

**STATEMENT 050:  
ACCREDITATION OF BEE RATING AGENCIES**

**Abstract**

*This statement outlines the criteria to be used in accrediting BEE rating agencies. The structural, human resources, information and process requirements for BEE rating agencies are explained. The function and responsibilities of rating agencies are outlined. The role played by SANAS in the accreditation of BEE rating agencies is described.*

***The BEE Codes of Good Practice are to be applied in the development, evaluation and monitoring of BEE charters, initiatives, transactions and other implementation mechanisms. The statement contains basic principles and essential considerations, as well as guidance in the form of explanatory, and other, material.***

***To understand and apply the basic principles and essential procedures together with the related guidance, it is necessary to consider the whole text of the Codes, not only specific sections of the text that are highlighted. The practitioners cannot depart from the basic principles as set out in the Codes. The Codes need only be applied to material matters.***

## REQUIREMENTS OF BEE RATING AGENCIES

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## **1. INTRODUCTION**

1.1 *Black Economic Empowerment (BEE) rating agencies can accelerate the achievements of the South African economy in its drive towards sustainable Broad-Based BEE.*

## **2. OBJECTIVES**

2.1 *This Statement aims to clarify the roles of BEE rating agencies, and specify the criteria by which they will be accredited by SANAS on behalf of the Department of Trade and Industry (**the dti**).*

2.2 *This Statement is to be used by SANAS to accredit BEE rating agencies, as well as by the rating agencies when auditing the BEE Status of entities*

## **3. DEFINITIONS**

*For the purpose of this Statement the following terms have the following meanings assigned to them.*

3.1 **Evaluation** *means assess, verify and validate the BEE status of entities.*

3.2 **Accredited BEE Rating Agency**: *is defined in Statement 040: Glossary to the Code of Good Practice*

3.3 **the dti**:

*The Department of Trade and Industry*

3.4 **SANAS**

*South African National Accreditation System*

3.5 **Consultancy**: *The provision of BEE related services to management of entities these services include participating in any activity to aid an enterprise to implement its BEE strategy. Examples of consultancy include but are not limited to the following:*

a) *Coaching or facilitating the BEE process on behalf of an enterprise towards the development and implementation of activities leading to BEE compliance;*

**b) Preparing or producing manuals or procedures**

*Arranging training and participating as a trainer is not considered consultancy, provided that, where training relates to the BEE process, it must be confined to providing generic information and advice that is freely available in the public domain, i.e. the trainer should not provide enterprise-specific solutions.*

*Giving guidelines to entities as to what they need to comply with is not considered consultancy.*

**4. THE ROLE OF BEE RATING AGENCIES**

**4.1 Assess, verify and validate BEE information for decision-making**

*BEE rating agencies should assess, verify and validate both disclosed and undisclosed BEE related information of entities. The verification thereof should be based on the principles contained in the broad based BEE Codes of Good Practice, as well as the relevant gazetted industry charters.*

**4.2 Evaluate BEE transactions and scenarios**

*BEE rating agencies shall evaluate the BEE transactions/scenarios to determine the effective creation and/or enhancement of economic wealth to black people. The evaluation shall be based on all the components of broad based BEE and shall ensure that the transactions/scenarios reflect the aims of these components in the empowerment of black people. This may include giving indicative ratings based on scenarios presented by an enterprise. The BEE rating agencies also have a responsibility to identify and report to **the dti** any material deviations from the reported and the actual BEE benefits in a transaction.*

## **5. THE ACCREDITATION ROLE OF SANAS ON BEHALF OF the dti**

- 5.1** *SANAS, as the national accreditation body, operates in compliance with the requirements for accreditation bodies as defined in the International standard ISO/IEC Guide 61. BEE Rating Agencies are required to apply to SANAS for accreditation and rating. SANAS on behalf of **the dti** will accredit and rate BEE Rating Agencies in terms of the accreditation criteria set out in this Statement for Rating Agencies.*
- 5.2** *As from the effective date of this Statement, BEE Rating Agencies will have a 90 days grace period, after which they may only perform BEE ratings if such an agency has been accredited in line with the dti requirements in this regard.*
- 5.3** *All previous ratings conducted by the accredited BEE Rating Agencies prior to the accreditation must be updated within 6 months of the effective date of this Statement to reflect all principles and methodologies encapsulated in this Statement.*
- 5.4** *After the grace period, all previous rating conducted by non-accredited BEE Rating Agencies will not be acceptable as an opinion on BEE status of entities.*

## **6. PRINCIPLES**

### **6.1 General**

**6.1.1** *Principles outlined in this Statement are fundamental and are not prescriptive requirements. This Statement does not give specific requirements for all situations that can occur, however these principles should be applied as guidance for the decisions that may need to be made for unanticipated situations.*

**6.1.2** *The overall aim of rating is to give confidence to all parties that rely upon the rating. The value of rating is public trust achieved through gaining the confidence of all these parties, which includes but are not limited to:*

- a) *The BEE Rated Entities that are the clients of the BEE Rating Agencies;*
- b) *The customers of the BEE Rated Entities;*
- c) *Governmental authorities;*
- d) *Non-governmental entities;*
- e) *Consumers and other members of the public.*

