



Companies and Intellectual
Property Commission

a member of **the dtic** group

MEDIA RELEASE

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CIPC IMPLEMENTS A BENEFICIAL OWNERSHIP INTERFACE

On the 11th December 2023, CIPC intends to implement an interface that requires clients to file Beneficial Ownership (BO) information before filing their Annual Returns. As from Monday, 11 December 2023, the Annual Return system for companies and close corporations will validate whether the Beneficial Ownership filing is up to date, and if not, provide the customer with a warning message and a link, rerouting the customer to the beneficial ownership register. Once Beneficial Ownership information has been filed, submission of Annual Financial Statements/Financial Accountability Supplements (AFS/FAS) and then Annual Return filing may commence.

With this interface being an assistive compliance process, customers may bypass the beneficial ownership filing requirement for now, to ease customers into the legislative requirement. However, from 1 April 2024, customers will not be able to file their Annual Returns until they file/submit BO declarations.

All companies (including external companies) (e.g. non-profit, private and public companies) and close corporations are required by law to file their Annual Returns with CIPC within a certain period of time every year, as such, enterprises are required to comply with beneficial ownership declaration filings during the same time period (i.e. within 30 days from incorporation date). Failure to submit BO information will result in the CIPC utilising its compliance and enforcement powers in terms of the Companies Act with regard to BO filings, to address cases of non-compliance. The CIPC may adopt administrative processes, and where necessary, litigate such infractions.

The aim of establishing the BO register is to have a repository/register of natural persons who own or exercise effective control over legal entities; to assist law enforcement with relevant information when it comes to their investigations of who the ultimate owners of an entity are; and to mitigate the risks identified in the national risk assessment where legal persons were identified as vehicles prone to abuse for money laundering and terror financing activities.

The CIPC Commissioner, Adv. Rory Voller, encourages customers not to view the implementation of BO filing as a punitive measure, but rather as a collective effort of enterprises to support the elimination of financial crime. "It is important that the rights and responsibility of every individual stakeholder in tackling corruption is highlighted. Corruption affects all areas of society. Preventing corruption unlocks progress towards economic growth, creates jobs, and secures wider access to essential social services; ultimately promoting a culture of accountability and governance", he said.

He continued to say that while combatting corruption is hard, it is possible if we all play our part. Every stakeholder in the private and public sector - has a role to play to prevent and counter corruption, in order to promote integrity in the South African economy, as well as promoting South Africa as an investor friendly destination.

Beneficial ownership has the following benefits for the country:

1. The numerous benefits for our economy in knowing who owns whom will make our economy investor friendly, and the cost of capital to be reasonable.
2. When there are contraventions of the country's laws, law enforcement agencies will be able to easily source information about real/beneficial owners of the relevant entities.

More information and a step by step guide on beneficial ownership is available on the CIPC website www.cipc.co.za. For any further enquiries, kindly log a ticket via [www.cipc.co.za / enquiries](http://www.cipc.co.za/enquiries).

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Notes:

Important Information:

- The interface will first be incorporated on e-Services, and at a later to be communicated date to the other platforms BizPortal, SST and Mobile App.
- If Annual Returns are filed via BizPortal, SST or Mobile APP, Beneficial Ownership Filing must still occur on the e-Services platform.
- Companies and close corporations are reminded not to wait until the last minute to submit.
- Annual Returns, but to commence the process well in advance before the date that the penalty will be incurred.
- Technical questions on Beneficial Ownership must be logged via the CIPC enquiry system (<https://enquiries.cipc.co.za>) – Department Corporate Legal Services, and the Category Beneficial Ownership.
- If Beneficial Ownership is not submitted with Annual Returns, CIPC may initiate an investigation against the company or close corporation and issue a compliance notice.

What is Annual Returns?

An Annual Return is a statutory return in terms of the Companies and Close Corporations Acts and therefore must be complied with.

A clear distinction must be made between an Annual Return and a tax return. An Annual Return is a sort of “renewal” and has the purpose to confirm whether CIPC is in possession of the most up to date information of a company or close corporation and that the company or close corporation is still conducting business. A tax return focuses on taxable income of a company or close corporation in order to determine the tax liability of the company or close corporation to the State and is filed with SARS.

Compliance with the one does not mean that there is automatic compliance with the other. It is two different processes administered in terms of different legislation by two different government departments. Therefore, even if the tax return has been filed with SARS, the Annual Return must still be filed with CIPC.

Failure to file Annual Returns will result in the Commission assuming that the company and/ or close corporation is not doing business or is not intending on doing business in the foreseeable future. Non-compliance with Annual Returns leads to deregistration.

- Companies have 30 business days from the date that the entity become due to file Annual Returns before it is in non-compliance with the Companies Act.

- A company is moved from “In business” to “Deregistration process” status. This is a process by which CIPC gives a grace period for submission. Failure to which the status is moved to “Final Deregistration”

Legal consequences of deregistration

The legal consequences of deregistration are severe. They include the below:

- The juristic personality is withdrawn and the company or close corporation ceases to exist.
- The assets of the deregistered entity pass to the State and agreements concluded with them may be negatively affected
- For example, should such an entity be the owner of immovable property (land and buildings), it would not be possible for it to sell or pass transfer of this property.
- The debts due by a company, such as rentals, are not extinguished but are rendered unenforceable while the company is deregistered.
- A person who purports to contract in the name of a company that has been deregistered, where both he and the person with whom they transact believe the company to be still in existence, does not incur personal liability on the contract, however the contract is a nullity.