Date: 21 September 2026

The Director-General
Department of Employment and Labour

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Attention: Ms Christina Lehlokoa / Mr Tsholofelo Ndlovu

SUBJECT: COMMENTS ON THE DRAFT REVIEWED CODE OF GOOD PRACTICE ON THE PREPARATION AND IMPLEMENTATION OF THE EMPLOYMENT EQUITY PLAN

Dear Sir/Madam

The South African Institute of Chartered Accountants (SAICA) appreciates the opportunity to comment on the Draft Reviewed Code of Good Practice on the Preparation and Implementation of the Employment Equity Plan ("the Draft Code"), published for public comment on 24 July 2026.

SAICA is the professional body representing Chartered Accountants CA(SA) and Associate General Accountants AGA(SA) in South Africa. Our members operate across a wide range of sectors and organisational environments, including large corporates, public sector entities, professional services firms and small and medium-sized practices. As employers, senior managers, directors and professional advisers, SAICA members are directly affected by the employment equity legislative framework and its implementation.

SAICA supports the objectives of the Employment Equity Act, 1998, as amended ("the Act"), including the elimination of unfair discrimination and the achievement of employment equity through appropriate affirmative action measures.

We recognise the importance of providing employers and employees with practical guidance on the preparation, implementation and monitoring of employment equity plans. The Department has indicated that the Draft Code is intended to provide guidance to designated employers and employees on good practice in this regard.

Our comments below are intended to promote clarity, consistency and practical implementation of the Draft Code.

Yours sincerely,

Thandokuhle Myoli
Head: Audit and Assurance

GENERAL COMMENTS

1. SAICA supports the development of an updated Code that reflects the current legislative framework and provides practical guidance to designated employers.
2. The employment equity framework has undergone significant changes following the Employment Equity Amendment Act, 2022 and the Employment Equity Regulations, 2025. Employers are now required to operate within a framework that includes five-year sectoral numerical targets, employer-specific targets and annual implementation measures.
3. The Department has also indicated that the 2026 reporting period constitutes the first assessment period for designated employers under the new framework and that employers are expected to assess progress against the commitments contained in their employment equity plans.
4. SAICA submission: the Draft Code place particular emphasis on practical implementation and proportionality, particularly for employers that may have limited human resources, specialist expertise and administrative capacity.
5. The Code should assist employers in understanding not only what is required, but also how the requirements can reasonably be implemented and evidenced.

Five-year employment equity plans and annual implementation

6. SAICA supports the use of a five-year planning period, together with annual implementation measures.
7. However, the Code should provide further practical guidance on the relationship between:
    - the five-year sectoral numerical targets;
    - employer-specific numerical targets;
    - annual numerical targets;
    - annual employment equity reports; and
    - adjustments to the employment equity plan during the five-year period.
8. Employers should not be required to treat a five-year plan as static where there are legitimate changes in business circumstances.
9. SAICA submission: The Code should therefore explain the circumstances in which an employer may review or adjust its implementation measures, for example where there are:
    - significant changes in business operations;

- restructuring or retrenchments;
- mergers or acquisitions;
- changes in workforce requirements;
- changes in the availability of suitably qualified persons;
- material changes in the employer's workforce profile; or
- other circumstances that materially affect the assumptions underlying the plan.

10. The Code should also clarify how such changes should be documented and reported.

Availability of suitably qualified candidates

11. SAICA recommends that the Draft Code provide further guidance regarding the availability of suitably qualified candidates.
12. An employment equity plan should recognise that the achievement of numerical targets may depend on factors outside an employer's direct control, including the availability of appropriately qualified and experienced candidates within particular occupational categories.
13. The Code should therefore provide practical guidance on the evidence that an employer may retain to demonstrate reasonable steps taken to recruit, develop and retain suitably qualified persons.
14. Such evidence could include:
    - ecruitment initiatives;
    - advertisements and recruitment campaigns;
    - engagement with professional bodies and educational institutions;
    - internships and learnerships;
    - skills-development initiatives;
    - succession planning;
    - talent-development programmes; and
    - documented recruitment challenges.