### **6.1.3 Principles for inspiring confidence include:**

#### **a) Impartiality**

*Impartiality is the actual and perceived presence of objectivity. Objectivity means that conflicts of interest do not exist or are resolved so as not to adversely influence subsequent activities of the BEE Rating Agency. Synonyms that are useful in conveying the element of impartiality are: objectivity, independence, freedom from conflict of interests, freedom from bias, lack of prejudice, neutrality, fairness, open-mindedness, even-handedness, detachment and balance.*

*Being impartial, and being perceived to be impartial, is necessary for a BEE Rating Agency to deliver a rating that provides confidence. It is recognised that the source of revenue for a BEE Rating Agency is the client paying for its service and that this is a potential threat to impartiality. In order to obtain and maintain confidence, a BEE Rating Agency has to be able to demonstrate that its decisions are based on objective evidence and that its decisions are not improperly influenced by other interests or by other parties.*

*Threats to impartiality include:*

- *Self-interest threats - threats that arise from person or enterprise acting in their own interest, for example financial self-interest.*
- *Self-review threats - threats that arise from a person or enterprise reviewing the work done by themselves. For example; evaluating the BEE compliance of a client to whom the BEE Rating Agency provided consultancy*
- *Familiarity (or trust) threats - threats that arise from a person or body being too familiar or trusting of another person instead of seeking evaluation evidence to base the rating conclusion on*

- *Intimidation threats - threats that arise from a person or enterprise having a perception of being coerced openly or secretly, such as a threat to be replaced or reported to a supervisor.*

**b) Competence**

*Competence is the demonstrated ability to effectively apply knowledge and skills. The competence of the personnel supported by the infrastructure of the agency is necessary for the BEE Rating Agency to deliver a rating that provides confidence.*

**c) Responsibility**

*The client enterprise, not the BEE Rating Agency has the responsibility for conformity with the requirements for BEE Rating. The BEE Rating Agency has the responsibility to carry out a factual, thorough evaluation of an enterprise's BEE status, and based on the result to grant a BEE rating.*

**d) Openness**

*Openness is access to or disclosure of information. A BEE Rating Agency needs to provide public access to, or disclosure of, appropriate and timely information about the evaluation and rating process and about the rating status of any enterprise in order to gain confidence in the integrity and credibility of the BEE rating.*

*A BEE Rating Agency needs to provide appropriate access or disclose to specific interested parties non-confidential and non-proprietary information about the results of specific evaluations (e.g. evaluations in response to complaints), in order to gain and maintain confidence.*

**e) Confidentiality**

*In order to gain access to the privileged information that is needed for the BEE Rating Agency to adequately assess the requirements for BEE rating, a BEE Rating Agency needs to keep any proprietary information about an enterprise confidential. A BEE Rating Agency may disclose an enterprise's actual rating result, without compromising the confidentiality of the information supporting the rating outcome.*

**f) Resolution of complaints**

*Parties that rely on ratings made by accredited BEE Rating Agencies expect to have complaints investigated, and if these are found to be valid, they need to have confidence that the complaints will be appropriately addressed and that a reasonable effort will be made to resolve the complaint (Refer also to section 11.7). An appropriate balance between the principles of openness and confidentiality, including resolution of complaints, is necessary in order to demonstrate integrity and credibility.*

**7. GENERAL REQUIREMENTS**

**7.1 General**

**7.1.1** *A BEE Rating Agency should internally display a positive and utmost commitment to all seven indicators of the Broad Based BEE Strategy scorecard as set out by **the dti**, and shall demonstrate the highest level of contribution towards these key indicators (i.e. 65%).*

*These indicators include:*

- *Black ownership*
- *Black management & control*
- *Employment equity*
- *Skills development*
- *Affirmative procurement*
- *Enterprise development*
- *Residual factor*

**7.1.2** *BEE Rating Agencies should be seen as being both factually and perceptually independent from their rated entities, and should avoid any circumstances that rise or may potentially give rise to a conflict of interest between the various parties. Should such circumstance arise, the full nature thereof must immediately be disclosed to all parties involved and prior consent must be given before any further evaluation activities is undertaken.*

## **7.2 Legal and contractual matters**

### **7.2.1 Legal responsibility**

*The BEE Rating Agency shall be a legal enterprise, or a defined part of a legal enterprise, such that it can be held legally responsible for all its activities*

### **7.2.2 Ownership**

*BEE Rating Agencies should not hold a substantial equity share or any of the voting rights of a client to be rated which might enable it to significantly influence any of the decisions making processes within the enterprise. When evaluating the type of financial interest, consideration should be given to the fact that financial interest range from those where the individual has no control over the investment vehicle to those where the individual has control over the financial interest or is able to influence investment decisions. The provisions of this statement do not exclude the holding of a minority interest or listed share where the total shareholding does not constitute a substantial shareholding if compared to the total amount of shares issued by the enterprise. The materiality of such financial interest needs to be evaluated to ensure that the independence of the BEE Rating Agency is not impaired. Disclosure of material financial interest in the rated enterprise needs to be disclosed to the dti in accordance with sound corporate governance principles.*

