

# Annual CIPC Update 2022

Presenter: **Lettie Janse van Vuuren CA(SA)**

**12 JULY 2022**



***A focus on CIPC as a Regulator  
News & Developments over the last 9 months:  
October 2021 to June 2022***

# Presenter

## Lettie Janse van Vuuren CA(SA)

- She is a Chartered Accountant, Qualified Auditor, Assessor and Moderator, and joined SA Accounting Academy in November 2017 as Head of Technical.
- She is a professional trainer and webinar host, and with her relaxed and humorous presentation style, she is able to hold the attention of an audience. She has a unique ability to communicate with delegates at their respective levels of knowledge and experience. Over the last 20 years, she has trained thousands of partners, managers, trainee accountants and other professionals.
- She is also responsible for our MCLU (Monthly Compliance and Legislation Updates). Lettie's constant research on the latest developments allows us to post technical daily alerts on LinkedIn, compile newsletters for subscribers and provide further detail to assist our clients in assisting their clients. She also records Technical Summary Videos (TSVs) on a wide range of topics on a regular basis.
- She was the Professional Development Manager at SAICA for 4 years and in charge of accrediting new training offices and monitoring existing ones (including the moderation of training offices and trainee assessments).
- Lettie is passionate about improving the efficiency and standardisation at practices. She has extensive experience on a variety of technical and practical topics which she consults on, including: SAICA re-accreditation assistance and preparation, IRBA inspection assistance and preparation, audit file reviews, other manuals, etc.





# WHAT'S ON THE AGENDA?



# Contents

- ❑ **CIPC:** Company Secretarial Update, consisting of:
  - ❑ New notices;
  - ❑ Practice Notes and Guidelines;
  - ❑ Compliance requirements;
  - ❑ Operational and administrative matters of importance;
  - And...Useful links to CIPC guides and FAQs.

***Focus on HIGHLIGHTED items listed on individual slides***





# Quotes

Regulators are in the best position to regulate when they are intimately knowledgeable about the activities they are regulating.

*- John Thain*



**“He’s in compliance ... but don’t think he won’t bite.”**

# Abbreviations used

- **CIPC** = Companies and Intellectual Property Commission
- **FAQs** = Frequently Asked Questions
- **iXBRL** = an Inline eXtensible Business Reporting Language

# CIPC UPDATE

**OCTOBER 2021 – JUNE 2022**



Companies and Intellectual  
Property Commission

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# CIPC Update **OCT 2021**

➤ *Each notice is available to you as a Source Document*

**Notice No 48 of 2021** - Notice to accounting and auditing professional bodies: Independent review survey 2021

- The Commission has issued an Independent Review Survey 2021 accessible on the website and through the link below. The purpose of the survey is to gauge the practical problems experienced in the performance of independent reviews and reporting of reportable irregularities as required in terms of Regulation 29 of the Companies Regulations 2011.

**Notice 49 of 2021:** Important changes to CIPC electronic platforms relating to short standard private and short standard non-profit without members company registrations

- The Companies and Intellectual Property Commission (“CIPC”) accordingly would like to advise customers of important changes to its various platforms and services relating for short standard private company (Form CoR15.1A) and short standard non-profit company without members (Form CoR15.1C).



# Oct 2021 Update *(continued)*

## **Notice 50 of 2021:** Filling of joint business rescue practitioner appointments

- applicants make 2 separate appointments for joint BRPs whereas the new eservices system is designed to cater for joint appointments

## **Media Statement: CIPC enforces Sec 30 of the Companies Act - High court orders JCI Ltd to pay the CIPC an administrative fine of R1 million**

- The core issue of this case is that the Audited Annual Financial Statements of JCI Ltd were not compiled as per the requirements of Section 30 of the Companies Act, No. 71 of 2008, as amended, read with the International Financial Reporting Standards (IFRS).
- *Section 30(1) requires that each year, a company must prepare annual financial statements within 6 months after the end of its financial year and Section 30(2) read with Regulation 27(4) which relates to IFRS requires that the annual financial statements must be audited in the case of a public company.*

