



A GUIDE ON BEE SECTOR
TRANSFORMATION CHARTER

FACILITATION AND FORMULATION

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VISION

BUSA aims to be a unified and fully representative organisation that contributes to a vibrant, transforming and growing economy in South Africa.

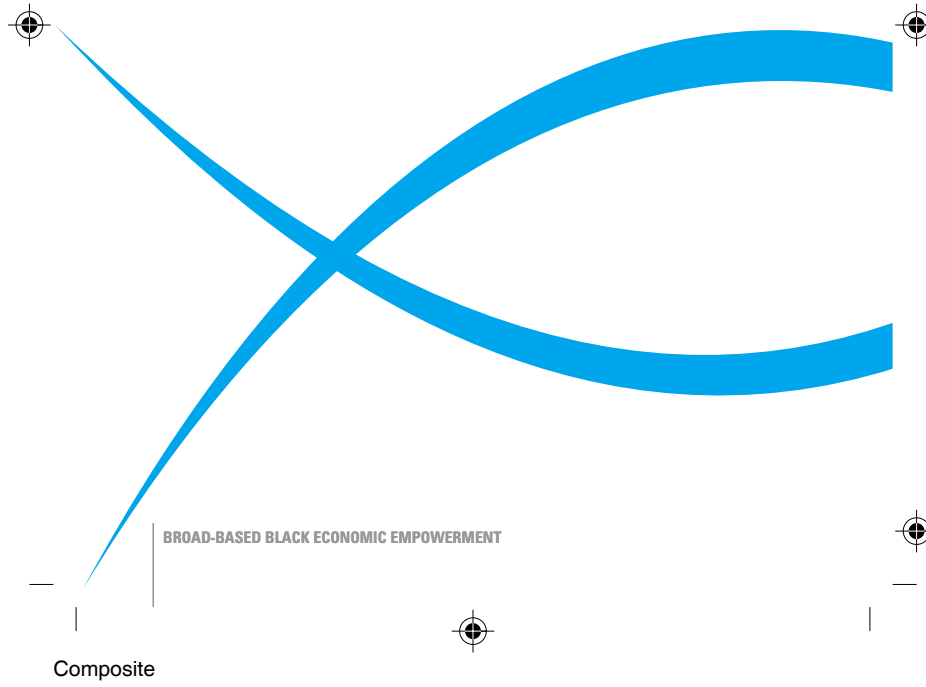
MISSION

BUSA aims to ensure that organised business plays a constructive role, within the context of the country's economic growth, development and transformation goals, in achieving an environment in which businesses of all sizes and in all sectors can thrive, expand and be competitive both nationally and internationally.

OBJECTIVES

BUSA operates on a non-profit basis and represents the collective interests of business in South Africa by:

- Acting as the principal representative of business in South Africa in its national, sub-continental, continental and international spheres of activity, so as to ensure a primary and consistent representation of the views of the South African business community;
- Promoting Broad-Based Black Economic Empowerment (BBBEE);
- Advancing and promoting initiatives aimed at job creation and the alleviation of poverty;
- Acting for and representing the views of its members at national, sub-continental, continental and international levels; and
- Enabling business to play a meaningful strategic role in South Africa's overall development.



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PREFACE

This “**GUIDE ON BEE SECTOR TRANSFORMATION CHARTER FACILITATION AND FORMULATION**” is intended to assist Business Unity South Africa (BUSA) member organisations and other interested parties to gain a better understanding of the key issues involved in the formulation of BEE sector transformation charters. In particular, the guide provides a step by step roadmap that explains **how** to formulate a transformation charter and describes the key substantive transformation matters that must be addressed in any transformation charter. In essence, the guide clarifies and answers, without deviating from the fundamental processes recommended by the Department of Trade and Industry, some of the “frequently asked questions” about the charter facilitation and formulation processes.

