

MINDING YOUR BUSINESS



Protecting Entrepreneurship and Innovation



STEP 1

REGISTERING YOUR BUSINESS – HOW TO?



Business Registration

Objective:

- Provide legal status and recognition to businesses.

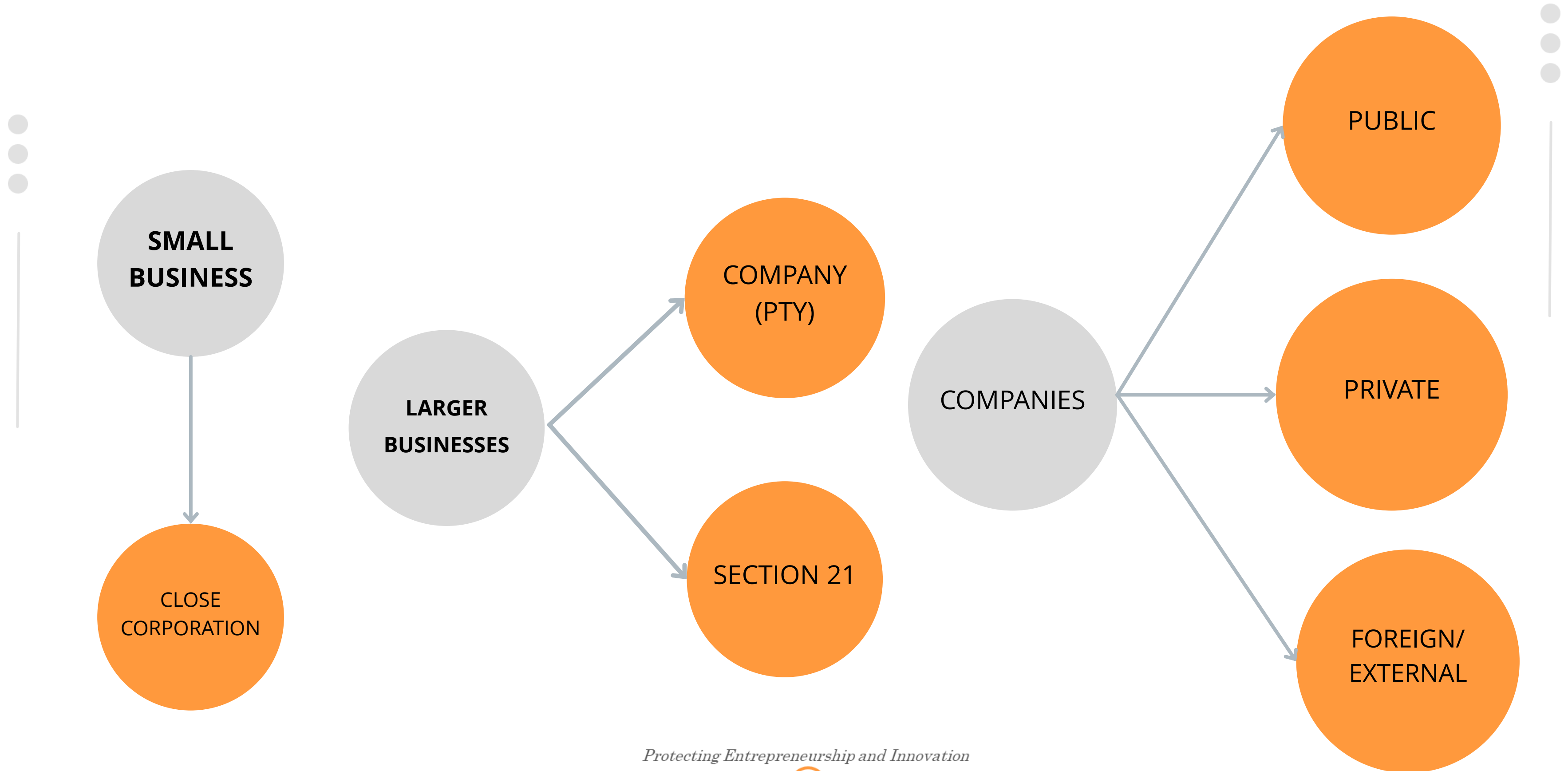
Benefits:

- Access to formal markets, public procurement processes, and financial services.
- Enhanced credibility and protection against liability.

