

Chartering **good practice**

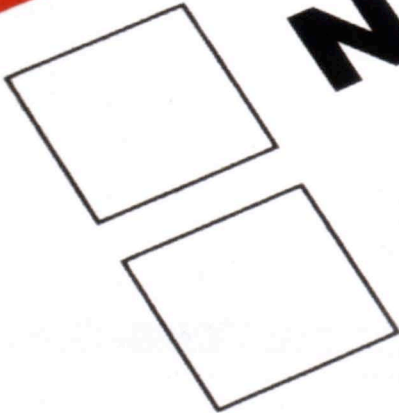
While ongoing confusion regarding the dti's Codes of Good Practice continues, it's no wonder that the chartered accounting industry pioneered ahead creating its own unique Charter for good B-BBEE practices. By **Kerry Dimmer**



AUDIT CHECKLIST



Audit Satisfactory



**Nonconformance
observations**

By all accounts (excuse the pun) the introduction of BEE verification to the auditing profession is a welcome relief and most punters agree it should have been introduced right from the start. Although no-one has come out and said it, there is an underlying impression that one of the reasons for the creation of the CA Charter

might be because of the problems in interpreting the dti's Code of Good Practice.

The gazetted documentation appears to be riddled with mistakes and errors that have created confusion and the need for fine, even legal, scrutiny in an attempt to clarify exactly what processes and procedures need to be followed.

"It's a total mess," says Chris van Wyk, chairperson of the ABVA, who has addressed the dti's gazetted Notice of Intention to amend the Codes of Good Practice in a 28-page commentary document. As a qualified lawyer, Van Wyk has an eye for detail and is flabbergasted at the range of ambiguity that leaves the Codes open for widely differing interpretations, a problem that goes as far back as 2007.

"The Codes contain numerous drafting errors which total 102 in the 89-page document issued by the dti," says Van Wyk. "These include spelling mistakes; inaccurate formula's; terms that are intended to be defined in Schedule One of the Codes, that are not defined; definitions of terms that are not used in the Codes; insufficient descriptions caused by the deletion of vital explanatory provisions from the draft that preceded the gazetted version of the Codes; and worse, references to clauses that are completely wrong."

During the past four years, while verification agencies have been struggling to make head or tail of the Codes and with no legislated correction, other than the dti issuing an Interpretative Guide in 2007 – which in itself appears flawed – pressure is mounting for verification agencies to increase the number of accreditations and thereby hasten empowerment. We must of course bear in mind, that verification remains a voluntary business decision.

According to estimated reports, only 40 000 South African companies of the potential 900 000 have actually been BEE-verified which begs the question, given the widely ranging interpretations of the Code, how can we be assured that such companies that have been, or will be, BEE-verified is actually credible and authentic?

Currently the accreditation of verifica-

tion agencies is undertaken by the SA National Accreditation System (Sanas) and once the Codes are amended, the approval of auditors to conduct verification engagements will be the prerogative of the Independent Regulatory Board of Auditors (IRBA). The problem with accrediting agencies, says the dti, is that if two of them are given exactly the same data, both will arrive at a different BEE score.

Van Wyk is perturbed by this statement: "I agree that inconsistency is a serious problem among the verification agencies but it is unfair and totally unwarranted to lay the root cause of this at the door the industry given that the Codes, which the dti calls its Bible, are riddled with flaws and uncertainty. The existing verification industry, in several cases, evolved out of the auditing and legal professions. Most agencies therefore still employ these professionals in their organisation. One can even talk of a kinship within this group, and thus to imply that the existing industry isn't competent enough is an absolute fallacy, it's just not true."

