

STRATEGIES FOR TRANSFORMATION SUCCESS

Ownership in AgriBEE



BE THE CHANGE

Murray Chabant - Bio



Murray is a CA(SA) with extensive experience in BBBEE compliance, empowerment transactions and business strategy.

Growing up on a farm in the Transvaal, he has always maintained an interest in the agri-sector. He is CEO of Signa Advisors, an accredited director of Sirdar South Africa, non-executive chairman on the board of Corruseal a large packaging company, and Chairman of Alula Water an infrastructure development company in industrial and waste water treatment.

KEY QUESTIONS ABOUT BEE OWNERSHIP

Key questions

Do I need it to stay in business ?

How much is enough ?

Do I give or sell equity?

What are the risks ?

What's the best way to go about it ?

AGRI-BEE SECTOR CODE

Draft released for public comment

Agri-BEE

OBJECTIVES...

- achieving a substantial change in the racial composition of ownership and management structures and in the skilled occupations of existing and new Enterprises;
- empowering rural and local communities by enabling access to economic activities, land, infrastructure, ownership and skills;
- De-racialising land and Enterprise ownership, control, skilled occupations and management of existing and new agricultural Enterprises;
- Socially uplifting and restoring the dignity of Black South Africans within the Sector;

GENERIC OWNERSHIP		Weighting Points	Compliance Target
2.1 Exercisable Voting rights in the hands of the following black people:			
2.1.1 Black People		4	25% + 1
2.1.1 Black Women		2	10%
2.2 Economic interest in the hands of the following black people:			
2.2.1 Black People		4	25%
2.2.2 Black Women		2	10%
2.2.3 Economic Interest of the following black natural people (broad-based groupings) in the Enterprise:		3	4%
- black designated groups; - black Participants in Employee Ownership Schemes; - black beneficiaries of Broad based Ownership Schemes; or - black Participants in Co-operatives		New Entrants 2	2%
2.3 Realisation Points:			
2.3.1 Net Value		8	25%
TOTAL		25	

Agri-BEE

6.1. OWNERSHIP

Agri-Industry undertakes to:

(a) Further Black participation through ownership in the Agri-Industry by increasing the level of entitlement of Black People to participate in the Economic Interest and Exercisable Voting Rights in existing and new Enterprises. This includes the sale of equity in a Measured Enterprise, sale of assets through Qualifying Transactions and/or through share equity schemes and other forms of joint ventures with farm labourers and other Black entrepreneurs;

How much equity?

