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## **Canadian Federal Corporations Must Disclose Information on Control**

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Effective as of January 22, 2024, the *Canada Business Corporations Act* is amended such that federal corporations must file information relating to individuals with significant control (“ISC”) over the corporation.

Upon filing, information such as the ISC’s name, address and the day on which the ISC became or ceased to be an ISC, would be made available for public access.

### **WHO IS AN ISC?**

An ISC is someone who owns or controls a corporation, meaning he or she:

1. owns, controls or directs 25% or more of voting shares of the Corporation either individually, jointly or in concert with one or more individuals;
2. has actual control over the corporation without owning any shares; or
3. meets a combination of any of these factors.

### **IDENTIFY ISC, MAINTAIN REGISTER AND FILE**

1. The corporation shall identify the ISCs and categorize how they qualify as an ISC. For instance, if two or more shareholders jointly own more than 25% of the voting shares of a corporation, each joint owner shall be named as an ISC.
2. The corporation shall maintain a register to record and disclosure all information relating to the ISCs. The register must be updated from time to time when information contained in the register has changed. The register should be kept together with the corporation’s articles and by-laws.
3. The corporation shall file the ISC’s information or confirmation of exemption with Corporations Canada at the following time:
  - (a) upon incorporating a federal corporation;
  - (b) annually (at the same time as filing their annual return);
  - (c) within 15 days of a change in the ISC register; and
  - (d) within 30 days of amalgamation or continuance.

### **WHAT IF THERE ARE NO ISC(S) IN THE CORPORATION?**

If there are no ISCs in the corporation, the ISC register must include the following:

1. a statement confirming that the corporation has determined that it is unable to identify any ISCs and that there are no ISCs; and
2. a summary of the steps the corporation took to try to identify the ISCs.

## **EXEMPTIONS**

The following corporations are exempted from the obligation to create and maintain an ISC register:

1. A *reporting issuer* under provincial securities law or a wholly-owned subsidiary of such corporation;
2. A public corporation that trades its securities on a stock exchange designated by the *Income Tax Act* or a wholly-owned subsidiary of such a corporation; and
3. A Crown corporation or a wholly-owned subsidiary of such a corporation.

## **PENALTIES FOR FAILURE TO MAINTAIN PROPER ISC**

A federal corporation that does not comply with the ISC filing requirements may be subject to the following:

1. fines of up to \$100,000.00; and/or
2. fines of up to \$1,000,000.00 and/or imprisonment for a term not exceeding 5 years imposed on directors and officers who knowingly authorize, acquiesce or permit a corporation's failure to prepare and maintain the register, respond to inquiries or meet disclosure obligations; and/or
3. Corporations Canada has broad discretion to dissolve any corporations that infringes the ISC requirement.

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### ***For more information, contact:***

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