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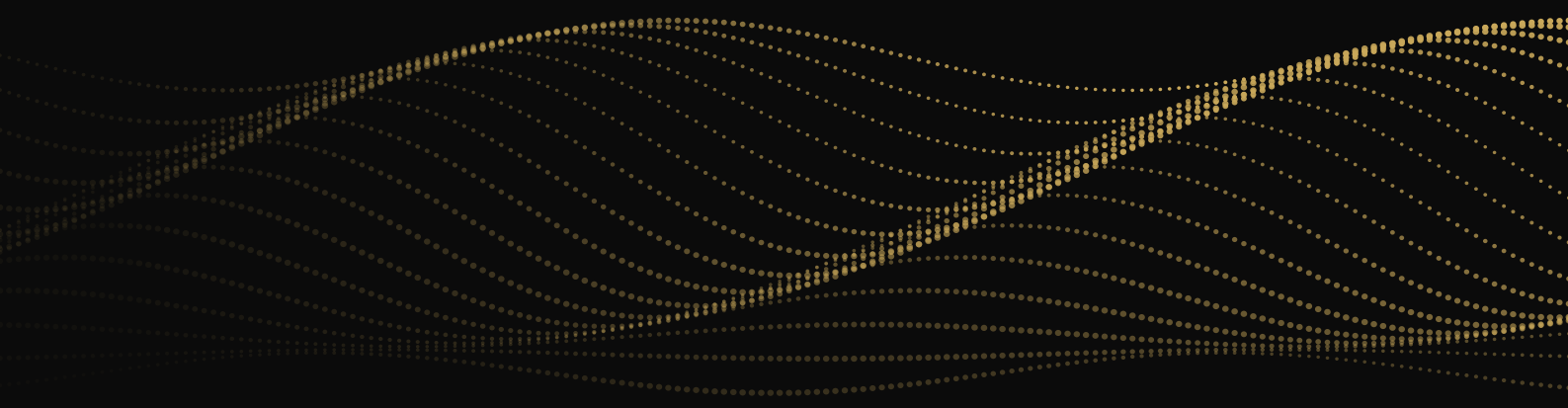
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POSITION PAPER NO. 1

BEYOND COMPLIANCE

Protecting the Integrity of South Africa's Transformation Economy

An Independent Governance Perspective on the Proposed 2026 B-BBEE Regulatory Amendments



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OVERVIEW

Executive Perspective

South Africa's transformation agenda stands at an important regulatory juncture. The publication of the Draft Amended Broad-Based Black Economic Empowerment Regulations on 13 November 2026 provides an opportunity to examine not only how B-BBEE compliance is administered, but also how the integrity of transformation outcomes is protected.

The amendments address regulatory reporting, investigations, transaction registration and ministerial oversight. They do not constitute a wholesale replacement of the existing B-BBEE measurement framework, which continues to rest on the Codes of Good Practice. Nevertheless, certain proposed changes have significant governance implications.

Of particular concern is the proposed relaxation of express independent verification requirements for specified public-sector reporting obligations. The draft also proposes extending the B-BBEE Commission's investigation period from one year to two years and six months. These developments raise important questions about assurance, regulatory accountability and the reliability of transformation reporting.

ETHOS VERIFY'S POSITION

> Transformation must not merely be reported as compliant. It must be demonstrably legitimate, economically substantive, independently supportable and accountable to its intended beneficiaries.

The credibility of South Africa's transformation framework depends on the ability of regulators, public institutions, corporate decision-makers and assurance practitioners to distinguish documented compliance from substantiated economic outcomes. This paper examines the principal governance implications of the proposed amendments and advances the case for stronger, risk-based independent transformation assurance.

THREE PRINCIPAL CONCERNS

01

REGULATION 12(1)

Public-sector assurance

Accredited verification becomes optional for spheres of government, public entities and organs of state, without prescribed alternative evidence or assurance standards.

02

REGULATION 12(6)

Skills development evidence

Express verification terminology is removed from SETA reporting, leaving open what evidence will substantiate reported programmes and outcomes.

03

REGULATIONS 15(4) AND 17(3)(C)

Investigation accountability

The investigation period extends from one year to two years and six months, while a retained one-year reference creates an internal inconsistency.

SECTION 1

What the Proposed Regulations Change

The regulations provide the administrative framework for statutory reporting, the functions of the B-BBEE Commission, investigations and certain ministerial decisions. The Codes of Good Practice establish how B-BBEE performance is measured. These components must operate coherently, because a measurement framework is only as credible as the information supporting its application.