Processes:

- Business name search, applications and approval.
- Submission of incorporation documents.
- Submission of Compliance documentation.
- Issuance of certificate of incorporation.

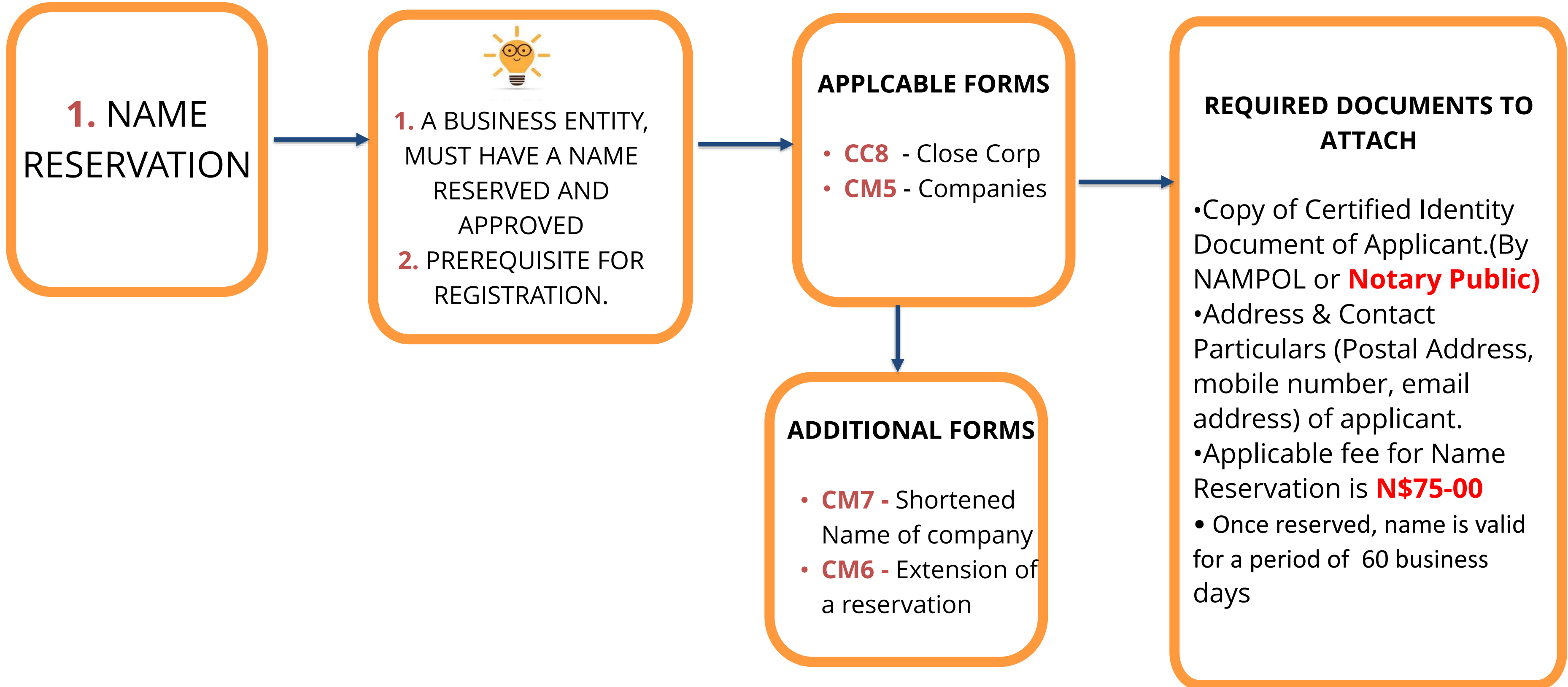
WHAT BUSINESS ENTITY TO CHOOSE



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STEP 1: REGISTERING YOUR BUSINESS ENTITY: **NAME RESERVATION**



STEPS 2: REGISTERING YOUR BUSINESS ENTITY: CHOOSING THE TYPE OF BUSINESS

1. CLOSE CORPORATION

COMPOSITION

- Minimum one (1) member, maximum of ten (10) members.
- Members own and manage the CC),
- Ownership of the CC must add up to a 100%, each member's interest is expressed as a percentage.



ideal for small business owners



- The Close Corporation must be profit making in its intentions.
- It is a legal entity separate from the members;
- Therefore, it provides the members with limited liability (S2(3) (legal responsibility),
- Liability ensues in case of negligence by the members (S63 and S64.

APPLICABLE FORMS

- CC1 - completed (3)
- BO 1 Declaration

REQUIRED ATTACHMENTS

- **Approved** and **valid** name
- Certified / **Notarised** copies of ID's, Passports, FBC of all members and witnesses
- Consent Letter - **certified Public Accountant**
- Contact particulars of all members and witness
- Written Consent and Power of Attorney (where applicable)
- Consent from **NAMFISA, Namibia Tourism Board, Namibia Estate Agents Board, NQAS, HPCNA, ECN etc**, where applicable

PROS & CONS OF CLOSE CORPORATION

PROS

- Limited liability
- It is an appropriate vehicle for a small business.
- Relatively simple and inexpensive to set up
- A CC does not have the legal complications compared to a company.
- The CC is regarded as a legal entity - the continuity of a CC is not linked to the status and life of the members
- offers flexibility and control, and is free from many of the reporting requirements and shareholder pressures that public companies face

CONS

- limited number of members allowed in a Close Corporation (CC) is 10.
