The Department of Trade and Industry have just gazetted the Property Sector Code, addressing the broad-based black economic empowerment ('B-BBEE') charter for the property industry, comprising both commercial and residential sectors. Businesses in this industry must now follow this code as from the date it was published, i.e. 1 June 2012. Let's have a look at what this entails.

The aim of the sector code is to promote economic transformation in the property sector, ensuring a more meaningful participation by black people (specifically including black women, youth and those with disabilities) in this sector. It is also aimed at promoting property development and investment in under-resourced areas, which enhances basic infrastructure, encourages investment and supports micro and small enterprises.

1. Who is affected by the Property Sector Code?

Commercial activities in the residential property industry are involved, including:

- Houses
- Community schemes
- Land zoned for development

It also applies to the commercial property industry, including:

- Office property
- Industrial property
- Leisure property
- Retail property
- Land zoned for development
- Other property services
- Property ownership
- Property letting
- Property management
- Property sales
- Property valuation

2. Limitation on application of the sector code

EMEs (exempt micro enterprises) are not required to obtain B-BBEE verification codes.
and will automatically be awarded a B-BBEE recognition level of 4. For purposes of the charter, EMEs are defined as businesses with a turnover of less than R5 million, but for estate agencies and brokers this is R2.5 million. For property asset owning businesses it uses an asset threshold of less than R30 million for EMEs.

QSEs (qualifying small enterprises) can choose which 4 of the 8 elements of the charter (see paragraph 3 below) may be used to measure their compliance.

QSEs are defined as those enterprises with a turnover threshold between R5 million and R35 million. For estate agencies and brokers this is R2.5 million to R35 million and for asset owning businesses the QSE threshold is between R30 million and R280 million.

3. Measurement categories for B-BBEE certification

The categories in terms of which enterprises will be measured are the following: Ownership, Management Control, Employment Equity, Skills Development, Preferential Procurement, Enterprise Development, Socio-Economic Development, Economic Development.

The latter category (economic development) is novel in the sphere of sector codes. It consists of two elements, namely:

- a commitment by entities dealing in property development to dedicate at least 10% of their annual property development investments to under-resourced areas; and
- a commitment by entities engaged in property disposal to dedicate 35% of assets earmarked for disposal to black-owned enterprises with B-BBEE status 1 to 3.

4. How will this be monitored?

Rating agencies will be established whereby companies will be measured in terms of their compliance with the code. Companies will in addition be required to submit an annual certificate showing its level of compliance.

For more details, read the full sector code here (File Size: 5213.4KB), as published in the Gazette.