4%

10%

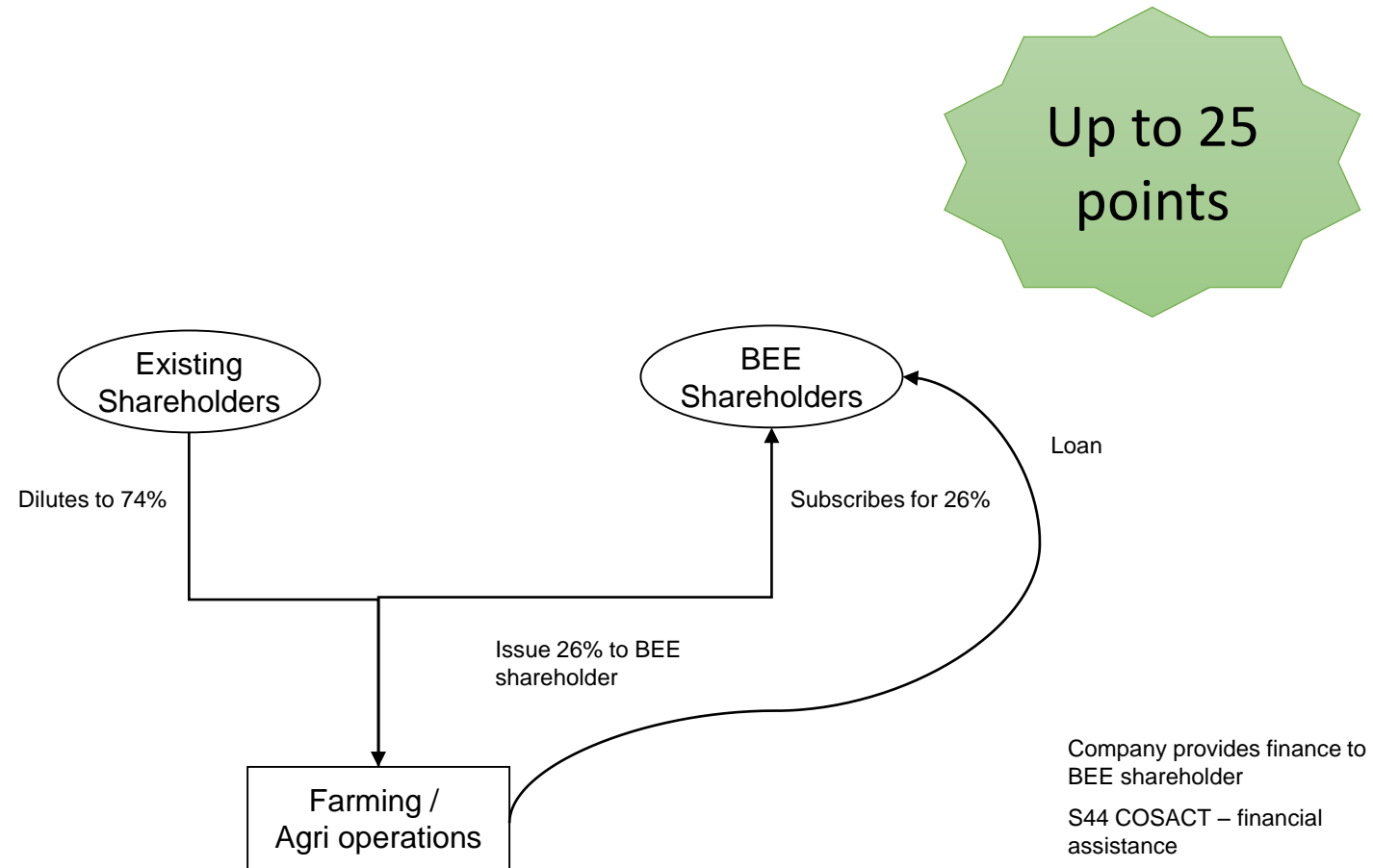
26%

51%

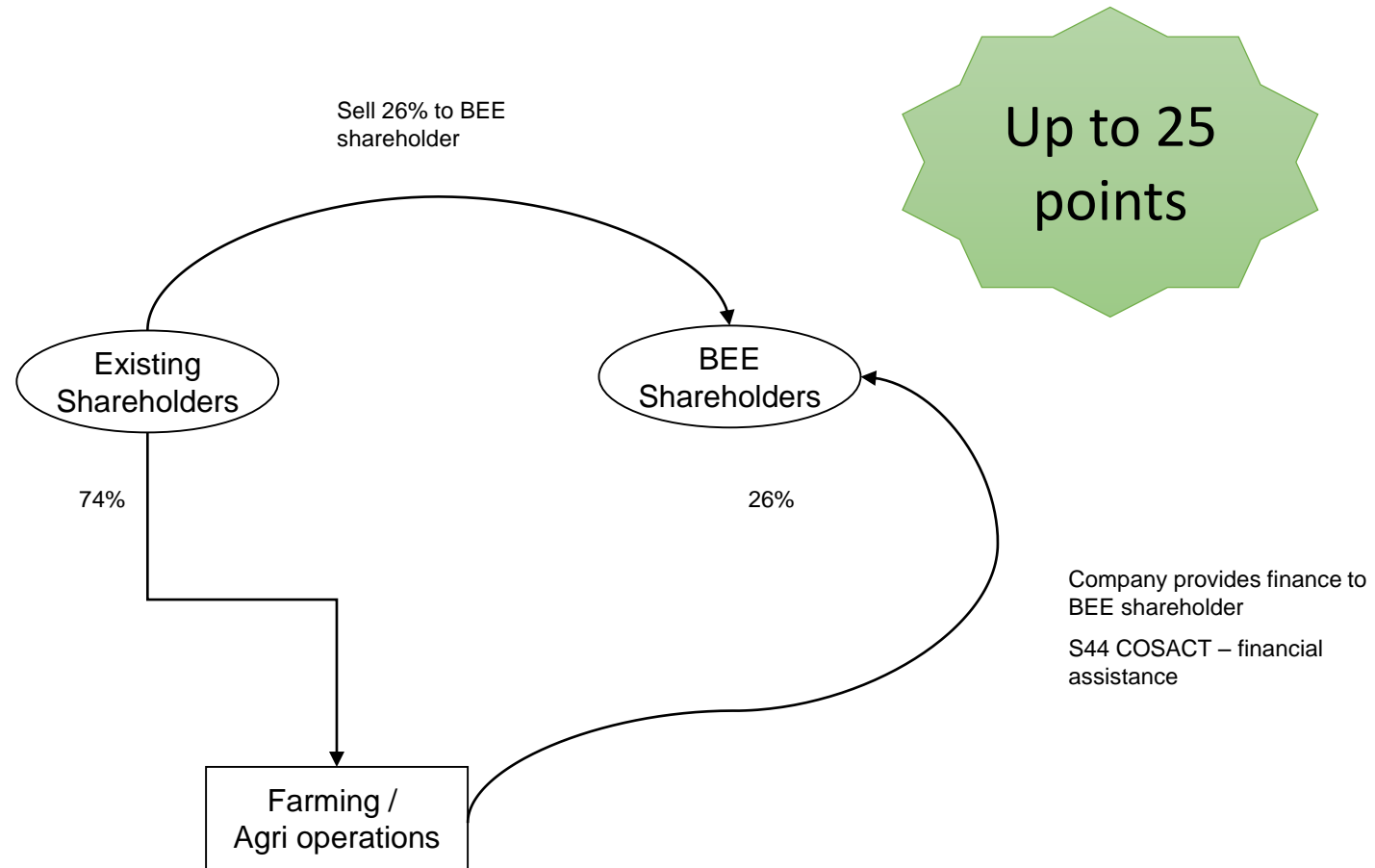
Ownership solutions

1. Sale of equity