- Every member acts as an agent of the CC and the CC is bound by the member's actions.
- A member of a CC can be personally held liable for the losses of a CC if the member acts carelessly, or without skill.
- A CC cannot be a holding entity in a group structure, save for being a subsidiary
- The CC is taxed.

STEPS 2: REGISTERING YOUR BUSINESS ENTITY - COMPANIES

2. COMPANIES

What is a company?

- A company is a **more complex** business structure.
- Ideal for larger businesses seeking scale and stability, offering resources, established infrastructure, and economies of scale that can drive growth and reduce risk.
- It is a **separate legal entity** with certain rights, privileges and liabilities beyond those of an individual.
- The owners of a company are its shareholders.
- The shareholders **elect directors** to oversee major policies and decisions.
- The company has a **life of its own** and does not dissolve when ownership changes.
- Companies may be formed **for profit or non-profit purposes** and can assume any of the following forms.
 1. **Private** company (Pty) Ltd - Limited to 50 shareholders
 2. **Public** company (Ltd) – unlimited shareholding options
 3. **Non-Profit** Association incorporated under Section 21
 4. Foreign (External) Companies

STEPS 2: REGISTERING YOUR BUSINESS ENTITY - continued

2. COMPANIES



- Relatively **complex and expensive** process in compilation of application documents, hence it is recommended that the service of a legal practitioner or secretarial service provider be sought, given that the Memorandum and articles of each individual Company is customized according to specific objectives and constitution.
- After preparation, and notarization application can be submitted to BIPA for registration to BIPA
- Prescribed fees are set; however, fees payable vary per entity based on the individual set-up and share composition of the entity concerned the **minimum** fee payable for a company registration starts at N\$465
- Additional fees payable for Notarization and appointment of Auditor – NB. Payable to service providers, not regulated by BIPA.

