



Companies and Intellectual  
Property Commission

a member of **the dtic** group

# The Companies and Intellectual Property Commission

## Beneficial Ownership

The Companies and Intellectual Property Commission (CIPC) launched its beneficial ownership register for corporate vehicles on 1 April 2023. The aim of establishing the BO register is to have a repository/register of natural persons who own or exercise 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.

## Regulatory Framework

To give effect to the implementation of the BO register, and the General Laws (Anti-Money Laundering and Combating of Terrorism Financing) Amendment Act (Act No. 22 of 2022), The Companies Act, Act 71 of 2008 as amended, read with the Regulations (promulgated by the Minister of the dtic on 24 May 2023) introduces legal provisions in support of the collection of beneficial ownership information and gives the CIPC a mandate to request companies and other legal persons to file and update Beneficial Ownership information, as and when applicable.

The beneficial owner in respect of legal persons is defined as follows:

“‘beneficial owner’, in respect of a company, means an individual who, directly or indirectly, ultimately owns that company or exercises effective control of that company, including through—

- (a) the holding of beneficial interests in the securities of that company;
- (b) the exercise of, or control of the exercise of the voting rights associated with securities of that company;
- (c) the exercise of, or control of the exercise of the right to appoint or remove members of the board of directors of that company;
- (d) the holding of beneficial interests in the securities, or the ability to exercise control, including through a chain of ownership or control, of a holding company of that company;
- (e) the ability to exercise control, including through a chain of ownership or control, of—
  - (i) a juristic person other than a holding company of that company;
  - (ii) a body of persons corporate or unincorporate;
  - (iii) a person acting on behalf of a partnership;
  - (iv) a person acting in pursuance of the provisions of a trust agreement; or
  - (f) the ability to otherwise materially influence the management of that company;”.

Filing of Securities Register for Companies which are not affected companies as per Regulation 32.

A company which does not qualify as an affected company must file their securities register which should include beneficial interest holders of the securities of that company if they are held by one person for and on behalf of another. A securities register of a company which is not an affected company must also include information of its Beneficial Owners (Regulation 32 (3) (b)).

An affected company is defined as follows:

“‘**affected company**’ means a regulated company as set out in section 117(1)(i) and a private company that is controlled by or a subsidiary of a regulated company as a result of any circumstances contemplated in section 2(2)(a) or 3(1)(a)”

An affected company therefore includes-

- A public company (listed/un-listed);
- A state-owned company (except in case of exemption by Minister);
- A private company – in terms of the transfer of securities when exceeding the percentage prescribed by the Minister (10%) within a 24-month period;
- A private company that is controlled by an affected company (control or exercise the majority of the voting rights) or is a subsidiary (majority owned) of an affected company.

An affected company must file its beneficial interest and/or securities register as prescribed in section 56(7)(aA) of the Act. The registers must comply with the prescribed requirements.

Below is a list (not exhaustive) of Beneficial Ownership ‘Troubleshooting’ frequently asked questions, useful in navigating the beneficial ownership declaration platform.

## **FREQUENTLY ASKED QUESTIONS ON BENEFICIAL OWNERSHIP**

**1. What is the reason for completing the BO-register and once I saved, the page is blank and I have to re-capture?**

- *It is important to make use of the calendar when capturing ANY DATE on the BO-register and not use free type of date fields as this will result in data not being saved.*

**2. Why does the BO-system not want to accept the issue date for my ID?**

- *CIPC processing platforms is directly linked with the Department of Home Affairs – any validation failure / error received in terms of the issue date of an ID means that DHA does not have the same issue date on record than that which was entered. Ensure that the latest issued ID (book or card) is used when submitting BO-declarations.*
- *ID issue dates that may have an impact:*
  - Client recently issued an ID-card but entered their green ID-book information.
  - Recently married clients, issued with a new ID with married surname.

- Replacement of lost or stolen smart ID-card or green ID-book.

**3. Why do I get a time-out error on the beneficial ownership platform?**

- *Some filers have multiple entities linked to their customer code, and the system is not able to load all of the information – which leads to a time-out error. Make use of the search function for specific entities.*

**4. How do I ascertain which category my entity falls under, when I want to file beneficial ownership?**

- *Each entity must answer 2 questions, prior to filing beneficial ownership. First, a company must ascertain whether it falls within the category of “affected” or “non-affected” company, by applying the definition of an “affected company” as per the legislation to the company. Once this question is answered, the company must ascertain whether there are any beneficial owners to declare, by applying the definition of beneficial owner to the company.*

**5. My beneficial ownership declaration was rejected due to the mandate not being on a company letterhead. Do I need a logo on the mandate?**