2. Sale of assets
3. Share equity scheme

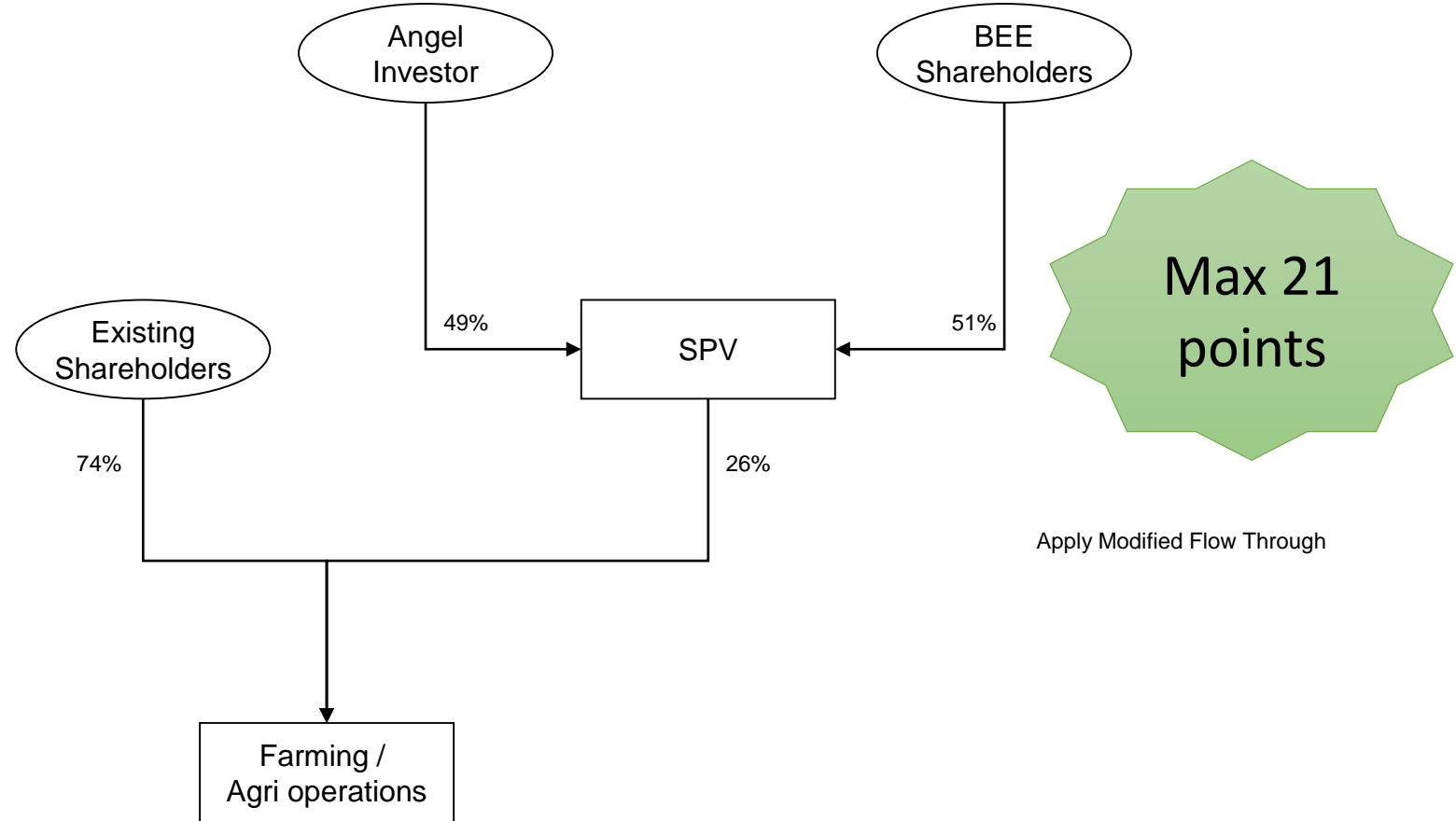
Issue of shares



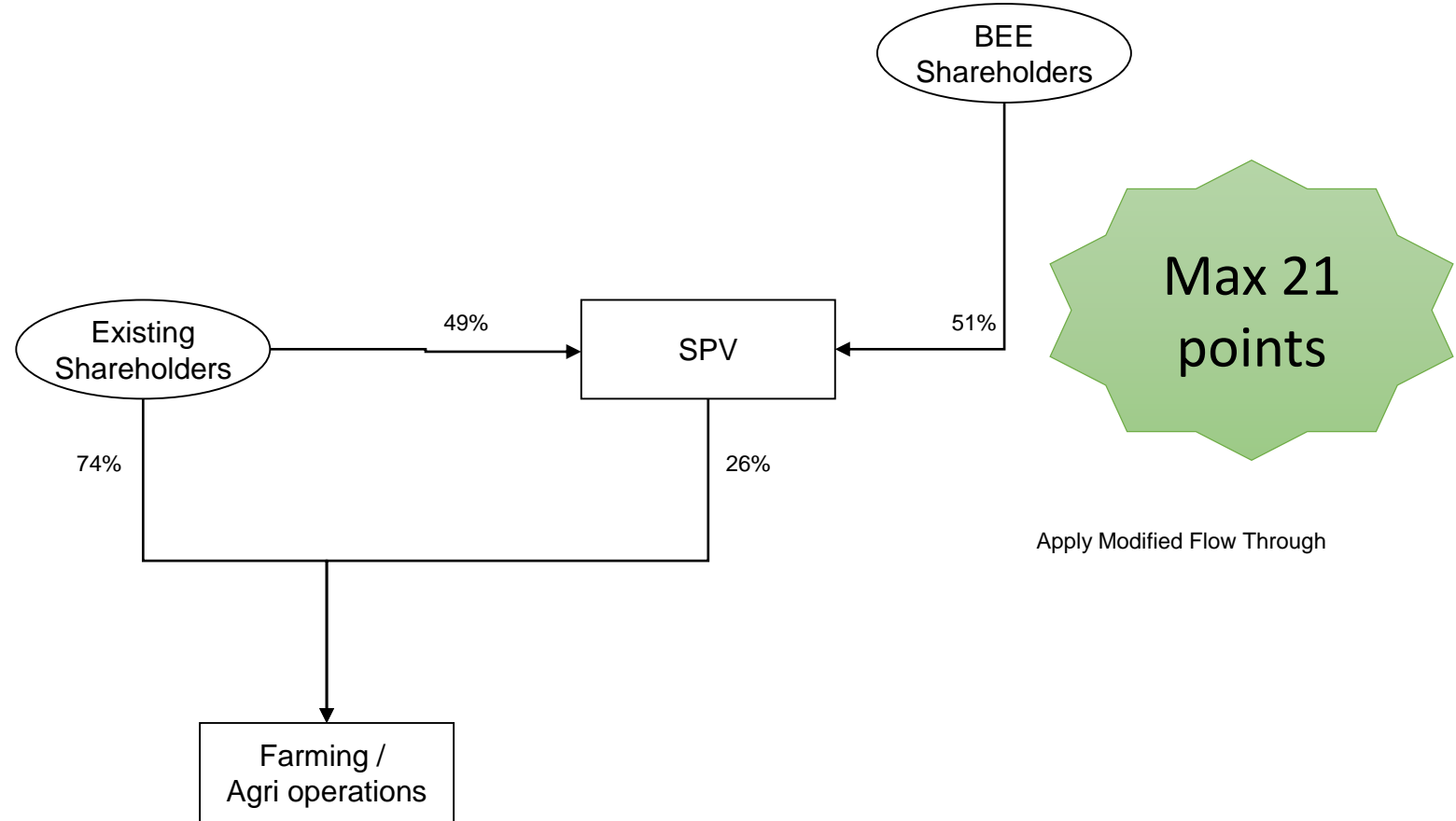
