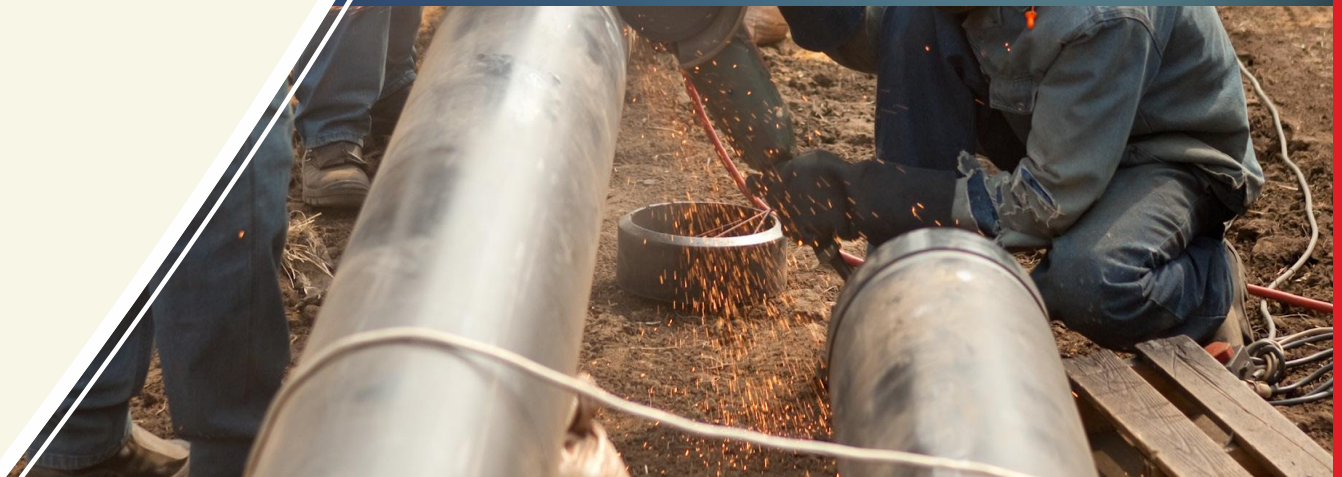


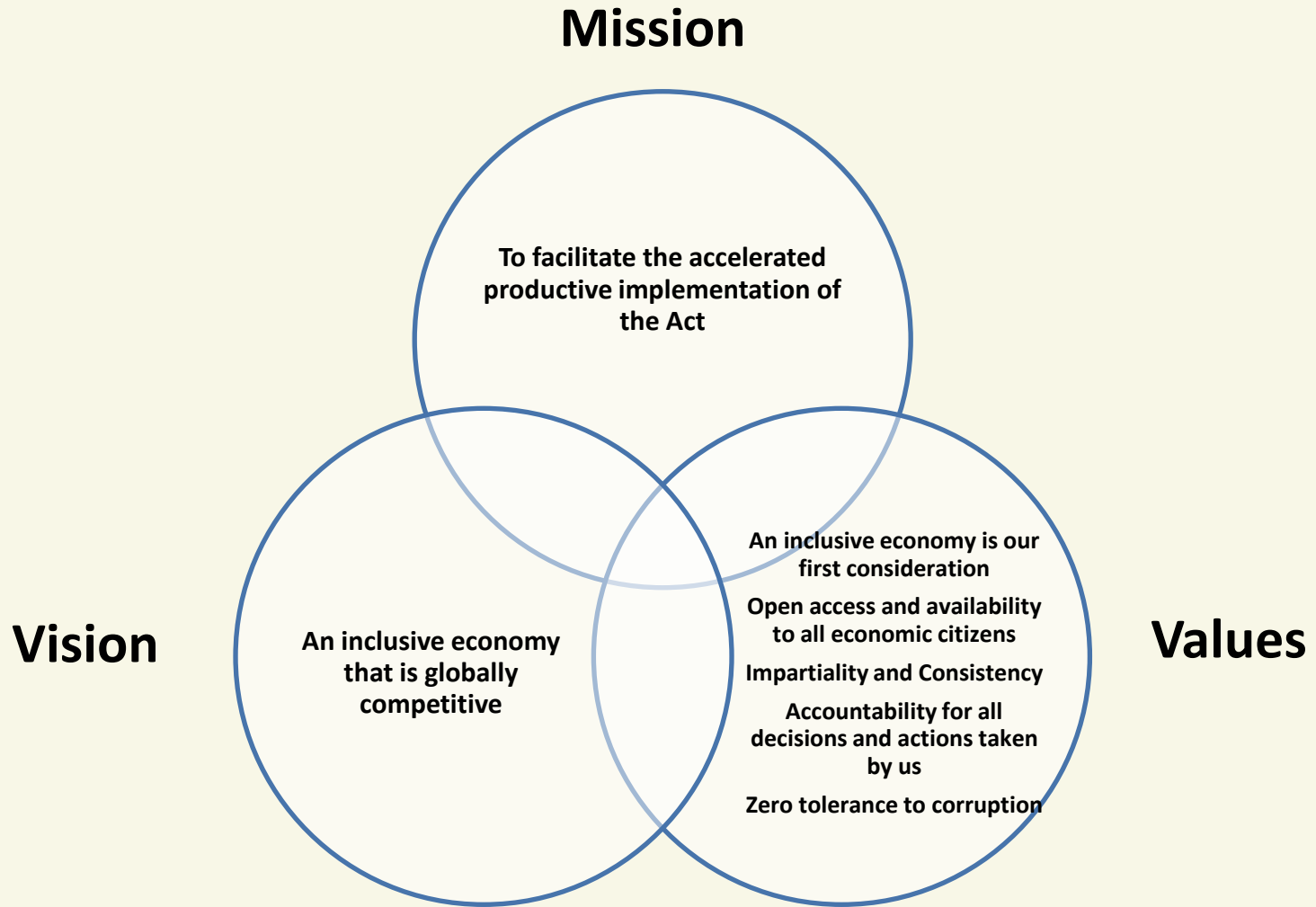


## ENS Africa Breakfast with the B-BBEE Commission

1 September 2016



# Who are we?



# Why are we here?

**Fronting Practices  
Misalignment  
