



CONFERENCE ON FRONTING

IDENTIFYING FRONTING PRACTICES

Fronting is not always black and white

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EMPOWERDEX

Unlocking Africa's Value



Fronting Provisions



B-BBEE Act No. 46 of 2013 – Fronting Provisions

B-BBEE Act No. 46 of 2013 **Section 1 (e)**: A transaction, arrangement or other act or conduct that **directly or indirectly** undermines or frustrates the achievement of the objectives of the Act or the implementation of any of the provisions of the Act



Fronting Provisions

- Conclusion of an **agreement** with another enterprise in order **to achieve or enhance BEE** status in where:
 - (i) there are **significant limitations on the identity of suppliers**, service providers, clients or customers;
 - (ii) the **maintenance of business operations** is reasonably considered to be **improbable**, having regard to the resources available;
 - (iii) the terms and conditions were **not** negotiated **at arm's length** and on a **fair and reasonable basis**



Identifying Fronting Practices

- **substance over legal form** is fundamental in measuring B-BBEE
 - Leaves room for interpretation
 - Cost of verification is increased as companies must obtain not only the opinion of their B-BBEE advisors but also legal advice
 - Commission can interpret on matters where the issues are not entirely black and white



Identifying Fronting Practices: Is it ESD or is it a front?

1. Contract in place - **Yes**
2. Funds provided to set up a supplier to customers – **Yes**
3. Beneficiary qualifies – **Yes**



Strictly Private and Confidential