The dti's Chief Director, Nomonde Mesatywa, has however, recognised the disparity in the Codes and admitted to the *Financial Mail* "that the industry must be regulated in order to ensure credibility, reliability, impartiality and accountability or it will undermine the fundamental objectives that underpin the process of transformation." ▶



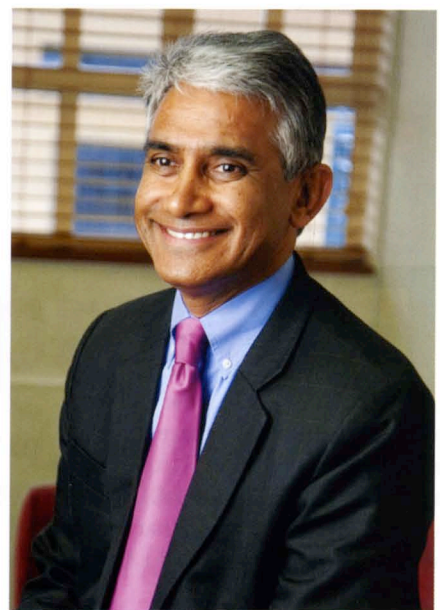
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Walter Murimira, Verification & Finance Manager, BEE Online Verification Agency



Chris Van Wyk, ABVA Chairperson & Technical Director



Suresh Kana, Chief Executive Officer, PwC

the process of transformation.”

Thus the formation of the IRBA, to be introduced as a pilot regulatory body for the newly-approved auditors entering the industry. Once a compulsory national standardised training programme for verification agencies has been put in place, the dti hopes there will be a clearer understanding of how to measure items under the Codes and this in turn will enhance competency.

Walter Murimira, Verification and Finance Manager, BEE Online verification agency believes the idea of having a competency and education programme that clearly standardises the environment will promote common understanding of what is expected of the agencies in addition to providing clear guidelines as to what is required to achieve empowerment goals. He anticipates the training initiatives will also provide the industry with a means to guarantee proof of competency, which is vital to survival. “I have a feeling that within a year or two, non-auditing verification firms will slowly but surely die a natural death as a result, or will diversify in order to survive,” he says.

On the other hand, financial auditing companies will have heightened advantages if they are verified as competent BEE auditors. “Such organisations are already the statutory auditors of the businesses to whom they are contracted. They know who the shareholders are, who the directors are, so are in a better position to honour and process certification,” Murimira points out. “Dealing with a virgin, or a very new verification agency, can be a painful exercise, so companies like KMPG and PwC are certainly going to

have an advantage in this regard.”

This is in line with what PwC’s CEO, Suresh Kana believes: “The question of verification is really about credibility and competence – at the end of the day that is what we add to the process. Audit firms have been providing assurance on financial statements and transactions for over 150 years. Capital markets thus rely on the information we produce. The market recognises that the audit firms can add value in this area, and so the credibility is already there – we need to make sure we continue reinforcing our expertise.”

“There are, most definitely, other competent people and firms in the marketplace, and others could, or should, provide this service,” Kana assures us. “However to do this type of work one needs a broad range of skills, particularly

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in the legal and auditing fields. In just the same way that we have to understand the Companies Act in order to conduct auditing, we need to ensure that we understand the BEE framework and verification laws.”

In this vein the chartered accountancy profession launched and had endorsed by the dti, its own Charter for Broad-Based Black Economic Empowerment. This came after intense discussion within the auditing environment and the South African Institute of Chartered Accountants (SAICA) as to how, among other

things, it should be interpreting the Codes. “In that context,” says Kana, “I think there was a large degree of consistency between the largest auditing firms so as a profession, with this Charter, I believe we have been fairly responsible.” While the Charter itself does provide for the unique needs of the chartered accountancy profession, the weightings are different dependent on the size of the firm but still closely resemble the government’s Codes.

The CA Charter also took into consideration the legal restrictions on ownership and management in the profession, but as Kana points out, ownership in this industry is difficult to manipulate, because there are only two simple measures: the number of BEE partners representing equity ownership and economic ownership which represents the distribution of profits. If you consider, as reported by SAICA, that only 1 869 blacks have completed the requirements to register as a chartered accountant since 1976, one can easily make the assumption that verifying a CA company’s BEE status would be simple.

Verification has to have value and, again that all important word, credibility. While professionals like Van Wyk strive to iron out the problems of interpreting the Code for the benefit of all, and others, like Murimira’s agency, constantly adjusting to and dealing with the current inconsistencies, the fact remains that like any learning curve, there will always be those that find loopholes. Plugging them is key and that can only be effective if the industry is regulated, but that as they say, is another story. 📌