Inconsistent  
interpretation**

**B-BBEE  
Commission  
s13B**

Constitution  
of South  
Africa 1996  
Bill of Rights

B-BBEE Act  
53 of 2003

B-BBEE  
Amendment  
Act 26 of  
2013

24 October  
2014  
Amendment

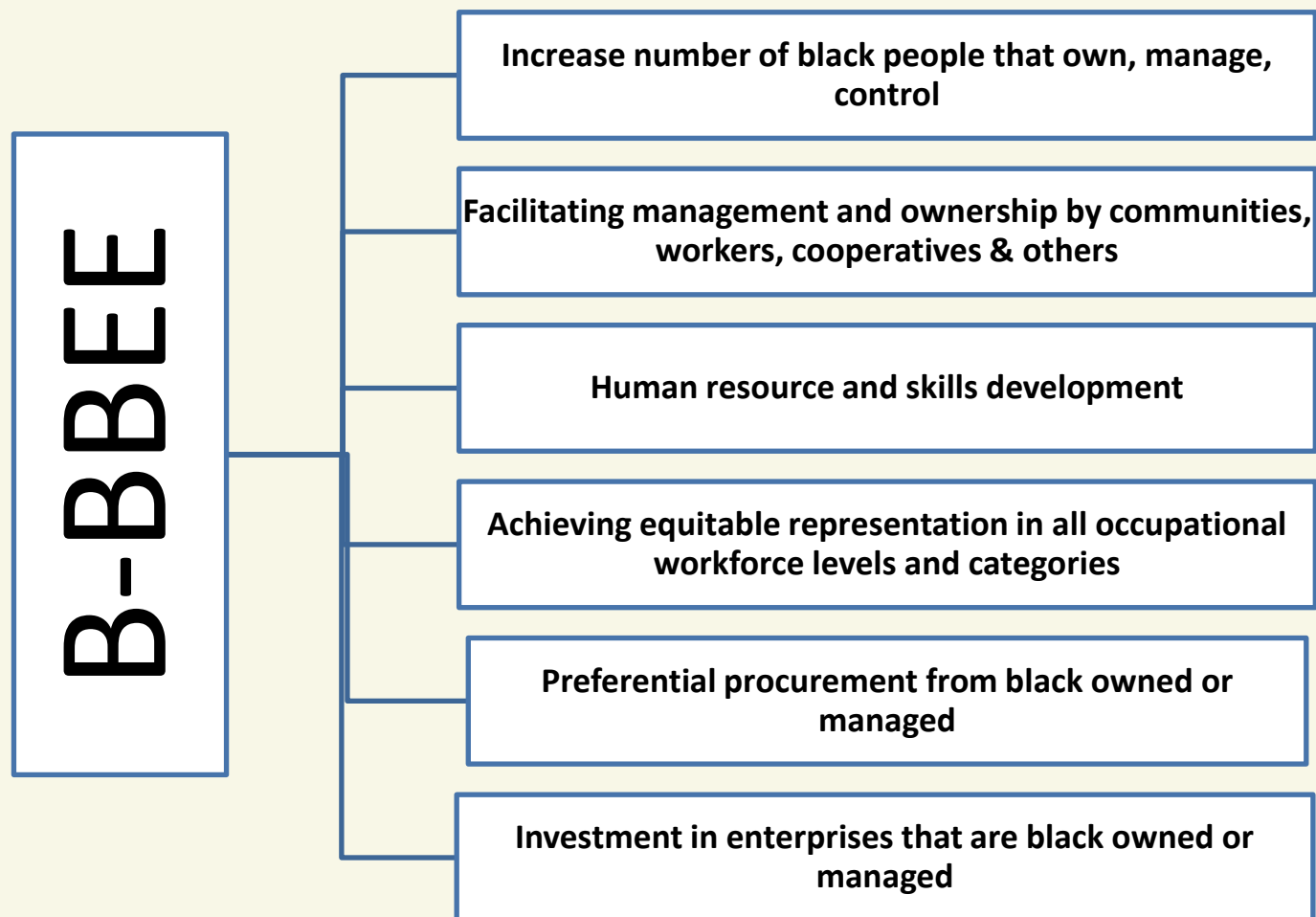
1 May 2015  
Codes of  
Good  
Practice

24 October  
2015  
Trumping  
Provision

6 June 2016  
Regulations

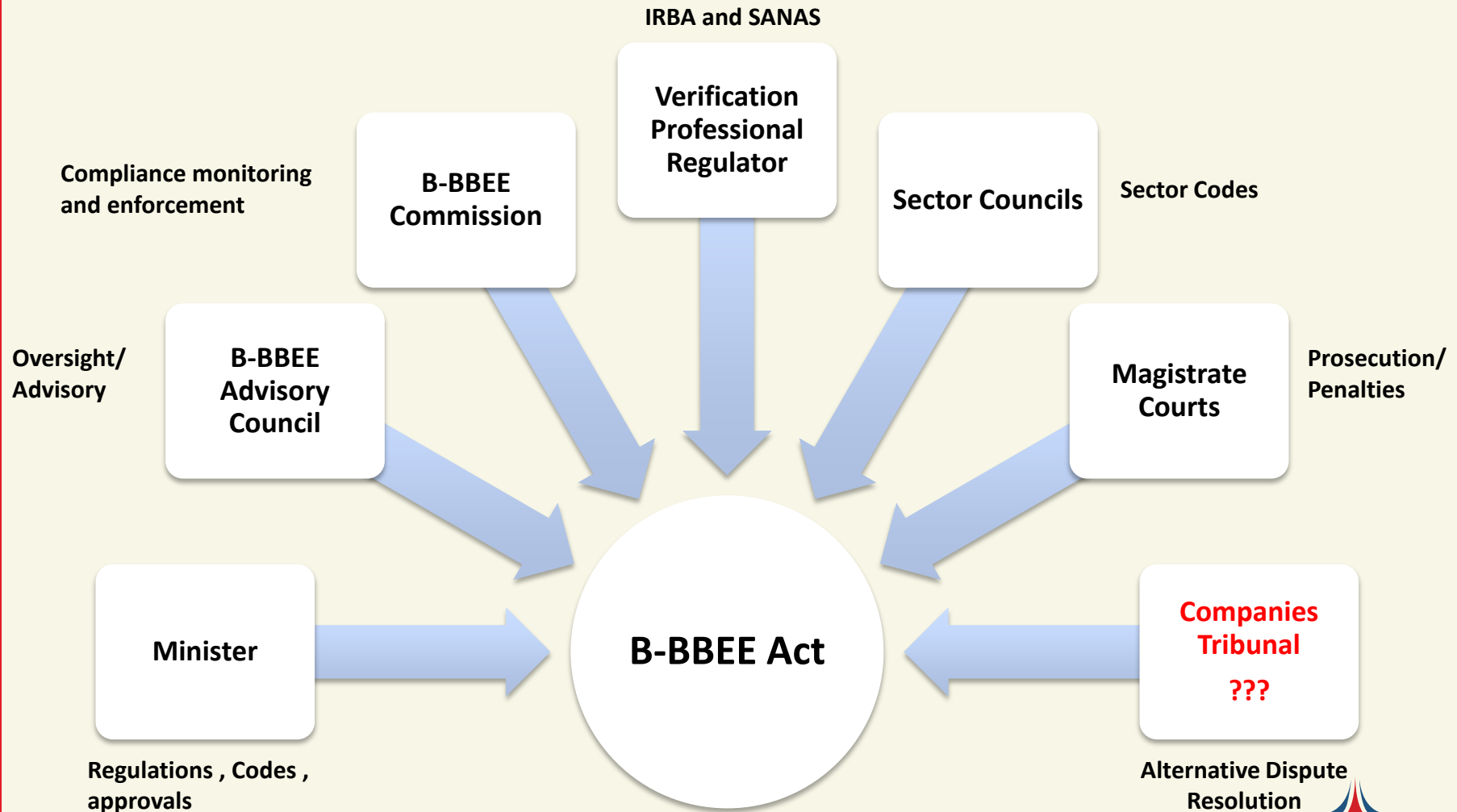
**Redress = Equity – Equality – Inclusive Economy**

