

Portfolio Committee on Trade, Industry and Competition

Briefing by the CIPC on the status of its implementation of the Zondo Commission Recommendation, as well as on Grey-listing

19 FEBRUARY 2025



the dtic

Department:
Trade, Industry and Competition
REPUBLIC OF SOUTH AFRICA

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Purpose

To provide an update to the Portfolio Committee on the progress made on matters emanating from the State Capture Commission Report

- Private Sector Entities
- Public Sector Entities
- Private Individuals
- SIU Referrals

Private Sector Entities

Thirteen (13) matters closed, reported on previously

LSG Skychefs South Africa: 1992/000913/07	Airbus Southern Africa 1981/003906/07	Air Chefs 1990/006277/30
BidAir Group 1993/004374/06	Albatime 2009/021474/07	EOH Holdings 1998/014669/06
BidAir Cargo: 2004/019639/07	Nzunzo Investments 2002/023124/07	Blackhead Consulting B2004/034971/23
Price Waterhouse Coopers INC. 1998/012055/21	Glencore Operations South Africa. 1997/017998/07	
Nkonki Inc. 2002/017422/21	Glencore Holdings SA 2008/019942/07	

Report covers April 2024 – January 2025

Cases pursued and referred to Pretoria State Attorney

- JM Aviation SA (2015/053564/07)
 - Swissport SA (1992/003624/07)
 - Homix (2012/176951/07)
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- The above 3 matters were referred to the State Attorney's Office on the 19 October 2023.
 - The State Attorney's office acknowledged receipt on the 13 February 2024 and file no. 4029/23/29 was allocated
 - Consultation with Counsel and Senior Counsel – took place 28 May 2024 – still awaiting next steps after numerous follow ups (physically and virtually)

Status of the above matters

- Due to the prolonged process of the State Attorney's office
 - JM Aviation 2015/053564/07, Finally deregistered because of annual returns
 - Swissport 1992/053564/07, is still in business
 - Homix 2012/176951/07, Finally deregistered because of annual returns

Cases pursued and referred to Pretoria State Attorney

Private Sector Entities Follow-Up Status Report as at 25 January 2025	Status, CIPC Register	Notes
<ul style="list-style-type: none"> • JM Aviation South Africa • 2015/053564/07 	<p>(Deregistered, due to AR non-compliance)</p>	<ul style="list-style-type: none"> • The Company is in the aviation industry and had paid R2.5 Million for a purchase of land in EC. • It has failed to respond to CIPC correspondence and Compliance notice. • CIPC referred the Company to the State Attorney to pursue delinquency proceedings (19 October 2023) • File No. 4029/23/29 allocated as at 13 February 2024 • Consultation with Counsels, Junior and Senior, took place on 15 May 2024 • Follow ups (virtually and physically) made, feedback to written requests for next steps being awaited. Due to delays, entity has now been deregistered) • Companies Second Amendment Act, 17 of 2024 on prescription periods would have paved the way for next steps.

Cases pursued and referred to Pretoria State Attorney

Private Sector Entities Follow-Up Status Report as at 25 January 2025	Status, CIPC Register	Notes
<ul style="list-style-type: none">• Swissport South Africa• 1992/003624/07	Active, in business	<ul style="list-style-type: none">• Allegations are that the Co paid R28.5 million as kickbacks for a ground handling contract and other ACSA issues.• This entity failed to respond to our Compliance Notice.• CIPC has referred the Entity to the State Attorney for delinquency application, inter alia.

