



Companies and Intellectual
Property Commission
a member of the **dtic** group

Notice 56 of 2024

NOTICE TO ACCOUNTING OFFICERS OF CLOSE CORPORATIONS

SECTION 62(3) AND SECTION 62(4) REPORTING OBLIGATIONS OF ACCOUNTING OFFICERS UNDER THE CLOSE CORPORATIONS ACT 69 OF 1984.

This notice is issued in terms of Section 188(2)(b), read with Regulation 4 of the Companies Act 71 of 2008, as amended, in conjunction with Regulations 1A(2) and 3 of the Close Corporations Administrative Regulations, as amended.

In addition to the Accounting Officer Report that a Close Corporation must include with their annual financial statements as a result of a reporting engagement with its Accounting Officer in terms of Sections 62(1) and 62(2) of the Close Corporations Act 69 of 1984 ("the CC Act"), Accounting Officers are prescribed further statutory reporting duties under the CC Act.

The Commission has noted that the Accounting Officers of Close Corporations are not complying with their further mandatory reporting duties as required by Section 62(3) of the CC Act. The Commission is not receiving the Section 62(3) reports as prescribed for the reporting of certain disclosure contraventions or certain indicators in the annual financial statements of Close Corporations. It was further noted that the Accounting Officers also fail to adhere to the stipulated time commitments for reporting these matters to the Commission.

In terms of Section 62(3) of the CC Act, the Accounting Officer of a Close Corporation is obligated and therefore **must** report certain matters **forthwith**, namely immediately, without delay or as soon as is reasonably possible under the circumstances, to the Commission. After reporting such matters and finding in any subsequent financial statements that the

situation has changed or been rectified, the Accounting Officer **may** report to the Commission accordingly. Accounting Officers are therefore not obliged to submit Section 62(4) reports to the Commission but has the discretion to submit such a report if they deem it appropriate under the circumstances.

In this regard the Commission hereby advise that a dedicated **e-mail address** has been set up for the purpose of receiving the Section 62(3) and Section 62(4) Reports i.e., – s62report@cipc.co.za

We have attached a “Practice Guideline” for ease of reference and in support of our urgent request for compliance in this regard.

It is imperative that all Accounting Officers of Close Corporations adhere to and comply with the afore-stated provisions. Failure to comply will result in a contravention under the CC Act, the Companies Act and Regulations as amended, and possible enforcement actions.

Your continued co-operation in assisting us in successfully and optimally exercising our mandate with regards to S62(3) reporting is greatly appreciated.

Yours sincerely
Rory Voller



Signed by Rory Voller, RVoller@cipc.co.za

07/08/2024 12:34:34(UTC+02:00)

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Commissioner: CIPC

Signed: ____August 2024

PRACTICE GUIDELINES FOR THE SECTION 62(3) & SECTION 62(4) OF THE CLOSE CORPORATIONS ACT 69 OF 1984 REPORTING PROCESS

AN OUTLINE OF THE PROCESS TO BE FOLLOWED BY THE ACCOUNTING OFFICER OF A CLOSE CORPORATION WHEN EXERCISING HIS/HER REPORTING DUTIES IN TERMS OF SECTION 62(3) and SECTION 62(4) OF THE CLOSE CORPORATIONS ACT 69 OF 1984 (“THE CC ACT”).

Commission - means the Companies and Intellectual Property Commission (CIPC), established by Section 185 of the Companies Act 71 of 2008.

Corporation - means a close corporation referred to in Section 2(1) of the CC Act which has been registered under Part III of the CC Act.

Registrar – means the Commissioner, appointed in terms of Section 189 of the Companies Act.

Registration Office - means the office of the Commission.

1. INFORMATION REQUIRED TO BE CONTAINED IN A S62(3) REPORT FROM AN ACCOUNTING OFFICER

1.1 With regards to the Section 62(3) report to the Commission, the Accounting Officer **must immediately** report to the Commission if he/she becomes aware of any of the following situations:

- The Close Corporation is not carrying on business and has no intention of resuming operations in the foreseeable future;
- A change to the founding statement has not been registered by the Commission in terms of Section 15 of the CC Act;
- the AFS indicate that the liabilities of the Close Corporation exceed its assets; or
- the AFS incorrectly indicate that the Close Corporation's assets exceed the liabilities.

1.2 In cases of technical insolvency, the existence of a subordination agreement or similar agreement that could influence the solvency assessment, does not change the Accounting Officer's reporting responsibility.

1.3 The Section 62(3) report should include:

- A clear and concise description of the nature of the contravention, and the relevant Section of the CC Act.
- Proof of communication correspondence to the management of the corporation as provided for in Section 62(2)(a).
- Contact details for a reference person of the Close Corporation (member or manager) – preferably e-mail addresses, but also telephone/cellphone numbers, and/or postal addresses.

