't run the core business – the profit centres – you have no power. I would go so far as to say that if you cannot give control of the business to a black person, anything else you do doesn't matter. We need real transformation, not fronting, even if that transformation is slow."

Lebo Sethole, head of HR at Brave Group and a member of the MAC Charter Council, reveals that there is a tendency within the advertising industry to focus solely on ownership, rather than management control and other elements in the scorecard. Without a deliberate attempt to grow black talent pipelines, there is a critical shortage of competent senior black people in the industry. This has resulted in a trend where some agencies take relatively junior black staff who have not yet had time to develop their core competencies and promote them into more senior positions with commensurately larger salaries.

"The problem is that these youngsters are not sufficiently competent for the more senior roles they're taking on and can't contribute to the bottom line," she explains. "The result is that they are ultimately performance managed out of the business. And rather than look for a lower level position next time around that they are competent for, they get offered another senior position, only to repeat the cycle."

Sethole calls the advertising industry hypocritical, pointing out that the industry demands excellence in its creative output but not when it comes to transformation. "Why are we not giving out awards for excellence when it comes to transformative people practices? The industry should be using its people practices to attract talent in the same way that it uses its creative output to attract talent."

She proposes a "Best Company to Work For" type of award that interrogates every level of the B-BBEE scorecard and that requires participating companies to provide tangible evidence of their transformation achievements.

Matabanes's concern about the MAC sector is the level of influence it exerts. "It's important that everyone is taken into consideration in marketing and advertising. We still see campaigns that are not sensitive to race and gender and this shouldn't be happening in 2022. At the Black Business Council we're working with the B-BBEE Commission to deal with the issues and, especially, to find ways of dealing with trusts."

The long-awaited MAC Charter Council was finally launched in March this year by the Government Communications and Information System (GCIS) after a 22-year journey by stakeholders. But apart from monitoring transformation, the council was given an extra role of "nation-building," with Minister in the Presidency Mondli Gungubele saying that foreign cultures had been influencing SA unduly through advertising.

Sandile Nene, chief director of media policy at GCIS, says that while transformation is the council's primary role, more is required of the MAC Charter Council than is traditionally expected of other sector councils. "Because MAC is such an influential sector, it is expected to advise government on some of the other big issues that our country is grappling with at the moment, particularly responsible marketing and monitoring for harmful content that is difficult to regulate." Nene is referring to what is known as over-the-top advertising, far-reaching content that is delivered directly to viewers online, bypassing control systems that enable some protection for vulnerable audiences.

He agrees that codes and guidelines have to be regularly reviewed and aligned if the council is to ensure transformative growth of the sector and, where necessary, intervene effectively when improvement is required. "We need to create a consistent environment for existing and emerging businesses," he says.

One of the many stakeholders that worked collaboratively with GCIS to establish the MAC Charter Council is the Marketing Association of South Africa (MASA), which believes the council will be the best multi-stakeholder forum to drive real transformation within the sector. MASA believes that transformation must not be about taking away from one entity to give to another, but should rather ensure that everyone has the equal opportunity to achieve what they want.

MASA also believes that a huge transformative and policy-shifting initiative like B-BBEE requires rejuvenation from time to time. It is up to all involved to reboot their efforts to ensure that the broader transformation agenda develops enough talented people who will one day truly and earnestly find themselves in positions of management and control. MASA's own ethos is to focus on doing what is right, ethical and moral.

The extent to which marketing and advertising shape national identity cannot be underestimated. MTN has consistently held the title of most valuable South African brand since 2012 as ranked by research company Brand Finance. A company in this position, a major advertiser and one of the biggest users of MAC companies even though it falls under the ICT sector code, has enormous power to influence transformation among marketing, advertising and communication agencies by ensuring that their choices accurately reflect the nature of South African society.

Nomsa Mazibuko, General Manager of Brand and Communications at MTN SA, says that transformation is a critical component of the company's selection process. "If we are to fight social scourges such as sexism, racism and homophobia, representation across agencies has to reflect the markets we serve. Agencies have to go beyond compliance and deliver truly transformed working environments. We don't simply look at the ownership and senior leadership of an agency because quality work originates from the teams at the coalface. We always look at pitch quality, previous work and sector expertise, among other factors. However, if our communication is going to speak to all our customers, we need to be sure we have diverse teams on our accounts that drive innovation and fresh thinking."

On the supply side of the sector is an agency called Clockwork which happens to have been started by two white men in 2011. "This is our reality," says co-founder and co-CEO Nic Simmonds. The agency has grown to 120 employees and retained its independence, quite an achievement in a sector where large international groups dominate.

He says it's easy to point fingers and complain that B-BBEE is failing and while it is failing in some ways, "I also see a lot of positive movement. When I meet my contemporaries there is always a conversation about it, a true desire for transformation, and behaviour is shifting."

Clockwork has a growth lab to bring juniors and mid-level suits into leadership practice. They teach the essential soft skills and each executive manager has up to three mentees. Simmonds describes this as a practical and authentic way to pursue transformation.

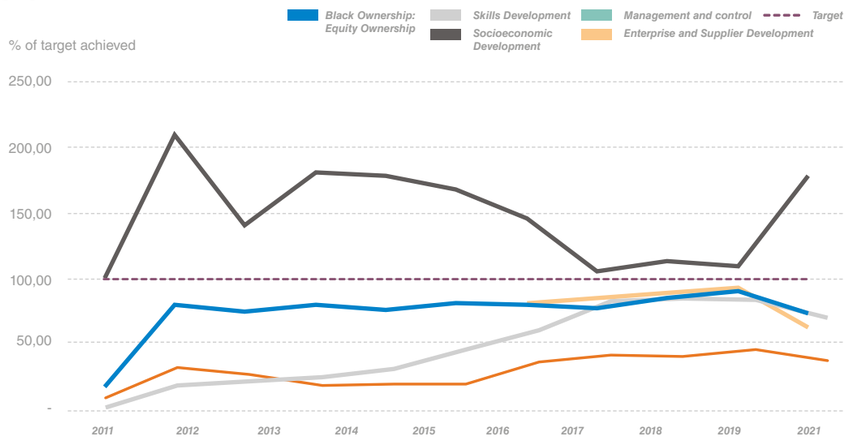
"Another of our transformation initiatives is that when we spend money, we strive to create meaningful value in society and drive actual change," Simmonds says. "We see this as our responsibility as business leaders. The job of transformation is big and sometimes overwhelming; this is the truth about all grand existential challenges. But it's important not to be demoralised, to count the good things and use them as the impetus to do more."

Keri-Ann Stanton, who owns communications consultancy KAMuses, recognises a significant truth when she says that B-BBEE becomes important when someone asks about it. "Looking at the historical scores over the past 10 years, you can see how activity has levelled off since 2018. This is probably a reaction to the state of the economy, lack of opportunity, the global pandemic and gloomy global outlooks. People are in survival mode, not growth mode, and that's when transformation becomes a hurdle rather than an opportunity for some agencies."

Stanton says that when she worked for a wholly black-owned and managed agency, she was on the receiving end of the box-ticking exercise. "They had deliberately exclusionary pitch questionnaires. I was invited to the party but not asked to dance and I needed to work doubly hard to disprove biases. That stuff is very real. Because I experienced it, I know first-hand that the codes need a visionary revisit. Nobody argues about the intention of black economic empowerment, but the experience and reality have lost their shine."

Putting experiences and opinions aside, one fact cannot be disputed and it is succinctly voiced by the GCIS's Sandile Nene: "Transformation is a constitutional requirement."

MARKETING, ADVERTISING & COMMUNICATIONS: 10-YEAR HISTORY

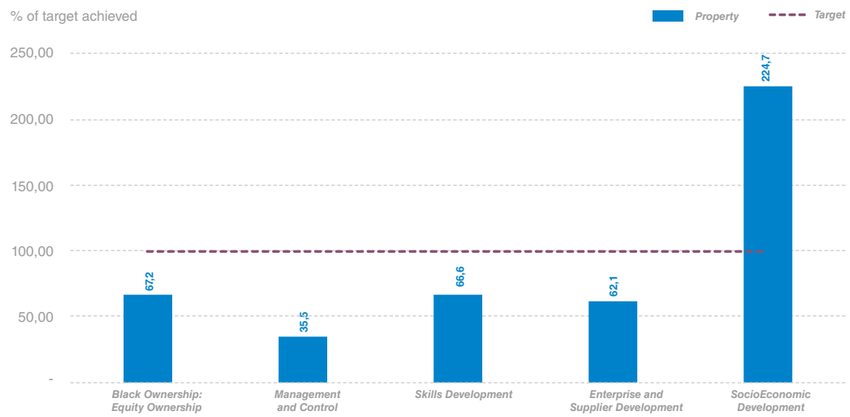


LIMITED ACCESS TO FINANCE AND MANAGEMENT OPPORTUNITIES HAMPER TRANSFORMATION

BY GILLIAN KLAWANSKY

PROPERTY

LEVEL 4



With markedly low management control figures and high financial barriers to entry, the property sector has a long way to go in terms of meeting B-BBEE targets.

While all sectors struggle with management transformation, property has the lowest score with a meagre 35.5% of target.

Monde Ndlovu, former head of advocacy and thought leadership at the Black Management Forum (BMF), which focuses on the development of managerial leadership and the advancement of socioeconomic transformation, echoes this assertion. "Business broadly understanding and embracing transformation is not something that we've fully seen in the country," he says. "Companies take a minimalist approach to transformation. In other words, they fulfil the minimum requirements needed to keep their businesses open and to appease the transformation agents like the BMF and other black lobby groups."