FIRST
Will the amendments improve the reliability of transformation information?

SECOND
Will they strengthen accountability for the substance of reported outcomes?

THIRD
Will they improve the ability of regulators and decision-makers to identify and address material risks?

Table 1: Proposed and existing provisions compared

REGULATORY AREA	PROPOSED POSITION	GOVERNANCE IMPLICATION
Public-sector reporting Reg 12(1)	AMENDED The requirement that reports be "based on verified information" is deleted. Accredited verification becomes optional, with reliance permitted on audited financial statements and internal reporting unless a formal B-BBEE certificate is required. The list of B-BBEE elements, formerly attached to paragraph (a), now follows the new paragraph (b), creating a structural ambiguity.	Financial statement audits and B-BBEE verification do not examine the same subject matter. Removing a control without defining its replacement may create an assurance gap.
SETA reporting Reg 12(6)	AMENDED The word "verified" is deleted, so reports must be "based on information as required in the Act". Express verification terminology is removed, although the obligation to provide information under the Act remains. Scorecard implementation is removed from the matters reported.	Funding, registration and reporting do not by themselves establish that intended beneficiaries participated or that outcomes were achieved.
Investigation period Reg 15(4)	AMENDED The period within which the Commission must assess the merit of a complaint, investigate it where justifiable and make a finding is extended from one year to two years and six months.	Complex matters may justify more time, but longer periods require milestones, progress reporting and documented reasons for delay.
Consolidated complaints Reg 17(3)(c)	RETAINED The condition on continuing to investigate consolidated complaints still refers to "the one-year period of investigation".	This conflicts with the period proposed in Regulation 15(4) and should be corrected before finalisation.
Major B-BBEE transactions Reg 18	EXISTING FRAMEWORK Registration of qualifying transactions is substantially retained. The threshold wording in the related definition is amended. Registration does not constitute approval (Reg 18(5)).	Registered shareholders and executed agreements do not, on their own, establish the economic substance of an empowerment transaction.
Ministerial decisions Regs 19 and 20	EXISTING FRAMEWORK Procedures for permission to exceed qualification criteria, exemptions and deviations are substantially retained. A new proviso to Reg 20(6) runs the 90-day decision period from receipt of information requested under Reg 20(5)(b).	Regulatory flexibility should remain transparent, objectively justified and subject to measurable conditions.

Sources: Draft Amended B-BBEE Regulations, GN 4259 of 2026, GG No. 55718, pp. 67, 69, 76, 79, 81 and 89, compared with the B-BBEE Regulations, GN R. 689, GG No. 40053 (2016). Full references on page 8. The draft regulations are open for public comment and are not in force.

SECTION 2

Compliance Is Not the Same as Governance Integrity

One of the most important distinctions in transformation governance is the difference between a compliance determination and an assessment of the underlying integrity of an organisation, transaction or programme.

A B-BBEE certificate provides a recognised measurement outcome within the applicable framework. Corporate registration establishes particular legal facts. Neither independently establishes the substance of every commercial or ownership representation, and both matter because transformation decisions frequently involve financial commitments, supplier relationships, development programmes and long-term economic obligations.

> A compliance outcome is not, by itself, a comprehensive assurance opinion on the underlying organisation, transaction or programme.

Table 2: Three functions that should reinforce one another without being conflated

I	II	III
B-BBEE compliance measurement	**Statutory regulatory oversight**	**Independent governance due diligence**
Determines performance against the applicable Codes and recognition requirements.	Administers reporting, investigations and enforcement under the Act.	Assesses the credibility, integrity, substance and risks of the underlying organisations, transactions, evidence and programmes.
PERFORMED BY Accredited verification agencies	PERFORMED BY The B-BBEE Commission and the Minister	PERFORMED BY Independent assurance practitioners

A MATURE TRANSFORMATION ASSURANCE ENVIRONMENT ASKS:

01 Is the participating organisation legally legitimate and appropriately governed?

02 Can its ownership and control arrangements be substantiated?

03 Does it possess the capability to deliver its commitments?

04 Are the relevant financial representations credible?

05 Are beneficiaries appropriately identified and eligible?

06 Is the documentary evidence authentic, consistent and traceable?

07 Can reported expenditure be reconciled to the intended activity?

08 Are claimed outcomes independently supportable?

These questions do not replace B-BBEE measurement. The objective is not to create more paperwork, but to ensure that material decisions are supported by reliable evidence.