2. **INFORMATION REQUIRED TO BE CONTAINED IN A S62(4) REPORT FROM AN ACCOUNTING OFFICER**

2.1 Where an Accounting officer has filed a report in terms of Section 62(3)(b)(ii) or (iii) and he/she finds that any subsequent financial statements of the corporation concerned indicate that the situation has changed or has been rectified, and that the assets concerned then exceed the liabilities or that they no longer incorrectly indicate that the assets exceed the liabilities or that she/he no longer has reason to believe that such an incorrect indication is given, as the case may be, she/he **may** report to the Commission accordingly.

2.2 This **optional** Section 62(4) report should therefore include:

- The reference number given by the Commission when submitting the Section 62(3) report, or any other specific reference to the relevant Section 62(3) report.
- An explanation and proof of how the situation has changed or been rectified.

Section 62 of the CC Act sets out in detail the process that the Accounting Officer must follow in relation to his/her reporting obligations under Section 62(3) and Section 62(4):

Section 62(3)

If an accounting officer of a corporation-

- (a) *at any time knows, or has reason to believe, that the corporation is not carrying on business or is not in operation and has no intention of resuming operations in the foreseeable future; or*
- (b) *during the performance of his duties finds-*

- (i) *that any change, during a relevant financial year, in respect of any particulars mentioned in the relevant founding statement has not been registered;*
- (ii) *that the annual financial statements indicate that as at the end of the financial year concerned the corporation's liabilities exceed its assets; or*
- (iii) *that the annual financial statements incorrectly indicate that as at the end of the financial year concerned the assets of the corporation exceed its liabilities or has reason to believe that such an incorrect indication is given, she/he **shall forthwith** by registered post report accordingly to the Registrar.*

Section 62(4)

*If an accounting officer of a corporation has in accordance with subparagraph (ii) or (iii) of paragraph (b) of subsection (3) reported to the Registrar that the annual financial statements of the corporation concerned indicate that as at the end of the financial year concerned the corporation's liabilities exceed its assets or that the annual financial statements incorrectly indicate that as at the end of the financial year concerned the assets of the corporation exceed its liabilities, or that she/he has reason to believe that such an incorrect indication is given, and she/he finds that any subsequent financial statements of the corporation concerned indicate that the situation has changed or has been rectified and that the assets concerned then exceed the liabilities or that they no longer incorrectly indicate that the assets exceed the liabilities or that she/he no longer has reason to believe that such an incorrect indication is given, as the case may be, she/he **may** report to the Registrar accordingly.*

3. SUBMISSION OF S62(3) AND S62(4) REPORTS TO THE COMMISSION BY ELECTRONIC MAIL

- 3.1 A dedicated **e-mail address** has been set up for the purpose of receiving Section 62(3) and Section 62(4) CC Act reports, i.e., s62report@cipc.co.za

WHO QUALIFIES TO ACT AS AN ACCOUNTING OFFICER OF A CLOSE CORPORATION?

The person should be a duly paid-up member of one of the following recognized professions (see Section 60 of the [Close Corporations Act 69 of 1984](#) and CIPC Notice 39 of 2021):

- South African Institute of Chartered Accountants (SAICA) - CA(SA) or AGA(SA)

- South African Institute of Professional Accountants (SAIPA) - Professional Accountant (SA)
- South African Institute of Business Accountants (SAIBA) - Senior members
- Association of Chartered Certified Accountants (ACCA) - Chartered Certified Accountant
- Chartered Institute of Management Accountants (CIMA) - Chartered Global Management Accountant
- South African Institute of Government Auditors (SAIGA) - Registered Government Auditor
- Institute of Accounting and Commerce (IAC) - Members holding IAC Diplomas in Accountancy, Cost and Management Accounting, or Company Secretary
- Chartered Governance Institute of Southern Africa (CGISA) (formerly ICSA and CSSA) - Company Secretary
- Members of the Chartered Institute of Business Management (MCIBM) - Members
- Independent Regulatory Board for Auditors (IRBA) - RA

The Accounting Officer can also be a firm as defined in Section 1 of the Public Accountants' and Auditors' Act 80 of 1991, or any other firm or corporation if each partner/member in the firm/corporation is qualified to be so appointed.

Yours sincerely.

Rory Voller



Signed by Rory Voller, RVoller@cipc.co.za

12/08/2024 10:47:22(UTC+02:00)

ADV. RORY VOLLER

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Commissioner: CIPC

Signed: ____ August 2024