

## **MEDIA RELEASE**

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### **Department of Trade and Industry amends standard MOI forms**

***Changes will assist in correcting the forms in cases where there were errors***

***Johannesburg, Thursday 22 August 2013*** – The South African Institute of Chartered Accountants (SAICA) has welcomed the recent amendments to the Companies Regulations, 2011 stating that these amendments are necessary to curb the discrepancies and frustrations experienced by users. The Companies Regulations were amended by the Department of Trade and Industry (the dti) and published in the Government Gazette on 20 August 2013.

This announcement came at a time when no changes were expected to the 2008 Companies Act (the Act) which became effective on 1 May 2011.

The forms that were amended are the following:

- Form CoR15.1A – Short Standard Form for Private Companies
- Form CoR15.1B – Long Standard Form for Profit Companies (Although the name of this form was not corrected and it still states Short Standard Form for Private Companies)
- Form CoR15.1C – Short Standard Form for Non Profit Companies without members
- Form CoR15.1D – Long Standard Form for Non Profit Companies without members
- Form CoR15.1E – Long Standard Form for Non Profit Companies with members

The Minister of the dti, Rob Davies, also stated in the Government Gazette that the amendments to these forms must be deemed to become effective on 1 May 2011. “This would mean that people who had already filed the previous forms do not have to file new forms to ensure that the corrections are effected in their Memorandum of Incorporation (MOI)”, Steenekamp explains.

SAICA’s Project Director Juanita Steenekamp explains the seriousness of the issues that arose due to the errors contained in the forms by noting that one of the issues of concern pertaining to the previous forms for private companies was that they did not include all the requirements for a company to be classified as a private company.

The Act states that a private company is a company that is not a state owned company, and its MOI prohibits it from offering any of its securities to the public, and also restricts the transferability of its securities.

“However, the previous forms did not include the restriction on the transferability of shares.” Steenekamp elaborates explaining that “this lead to confusion on whether a private company that used the prescribed forms would in fact be classified as a private company if they did not include both these requirements as stated in the Act, in their MOI. The conclusion reached in the past was that these companies would be classified as public companies.”

“Another critical amendment to all the forms include the clarification on the adoption of the MOI”, she says, adding that people who completed the MOI in the past were confused on the completion of the names and addresses of the incorporators and this has now been rectified and the amended forms now state clearly that these sections only need to be completed when a new company is registered.

The section dealing with shareholders resolutions were also amended to state that an ordinary resolution must be supported by more than 50% of the voting rights exercised on the resolution instead of the previous wording which stated the required percentage was at least 50%, which was not in line with the Act’s requirements.

Steenekamp has also noted that the Long Standard Form CoR15.1B seems to now allow a state-owned company to use this form as it has included state-owned companies as an option. The other amendments include corrections to the references in the Companies Act as well as substituting words in certain sections.

“SAICA is very pleased with this move and the institute confirms that these changes were necessary and needed to be effected in order to avoid the discrepancies and frustrations that were experienced by users”, Steenekamp concludes.

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#### **MEDIA CONTACTS:**

<b>Bontle Tsikwe</b> Communications Coordinator: Corporate SAICA Communications & Marketing Division Tel: 011 621 6712 Email: <a href="mailto:bontlet@saica.co.za">bontlet@saica.co.za</a>	<b>Nkolola Halwindi</b> Project Director: Communication SAICA Communications & Marketing Division Tel: 011 621 6713 Email: <a href="mailto:NkololaH@saica.co.za">NkololaH@saica.co.za</a>
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#### **ABOUT SAICA:**

The South African Institute of Chartered Accountants (SAICA), South Africa’s pre-eminent accountancy body, is widely recognised as one of the world’s leading accounting institutes. The Institute provides a wide range of support services to more than 35 000 members who are Chartered Accountants and hold positions as CEOs, MDs, board directors, business owners, chief financial officers, auditors and leaders in their spheres of business operation. Most of these members operate in commerce and industry, and play a significant role in the nation’s highly dynamic business sector and economic development.

SAICA serves the interests not only of the Chartered Accountancy profession, but also of society in general through its key objective of upholding professional standards and integrity. The pre-eminence of South African Chartered Accountants [CAs(SA)] nationally and internationally attests to the successes achieved by SAICA on a broad global canvas. SAICA’s members enjoy the privilege of using the highly regarded and prestigious CA(SA) designation. Members of SAICA are subjected to a Code of Professional Conduct, which provides guidelines for ethical and professional behaviour. Fundamental ethical principles to which CAs(SA) are expected to achieve include:

- Integrity;
- Objectivity;
- Professional Competence and Due Care;
- Confidentiality; and
- Professional Behaviour.

SAICA members serve on international accounting bodies including; the Trustees of the International Financial Reporting (IFRS) Foundation, the International Accounting Standards Board (IASB), the IFRS Interpretations Committee, the IFRS Advisory Council and the Council of the International Federation of Accountants (IFAC). SAICA is also a member of The Global Accounting Alliance (GAA).

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