# What is B-BBEE?

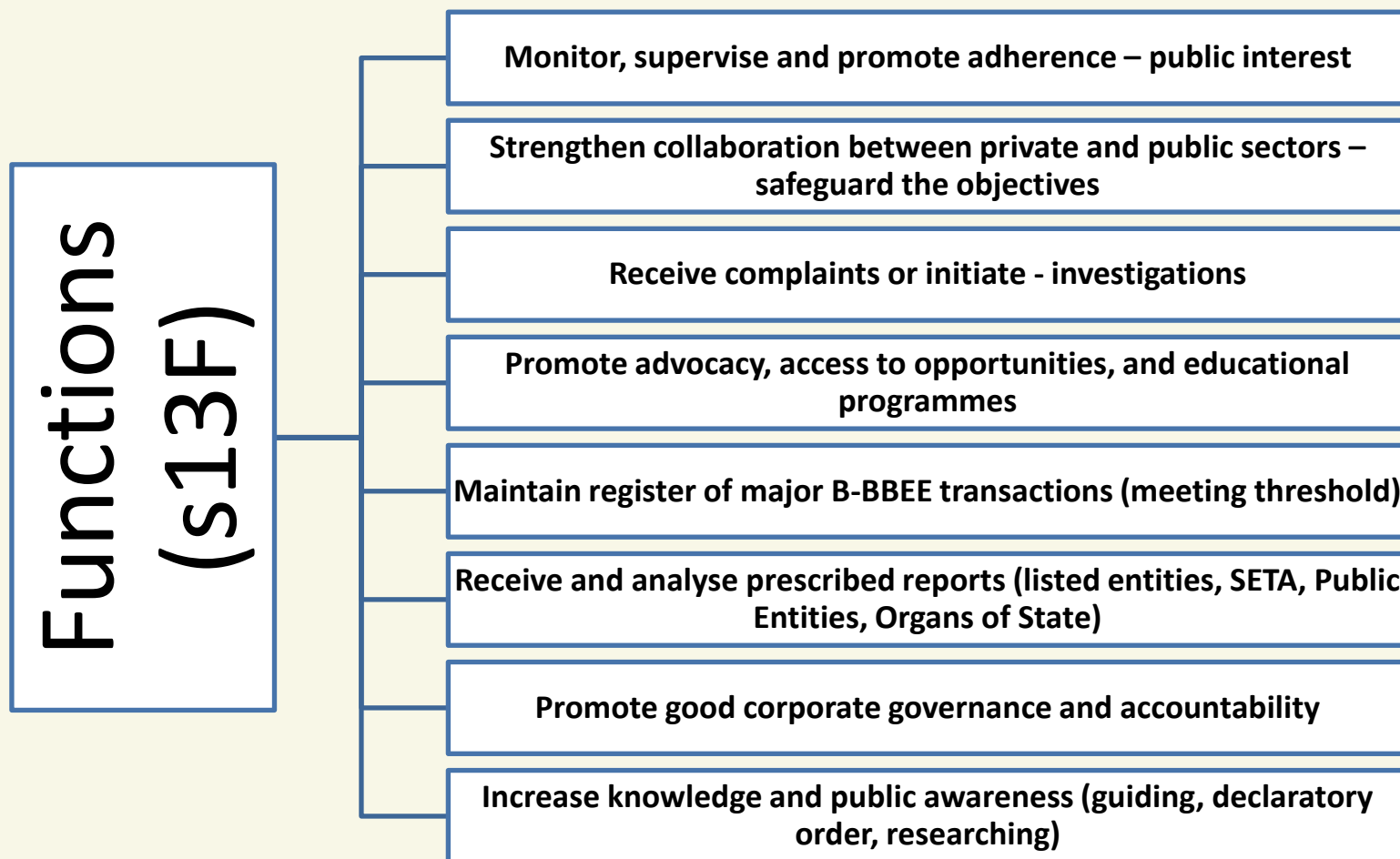


INTERGRATED STRATEGIES

# Institutional Framework



# Where do we derive our mandate?



# Programmes

- The work of the B-BBEE Commission is organised according to the following programmes:
  - Compliance
  - Investigations and Enforcement
  - Research, Analysis and Reporting
  - Relationship building/Stakeholder Relations
  - Administration

# The Codes of Good Practice

- In terms of section 9 of the B-BBEE Act, the Minister is empowered to issue the Codes of Good Practice (the Codes).
- There are generic Codes and Sector Codes.
- The Codes are used as an instrument to drive transformation within the economy.
- Applicable to both public and private sector.



