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GOVERNMENT NOTICE

DEPARTMENT OF TRADE AND INDUSTRY

No. 54

25 January 2008

Companies and Intellectual Property Registration Office
(CIPRO)

COMPANIES ACT, 1973 (ACT 61 OF 1973)
CLOSE CORPORATIONS ACT, 1984 (ACT 69 OF 1984)

PRACTISE NOTE NO. 1 of 2008

DIRECTIVES OF THE REGISTRAR OF COMPANIES AND OF CLOSE CORPORATIONS ON APPLICATIONS FOR THE RESERVATION OF NAMES OF COMPANIES, CLOSE CORPORATIONS AND DEFENSIVE NAMES

These directives are published for the guidance of the general public and the professions. These directives have no statutory effect and should not be regarded as exhaustive. The Registrar reserves the right to deviate from these directives as he deems fit.

("Company" in the notes below includes the expression "Close Corporation").
("Name/s" means the reserved or registered name of a company, close corporation or a defensive name).

1. GENERAL PRINCIPLES

Any name may be allowed, provided that it does not prejudice the existing rights of any person, or that such name is, in the opinion of the Registrar, undesirable.

A name will be considered to be undesirable if -

- 1.1 it is identical or confusingly similar to a name already on the register of the Registrar;
- 1.2 descriptive elements in the name differ materially from the stated main object of the company;
- 1.3 a surname is incorporated in the name but no major shareholder, director, past director or member bears such surname;
- 1.4 words suggestive of governmental patronage or association at any level of government are employed in a name, unless this is the case or appropriate consent was obtained;
- 1.5 words pertaining to a trade mark are contained in a name, if such name will be used in the course of trade in the class of goods or services in which the mark is registered, unless the applicant has appropriate rights to the use of such trade mark;
- 1.6 words pertaining to a well-known trade mark entitled to protection under the Paris Convention as referred to in section 35 of the Trade Marks Act, 1993 are contained in a name, unless the applicant has appropriate rights to the use of such trade mark;

- 1.7 words suggestive of blasphemy or indecency or words which could cause annoyance or offence to any person or class of persons appear in a name;
- 1.8 words or letters suggestive of a profession or group of people requiring special qualifications or registration in terms of relevant legislation are used in a name while the applicant is not a member of such profession or group of people;
- 1.9 words or abbreviations relating to the liability of companies in other countries are incorporated in a name;
- 1.10 the word "Holding" or "Holdings" forms part of the name while the name will not be that of a holding company as defined in section 1 of the Companies Act, unless this word is preceded by a word or words related to the stated main object of the company, e.g. "Property Holdings", "Investment Holdings", "Transport Holdings", etc;
- 1.11 non descriptive words such as "Enterprises", "Ventures", "Consulting" etc, are contained in the name as a description, unless such words are preceded by the description of the actual main object of the company, e.g. "ABC Property Enterprises" or "DEF Investment Ventures";
- 1.12 the word "trust" appears in a name, unless this word is preceded by a word or words denoting the actual activity of the company, e.g. "GHI Investment Trust" or "JKL Sports Trust";
- 1.13 geographical names appear in a name while the company will not carry on business in such geographical area, unless such terms are clearly used as innocent decorative descriptions, such as "Manhattan Restaurant", "The London Inn", etc. This include the names of countries in company names which invoke the false appearance that companies originate from such countries.

2. PROHIBITED WORDS

The following words or expressions are either prohibited by statute or will only be allowed in a name on certain conditions, or are disallowed in accordance with the discretion of the Registrar in terms of sections 41 and 42 of the Companies Act and section 19(1) of the Close Corporations Act (this list is not exhaustive):

- 2.1 any of the words "Cooperative", "Co-operative" or "Co-op", unless the context in which these words are used indicates that this will not be a cooperative body in terms of the Cooperatives Act;
- 2.2 a name that consists of a single generic word or common expression only.