Cases pursued and referred to Pretoria State Attorney

Private Sector Entities Follow-Up Status Report as at 25 January 2025	Status, CIPC Register	Notes
<ul style="list-style-type: none"> • Homix • 2012/176951/07 	(Deregistered, due to AR non-compliance)	<ul style="list-style-type: none"> • Gupta linked HOMIX earned over R36 million from Neotel Transnet deal for work not done. • Homix was investigated by CIPC, compliance notice issued. • Matter was sent to the State Attorney's office for delinquency application. • CIPC noted that the entity is now under de-registration process due to annual returns. • CIPC referred the Company to the State Attorney to pursue delinquency proceedings (19 October 2023) • File No. 4029/23/29 allocated as at 13 February 2024 • Consultation with Counsels, Junior and Senior, took place on 15 May 2024 • Follow ups (virtually and physically) made, feedback to written requests for next steps being awaited. Due to delays, entity has now been deregistered) • Companies Second Amendment Act, 17 of 2024 on prescription periods would have paved the way for next steps
<p>The above three matters were referred to the State Attorney's office for the following reasons.</p> <ul style="list-style-type: none"> • They failed to provide compliance programme as requested by CIPC. <ul style="list-style-type: none"> • They failed to respond to all CIPC correspondence. • The Directors failed in exercising their fiduciary duties. • There was contravention of Sec 26 of the Companies Act in relation to Company records. 		

Pro-Active Matters on Private Individuals

Matter 1.

The Yakhe Khwinana matter is also now with the State Attorney for Senior Counsel to pursue a delinquency application. SAICA pronounced on the CA status of Ms Khwinana, and this will be grounds to support our S162 application. We are busy with consultations with Senior Counsel to enroll matter in court.

Update as at January 2025

- Matter was put on hold as Ms Khwinana has appealed independent SAICA Disciplinary Committee decision, announcing the immediate withdrawal of SAICA Membership. The review was set for 21-23 January 2025
- Ms Khwinana is currently facing charges on fraud related to SAA and is out on bail of R20 000.

Matter 2.

Mr Mitesh Mahanlal Patel

The matter was referred to the State Attorney's Office in May 2024 for delinquency proceedings and CIPC is still awaiting response and allocation of case number.

Status of matters referred from Special Investigation Unit (SIU)

- CIPC received a referral of various matters from SIU in October 2024.
- The referral allows for CIPC to conduct investigations, issue compliance notices and ultimately to bring about court applications in terms of section 162 of the Companies Act declaring directors an/or members delinquent for procurement related activities around SAA and failure to file Beneficial Ownership (BO) information, inter alia.
- The names of the Companies from SIU are named below, for which a Senior Investigator was appointed on 23 December 2024 in terms of Section 168 read with regulation 135 to investigate the respective entities, the directors and members involvement in the allegations after an engagement with the same entities on 13 December to file BO declarations as well.

Referral from Special Investigation Unit (cont..)

Entity Name	Reg. No.	CIPC Status	Notes
Zanorspark (Pty) Ltd	2016/037324/07	In business	Compliance notice will be issued on 27 January 2025
BM Kolisi Inc.	2011/003465/07	In business	Compliance notice will be issued on 27 January 2025
Mbanjwa Attorneys	2003/029642/07	In business	Compliance notice will be issued on 27 January 2025

Referral from Special Investigation Unit (cont..)

Entity Name	Reg. No.	CIPC Status	Notes
Indyebo Property Management (Pty) Ltd	2015/065280/07	In business	Compliance notice will be issued on 27 January 2025
Likamva Resources (Pty) Ltd	2012/019309/07	In business	BO filed, however, Compliance notice will be issued on 27 January 2025 for the SIU related matter
Jamicron (Pty)Ltd	2015/084118/07	In business	BO filed, however, Compliance notice will be issued on 27 January 2025 for the SIU related matter

State Owned Enterprises Update as at January 2025

Eskom SOC Ltd

September 2024, the CIPC launched delinquency proceedings in the High Court of South Africa Gauteng Division Pretoria against 6 Respondents for breach of their fiduciary duties as a director of Eskom assumed by virtue of the Integrity Undertaking and/or imposed by our common law, sections 75 and 76 of the Companies Act and sections 50 and 51 of the PFMA, including the duty to take all reasonable steps to ensure that Eskom complied with all public procurement obligations imposed on it by the Constitution, the PFMA, the NT Instruction, Guideline, Directive and Position Paper and the PSCM Procedure.