# Code Series 000: Principles

- The Codes measures 5 elements:
  - Ownership : 25 points;
  - Management Control: 19 points;
  - Skills Development: 20 points;
  - Enterprise and Supplier Development: 40 points; and
  - Socio - Economic Development: 5 points.
- Points achieved will result into a B-BBEE recognition status.
- There are eight recognition levels.

# ...Code Series 000: Principles

*Classify measured entities based on annual turnover, gross receipts or allocated budget :*

- Exempted Micro Enterprises (EME): **0 – R10 million.**
  - No verification requirements.
  - Sworn Affidavit or CIPC Certificate.
  - Enhanced recognition for black owned EMEs.
- Qualifying Small Enterprises (QSE): **above R10 million but less R50 million.**
  - Comply with the QSE scorecard.
  - Enhanced recognition for black owned QSEs. Only use a sworn affidavit.
- Large Enterprises: **above R 50 million.**

# ...Code Series 000: Principles

- Three ***Priority Elements - 40% sub-minimum:***
  - Ownership is compulsory
  - Skills Development
  - Enterprise & Supplier Development
- **QSE to comply with at least two of the priority elements:**  
Ownership is compulsory; and either Enterprise & Supplier Development or Skills Development.
- **Large enterprises to comply with all priority elements.**
- If do not meet the thresholds in priority elements, the overall score will be discounted one (1) level down.

# ...Code Series 000: Principles

## *Also covers the following Statements:*

- Statement 003: Development of sector Codes.
- Statement 004: Specialised entities.
  - no ownership.
  - Granted automatic recognition levels based on a percentage of black beneficiaries.
- Statement 005: Requirements for verification.

# Code Series 100: OWNERSHIP

- Change ownership patterns of the economy.
- Target of **25.1%** Ownership.
- Measure three aspects: **exercisable voting rights, economic interest, and net value.**
- The **40% sub-minimum** is applicable on **NET VALUE.**
- Designated groups included in the main scorecard.
- Threshold for new entrants increased to **R50 million.**
- **Sale of asset/business** qualify for ownership points.

# ...Code Series 100: OWNERSHIP

- Alternative for multinational corporations – **Equity Equivalent Investment Programme:**
  - Policy that do not sell equity in host country.
  - **25%** of value of RSA operation or **4%** of annual turnover from RSA operation.
  - Three focus areas: **skills development, enterprise development, and research and development.**
  - Duration of programme is linked to the investment amount.
  - To date the following programmes were approved: **Microsoft, Hewlett Packard, Turner & Townsend, Liebherr, Hansen Transmission, IBM SA and Dell SA.**

# Code Series 200: MANAGEMENT CONTROL

- Increase number of existing and new enterprises controlled and managed by black people.
- Merged **Management Control** and **Employment Equity** element.
- The compliance targets for Management Control are aligned with the **Economically Active Population** (EAP) targets as annually published by the Department of Labour.
- Entities apply National or Provincial EAP depending on locality.

# Code Series 300: SKILLS DEVELOPMENT

- **Increase investment** towards human resource and **skills development** of black people.
- The compliance target increased from **3% to 6%** to cover both employees and non-employees training expenditure.
- 40% sub-minimum apply to total points (40% of 20 points).
- Introduced a **15% cap** for non-core training costs such as accommodation, catering etc.
- Introduced a **15% cap** on Category F & G training (informal training).
- The compliance targets are based on **EAP** targets.



# Code Series 400: ENTERPRISE & SUPPLIER DEVELOPMENT

- Promote procurement from B-BBEE compliant suppliers and increase financial support towards black entities.
- Measures the following: **preferential procurement, supplier development, and enterprise development.**
- The aim is to **strengthen local procurement and enhancing local supplier development** programmes.
- 40% sub-minimum apply to the total points of each criteria.
- Beneficiaries of enterprise and supplier development are **EMEs or QSEs which are at least 51% black owned or at least 51% black women owned.**

# ...Code Series 400: ENTERPRISE & SUPPLIER DEVELOPMENT

- Enterprise and Supplier Development Contributions are **recognisable on an annual basis**.
- Cumulative recognition is only allowed for long term projects.
- Imports exclusion principle maintained with overriding proviso that imports are not applicable in **Designated Sectors**.
- The exclusion of imports are subjected to the entity having developed a **plan**. This plan should include:
  - **Clear objectives and priority interventions; and**
  - **Key performance indicators and implementation plan.**

# ...Code Series 400: ENTERPRISE & SUPPLIER DEVELOPMENT

- Not just a supplier, but an **Empowering Supplier**.
- Means good South African entity who comply with all regulatory requirements of the country:
  - 25% of cost of sales excluding labour cost and depreciation must be spent in RSA.
  - 85% labour costs in service industry.
  - 50% of job created must be for black people.
  - 25% of beneficiation of raw materials.
  - 12 days per annum of skills transfer to black EMEs and QSE.