Sale of shares



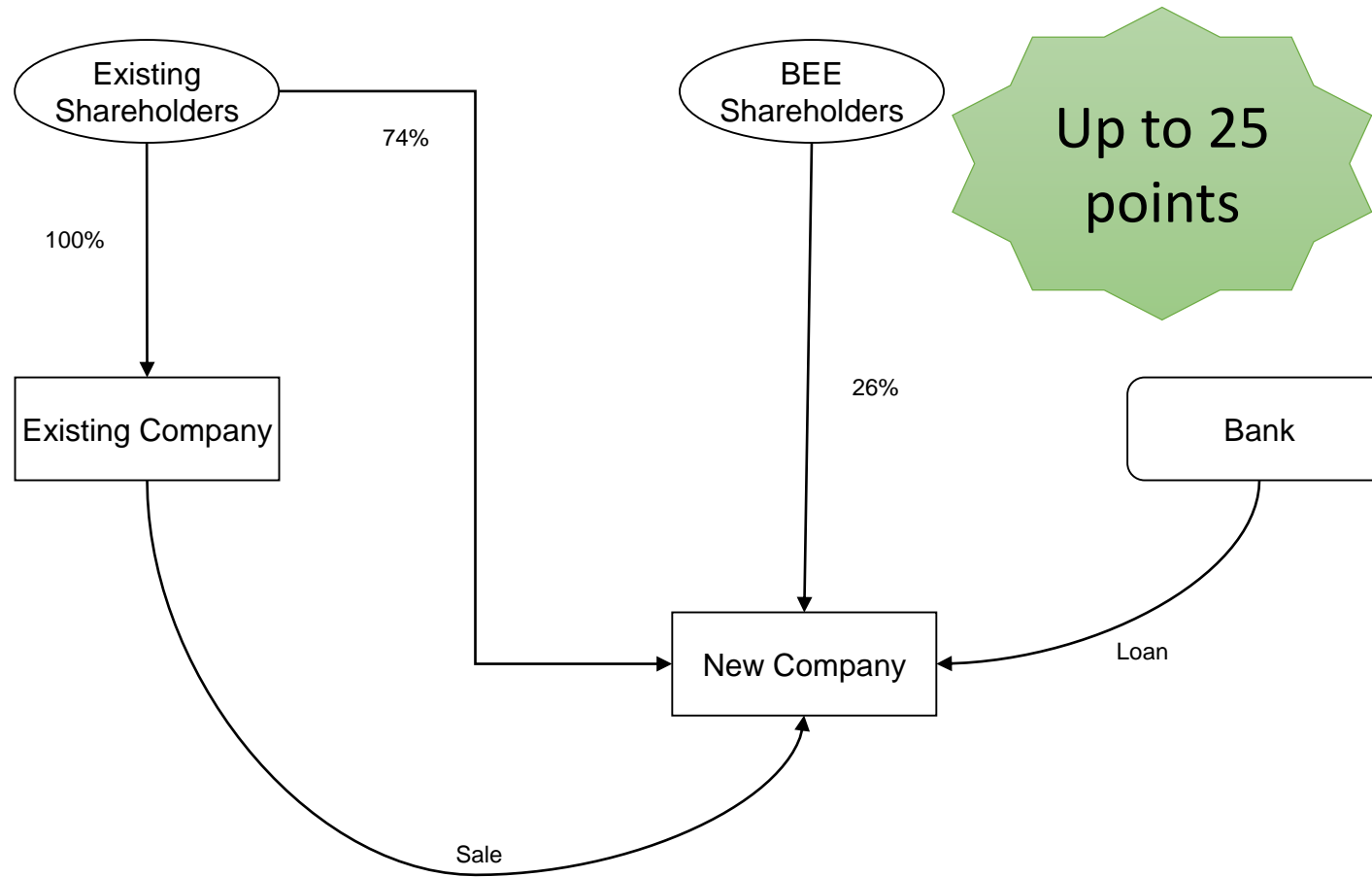
Modified Flow Through



Modified Flow Through