STEPS 2: TO REGISTERING YOUR BUSINESS ENTITY – COMPANIES - continued

2. COMPANIES

Required documents:

- **Approved** and **valid** name
- Certificate of Incorporation
- **Memorandum and Articles of Association in triplicate** (2 of the 3 copies certified by Notary Public)
- Notarial Certificate – attestation of the certification
- **Notice of Office address**
- **Application for certificate to commence business**
- **Statement / declaration by Directors**
- **Consent for appointment as Directors / Officers**
- **Contents of registers of Directors, Officers and Auditors**
- **Notice of Consent of Auditor Appointment etc.**
- Certified / **Notarised** copies of ID's, Passports, FBC of all members and witnesses
- Contact particulars of all members and witness
- Written Consent and Power of Attorney (where applicable)
- Consent from **NAMFISA, Namibia Tourism Board, Namibia Estate Agents Board, NQAS, HPCNA, ECN etc**, where applicable
- BO 1 Declaration

PROS & CONS OF COMPANIES

PROS

- **Limited Liability** - debts and liabilities are separate from the personal assets of the owners.
- **Tax Benefits** - benefits from lower corporate tax rates varies per jurisdiction – NAMRA will confirm.
- **Ease of Raising Capital** - Incorporating a company makes it easier to raise capital through the trading of shares. Also easy to secure loans.
- **Credibility and Trust** - Clients / customers perceive an incorporated company as more legitimate than a CC – aids in attracting new business.
- **Separate Legal Entity** - company is separate from its owners, allowing for a smoother transfer of ownership and easier management of assets.
- **Continuity** - company can continue to operate even if the owners change or die, as the life of a company is not tied to the owners.

CONS

- **Cost** - High registration cost and ongoing costs.
- **Complexity** - Setting up and managing a company can be more complex than running a smaller business like a CC. Paperwork, regulatory compliance etc.
- **Loss of Personal Control** - **with** growth of the company, brings forth a reduced sense of control over day-to-day operations and decision-making.
- **Potential Liabilities** - Directors can be held personally liable for the company's debts, if they fail to meet their statutory obligations.



STEP 2

AMENDING YOUR BUSINESS



STEPS 3: AMENDING YOUR BUSINESS ENTITY: CLOSE CORPORATION

1. CLOSE CORPORATION

APPLICABLE FORMS

- CC2 - completed (3)
- BO 1 Declaration
- CC 9
- CC 7

REQUIRED ATTACHMENTS

- **Approved** and **valid** name – **where applicable**
- Certified / **Notarized** copies of ID's, Passports, FBC of all members / representatives and **witnesses (where there are changes)**
- Consent Letter - **certified Public Accountant** – **where there is a change / if applicable**
- Notice of Removal / termination of service of existing Accountant – **where there is a change / if applicable**
- Contact particulars of all members and witness - – **where there is a change / if applicable**
- Written Consent and Power of Attorney (**where applicable**)
- Consent from **NAMFISA, Namibia Tourism Board, Namibia Estate Agents Board, NQAS, HPCNA, ECN, Ministry of Mines and Energy etc, where applicable**
- **Certified copy of Executorship Letter** – in the case of a deceased person being removed, or in the case of a transaction being carried out where a deceased person still exists as a member.
- Application for financial year end change – **(CC9) (\$60.00)**
- Annual Return - submissible before a financial year end change can be processed – **(CC7) (\$120)**
- **Zero Balance Statement (available from BIPA)** or copies of proof of payment of Annual Duties.
- BO 1 Declaration – ONLY submissible with amendment, where there are member and or address changes.
- **\$60 – 00** application fee for the CC amendment 0 NB. Currently only a part of the form is charged for.

STEPS 3: AMENDING YOUR BUSINESS ENTITY: COMPANIES

2. COMPANIES

APPLICABLE FORMS

- Various forms associated with the different type of companies.

