

20 APRIL 2020

CORPORATE & COMMERCIAL

BLACK ECONOMIC EMPOWERMENT ALERT

IN THIS ISSUE

COVID-19 and B-BBEE: Time extension for B-BBEE submissions and filings during lockdown

As the South African government intensifies its implementation of integrated measures in the fight against the global COVID-19 pandemic, public functionaries such as the Broad-Based Black Economic Empowerment (B-BBEE) Commission and the Office of the Master of the High Court (Master's Office), have either closed or reduced their operations following the President's announcement on 23 March 2020 of a nation-wide lockdown, initially due to last from 23h59 on 26 March to 23h59 on 16 April 2020. On 9 April, the President announced an extension of the lockdown until 23h59 on 30 April 2020.

COVID-19 and B-BBEE: Time extension for B-BBEE submissions and filings during lockdown

These measures have a significant practical effect on pending B-BBEE transactions, B-BBEE compliance requirements, and engagements with the B-BBEE Commission.

As the South African government intensifies its implementation of integrated measures in the fight against the global COVID-19 pandemic, public functionaries such as the Broad-Based Black Economic Empowerment (B-BBEE) Commission and the Office of the Master of the High Court (Master's Office), have either closed or reduced their operations following the President's announcement on 23 March 2020 of a nation-wide lockdown, initially due to last from 23h59 on 26 March to 23h59 on 16 April 2020. On 9 April, the President announced an extension of the lockdown until 23h59 on 30 April 2020.

These measures have a significant practical effect on pending B-BBEE transactions, B-BBEE compliance requirements, and engagements with the B-BBEE Commission.

B-BBEE Commission – submissions, filings and offices closure during lockdown

On 25 March and 15 April 2020, the B-BBEE Commission issued notices to stakeholders announcing the closure of the B-BBEE Commission's offices during the lockdown, and extending the time for parties to submit major B-BBEE transactions and compliance reports and file correspondence and documents with the B-BBEE Commission. The effect of this is that parties/entities now have more time to properly prepare their B-BBEE submissions and filings.

In terms of the B-BBEE Commission's updated notice –

- parties that concluded or will conclude a major B-BBEE transaction from 11 March 2020 to 30 April 2020 which are required to be filed for registration;
- JSE listed entities, organs of state and public entities, and SETAs that are required to submit compliance reports any time from 26 March 2020 to 30 April 2020; and
- stakeholders that have a timeline that falls on a date that is during the lockdown period announced by the President for submission of responses to allegations in a complaint, responses to findings in an investigation, responses for alignment of major B-BBEE transactions and any relevant deadline,

are granted indulgence to file or submit these to the B-BBEE Commission within **30 calendar days** following the end of the lockdown period announced by the President, notwithstanding any prescribed periods contemplated in the B-BBEE Regulations.

The B-BBEE Commission's offices are closed during the lockdown period and are officially scheduled to reopen on 4 May 2020. As such, the B-BBEE Commission will not be accepting any documents or correspondence relating to a complaint, transaction, compliance report or any other process in the B-BBEE

CDH is a Level 1 BEE contributor – our clients will benefit by virtue of the recognition of 135% of their legal services spend with our firm for purposes of their own BEE scorecards.

COVID-19 and B-BBEE: Time extension for B-BBEE submissions and filings during lockdown...*continued*

CDH remains available and committed to engaging with the B-BBEE Commission, Master's Office and other bodies to service our clients' needs during the lockdown.

Regulations filed by email or delivered to the offices during the lockdown. The timeline for any document or correspondence submitted during the lockdown period will only be counted with effect from 4 May 2020.

The B-BBEE Commission will monitor the situation and adjust the timelines as may be necessary post the lockdown period announced by the President.

Closure of Master's Office during lockdown

On 31 March 2020, the Minister of Justice and Correctional Services issued amended directions limiting access to certain Department of Justice service points, including Master's Offices, during the lockdown period. The services rendered by the Master's Office will be limited to payments for the benefit of minors and persons under curatorship, documents

required for the burial of a deceased person, and urgent appointments of curators, throughout the lockdown period.

