**THE NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**3042. Mr N F Shivambu (EFF) to ask the Minister of Trade and Industry:**

(a) What is the total number of trust funds that have been registered since 1 January 2003, (b) how many of those trust funds are compliant with the requirements of the black economic empowerment policy and (c) what are the relevant details of the specified trust funds?NW3358E

**Response:**

(a)The Minister of Trade and Industry, Dr Rob Davies, gazetted the Threshold for Major B-BBEE Transactions which must be submitted to the Broad-Based Black Economic Empowerment (“B-BBEE”) Commission in terms of Section 13F (1) (f) of the Broad-Based Black Economic Empowerment Act 53 of 2003 as Amended by Act 46 of 2013 as well as Section 18 of the B-BBEE Regulations on 9 June 2017 for all Transactions with a value that equals or exceeds R25 Million and further provided for the voluntarily registration of transactions concluded before the 24 October 2014.

Thus, the B-BBEE Commission is mandated to register such Transactions concluded on 24 October 2014 and to date two hundred-ten (210) such transactions have been submitted for registration of which seventy (70) have / are related to trusts.

(b) Based on the analysis and assessment conducted thus far over 50% of the trusts registered are not compliant with B-BBEE; this figure will be confirmed once final findings are approved for publication in this quarter.

(c) Most of the Trusts presented do not satisfy the requirements of the Ownership Scorecard because they are dedicated towards Skills Development and Community Projects but not Ownership, which means that the Black Participants are treated as mere Beneficiaries and not Shareholders.

Where Black Shareholding is held through a Trust, Code Series 100, requires Trusts to define the participants and the portion of their entitlement to receive distribution of the economic interest. In most instances, the Trusts do not provide guidance on how they will record information relating to the identity of each Black Participant. The transactions are structured in a manner where the beneficiaries will only be selected each year to receive benefits for education or it is stated that a portion of dividends will go towards projects.

This means that Measured Entities will, for majority of the time of the transaction, have unidentified Black Participants, contrary to the requirements of Code Series 100. This will further frustrate the use of verification methodologies that an accredited verification professional will have to employ when measuring the Ownership Element of a Measured Entity.