# Oct 2021 Update *(continued)*

## **CIPC enforces Sec 30 of the Companies Act (continued)**

- *Post an investigation by CIPC inspectors which found that for the period 2011 – 2017, JCI Ltd had acted in contravention of the abovementioned regulations, a Compliance Notice was issued to the board of directors of JCI Ltd requiring the company to produce IFRS compliant financial statements. JCI Ltd initially applied to the Companies Tribunal to review and set aside the Compliance Notice, but thereafter conceded that it was unable to prepare financial statements fully compliant with IFRS in respect of the various periods specified in the Compliance Notice.*
- *Pursuant thereto, JCI Ltd and the CIPC engaged one another and concluded a Settlement Agreement, which resulted in JCI Ltd withdrawing its application to the Companies Tribunal.*
- *The settlement agreement, a first in terms of section 173 read with section 175 of the Companies Act, was made an order of court and inter-alia required: JCI Ltd to make a payment to the CIPC of an administrative fine of R1,000,000 (one million rand) for the non-compliance of the Compliance Notice and for JCI to convene a shareholders meeting to adopt a special resolution for the voluntary winding up of JCI Ltd.*



# Oct 2021 Update *(continued)*

## Companies Amendment Bill - *FYI*

- The Department of Trade, Industry and Competition (DTIC) published the Companies Amendment Bill, 2021 (Bill) for public comment on 1 October 2021. The Bill is the second draft of the Companies Amendment Bill which was published in September 2018 (2018 Draft) which, if passed, will represent the first set of substantive amendments to the Companies Act 71 2008 (Act) since it came into effect on 1 May 2011.
- *Deadline date for comments = 31 October 2021*
- The **amendment to section 45** of the Companies Act is of particular interest.
  - reducing the regulatory burden placed on companies and providing for a more efficient corporate governance which is in line with the objects and purpose of the Companies Act.



# Oct 2021 Update *(continued)*

## Co Amendment Bill: **Proposed changes to Section 45**

- Clause 11 of the Draft Amendment Bill 2021 proposes the following amendments to section 45:
  - Deleting the original heading of section 45 which referred to “Loans or other financial assistance to directors” and substituting it with “Financial assistance”.
  - Inserting a new sub-section (2A) which states, “The provisions of this section shall not apply to the giving by a company of financial assistance to, or for the benefit of its subsidiaries”.
- The change in the heading reflects a more accurate representation of the section as it not only deals with financial assistance to directors, but also extends to prescribed officers and certain juristic persons.

# CIPC Update **NOV & DEC 2021**

➤ *Each notice is available to you as a Source Document*

## **Notice 52 of 2021:** Co-operative Annual returns and Annual submissions

- In filing the annual reports co-operatives must file audited financial statements or independent reviewed report depending on the Category as mentioned in the framework (set out in the Notice in tabular format) using XBRL platform.
- All co-operatives will be required to comply with the above provisions **starting from 1st April 2022**.
- The **Notice contains a table** that sets out the financial reporting framework in terms showing co-operative categories.
- The prescribed fees to be paid in respect of filing annual returns by the co-operatives to CIPC are also set out in the Notice.

# Nov & Dec Update *(continued)*

## **Notice 53 of 2021: Deregistration of Companies and CCs (due to non-submission of annual returns)**

- As stated in Notice 37 of 2020, CIPC recommenced deregistration process of companies and CCs who are not up-to-date with their Annual Returns.
- In terms of section 82(3)(a)(i) of the Act, CIPC may only refer companies and CCs for deregistration if it has failed to file Annual Returns for two or more years, and therefore the Act provides sufficient time for companies and close corporations to comply with Annual Returns before being referred for deregistration.
- For the list of companies and CCs for which the notification process has commenced, kindly refer to [www.cipc.co.za](http://www.cipc.co.za) / Legislation / Gazettes / Gazette Publication No 202105 dated 22 September 2021.