Even those who appoint black candidates in management positions only select those who share their ideologies, he says, and who are therefore likely to maintain the organisational culture. "That's the nature of power – it seeks to reproduce itself throughout the economy and society. That is why we still see the dominance of white men at the high echelons of the economy."

Thulebona Buthelezi, verification manager and CEO of Izwelisha BEE Verification Agency, expands on this theme. "Transformation in the property industry has not been easy due to the fact that it is dominated by white-owned entities, some of which have been entrenched in the industry for years," he says. "Some companies are still trying to implement proper BEE structures that are aligned to the property sector codes." Yet, he says, there is hope. "Many entities in the property sector are still only reaching low levels, but as time goes by the levels will increase as they adapt to changes brought by the new Codes of Good Practice."

As it stands though, Ndlovu says black talent is exiting the sector. He says statistics from the Commission for Employment Equity, a statutory body, show that in junior management in the private sector, African men constitute 33,5% of employees and African women, 21%." This percentage steadily decreases through middle and senior management, reaching the lowest levels at top management where African men in the private sector only make up 8.1% of appointments and African women, 4.6%.

Considering the private sector provides the majority of formal employment in the economy, these findings are of great concern. "Black talent is clearly being stunted and underutilised in the private sector," says Ndlovu. Candidates therefore generally move into the public sector, seek new opportunities or try their hand at entrepreneurship.

There are also challenges that are unique to the property sector, says Lynette Finlay, CEO of Amabutho Investment Managers, a black-owned investment advisory and asset management company which has successfully started a property fund with assets valued at R1.8bn.

Reflecting on management and ownership challenges, which are intrinsically linked, she stresses that her comments provide a general assessment of the industry. "A property investment company is completely different to a property management company and a private property fund differs substantially from a listed property fund." Yet within this context it's important to note that property is a highly specialised industry, she says.

"It can potentially take years to gain the skills and experience required as well as to develop the networks needed to successfully control and manage a property company. What's more, private property investment companies are owner managed and require access to capital." Property investments are particularly capital-intensive and highly geared, she says.

In addition, returns are generally long term with limited cash surplus until debt levels are reduced. It therefore demands high levels of risk and patience. "The potential to lose a significant amount of money if the incorrect decision or action was taken is a formidable barrier to entry," she adds.

"Development companies are probably the most lucrative, but highly risky and affected by economic cycles with a high level of expertise and experience required," she says. They also require access to capital, one of the most formidable barriers to entry into the property sector. Industry experts say that government funding is just as difficult to access as bank loans for those in the industry.

"What's more," says Finlay, "in terms of management companies, these are dominated by the two large players. It is therefore very difficult for any entrepreneur to penetrate this market – largely due to the wide range of services required to provide a full management service."

While not as alarming as management control scores, it's therefore unsurprising that ownership levels in the property sector are also of particular concern. While according to the Sanlam Gauge, property achieves 67% of its ownership target, in reality black ownership levels are low.

Nigel Adriaanse, CEO and founder of the Enterprise Development Property Fund (EDPF), speaks of the limitations of B-BBEE codes when it comes to ownership. "Companies will say we don't really need to transform from an ownership perspective if we do all of these other things. For instance, they'll focus on enterprise and supplier development by supporting entrepreneurs wanting to become suppliers and they get 39 points because they've done their ESD. Yet, on the ownership side there's very little being done as there are ways to reach a good B-BBEE level without having to change your ownership structure. However, if you want to transform any industry, you've got to look at the ownership side of things."

Even when it comes to ESD, which according to the Sanlam Gauge is at 62% of its target, there seem to be a disconnect between the reality on the ground and what is reported. Portia Tau-Sekati, CEO of the Property Sector Council, has observed this disconnect in the council's State of Transformation Report for the Property Sector. She suggests this is because property companies often procure from enterprises outside of the sector – for example, furniture and IT services. She encourages more focus on supporting enterprises within the sector to develop.

Ndlovu agrees that we need to see the tangible impact of ESD and skills development. "Business should be so patriotic that it actually creates its own black competition through ESD and skills development. While the sector achieved 62% of its ESD target and 66.6% in skills development, the benefits of this are not widely observed, argues Ndlovu. "Skills development flows into management control but the question is, despite billions of rands being spent, where is the impact of skills development? Developing specific skills that will open up the stakes for black people in property and across sectors requires a change in attitude."

Finlay adds that we need to create skilled professionals who are able to successfully navigate the challenges and risks associated with the property sector. Shifting mindsets and overcoming the obstacles faced in terms of ownership and management transformation in the property sector demands a proactive approach, she says, and suggests creating more educational platforms, facilitating networking opportunities and providing access to capital for entrepreneurs with good property knowledge and sound property networks.

Established by Adriaanse six years ago, the EDPF aims to do exactly that. Incubating and empowering black entrepreneurs in the property sector, the EDPF runs an academy with 27 volunteer lecturers dedicated to training tomorrow's property leaders. Furthermore, it aims to break all four barriers to entry into the property market, and indeed to any sector: education, access to market, support services and finance.

"In addition to running the academy, we've partnered with 56 companies that give support, including those in architecture, town planning, quantity surveying, engineering, accountancy, law, tax consulting and the like," says Adriaanse. "We empower people who want to break the barriers of entry into property and put them through this three-year-programme where we educate, support and mentor them so that they start their property portfolio. We don't just want them to learn about the property industry, we want them to actually enter it, which is why incubation, which provides support, access to market and access to financing, is also a focus."

In just over five years, 136 EDPF students have purchased their first property with a collective value of over R200m. "We currently have 252 students in the programme who are learning and are already starting to purchase or put together their strategies and structures to purchase their first property," says Adriaanse.

While the EDPF has seen positive results, Adriaanse bemoans the slow state of property transformation. He says all B-BBEE surveys simply measure the compliance of companies that report, which constitutes a small percentage of those who actually operate in the industry. The upshot, he says, is that the industry isn't compliant.

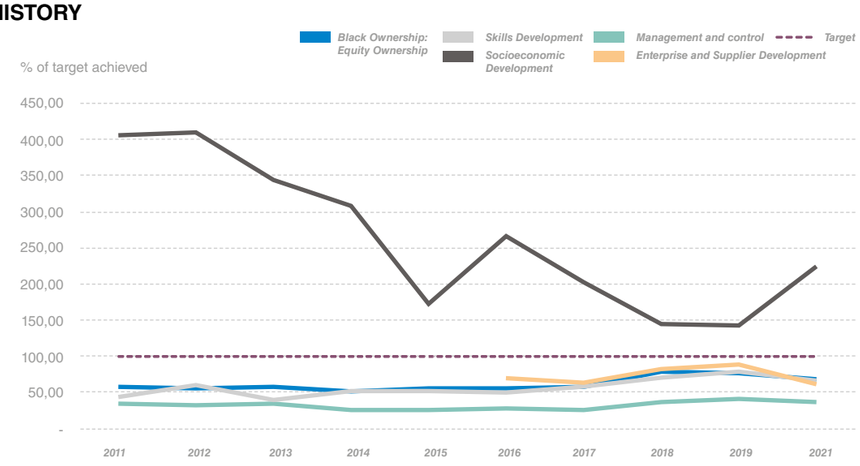
"I believe that if we are to transform as a country, the people have to transform for themselves. They cannot rely on government or big corporate, they have to rely on their own abilities and help the transformation process."

There's no denying the benefits of attaining B-BBEE targets in the property sector, especially in the wake of the pandemic, says Buthelezi. "Covid has affected many sectors, including the property sector, in that prices went down. In the property sector, rental and selling prices were low and many people and companies therefore took advantage. Companies would place preference on renting or buying these properties from BEE-accredited property companies, due to the fact that this increases their BEE score. A BEE certificate therefore gives companies a competitive advantage."

Indeed, the Property Practitioners Act, passed in February 2022, aims to provide for the regulation of property practitioners. "Section 20 of the Act provides that when procuring property-related goods and services, all organs of state must utilise the services of Property Practitioners who comply with the B-BBEE and employment equity legislation and policies," explains Lethabo Mashishi a senior associate in the property department at law firm Adams & Adams.

The Act also mandates the establishment of a Property Practitioner Regulatory Authority which must open a Property Sector Transformation Fund to promote black-owned firms and principals and encourage the participation of historically disadvantaged groups within the property sector within six months of its establishment. It remains to be seen what the impact of this will be.

**PROPERTY:
10-YEAR HISTORY**

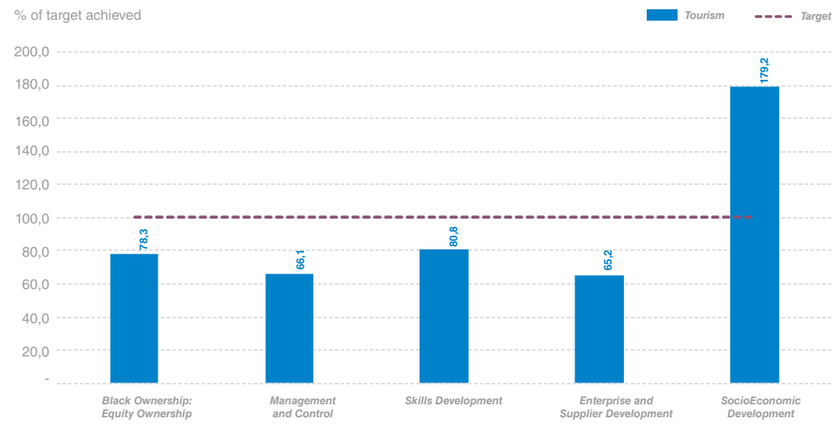


COVID-BATTERED SECTOR FACING TWIN CHALLENGES

BY GILLIAN KLAWANSKY

TOURISM

LEVEL 4



With the tourism & hospitality sector having been among the hardest hit by Covid-19, the industry is grappling with the twin needs of recovery and transformation, with the latter facing an added challenge because personal relationships play a bigger role in this sector than most others.