The guide is **neither** meant to be a substitute for, **nor** an alternative to, the guidelines contained in Statement 010 of the Codes of Good Practice on broad-based Black Economic Empowerment. Instead, the guide combines into one document the insights and formulations drawn from **both** the ideas embodied in statement 010 of the Codes and the rich experiences and perspectives of the key role players that were the architects of the following transformation charters: Petroleum and Liquid Fuels, Mining, Financial Services, Information and Communication Technology and Property.

The guide is divided into five sections which examine the various key aspects relating to charter formulation and facilitation processes.



Introduction provides a brief historical overview of the circumstances that gave rise to the need for BBBEE legislation, which makes provision for charters as vehicles for effecting economic transformation. **Need for a guide** explains the rationale for simplifying the key issues involved in the various stages of charter facilitation and formulation processes. **Purpose of the guide** identifies the three principal objectives the guide seeks to achieve.

Process Issues identifies and describes, in a step by step fashion, the various key issues that need to be taken into consideration by all the stakeholders engaged in the development of transformation charters. **Substantive Issues** examines the various key substantive issues that must be addressed in any transformation charter. **Monitoring and Evaluation** proposes a framework to monitor the effective implementation of the objectives of charters at a sectoral level. **Conclusion** summarises the main points explored in the guide.

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1. Introduction

- 1.1 South Africa's past racially discriminatory policies have left a bitter legacy of gross racial and gender inequalities in the ownership, control and access to the economic opportunities, skills and productive assets of the country. This has resulted in the domination of mainstream economic and business activities (First economy) by whites and the relegation of most blacks to peripheral business activities (Second economy) and menial jobs in the labour market.
- 1.2 It is against this background of black economic deprivation and disempowerment that the Reconstruction and Development Programme (RDP) emphasises the need 'to deracialise business ownership and control completely, through focused programmes of Black Economic Empowerment.'¹ As a result, a host of policy and legislative instruments has been introduced since the advent of democratic government to give effect to the RDP's objective of deracialising business ownership and control .¹
- 1.3 One of the most significant policy instruments devised by the democratic government to deracialise business ownership and control is contained in Section 12 of the Broad Based Black Economic Empowerment Act No.53 of 2003, which makes provision

1. These include, inter alia, the Skills Development Act of 1997; the Employment Equity Act of 1998; the BEE Commission Report (2001); South Africa's Economic Transformation: A strategy for Broad Based Black Economic Empowerment (2002); the Broad-Based Black Economic Empowerment Act of 2003 and the Codes of Good Practice on Broad-Based Black Economic Empowerment (2005).



for the development of sector transformation charters.

- 1.4 At the risk of oversimplification, sector transformation charters may be described as negotiated voluntary agreements among all the key stakeholders in a sector, designed to ensure that the implementation of the objectives² of BBBEE results in economic transformation that empowers a broad base of enterprises and individuals.
- 1.5 In particular, charters afford the key stakeholders, on a sector-by-sector basis, the opportunity to develop transformation programmes and strategies that are more responsive to the unique business challenges facing the sectors. Charters use a balanced scorecard approach, which contains agreed upon weightings, indicators and targets, to measure the progress made by enterprises in the sector to meet their BEE obligations.

1.6 If charters are developed by major stakeholders in a sector and

2. The principal objective of the Broad-Based Black Economic Empowerment Act No. 53 of 2003 is to facilitate broad based black economic empowerment by: (i) promoting economic transformation to enable meaningful participation of black people in the mainstream economy; (ii) achieving a substantial change in the racial composition of ownership and management structures and in the skilled occupations of existing and new enterprises; (iii) increasing the extent to which communities, workers, cooperatives and collective enterprises own and manage existing and new enterprises; (iv) increasing the extent to which black women own and manage existing and new enterprises; (v) promoting investment programmes that lead to broad-based and meaningful participation in the economy by black people; (vi) empowering rural and local communities by enabling access to economic activities, land, infrastructure, ownership and skills; and (vii) promoting access to finance for black economic empowerment.