# Nov & Dec Update *(continued)*

The publication can be accessed from  
<http://www.cipc.co.za/index.php/legislation/gazettes>

- The deregistration status for companies and CCs in deregistration due to non-compliance with Annual Returns will only be cancelled/uplifted upon the filing of ALL outstanding Annual Returns as well as the required Audited Financial Statements (AFS) or Financial Accountability Supplements (FAS).
- *The notice also contains links to 3 useful guides on Annual Returns and related documents.*
- *Refer to separate document with links to each list...*

# Nov & Dec Update *(continued)*

## **Notice 59 of 2021: Public companies contravening annual financial statements filing obligations**

- The purpose of this notice is to inform public companies about their annual financial statements filing requirements - i.t.o. Sec33 and Reg30.
- Public companies that have contravened Section 33 of the Act by incorrectly filing a Financial Accountability Supplement during the period 01 April 2020 to 31 March 2021 are hereby required to file their audited annual financial statements within 20 business days from the date of publication of this Notice.
- The list of companies that contravened Section 33 as alluded to above are published on our website, viz [www.cipc.co.za](http://www.cipc.co.za)

# Nov & Dec Update *(continued)*

**Notice 60 of 2021** – Co-operative that have been directed to change names by the registrar of Co-operatives

**Notice 61 of 2021: Compliance obligations of companies and close corporations in business rescue**

- CIPC reminds companies and CCs and specifically business rescue practitioners, which finds itself in business rescue or considering to commence business rescue proceedings, that Chapter 6 of the Companies Act, 2008 does not suspend the company or CC's compliance obligation in terms of the Act or Close Corporations Act, 1984.



# CIPC Update **JAN & FEB 2022**

➤ *Each notice is available to you as a Source Document*

## **Practice Note 1 of 2022: Re-instatement Requirements for Companies and CC's in terms of Reg 4(2)(b)**

- *Practice note 8 of 2017 is hereby withdrawn from 1 January 2022*
- In order to re-instate a company or a CC from 1 January 2022, the re-instatement application Form Cor40.5 must be accompanied by specified documents - regardless of the cause or date of final deregistration.
- CIPC will only consider re-instating a company or CC if it can provide proof that it was conducting business at the time of deregistration, or has any other economic value.
- Upon the successful processing of the re-instatement application, all outstanding Annual Returns must be filed in order to complete the process.
- If the company or CC fails to file all outstanding Annual Returns within 30 business days from the date of re-instatement, the company or CC will be finally deregistered again without any further notification

# Jan & Feb Update *(continued)*

## **Notice 62 of 2021: Update: Status on file transition project**

- Notice 44 of 2021 issued by CIPC of file transition project has reference.
- The contract handover project of moving 7.2 million Companies, Close Corporation, Trade Marks, Design, Copyright and Cooperatives files to the new storage facility was completed on 26 November 2021
- **There will be a delay of 3 to 4 months of unavailability of files**, while the new service provider takes the files on board to label and capture them on their systems for recording and retrieval purposes.
- Retrieval of files will still not be optimal and delays will be experienced until the end of the financial year end (March 2022) as CIPC anticipate the end date of capturing 7.2 million files

➤ **Refer to NOTICE 9 OF 2022 for another update on this topic**

# CIPC Update **MAR & APR**

➤ *Each notice is available to you as a Source Document*

## **Practice Note 2 of 2022: Certification requirements for documents filed with the CIPC**

- CIPC has noted an increase in the submission of suspicious and possible fraudulent certified documents to the CIPC and thus, further to Notices 54 and 63 of 2016, hereby advises customers that the CIPC will apply strict verification of such supporting documentation (ID / passport copies) as part of its business processes **from 1 April 2022**.
- Failure to adhere to the certification requirements may result in the CIPC rejecting the application for incompleteness



