

“Responses of selected enterprises to amended broad-based black economic empowerment legislation”

AUTHORS

Jollette Forbes
Abraham (Braam) Rust  <http://orcid.org/0000-0001-7263-3163>

ARTICLE INFO

Jollette Forbes and Abraham (Braam) Rust (2019). Responses of selected enterprises to amended broad-based black economic empowerment legislation. *Problems and Perspectives in Management*, 17(1), 360-369.
doi:[10.21511/ppm.17\(1\).2019.31](https://doi.org/10.21511/ppm.17(1).2019.31)

DOI

[http://dx.doi.org/10.21511/ppm.17\(1\).2019.31](http://dx.doi.org/10.21511/ppm.17(1).2019.31)

RELEASED ON

Wednesday, 03 April 2019

RECEIVED ON

Friday, 04 January 2019

ACCEPTED ON

Thursday, 21 February 2019

LICENSE



This work is licensed under a [Creative Commons Attribution 4.0 International License](https://creativecommons.org/licenses/by/4.0/)

JOURNAL

"Problems and Perspectives in Management"

ISSN PRINT

1727-7051

ISSN ONLINE

1810-5467

PUBLISHER

LLC "Consulting Publishing Company "Business Perspectives"

FOUNDER

LLC "Consulting Publishing Company "Business Perspectives"



NUMBER OF REFERENCES

22



NUMBER OF FIGURES

1



NUMBER OF TABLES

0

© The author(s) 2022. This publication is an open access article.



BUSINESS PERSPECTIVES



LLC "CPC "Business Perspectives"
Hryhorii Skovoroda lane, 10, Sumy,
40022, Ukraine

www.businessperspectives.org

Received on: 4th of January, 2019
Accepted on: 21st of February, 2019

© Jolette Forbes, Abraham (Braam)
Rust, 2019

Jolette Forbes, Masters Student, Cape
Peninsula University of Technology,
South Africa.

Abraham (Braam) Rust, Professor,
Cape Peninsula University of
Technology, South Africa.



This is an Open Access article,
distributed under the terms of the
[Creative Commons Attribution 4.0
International license](https://creativecommons.org/licenses/by/4.0/), which permits
unrestricted re-use, distribution,
and reproduction in any medium,
provided the original work is properly
cited.

Jolette Forbes (South Africa), Abraham (Braam) Rust (South Africa)

RESPONSES OF SELECTED ENTERPRISES TO AMENDED BROAD-BASED BLACK ECONOMIC EMPOWERMENT LEGISLATION

Abstract

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

This article highlights the results of a qualitative study conducted to investigate recent (2013) changes to the B-BBEE legislative landscape in Cape Town (South Africa), with the focus being on one market segment: Qualifying Small Enterprises (QSEs). These enterprises operate within the same realm as Small Medium and Micro Enterprises (SMMEs). The rationale for such a focus stemmed from QSEs/SMMEs seemingly rigid response to B-BBEE legislative change.

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

Keywords

Broad-Based Black Economic Empowerment, legislative change, Qualifying Small Enterprises, Cape Town, South Africa, non-compliance, transformation

JEL Classification J0, J480, N170

INTRODUCTION

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

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

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

1. LITERATURE REVIEW

1.1. Conceptual background

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

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

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

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

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

The implications of exploring a body of knowledge and testing Qualifying Small Enterprises' (QSEs') strategic response to the recent B-BBEE legislative change, relevant to this perceived tendency, are extensive, as they envelop the economical, political and social factors of the South African (SA) landscape. One such implication relates to job creation. QSEs are regarded in the same realm as Small and Medium Enterprises (SMEs). Their classifications have overarching defining characteristics. SMEs have been acknowledged by the South Africa's (SA's) National Development Plan (NDP) as representing a critical sector for the promotion of employment. The estimate is for 90% of jobs to be created via this sector by 2030 (South Africa, National Planning Commission, n.d., p. 119).

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

1.2. The history of B-BBEE

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

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

In an attempt to revive the economy, B-BBEE (as it is colloquially known today) was gradual-

ly introduced. However, it was only in 1994 that transformation was initiated. South Africa's (SA's) first democratic election was won by the African National Congress (ANC), led by the late Nelson Mandela (1964): "I have cherished the ideal of a democratic and free society in which all persons live together in harmony and with equal opportunities".

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

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

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

- Socio-Economic Development (SED) measures the extent to which enterprises promote access to the economy for black people.