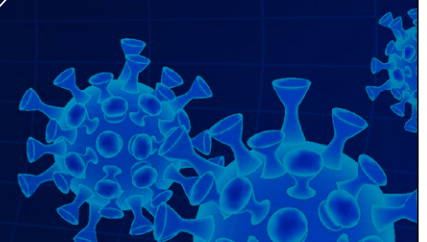
What this means for B-BBEE transactions is that, while the requisite documents to establish and regulate trusts established for the benefit of black people – as are commonly used in employee share ownership programmes and broad-based ownership schemes – may be drafted and validly concluded, the Master's Office will not register such trusts or issue letters of authority to appointed trustees until after the lockdown period.

CDH remains available and committed to engaging with the B-BBEE Commission, Master's Office and other bodies to service our clients' needs during the lockdown. Please contact us for any assistance with B-BBEE compliance requirements.

Shaad Vayej and Kwadwo Owusu, overseen by Allan Hannie

CDH'S COVID-19 RESOURCE HUB

Click here for more information 



OUR TEAM

For more information about our Corporate & Commercial practice and services, please contact:



Willem Jacobs
National Practice Head
Director
Corporate & Commercial
T +27 (0)11 562 1555
M +27 (0)83 326 8971
E willem.jacobs@cdhlegal.com



David Thompson
Regional Practice Head
Director
Corporate & Commercial
T +27 (0)21 481 6335
M +27 (0)82 882 5655
E david.thompson@cdhlegal.com

Mmatiki Aphiri
Director
T +27 (0)11 562 1087
M +27 (0)83 497 3718
E mmatiki.aphiri@cdhlegal.com

Roelof Bonnet
Director
T +27 (0)11 562 1226
M +27 (0)83 325 2185
E roelof.bonnet@cdhlegal.com

Tessa Brewis
Director
T +27 (0)21 481 6324
M +27 (0)83 717 9360
E tessa.brewis@cdhlegal.com

Etta Chang
Director
T +27 (0)11 562 1432
M +27 (0)72 879 1281
E etta.chang@cdhlegal.com

Clem Daniel
Director
T +27 (0)11 562 1073
M +27 (0)82 418 5924
E clem.daniel@cdhlegal.com

Jenni Darling
Director
T +27 (0)11 562 1878
M +27 (0)82 826 9055
E jenni.darling@cdhlegal.com

André de Lange
Director
T +27 (0)21 405 6165
M +27 (0)82 781 5858
E andre.delange@cdhlegal.com

Werner de Waal
Director
T +27 (0)21 481 6435
M +27 (0)82 466 4443
E werner.dewaal@cdhlegal.com

Emma Dempster
Projects & Energy
Director
T +27 (0)11 562 1194
M +27 (0)79 491 7683
E emma.dempster@cdhlegal.com

Lilia Franca
Director
T +27 (0)11 562 1148
M +27 (0)82 564 1407
E lilia.franca@cdhlegal.com

John Gillmer
Director
T +27 (0)21 405 6004
M +27 (0)82 330 4902
E john.gillmer@cdhlegal.com

Jay Govender
Projects & Energy Sector Head
Director
T +27 (0)11 562 1387
M +27 (0)82 467 7981
E jay.govender@cdhlegal.com

Johan Green
Director
T +27 (0)21 405 6200
M +27 (0)73 304 6663
E johan.green@cdhlegal.com

Allan Hannie
Director
T +27 (0)21 405 6010
M +27 (0)82 373 2895
E allan.hannie@cdhlegal.com

Peter Hesselning
Director
T +27 (0)21 405 6009
M +27 (0)82 883 3131
E peter.hesselning@cdhlegal.com

Quintin Honey
Director
T +27 (0)11 562 1166
M +27 (0)83 652 0151
E quintin.honey@cdhlegal.com

Roelf Horn
Director
T +27 (0)21 405 6036
M +27 (0)82 458 3293
E roelf.horn@cdhlegal.com

Kendall Keanly
Director
T +27 (0)21 481 6411
M +27 (0)83 645 5044
E kendall.keanly@cdhlegal.com

Yaniv Kleitman
Director
T +27 (0)11 562 1219
M +27 (0)72 279 1260
E yaniv.kleitman@cdhlegal.com

Justine Krige
Director
T +27 (0)21 481 6379
M +27 (0)82 479 8552
E justine.krige@cdhlegal.com

Johan Latsky
Executive Consultant
T +27 (0)11 562 1149
M +27 (0)82 554 1003
E johan.latsky@cdhlegal.com

Giada Masina
Director
T +27 (0)11 562 1221
M +27 (0)72 573 1909
E giada.masina@cdhlegal.com