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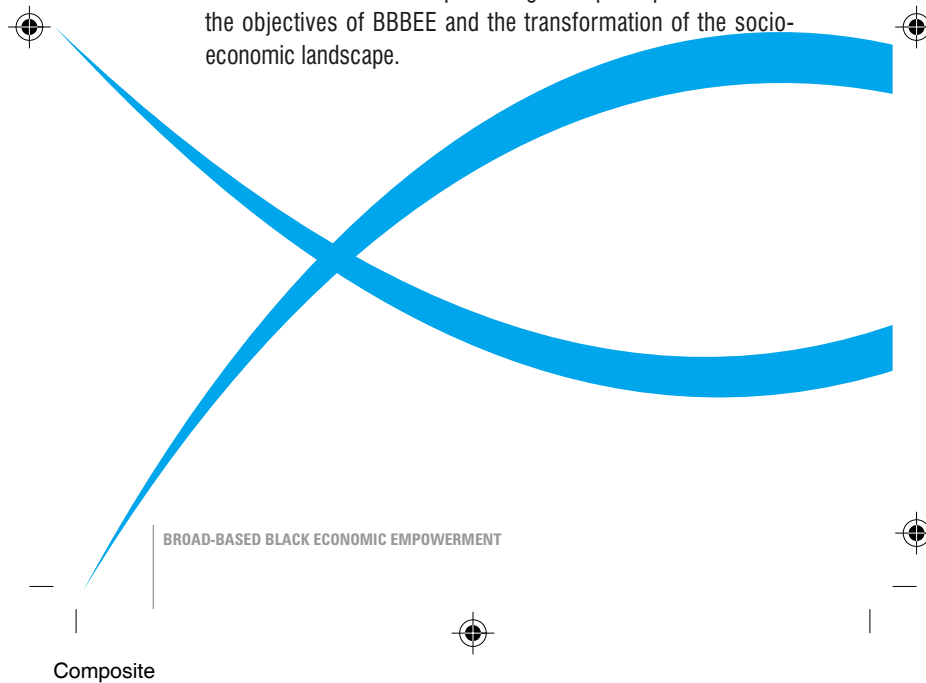
advance the objectives of BBBEE, the Minister of Trade and Industry may publish them in the Government Gazette as BEE transformation charters (in terms of section 12 of the BEE Act No. 53 of 2003) and/or as Sector Codes of Good Practice (in terms of section 9 of the BEE Act No. 53 of 2003).³

³ An important distinction must be drawn between a charter that is gazetted as a BEE transformation charter in terms of section 12 of the BEE Act No. 53 of 2003 and a charter that is gazetted as a Sector Code of Good Practice in terms of section 9 of the BEE Act No. 53 of 2003. Whereas a charter that is gazetted as a BEE Transformation Charter simply demonstrates a sector's commitment to BEE and has no legal effect, a charter that is gazetted as a Sector Code of Good Practice is legally binding on public entities.



2. Need for a Guide

- 2.1 Drawing up a BEE sector transformation charter is often an intricate exercise that requires intensive discussions and debates over a broad range of process and substantive issues relating to the future strategic direction of the sector as a whole. To the novice, navigating through the turbulent waters of charter formulation and facilitation can be overwhelming, intimidating and, above all, frustrating.
- 2.2 There is therefore an urgent need to develop a set of guidelines to simplify the key issues involved in the various stages of charter formulation and facilitation processes. This is necessary to expedite the formulation of charters in the various strategic economic sectors in the interests of promoting the rapid implementation of the objectives of BBBEE and the transformation of the socio-economic landscape.





3. Purpose of the Guide

3.1 Very little has been written about how to formulate and facilitate a BEE sector transformation charter. The principal purpose of the guide is therefore to provide a quick reference that can be consulted to inform and guide the development of a sector transformation charter, with a view to avoiding the pitfalls found in earlier charters.