- *Risk mitigation is very important, especially with regards to the sensitive information that we work with. As long as a mandate complies with the requirements for a company letterhead, i.e. full registered name, registration number, address and contact information, the mandate will be accepted.*

**6. How do you delete or amend an existing BO-declaration?**

*BO-declarations cannot be deleted and it is a criminal offence to provide false or misleading information to the Commission. However, should BO-information change – such changes must be filed via an amendment, whereby information can be amended, deleted, added, etc. The original information or filing persist (data history).*

**7. Why do I not receive the OTP's when filing BO?**

- *OTP's are not received when clients change their contact details in the middle of the BO-filing process. The OTP's will still be sent to the previous contact information as per the customer code, which the process was started with. Clients are encouraged to amend contact information prior to starting the beneficial ownership declaration process, if applicable. Both E-mail and SMS OTPs are mandatory.*
- *All customers need to ensure that the contact details on their customer code profile is up to date before they file the Beneficial Ownership (BO) information. The e-mail and SMS One Time Pins (OTPs) are sent to the filer's e-mail address and cell phone as per their customer code profile. If not up to date, the customer will have to wait 30 days for the application to expire before they can submit a new beneficial ownership declaration.*
- *The CIPC is not in the position to send OTPs to international numbers. South African filers (with a valid customer code) may be mandated to file on behalf of the entity.*

**8. As a listed company, do I also file BO information with CIPC?**

- *A listed company is considered an “affected company”, and once the category of “affected company” is selected the company must file its beneficial interest register and/or securities register as prescribed in the regulations.*

**9. As a listed company, do my subsidiaries file BO Information with CIPC?**

- *A subsidiary of a listed company is also considered an “affected company”, it has to file its securities register as prescribed in the regulations.*

**10. State Owned Companies, mostly have a Minister as a shareholder, who do I list as a Beneficial Owner?**

- *SOC's are considered "affected companies" in terms of the legislation – therefore correct category must be selected and the beneficial interest and/or securities register must be submitted.*

**11. What supporting information will be expected to be filed when filing for BO?**

- *Mandate of the filer; Securities Register; Beneficial Interest Register (as applicable); Certified ID Copies of the BO's and filer; Certified Passport Copies of the BO's (as applicable); any other supporting document the Commission may demand.*

**12. After filing the BO Information, and receiving a confirmation certificate, does it mean the filing is complete?**

- *Yes, the filing is complete, and the entity is considered BO-compliant, however, the Commission reserves the right to make further enquiries, validate and verify information submitted and request further documentation.*

**13. If there are no changes to the BO Information during a financial year, is the company expected to file annually?**

- *Yes, every company prescribed to file, must ensure the register is up to date, including making annual filings confirming validity of the filed information.*

**14. Is the filing processed immediately, real time?**

- *The filing is confirmed immediately, provided identity can be verified.*

**15. Do I need special software in order to file BO Information?**

- *No, this is a web-based form with an embedded upload capability. (Preferably on Google Chrome, Mozilla Firefox and MS Edge) browsers. Each uploaded document must be less than 3MB.*

**16. Who is allowed to have access to the BO Information?**

- *Law enforcement agencies and vetted competent authorities.*

**17. Why must the BO information be filed with the CIPC?**

- *This is a requirement by the Financial Action Task Force, a requirement imposed by the General Laws (Anti-Money Laundering and Combating Terrorism Financing) Amendment Act 22 of 2022.*

**18. How long before Back Office pronounces on the completeness of a process?**

- *Back Office will be applying a risk based approach in its reviews of the filed information and rejected filings may be corrected and re-filed.*

**19. What is the format of the supporting information that is filed with a BO filing?**

- *PDF Format is an acceptable format.*

**20. What is meant with a members register with regards non-profit companies?**

- *A non-profit company does not have shareholders but has members. Therefore, NPC's*

*with members must file its member's register. Non-profit companies with no members, must still declare beneficial owners, i.e. effective control, etc.*

**21. The system only allows for 100% in aggregate when declaring BO %. How is it calculated?**

*Only natural persons can be beneficial owners, therefore, if declaring juristic person as first tier of ownership, declare the percentage interest of the natural persons attached to the juristic person.*

**22. Why do we receive a notification of BO non-compliance when trying to file annual returns, when we already filed?**

*Beneficial ownership declarations must be filed annually, and is not a once-off process. Companies must file their beneficial ownership declarations every year, prior to annual return submission, even if there are no changes to the company beneficial ownership structure.*

**23. Does BO requirements apply to Co-Operatives registered by CIPC?**

- *No, the current amendments brought about through the General Laws Amendment Act do not cover Co-Operatives.*

## **Contact Details**

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