REQUIRED ATTACHMENTS

- **Approved** and **valid** name – **where applicable (with associated documents)**
- Certificate of Incorporation
- Memorandum and Articles of Association **in triplicate** (2 of the 3 copies certified by Notary Public)
- Notarial Certificate – attestation of the certification
- **Notice of Office address** - – **where applicable**
- **Consent for appointment as Directors / Officers** – **where applicable**
- **Contents of registers of Directors, Officers and Auditors** – **where there are changes and where applicable.**
- **Notice of Consent of Auditor Appointment** - – **where there are changes and where applicable**
- Certified / **Notarised** copies of ID's, Passports, FBC of all shareholders, directors – **where there are changes and where applicable**
- Contact particulars of all shareholders and directors - – **where there are changes and where applicable**
- Written Consent and Power of Attorney (**where applicable**)
- Consent from **NAMFISA, Namibia Tourism Board, Namibia Estate Agents Board, NQAS, HPCNA, ECN etc**, where applicable.
- Resolution setting out change (signed by Directors) and extract of minutes of meeting where resolution for change was passed.
- **Zero Balance Statement (available from BIPA)** or copies of proof of payment of Annual Duties.
- BO 1 Declaration – **where there are changes and where applicable**
- Prescribed fees are set; however, fees payable for an amendment vary per based on the specific amendment being carried out.



STEP 3

STATUTORY COMPLIANCE OBLIGATIONS



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STEPS 3: STATUTORY OBLIGATIONS: ANNUAL RETURN SUBMISSION AND ANNUAL DUTY PAYMENTS

Post registration, all registered entities are mandated (by law) to Annual at the end of the financial year

Entities are required to submit their annual returns on

- **Form (CC7 for Close Corporations and**
- **Form CM23 for Companies (Section 21 Companies included**

Fees Payable

- N\$120 **for Close Corporations**
- N\$ 290 (**For Companies Annual Duty - \$160, Submission / Administrative fee - \$130**)
- N\$ 130 (**Submission / Administrative fee for Section 21 (Non-Profit Making Companies) – these don't pay Annual Duties.**
- Penalties are payable for defaulting entities and in addition to penalties a late submission fee is payable for Companies
- Defaulting entities are not in good-standing.

STEPS 3: STATUTORY OBLIGATIONS: BENEFICIAL OWNERSHIP DECLARATION SUBMISSIONS



WHAT ARE BENEFICIAL OWNERSHIP DECLARATIONS AND WHY MUST THEY BE MADE?

- The Beneficial Ownership (BO) requirement is a statutory compliance obligation provided for in the Financial Intelligence Act, of 2012.
- A Beneficial Owner is broadly defined as a natural person(s) who ultimately owns, control and or holds influence over a juristic person (i.e., a registered CC, PTY or Section 21).
- UBO declarations are important to enhance transparency and combat illicit activities like money laundering, tax evasions etc., by identifying the individuals who ultimately own, control, or benefit from a legal entity.

STEPS 3: STATUTORY OBLIGATIONS: BENEFICIAL OWNERSHIP DECLARATION SUBMISSIONS



WHEN MUST BENEFICIAL OWNERSHIP DECLARATIONS BE MADE?

Beneficial Ownership declarations must be made 4 instances:

- With the registration of a new entity
- When submitting Amendments – if there are any changes in member's (Beneficial Owners) or address details of the entity / members, or any material changes of the members, for example changes in names or surnames resulting from marriage etc.
- When submitting Annual duties/returns (BO1 or BO2)
- Within 7 days of change in Beneficial Owners – **with Amendments.**

STEPS 3: STATUTORY OBLIGATIONS: BENEFICIAL OWNERSHIP DECLARATION SUBMISSIONS



WHO CAN SUBMIT A BENEFICIAL OWNERSHIP DECLARATION AND WHAT IS REQUIRED IN ADDITION?