3.2 In particular, the guide

- (i) provides a step by step roadmap that explains how to formulate a transformation charter;
- (ii) identifies and describes briefly the key substantive transformation matters that must be addressed in any transformation charter and
- (iii) proposes a framework for monitoring the implementation of the objectives of charters at the sectoral level.

3.3 While every care has been taken to address what is generally considered to be critical success factors, the guide does not claim to be exhaustive. The guide only covers generic issues, which may need to be modified and adapted to suit the unique circumstances prevailing in each economic/industrial sector.

3.4 The diversity of South Africa's economy makes it impossible to develop a model of charter formulation and facilitation that can be adopted in every sector of the economy without any appropriate modifications.



4. Process Issues

4.1 For any transformation charter to be considered credible, and thus eligible for gazetting as either a BEE Transformation Charter (in terms of section 12 of the Act) or a Sector Code of Good Practice (in terms of section 9 of the Act), its formulation must be as inclusive and participatory as possible and be underpinned by a sufficiently comprehensive consultation process.

4.2 Although consultations may take many different forms, this section of the guide presents a flexible five-step model to ensure that the consultation processes underpinning the development of a charter are indeed sufficiently comprehensive. As this is not a rigid model, there will be instances where some steps outlined below will happen simultaneously, or in a slightly different order.

4.3 It is recommended that the process of initiating the formulation of a sector charter should be lead by organised business in consultation with the other relevant stakeholders in the sector.

4.4 STEP ONE: Secure the Commitment of the Key Stakeholders

4.4.1 The first step in any charter formulation process involves securing the commitment and buy-in of all the relevant key stakeholders to the need for a charter to guide the transformation initiatives of the sector as a whole. Typically this involves identifying and inviting

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to a gathering/s all the relevant key stakeholders engaged in the various commercial activities that constitute the entire value chain of the sector.

4.4.2 It is **recommended** that the relevant key stakeholders may include, inter alia,

- key enterprises within the sector, including both black and white businesses as well as large, small and medium-sized firms, which should collectively take a lead in initiating the process;
- industry bodies for the sector or the relevant chamber/s of commerce and industry;
- trade union/s, not union federations, that enjoy organisational rights in the sector;
- professional bodies in the sector;
- relevant line government departments that interface with the particular sector;
- other bodies with a relevant interest in the sector.

4.4.3 It is **recommended** that all the relevant stakeholders in the sector are involved from the beginning until the end of the process. This is very important because the Minister of Trade and Industry shall not gazette a charter as a BEE Transformation Charter (in terms of section 12 of the Act) and/or a sector Code of Good Practice (in terms section 9 of the Act) unless he/she is satisfied that, among other things, all the relevant stakeholders in the sector were involved from the beginning until the end of the charter formulation process.



4.4.4 At this initial stage of the process, it is **recommended** that:

- the business case for developing a sector transformation charter is made;
- the implications of adopting a sector transformation charter for all the relevant stakeholders are explained;
- the support of all the relevant key stakeholders for the charter is secured; and
- a common vision, principles and objectives for the sector charter are established and agreed upon. (It is critically important that consensus is reached on what the charter should achieve.)

4.4.5 In securing the buy-in of all the relevant stakeholders in the sector, it is **recommended** that the rationale for the development of a charter is located within the twin challenges of economic growth and employment creation. This is necessary to demonstrate that charters are a means to an end, i.e. charters are mechanisms to effect economic transformation that empowers a broad base of enterprises and individuals.

4.4.6 Achieving all of this would require more than one major gathering, as stakeholders may want to go back to consult with their principals. In addition, workshops may be necessary to explore in detail some of the key issues pertinent to BBBEE and the transformation charters as well as road shows and any other interactive mechanisms to ensure that the views of all the relevant stakeholders are taken into consideration.