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

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

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

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

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

As was the case with releasing the B-BBEE Act (53/2003), the amendments thereto again set in

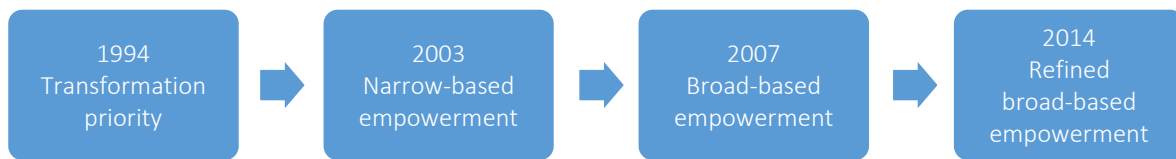


Figure 1. The history of B-BBEE, briefly depicting focal points in time

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

Figure 1 presents the focal points in time discussed above, briefly outlining the history of B-BBEE.

From Figure 1 it is clear that B-BBEE is a pervasive phenomenon in modern South Africa (SA). The following areas shed light on the key words used in the research/article.

1.3. Broad-Based Black Economic Empowerment

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

- a) increasing the number of black people that manage, own and control enterprises and productive assets;
- b) facilitating ownership and management of enterprises and productive assets by communities, workers, cooperatives and other collective enterprises;
- c) human resource and skills development;

- d) achieving equitable representation in all occupational categories and levels in the workforce;
- e) preferential procurement; and
- f) investment in enterprises that are owned or managed by black people..."

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

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

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

Another term needing further clarity is Black Economic Empowerment (BEE). BEE, as a concept, refers to the initial introductory years of empowering black persons prior to its being constitutionalized and expanded upon. For the purpose

of this article, both these terms (Black Economic Empowerment (BEE) and Broad-Based Black Economic Empowerment (B-BBEE)) shall be used interchangeably.

1.4. Legislative change

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

Reference is made to:

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

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

This gives rise to the rationale for obtaining a B-BBEE result in the first place. Van der Merwe and Ferreira (2014, p. 545), citing De Villiers and Ferreira, effectively summarize the two reasons as to why an organization would need a B-BBEE certificate and hence, elect to be B-BBEE compliant:

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

As indicated at the outset of this article, the study focuses on B-BBEE compliance of Qualifying Small Enterprises (QSEs) specifically.

1.5. Qualifying Small Enterprises

Qualifying Small Enterprises (QSEs) are representative of one of three market segments, the classification of which is based on annual turnover (between R10 and R50 million on the new Codes, versus between R5 and R35 million on the old Codes).

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

The following sector codes have been gazetted:

- Agri BEE sector code;
- Financial sector code;
- Information and Communication Technology (ICT) sector code;
- Property sector code;
- Chartered Accountancy (CA) sector code;
- Integrated transport sector code;
- Forest sector code;
- Marketing, Advertising and Communications (MAC) sector code; and
- Tourism sector code (Department of Trade and Industry, n.d.b).

As with the Codes, sector codes are also revised for alignment to the amended B-BBEE Act (46/2013). However, these revisions call for such to be ga-

zeted at different times. Including sector codes in the scope of the study was therefore anticipated to have an effect on the findings and thus, the above-listed sector codes have been excluded from the scope of this study. Further limitations are highlighted in the latter part of this article.

In reviewing the relevant literature it is clear that legislative change to B-BBEE is expected to have a substantial effect on QSEs. Foulds (2014), Lindsay (2015), and Mophethe (2015) effectively summarize this statement in an attempt to circumvent a comprehensive review of the complex technicalities imbedded on the changes from the old to the new Codes: it is difficult to imagine how even the most educated Qualifying Small Enterprise (QSE) could be expected to address the requirements of the revised Codes, without recourse to its financial resources, for the services of expensive B-BBEE consultants and for implementing its amended B-BBEE strategy.

1.6. Geographical area of the study: Cape Town, South Africa

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

1.7. Lead(s) to: establishing an association between variables

It was imperative for the success of this study to be assertive in its aims. Hence, the phrase 'leads to', which will be referenced in the aims of the study, requires context.

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

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

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

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

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

2. AIMS

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

Irrespective of the findings, the following subsidiary aims sufficed:

- on a micro level: to provide clarity on the strategic responses of Qualifying Small Enterprises

(QSEs) to B-BBEE legislative change in terms of the commercial factors implicated by such a response(s), as well possible relevant patterns;

- on a macro level: to ascertain the likelihood of government achieving its overall transformation goals, as contained in the revised B-BBEE Act (46/2013).