Denel SOC Ltd

September 2024, the CIPC launched delinquency proceedings in the High Court of South Africa Gauteng Division Pretoria against 3 Respondents for breach of their fiduciary duties as prescribed officers of Denel imposed by our common law, sections 75 and 76 of the Companies Act and sections 50 and 51 of the PFMA, including the duty to take all reasonable steps to ensure that Denel complied with all public procurement obligations imposed on it by the Constitution, the PFMA, the Delegation of Authority, the Group Supply Chain Policy and the Denel Land Systems Procurement Policy.

Alexkor SOC Ltd

Alexkor is currently involved in a court case that goes to the merits of the transaction that relates to the alleged fiduciary breaches by previous Alexkor directors. The CIPC has paused on any potential delinquency action until the outcome of this court proceeding.

State Owned Enterprises Update as at January 2025

Transnet SOC Ltd

The CIPC has paused its attempts to prepare and launch an application for a declaration of delinquency unless and until it is in a position to obtain the assistance of a witness with personal knowledge to support its application and discharge that onus.

SAA SOC Ltd

SAA referred a delinquency request to the CIPC in March 2024. Consultations were held between the CIPC and SAA in which undertakings were given by SAA to supplement the evidence file. Despite repeated requests and follow-up by the CIPC additional information was not provided. The CIPC has paused on any action until SAA is in a position to provide the requested evidence and witnesses.

Grey-listing Update on CIPC related Action Items

Beneficial Ownership Register Status Update

- Over a 1.1 million Beneficial Ownership declarations were received into the BO Register
- Law Enforcement Agencies, Banks and other Competent Authorities have been onboarded and granted access to the BO Register to conduct searches and download documents for the on-going investigations
- Education and Awareness campaigns to targeted stakeholders and the members of the public; through virtual and physical platforms
- CIPC conducts investigations, issues compliance notices, refers matters for prosecution to the NPA and pursues non-compliance for issuance of administrative fines through the courts (with the assistance of the State Attorney)
- CIPC continues to collaborate extensively with public and private sector organisations with a view to ultimately triangulate data collected and stored by different sources. For example, STRATE on listed companies, SARS on all legal persons, inter alia.