15. This would assist employers in demonstrating meaningful implementation rather than merely assessing compliance by reference to numerical outcomes.

Consultation with employees and representative trade unions

16. SAICA supports meaningful consultation in the preparation and implementation of employment equity plans.

17. SAICA submission: The Code should provide greater clarity regarding the practical requirements for consultation.
18. In particular, it would be useful for the Code to clarify:

- the minimum information that should be provided to employees or employee representatives;
- the expected frequency of consultation;
- how consultation should be documented;
- how disagreements should be dealt with;
- whether an employer is required to amend its plan following every representation; and
- the distinction between consultation and agreement.

19. The Code should make clear that consultation does not necessarily require consensus between the employer and employees or their representatives.

Governance and accountability

20. SAICA supports the assignment of clear responsibility for the implementation and monitoring of the employment equity plan.
21. The Department has indicated that designated employers should have an appropriately assigned senior manager responsible for monitoring and implementing the annual employment equity plan.

22. SAICA submission: The Code should provide guidance on the governance responsibilities of:

- the employer;
- senior management;
- the designated senior manager;

- the employment equity committee;
- employee representatives; and
- other relevant internal stakeholders.

23. Importantly, responsibility should not be interpreted as transferring the employer's overall statutory obligations to a single employee or senior manager.
24. The Code should therefore distinguish between accountability at employer level and delegated operational responsibility.

Monitoring and evidence of implementation

25. SAICA recommends that the Code provide a practical framework for monitoring implementation.
26. Employers should be encouraged to maintain sufficient records to demonstrate:
    - the measures contained in the employment equity plan;
    - responsibility allocated for each measure;
    - implementation timelines;
    - progress achieved;
    - challenges encountered;
    - remedial measures taken; and
    - reasons for material deviations from planned objectives.
27. The Code should also clarify the extent to which supporting documentation is expected to be retained and for how long, particularly where such records may contain personal information.

28. A risk-based approach to record-keeping should be encouraged rather than creating unnecessary administrative requirements.

Personal information and confidentiality

29. Employment equity planning necessarily involves the processing of employee information, including information relating to race, gender, disability and other workforce characteristics.

30. SAICA recommends that the Code expressly recognise the need for employers to comply with the Protection of Personal Information Act, 2013 (POPIA) when collecting, processing, storing and reporting employee information.

31. SAICA submission: The Code should encourage employers to apply appropriate safeguards, including:

- limiting access to sensitive information;
- ensuring that information is collected and processed for legitimate purposes;
- maintaining appropriate security safeguards;
- limiting information to what is reasonably necessary; and
- ensuring appropriate retention and disposal practices.

32. This is particularly important where employment equity information is incorporated into management reports, committee reports or other internal and external reporting processes.

Integration with human resource policies and practices

33. SAICA recommends that the Code place greater emphasis on integrating the employment equity plan into an employer's existing human resource framework.
34. Employment equity should not operate as a standalone compliance exercise.
35. SAICA submission: The Code should encourage employers to integrate the plan, where appropriate, into:

- recruitment and selection;
- promotion;
- succession planning;
- performance management;
- learning and development;
- talent management;
- remuneration practices;
- retention strategies; and
- organisational restructuring.

36. This approach would support the objective of achieving sustainable employment equity rather than focusing primarily on annual reporting.

Small and medium-sized designated employers

37. SAICA particularly recommends that the Code contain practical guidance for smaller designated employers.
38. The amended framework has changed the designation threshold and resulted in employers with 50 or more employees being subject to the designated-employer framework.
39. Many such employers may not have dedicated employment equity departments or specialist human resources personnel.
40. SAICA submission: The Code should therefore provide practical examples, templates or simplified approaches that enable smaller designated employers to comply without imposing disproportionate administrative burdens.
41. For example, the Code could provide model:

- employment equity plans;
- consultation records;
- annual monitoring templates;
- implementation schedules;
- responsibility matrices; and
- evidence/record-keeping checklists.