Due to the technical nature of B-BBEE as a subject matter, this article calls for a summarized rendition of relevant literature consulted prior to presenting the means by which the study was conducted.

3. METHODS

The study lent itself to a qualitative enquiry, built on the foundation of a pragmatic research philosophy. An induced approach to this exploratory study of 16 participants, conveniently selected, proved meaningful in describing the correlation of factors relevant to B-BBEE as a contemporary phenomenon, by way of conducting semi-structured interviews in collecting the relevant data. The Cape Peninsula University of Technology's (CPUT's) ethical code of conduct was adhered to. The research was embarked upon predominantly in a non-contrived setting at a particular point in time, averaging a time span of one month. There were plenty of demarcations to take into account, giving rise to the following notable limitations.

3.1. Limitations encountered

The following demarcations were imposed by this study:

- included is the study of Qualifying Small Enterprises (QSEs), while the study of Exempted Micro Enterprises (EMEs) and generic enterprises was excluded;
- furthermore, the term QSE refers to an enterprise defined as such in the new Codes (with an annual turnover between R10 and R50 million), as well as in the old Codes (with an annual turnover between R5 and R35 million) between consecutive periods and being measured;

- B-BBEE sector codes were excluded, owing to varying time frames of gazetting and implementation;

- also excluded from the proposed study were Qualifying Small Enterprises (QSEs) with more than 51% black ownership prior to the B-BBEE legislative amendments (and not as a strategic response thereto);

- the study was confined to the borders of South Africa (SA). More specifically, clients of an approved B-BBEE Verification Agency (VA) located in the Cape Town metropole;

- the term 'non-compliance' carries the meaning contained in this document;

- the scope of the term 'transformation goals' is confined to and measured according to the objectives listed in the B-BBEE Act (53/2003) and the B-BBEE amended Act (46/2013).

Although these demarcations might seem extensive, in reviewing secondary data relevant to research conducted in this field, there has been found to be a lack of academic literature relevant to the scope of this research. Thus, all factors possibly influencing such findings were removed. With the target population evidently being clearly defined based on the above demarcated boundaries, the limitations experienced in conducting the research were as follows.

A major limitation of this study was that the population of QSEs operating within these clearly demarcated boundaries (as specified in the prerequisites listed above) was seemingly unknown: this is not public knowledge. The only stakeholders with access to this information are B-BBEE Verification Agencies (VAs). VAs are extremely hesitant to divulge client lists because of their containing sensitive information, and in doing so, their risking losing a share of the market segment they service. It is for this reason that this study focused on one such B-BBEE Verification Agency (VA), as its intention to share this information was known; and referred to by Maxwell (2018, pp. 19-31) as the 'gatekeeper'. The author advocates the use of gatekeepers or other influential persons rele-

vant to qualitative research in establishing relationships; these may control or facilitate access to required settings or participants. This gave rise to the notion of non-probability sampling being the most suited technique for this study; each case not having a 'known' probability to be selected. Time and cost constraints were also identified as a limitation in the data-collection process, strengthening the decision for adopting non-probability sampling.

Another limitation caused by these constraints (nature of information, cost and time) is that this study's findings were not only confined to South Africa (SA) (with B-BBEE being a local phenomenon) but also to a particular B-BBEE Verification Agency (VA) operating within the demographic boundaries of Cape Town, specifically. Thus generalizing findings of this study is acknowledged to be a true limitation of this study.

Based on the notions of there being no similar studies having been conducted to date, yet the existence of significant limitations, this study holds value in that it serves as a point of departure for a deeper intellectual discourse on this topic.

4. RESULTS

This article presents the results of the research conducted within the realm of its aims. Its primary aim was achieved in that the results indicated that legislative change to Broad-Based Black Economic Empowerment (B-BBEE) resulted in non-compliance for Qualifying Small Enterprises (QSEs) and impeded transformation goals.

The following are further insights into how the secondary aims were derived from the primary aim:

- the term 'non-compliance' directly relates to a measured entity's B-BBEE contributor status, and is thus representative of micro factors, while;
- the terms 'transformation goals' relate to the overall state of the industry and are thus representative of macro factors.

5. DISCUSSION

Auxiliary to the study's primary finding, the following was prevalent.