# Mar & Apr Update *(continued)*

## **Notice 2 of 2022: Requirements for filing CoR44 applications\_Auditor appointments and resignations**

1. Must be duly completed and signed by a Director/Company Secretary.
2. In the event that the form is not signed by a Director/Company Secretary, then a power of attorney by the board giving permission to a 3rd party to sign on behalf of the Company must be provided.
3. Resolution from the company reflecting what the changes are, as most of the forms are not completed vaguely making it difficult to understand what the notice for change (CoR44) is for, e.g. appointment/resignation or rotation of auditors, appointment or resignation of the Company Secretary.
4. When it comes to Auditors, we have received complaints from some auditors who claim they are not aware of the companies they are registered for, therefore when an auditor is appointed a letter from the auditor confirming appointment with the auditor's practice number must be filed together with the CoR44
  - *This notice should be read with Practice Note 2 of 2014*

# Mar & Apr Update *(continued)*

## **Notice 4 of 2022:** Name Reservation and Approval

CIPC confirms that a for-profit company may be registered without a name

- The registration number will be its name followed by the suffix "South Africa" (excluding new e-Services channel)
- After registering a new company with the registration number as its name, a company name change may be filed free of charge. Refer to [www.cipc.co.za/index.php/manage-your-business/manage-your-company/public-company/making-changes-your-companys-management-administration-and-governance/changes-company-name](http://www.cipc.co.za/index.php/manage-your-business/manage-your-company/public-company/making-changes-your-companys-management-administration-and-governance/changes-company-name)
- The registration certificate, as well as the other registration documents will reflect the registration number as the name of the company since that was the registration information at registration.
- Only after a company name change will an amended registration certificate be issued with the reserved name. The incorporation documentation as issued upon registration, will not reflect this information

# Mar & Apr Update *(continued)*

## Gov Gazette Notice 1762 of 2022: Co-operatives requirements for annual reports

- The Co-operatives Division at the CIPC is notifying co-operatives of the requirements of submitting the annual reports with the registrar and filing of annual submission of information (annual returns).
- The notice contains tables which set out the financial reporting framework and the prescribed fees for filing annual returns.
- In filing the annual reports co-operatives must file the audited financial statements or independent reviewed report - depending on the Category as mention in the framework table using the XBRL platform.
- In preparing co-operatives for their readiness, a pilot process will begin from 1 April 2022 for a compulsory filing later on (i.e. from 1 October 2022).
- All co-operatives will be required to comply with the above provisions starting **from 1 October 2022**



# Mar & Apr Update *(continued)*

## Reminders:

**Remember that Co-operatives are to submit financial statements via XBRL from 1 April 2022**

- In filing the annual reports, co-operatives will be required to file audited financial statements or independent reviewed report – depending on the Category using XBRL platform.
- This provision will come into effect **from 1 April 2022**
  - *Refer to SAICA\_XBRL-SA-Newsletter-December-2021*

## Useful article:

**Appointment of Accounting Officers**

- *Refer to CIPC\_Appointment of Accounting Officers*

# CIPC Update **MAY & JUN**

➤ *Each notice is available to you as a Source Document*

## **Practice Note 2 of 2022:** Trade Mark Certificates

- As from Tuesday, 3 May 2022, all trade mark related certificates issued in accordance with the above provisions, will be issued electronically via automated e-mail, to the e-mail address as provided in the CIPC customer profile of the customer code of the address for service as reflected in the electronic Trade Marks Register at the date on which the certificate/s were issued.
- In addition, copy/ies of the certificate/s may be accessed electronically and printed via the IP Online portal available from the CIPC website, at no additional costs, and will be available from the 2 links provided in the Practice Note.
- A 3-page annexure is provided with information on the operational requirements

# May & Jun Update *(continued)*

## **Notice 9 of 2022:** Status update on file transition project

- Notice 62 of 2021 on file transition project has reference.
- The contract handover project of moving 7.2 million Companies, Close Corporation, Trade Marks, Design, Copyright and Co-operative files to the new storage facility was completed on 26 November 2021.
- Files are now being labelled and captured onto the service provider's system to enable sorting and retrieval.
- Delays will therefore still be experienced until the end of May 2022

## **Notice 13 of 2022:** CIPC link with DHA has been restored

- The Department of Home Affairs link has been restored on 25 May 2022.