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4.5 STEP TWO: Set up a Representative Committee and Sub-committees to Steer the Charter Process

4.5.1 Once all the relevant stakeholders have committed to the need for a charter to drive the implementation of the objectives of BBBEE in the sector, it is **recommended** that the stakeholders:

- define and agree on the scope of the charter;
- establish reasonable timeframes for the completion of the charter;
- appoint/nominate members of the Steering Committee and its sub-committees to provide strategic direction;
- define and agree on the role and responsibilities (mandate) of the Steering Committee and its sub-committees;
- agree on how communication with the broader stakeholders and the public regarding the charter will be handled; and
- establish and agree on conflict resolution and deadlock-breaking mechanisms to be used in cases where it is difficult to reach consensus among the stakeholders.

4.5.2 In deciding on the individuals to serve on the Steering Committee and its sub-committees, stakeholders are **advised** to ensure that the nominated/appointed individuals:

- have the necessary mandate to represent the interests of their broader constituencies;
- are knowledgeable about the sector and its challenges; and



- are able to commit appropriate time and involvement to the development of the charter.

4.5.3 With regards to the composition of the Steering Committee and its sub-committees, it is **recommended** that there should be, taking the above-mentioned into consideration:

- equitable representation of all the relevant stakeholders in the Steering Committee and its sub-committees; and
- a healthy balance in the racial and gender composition of all the relevant stakeholders' representatives in the Steering Committee and its sub-committees;

4.5.4 To ensure that there are sufficiently focused discussions on all the main indicators of transformation and empowerment, it is **recommended** that:

- sub-committees of the Steering Committee are formed around the seven pillars of the BBBEE scorecard (i.e. equity ownership; management control; skills development; employment equity; preferential procurement; enterprise development; and residual elements); and
- sub-committees are allowed to co-opt experts (who may not be members) to assist in the sub-committees' deliberations and formulations of positions for consideration by the Steering Committee.

4.5.5 The Steering Committee and its seven sub-Committees should each appoint a chairperson. The chairpersons of the Steering

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Committee and its seven Sub-Committees should constitute the Executive Committee, to be chaired by the Chairperson of the Steering Committee.

4.5.6 It is **recommended** that the Chairpersons of the Steering Committee and its sub-committees should be leaders:

- who possess innovative and adaptive mind sets; and
- the ability to cultivate consensus among multiple stakeholders, some of whom may, for a variety of reasons, be antagonistic to transformation.

4.5.7 It is further **recommended** that the Chairpersons of the Steering Committee and its sub-committees should be able to:

- understand and overcome their own limitations, and even their own world views; and
- enter the world of others, even if for a moment, without necessarily agreeing to their terms.

**4.6 STEP THREE:
Establish the Rules for Stakeholders' Engagement and Determine the Resources Required.**

4.6.1 Given the complexity of the issues explored in the charters, as well as their profound impact on the strategic direction of the sector and the economy as a whole, it is **recommended** that rules to regulate stakeholders' engagement be established at the outset,



which may include, inter alia, that:

- discussions and negotiations should be conducted in good faith;
- stakeholders should always display empathy to others' concerns and be transparent with each other;
- stakeholders should always strive for a win-win situation;
- consensus should underpin all the decisions taken by the stakeholders' representatives; and
- dialogue, as opposed to debates, should be the dominant form of engagement among the stakeholders' representatives.

4.6.2 Building trust among stakeholders who have not worked together before can be an immense challenge. To overcome this challenge, it is **recommended** that:

- a team-building workshop, conducted by an experienced empowerment and transformation facilitator, is held with all the stakeholders' representatives prior to the formulation of a charter.

4.6.3 For the team-building workshop to be cost effective, it is **recommended** that the appointed experienced facilitator should be able to assist the stakeholders:

- to get to know each better; and
- most importantly, to gain a thorough understanding of the fundamental principles underpinning the BEE Act and its Codes of

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Good Practice on BBBEE.