### **7.2.3 Investment through other equity and/or debt instrument**

*BEE Rating Agencies should not be a party to a debt-creating agreement between itself and client to be rated, where such an agreement factually encumbers or is perceived to encumber the agency in the execution of its professional discretion and objectivity towards the BEE assessment for the client. The provision of this statement does not necessarily preclude the BEE Rating Agency from entering into such agreements where it is the normal business of the client to provide such services and it is entered into under conditions not more favourable than those provided to the general public at large.*

### **7.2.4 Rating Agreement**

*The BEE Rating Agency shall have a legally enforceable agreement for the provision of services to its rated entities.*

### **7.2.5 Responsibility for BEE rating decisions**

*The BEE Rating Agency shall retain authority and shall be responsible for its decisions relating to the BEE rating*

### **7.3 Management of impartiality**

**7.3.1** *The BEE Rating Agency shall have and demonstrate commitment to impartiality in the BEE rating activities especially through its top management structures. The BEE Rating Agency shall have a publicly available statement that it understands the importance of impartiality when managing conflict of interest and that it ensures objectivity when carrying out its activities.*

**7.3.2** *The BEE Rating Agency and any part of the same legal enterprise should not offer or provide BEE consultancy. However, where a group provides both, a solid divide (separate legal companies under a holding group) must be in place so that there is no actual or perceived link between the two subsidiary companies, which would cause a conflict of interest. Measures taken to ensure impartiality should be well documented.*

**7.3.3** *The BEE Rating Agency shall identify, analyse and document the possibilities for conflict of interest arising from providing its services including any conflicts arising from its relationships. Having relationships does not necessarily present a BEE Rating Agency with a conflict of interest. However, if any relationship creates a risk to impartiality, the BEE Rating Agency shall document how it eliminates or minimises such risk.*

**7.3.4** *The BEE Rating Agency shall ensure that activities of other bodies do not affect the confidentiality, objectivity and impartiality of its activities. The BEE Rating Agency shall avoid any situation that would create a conflict of interests arising from the activity of any other body.*

**7.3.5** *The BEE Rating Agency shall not provide a BEE rating on an enterprise that has received BEE consultancy from that Rating Agency, where the relationship between the consultancy body and the BEE Rating Agency poses an unacceptable threat to the impartiality of the BEE Rating Agency.*

*Allowing a minimum period of two years to elapse following the end of the BEE consultancy is one way of reducing the threat to impartiality to an acceptable level.*

*A relationship that threatens impartiality between the BEE Rating Agency and BEE consultancy body may be based on ownership, governance, management, personnel, shared resources, finances, contacts, marketing, and payment of a sales commission or other inducement for the referral of new rated entities, etc.*

**7.3.6** *BEE consultancy and BEE rating shall not be marketed together. The BEE Rating Agency shall take adequate measures to prevent a consultancy body from stating or implying that BEE rating would be simpler, faster or less expensive if a specified BEE Rating Agency is used. Similarly, a BEE Rating Agency shall not state or imply that BEE rating would be simpler, faster or less expensive if a specified consultancy body is used. The BEE Rating Agency activities shall not be marketed as linked with the activities of a body that provides BEE consultancy.*

**7.3.7** *All BEE Rating Agency personnel, either internal or external, or committees, which could influence the rating activities, shall act impartially and shall not allow commercial, financial or other pressures to compromise impartiality.*

**7.3.8** *To ensure that there is no conflict of interests, personnel who have provided BEE consultancy including those acting in a managerial capacity, shall not be employed to take part in a rating evaluation or the rating process if they have been involved in BEE consultancy for the enterprise in question, within the last two years.*

**7.3.9** *BEE Rating Agencies shall require personnel, internal and external, to declare any situation known to them that may present them or the BEE Rating Agency with a conflict of interest. BEE Rating Agencies shall use this information as input to identifying threats to impartiality raised by the activities of such personnel or by the organisations that employ them and shall not use such personnel, internal or external, unless they can demonstrate that there is no conflict of interests.*

*The fact that the evaluators' employer is known to have provided BEE consultancy within the last two years, for the enterprise under evaluation, is likely to be considered as a high threat to impartiality.*

*If a member of the rating team, or their immediate family member, has a direct financial interest, or a material indirect financial interest, in the rating client, the self-interest threat created would be so significant the only safeguards available to eliminate the threat or reduce it to an acceptable level would be to:*

- a) Dispose of the direct financial interest prior to the individual becoming a member of the rating team;*
- b) Dispose of the indirect financial interest in total or dispose of a sufficient amount of it so that the remaining interest is no longer material prior to the individual becoming a member of the rating team; or*
- c) Remove the member of the rating team from the rating engagement.*

#### **7.4 Liability and financing**

**7.4.1** *The BEE Rating Agency shall evaluate the significant risks arising from its rating activities and demonstrate that it has arrangements (e.g. insurance or reserves) to cover liabilities arising from its operations in each of the geographic areas in which it operates.*

**7.4.2** *The BEE Rating Agency shall evaluate its finances and sources of income and shall be able to demonstrate that commercial, financial or other pressures do not compromise its impartiality.*

