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Edition 4/2016

## DRAFT FINANCIAL SERVICES (FS) SECTOR CODE

The Draft Financial Services Sector Code was gazetted for 60-day comment in Gazette 39818 dated 17 March 2016. A copy can be downloaded by clicking [here](#).

If you have comments for the dti on the Sector Codes, please send to me and I will incorporate into our comments.

The Scorecards in the draft Sector Code are as follows.

Generic	Amended FS Code Banks & Life Offices	Amended FS Code Short Term Insurers	Amended FS Code Other Institutions	Old FS Code	Amended CoGP
Ownership	20	20	20	14	25
Management Control	20	20	20	8	19
Employment Equity				15	
Skills Development	15	15	15	10	20
Procurement and ESD	15	35	35	16	
Enterprise Development				5	
Socio-Economic Development & Consumer Education	5	5	5	3	
Empowerment Financing & ESD	25			15	40
Access to Financial Services	12	12		14	5
<b>Total</b>	<b>112</b>	<b>107</b>	<b>95</b>	<b>100</b>	<b>109</b>

Other draft Sector Codes have been based largely on the amended Codes of Good Practice (CoGP). The FS Sector Code departs from this practice and there are some significant differences when compared to the CoGP.





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These differences include:

- Initiatives which split businesses solely to become a QSFI or EME are a contravention of the Act. In the CoGP this may therefore also be a contravention.
- When determining eligibility as an EME, QSE or large entity, only SA revenue is to be considered unless a consolidated certificate is being prepared.
- Priority elements are changed as follows:
  - If a company does Empowerment Financing, it does not need to meet the 40% subminimum for Enterprise and Supplier Development. Examples of such entities are banks and life offices;
  - For companies measured in Empowerment financing, Empowerment Financing and Enterprise and Supplier Development is a priority element. Such companies must meet a 40% subminimum on each of the 3 categories of the element.
- There are differences in the definition of EME in the draft FS codes when compared to the CoGP:
  - Companies with revenue less than R10 million and 50% black ownership under an existing deal, or companies with 51% black ownership in a deal after the finalisation of these draft FS codes are automatically a Level 2. Under the CoGP, only entities with 51% black ownership qualify;
  - An EME can get a certificate from a verification agency or their accounting officer if they so wish. Under the CoGP such certificates are invalid.
- The same percentages apply for the levels a QSE scores, and to certificates for a QSE.
- Modified Flow Through (MFT) in the CoGP applies when black people own 51% or more and can only be applied once in the ownership structure. The FS Sector Codes allow the MFT at 50% and once per chain of ownership. This may be an error in the draft Sector Codes and we wait to see if the final Codes change this.
- If regulatory requirements require companies to increase their capital base, the resulting dilution in black ownership will not impact ownership scores.
- Ownership recognition on sale of Assets, Equity Interests and other businesses is easier in the draft FS Codes than the amended CoGP
- Demographics are not taken into account when calculating scores under Management Control, but there is a separate line to recognise African representation on the board, as Other Executive Managers, and as Senior, Middle and Junior management
- Only category F Training and non-core expenses such as travel, accommodation and catering are limited to 15% of the total Skills development claim. The CoGP applies this to Category F training as well.
- The CoGP do not allow companies to claim Mandatory Sectoral Training as skills Development. The FS Sector Codes are silent on this issue.





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- The criteria for Empowering Supplier under the draft FS codes include:
  - At least 25% of procurement must be from local suppliers;
  - 50% of new jobs created must be for black people, provided the proportion of black employees cannot have reduced since the last verification. This is a slight variation on the CoGP which require no change in the number of black people, or the proportion of black people;
  - At least 25% of SED contributions must be directed at Education activities or at least 25% of ED contributions must be targeted at black women owned businesses;
  - At least 85% of labour costs should be paid to South African employees by service industry entities;
  - Skills Transfer: Companies must spend a minimum number of days on training Enterprise and Supplier Development beneficiaries to improve their financial or operational capacity. The required number of days are as follows:

Number of employees in company	Minimum number of days
0 – 20	1
21 – 150	3
151 – 500	6
500+	12

The dti indicated that while Sector Councils could make their Sector Codes more difficult than the CoGP when aligning the Sector Codes to the amended CoGP, they could not make them easier. In certain areas, such as the MFT, and the lack of application of racial and gender demographics, the draft FS Sector Code is easier to apply than the amended CoGP.

Will the dti make changes to bring the draft FS Sector Codes into line with the amended CoGP? This would mean that there may be more changes when the final Codes are gazetted.

If you need assistance with questions on any B-BBEE related matter, including training courses and strategic sessions on the amended Codes, please feel free to contact me on 083 440 2130 or by email on [richard@globalbusiness.co.za](mailto:richard@globalbusiness.co.za)

Kind Regards

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15 April 2016