4.6.4 Stakeholders' representatives should develop an appropriate strategy to raise the financial resources required for a charter. Financial resources can:

- be raised directly from the relevant key stakeholders in the sector in the form of contributions; or
- donations of services and/or facilities; or
- through a combination of the above-mentioned methods.

4.6.5 The major advantage of raising funds from the relevant stakeholders in the sector is that it tends to strengthen the stakeholders' ownership of the charter process. It should be borne in mind that not all the relevant stakeholders in the sector can afford to make financial contributions towards the charter budget. This, however, must not be used as the basis for excluding any relevant stakeholder from actively participating in the deliberations of the formulation of a charter. Those who are unable to make financial contributions can make other forms of meaningful contributions to the process. (For example, they can agree to do certain administrative tasks on behalf of the charter.)

4.6.6 Financial resources are required for, inter alia,

- office space and office equipment;
- dedicated personnel to arrange meetings, prepare documentation for the meetings, take minutes at the meetings, action the decisions



taken at the meetings, prepare reports, conduct research, etc.

4.6.7 While these tasks may appear to be simple, experience has shown that these can be very complex and therefore need to be managed by individuals knowledgeable about transformation and charter processes. Increasingly BEE consultants who offer their services to facilitate the development of charters perform these tasks.

4.6.8 It is, however, **recommended** that before any BEE consultants are engaged:

- their role, as well as the scope of their work in the Charter process, be clearly defined and agreed upon;
- the selection criteria for the consultants be clearly defined and agreed upon; and
- the stakeholders' representatives approve the appointment of the consultants and their fees.

4.7 **STEP FOUR:** **Conduct an audit of the current position of the sector in terms of BBBEE**

4.7.1 To gain a better understanding of the transformation challenges facing the sector, it is important for the stakeholders to have reliable information on the status of the sector in terms of BBBEE. This information is necessary to establish the gap between the BBBEE status quo of the sector and where the sector would like to be in

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terms of its transformation objectives.

4.7.2 Therefore to ensure that ambitious but realistic targets are set in a sector transformation charter, it is **recommended** that:

- an audit should be conducted to ascertain the sector's present situation in terms of the generic areas of the scorecard [equity ownership; management control, skills development, employment equity, preferential procurement, enterprise development and sector-specific issues], which are dependent on the transformation objectives/challenges of that particular sector.

4.7.3 It is **advisable**

- to keep the analysis at an appropriate mix of quantitative (statistical) and qualitative assessment. Qualitative analysis may be appropriate to supplement and support quantitative analysis.

4.8 **STEP FIVE: Develop a workable plan for the formulation of the Charter**

4.8.1 The development of a charter should be managed with the aid of project management techniques, which make it possible for the stakeholders to monitor progress as the processes unfold.

4.8.2 Once the sector status quo report on BBBEE has been considered by the Steering Committee, it is **recommended** that:



- project plans (i.e. a master project plan for the entire charter and mini project plans dealing with the various aspects of the generic scorecard) are mapped out with identified resources and time lines.

4.8.3 In developing a master project plan for a charter, stakeholders' representatives should note that once completed, a transformation charter must address the following:

- BEE challenges in the sector;
- the sector's vision for achieving BEE targets and timetables;
- the specific mechanisms to be used to achieve BEE targets including an assessment of the financing required to fund BEE transactions;
- skills development and employment equity,
- preferential procurement and enterprise development
- any transformation mechanisms appropriate to the specific sector;
- the organisational mechanisms to co-ordinate, facilitate, monitor and evaluate the implementation of the charter and;
- other commitments relevant to the sector to enable its participants to promote the objectives of BBBEE.

4.8.4 As the contours of the charter emerge during this stage, stakeholders should be prepared to engage in discussions and dialogue regarding all the issues identified in 4.8.3 above.

