

B-BBEE Commission: How the complaints and investigations procedure works

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The Broad-Based Black Economic Empowerment Commission (B-BBEE Commission) recently published an explanatory notice on its fronting investigations. It may investigate fronting on its own initiative or as a result of complaints received.



Image source: Edhar Yuralaits – [123RF.com](#)

The explanatory notice states that for the B-BBEE Commission to consider a complaint, it must relate to a contravention of the Broad-Based Black Economic Empowerment Act (B-BBEE Act). It may occur within any of the B-BBEE elements, namely ownership, management control, skills development, enterprise and supplier development and socio-economic development contributions.

The B-BBEE Act defines a fronting practice very broadly as a transaction, arrangement or other act or conduct that directly or indirectly undermines or frustrates the objectives of the B-BBEE Act.

Any person affected by a fronting practice or any concerned member of the public can lodge a complaint with the B-BBEE Commission, at no cost. A complainant may do so through legal representation, although this is not mandatory. A complaint may also be lodged anonymously.

The explanatory notice states that at any time after a complaint has been initiated, the B-BBEE Commission may publish a notice disclosing the alleged fronting practice and inviting further complaints about it. The B-BBEE Commission may also consolidate two or more complaints into a common investigation if the complaint involves the same person(s).

The submission of a complaint should be accompanied by supporting documents, including:

- an affidavit by the complainant providing the background to the complaint;
- a certified copy of the complainant's identity document;
- the complainant's share certificate, if the complaint relates to an ownership issue;
- any applicable shareholders' agreement and/or memorandum of incorporation of the company against which the complaint is lodged (respondent);
- any applicable and relevant resolutions or minutes of meetings;
- the respondent's financial statement or information;
- the respondent's B-BBEE certificate or sworn affidavit;
- salary advice of the complainant; and
- recent contact details of the respondent.

Within five days of receiving a complaint, the B-BBEE Commission must acknowledge receipt and allocate a case number.

The B-BBEE Commission must, within 12 months, investigate the complaint and make a finding with or without a recommendation. As part of the investigation, the Commission may hold a formal hearing before a panel chaired by the Commission.

Before publishing its final findings, the B-BBEE Commission must provide the respondent with 30 days (which may be extended by up to 10 days) to respond to its findings. The Commission may then publish its findings.

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