# ...Code Series 400: ENTERPRISE & SUPPLIER DEVELOPMENT

- Large enterprises must comply with at least three of the criteria listed above and QSEs only one.
- EMEs and Start-Ups are automatically recognised as Empowering Suppliers.

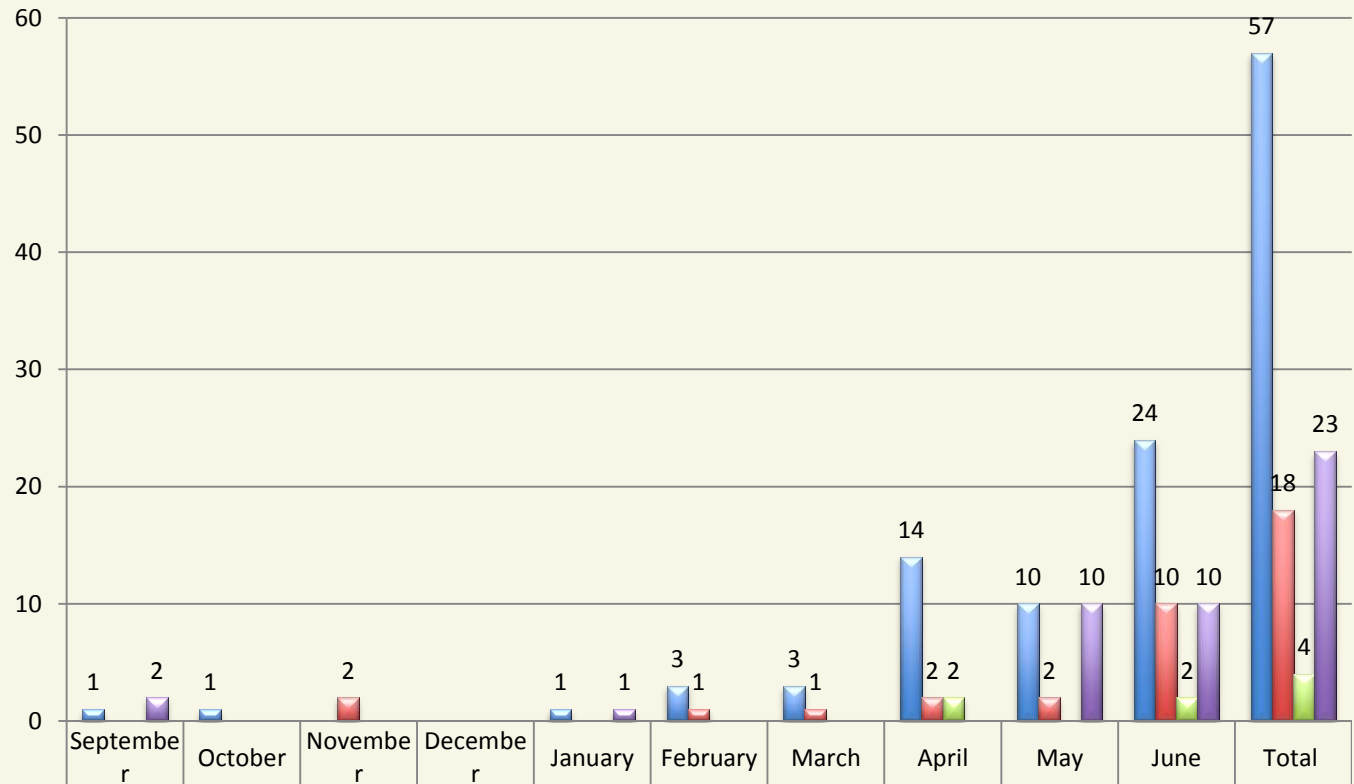
# Code Series 500: SOCIO-ECONOMIC DEVELOPMENT

- Measures socio-economic contributions aimed at **promoting access to mainstream economy for black people.**
- Targeting rural and under-developed areas.
- **1% NPAT** on annual basis.
- **75% of beneficiaries** must be **black people.**

# Prohibitions and Penalties

- 13N normal offences about ***confidential information*** and ***obstructing the administration***
- 13O prohibits ***fronting, misrepresentation*** of status, providing ***false information*** to verification professional, verification professional ***failing to report*** contravention
- ***Penalties*** – natural person can be a fine or up to 10 years imprisonment – up to 10% annual turnover for juristic person
- ***Cancellation of contract*** or award in terms of 13A on account of false information
- ***Exclusion*** from doing business with the state (13P) for up to 10 years – could be limited to the directors, members or shareholders
- Registered on ***tender defaulters register*** of National Treasury