5.1. Presenting the study's summarized findings on a micro level

The new Codes precipitated the drop of Qualifying Small Enterprises (QSEs) from an average B-BBEE Level 3/4 contributor status (old Codes) to that of an average non-compliant/B-BBEE Level 9 contributor status (new Codes). This resulted in participants compromising a minimum of five levels in their respective B-BBEE contributor statuses between consecutive periods of measurement. In addition were the results that pointed to a variance of 7 out of 11 participants (64%, a significant majority) who indicated a change (irrespective of the result) relative to their ratings on the old Codes. These findings indicate not only general non-compliance in the market, but also assert its current volatility, followed by uncertainty.

The market's uncertainty was underscored in establishing that most participants have not lost income owing to their current B-BBEE non-compliant/B-BBEE Level 9 contributor status. Note that such status was voluntarily decided on; in other words, participants chose not to undergo a B-BBEE verification and chose not to have their B-BBEE certificate renewed. A time frame for such uncertainty is just short of two years as this is the average period for which participants have not complied with the new Codes. Correlating with this is that participants indicated a low need of B-BBEE compliance, and although this was somewhat matched to correlate with their current stance and future intentions for compliance, further enquiry revealed discrepancies. This indicates an element of optimism relative to the above negative results, forming a compelling argument for a non-compliant trend.

Further robust results were found in participants' strategic responses to the new Codes; low levels of knowledge of the new B-BBEE requirements and landscape were noted. This accord with the finding that participants could not indicate newly required cost implications to achieve their desired B-BBEE status result in the new Codes.

Further to the topic of participants' perceptions is that legislative change is regarded as 'radical': when both an organization's core activities and assets are threatened with obsolescence (McGahan, 2008, pp. 51-55).

All participants had highly negative emotions relating to the renewed focus on black ownership, with the cost factor/red tape reason for non-compliance following closely.

On a macro level, the following findings were noted.

5.2. Presenting the study's summarized findings on a macro level

Findings on a macro level are directly derived from the results obtained on a micro level, as the latter was the area under investigation. Thus, the above findings indirectly indicate that B-BBEE legislative change caused impediments to the implementation of national B-BBEE policy. More specifically, the following points form the basis of this statement:

- non-compliance on a micro level has a collateral effect on the entire economy. The principles underpinning and driving B-BBEE implementation, as contained in the Codes, directly correlate with the objectives of B-BBEE (as contained in the B-BBEE Act (53/3003) and amendments, which have been found to be (at this point) irrelevant;
- although most participants indicated continuing with transformation (relative to their knowledge of the old Codes and historical actions), further enquiry resulted in them confirming that this was not diligently and/or accurately enforced, as there was no measurement in place assessing compliance. In summary, participants acknowledged less compliance and by analogy, transformation, internally;
- the above acknowledgements were inferred by most of the participants' views on national transformation. Participants indicated that they believed the new Codes have/would impede national transformation.

CONCLUSION

This article presented the contextual framework and roadmap for, as well as the results of, an empirical study. The empirical study was exploratory in nature and a qualitative approach of a thematic secondary data analysis was followed.

It sets forth, indicating that legislative change to Broad-Based Black Economic Empowerment (B-BBEE) results in a non-compliant outcome for Qualifying Small Enterprises (QSEs) immersed in commerce in Cape Town, South Africa. Such a non-compliant result is associated with impeded transformation goals.

The significance of the research lies in its ability to aid further research relevant to B-BBEE in the South African context. Furthermore, its findings may serve as a valuable tool for policy-makers and strategic decision-makers alike. Thus, great benefit can be derived from the content of this article being shared, debated and further analyzed.

REFERENCES

-
- | | | |
|---|--|--|
| <p>1. Botha, Y. (2017). Successfully navigating BBBEE codes – legislation. <i>Inside Mining</i>, 10(1), 34-35. Retrieved from https://hdl.handle.net/10520/EJC-6e96acb99</p> <p>2. Department of Trade and Industry (n.d.a) <i>Economic empowerment:</i></p> | <p><i>Broad-Based Black Economic Empowerment (B-BBEE) codes of good practice.</i> Retrieved from http://www.dti.gov.za/economic_empowerment/bee.jsp</p> <p>3. Department of Trade and Industry (n.d.b) <i>B-BBEE sector charters.</i></p> | <p>Retrieved from http://www.dti.gov.za/economic_empowerment/bee_sector_charters.jsp</p> <p>4. Foulds, S. (2014). New codes in BEE – compliance: commercial vehicles. <i>Transport World Africa</i>, 12(1), 24-25. Retrieved from</p> |
|---|--|--|