The success of many small, medium and micro enterprises (SMMEs) in the tourism space – which make up a significant proportion of businesses in the tourism sector – comes down to the relationships that owners establish with clients, suppliers and industry partners. Yet, this often hampers transformation especially when it comes to ownership and management, say the experts.

Tourism achieves 78.3% of its ownership target, the third highest of all sectors, yet the general consensus is that this does not reflect reality.

"Tourism is a relationship business," explains Tshifhiwa Tshivhengwa, CEO of The Tourism Business Council of South Africa (TBCSA), a non-profit umbrella organisation representing businesses in the travel and tourism sector. "People supply or work with people they know."

"In terms of transformation, the existing owner can sell the business but they're not selling their valuable industry relationships," he adds. They can sell one business and then start another, taking their existing clients along with them, because they still "own" these relationships. The new owner of the original business therefore starts off on the back foot.

This is particularly relevant because of the prevalence of SMMEs in the sector. "Tourism businesses are, in the majority of cases, small enterprises that are predominantly family-owned which presents

"IT'S TOO UNDERWEIGHTED AND SHOULD BE INCREASED IN ITS OVERALL SCORE AS IT OFFERS A GREAT OPPORTUNITY AS A CATALYST OF AND LINK TO THE COMMUNITY TOURISM AGENDA"

unique transformation challenges," says Seapei Lebele, acting chief director of communications for the Department of Tourism, adding that they are also largely owner managed.

Another key concern in the sector is post-Covid recovery. "Prior to Covid-19, travel and tourism were one of the largest employers generating a total of 1.5 million jobs – over 700 000 direct jobs," says Lebele. "The sector's total contribution to GDP has been steadily growing, reaching R354bn in 2019."

Yet, as one of the hardest-hit sectors during the pandemic, tourism still has far to go on the road to recovery. The TTCSA is working on a study measuring transformation in the tourism sector against the backdrop of the Covid-19 pandemic. "From what we hear anecdotally from discussions with various stakeholders and associations within the industry, transformation took a back seat in the past two years," says TTCSA chairperson Lindiwe Sangweni-Siddo.

Rajah has also observed this. "Trying to get our tourism clients back on board now in terms of BEE is where our challenge will lie," she says. With the sector now focused on recovery, however, transformation is at risk of remaining at the lower end of the priority scale.

"Our recovery cannot be non-transformative," stresses Tshivhengwa. "In the recovery of the sector, we need to make sure that there's a sharing of the pie especially at the source of tourism – where travellers come from."

OWNERSHIP

Another challenge is that ownership in the tourism sector is much stricter than the normal amended codes, says Melanie Rajah, director of Kairos B-BBEE Verification Agency in KwaZulu-Natal. "You're looking at 30% in terms of ownership, whereas the amended codes are sitting at 25%. It's quite a leap in terms of achieving that, especially considering the prevalence of family-run businesses and the financial difficulties that come with meeting compliances."

Medium-sized or independent tourism businesses are also generally owned by very few people, adds Tshivhengwa. "Even if they have black partners, they may not be actively involved in the business. For them it's an investment and then they stand aside as long as it produces the desired results." While they may be owners, they are not involved in the mechanics of who manages the business. "We therefore have challenges especially with regards to women in management in medium and large tourism businesses."

As with other sectors, tourism performs worst with management control, with 66.1% of target. Township entrepreneur Nesang Maleka, director of integrated tourism enterprise, Mzansi Tourism Experience, and a member of the Tourism Transformation Council of South Africa (TTCSA), puts this into perspective. "Across the management structures of most, mainly large, tourism businesses, you'll find a white male with subordinates, especially black men and women, who don't really reach a higher level," Maleka says.

The lack of transformation, particularly regarding women in management and ownership positions, has long been debated. It's something that the department is actively working to address, specifically through its Women in Tourism (WiT) Programme, established as a platform to drive initiatives that promote the development and empowerment of women in tourism.

In support of this, Nedbank teamed up with South African Tourism in late 2021 to launch the Women in Tourism Entrepreneurship Training Programme. An entrepreneurship development initiative designed to create a knowledge foundation, provide mentorship and eventually open markets to black women-owned SMMEs, the programme has yielded tangible results.

"We have already had requests from participants across the country for access to finance, sales and market access opportunities which we've managed to support," says Nirmala Reddy, enterprise development manager for Nedbank Business Banking. She stresses the need for such a value-chain approach across key stakeholders, who combine their individual strengths to rejuvenate the post-pandemic economy. While a foundation has been laid, much must still be done to ensure equal opportunities for women.

SKILLS DEVELOPMENT

While the TBCSA's Tshivhengwa agrees that skills development – at 80.8% of target for tourism – has its place, he feels that training should not be the transformation focus. Thousands have been trained whether it be through government training programmes or at universities, he says, yet they're sitting at home as indicated by high unemployment rates. "It's not whether people are educated or trained, it's whether there are opportunities," he argues.

For Percy Koji, the CEO of Small Tourism Enterprise Association (STEA), which offers incubation and free training around compliance, capacity building and growth strategies, skills development can help people create their own opportunities. "Small businesses and operators will only grow provided there's consistent, deliberate support in providing the necessary skills transfer and capacity building," he says.

"Skills development is such a key aspect of tourism transformation because of the large labour absorption capability of the sector," adds Akash Singh, co-founder of Sigma International, a specialist enterprise development and impact company.

That's why it's vital to ensure that practical AND theoretical skills are being taught. To bridge the skills gap, Maleka suggests implementing exchange programmes between schools and private companies operating in rural tourism or township areas, allowing students to experience a touch-and-feel reality of what goes into a tourism business.

Sangweni-Siddo says ESD, where tourism achieves 65.2%, was meant to be a key driver of transformation but this has been disappointing. "Despite the significant opportunity to address this through preferential procurement from black-owned suppliers and inclusion of SMMEs in supply chains, the majority of large enterprises did not comply with the set target, even before the pandemic, with insignificant – almost zero – expenditure on procurement from enterprises with a majority black shareholding."

Among its efforts to address this, the department plans to resuscitate the implementation of an online portal – halted by the pandemic – to connect suppliers and buyers in the tourism sector. This will channel procurement expenditure to SMMEs to promote transformation and job creation, explains Lebele.

In line with B-BBEE trends, tourism has consistently exceeded socioeconomic development (SED) targets. While this component is widely seen as generating "easy points", Singh sees the positive side of this and argues that we must rethink SED. "It's too underweighted and should be increased in its overall score as it offers a great opportunity as a catalyst of and link to the community tourism agenda," he says.

The Sanlam Gauge results, which exclude EMEs and QSEs that do not complete scorecards, reflect a more positive picture of transformation than two surveys that the TTCSA conducted, the State of Transformation Study of 2018/2019 and a subsequent 2019 Transformation Survey, with a database of more than 6,000 scorecards. These included micro enterprises and established that transformation is very slow, says Sangweni-Siddo.

MINDSET SHIFT

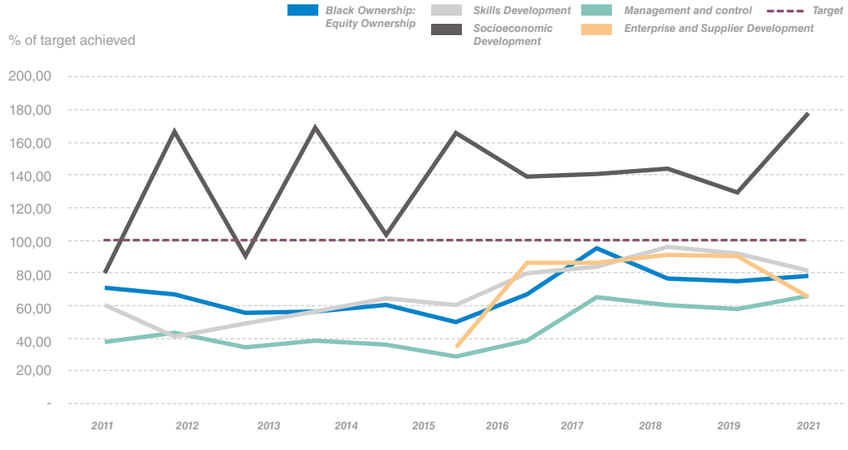
Tourism experts agree that the only way to create significant transformation is through a radical mindset shift. "The problem is that the majority of tourism businesses that are transformed or are seeking transformation are those that need to work with government at some level," says Tshivhengwa.

Others are less motivated to comply. "There needs to be a willingness," he stresses. "We must transform because it's the right thing to do for this country, not because it's a compliance issue. We need to think bigger by asking how we build a better, more equitable country for our children."

That's why youth representation when it comes to decision-making around transformation is important, says Maleka, who at 34, is the youngest member of the TTCSA and of all charter councils.

"You want to plan for the future of young people but you're not having them around your table and saying, 'let's hear your voice, maybe you see things differently from us,'" he says. "Someone must champion their interests, to remind the elders that beyond their planning, there is a generation after them who will inherit the sector."

