

G20 Anti-Corruption Working Group

Asset Tracing Country Profiles

In June 2012, the ACWG completed a survey, based on a questionnaire by the World Bank, on asset tracing in G20 countries that resulted in a [compendium of country profiles](#). In view of the significant developments that took place over the last five years in the areas of transparency of beneficial ownership, it was time to update these country profiles. In this regard the [G20 Anti-Corruption Implementation Plan 2017-2018](#) specifically provides that countries will share their practices and experiences on how they access, in a timely fashion, up-to-date information held by banks on beneficial ownership of bank accounts .

There are different means of effectively achieving the objective of identifying this information. Common tools include information requests from authorities or the establishment of a centralized account register or an equivalent data retrieval system. The update of the Asset Tracing Country Profiles is supposed to offer a general stocktaking on the recent handling in the G20 Countries.

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A. ARGENTINA

1. How to find out if a natural or legal person holds or controls bank accounts in the country?

Upon the Section 1.7 of the Central Bank (BCRA) Compilation of AML measures (BCRA communication "A" N° 5162), banking and foreign exchange institutions are required to maintain several databases on a wide range of operations that individually or through a series of related transactions exceed ARS 30 000 (near than USD 6,600), including transactions related to cash deposits, purchase of sale of foreign currency, deposits of securities, depositions of negotiable instruments, etc. The database must include the transactions made in the last five years and must be at the disposal of the BCRA within 48 hours.

According with Law 21.526, Argentina has a bank secrecy system for the operations where the banks take deposits from the public (passive operations). For that reason financial institutions must lift financial secrecy only in the context of a suspicious transaction report (STR), in which case the bank secrecy is not opposed to the Financial Intelligence Unit.

Without an STR, apart from BCRA and the Tax Agency (AFIP), the secrecy may be lifted by a court order in case another institution from the State wants to access the financial information detained by banks.

Operations in which banks place money (active operations) are not covered by the bank secrecy. Through the Central Bank of Argentina, the FIU has access to financial system debtors (natural or legal persons) with the Argentinean financial system, rejected checks, checks reported as stolen or lost as well as information about outstanding tax provincial debts. This information may be available as well to other institutions of Argentina even without a court order.

There is no central registry of bank accounts in Argentina. If an authority wants to find out if a natural or legal person holds a bank account in the country, there is no immediate tool. A court order sent to all financial institutions through the BCRA seems to be the only way to find out.

Through its rules for preventing AML/CFT the Central Bank established, in the Communication "A" 6090, that all banks and foreign exchange entities subject to its control must maintain, at the disposal of this Agency, a database with the information corresponding to the clients that perform a wide range of operations higher than \$240,000, (USD 14,000) during a one-month period¹. This database

¹ Whether perfected in one operation or several

must include information corresponding to the last 5 years and must be made available to the BCRA within 48 hours.

By the Central Bank rules No. "A" 4353, all financial institutions must operate under the premise of the "know your client" principle. Under these rules, entities must pay attention to prevent clients from using corporate vehicles as a method to carry out their operations. The bank must have procedures to know the structure of the company, determine the source of its funds and identify the owners, beneficiaries and those who exercise real control of the legal entity.

Following the revision of the FATF standards, this year the FUI issued its Resolution No. 30/2017, which changes the criteria for AML/CFT prevention, moving from a formalistic regulatory compliance approach to a risk-based approach, to ensure that measures implemented are proportionate to identified risks.

Through such approach, competent authorities, financial institutions and designated nonfinancial activities and professions should be able to ensure that adequate measures to prevent or mitigate AML/CFT correspond to identified risks are in place. This, in order to ensure that the measures implemented are proportional to the risks identified.

The FIU requires these subjects to take the appropriate measures to carry out an assessment of their risks, in relation to their clients, the geographical areas in which they operate, the products and services they provide, the operations they perform, etc. And, at the same time, they must have policies, controls and procedures that allow them to effectively manage and mitigate identified risks.

The new regulation includes the obligation of control and report even of de banks accounts used by public and official organizations.

For the purposes of identifying clients, concepts such as risk assessment, client, due diligence, designated subjects, corporate governance, prevention guidelines, suspicious operations, Politically Exposed Persons and operations reports, among others, have been defined.

a) Has your country established a centralized account register or equivalent data retrieval system?

No.

b) Does your country intend to establish a centralized account register or equivalent data retrieval system?