- <https://hdl.handle.net/10520/EJC148822>
5. History.com. (2010). *Apartheid*. Retrieved from <http://www.history.com/topics/apartheid> (accessed on September 8, 2017).
 6. Jeffery, A. (2013). BEE is flawed and should be scrapped. *Mail & Guardian* Retrieved from <https://mg.co.za/article/2013-01-18-bee-is-flawed-and-should-be-scrapped> (accessed on January 17, 2018).
 7. Levenstein, K. (2015). *Amended BEE codes – it's beyond a crisis*. Retrieved from <https://www.moneyweb.co.za/moneyweb-opinion/amended-bee-codes-its-beyond-a-crisis-2/> (accessed on January 27, 2017).
 8. Lindsay, D. M. (2015). *A diagnosis of Black Economic Empowerment and its role in the political economy of South Africa* (Ph.D. Thesis). Johannesburg: University of the Witwatersrand.
 9. Mandela, N. (1964). Trial speech. *The late Nelson Mandela's trial speech*. Retrieved from <https://www.news24.com/Nelson-Mandela/Speeches/FULL-TEXT-Mandelas-Rivonia-Trial-Speech-20110124> (accessed on March 23, 2017).
 10. Maxwell, J. A. (2018). Collecting qualitative data: a realist approach. In U. Flick (Ed.), *The SAGE Handbook of Qualitative Data Collection* (Chapter 2, pp. 19-32). London: SAGE. Retrieved from <http://sk.sagepub.com/reference/the-sage-handbook-of-qualitative-data-collection/i381.xml>
 11. McGahan, A. M. (2008). How industries change. In *Harvard business review on strategic renewal* (pp. 51-57). Boston, MA: Harvard Business Press.
 12. Mophethe, J. (2015). *B-BBEE codes*. Retrieved from <http://www.bbqonline.co.za/articles/bbbee-codes-14815.html> (accessed on January 18, 2018).
 13. Nzimande, B. (2007). The ethos of black economic empowerment. In M. Mangcu, G. Marcus, K. Shubane, A. Hadland (Eds.), *Visions of black economic empowerment* (pp. 180-187). Pretoria: Jacana Media.
 14. Republic of South Africa. (2004). Act, No. 53 of 2003: Broad-Based Black Economic Empowerment. *Government Gazette*, 463(17), 25899. Retrieved from https://www.environment.gov.za/sites/default/files/legislations/bbbee_act.pdf
 15. Republic of South Africa. (2013). Act No. 46 of 2013: Broad-Based Black Economic Empowerment Amendment Act. *Government Gazette*, 583(55), 37271. Retrieved from https://www.gov.za/sites/default/files/gcis_document/201409/37271act46of2013.pdf
 16. Republic of South Africa. (2015). Act No. 46 of 2013: Broad-Based Black Economic Empowerment Act: Amended codes of good practice. Notice 396 of 2015. *Government Gazette*, 599(38764). Retrieved from <https://archive.opengazettes.org.za/archive/ZA/2015/government-gazette-ZA-vol-599-no-38764-dated-2015-05-05.pdf>
 17. Republic of South Africa. Department of Trade and Industry. (2007). *Broad-Based Black Economic Empowerment Act (53/2003): codes of good practice on black economic empowerment*. Pretoria: Department of Trade and Industry.
 18. Republic of South Africa. Department of Trade and Industry. (2015). Broad-Based Black Economic Empowerment Amendment Act (46/2013): Statement 003: amended guidelines for developing and gazetting of sector codes. Notice 408 of 2015. *Government Gazette*, 599(38766). Retrieved from <https://www.thedti.gov.za/gazettes/BEE38766.pdf>
 19. Republic of South Africa. Department of Trade and Industry. (2013). *Broad-Based Black Economic Empowerment Act (53/2003): issue of codes of good practice*. Pretoria: Dept of Trade and Industry.
 20. Republic of South Africa. National Planning Commission. (n.d.). *National development plan 2030: our future – make it work*. Pretoria: The Presidency.
 21. South African History Online. (2011). *A history of apartheid in South Africa*. <http://www.sahistory.org.za/article/apartheid-and-reactions-it> (accessed on August 3, 2017).
 22. Van der Merwe, C. M., & Ferreira, P. (2014, November). The association among the seven elements of the black economic empowerment score and market performance. *South African Journal of Economic and Management Sciences*, 17(5), 544-566. <https://doi.org/10.4102/sajems.v17i5.627>