### **8. STRUCTURAL REQUIREMENTS**

#### **8.1 Structure and top management of BEE Rating Agencies**

**8.1.1** *The Organisational structure of the BEE Rating Agency shall be such as to give confidence in its activities.*

**8.1.2** *The BEE Rating Agency shall identify the top management (board or equivalent governing body of persons) having overall authority and responsibility for each of the following, where relevant:*

- a)** *Development of policies relating to the operation of the agency;*
- b)** *Supervision of the implementation of the policies and procedures;*
- c)** *Supervision of the finances of the body;*
- d)** *Performance of evaluations and ratings;*
- e)** *Decisions on BEE ratings;*
- f)** *Delegation of authority to committees or individuals, as required, to undertake defined activities on its behalf;*
- g)** *Providing adequate, qualified resources for its activities*

**8.1.3** *The BEE Rating Agency shall document the organisational structure, showing duties, responsibilities and authorities of management and other rating personnel and any committees.*

*(When the BEE Rating Agency is a defined part of a legal enterprise, the structure shall include the line of authority and the relationship to other parts within the same legal enterprise.)*

**8.1.4** *The BEE Rating Agency shall have formal rules for the appointment, terms of reference and operations of any committees that are involved in the rating activities.*

## **8.2 Safeguarding impartiality**

*The composition, terms of reference, duties, authorities and responsibilities of any committee involved in the rating process, shall be formally documented and authorised by the top management of the BEE Rating Agency to ensure:*

- a)** *Representation of a balance of interests such that no single interest predominates;*

- b)** *Access to all the information necessary to enable it to fulfil its functions;*

## **9. HUMAN RESOURCE REQUIREMENTS**

### **9.1 Competence of management and personnel**

**9.1.1** *The BEE Rating Agency shall have processes to ensure that appropriate personnel have up-to-date knowledge relevant to BEE criteria. It shall determine the competence required (including experience and the level of training). Where applicable, it shall determine any other qualification requirements for demonstrating competence prior to authorisation to carry out specific functions.*

**9.1.2** *In determining the competence requirements for their personnel performing the different activities involved in BEE rating the BEE Rating Agency shall address the functions undertaken by management and administrative personnel in addition to those directly performing evaluations and rating functions.*

**9.1.3** *The BEE Rating Agency shall have access to the necessary expertise for advice on matters directly relating to BEE rating. Such advice may be provided externally or by BEE Rating Agency personnel.*

### **9.2 Personnel involved in the rating process**

**9.2.1** *The BEE Rating Agency shall, irrespective of the use made of external or temporary resources have as part of its own enterprise, personnel having sufficient competence for managing the BEE rating.*

**9.2.2** *The BEE Rating Agency shall employ or have access to a sufficient number of rating evaluators, including team leaders.*

**9.2.3** *The BEE Rating Agency shall make clear to each person concerned his or her duties, responsibilities and authorities.*

**9.2.4** *The BEE Rating Agency shall have defined processes for selecting, training, formally authorising and monitoring evaluators and experts used in the rating process. The initial competence evaluation of an evaluator shall include observing an on-site rating undertaken by the person being evaluated.*

**9.2.5** *The BEE Rating Agency shall have a process for ensuring that the assessors it uses (including team leaders) are competent for evaluating specific areas of the elements of the Broad Based Black Economic Empowerment scorecard..*

**9.2.6** *The BEE Rating Agency shall ensure that assessors and, where needed, experts, are familiar with rating processes, BEE rating requirements, methodology and other relevant requirements. The BEE Rating Agency shall give evaluators and experts access to an up-to-date set of documented procedures giving evaluation instructions and all relevant information on rating operations.*

**9.2.7** *The BEE Rating Agency shall use assessors and experts only for those activities where they have demonstrated competence.*

**9.2.8** *The BEE Rating Agency shall identify training needs and shall offer or provide access to specific training to make its Evaluators and experts knowledgeable in the BEE rating requirements and processes.*

**9.2.9** *The group or individual which taking the decision on BEE rating shall have knowledge and experience sufficient to evaluate the BEE evaluation processes and related recommendations of the Evaluation team.*

**9.2.10** *The BEE Rating Agency shall ensure the satisfactory performance of personnel involved in the evaluation and BEE rating process. There shall be documented procedures and criteria for monitoring the performance of all persons involved based on the frequency of their usage and the level of risk linked to their activities. In particular, the BEE Rating Agency shall review the competence of its personnel in the light of their performance in order to identify training needs.*

**9.2.11** *The BEE Rating Agency shall have appropriate documented requirements for monitoring the performance of its Evaluators and experts. These requirements shall include a combination of on-site observation, review of evaluation reports and feedback from rated entities or from the market. This monitoring shall be designed in such a way as to minimise the disturbance of the normal processes of rating especially from the client's viewpoint.*

**9.2.12** *The BEE Rating Agency shall periodically observe the performance of each evaluator and expert on-site. The frequency of on-site observations shall be based on need determined from all monitoring information available.*

### **9.3 Use of individual external Evaluators and external experts**

*The BEE Rating Agency shall require external evaluators and external experts to have a written agreement by which they commit themselves to comply with applicable policies and procedures as defined by the BEE Rating Agency. The agreement shall address aspects relating to confidentiality and to independence from commercial and other interests, and require the external evaluators and external experts to notify the BEE Rating Agency of any existing or prior association with any enterprise they may be assigned to evaluation.*