TOURISM: 10-YEAR HISTORY



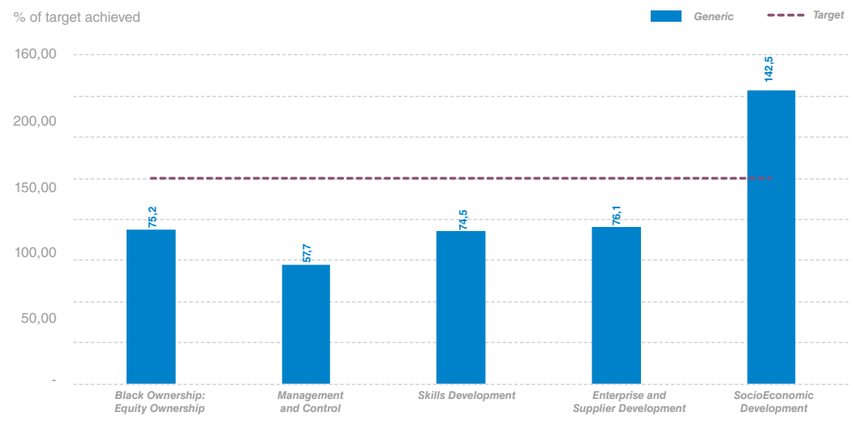
TIME TO RETHINK OUR APPROACH TO B-BBEE?

BY JAMES VAN DEN HEEVER

GENERIC

There is a greater readiness to talk about the shortcomings of the generic scorecard and particularly how it is applied. Overall, the sense is that a more flexible approach is needed to achieve our transformation goals.

LEVEL 4



Role players appear significantly more outspoken about what they see as the limitations of the current approach to broad-based black economic empowerment (B-BBEE) than last year. At the same time, though, nobody questions the urgent need for empowerment.

The generic scorecard incorporates a range of sectors that don't have their own codes including manufacturing, retail, education, chemicals & fertilisers, energy & water, food and beverages, R&D and textiles.

Together, all these sectors combine to achieve B-BBEE recognition level 4 with an average of 87.75 contribution points. Looking at the scorecard elements, generic companies achieved 75.2% of the target for ownership; only 57.7% for management; 74.5% for skills development; 76.1% for ESD and 142.5% for socioeconomic development.

SECTOR SCORECARDS GET THE THUMBS DOWN

In last year's Gauge report, we argued that a move towards sector-specific scorecards could be a way to introduce more flexibility into how the companies across all these disparate sectors implement, and are judged on, empowerment. This time round, the overwhelming consensus is that negotiating a sector-specific scorecard is not worth the aggravation.

Michael Lawrence, executive director of the National Clothing Retail Federation of South Africa (NCRF), says a sector-specific scorecard would simply create a new bureaucracy: "I see no need for a retail-specific scorecard but I'm not happy with the generic one either," he says. He argues that the scorecard doesn't harmonise with the relevant legislation and has had too many tweaks - it's essentially dysfunctional.

The Consumer Goods Council also does not see value in a special scorecard but suggests that the reporting interval should be lengthened - annual reporting is time consuming and leads to companies focusing on reporting rather than making progress.

A dissenting voice is Professor Justin Barnes, executive director of the Toyota Wessels Institute for Manufacturing Studies, who believes manufacturing would benefit from its own code given both its innate complexity and its outsized impact on the economy. However, he concedes that the industry does not agree.

One's overwhelming impression is that much of the trouble within the generic sector is less the scorecard itself than the prescriptive, ideological stance taken by the authorities.

To try and unpack some of the key issues raised by the wide range of commentators consulted for this article, let's focus on some of the scorecard elements individually, even though the elements themselves are not discrete.

SKILLS DEVELOPMENT

A burning issue here remains the change in how absorption is scored – now only interns who receive permanent absorption can be counted. To counter this, the B-BBEE Commission recommended that 2.5% of the leviable amount could be directed to black students at institutions of higher learning.

"Most entities were performing at less than 50% of the targets on skills development, hence the recommendation to amend the generic codes for a significant portion to be directed at higher learning institutions as a critical area for the economy," says B-BBEE Commission director Mofihli Teleki. While there has as yet been no research into the impact, the commission believes that the new rules have resulted in more spending on skills development.

Japie Britz, commercial director at BDO Verification Services, confirms that there has been a drop in overall scores due to the changes but adds that more and more companies are slowly starting to implement bursary schemes.

Philippa Rodseth, executive director of the Manufacturing Circle industry association, says the inclusion of a compliance target relating to expenditure on bursaries comes with extra costs that have to be incurred to make up for the loss in points caused by the change in absorption. "In many cases, this is difficult to meet," she says. She also highlights the fact that training in manufacturing specifically has been exceptionally difficult to offer over the past two years because of the pandemic – virtual training is not fit for purpose.

Another important issue is that many manufacturers have mature in-house training capabilities but the training they offer is not recognised – surely an egregious own goal by the powers that be.

Professor Barnes forcefully argues that the thinking around skills development is fundamentally flawed. "Are you trying to develop skills or guarantee employment?" he asks. Mixing - or confusing- objectives in this way is, he believes, part of a wider problem of over-reach by authorities. "If they had actually to run businesses, they would have a very different view," he says.

Tapiwa Samanga, CEO of the Production Technologies Association of South Africa's (PtSA), argues that skills development is central to complying properly with the B-BBEE codes of good practice and the PtSA has worked with the Department of Trade, Industry and Competition (DTIC) to develop programmes to prepare individuals and companies in the tooling industry to meet the codes. "There can never be sustainable transformation without empowering a critical mass of the target population with the relevant skills," he says. Tellingly, he adds that there is simply no quick fix to the complex business of empowering the majority of the population effectively.

Similarly, the Consumer Goods Council believes that skills development should be driven through industry associations in order to ensure that the strategies of the Sector Education and Training Authorities (Setas) reflect the sector's changing needs.

The validity of this constructive approach is indirectly confirmed by Diveshan Rao, MD of verification agency BEE Online, who argues that the low rate of absorption is directly linked to the fact that inappropriate training is funded, thus producing skills that companies do not need. This is the unintended consequence of mindless compliance rather than attempting to achieve the outcomes of B-BBEE.

ENTERPRISE & SUPPLIER DEVELOPMENT (ESD)

This scorecard component aims to direct companies towards developing smaller, black-owned companies. PtSA has again adopted a constructive approach, based on strengthening the tooling industry ecosystem specifically via a partnership with the WerkzeugBau Akademie in Germany, the world authority in tooling and related research and consulting. This programme has assisted over 190 companies, mostly SMMEs, to improve their competitiveness. "Only competitive companies will be attractive for empowerment deals and profitable participation in global value chains," Samanga says.

PtSA's industry-focused approaches to skills development and ESD complement and support each other, he says.

BEE Online's Rao bemoans the lack of foresight shown by many companies when developing ESD strategies. In retail, for example, he says companies are failing to target smaller suppliers with loans or preferential terms to strengthen their own ecosystems – in effect, such an approach would provide the access to working capital and deep industry expertise that black SMMEs would typically lack. "There's a lack of creative thinking," he says.

OWNERSHIP

Generic's ownership score at 75.2% of target achieved is surprisingly high, given how frequently it is mentioned as a nigh-insuperable barrier. However it must be noted that the target is only 25%.

Ownership has attracted a fair amount of opprobrium because it's widely seen as a route through which a small black elite has been able to become eye-wateringly rich in short order, with no real benefits to the companies concerned. "One wonders if B-BBEE today is as broad based as it is supposed to be," remarks BDO's Britz dryly.

Attempts to create a mining charter have frequently foundered on the "once empowered, always empowered" issue, given the tendency of black shareholders to cash out and leave the company to incur vast expenses a second time. An indication of how serious this problem is can be seen in the bizarre decision of the Competition Commission to halt the sale of Burger King (68% owned by a black consortium) on public-interest grounds because the deal would eliminate black ownership.

Another indication of the complexities relating to ownership is the way in which the DTIC intervened in May 2021 to make it clear the broad-based ownership could be achieved via collective schemes, and not just via the transfer of equity. This is a significant development, as Rao points out.

The Consumer Goods Council is lobbying for franchises to be recognised under ownership as it believes good progress has been made in this area.

Professor Barnes of the Toyota Wessels Institute is at one with the B-BBEE Commission in seeing black ownership as a critical issue, but he argues that the commission does not fully comprehend the realities. The truth is that there are virtually no greenfield manufacturing developments being undertaken - for a variety of reasons. It is only possible to make any money by sweating existing brownfield infrastructure, but the margins are thin. Absent new investment, it is virtually impossible to accommodate new shareholders and, he adds, none (black or white) would be forthcoming because the returns are so poor. None of the super-rich black beneficiaries of transformation has so far shown any inclination to invest in manufacturing, and the DTIC has had to resort to extraordinary funding measures via its Black Industrialists Scheme to try and reverse this trend. It remains to be seen how many of these enterprises are sustainable once funding dries up.

And, notes the NCRF's Lawrence, finding black investors to take a stake in a multimillion-rand enterprise is very hard. "The rules [relating to ownership] have changed too often," he says.

MANAGEMENT CONTROL

Across all sectors, management control is consistently a poor performer, something that is clearly linked to skills development, as noted above. To make this work, industries need to see the value in growing their own timber through in-house development. Anecdotal evidence suggests that too many companies take a tick- box approach to skills development and do not see it as a strategic initiative with implications for their futures.

The Consumer Goods Council notes that it has agreed on employment equity targets with the Department of Labour and Employment. The NCRF's Lawrence says the retail sector cannot compete salary-wise with other sectors, which makes it hard for it to attract and retain highly skilled individuals - a contention indirectly confirmed by BEE Online's Rao, who says that black penetration of the executive and board is slow, but that there is good progress at junior management levels.

The Manufacturing Circle's Rodseth says that the sector offers huge opportunities but that developing competent managers takes time. As in retail, black managers often leave the sector for higher pay or emigrate to countries where manufacturing is more viable.