Declaration Date
4/1/2023 1/27/2025

Status
All

Fiscal Year
Multiple selections

Fiscal Quarter
All

Fiscal Month
All

Report date: 27/01/2025 16:36:10

RESET FILTERS

In order for the visuals to work a Fiscal Year and Fiscal Month must be selected

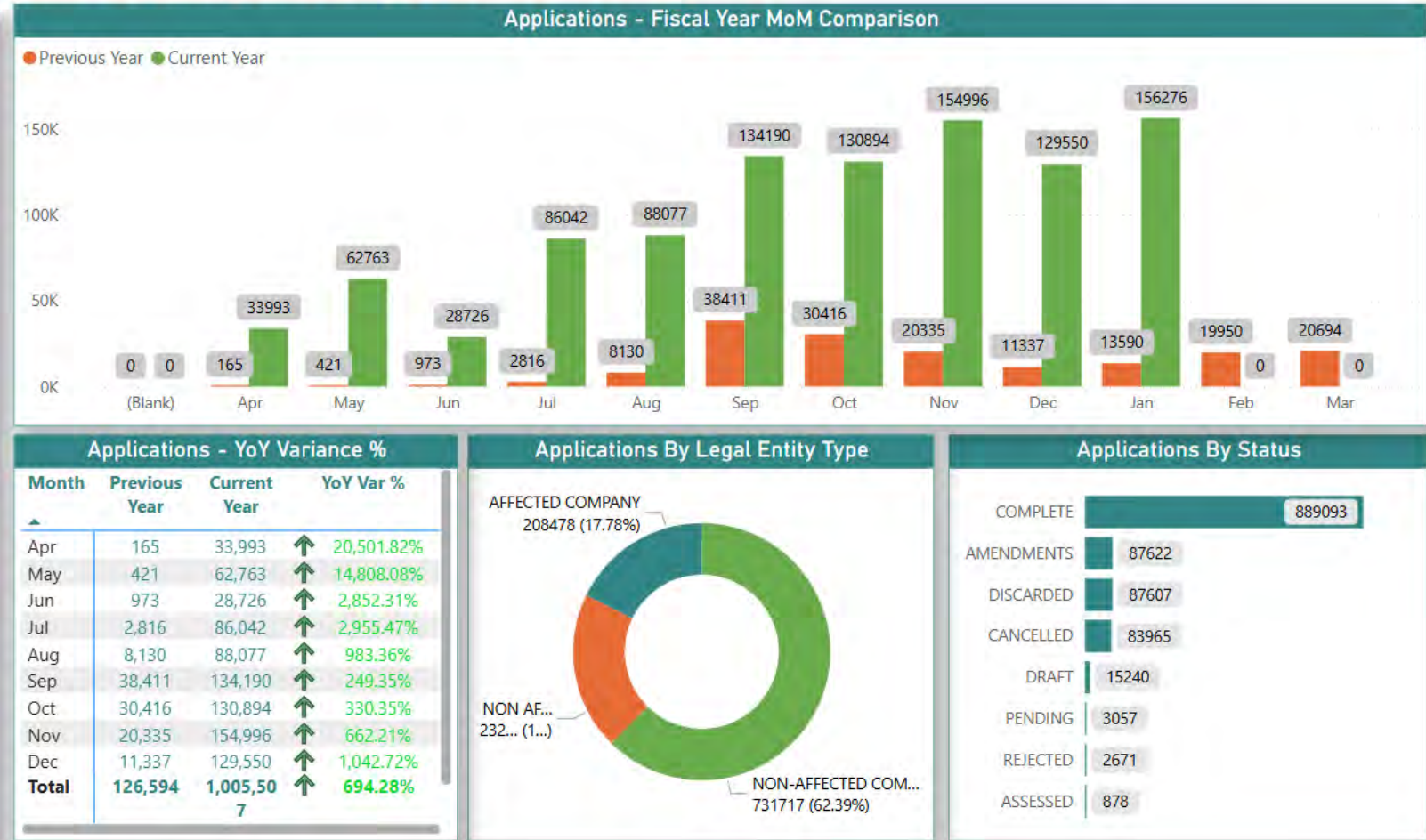
Selected Period KPIs

1,172,745
New

889093
Completed

87,622
Amendments

878
Assessed



Beneficial Ownership Update (cont..)

Action Plan Item 5-1

Timetable: September 2024

1. South Africa should demonstrate that competent authorities have timely access to adequate, accurate and up to date beneficial ownership information of legal persons and arrangements.

CIPC has demonstrated effectiveness in addressing the above action item and therefore considered to have largely addressed the deficiency

Action Plan Item 5-2

Timetable: January 2025

1. South Africa should apply remedial actions and/or dissuasive and proportionate sanctions for violations of the transparency obligations applicable to legal persons.

CIPC has demonstrated effectiveness in addressing the above action item and therefore considered to have largely addressed the deficiency

**Formal Communication to be issued from National Treasury*

CONCLUSION

CIPC continues to actively monitor the levels of compliance regarding all the entities implicated in the State Capture report as part of the core mandate. The mandate of CIPC also includes reviews of annual financial statements for solvency and liquidity in terms of section 4 of the Companies Act and amongst others also ensuring that there is compliance with Section 22 of the Act for entities not to trade recklessly. Timeous filing of all required disclosure documents annually and when changes occur will continue to form part of our active monitoring of the said entities and in terms of our operational unit risk registers, the entities will be actively monitored as entities which have been red flagged.

The Companies Amendment Act also provides that the time bar to bring an application to declare a Director delinquent be increased to 5 years. In addition, the Companies amendment grants the courts the powers to extend time on good cause shown.

Conclusion (cont..)

The Second Companies Amendment Act will ensure that Directors are held liable for acts that occurred in previous years and in the public interest. These will be acts and omissions even long before the Companies Second Amendment Act comes into effect.

Our commitment to ensure consequence management for directors and auditors is supported by the provisions of Section 168 where the Commission can initiate its own investigations proactively and not only conduct investigations after a complaint is filed. The continued collaboration with Law Enforcement Agencies remains at the heart of persistent efforts to keep relevant directors, members and entities accountable going forward.

Thank You