### **9.4 Personnel records**

*The BEE Rating Agency shall maintain records of relevant qualifications, training experience and competence of each person involved in the rating process. In addition, for external evaluators and external experts, the BEE Rating Agency shall maintain up-to-date records of affiliations and professional status.*

### **9.5 Outsourcing**

**9.5.1** *The BEE Rating Agency shall have a process in which it describes the conditions under which outsourcing may take place. The BEE Rating Agency shall have a legally enforceable agreement covering the arrangements, including confidentiality and conflict of interests, with each outsourced body.*

**9.5.2** *Decision-making regarding BEE ratings shall never be outsourced.*

**9.5.3** *The BEE Rating Agency shall:*

- a)** *Take full responsibility for all evaluations outsourced to another body;*
- b)** *Maintain its responsibility for granting a BEE rating;*
- c)** *Ensure that the outsourced body uses individuals that conform to the applicable provisions of this Statement, including competence, impartiality and confidentiality and BEE status;*
- d)** *Ensure that the outsourced body uses individuals that are not involved, either directly or through any other employer, with an enterprise to be evaluated, in such a way that impartiality could be compromised; and*
- e)** *Obtain the consent of the enterprise being evaluated to use a given outsourced body.*

**9.5.4** *The BEE Rating Agency shall have documented procedures for the qualification, monitoring and records of all outsourced bodies used for evaluations.*

## **10. INFORMATION REQUIREMENTS**

### **10.1 Disclosable Information**

**10.1.1** *The BEE Rating Agency shall maintain and provide, upon request, information about its activities to SANAS*

**10.1.2** *Information the BEE Rating Agency provides to any rated enterprise or to the marketplace, including advertising, shall be accurate and not misleading.*

**10.1.3** *The BEE Rating Agency shall make publicly accessible information about BEE ratings granted.*

**10.1.4** *On request from SANAS, and or the rated enterprise, the BEE Rating Agency shall provide means to confirm the validity of a given rating.*

**10.1.5** *The BEE rating agencies shall provide to SANAS upon completion of each rating the BEE balanced scorecard of the enterprise rated. (This information will not be made publicly available, it will be used by **the dti** for monitoring and analysis purposes)*

## **10.2 BEE rating certificates**

**10.2.1** *The BEE Rating Agency shall provide by any means it chooses a BEE rating certificate to the client.*

**10.2.2** *The effective date on a rating certificate shall not be before the date of the rating decision.*

**10.2.3** *The rating certificate shall identify:*

- a)** *The name and identifiable physical location(s) of each site of the client enterprise that is BEE rated;*
- b)** *The dates of granting BEE rating and validity;*
- c)** *The expiry date of the rating certificate;*
- d)** *A unique identification number;*
- e)** *The standard and/or normative document including issue and/or revision used to evaluate the client;*
- f)** *The name and/or mark/logo of the BEE Rating Agency.*
- g)** *The scorecard against which the enterprise is being rated.*
- h)** *BEE Rating*

*BEE rating certificates should show a banded total score in line with the ranges of BEE scores. For example the ranges of scores may be as follows (as contained in Statement 040) :*

- *Total score of 80% and above – excellent contributor to broad-based BEE*
- *Total score of 65% to 79.9% – good contributor to broad-based BEE*
- *Total score of 40% to 64.9% – satisfactory contributor to broad-based BEE*
- *Total score of 25% to 40% - limited contributor to broad-based BEE*

- *Total score of below 25% – unsatisfactory contributor to broad-based BEE*

*The ranges are essential to avoid drawn-out disputes over percentage points between different rated entities.*

### **10.3. Directory of rated entities**

*The BEE Rating Agency shall maintain and make available to **the dti** a current directory of valid rating certificates which as a minimum shall show the details outlined in paragraph 10.2.3*

### **10.4 Reference to rating and use of marks**

**10.4.1** *A BEE Rating Agency shall have a policy governing any mark that it authorises rated entities to use. This shall assure, among other things, traceability back to the BEE Rating Agency.*

**10.4.2** *The BEE Rating Agency shall require that the rated enterprise:*

- a) Conforms to the requirements of the BEE Rating Agency when making reference to its rating in communication media such as the internet, documents, brochures or advertising;*
- b) Does not make or permit any misleading statement regarding its BEE rating/status;*
- c) Does not use or permit the use of a BEE certificate or any part thereof in a misleading manner;*
- d) Does not use its rating/status in such a manner that would bring the BEE Rating Agency into disrepute and lose public trust.*

**10.4.3** *The BEE Rating Agency shall exercise proper control of ownership and take suitable action to identify and deal with incorrect references to BEE rated status.*

## **10.5 Confidentiality**

**10.5.1** *The BEE Rating Agency shall, through legally enforceable commitments, have a policy and arrangements to safeguard the confidentiality of the information obtained or created during the performance of rating activities at all levels of its structure including committees and external bodies or individuals acting on its behalf.*