Sectoral numerical targets and employer-specific targets

42. Code should also clarify how employers should document the rationale for targets that differ from what might otherwise be expected based solely on a numerical calculation.
43. SAICA recommends that the Code provide greater clarity on how employers should translate sectoral numerical targets into practical employer-specific targets.
44. In particular, guidance would be useful where:

- an employer's existing workforce profile differs substantially from the applicable target;
- the occupational category has a limited pool of suitably qualified candidates;

- the employer has a small number of employees within a particular occupational category;
- vacancies are infrequent;
- the employer operates in multiple sectors; or
- the employer undergoes significant restructuring during the five-year period.

Treatment of vacancies and workforce movements

45. The Code should provide further guidance on how employers should account for employee movements during the implementation period.

46. SAICA submission: Further guidance to be provided, for example, clarification would be useful regarding:
    - new appointments;
    - promotions;
    - resignations;
    - retirements;
    - transfers;
    - temporary employees;
    - secondments;
    - retrenchments; and
    - organisational restructuring.

47. This is particularly important because workforce movements may materially affect an employer's ability to achieve annual objectives without necessarily indicating a failure to implement the employment equity plan.

Reasonable progress

48. SAICA recommends that the concept of "reasonable progress" be explained more clearly.

49. Employers should have a clear understanding of how reasonable progress will be assessed, particularly where an employer has demonstrated good-faith implementation of its plan but has not achieved a particular numerical outcome.
50. The assessment should consider the employer's circumstances, measures implemented, recruitment and development initiatives, workforce movements and other relevant factors.
51. A focus solely on numerical outcomes may not adequately reflect the extent to which an employer has implemented appropriate employment equity measures.
52. SAICA submission: That the concept of "reasonable progress" be explained more clearly.

Compliance and enforcement

53. The Code should clearly distinguish between:
    - failure to prepare an employment equity plan;
    - failure to implement the measures contained in an employment equity plan;
    - failure to monitor progress;
    - failure to submit required information; and
    - failure to achieve a particular numerical target.
54. These circumstances should not automatically be treated as equivalent.
55. SAICA submission: The Code should provide greater clarity on the factors that may be considered when assessing an employer's compliance, particularly where the employer can demonstrate reasonable and documented efforts to implement its plan.

Practical examples

56. Practical examples would significantly improve the utility of the Code for employers and employees.
57. SAICA submission: that the final Code include practical examples.
58. Examples could demonstrate how an employer should deal with:
    - a small designated employer;

- an employer with a highly specialised workforce;
- limited availability of suitably qualified candidates;
- restructuring during the five-year plan;
- mergers and acquisitions;
- significant employee turnover;
- a material change in the workforce profile; and
- circumstances where annual objectives are not achieved despite reasonable implementation measures.

Conclusion

59. SAICA supports the objectives underlying the Draft Code and welcomes the Department's efforts to provide updated guidance to employers and employees.
60. SAICA's principal recommendation is that the final Code should provide clear, practical and proportionate guidance that assists employers to implement meaningful employment equity measures while avoiding the creation of obligations beyond those contained in the Employment Equity Act and Regulations.
61. In particular, the final Code should:

    - clearly distinguish statutory requirements from recommended good practice;
    - recognise differences in employer size and workplace circumstances;
    - provide practical guidance on setting and monitoring targets;
    - clarify the concept of reasonable progress;
    - provide guidance on suitably qualified candidates and recruitment constraints;
    - strengthen guidance on consultation and governance;
    - provide practical record-keeping and monitoring guidance;
    - address POPIA and the protection of employee information;
    - provide practical guidance for smaller designated employers; and
    - include transitional provisions and practical examples.

62. SAICA further encourages the Department to engage with a broad range of industry bodies, professional associations and sector representatives to obtain a practical understanding of the different challenges faced by employers across industries. Such engagement would assist the Department in identifying sector-specific implementation issues and would provide valuable input for the inclusion of additional practical examples in the final Code, thereby enhancing its relevance and usefulness to employers applying the Code in varying operational contexts. SAICA would be willing to facilitate such an engagement for the accountancy profession.

63. SAICA would welcome further engagement with the Department on these matters and would be pleased to participate in any stakeholder consultation or technical engagement concerning the finalisation and implementation of the Code.