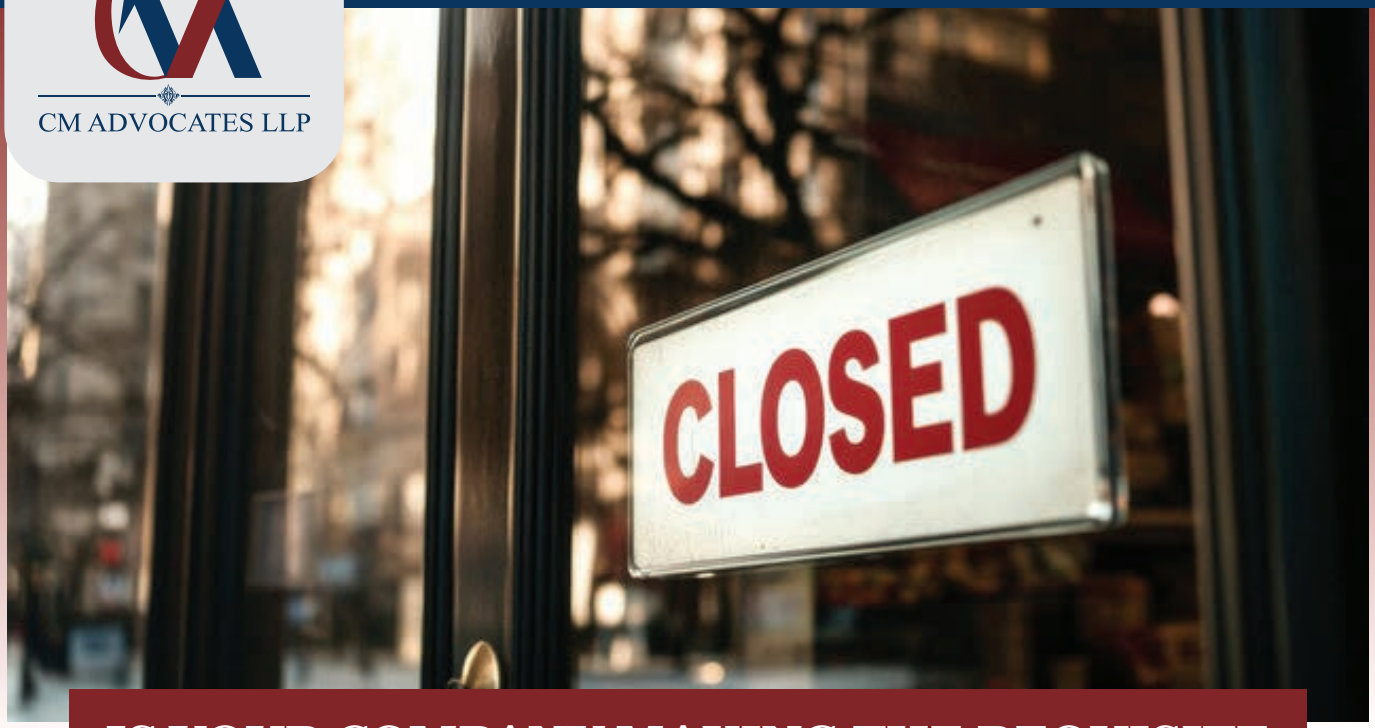
CM ADVOCATES LLP



IS YOUR COMPANY MAKING THE REQUISITE FILINGS AS PROVIDED UNDER LAW?

The Business Registration Service (BRS) has issued a directive, acting under ***Section 93A*** and ***894*** of the Companies Act, regarding the compliance status of registered companies. This follows an increasing number of companies failing to meet their statutory obligations.

This directive specifically addresses:

- The mandatory filing of **beneficial ownership information registers** (**BOI**); and
- The operational status of registered companies.

The Companies Act as read with the Companies (Beneficial Ownership Information) Regulations requires all companies to identify and verify the particulars of its beneficial owners. Each company must maintain a full register of beneficial owners noting the name, ID number, address and telephone number amongst other KYC information of the beneficial owners.

A **beneficial owner** is defined as the **natural person** who ultimately owns or controls a legal person or arrangements or the natural person on whose behalf a transaction is conducted. This legal requirement was aimed at unveiling the individuals behind the layers of corporate structures as a way of mitigating against money laundering and other financial crimes. A company is required to keep records of its beneficial owners for at least 10 years and to notify the Registrar of any changes thereto

BRS has repeatedly reminded the public of the requirement to file this register and had in the recent past issued a circular requiring companies to file their BOI registers by November 30, 2024. This was an extension from the 60 days specified in the Companies Act. The Registry Service noted that this requirement had unfortunately not been complied with.

BRS also observed that a huge number of companies were non-compliant and had failed to meet certain minimum compliance requirements

such as: filing of annual returns and filing of financial statements as required under law.

As a result, the Registrar of Companies has published a list of potentially non-operational companies, accessible at *https://brs.go.ke/boi-notice.* These companies are required to:

- Provide written confirmation of their operational status within 30 days;
- Submit supporting documentation (financial statements, tax filings, etc.); and
- Rectify all outstanding statutory filings.

If a company fails to comply with the compliance requirements under law, the company and its officers risk paying penalties of upto Kes. 500,000/= and may also risk being **struck off the register of businesses**. When a company is struck off, unless otherwise reinstated, **it loses its status as a legal person**. **This jeopardizes its assets and ability to undertake any business**.

At **CM Advocates**, we understand the importance of compliance and the expensive and far-reaching consequences of non-compliance. The Company Secretarial Desk as well as the Entity Set-Up and Business Establishment Unit is constituted of professionals who understand the legal requirements of all forms of businesses in Kenya. From local and foreign companies, to partnerships and any other form of business, our teams are at hand to ensure your business is always compliant. Please visit ***www.cmadvocates.com*** to learn more about us and contact the team at ***commercial@cmadvocates.com*** or the team to get assistance for your business:

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