The leveraged buy-out



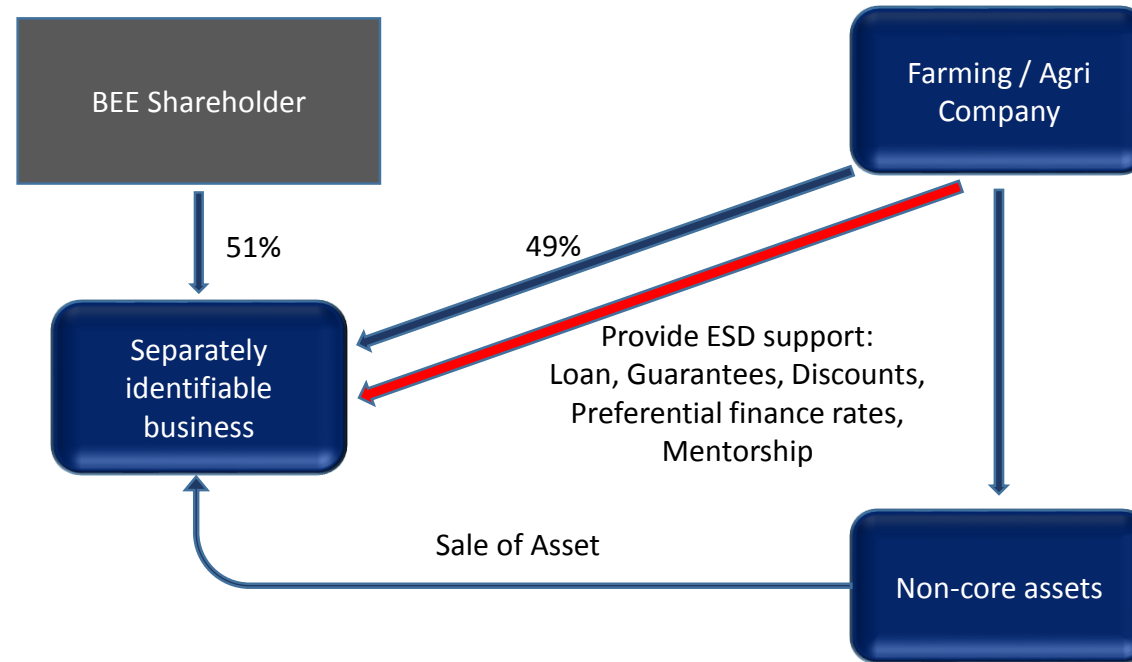
Sale of assets

For “once empowered, always empowered” recognition:

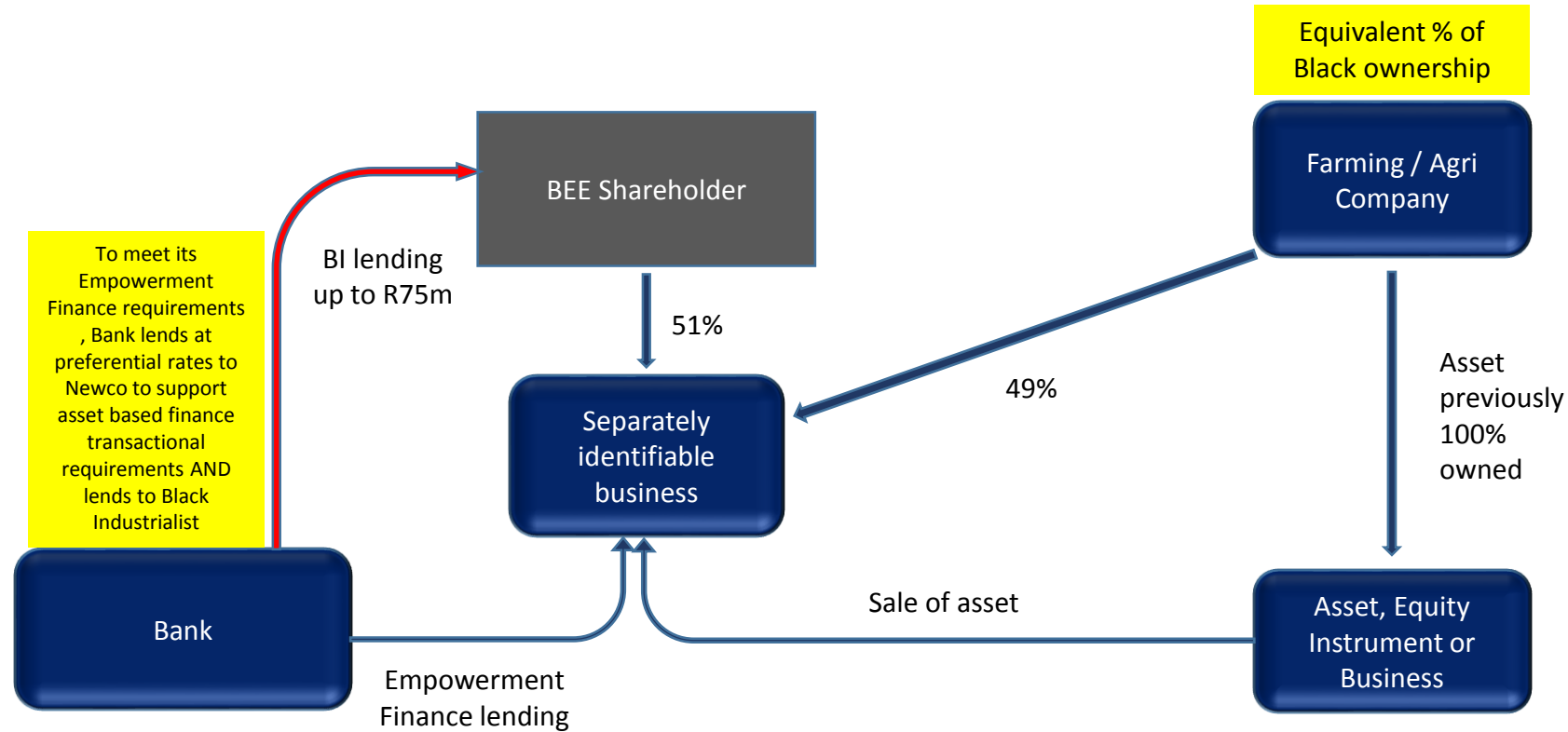
The transaction must ultimately result in:

1. the creation of sustainable businesses or business opportunities for Black People; and
2. the transfer of specialised skills or productive capacity to Black People; and
3. it must not result in unnecessary job-losses;
4. it must involve a separate Associated Enterprise which has:
 - no unreasonable limitations with respect to its clients or customers;
 - clients, customers or suppliers other than the Enterprise with which the Qualifying Transaction was undertaken; and
 - no operational outsourcing arrangements with the initiating Enterprise that were not concluded at arms-length on a fair and reasonable basis.