CONTEXT AND PRIORITY

Both the Toyota Wessels Institute and Manufacturing Circle make similar general points about B-BBEE in their sector: the industry's context is not taken into account. They argue that for a sector that is shrinking and that faces huge headwinds, particularly in the inability to generate a secure electricity supply among other state inefficiencies, a moribund economy and excessive taxation, B-BBEE as currently structured becomes another burden of doing business in South Africa.

And given the fact that targets are constantly shifting, Rodseth believes that there is real danger of many manufacturers sliding into non-compliance in 2022.

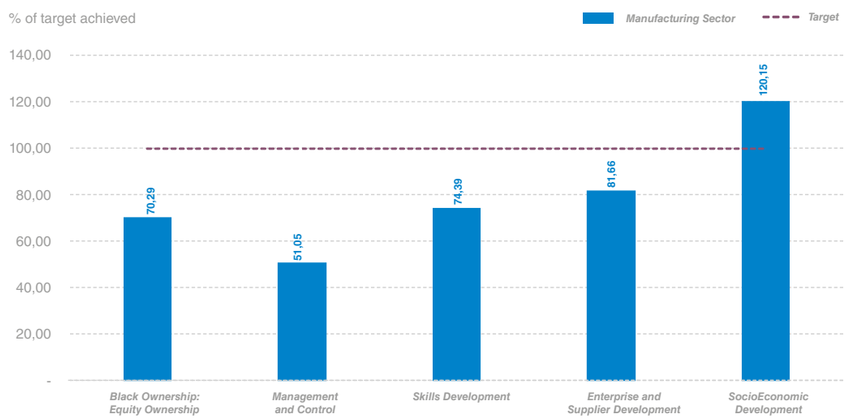
Professor Barnes bemoans the lack of a constructive relationship with government, which seems determined to see capital as an adversary that needs to be disciplined. He contrasts this with Turkey, where clothing manufacturing is booming thanks to the fact that government delivers what the industrialists need. "A failing industry cannot be expected to invest in the infrastructure needed to provide services like water, energy, training, roads and so on, which are actually government's job," he says.

[1] DTIC, "Explanatory memorandum for Gazette on rules for discretionary collective enterprises published in terms of the B-BBEE Act", Government Gazette 44591, 18 May 2021, available at chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/http://www.thedtic.gov.za/wp-content/uploads/TradeIndusCompetition_BBBOs.pdf

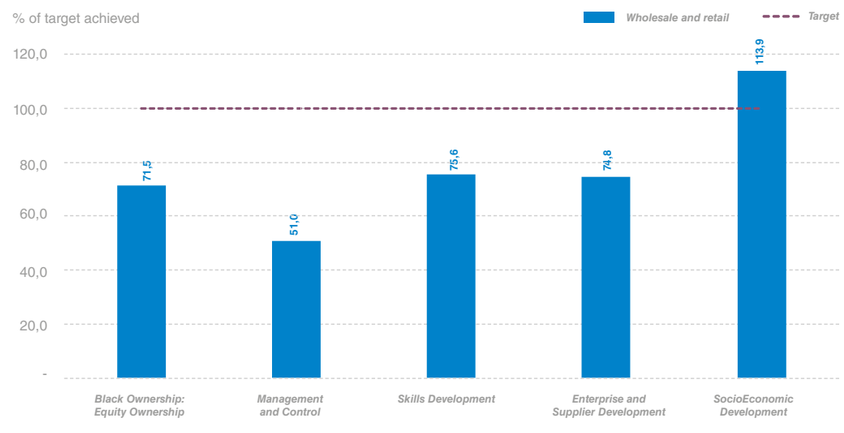
[2] "Black industrialist report 2021", available at chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/http://www.thedtic.gov.za/wp-content/uploads/Black-Industrialist-Report2021.pdf

"We should prioritise the challenges we need to address and focus on the one where we in manufacturing can make the most impact - and that's employment," says the Manufacturing Circle's Rodseth. Given that most manufacturers are in a life-and-death struggle for survival, "trying to do too much is to risk losing focus on what is important in really moving the needle."

MANUFACTURING SECTOR



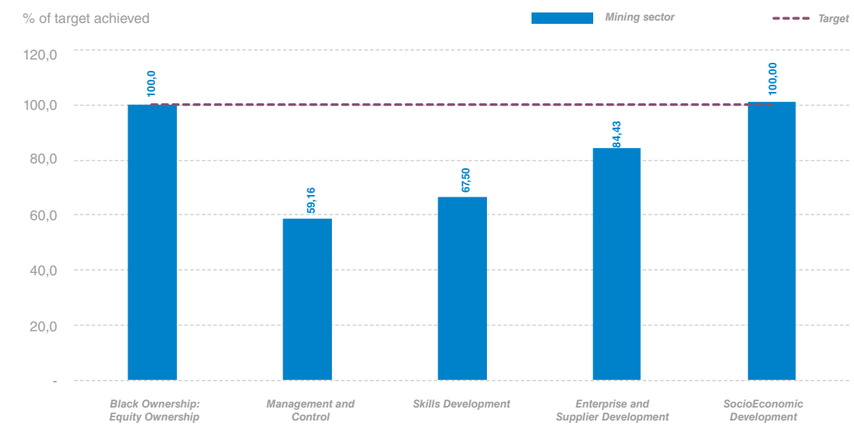
WHOLESALE AND RETAIL TRADE SECTOR



LOCAL CONTENT TARGET TOO STRINGENT, SAYS MINING SECTOR

BY AURELIA MBOKAZI-KASHE

MINING



While forecasts suggest mining is a sunset industry, it remains a significant driver of the South African economy. The sector is responsible for injecting R481bn, about 8,7% of GDP, and providing almost 460,000 jobs in 2021, according to the Minerals Council South Africa's Facts & Figures 2021 report.

Apart from offering large-scale employment, the sector invests in socioeconomic upliftment initiatives and, through its supply chain, has the potential to effect meaningful transformation. However, the level of transformation in mining remains a point of contention.

Tebello Chabana, senior executive for public affairs and transformation at the Minerals Council, says transformation remains a critical business imperative for the mining industry and that the sector will continue to drive transformation by engaging the department of mineral resources and energy (DMRE) and all its stakeholders to co-create solutions for the provisions of the charter that were set aside.

The sector achieved a Level 4 B-BBEE recognition, according to the Sanlam Gauge 2022 report.

It met the targets for both black equity ownership and socioeconomic development, scoring 100% in both elements and 84,43% for enterprise and supplier development. However, the scores for both management and control (59,16%) and skills development (67,5%) indicate that a lot of work needs to be done to achieve these targets.

Responding to the Sanlam Gauge scores, generated according to the B-BBEE codes of Good Practices' generic scorecard, Chabana says: "Employment equity (EE) and skills development (SD) are complementary elements, as investments made under SD ought to have a positive correlation on EE numbers year on year. These are the elements that the sector needs to pay more attention to, ensuring that investments in SD achieve greater levels for transformation. The Sanlam Gauge Report 2022, as well as the Commission for Employment Equity Report of 2022, highlights that these elements, especially EE, require bolder and more strategically focused initiatives to tackle the under-representation of African and Coloured employees, more specifically women, across all occupational levels."

> ***"Not only are black women pushing against a concrete ceiling of cultural and gender stereotypes but they are only 18 years in and playing catch-up with their education."***

LITIGATION

Despite the gains, the sector continues to be mired in disputes with its regulator, the DMRE. Explaining the legal wrangles plaguing the sector, the Mineral Council's senior policy analyst, Fundiswa Ndaba, says the industry took issue with aspects of the 2018 Mining Charter, which have since been set aside.

"It would be unfair to conclude that the mining industry is not committed to transformation based on the outcomes of their B-BBEE scores – a scorecard that is a legal requirement by the JSE for compliance purposes. Transformation in the sector should be measured using the 2018 Mining Charter scorecards linked to the mining rights owners' licences to operate," explains Ndaba, adding that prior to the JSE requiring all listed companies to publish a compliance report on their B-BBEE status in 2017, only mining companies that supplied Eskom and other government entities elected to have BEE certificates.

The contentious clause of the 2018 Mining Charter pertains to the requirement for mining entities to allocate 60% of their procurement spend to locally manufactured content from SABS certified suppliers, she explains. "As an industry, we are committed to complying with the Charter, but not the 60% local content target because it is too stringent, impossible to meet and the same requirement does not apply to other sectors of the economy."

As a result of the confusion surrounding the scorecard template, the Minerals Council has not produced a recent transformation report. But according to its 2019 report which tracks transformation in the mining sector against the 2010 Mining Charter scorecards, the industry significantly increased its historically disadvantaged South Africans (HDSA) ownership score to a commendable 39. 2%, comfortably exceeding the 26% target set out in the 2010 Mining Charter. However, it found that only 23.7% of the sampled mining rights holders created meaningful economic participation, as set out in the 2010 Mining Charter.

The industry also surpassed the 40% minimum for procurement, with the score for capital goods from BEE entities achieving 75. 4%, service spends achieving 75.1% and consumable goods reaching an impressive 79%.

The EE scorecard indicates that the sector met the minimum 40% HDSA target, with representation of HDSAs in top management, including the board of directors, at 58.2%. Senior management achieved 52.8% and junior management 61.4%. However, it failed to reach the 5% target for human resources development, coming in at 4.8%.

As far as mine community development is concerned, the sector exceeded the best practice of 1% by far, spending 2.7% of net profits after tax in the development of host communities of rights holders. This is line with the results of the Gauge report that shows the mining sector achieved 100% of its target for socioeconomic development.

Siyandisa Verification Solutions co-director Cedric Singh says he advises entities to be deliberate and strategic about transformation by setting up committees that meet regularly to map out and drive transformation. To attract and retain top black talent and meet management control targets, Singh advises that companies look inward and create a conducive environment for human resources. "There's a frustration that once you invest in and polish a rough diamond, suddenly everyone wants it for themselves. There is a lot of competition for skilled black executives and they are regularly headhunted by different companies."