(So-called "made-up names" - non-generic words not found in a dictionary, are allowed on their own or with suffixes relating to the main object of the company. Duplications of such made-up names will only be allowed with different affixes relating to differing main objects for subsidiary or associated companies, for example "Sasol", "Sasol Petroleum", and so on);

- 2.3 the expression "Bank" or any derivative thereof such as "banking", etc, will only be permitted in a name on condition that the Registrar of Banks approves of the use of such a word;
- 2.4 "South African National Defence Force", "National Defence Force", "SANDF" or any other words or letters indicating an association with the South African armed forces;
- 2.5 words prohibited under section 15 of the Merchandise Marks Act, 1941;
- 2.6 the words "Red Cross" (unless used by the organisation itself);
- 2.7 any word or expression signifying or implying some or other association with any stock exchange in the country, or indicating that a company will be a stock exchange while this is not the case;
- 2.8 "Standard" and "Lotto" will only be allowed with the approval of the Minister of Trade and Industry;
- 2.9 "Medical Scheme", "Medical Aid" or "Medical Aid Scheme" will only be allowed with the approval of the Registrar of Medical Schemes;
- 2.10 "Attorney" or "Attorneys" will not be allowed in the name of an incorporated company for attorneys, in terms of the Attorneys Act;
- 2.11 the words "Insurance", "Assurance" or "Underwrite" or any derivative thereof, unless approved by the Registrar of Long Term Insurance;
- 2.12 the word "Unlimited", used as the last word in a name;
- 2.13 figures denoting a calendar year appear in a name, while this is not the year of registration of the company;
- 2.14 the word "Incorporated" or its abbreviated form, as the last word in the name of a company unless the company will be incorporated in terms of the special provisions of section 53 of the Companies Act;
- 2.15 "company" in the name of a close corporation and *vice versa*. ("Corporation" is permitted in the name of a company);
- 2.16 expansive descriptions such as "National", "International" or "Global" in a name while the company will not be operating on such a scale;
- 2.17 e-mail- and Web addresses;
- 2.18 names consisting solely of job descriptions, such as "Medical Services", "Brick Distributors" and the like;
- 2.19 names consisting of letters of the alphabet or of numerals only -- at least one pronounceable word is required in a name;

- 2.20 a surname on its own, except in extraordinary circumstances. A combination of two or more surnames is permitted. A single surname is permitted if combined with the initials or first names of the incumbent person, or with a description of the main object of the company, for instance, "Smith Construction";
 - 2.21 geographical names on their own;
 - 2.22 well-known names such as "Madiba", "Nelson Mandela", Steve Biko and others, unless with appropriate consent.
3. **PROHIBITION OF THE USE OF NAMES RELATED TO THE 2010 SOCCER WORLD CUP**

Persuant to an agreement with the representatives of the *Federation International de Football Association* ("FIFA") names will not be permitted which could indicate any association with names related to this occasion, and which could prejudice any of the rights of FIFA in this regard. This include names such as "FIFA" itself and "2010 World Soccer", "FIFA Soccer", "2010 World Cup", etc. and all names similar thereto.

4. **TRANSLATED NAMES**

In the case of an application for the registration of the translation of a name, the Registrar shall not be required to verify the grammatical correctness or the correctness of the spelling of the translated words.

5. **SHORTENED FORMS OF NAMES**

The shortened form of a name must contain some or all of the elements of the name from which it is derived.

6. **DEFENSIVE NAMES**

The same principles that apply in the case of the reservation of company names, apply in the case of the reservation of defensive names. The Registrar may require proof of the direct and material interest that an applicant claims in a name to be defensively registered. The registration of a defensive name may be refused if the Registrar has reasonable grounds to believe that it may lead to trafficking in names.

7. **NAMES OF COOPERATIVE BODIES**

Although the prior reservation of the names of cooperatives is not compulsory, these directives may beneficially apply to those who still prefer to reserve cooperative names prior to registration.

8. **REGISTRAR'S DISCRETION**

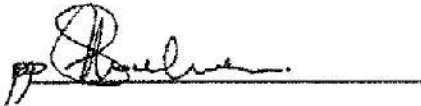
In considering the reservation of a name, the Registrar takes cognisance of all surrounding circumstances, including precedents in case law. An application for the reservation of a name that complies fully with these directives and appears to be

available for reservation, may still be refused for other reasons falling within the ambit of the discretion of the Registrar.

9. REPEAL

Practice Note No. 2 published under Government Notice No. 978 of 15 September 1995 as amended by Government Notice No. 1379 of 27 September 1996 is hereby repealed.

SIGNED AT PRETORIA THIS ...09... DAY OF JANUARY 2008



**REGISTRAR OF COMPANIES
COMPANIES AND INTELLECTUAL PROPERTY REGISTRATION OFFICE
(CIPRO)**