Sale of assets



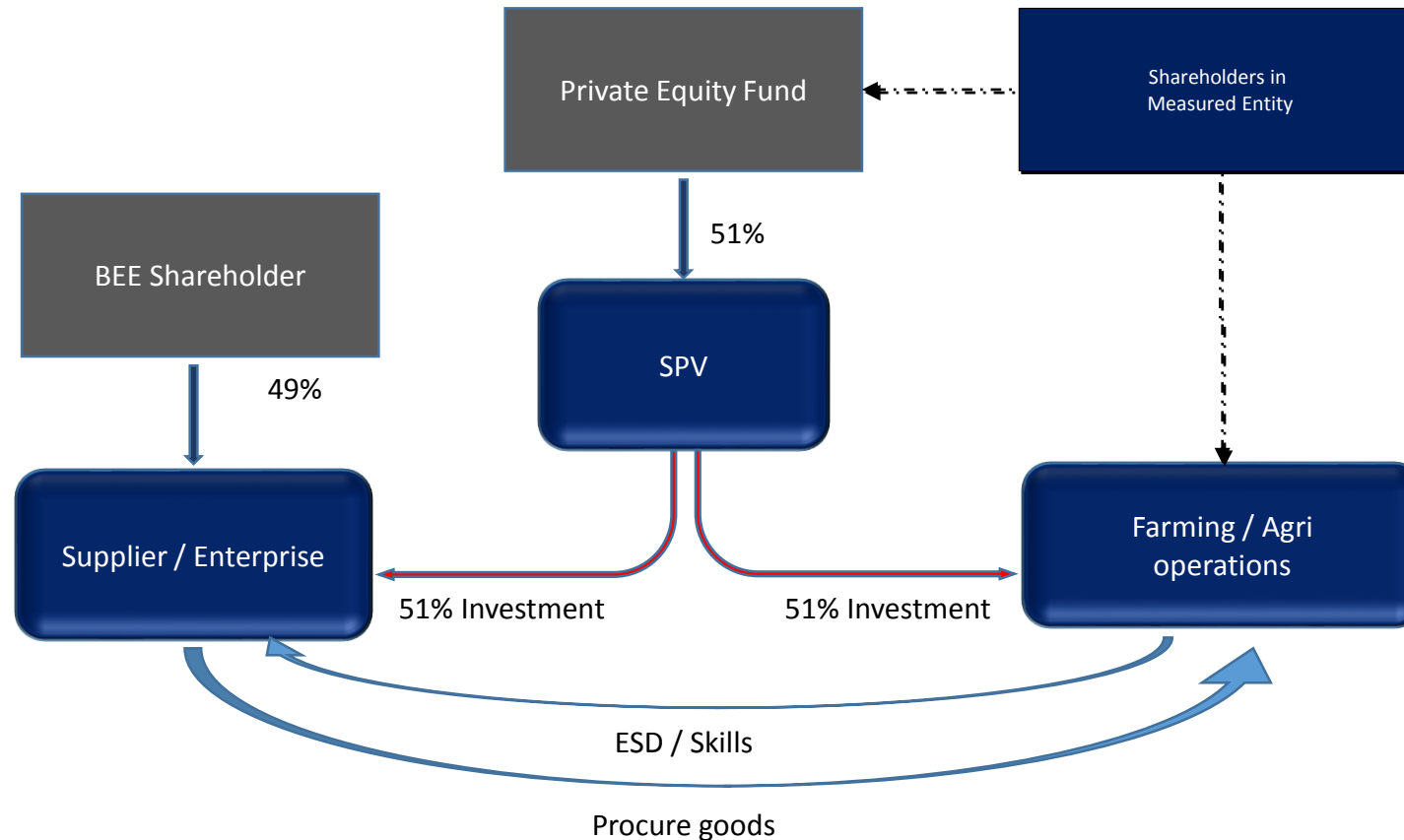
Sale of assets



Private equity share scheme

93. Private Equity Fund means a third party fund through which investments are made on behalf of the actual owner of the funds pursuant to a mandate given by that person to the private equity fund;

Private equity fund



PEF and ESD work together to develop a sustainable and growing supplier to the ME

1. ED Loan
2. SD loan
3. Skills transfer

RISKS



MY.INDEPENDENT APP

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Firm in fronting rip-off

Millions scored in tenders
by abusing black workers

LYONSANS SIALE

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TOP Guandong Industrial
clearing company has

including Scholtz and his wife
Sumner.

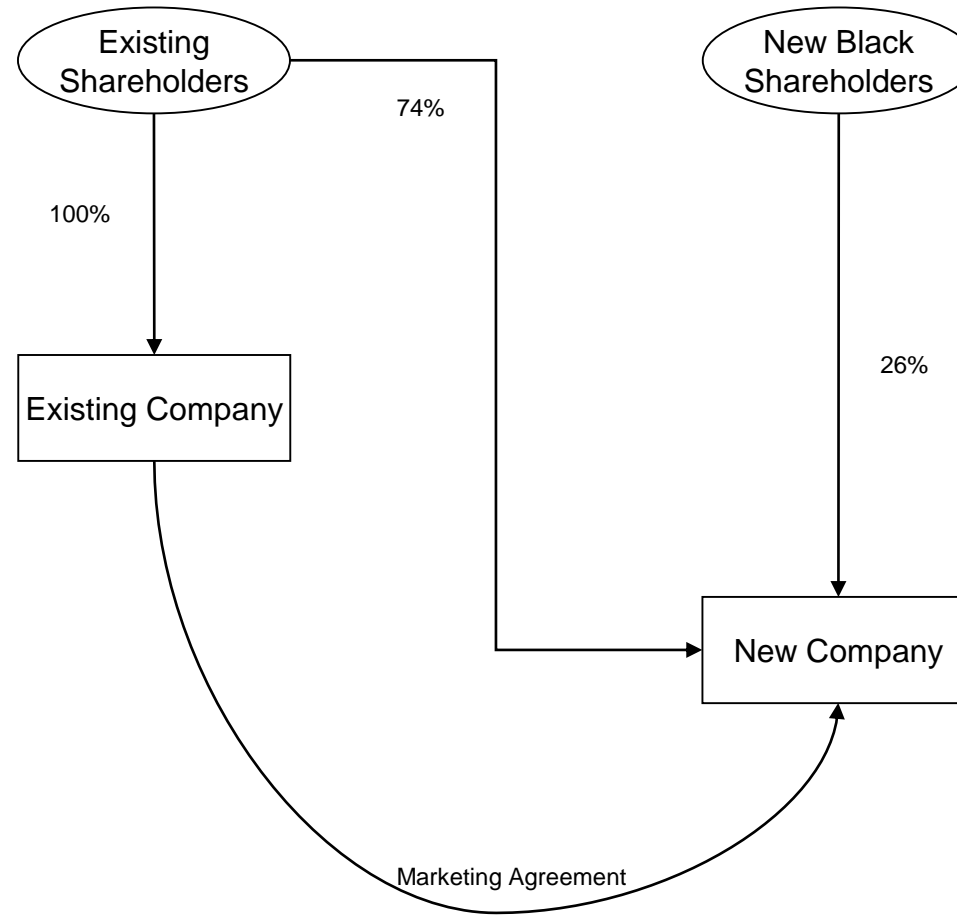
Mekhlana's brother, Lazarus
Swara, is among the four black
employees whose directorship sta-
tus is a bonus in "pretended".

and 2002, including his domestic
worker who works at his house in
Sandard Park, Boksburg. Her
name is known to The Star but is
being withheld for legal reasons.