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5. Substantive Issues

- 5.1 As pointed out earlier, charters use a balanced scorecard that consists of various key performance areas called elements or indicators to measure the BEE status of enterprises. The scorecard contains two measurement components associated with each indicator, namely weightings and targets. The target and the weighting work together to provide a BEE score for an enterprise.
- 5.2 The seven main elements (indicators), which all contribute to the achievement of the objectives of BBBEE, measured by the scorecard are:
- **equity ownership**, which measures the voting rights and economic benefits that accrue to black people as a result of their participation in the ownership of enterprises;
 - **management control**, which measures the effective control of enterprises by black people as a result of their participation in the key decision making structures;
 - **employment equity**, which measures the equitable representation of black people in all occupational categories and levels within an enterprise;
 - **skills development**, which measures the financial resources an enterprise spends on developing the core competencies and technical skills of black people to facilitate their meaningful incorporation into the mainstream economic activities;



- **preferential/affirmative procurement**, which measures the extent to which an enterprise widens market access for BEE entities;
- **enterprise development**, which measures an enterprise's initiatives aimed at assisting and accelerating the development of the operational and financial capacity of entities that contribute towards BBBEE; and
- **sector specific** empowerment initiatives or residual, which measure the extent to which social development and/or sector specific initiatives directly or indirectly facilitate the access of black people into the mainstream economy.

5.3 As the charter principles and measurement criteria form an integral part of negotiations, it is important that the stakeholders' representatives have a clear understanding of how these principles and measurement criteria may impact on the substantive transformation programmes and initiatives of the sector.

5.4 The objective of a scorecard is to ensure that there is a common approach for measuring the BEE status of enterprises. In addition, it provides appropriate flexibility to respond to the unique set of economic conditions prevailing in each sector.

5.5 The scorecard operates on the basis of a weighted average and the **overall weighted average score** that a business obtains determines the BEE status of that enterprise, which may fall into one of the following:

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- level one contributor (overall weighted score of 100 points on the generic scorecard);
- level two contributor (overall weighted score from 85 to less than 100 points on the generic scorecard);
- level three contributor (overall weighted score from 75 to less than 85 points on the generic scorecard);
- level four contributor (overall weighted score from 65 to less than 75 points on the generic scorecard);
- level five contributor (overall weighted score from 55 to less than 65 points on the generic scorecard);
- level six contributor (overall weighted score from 45 to less than 55 points on the generic scorecard);
- level seven contributor (overall weighted score from 40 to less than 45 points on the generic scorecard);
- level eight contributor (overall weighted score from 30 to less than 40 points on the generic scorecard); and
- non-compliant contributor (overall weighted score of less than 30 points on the generic scorecard).

5.6 An enterprise's level of contribution to BBBEE represents that enterprise's competitive advantage, as an enterprise's BBBEE status (i.e. level of contribution to BBBEE) becomes critical in the enterprise's commercial and economic dealings with public entities and other enterprises.

5.7 The more an enterprise contributes to the achievement of the objectives of BBBEE, the better chance that enterprise stands vis-



à-vis other enterprises in securing business from public entities and other enterprises.

- 5.8 To ensure uniformity in the measurement of compliance, as well as comparability among the various economic sectors, the generic scorecard assigns weightings and targets on the seven elements of the BBBEE scorecard, as follows:

Element:	Weighting:
Equity ownership	20
Management control	10
Employment equity	10
Skills development	20
Preferential procurement	20
Enterprise development	10
Residual	10

- 5.9 In setting the targets and weightings to be attached to the different elements of the scorecard, it is important to note that the content of the charters must be 'substantially aligned' to the Codes.

5.10 This simply means that:

- the weightings and targets of the Charters MAY deviate from those recommended in the scorecard; but
- the principles and definitions used in the Charters MAY NOT differ or deviate from those contained in the scorecard.

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5.11 As discussions regarding targets to be assigned to the different elements of the scorecard tend to be time-consuming and somewhat emotionally charged, it is **recommended** that such discussions should only be undertaken after the stakeholders have agreed on the:

- BEE challenges in the sector;
- sector's vision for BEE implementation;
- time-frame for BEE implementations in the sector;
- organisational mechanisms to coordinate, facilitate, monitor and evaluate the implementation of the objectives of the charter; and
- other commitments relevant to the sector to enable its participants to promote the objectives of BBBEE.

