

## [Letter to the CIPC]

To Whom It May Concern,

1. **Introduction & Context:** I am writing to address the guidelines set by the Financial Action Task Force (FATF) regarding a risk-based approach to money laundering and terrorist financing. Both FATF and the CIPC have emphasized the importance of this approach for regulators and corporate entities, especially when documenting beneficial ownership. I will also be addressing issues we also have with the Securities Register.
2. **Concerns about Data Collection:** The FATF underscores the necessity of collecting comprehensive data to effectively combat illicit financial activities. Without this, our efforts to identify and act against wrongdoers are compromised. We are most concerned that the data is not being collected in a complete data form and therefore analytics can't be used.
3. **Specific Concerns about the CIPC's Approach:** We've repeatedly highlighted several concerns regarding the CIPC's approach to Securities and Beneficial Ownership (BO) registers:
  - The current mandate for the Securities Register in PDF format is not conducive to public accessibility. The CIPC is yet to explain to all its stakeholders on how this is going to work.
  - The CIPC has not established facilities for allowing the public to view the viewable documents uploaded which are mandated by the companies act.
  - We are awaiting a clear timeline from the CIPC on when the public will be granted access to view securities registers and other documents.
  - The fact that companies cannot upload this data in a digital format is unacceptable and probably a waste of time as what is the point of having the data when no one can view it.
  - The BO registers are entered manually which is costing this country millions in labour when all the data can be uploaded electronically. The lack of guidance in many instances is a further cost.
  - A transition to an electronic upload format for securities and BO registers would enable the CIPC and other regulators to utilize analytics more

effectively, thereby enhancing their ability to calculate BO and analyse data comprehensively.

- There are concerns about the feasibility of government departments triangulating data without adopting a modernized approach. In South Africa there are very few governments departs who have implemented a digital system effectively as mostly they are an excuse for corruption.
  - We've made multiple requests for the CIPC to consider API integration with company secretarial systems, which would streamline data processing. They have continually ignored our requests.
  - A major advantage of having an API integration for registers and other transactions will cut down the highjack of companies.
  - The CIPC has not provided explicit guidance on section 50 (3A) of the Companies Act concerning the processing of the securities and BO registers, other than advising to "refer to the legislation" in fact avoiding answering the questions in terms of the companies act which is unlawful.
  - Our concerns extend to the current guidance on beneficial ownership. Suggesting that a corporate with a single individual as its beneficial owner has no beneficial owner is a flawed perspective. Every corporate, irrespective of size or stakeholders, has a beneficial owner. Omitting even one individual from records could mean overlooking a potential lead in illicit activities as the whole point is to see all the links to that individual which may point to illicit activities.
  - For shareholders that are trusts, a detailed examination through beneficiaries using the identity approach is crucial by adding a percentages to the beneficiaries in a trust and to drill down through each entity. This process should persist until human beneficial owners are identified. All other approaches would be to complicated for South Africa.
4. **Feedback on CIPC's Implementation:** Furthermore, it is our opinion, and that of our stakeholders, that the manner in which the CIPC has handled the system's implementation is substandard. This sentiment has been previously communicated to the CIPC by the writer when he tried to engage.
5. **Conclusion & Call to Action:** We urge the CIPC to revisit and refine these guidelines. Our collective goal is to fortify our financial systems against money

laundering and terrorist financing threats or at least engage with stakeholder's that can help.

Thank you for your attention.

Sincerely,

[Your Name]