

EXECUTIVE SUMMARY

In October 2002, mining industry stakeholders reached agreement on an historic charter for the transformation of the mining sector. The Charter came into effect in May 2004, following the enactment of the Mineral and Petroleum Resources Development Act of 2002. This report reviews black ownership in the mining sector, eight years after the signing of the Charter and six years after the promulgation of the Act. It follows the release on 26 March 2010 of our first report, entitled: “Black Ownership in the Platinum Group Metals Industry: Facts and Figures.”

The Broad-Based Socio-Economic Empowerment Charter for the South African Mining Industry (“The Charter”) and scorecard that accompanies it set two targets for ownership: 15% participation by Historically Disadvantaged South Africans (HDSAs) in terms of equity ownership or attributable units of production within five years; and 26% in 10 years. We have conducted an extensive review of the implementation of Black Economic Empowerment (BEE) transactions in the mining sector to determine the extent to which the sector has met the ownership targets contained in the Charter. This review has been conducted at three levels:

An overview of black ownership within the top 25 mining companies on the JSE on March 2010.

An overview of black ownership within the main commodity groups – platinum group metals (PGMs), coal, gold, iron ore and manganese-- which accounted for more than 80% of the country’s total commodity sales in 2008. Within each commodity group, we have evaluated black ownership in companies that account for more than 80% of production. The production figures are taken from 2009 company annual reports, most companies have a June year end. Therefore the company production may not correspond exactly with National production figures for the 12 months ended December 2009.

In-depth case studies documenting black ownership initiatives in each of the top 25 mining companies.

In evaluating black ownership, we have decided to distinguish between the following concepts:

The **gross value of black ownership** without taking into account the debts incurred by black investors.

The **effective value of black ownership** in the 25 measured companies after excluding shareholders who are not black. All figures in this report use effective black ownership.

The **net value of black ownership** (or unencumbered economic interest) after taking into account the debts incurred by black investors.

Since many BEE transactions in the sector have taken place at the level of individual mines, it has not been possible, in most cases, to ascertain the net value of black ownership. There is a need for a further deal-by-deal analysis of BEE transactions to determine the unencumbered economic interest of black shareholders.

Findings for the top 25 mining companies

The gross value of black shareholdings (“BEE market cap”) within the top 25 mining companies was R98bn or 5.27% of the total market capitalisation of the top 25 mining companies.

The Public Investment Corporation (PIC) had shares worth R50.5bn in 10 companies, equivalent to 2.76% of the total market capitalisation of the top 25 mining companies.

Six companies had implemented employee share ownership programmes (ESOPs) with a value of R9.5bn, equivalent to 0.53% of the total market capitalisation of the top 25 mining companies.

Anglo American accounted for by far the majority of BEE transactions of the top 25 over the past decade, given the dominant positions it has held in the platinum, coal, gold, iron ore, manganese and diamond sub-sectors of the mining industry, which account for more than 80% of the country’s commodity sales.

Findings for the PGM sector

The gross value of black shareholdings (“BEE market cap”) in the listed platinum sector was R30.7bn or 7.95% of the sector’s total market capitalisation.

If one excludes Impala Platinum (“Implats”), because it was not a traditional BEE transaction, the BEE market cap was R10bn or 2.79% of the sector’s market capitalisation.

The attributable BEE production at mine level was 13.3%. The figure drops to 9% if one excludes Implats.

Findings for the coal sector

The leverage of Eskom, with its stringent BEE policies, has contributed towards the sector leading the way within mining in terms ownership. The BEE attributable production is 47.1 million tonnes or 22.4% of total production.

Exxaro accounts for 54% of the BEE attributable production in the coal sector. Exxaro and recently listed Optimum Coal account for 78% of BEE attributable production in the sector.

Findings for the gold sector

The gold sector is the worst performer in the mining sector in terms of black ownership. The gross BEE market cap in the sector was R6.5bn, equivalent to 3% of the sector’s market capitalization.

The BEE attributable production at mine level was 5.1%.

Findings for the iron ore sector

The BEE attributable production for the country's four iron ore mines is 10.4 million tonnes, equivalent to 20.3% of total production.

Findings for the manganese sector

The BEE attributable production for the country's three manganese mines is 1.3mt, equivalent to 24.5% of total production.

As is explained above, this report was unable to ascertain the net value in the hands of black shareholders for most transactions. However, we can confidently assert that very few of the mining companies are anywhere close to achieving the 26% net value target that was set by the Department of Mineral Resources. We call upon the government to pierce the veil of industry confidentiality agreements and conduct a deal-by-deal evaluation of BEE funding structures in the sector to determine the net value in the hands of black shareholders. It must also put in place mechanisms to monitor the financial viability of BEE transactions on an ongoing basis, to ensure the sustainability of black equity participation.