5.12 Once a fully-fledged sector transformation charter has been developed and agreed upon, it is **recommended** that:

- Its content be shared with NEDLAC for information before it is signed by all the relevant stakeholders and lodged with the Department of Trade and Industry.



6. Monitoring and Evaluation

6.1 To ensure that there is an effective monitoring of the implementation of the transformation objectives at the sectoral level, all charters are required to establish Charter Councils with an equitable representation of all the relevant stakeholders in the sector.

6.2 It is **recommended** that the mandate, powers and functions of the Charter Council, which are developed after consultations with all the relevant stakeholders in a sector, should include, inter alia:

- issuing guidance notes on the interpretation and application of the Charter;
- preparing annual reviews which outline progress and evaluates new areas of intervention;
- submitting the annual review to the BEE Advisory Council for publication;
- evaluating and commissioning research on specific areas where such research is not available.
- preparing interim reports at appropriate intervals;
- certifying agencies to audit enterprises in the sector for BEE compliance; and
- engaging with government, the BEE Advisory Council and other regulatory agencies to promote the implementation of the objectives of the Charter.

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7. Conclusion

7.1 A few points need to be highlighted regarding the issues discussed in this guide. In a guide of this nature, it is not feasible to cover each and every possible charter formulation scenario that may arise in practice.

7.2 It is, however, important to note the following:

- the successful implementation of the objectives of BBBEE is key to the building of a more inclusive and sustainable economy, and for the bridging of the divide between the 'first' and 'second' economies;
- the BEE Act No. 53 of 2003 makes provision for the development of sector transformation charters as vehicles for effecting meaningful economic transformation at a sectoral level;
- the formulation of charters must be underpinned by a sufficiently comprehensive consultation process that involves all the relevant key stakeholders in a sector;
- the process of initiating the formulation of a charter should be undertaken by organized business in consultation with all the relevant key stakeholders in a sector;
- charters are negotiated voluntary agreements amongst all the key stakeholders in a sector designed to ensure that the implementation



of the objectives of BBBEE results in the empowerment of a broad base of enterprises and individuals;

- charters afford the relevant key stakeholders, on sector-by-sector basis, the opportunity to develop transformation programmes and initiatives that are more responsive to the unique business challenges facing the sectors;
- the balance of power among the key stakeholders needs to be carefully managed throughout the process of formulating a charter;
- stakeholders representatives must be involved in all the major steps of formulating a charter;
- chairpersons of committees responsible for steering the development of charters should be leaders with innovative and adaptive mind sets and the ability to cultivate consensus among multiple stakeholders, some of whom may, for a variety of reasons, be antagonistic to transformation;
- stakeholders' representatives responsible for drafting charters should have a thorough understanding of the fundamental principles underpinning the BEE Act and its Codes of Good Practice on BBBEE;
- while the weightings and targets of the charters may deviate from those recommended in the scorecard, the principles and definitions used in the charters may not differ or deviate from those contained

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in the scorecard;

- charters gazetted as BEE transformation charters (in terms of section 12 of the BEE Act No. 53 of 2003) simply demonstrates a sector's commitment to BEE and have no legal effect, while those gazetted as Sector Codes of Good Practice (in terms of section 9 of the BEE Act No. 53 of 2003) are legally binding;
- the content of the charters must be 'substantially aligned' to the Codes, as it is only those empowerment and transformation initiatives that meet the BEE criteria outlined in the Codes which are recognised, and thus eligible for earning points on the scorecard;
- the Department of Trade and Industry is the ultimate custodian of charters; and
- stakeholders' representatives should brief NEDLAC on the content of their charter before it is signed by all the relevant stakeholders and lodged with the Department of Trade and Industry.