SECTION 3

Protecting Transformation Capital

South Africa's transformation objectives require the responsible deployment of financial, institutional and commercial resources. These resources must reach legitimate beneficiaries, support capable enterprises and produce outcomes consistent with their intended purpose.

Where governance controls are inadequate, transformation expenditure is exposed to unsupported beneficiary claims, insufficient supplier capacity, opaque ownership arrangements, unreliable documentation, ineffective programme monitoring and the misallocation of development resources. Such risks are not resolved by recording expenditure or obtaining a formal compliance document. They require scrutiny of the underlying arrangements and evidence.

INDEPENDENT DUE DILIGENCE CONTRIBUTES AT THREE STAGES

01 PRE-ENGAGEMENT

Assess legitimacy, capability, ownership integrity and material risk before commitments are made.

- Supplier and partner legitimacy
- Beneficial ownership and control
- Delivery capability and financial standing

02 IMPLEMENTATION

Assess delivery evidence, contractual performance and emerging exceptions while there is still time to correct them.

- Beneficiary validation
- Milestone and delivery evidence
- Exception management

03 POST-IMPLEMENTATION

Evaluate whether reported activities and outcomes are supported by credible records.

- Reconciliation of expenditure to activity
- Outcome substantiation
- Documentary integrity

> Transformation capital should be governed with the same discipline expected of other material corporate investments.

WHAT CORPORATE SOUTH AFRICA SHOULD CONSIDER NOW

The proposed amendments create an opportunity for boards, accounting authorities, transformation executives and procurement leaders to review their existing assurance arrangements. These are governance considerations, not new statutory obligations introduced by the draft.

1. **Evidence quality.** Establish whether material transformation claims are supported by complete, reliable and appropriately retained records.
2. **Independent scrutiny.** Determine whether existing verification, audit and due diligence adequately address material risks.
3. **Accountability.** Assign clear responsibility for reported information, the resolution of exceptions and corrective action.
4. **Substantive outcomes.** Assess whether activities deliver intended economic and developmental benefits, rather than relying on recorded expenditure.

SECTION 4

The Eight-Pillar Governance Assurance Framework

Ethos Verify proposes that transformation governance be considered through eight complementary assurance pillars. Application should be proportionate to the materiality and risk of the activity under review. The value of the approach lies in identifying material weaknesses before they compromise transformation resources, commercial relationships or regulatory reporting.

1 Governance and Legal Compliance

2 Organisational Capability

3 Ownership and Board

4 Implementation and Delivery



5 Financial Strength

6 Monitoring and Evaluation

7 Reputation and Integrity

8 Documentary and Evidentiary Integrity

Proposed independent governance methodology. Not a statutory B-BBEE scorecard or an alternative recognition system.

1 Governance and Legal Compliance

Is the organisation legitimate, compliant and accountable?

Legal standing, statutory compliance, governance structures and accountability for decisions.

2 Organisational Capability

Can it realistically deliver what it has undertaken to provide?

People, systems, operational capacity and track record relative to the commitments made.

3 Ownership and Board

Are ownership, control and economic participation supported by credible evidence?

Beneficial ownership, voting rights, economic interest, board composition and funding structures.

4 Implementation and Delivery

Are commitments being fulfilled and documented?

Delivery against contractual and programme commitments, supported by contemporaneous evidence.

5 Financial Strength

Are financial representations credible and is the organisation sufficiently sustainable for its obligations?

Reliability of financial information, solvency, liquidity and dependence on single sources of income.

6 Monitoring and Evaluation

Are performance and outcomes measured, reviewed and corrected where necessary?

Defined indicators, periodic review, exception reporting and the closure of corrective actions.

7 Reputation and Integrity

Are material integrity, conduct and reputational risks identified and managed?

Conduct history, adverse findings, conflicts of interest and the management of integrity risk.

8 Documentary and Evidentiary Integrity

Can the authenticity, provenance and consistency of supporting evidence be established?

Authenticity, provenance, consistency and traceability of the records on which claims rely.

SECTION 5

Seven Regulatory Recommendations

Ethos Verify advances seven recommendations for consideration during the current regulatory consultation. They are intended to strengthen the existing legislative framework and the credibility of its implementation.