# May & Jun Update *(continued)*

## **Practice Note 3 of 2022: Independent Review**

- CIPC has issued a Practice Note to clarify the additional reporting requirement for Annual Reporting from Recognised Accounting Professional Bodies in line with Regulation 9(12).
- It is requested from Accounting Professional Bodies that a sample of the work (2-5 as a minimum) of independent reviewers be subjected to review/inspection to ensure that they are in adherence with the prescribed standards and regulations when engaging in the independent review process.
- “PEER REVIEW”??? YES!
- All recognized Accounting Professional Bodies are therefore required to conduct the abovementioned reviews/inspections and that the outcomes of these reviews/inspections should form part of their annual reports that are submitted to CIPC **from the 2023 reporting period.**

# Update up to today *(12 Jul 2022)*

**Notice 14 of 2022:** Co-Operatives that have been directed to change names by the Registrar

- The Notice sets out, in terms of section 11 of the Co-operatives Act of 2005 as amended, that 4 co-operative names have been amended

**Notice 15 of 2022:** Voluntary deregistration of companies and close corporations

- From 1 July 2022, CIPC will allow voluntary deregistration applications in terms of Section 82(3) of the Companies Act, where the company or close corporation status is that of AR Deregistration – status description 38
- Info

# Update up to today (*continued*)

## **Practice Note 18 of 2022:** Return relating to Directors and Register of Members

- All applications for the change of directors filed for registration must be in line with Regulations 17 read together with Section 39 of the Act.
- Only the particulars of the directors and any changes thereof must be filed with the Registrar of Co-operatives and when there are changes in membership the register of members as kept by the co-operative must be kept at its offices in line with Section 21(d).
- Due to the complaints regarding the unauthorized appointments and resignation of directors, as from the 1 August 2022 additional requirement for appointment or resignation of a director is the appointment letter or resignation letter respectively, which must accompany the application.
- Failure to comply will result in the rejection of the application for failure to submit the necessary letter.



# LINKS TO GUIDES & FAQs



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# Links to Guides & FAQs

- **Step-by-step guides**

- ① <http://www.cipc.co.za/index.php/Access/how-2/>

- **Information guides**

- ① <http://www.cipc.co.za/index.php/access/information-guides/>

- **Email addresses for submitting applications**

- ① <http://www.cipc.co.za/index.php/Access/forms-and-fe/>

- **Company forms & fees**

- ① <http://www.cipc.co.za/index.php/Access/companies/>

# Links to Guides & FAQs

- **Explanatory notes on specific forms**

① <http://www.cipc.co.za/index.php/Access/explanatory-notes/>

- **iXBRL Programme**

① <http://www.cipc.co.za/index.php/xbml-programme/>

- **FAQs**

① <http://www.cipc.co.za/index.php/publications/faqs/>



# In closing...

- As a practitioner, you also need to evaluate your client's compliance with the Companies Act and all relevant notices/enforcements issued by CIPC as the regulator.
- Remember to always consider **NOCLAR**
  - Be aware of possible contraventions of the Companies Act
  - NB to document your evaluation and conclusion of possible RIs (Reportable Irregularities)
  - Reporting obligations in terms of our Code of Conduct
  - Especially in your capacity as:
    - Auditor: You may need to report to IRBA
    - Independent Reviewer: You may need to report to CIPC
    - Accountant:



# Knowledge = Power!

## ❑ Technical Alerts published daily

- Follow SA Accounting Academy on LinkedIn

## ❑ SAAA's YouTube channel

- [youtube.com/channel/UCxBe4ybDf7-2wlaE1VjbZ\\_A](https://youtube.com/channel/UCxBe4ybDf7-2wlaE1VjbZ_A)

## ❑ Technical Summary Videos

- Short summaries that you access when you want to

## ❑ Webinars-on-Demand *Please refer to the SAAA website*

- Wide variety of topics – not always a “live” event...
- All our webinars are available – listen to recordings at your leisure

## ❑ MCLU subscription

- Stay up-to-date on all the latest developments in our field by attending the **M**onthly **C**ompliance & **L**egislation **U**ppdate
- *Please refer to the SAAA website for subscription options*



# QUESTIONS







**for your participation!**