Overview of Statement 102

Broad-Based Black Economic Empowerment (B-BBEE) was introduced to address the economic disparities resulting from apartheid in South Africa. Its primary goal is to uplift Black entities and individuals by providing equitable opportunities in business, employment, and other economic sectors. Various statements and codes support this mission, with Statement 102 playing a pivotal role.

Opportunities for Measured Entities

White-owned companies, known as measured entities, can engage proactively with the BEE framework. By selling specific assets or divisions to Black entrepreneurs and investors, these companies can claim BEE ownership credits.

The easiest way to explain this is with an example: If a company valued at R100 million divests a R51 million division to Black stakeholders, and both entities grow consistently over three years, the selling company can claim 51% Black ownership.

Requirements for Fair and Authentic Statement 102 Transactions

To ensure fairness and authenticity in Statement 102 transactions, the following requirements must be met:

- Valuation: An unbiased, third-party valuation is essential to establish a fair transaction value.
- Nature of Sale: The sale should involve a significant business division or tangible assets.
- No Constraints: The asset or division sold must not have restrictions related to clientele or serviceable markets.
- Ownership Duration: Black shareholders must retain ownership for a minimum of three years.
- Skill Transfer: The transaction should include a meaningful transfer of skills and operational knowledge to Black entities.

Transactions that do not align with Statement 102 guidelines include:

- Incomplete Transfers: Actions like licensing or leasing that don't transfer full ownership rights.
- Franchise Deals: Sales from franchisors directly to franchisees.
- Cross-Ownership: Scenarios where there is overlapping ownership between the buyer and seller.

The Math Behind a Statement 102 Transaction

Statement 102 offers a unique way to enhance B-BBEE Ownership scores by transferring a business unit or asset to a Black-owned entity. Understanding the calculations involved is crucial for assessing potential benefits.

Step 1:

Valuations

- Whole Business Valuation: An independent expert determines the fair market value of the entire company, including the business unit intended for sale.
- Business Unit Valuation: The same rigorous standards are applied to value the specific business unit or asset to be sold.

Step 2: Black Ownership Percentage

- Calculation:

$$\text{Black Ownership Percentage} = \left(\frac{\text{Value of Business Unit Sold}}{\text{Value of Whole Business}}\right) \times 100\%$$

- Example: If the whole business is valued at R10 million and the business unit sold is valued at R2 million:

$$\text{Black Ownership Percentage} = \left(\frac{R2\,\text{million}}{R10\,\text{million}}\right) \times 100\% = 20\%$$

Step 3: Net Value Creation (NVC)

- To ensure lasting empowerment, Statement 102 requires a minimum Net Value creation within the Black-owned entity that purchased the business unit. This focuses on debt reduction.
- Calculation:

$$\text{Net Value} = \left(\frac{\text{Value of Business Unit at Measurement Period} - \text{Outstanding Acquisition Debt}}{\text{Value of Business Unit at Measurement Period}}\right) \text{x } 100\%$$

- NVC Targets Over Three Years:
  - Year 1: At least 10% Net Value of the initial transaction value.
  - Year 2: At least 20% Net Value.
  - Year 3: At least 40% Net Value.
- Points Allocation: B-BBEE points are allocated proportionally if these targets are partially met. If targets are not achieved, ownership points will be proportionally reduced.

Important Considerations

- Impartial Valuations: Essential for accurate B-BBEE calculations and to ensure a fair transaction.
- Risk Mitigation: Conduct thorough due diligence on the Black-owned buyer to assess their capacity for successful business ownership and debt repayment.

Challenges and Implications

While Statement 102 offers promising opportunities, it's not a straightforward path:

- Delayed Ownership Recognition: The true ownership score materialises three years post-transaction, introducing potential uncertainties.
- Complexities and Risks: The latent period and involved complexities can pose significant risks.
- Alignment with Business Objectives: It's vital for companies to evaluate how such sales align with their overarching business goals.

Our Solution

At ABI, our solution focuses on a transaction with minimal moving parts, where profitability and future valuations can be determined with reasonable certainty. We have implemented numerous Statement 102 transactions, and our track record speaks for itself. We will provide contact details of clients who have successfully implemented this program for reference.

The proposed transaction format complies with both:

- Statement 102: Recognition of the Sale of Assets, Equity Instruments, and Other Businesses (Government Gazette 38766, published on 6 May 2015).
- Code Series 100: The Measurement of the Ownership Element of B-BBEE Codes of Good Practice (Gazette Number 36928).

Both are issued under section 9(1) of the B-BBEE Act 52 of 2003, as amended, along with section 13F(1)(f) of the Act.