



## Status of Sector Codes and B-BBEE Transactions

There are two areas that I would like to address:

1. Status of the sector codes
2. Proposed B-BBEE Commission requirements for reporting of major B-BBEE transactions.

### 1. Sector Codes

The following table summarises the current position with sector codes:

CODE	OLD CODES IMPLEMENTATION DATE	AMENDED CODES STATUS
Agricultural	28 December 2012	Comment closed, awaiting final document
Chartered Accountancy	10 May 2011	Repealed 17 February 2016
Construction	5 June 2009	Original code repealed 17 February 2016. Draft amended code gazetted 28 October 2016 for 60-day comment
Financial Services	26 November 2012	Comment closed, awaiting final document
Forestry	12 June 2009	Comment closed, awaiting final document
ICT	6 June 2012	Final code Gazetted 7 November 2016
Marketing, Advertising and Communication (MAC)	29 August 2008 (not finalised)	Final code Gazetted 6 May 2016d
Property	1 June 2012	Comment closed, awaiting final document
Tourism	22 May 2009	Final code Gazetted 20 November 2015
Transport	21 August 2009	Comment closed, awaiting final document.





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What does this mean? In short, some confusion and error in the following spaces:

- Certificates and affidavits are issued under the amended general codes of good practice, and under the amended ICT, MAC and Tourism codes.
- Certificates are issued under the old, more lenient sector codes for Agriculture, Financial Services, Forestry, Property and Transport.
- Certificates and affidavits must be issued under the amended codes of good practice for companies in the Construction and Chartered Accountants sectors.

In addition, the Construction and Chartered Accountancy sector codes were repealed with immediate effect and the ICT, Tourism and MAC codes were gazetted with immediate effect. There is no transition period. This means, for example, a CA practice with a December 2015 year end, which was undergoing its verification in March 2016, had to be scored under the amended codes of good practice even though their financial year end was before the change in the codes. They would have had no time to plan for the change to the more stringent codes. We are aware of verification agencies who believed this was retrospective legislation, and as such, issued certificates under the Construction code after date of repeal; these are being instructed, by the B-BBEE Commission, to withdraw such certificates.

From our information, it looks like the gazetting of sector codes with immediate effect will continue. As such, we do not know when the sector codes will be gazetted (we have heard rumours that they are all on the Minister's desk); nor do we know what changes will be made in comparison to the draft for comment (there were some changes in the final ICT code compared to the draft). What is important is that we must be prepared to implement them immediately. This confuses planning; as we must plan activities and spend for verification on draft codes and run the risk that:

- The amended sector codes do not come into force by the date of the verification. Companies will then incur more expenditure than is needed.
- Items which we plan for may not be included, or may be different in the final codes when gazetted.





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## 2. Major B-BBEE transactions

Government Gazette 40410 was signed by the Minister on 25 July 2016 but only gazetted on 8 November 2016. It lays down the proposed thresholds for major B-BBEE transactions to be reported to the B-BBEE commission in terms of the B-BBEE act (as amended) and the B-BBEE Commission regulations. It states as follows:

- Transactions which equal or exceed R100 million must be registered with the B-BBEE Commission. The R100 million is determined by either combining the annual turnover or asset value of the parties.
- Such transaction, dated after 24 October 2014 and 08 November 2016, must be reported to the Commission within 30 days of the publication of this notice.
- People may register such transactions dated before 24 October 2014 on a voluntary basis.
- The following documents are required to be submitted: Memorandum of Incorporation, CIPC certificate, Tax Clearance, B-BBEE certificate, sworn affidavit, audited or reviewed financial statements, share certificates and share register, shareholders' agreements, financing agreements and any other relevant documents.

This is my last mailer for this year so I would like to thank you for your support this year and to wish you a Happy Christmas and New Year. If you are travelling, please be careful on the roads.

If you have any B-BBEE consulting needs, or need Global to calculate the targets discussed above, please contact either Charlene Skipp on [charlene@globalbusiness.co.za](mailto:charlene@globalbusiness.co.za) (083 780 7209) or me on [richard@globalbusiness.co.za](mailto:richard@globalbusiness.co.za) (083 440 2130).

Kind Regards

Richard Ryding  
Global Business Solutions

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EAST LONDON  
JOHANNESBURG  
CAPE TOWN  
PORT ELIZABETH  
DURBAN

T- 043 721 1030  
T- 011 483 3722  
T- 043 721 1030  
T- 041 364 0472  
T- 041 364 0472

F- 043 721 1027  
F- 011 483 1650  
F- 043 721 1027  
F- 041 363 0043  
F- 041 363 0043

[elmarketing@globalbusiness.co.za](mailto:elmarketing@globalbusiness.co.za)  
[jhbmarketing@globalbusiness.co.za](mailto:jhbmarketing@globalbusiness.co.za)  
[ctmarketing@globalbusiness.co.za](mailto:ctmarketing@globalbusiness.co.za)  
[pemarketing@globalbusiness.co.za](mailto:pemarketing@globalbusiness.co.za)  
[dbnmarketing@globalbusiness.co.za](mailto:dbnmarketing@globalbusiness.co.za)



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