

FIRST LETTER TO THE CIPC

Dear Commissioner and Others reflected in the email

I hope this email finds you well. I represent a significant number of stakeholders who utilize our company's software in their secretarial departments. Additionally, attendees of our webinars also look to us for guidance. Collectively, this encompasses thousands of companies.

As stakeholders' our primary concern is that our regulators might proceed with the methods they've established, and in a span of three years, the FATF could potentially downgrade us. As stakeholders, we believe it's our duty to ensure that such an outcome is averted.

There are a number of important issues relating to standard operating procedures which have been presented in the CIPC FAQs and webinars that appear inconsistent with the Companies Act and secretarial practice. It is our intention to address each one over time. In this communication, we will begin with **Section 50 (3A) of the Companies Act**.

In today's environment, it is inconceivable that there exists such a divide between the laws set to be implemented and the actual practice on the ground. The Companies Act commission, along with other regulatory bodies involved, must be held accountable for allowing these inconsistencies to persist. Such discrepancies are costing our nation countless hours, translating to millions of wasted man-hours, which is detrimental to our productivity and efficiency.

I am writing to seek clarification on certain aspects of this section, specifically regarding the documentation and disclosure of beneficial owners in the securities register.

1. **Section 50 (3A) of the Companies Act Modifications:**
 - We understand that companies not classified as "affected companies" are mandated to document specific details about the natural persons who are the beneficial owners in their securities register.
 - This documentation should adhere to the prescribed format, and companies are responsible for ensuring timely updates to beneficial ownership.
2. **Integration of Beneficial Owners (BOs) into Securities Register:**
 - The process of determining BOs can be intricate, especially when shareholders are entities like other corporations or trusts. This necessitates a comprehensive analysis to identify the ultimate individual beneficial owner. We've observed that deriving BOs from a securities register might require an organizational chart, like an organogram, to delineate the progression from the shareholders listed in the securities register to the BOs.
3. **Ambiguity in the Act:**
 - While the securities register is publicly accessible, the original directive from the CIPC FAQs suggests that the Registers of Beneficial Owners are intended solely for governmental regulatory purposes.
4. **Filing Formats:**

- As per the current mandate, are we still required to file a separate BO Register in a data format and a Securities Register in a PDF format?
- 5. CIPC Webinar Query:**
- In a recent CIPC webinar, when a question was raised regarding Section 50 (3A) of the Companies Act and its implications, the presenter's response was to "refer to the legislation" without providing a direct answer or clarification. We would appreciate further insight into this specific legislative provision and its interpretation.
- 6. Request for Policy Statement:**
- In light of the aforementioned concerns and ambiguities, we kindly request the CIPC to issue a clear and comprehensive policy statement on this matter to provide guidance and clarity for all stakeholders involved.

There has been a noticeable tendency for the CIPC not to engage promptly or at all. This approach is contradictory to your mandate, especially concerning the introduction of enforcement compliance penalties.

Your prompt response and guidance on this matter would be greatly appreciated. Surely, the CIPC was aware of the impending legislative changes in the Companies Act when formulating their FAQs. In light of this, we kindly urge the CIPC to align the FAQs with the stated policy to ensure consistency and clarity for all stakeholders.

Our primary objective is to streamline processes, ensuring they are both efficient and cost-effective, while fully aligning with legislative standards. This communication serves as an indication of our future engagements, and we sincerely hope to remain involved and not be excluded from the ongoing processes.

Warm regards,

Mark