**10.5.2** *The BEE Rating Agency shall inform the rated enterprise, in advance, of the information it intends to place in the public domain. All other information, except for information that is made publicly available by the client, will be considered proprietary information and regarded as confidential.*

**10.5.3** *Except as required in this Statement, information about a particular client or individual shall not be disclosed to a third party without the written consent of the client/individual concerned. Where the BEE Rating Agency is required by law to release confidential information to a third party, the rated enterprise or individual concerned shall, unless prohibited by law, be notified in advance of the information provided.*

**10.5.4** *Information about the rated enterprise from sources other than the rated enterprise (e.g. complainant, regulators) shall be treated as confidential, consistent with the BEE Rating Agency's policy.*

**10.5.5** *Personnel, including any committee members, contractors, personnel of external bodies or individuals acting on the BEE Rating Agency's behalf, shall keep confidential all information obtained or created during the performance of the rating activities.*

**10.5.6** *The BEE Rating Agency shall have available and use equipment/facilities that ensure the secure handling of confidential information (e.g. documents, records).*

**10.5.7** *When confidential information must be made available to other bodies (e.g. **the dti**, SANAS) the BEE Rating Agency shall inform its rated enterprise of this action.*

## **10.6 Information exchange between a BEE Rating Agency and its clients**

### **10.6.1 Information on the rating process and requirements**

*The BEE Rating Agency shall provide and update the following information to clients:*

- a) A detailed description of the initial and continuing rating process, including the request for rating, initial evaluations and surveillance evaluations;*
- b) Information about the fees for request for rating, initial rating evaluation and continuing rating;*
- c) The BEE Rating Agency requirements on the prospective client:
  - To conform with rating requirements;*
  - To make all necessary arrangements for the conduct of the rating evaluations, including provision for examining documentation and the access to all areas, records and personnel for the purposes of rating and resolution of complaints.**
- d) Documents describing the rights and duties of clients including requirements when making reference to its rated status in communication of any kind;*
- e) Summary of the process for granting BEE rated status;*
- f) Information on procedure for handling complaints and appeals.*

### **10.6.2 Notice of changes by a BEE Rating Agency**

*The BEE Rating Agency shall give its clients due notice of any changes to its requirements for rating. The BEE Rating Agency shall verify that each client conforms to the new requirements.*

### **10.6.3 Notice of changes by a client**

*The BEE Rating Agency shall have enforceable arrangements to ensure that the rated enterprise informs the BEE Rating Agency, without delay, of matters that may affect its rated status.*

## **11. PROCESS REQUIREMENTS**

*The BEE rating agency shall demonstrate adequate expertise in the field of both BEE rating and the reporting thereof.*

### **11.1 Rating methodology**

*11.1.1 The BEE Rating Agency will verify; evaluate and validate to rate entities based on the principles encapsulated in the BEE Codes of Good Practice and must include all elements of the broad-based BEE scorecard.*

*11.1.2 The BEE Rating Agency must verify the information provided, in order to reach its opinion on the BEE status of an enterprise. Simple telephonic enquiries do not constitute verification.*

### **11.2 General requirements applicable to rating evaluations**

*11.2.1 The BEE Rating Agency shall have a process for selecting and appointing the rating team, including the rating team leader taking into account the competence needed to achieve the objectives of the rating.*

*11.2.2 The BEE Rating Agency shall have formal rules and/or contractual conditions to ensure that each team member acts in an impartial manner. Each team member shall inform the BEE Rating Agency prior to accepting assignment of the rating, about any known existing, former or envisaged link to the enterprise to be rated.*

*11.2.3 The BEE Rating Agency shall ensure that a rating plan is established for each rating to provide the basis for agreement regarding the conduct and scheduling of the rating activities.*

*11.2.4 The BEE Rating Agency shall determine, in accordance with documented procedures, the time needed to accomplish a complete and effective rating of the enterprise. The time determined by the BEE Rating Agency, and the justification for the determination, shall be recorded.*

**11.2.5** *The determination of the rating programme and any subsequent adjustments shall consider the size of the enterprise, the scope and complexity of its structure, products and processes as well as demonstrated level of commitment to BEE and the results of any previous ratings.*

**11.2.6** *Where multi-site sampling is utilised for the rating of a client covering the same activity in various locations, the BEE Rating Agency shall develop a sampling programme to ensure proper rating of the whole enterprise. The rationale for the sampling plan shall be documented for each client.*

**11.2.8** *The tasks given to the rating team shall be clearly defined and made known to the client enterprise, and shall require the rating team:*

- a)** *To examine the structure, policies, processes, procedures and related documents (records) of the client enterprise relevant to the BEE requirements;*
- b)** *To determine that these contain sufficient evidence to support the BEE rating;*

**11.2.9** *The BEE Rating Agency shall provide the name and make available background information of each member of the rating team, with sufficient time for the client enterprise to object to the appointment of any particular analyst or expert and the BEE Rating Agency to reconstitute the team in response to any valid objection.*

**11.2.10** *The rating plan shall be communicated and the dates of the rating shall be agreed upon, in advance, with the client enterprise.*

**11.2.11** *The BEE Rating Agency shall have a process for conducting on-site ratings.*

### **11.3 Initial rating**

#### **11.3.1 Request for a BEE rating**

*The BEE Rating Agency shall require an authorised representative of the enterprise requesting rating to provide the necessary information to enable it to establish:*