Beneficial Ownership declarations can be submitted by;

- Members of an entity (CC's)
- Shareholders of an entity
- Representatives of an entity for example, a Senior Manager / MD or CEO.
- A representative (Legal practitioners, Accountants, or Company Secretarial Service providers who acts on behalf of a client) referred to as an Accountable Institution and must be registered with the Financial Intelligence Centre as an AI.
- In addition to the BO 1 declaration, certified ID / Passport / FBC is required to be submitted.

STEPS 3: STATUTORY OBLIGATIONS: BENEFICIAL OWNERSHIP DECLARATION SUBMISSIONS



WHEN DOES BENEFICIAL OWNERSHIP END?

- Beneficial ownership ceases on the date when a business owner, member, senior manager, shareholder, or any other BO:
- Is removed
- Resigns
- Or dies

Ultimately, ceases control or influence over juristic person, in which case an amendment must be submitted in addition to a BO1 declaration reflecting cession date.

STEP 4

**WHAT TO DO IF A BUSINESSPARTNER NO
LONGER WISHES TO BE IN BUSINESS?
DEREGISTRATION/CANCELLATION**

WHAT TO DO IF A BUSINESSPARTNER NO LONGER WISHES TO BE IN BUSINESS: DEREGISTRATION/CANCELLATION

WHAT IS DEREGISTRATION

- Deregistration is when, an entity ceases to exist as a legal entity, meaning
 - it can no longer trade,
 - own assets,
 - enter contracts,
 - or be involved in legal proceedings, and
 - the company's obligations end.

WHAT TO DO IF A BUSINESSPARTNER NO LONGER WISHES TO BE IN BUSINESS: DEREGISTRATION/CANCELLATION

WHEN CAN A BUSINESS BE DEREGISTERED

A business can be deregistered in three instances

- 1. Involuntary Deregistration** - if the registrar has reasonable cause to believe that an entity is no longer active and is not carrying out any business, an involuntary deregistration can be initiated.
- 2. Voluntary Deregistration (CC's)**- if an entity wishes to cease conducting business or has not been conducting business and wishes to cease existence, such entity can apply to the registrar for deregistration.
- 3. Compulsory Liquidation / winding up** - usually initiated against entities by Creditors, and occurs when creditors apply to the courts to wind up an entity due to the entity's inability to pay its debts
- 4. Voluntary Liquidation / winding up** - initiated by the entity's members / directors when they realize the company is insolvent, meaning it cannot meet its financial obligations.

WHAT TO DO IF A BUSINESSPARTNER NO LONGER WISHES TO BE IN BUSINESS: DEREGISTRATION/CANCELLATION

HOW DOES A BUSINESS APPLY FOR DEREGISTRATION

- An application may be made to the Registrar in writing to deregister the CC / Company (special resolution signed by all the Directors / Shareholders members deregistering the entity;).
 - **NB. In the case of companies, a period of objection for creditors must be observed.**
- A liquidation / winding up order may be filed by the creditors, or entity itself for liquidation. **NB. Liquidations / winding up is not carried out by the registrar.**
- Annual Duties must be paid up before entity can be deregistered – proof of same must be submitted either in the form of;
 - **A Zero Balance Statement or**
 - **Copies of BIPA receipts as proof that duties were paid in full**
- The process takes approximately 90 days to conclude
- The date of publication of the entity in the Government Gazette is by law deemed the date of deregistration of the entity.
- Once deregistered, owners may not trade using the business name, unless restoration of same has been granted.

CONTACT DETAILS

- **Call Centre: -**
 - General enquiries, information requests – 061 - 209 4433
 - info@bipa.na
- Regional submissions – region@bipa.na
- Deregistration enquiries- husselmann@bipa.na
- Goodstanding Certifications – goodstanding@bipa.na
- Records – filerequest@bipa.na copy shifindih@bipa.na
- Account Statements – debtors@bipa.na
- Refunds- shanghetenger@bipa.na
- IP related enquiries and/or information requests – ip@bipa.na

THE END, THANK YOU. 😊

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