1 **Preserve credible independent assurance**

Where accredited verification is made optional for specified reporting purposes, prescribe appropriate alternative evidence and assurance standards, formal accounting authority accountability and risk-based independent assurance over material transformation claims.

2 **Strengthen beneficiary and programme integrity**

Require reliable, auditable evidence supporting material skills development and beneficiary claims, including source records, beneficiary validation, documentary integrity controls and transparent exception management.

3 **Improve investigative accountability**

Introduce procedural milestones, progress reporting and documented reasons for delay, prioritise material matters, and correct the inconsistency between Regulations 15(4) and 17(3)(c).

4 **Promote substantive ownership scrutiny**

Encourage risk-based examination of beneficial ownership, economic interest, voting rights, control and funding in material transactions, so that formal documentation is distinguished from demonstrable economic participation.

5 **Strengthen transparency in ministerial decisions**

Support clear reasons, defined conditions, periodic monitoring and transparent reporting of outcomes for permissions to exceed qualification criteria, exemptions and deviations.

6 **Recognise complementary independent due diligence**

Develop policy guidance recognising the role of independent governance-led assessments, without displacing statutory verification or enforcement functions and without creating a parallel certification system.

7 **Establish a stronger evidence culture**

Promote consistent standards for documentary reliability, governance accountability, exception management and the substantiation of transformation outcomes.

STANDARDS FOR INDEPENDENT DUE DILIGENCE

For independent due diligence to contribute credibly, it must itself be governed by professional standards: independence, competence, documented methodologies, evidence retention, transparent limitations, conflict-of-interest management and the responsible handling of confidential information.

Ethos Verify supports the objectives of the B-BBEE Act. These recommendations do not seek to replace the B-BBEE Commission, accredited verification agencies or statutory compliance processes, and Ethos Verify claims no statutory investigative or regulatory authority.

INSTITUTIONAL DECLARATION

The Future Credibility of Transformation

Ethos Verify supports the continued advancement of broad-based black economic empowerment as an instrument of meaningful economic transformation. Transformation is not solely a regulatory exercise. It is an economic and institutional undertaking whose success depends on credible participation, responsible implementation and sustainable outcomes.

The proposed 2026 amendments should therefore be evaluated not only for administrative efficiency, but for their capacity to preserve the integrity of the transformation system. Independent due diligence is not an obstacle to transformation. It is a safeguard for its credibility, its capital and its intended beneficiaries.

TRANSFORMATION MUST BE GENUINE.

BENEFICIARIES MUST BE LEGITIMATE.

ECONOMIC PARTICIPATION MUST BE SUBSTANTIVE.

EXPENDITURE MUST BE ACCOUNTABLE.

EVIDENCE MUST BE DEFENSIBLE.

These are not objectives competing with the B-BBEE Act. They are safeguards for achieving its intended purpose.

The future credibility of transformation will be determined not only by what organisations report, but by what they can substantiate.

ABOUT ETHOS VERIFY

Ethos Verify (Pty) Ltd is an independent South African governance-led due diligence and supplier assurance practice. The firm provides structured assessments of governance, legal compliance, ownership integrity, organisational capability, financial strength, implementation performance, documentary reliability and material integrity risks. Its independent due diligence services are complementary to, and do not replace, statutory B-BBEE verification or regulatory enforcement.

LEGISLATIVE REFERENCES

- Broad-Based Black Economic Empowerment Act 53 of 2003, as amended by Act 46 of 2013.
- B-BBEE Regulations, GN R. 689, Government Gazette No. 40053, 6 June 2016: Reg 12 at pp. 17 to 19; Reg 15(4) at pp. 26 to 27; Reg 17(3) at pp. 30 to 31; Reg 20(5) and (6) at pp. 40 to 41.
- Draft Amended B-BBEE Regulations, General Notice 4259 of 2026, Government Gazette No. 55718, 13 November 2026, pp. 55 to 126: Reg 12(1) at p. 67; Reg 12(6) at p. 69; Reg 15(4) at p. 76; Reg 17(3)(c) at p. 79; Reg 18 at pp. 81 to 82; Reg 20(6) at p. 89.
- Public comment period: 30 days from publication on 13 November 2026, subject to any official extension.

PUBLICATION NOTICE

This paper represents the independent policy and governance views of Ethos Verify. It does not constitute a regulatory determination, legal opinion or official interpretation issued by the dtic or the B-BBEE Commission. The proposed amendments remain subject to consultation and final promulgation.