WOMEN EMPOWERMENT

The mining sector has made strides to advance women, with women making up 14% of the workforce or 64,000 jobs, according to the Minerals Council. Industry highlights include women leaders at the helm of three JSE-listed mining companies: Exxaro Resources, Anglo American Platinum and Kumba Iron Ore. However, the advancement of women in the sector remains a concern.

Econobee verification agency director Muriel Mushariwa finds the 2018 Mining Charter target of 10% women representation in top management overly ambitious. "There is a very long way to go before this 10% target is reached considering that the first woman mining engineer to graduate in South Africa was only in 1992, while the very first black woman mining engineer only graduated in 2004."

She says the mismatch between employment equity requirements and the B-BBEE codes of good practice hampers the transformation and advancement of black women in the mining sector. Not only are black women pushing against a concrete ceiling of cultural and gender stereotypes but they are only 18 years in and playing catch-up with their education," she explains.

Addressing an International Day of Women In Mining symposium in June this year, Minerals Council president Nolitha Fakude admitted that the sector was still biased towards men, promoting them over women. However, she affirmed the sector's commitment to fast-tracking women's representation at all levels.

"The Minerals Council and its members have set targets to at least double the percentage of women in mining by 2025, reaching 30% to 40% women representation across the industry. In the next decade, we are targeting 50% women representation in management. If we, as an industry, intend reaching our targets for women representation in mining, we must act more than we talk, and actively recruit, train and retain women in our businesses, developing clear career paths so that women are fully represented in all layers of our businesses," says Fakude.

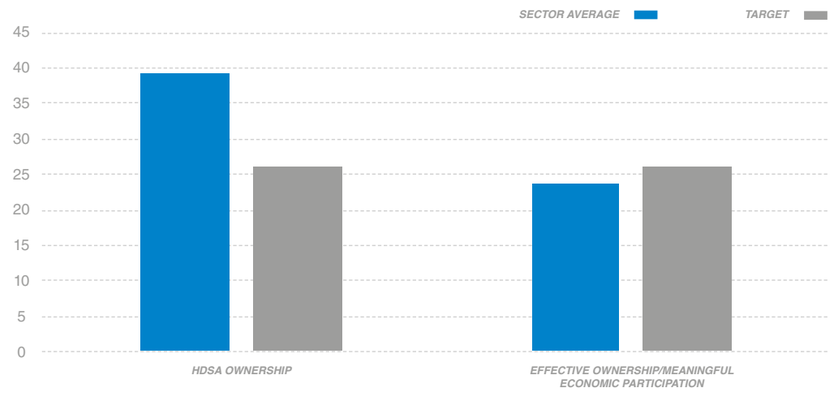
Reporting in Implats' ESG Report 2021, chairperson of the social, transformation and remuneration committee, Mpho Nkeli, says the organisation has made good progress in promoting equitable representation at all levels of its South African operations and in implementing initiatives to advance gender diversity and inclusion. She says women represent 11% of the total workforce, with women representation at leadership level sitting at 22%. She also reveals that Implats has set a 2025 target of at least 15% female representation.

Empowerdex rating agency MD Lerato Ratsoma says while strides have been made by South Africa Inc to transform, now is not the time to pat each other on the back. "We have made strides from where we started in 1994, but there is still a lot of work to be done. Our ownership target on the scorecard is sitting at 25% black ownership, and we need to eventually get it up to 51%. The point of the Sanlam Gauge is to determine where we are in relation to where we want to be. We need to look at what it is we are trying to achieve and not only focus on the scorecards," she says.

MINERALS COUNCIL SA TRANSFORMATION FINDINGS

The figures in the following graphs are drawn from a 2019 Minerals Council survey on the state of transformation in the mining sector. Because mining companies report according to either or both the generic scorecard and the Mining Charter, these figures reflect a fuller picture of transformation in the sector than just the Gauge findings which are derived from the generic scorecards.

OWNERSHIP



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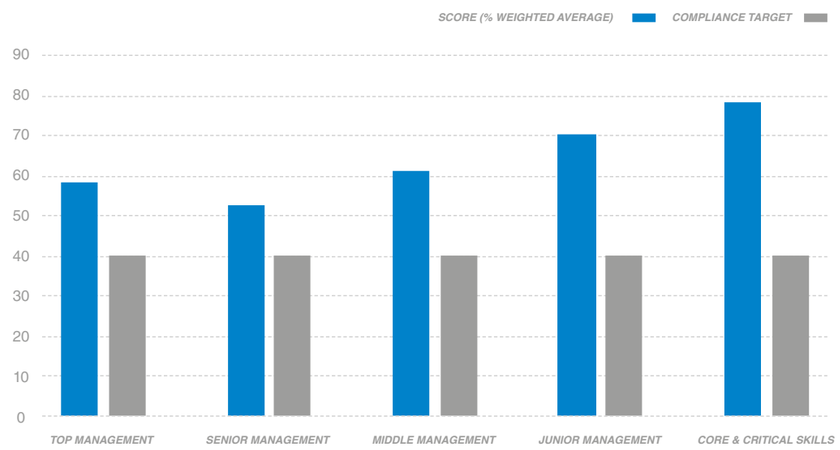
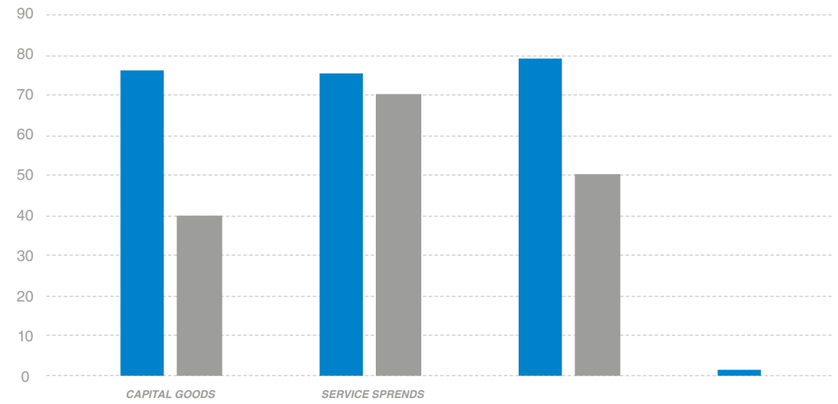
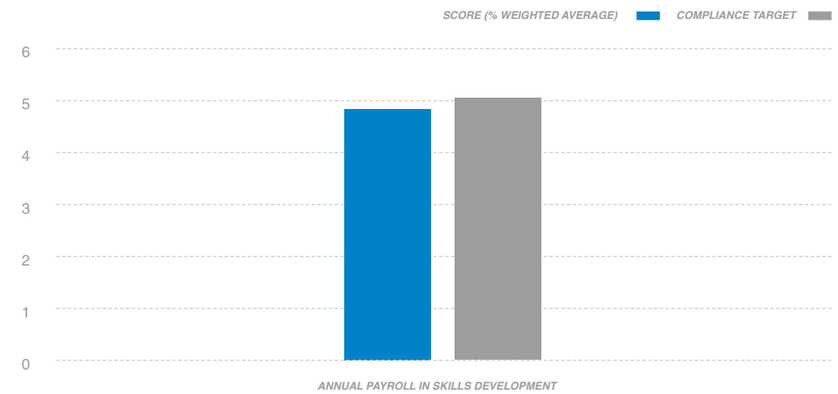


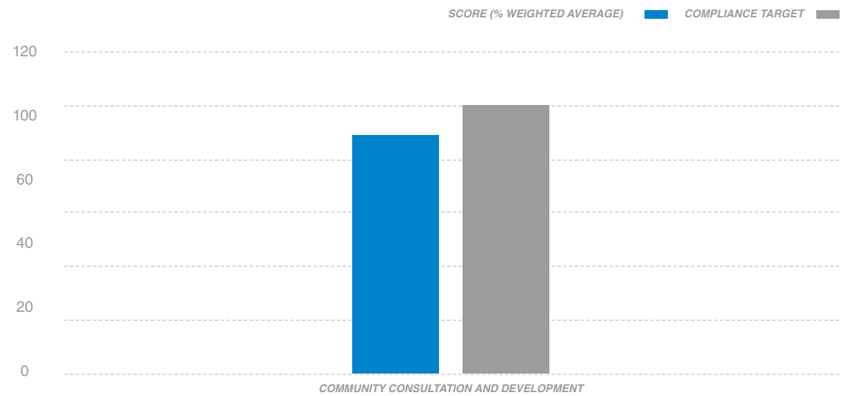
PROCUREMENT AND ENTERPRISE DEVELOPMENT



HUMAN RESOURCE DEVELOPMENT



MINE COMMUNITY DEVELOPMENT



PREFERENTIAL PROCUREMENT'S ROLE IN ACHIEVING SA'S TRANSFORMATION OBJECTIVES

BY JANICE ROBERTS

TRANSFORMATION POLICY

Although the 2017 preferential procurement regulations have been set aside by the Constitutional Court, they continue to be in force until 15 February 2023 unless new regulations are promulgated before that date. Treasury is processing public comment on these regulations and is also engaged in the process of overhauling procurement entirely with a new Procurement Bill. Until then, policy uncertainty remains and **Janice Roberts** tracks how we got to this point.

With procurement by government and state-owned entities at R2-trillion annually, this important vehicle for transformation has recently been battered by policy uncertainty and legal challenges.

The original premise of black economic empowerment is based on the trickle-down concept: company A receives points for procuring from a black supplier, with the goal of developing the black SME sector. That concept remains intact within the wider enterprise and supplier development element but its success in developing a strong base of small black businesses must be questioned.