- a) *the general features of the enterprise, including its name, address(es) of its physical location(s);*
- b) *general information such as its activities, human and other resources, functions and relationships in a larger corporation, if any; and*
- c) *information concerning the enterprise's use of consultancy relating to the BEE .*

### **11.3.2 Review of request for a BEE rating**

**11.3.2.1** *Before proceeding with the rating, the BEE Rating Agency shall conduct a review of the request for rating to ensure that:*

- a) *the information is sufficient for the conduct of the review;*
- b) *the requirements for rating are clearly defined, documented and have been provided to the enterprise;*
- c) *any known difference in understanding between the BEE Rating Agency and the enterprise is resolved;*
- d) *the BEE Rating Agency has the competence and ability to perform the service. Location and number of the applicant enterprise's operations, time required to complete ratings and any other points influencing activities or the rating process shall be considered (language, safety conditions, threats to impartiality etc.) Based on this review, they shall determine the competences it needs to include in its rating team.*
- e) *records of the justification for the decision shall be maintained.*

**11.3.2.2** *Where a BEE Rating Agency is taking account of rating or other evaluations already granted to the enterprise, it shall collect sufficient, verifiable information to justify and record any adjustments to the rating programme.*

**11.3.2.3** *After having conducted the review of request for rating, the BEE Rating Agency shall notify the enterprise that it is accepting or not accepting the request for rating. The reasons of non-acceptance must be conveyed to the applicant (e.g. resource constraints).*

**11.3.2.4** *Before commencing the rating, an agreement shall be established between the BEE Rating Agency and the enterprise which:*

- a) requires the enterprise to supply any information needed for its intended rating;*
- b) requires the enterprise to conform to the requirements for BEE rating.*

**11.3.2.5** *The rating team shall be appointed and composed of rating analysts (and any other experts as necessary) who, between them, have the totality of the competences identified by the BEE Rating Agency, for the rating of the enterprise. The selection of the team shall be performed with reference to the designations of competence of rating analysts and experts and may include use of both internal and external human resources.*

### **11.3.3 Initial rating**

- a) Ratings shall have a rating plan.*
- b) The rating shall take place at the site(s) of the client enterprise. The purpose of the evaluation is to measure the enterprise's BEE progress or status.*
- c) The rating team shall conduct the evaluation to gather evidence to rate the enterprise in terms of BEE.*
- d) The rating team shall rate a sufficient number of examples of the activities of the enterprise in relation to the BEE criteria to get a sound appraisal of the enterprise's BEE status.*
- e) As part of the rating, the rating team shall address a sufficient number of the staff, including top management and operational personnel of the enterprise, to provide assurance that the information gathered is sound.*
- f) The rating team shall analyse all information and rating evidence gathered to determine the BEE status.*
- g) The BEE Rating Agency shall ensure that a detailed written rating report is promptly provided to the rated enterprise.*
- h) Ownership of the rating report shall be maintained by the BEE Rating Agency.*

### **11.3.4 Initial BEE rating decision**

**11.3.4.1** *The information provided by the rating team to the BEE Rating Agency for the decision shall include as a minimum:*

- a) the report indicated in 12.2.4;*
- b) the recommended rating as assessed by the rating team*

**11.3.4.2** *The individual or group that makes the decision shall include a level of knowledge and experience sufficient to evaluate the rating processes, results and recommendations of the rating team.*

**11.3.4.3** *The BEE Rating Agency shall make the decision on the basis of an evaluation of the rating results and any other relevant information.*

**11.3.4.4** *The BEE Rating Agency shall ensure that the person(s) or committees that participate in the decisions are different from those who carried out the rating.*

**11.3.4.5** *The BEE Rating Agency shall confirm, prior to making a decision, that the information provided by the rating team is sufficient with respect to the BEE rating requirements.*

## **11.4 Continual surveillance**

### **11.4.1 Rating Evaluations**

*The BEE Rating Agency shall have an established programme for carrying out periodic on-site evaluations at sufficiently close intervals to confirm the continued validity of the enterprise's BEE rating.*

### **11.4.2 On-going rating report**

*For on-going rating, the report from the rating team to the enterprise and to the BEE Rating Agency shall reflect that all the requirements of the BEE were reviewed.*

### **11.4.3 Maintaining BEE status**

*The BEE Rating Agency shall maintain the rating based on demonstration that the enterprise continues to satisfy the BEE requirements. It may maintain an enterprise's*

*rating based on a positive recommendation by the rating team leader without further independent review.*

### **11.5 Special evaluations**

*It may be necessary for the BEE Rating Agency to conduct evaluations of entities at short notice, in order to investigate complaints or in response to changes. In such cases:*

- a) the BEE Rating Agency shall describe and make known in advance to the enterprise the conditions under which these short notice visits are to be conducted;*
- b) The BEE Rating Agency shall exercise additional care in the assignment of the rating team because of the lack of opportunity for the enterprise to object to the rating team members.*

### **11.6 Appeals**

*11.6.1 The BEE Rating Agency shall have a documented process to receive, evaluate and make decisions on appeals.*