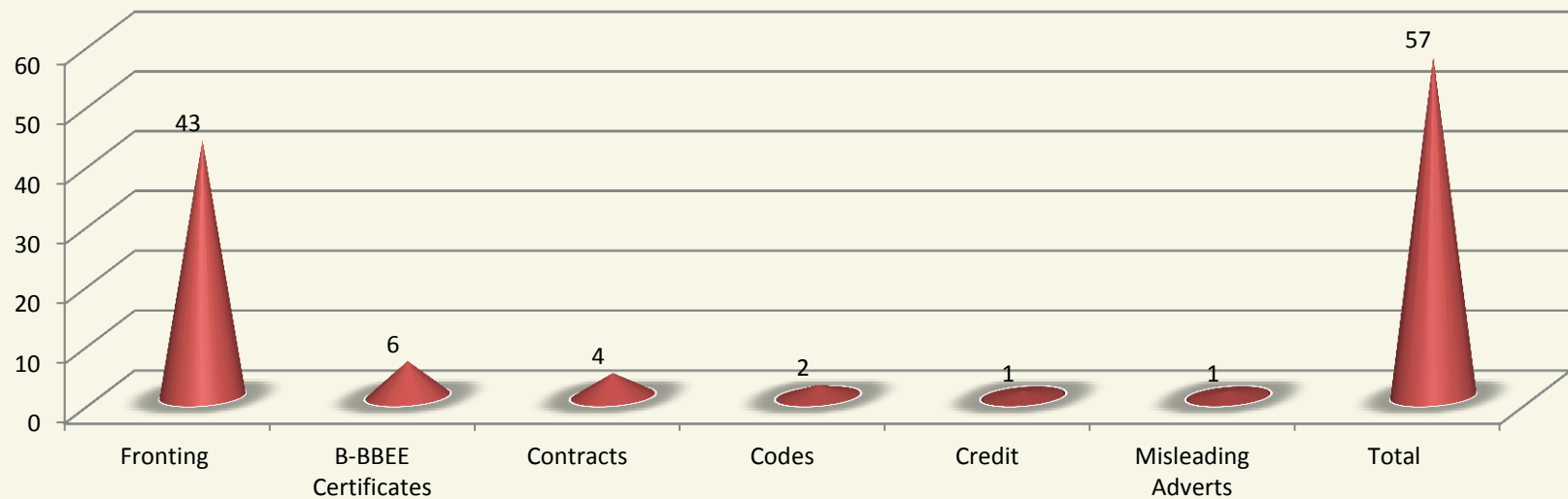
# ...Matters as at 30 June 2016



Number of complaints per month	1	1			1	3	3	14	10	24	57
Clarifications received per month			2			1	1	2	2	10	18
Advisory opinions finalised per month								2		2	4
Complaints meetings held per month	2				1				10	10	23