When it comes to state procurement, however, government is still struggling to get it right. The Public Procurement Bill has been in the making for almost 10 years and while a version of it was published for comment in early 2020, no further drafts have appeared. On 25 February 2022, Finance Minister Enoch Godongwana told parliament that the bill is still being redrafted and may be further delayed.

In the latest ruling concerning preferential procurement regulations (PPRs) on 30 May this year, the Constitutional Court (Concourt) stated that the 2017 PPRs in their entirety remain valid until 15 February 2023 unless new regulations are promulgated before that date. This followed National Treasury's approach to the Concourt for clarity because while its 16 February 2022 declaration of invalidity of the 2017 PPRs was suspended for 12 months, the majority judgment was unclear about the date on which the suspension expired.

This perceived lack of clarity led Treasury to issue a statement to organs of state on 25 February 2022 advising them that while awaiting clarity from the Concourt, tenders advertised prior to February 16, 2022 should be finalised in terms of the 2017 regulations, tenders advertised on or after February 16, 2022 should be held in abeyance and no new tenders should be advertised. Treasury emphasised that it was merely advising organs of state to reduce the risk of them awarding tenders based on rules that might no longer be applicable.

Treasury then granted over 100 organs of state exemption from the provisions of the Preferential Procurement Policy Framework Act (PPPFA), including Transnet to ensure that public procurement was not delayed.

Following the Concourt's most recent ruling, Treasury confirmed that the 2017 Regulations in their entirety remain valid. In addition, from 30 May 2022, all exemptions granted to deal with the period of uncertainty following the Court's judgment of 16 February 2022, lapse (according to the condition in the letters of exemptions); all new quotations must be requested and tenders must be advertised, and dealt with, in accordance with the 2017 Regulations; a quotation requested or a tender advertised before 30 May must be dealt with in terms of the exemption and the internal procurement policy is in place for the duration of the exemption.

Preferential procurement in South Africa is governed by Section 217(1) of the Constitution which provides that "when an organ of state in the national, provincial or local sphere of government, or any other institution identified in national legislation, contracts for goods or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective." Section 217(2) allows a preferential procurement system, and Section 217(3) empowers and compels parliament to enact national legislation that must prescribe a framework within which a preferential procurement system must be implemented. The enacted legislation is the PPPFA that sets out a framework for the implementation of a preferential procurement policy.

Section 2(1) of the PPPFA Act states that an organ of state must determine its preferential procurement policy whereas section 5(1) specifies that the minister of finance may make regulations concerning any matter that may be necessary or expedient to prescribe to achieve the objects of the PPPFA Act.

The 2017 PPRs introduced by then finance minister Pravin Gordhan – issued in terms of the PPPFA – permitted governmental, parastatal and state-owned entities to disqualify tenderers up front if they did not comply with the following pre-qualification criteria:

- They must have a stipulated minimum B-BBEE rating;
- They must be an exempted micro-enterprise (EME) with annual revenue of less than R10m; or a qualifying small enterprise (QSE) with annual revenue of between R10m and R50m.
- They must subcontract at least 30% of the tender to an EME or QSE which is at least 51% black-owned.

The recent shakeup in South Africa's preferential procurement system has its roots in an application in the High Court by Afribusiness (now known as Sakeliga) in 2020 seeking an order to review and set aside the 2017 preferential procurement regulations in terms of the Promotion of Administrative Justice Act 3 of 2000 on the basis that the minister had acted beyond the scope of his powers and that the regulations were invalid. The High Court dismissed the application, but Afribusiness then approached the Supreme Court of Appeal (SCA).

The SCA ruled that in imposing the 2017 Regulations, the minister had acted beyond the powers granted to him by the PPPFA Act as the introduction of the pre-qualification criteria produced an extra layer which neither section 217 of the Constitution nor section 2 of the PPPFA Act allows. The SCA upheld the appeal, declaring the 2017 Regulations inconsistent with the PPPFA Act and invalid. The declaration of invalidity was suspended for 12 months. That 12-month period would have lapsed on 2 November 2021.

"Treasury supports all of government's socioeconomic policy objectives."

The minister of finance swiftly appealed against the decision to the Concourt with the appeal having the effect of itself suspending the decision of the SCA in terms of section 18 of the Superior Courts Act, 2013. The minister appealed on the basis that section 5 of the PPPFA Act provided for a flexible regulatory scheme giving him broad regulatory powers to make any regulations with the only limitation being that they must promote the objects of the PPPFA Act.
The minority of the Concourt agreed with the minister but the majority did not, concluding that the minister did not have the power to promulgate the 2017 regulations because section 2(1) of the PPPFA Act stipulates that individual organs of state must determine their own preferential procurement policies and implement them within the framework provided for under section 2.

The National Treasury then issued draft preferential procurement regulations on 10 March 2022 for public comment under the PPPFA to address the declaration of invalidity of the 2017 regulations by the Concourt. These regulations excluded the BEE pre-qualification requirements of the 2017 regulations that were contested in court and restored the system that existed before the 2017 iteration of the rules.

Some black business groups condemned the draft regulations and Dumisani Mpafa, chair of both the Black Business Council's economic transformation committee and Preferential Procurement Policy Framework Act task team, stated that "Treasury has always been belligerent towards transformation and B-BBEE. For the longest time it bluntly refused the alignment of the Preferential Procurement Policy Framework Act and B-BBEE, arguing that the implementation of B-BBEE may bankrupt the fiscus."

Treasury said that this was unfortunate. "Treasury supports all of government's socioeconomic policy objectives. However, it should be borne in mind that the PPRs are about empowerment as envisaged in the PPPFA which is the legislation that is managed and administered by the minister of finance and the national treasury."

Treasury added that consequently, any transformation that is prescribed in the PPRs must be in line with what is contained in the primary legislation, that is, the PPPFA.

"Section 2(1) of the PPPFA requires an organ of state to determine its own preferential procurement policy and implement it within a framework described in the Act. Section 2(1)(d) of the Act requires an organ of state to include specific goals in its policy. According to section 2(1)(e) of the Act an organ of state must, in the invitation to submit a tender, clearly specify the specific goals for which a point may be awarded, which are another means of advancing persons or categories of persons previously disadvantaged by unfair discrimination. Using the B-BBEE status level of a contributor does not provide for the opportunity to choose specific goals."

Treasury further explained that Section 10 of the B-BBEE Act states that every organ of state and public entity must consider and as far as reasonably possible, apply any relevant codes of good practice issued in terms of the B-BBEE Act in developing and implementing a preferential procurement policy.

"The application of the B-BBEE Act by organs of state, coupled with the requirement for organs of state to determine their own specific goals for each tender, suggests that B-BBEE as it was applied in the 2011 and 2017 regulations would be an overreach, if included in the revised regulations. As such, it is acknowledged that transformation is not limited to B-BBEE alone as certain goals may be advanced independently from B-BBEE and the legislation governing B-BBEE."

Furthermore, the B-BBEE legislation is managed and administered by the minister of trade, industry and competition and the department of trade, industry and competition (the dtic), Treasury said.

"Consequently, even though the two pieces of legislation have similar aims (transformation), there would be no legal basis for regulations that are developed under the PPPFA to incorporate provisions that give effect to a separate piece of legislation (B-BBEE Act), when the PPPFA does not provide for B-BBEE, but instead provides for specific goals, such as contracting with persons or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender or disability, amongst other goals, which is, in turn, giving effect to the objects of section 217(2) of the Constitution."

Treasury believes that in light of the Concourt judgment, it is not up to the finance minister nor National Treasury to instruct organs of state on which specific goals they should provide for in their respective policies, as this falls outside the scope of the PPPFA and of the minister's regulation-making authority.

"It is noteworthy that on 4 November 2020, the B-BBEE Commission issued a media release informing the public that the Supreme Court of Appeal ruling relating to the declaration of invalidity of the Preferential Procurement Regulations, 2017 has no effect on the B-BBEE Act, as amended, and its requirements," National Treasury added.

In its statement, the B-BBEE Commission said that "the declaration of the PPPFA Regulations of 2017 as invalid is not a blow to the B-BBEE requirements for tenders as reported. The invalidity of the PPPFA Regulations of 2017 does not invalidate the B-BBEE Act, and the PPPFA Regulations were not issued under the B-BBEE Act. The framework for the B-BBEE Act and how it is applied is clear and thus not affected by the ruling of the Supreme Court of Appeal."

Therefore, transformation in terms of the B-BBEE Act does not hinge on the Preferential Procurement Policy Framework Act, nor the Preferential Procurement Regulations, said National Treasury.

Treasury said it is considering the public comments on the draft Preferential Procurement Regulations published on 10 March 2022 and will prepare final regulations that accord with the Concourt's judgment of 16 February 2022. "Furthermore, the draft Public Procurement Bill seeks to repeal the PPPFA in its entirety and provide for a new framework in which the policy referred to in section 217(2) of the Constitution may be implemented."

The Concourt's rulings in both its May and February judgments have led to fierce debate around preferential procurement, resulting in confusion and anxiety at a time when South Africa desperately needs clarity on state contracting. In the period leading up to the promulgation of the Public Procurement Bill, it is anticipated that public procurement will be anything but consistent. Treasury can help the situation by speedily gazetting the new preferential procurement regulations which will bring about some certainty in the public sector.

[3] Op ed: Treasury must take responsibility for collapse of preferential procurement by Dumisani Mpafa, Sunday Times, 8 May 2022.06.15

METHODOLOGY

DATABASE SOURCING

The results of the 2022 Sanlam Gauge Report are derived from two primary sources: Mpowered Business Solutions' Beagle database and McGregors' Who Owns Whom empowerment database. These were supplemented with additional companies researched by Intellidex to ensure the major companies in each sector are included.

