

NOTICE TO CUSTOMERS

(Practice Notice No 70 of 2019)

FILING OF DOCUMENTS IN TERMS OF REGULATION 168

The change of directors of a company is marred with controversy due to unauthorized changes being made on the register of directors kept by the Commission.

Various measures have been put in place to mitigate the risk of fraudulent changes being made, especially with regards to companies. It has come to the attention of the CIPC that documentation is being submitted for unauthorized changes that contain resolutions / decisions made by shareholders. The Commission (CIPC) keeps no shareholder information on our records, and has therefore no way of verifying the validity of such resolutions passed.

Regulation 168(4) requires the recording officer to take reasonable steps to, amongst others, verify the person filing a document on behalf of or in relation to a juristic person and verify the authenticity of every document being filed. In doing so, the Commission may demand that the person seeking to file a document supply reasonable evidence for purposes of verification mentioned above and may reject any document on the grounds that the requirements have not been met.

Therefore in order to mitigate the risks identified with regards to director amendments, any notice filed for the change of directors (resignation or removal) as a result of the **resolution by the shareholders must be accompanied by, a certified copy of the shareholders register (securities register) or share certificates, at all times.** This information is required additional to the current required supporting documents for director amendments.

Yours Sincerely



Advocate Rory Voller

CIPC Commissioner

Date: .../.../.../2019

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Companies and Intellectual
Property Commission

a member of the dti group

GUIDANCE NOTE 2 OF 2019

TIME PERIODS FOR FILING ANNUAL RETURNS AND ANNUAL FINANCIAL STATEMENTS

This guidance note is issued in terms of Regulation 4(2)(a) of the Companies Regulations, 2011 and is applicable to companies and close corporations. This Guidance note must be read with all other notices and communication material relating to the filing of Annual Returns and Annual Financial Statements

The Companies and Intellectual Property Commission ("CIPC") has identified that the majority of public companies are filing Annual Returns and Annual Financial Statements ("AFS") outside of the prescribed 30 business day period¹ provided for in the Companies Regulation, 2011 ("Regulations"). On analysis of responses from public companies CIPC came to the conclusion that the dominant reason for such late filing for public companies is the finalization of the AFS requirement². By inference this may also be one of the dominant reasons that other categories of companies and close corporations file outside of its prescribed Annual Return filing period³.

In this regard it should be noted that although different time periods are prescribed for the filing of Annual Returns and the finalization of AFS, the Regulations clearly state that the company's latest approved (or previous year's) AFS must be filed when filing its Annual Return⁴.

Example: Company XUZ Ltd has a financial year end of February but its registration date is 25 June. When filing its 2020 Annual Return during the 30 business day period starting 26 June 2020, it must use its approved AFS of February 2019. The reason for such provision is that companies have 6 months after its financial year end to complete its AFS⁵. In this example, the approved AFS will only be completed and available by end August which is past the 30 business day period to file Annual Returns.

¹ Regulation 30(1) of Companies Regulations, 2011

² Sections 29 and 30 read with Regulations 27 and 28

³ Close Corporations have two months commencing on the first day of its anniversary month until the end of the month thereafter.

⁴ Companies Regulation 30(2) of Companies Regulations, 2011

⁵ Section 30 of the Companies Act, 71 of 2008

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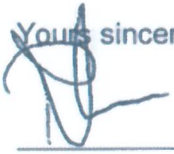
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Therefore, all companies and close corporations do not have to wait for the finalization of its AFS or file interim AFS, when submitting its Annual Returns. The Regulations clearly state that the latest, meaning the previous financial year's AFS, must be used if the current financial year end is not yet finalized.

Yours sincerely,



Adv. R Voller

Commissioner: CIPC

5/11/2019