Nkcubeko Mbambisa
Director
T +27 (0)21 481 6352
M +27 (0)82 058 4268
E nkcubeko.mbambisa@cdhlegal.com

Nonhla Mchunu
Director
T +27 (0)11 562 1228
M +27 (0)82 314 4297
E nonhla.mchunu@cdhlegal.com

Ayanda Mhlongo
Director
T +27 (0)21 481 6436
M +27 (0)82 787 9543
E ayanda.mhlongo@cdhlegal.com

William Midgley
Director
T +27 (0)11 562 1390
M +27 (0)82 904 1772
E william.midgley@cdhlegal.com

Tessmerica Moodley
Director
T +27 (0)21 481 6397
M +27 (0)73 401 2488
E tessmerica.moodley@cdhlegal.com

Anita Moolman
Director
T +27 (0)11 562 1376
M +27 (0)72 252 1079
E anita.moolman@cdhlegal.com

Jerain Naidoo
Director
T +27 (0)11 562 1214
M +27 (0)82 788 5533
E jerain.naidoo@cdhlegal.com

Jo Neser
Director
T +27 (0)21 481 6329
M +27 (0)82 577 3199
E jo.neser@cdhlegal.com



CLIFFE DEKKER HOFMEYR

OUR TEAM

For more information about our Corporate & Commercial practice and services, please contact:

Francis Newham

Executive Consultant
T +27 (0)21 481 6326
M +27 (0)82 458 7728
E francis.newham@cdhlegal.com

Gasant Orrie

Cape Managing Partner
Director
T +27 (0)21 405 6044
M +27 (0)83 282 4550
E gasant.orrie@cdhlegal.com

Verushca Pillay

Director
T +27 (0)11 562 1800
M +27 (0)82 579 5678
E verushca.pillay@cdhlegal.com

David Pinnock

Director
T +27 (0)11 562 1400
M +27 (0)83 675 2110
E david.pinnock@cdhlegal.com

Allan Reid

Director
T +27 (0)11 562 1222
M +27 (0)82 854 9687
E allan.reid@cdhlegal.com

Megan Rodgers

Oil & Gas Sector Head
Director
T +27 (0)21 481 6429
M +27 (0) 79 877 8870
E megan.rodgers@cdhlegal.com

Ludwig Smith

Director
T +27 (0)11 562 1500
M +27 (0)79 877 2891
E ludwig.smith@cdhlegal.com

Ben Strauss

Director
T +27 (0)21 405 6063
M +27 (0)72 190 9071
E ben.strauss@cdhlegal.com

Tamarin Tosen

Director
T +27 (0)11 562 1310
M +27 (0)72 026 3806
E tamarin.tosen@cdhlegal.com

Roxanna Valayathum

Director
T +27 (0)11 562 1122
M +27 (0)72 464 0515
E roxanna.valayathum@cdhlegal.com

Roux van der Merwe

Director
T +27 (0)11 562 1199
M +27 (0)82 559 6406
E roux.vandermerwe@cdhlegal.com

Chart Williams

Director
T +27 (0)21 405 6037
M +27 (0)82 829 4175
E chart.williams@cdhlegal.com

BBBEE STATUS: LEVEL ONE CONTRIBUTOR

Cliffe Dekker Hofmeyr is very pleased to have achieved a Level 1 BBBEE verification under the new BBBEE Codes of Good Practice. Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

This information is published for general information purposes and is not intended to constitute legal advice. Specialist legal advice should always be sought in relation to any particular situation. Cliffe Dekker Hofmeyr will accept no responsibility for any actions taken or not taken on the basis of this publication.

JOHANNESBURG

1 Protea Place, Sandton, Johannesburg, 2196. Private Bag X40, Benmore, 2010, South Africa. Dx 154 Randburg and Dx 42 Johannesburg.
T +27 (0)11 562 1000 F +27 (0)11 562 1111 E jhb@cdhlegal.com

CAPE TOWN

11 Buitengracht Street, Cape Town, 8001. PO Box 695, Cape Town, 8000, South Africa. Dx 5 Cape Town.
T +27 (0)21 481 6300 F +27 (0)21 481 6388 E ctn@cdhlegal.com

STELLENBOSCH

14 Louw Street, Stellenbosch Central, Stellenbosch, 7600.
T +27 (0)21 481 6400 E cdhstellenbosch@cdhlegal.com

©2020 8853/APR