The research kicked off with 2,309 companies from the Who Owns Whom database supplemented by primary research. Later in the process we reached an agreement with Mpowered Business Solutions to incorporate its Beagle database, to which several verification agencies automatically contribute PDFs of the certificates they issue. This database contained certificates in PDF format only. To convert the PDFs into usable data, Intellidex deployed its international data analytics suppliers. Eventually we accumulated over 93,000 certificates and affidavits from the database, including both current and expired certificates. Our analytics programmers developed algorithms to systematically convert the PDFs to usable data.

After cleaning the database of incorrect entries and stripping out EMEs and QSEs which did not have scores for the scorecard elements, as well as scorecards that were outdated or were invalid for other reasons, we had valid scores for 8,027 new companies.

These processes resulted in usable scores for a total of 10,336 companies that now underpin the research, well more than triple the 3,154 companies included in the 2021 research.

Combining the two sources of data, however, threw up complications. From the Who Owns Whom database we were able to break scores down into subsectors of the overall B-BBEE sector and provide 10-year histories of scores for each sector. However, this information was not available from the Beagle database. As such, the subsector scores and 10-year histories in this report are drawn from a total sample of the original 2,309 companies only. Despite the smaller sample size, we believe it is still worthwhile presenting these findings to the public to reflect transformation progress on a more granular level through the subsectors scores, as well as to track the progress of each scorecard element over 10 years.

SUBSECTORS

In the graphs accompanying each article on the sectors, the main graphs reflecting the overall scores of each B-BBEE sector are based on scores drawn from the full sample of 10,336 companies. The scores for the subsectors, however, are drawn only from our original sample database of 2,309 companies in which companies were allocated to a subsector and we publish those for which we have sufficient scores.

The subsectors are classified according to the international Standard Industrial Classification (SIC) Codes, which differ from the B-BBEE codes. These are used by Statistics South Africa for various purposes and SARS for Employment Tax Incentive purposes. However, the B-BBEE sector codes are not based on the SIC codes and in some cases have different subsectors. As a result, each company was initially allocated into a sector and subsector according to the SIC Codes. They were then categorised into the appropriate B-BBEE sector code.

HISTORICAL CHARTS

The 10-year history graphs in this report are derived only from the original database of 2,309 companies. The scores are not like for like because the composition of companies differ year by year.

SUBSIDIARIES

In cases where a parent/holding company has numerous subsidiaries, we have included scores for all entities. According to the DTIC's Guidelines on Complex Structures & Transactions, it is effectively up to the company to decide which sector code the subsidiary should report under, but where a subsidiary operates in another sector to the holding that has its own code, it has to be scored by that sector's code. To incorporate those subsidiaries with different scores to the parent, we had to include each subsidiary's scores.

SCORING METHODOLOGY

This year we introduced a new approach to determining aggregate sector scores. BEE scorecards have various level of detail in their data. The only consistent data is the procurement recognition (0%-135%) and contribution level (one to eight). The challenge is that neither of these can be easily averaged. As the table shows, procurement recognition is a non-linear transformation of the scorecard points. A firm with under 40 points gets 0 recognition but one with 100 points gets 135%. Averaging the recognition level, as we did last year, can be misleading.

CONTRIBUTION LEVEL	QUALIFICATION	PROCUREMENT RECOGNITION LEVEL
LEVEL ONE CONTRIBUTOR	≥ 100 points on the Scorecard	135%
LEVEL TWO CONTRIBUTOR	≥ 95 but < 100 points on the Scorecard	125%
LEVEL THREE CONTRIBUTOR	≥ 90 but < 95 points on the Scorecard	110%
LEVEL FOUR CONTRIBUTOR	≥ 80 but < 90 points on the Scorecard	100%
LEVEL FIVE CONTRIBUTOR	≥ 75 but < 80 points on the Scorecard	80%
LEVEL SIX CONTRIBUTOR	≥ 70 but < 75 points on the Scorecard	60%
LEVEL SEVEN CONTRIBUTOR	≥ 55 but < 70 points on the Scorecard	50%
LEVEL EIGHT CONTRIBUTOR	≥ 40 but < 55 points on the Scorecard	10%
NON-COMPLIANT CONTRIBUTOR	< 40 points on the Scorecard	0%

To address this challenge, we averaged the sectors by first backing out scorecard points from the recognition level. We did this at the midpoint of the scorecard range as per the table. For example a 125% level was backed out to 97.5 points. We did this for all companies, and then determined an aggregate scorecard score for each sector. We then worked forward and determined the contribution level and procurement recognition for each sector. We believe this gives the most reasonable representation of sector averages possible with the data.

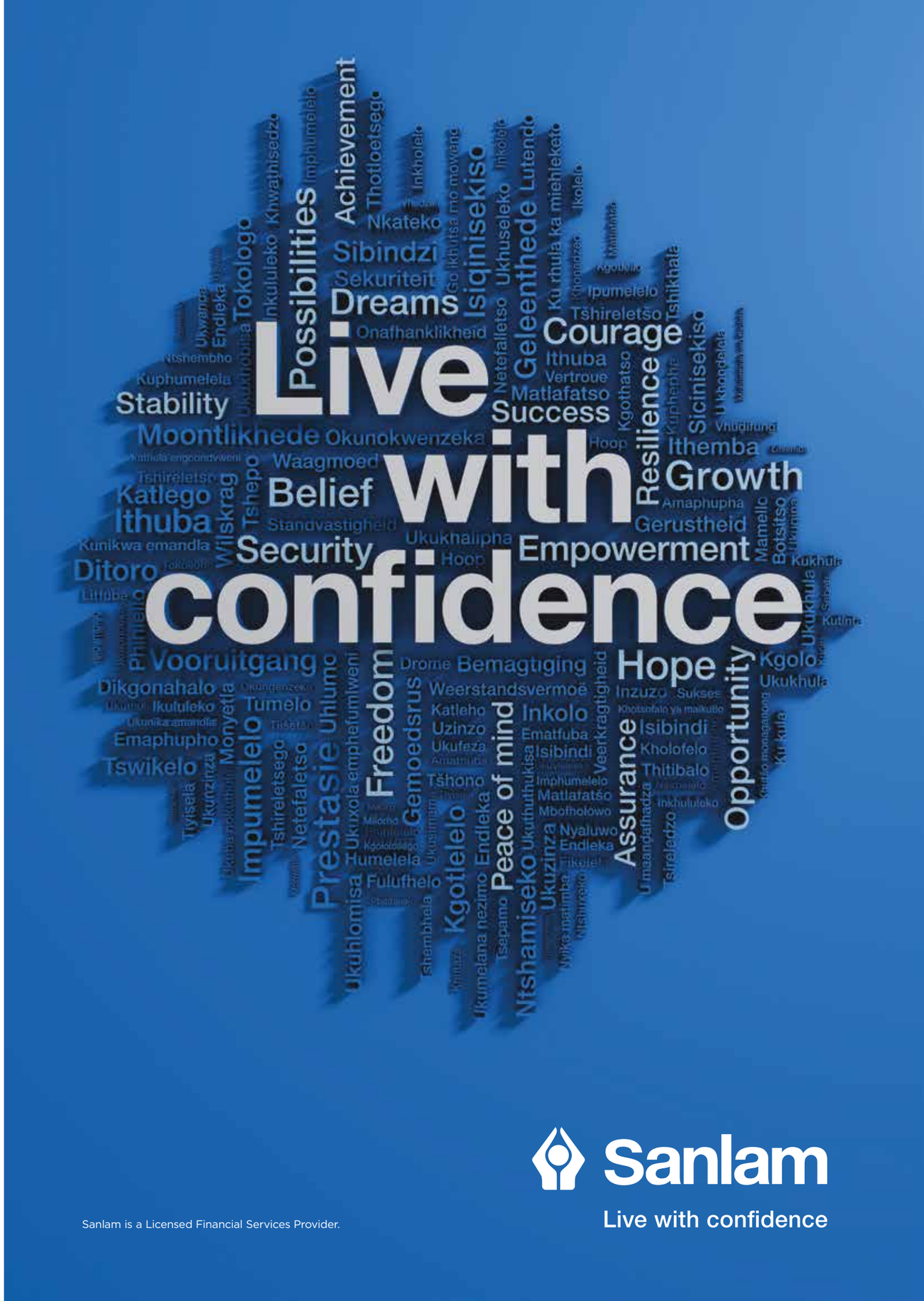
The scorecard elements were unaffected as they are summed and averaged per sector.

Because of the vastly different sample sizes of the 2021 report (3,157 companies) and the 2022 report (10,336) as well as the different formula used, the results of the two reports are not comparable. However, we have recalculated last year's scores according to the new formula, presented in the table below.

B-BBEE RECOGNITION LEVELS

Each sector is allocated a 'B-BBEE contribution level' according to criteria specific to that B-BBEE Sector Code. All sectors align with the generic points allocations to levels except for Transport and ICT.

B-BEE SECTOR	2021 RESTATED B-BBEE RECOGNITION LEVEL	2022 B-BBEE RECOGNITION LEVEL	CONTRIBUTION LEVEL
AGRI-BEE	68,3	91,44	3
CONSTRUCTION	80,2	90,82	3
FINANCIAL	78,2	87,86	4
FORESTRY	51,3	87,46	4
ICT	66,3	86,41	4
INTEGRATED TRANSPORT	84,0	85,48	4
MARKETING, ADVERTISING AND COMMUNICATION	67,4	85	4
PROPERTY	68,7	84,79	4
TOURISM	80,0	84,57	4
GENERIC	70,4	87,75	4



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