*11.6.2 A description of the appeals handling process shall be publicly available.*

*11.6.3 The BEE Rating Agency shall be responsible for all decisions at all levels of the appeals handling process.*

*11.6.4 Investigation and decision on appeals shall not result in any discriminatory actions against the appellant.*

*11.6.5 The appeal handling process shall include at least the following elements and methods:*

- a) an outline of the process for receiving, validating, investigating the appeal, and deciding what actions are to be taken in response to it;*
- b) tracking and recording appeals, including actions undertaken to resolve them;*

**11.6.6** *The BEE Rating Agency shall acknowledge receipt of the appeal and provide the appellant with progress reports and the outcome.*

**11.6.7** *The decisions to be communicated to the appellant shall be made by, or reviewed by, individual(s) not involved in the manner that is the subject of the appeal.*

**11.6.8** *The BEE Rating Agency shall give formal notice of the end of the appeal handling process to the appellant.*

**11.6.9** *All appeals should be resolved in a timely manner by the BEE rating agency. As a guide an appeal must be resolved within a maximum of 30 days of the initial lodging of the appeal.*

## **11.7 Complaints**

**11.7.1** *A user of a BEE rated enterprise's results, can expect to have complaints investigated, and if determined to be valid, have confidence that the complaints will be appropriately addressed and that a reasonable effort will be made to resolve the complaint in a timely manner.*

*The effective resolution of complaints is an important means of protection for the BEE Rating Agency, its rated entities, and other users against errors, omissions or unreasonable behaviour. Confidence in rating activities is safeguarded when complaints are processed appropriately.*

**11.7.2** *A description of the complaints handling process shall be publicly available.*

**11.7.3** *Upon receipt of a complaint the BEE Rating Agency shall confirm whether the complaint relates to BEE rating activities that it is responsible for, and if so shall deal with it.*

**11.7.4** *Any complaint about a rated enterprise shall also be referred by the BEE Rating Agency to the rated enterprise in question.*

**11.7.5** *The BEE Rating Agency shall have documented process to receive, evaluate and make decisions on complaints. This process shall be subject to requirements for confidentiality, as it relates to the complainant and to the subject of the complaint.*

**11.7.6** *The complaints handling process shall include at least the following elements and methods:*

- a)** *an outline of the process for receiving, validating, investigating the complaint, and deciding what actions are to be taken in response to it;*
- b)** *tracking and recording complaints, including actions undertaken to resolve them;*
- c)** *ensuring that any appropriate correction and corrective action is taken.*

**11.7.7** *The BEE Rating Agency receiving the complaint shall be responsible for gathering and verifying all necessary information to validate the complaint.*

**11.7.8** *Whenever possible, the BEE Rating Agency shall acknowledge receipt of the complaint, and provide the complainant with progress reports and the outcome.*

**11.7.9** *The decisions to be communicated to the complainant shall be made by, or reviewed by, individual(s) not involved in the matter that is the subject of the complaint.*

**11.7.10** *The BEE Rating Agency shall give formal notice of the end of the complaint handling process to the complainant.*

## **11.8 Records on BEE rated clients**

**11.8.1** *The BEE Rating Agency shall maintain records on the audit and rating process for all rated entities, including all entities that submitted requests for rating, and all entities rated.*

**11.8.2** *Records on rated entities shall include:*

- a)** *request for rating information and initial and on-going ratings*
- b)** *justification for rating time determination*

- c) records of complaints and appeals, and any subsequent correction or corrective actions;*
- d) deliberations and decisions, if applicable;*
- e) documentation of the decisions;*
- f) record of BEE certificates issued.*

**11.8.3** *The BEE Rating Agency shall keep the records on rated entities to ensure that the information is kept confidential. When records are transported, transmitted or transferred, secured handling shall ensure that confidentiality is maintained.*

**11.8.4** *The BEE Rating Agency shall have a document policy and documented procedures on retention of records.*

## **12. RESPONSIBILITIES OF BEE RATING AGENCIES**

**12.1** *In order to be accredited, it is the BEE Rating Agency's responsibility to comply with the requirements set out in this Statement.*

**12.2** *No enterprise or person shall perform the task of black economic empowerment rating (as defined) without the proper accreditation from SANAS as is set out in this Statement.*

**12.3** *The methodology followed by BEE rating agencies in the performance of black economic empowerment ratings should demonstrate a clear understanding of and knowledge on all Codes of Good Practice on BEE and should focus on all elements of the broad based black economic empowerment strategy.*

**12.4** *In its accreditation of, the Department of Trade & Industry should endeavour to evaluate the BEE status of the agency under review in terms of all indicators of broad based BEE, as well as the technical expertise of the applying agencies.*

**12.5** *SANAS shall inform the BEE Rating Agency of its accreditation status on the completion of the accreditation.*

**12.6** *The BEE Rating Agency will submit to **the dti** an annual report of its BEE status and any other relevant information to demonstrate its technical expertise and free from conflict of interest on an annual basis.*

**12.7** *SANAS will withdraw the accreditation of a BEE Rating Agency if the agency fails to comply with any technical or BEE criteria as set out in this Statement.*