# ...Matters as at 30 June 2016

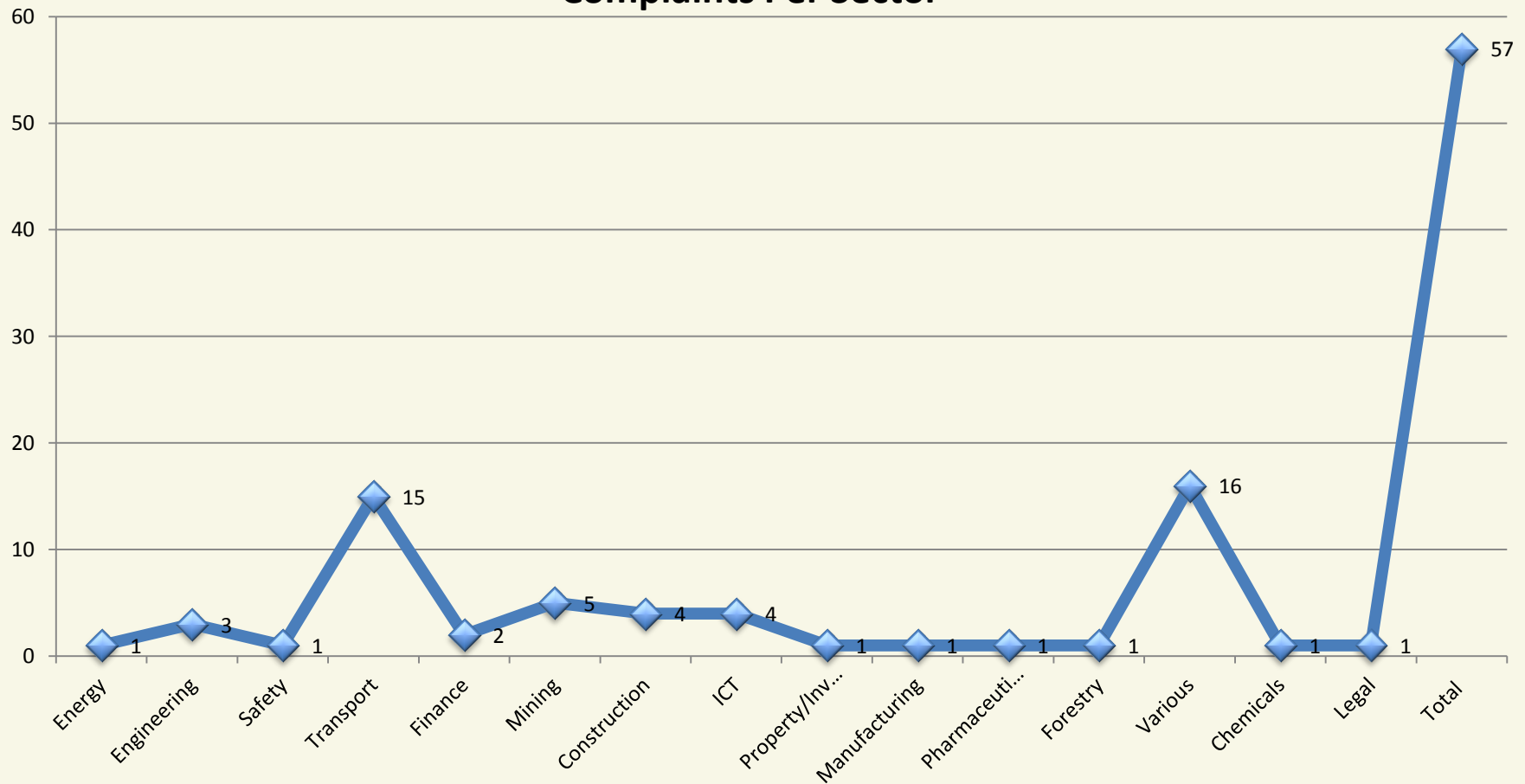
## Complaints Per Type





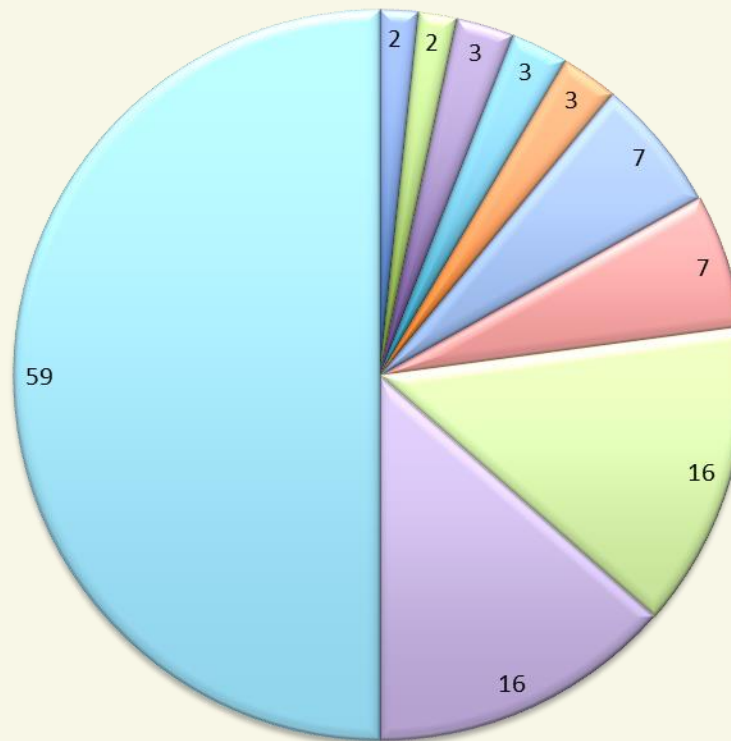
# ...Matters as at 30 June 2016

## Complaints Per Sector



# ...Matters as at 30 June 2016

**Meetings Per Month**



- September
- October
- November
- December
- January
- February
- March
- April
- May
- June
- Total

# Points to Ponder

- Tick box exercise
- Expenditure dumping
- Complex Structures
- Imbalance in negotiation power
- Disrespect for minority protection rights
- Corporate Governance Failures
- Misrepresentation/False Marketing
- Third party facilitation

# Services Offered

- Stakeholders can engage the B-BBEE Commission on the following:
  - Lodging a Complaint
  - Requesting an Advisory Opinion
  - Requesting for Written Clarification
  - Requesting a Presentation, Workshop or Information Session
  - Referral for Alternative Dispute Resolution
  - General Telephone Enquiries
  - Submitting a report

# Contact Details

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0001

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Thank You!