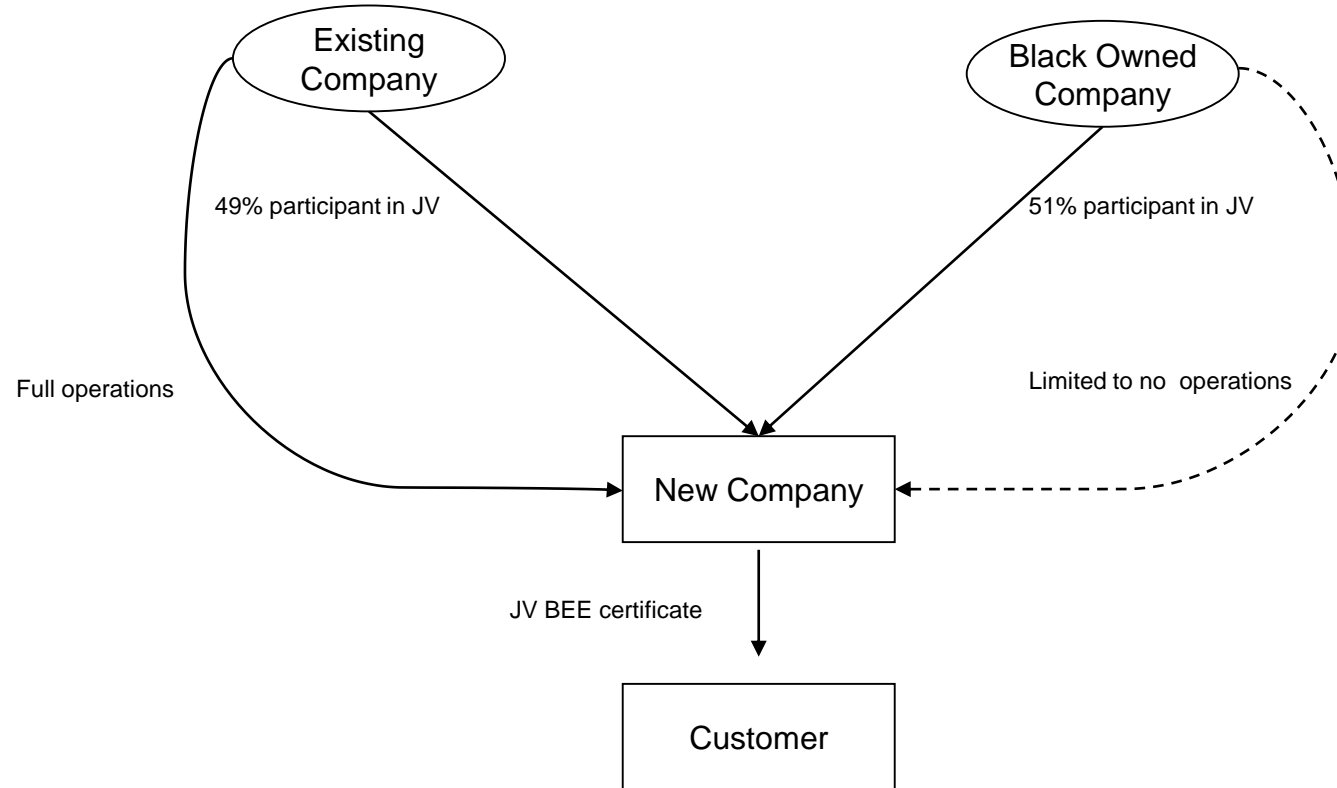
Zovall won multiple tenders

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The classic fronting ownership structure



The danger of JV's



BEE Act – S20 Offences

A person is guilty of an offence if that person knowingly -
misrepresents or attempts to misrepresent the B-BBEE status of an enterprise;
provides false information to Verification professional / any organ of state.

A BEE Verification professional or any procurement officer or other official of an organ of state or public entity who becomes aware of fronting and fails to report is guilty of an offence.

Any person convicted of an offence is liable:-
to a fine or imprisonment for a period not exceeding 10 years or both;
in the case of an enterprise, to a fine of 10% of annual turnover.

Any person and/or entity convicted of an offence shall be banned from transacting with any public entity, and shall be entered into the National Treasury register of tender defaulters.

A thought on Ownership

Do it ONCE

Get PAID for the shares

Global best practice = sell shares to Employees

Employee owned companies outperform their non-employee owned competitors

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