No.

c) If your country does not use a centralized account register or equivalent data retrieval system to obtain the relevant information, please indicate any other mechanism your country has to find out if a natural or legal person holds or controls bank accounts in the country (e.g. an established channel for requesting all financial institutions to promptly disclose whether they have a named customer). Please describe what steps your country's authorities need to take and the material requirements (such as reasonable grounds for suspicion) that need to be met in order to find out

i. if a given natural person is a bank account's

(1) legal owner

(2) beneficial owner

ii. who is a given bank account's

(1) legal owner

(2) beneficial owner.

Please also indicate, in particular, if a court order is necessary to request the information, how requests are transmitted to banks, the delay for banks to respond to requests, and remedies banks can use against requests.

Please also indicate how long it usually takes for authorities to access information.

Argentina does not have a single registry or a national database on bank accounts. For this reason, there is no tool to obtain bank information in a timely manner.

Given the restrictions on access to information on passive transactions, imposed by the rules of banking secrecy (Sections 39 and 40 of the Law on Financial Institutions - Law No. 21.526), this information must be requested by judges or by the Prosecutors of the Public Prosecutors Office, when they have delegated the investigation, to the financial institutions in which they presume that the subjects have accounts.

However, judges and prosecutors have the option of requesting information on the ownership of financial products in respect of a person or persons directly individualized to the Central Bank of the Argentine Republic (BCRA), so that this institution may communicate electronically to all Financial entities subject to its control and that, then, individually, each entity responds to the request through a secure web www3.

According to the BCRA's ORDER, ISSUANCE AND DISCLOSURE OF PRESS COMMUNICATIONS AND PRESS RELEASES, this type of requirement is made through the "D COMMUNICATIONS", issued by the Judicial Administrative Management and by the Special Operations Analysis Management (the latter in Investigations related to Money Laundering and Financing of Terrorism) to all entities subject to the control of the BCRA, in which the BCRA reproduces the request for information required by the judicial authorities, in order that financial institutions can export to a spreadsheet with the information required, to be processed according to the modality of each institution and facilitate the daily operation.

As for the banks' delay in responding to a BCRA Communication D, this depends on the amount of information requested. Delays in banks' responses have been significantly reduced since they must respond to BCRA's D Communications through a secure web, eliminating paper responses.

In addition, through Communication "A" 5443 (2013), the “Régimen Informativo Contable Mensual. Base de Datos – Padrón” is in force. Entities must complete this on a monthly basis, by which they must inform any human or legal person with whom they establish, once or occasionally or permanently, one or more contractual relations related to the operations that are admitted for each class of entity included with the exception of foreign exchange transactions.

Under such a regime, subjects who meet the following conditions must be included:

- Owner / Co-owner
- Attorney / guardian / conservator.
- Legal Representative / authorized signatory
- Additional Credit Card.
- Depository company of the Common Investment Fund.
- Trustee of Financial Trust.

Among the information to be transmitted to the BCRA, banks must indicate their name and surname or company name, tax identification or identity document, zip code of the customer's address and the condition (or not) of Politically Exposed Person (PEP).

This "Standard Database" is the subject of requests for information from judicial authorities and the FIU.

In addition, the BCRA establishes, through Communication "A" 6090 (2016), that all banks and foreign exchange entities subject to its control must maintain at the disposal of this Agency a database with the information corresponding to the clients that perform a wide range of operations higher than \$ 240,000, whether perfected in one operation or several during a one-month period. This database must include information corresponding to the last 5 years and must be made available to the BCRA within 48 hours.

Although there is no central registry of bank accounts in the BCRA, for the purposes of tax collection banks and other financial institutions, such as stockbrokers and open market agents, must report on some of their operations to the national tax collection agency (AFIP) on a routine basis.

According to AFIP General Resolution No. 2386/2007, about the Informative System for Relevant Economical Transactions (SITER), financial institutions must report monthly to AFIP: the opening, closing and modification of all bank accounts, constituted in their matrix houses, subsidiaries and branches within the country. They should also report fixed-term deposits and deposits for over AR 10,000 per month on those accounts; as well as the monthly balance of these accounts and the expenses over AR 3.000, made through the use of credit cards.

In each case, the information must contain the name, tax identification number (CUIT) and address of the client; or for customers without a tax identification number (CUIT), an ID number or mention your country of residence.

Thus, the tax administration has in its database a certain amount of bank information provided by the banks periodically in electronic format. As a result, the Argentine tax administration knows with which person each bank account number is related. The AFIP retains the bank information it receives from the banks in a nominative file of taxpayers in the tax database, so called "*e-fisco*".

On the other hand, the AFIP has signed cooperation agreements in tax matters with about 50 foreign jurisdictions. In addition, Argentina, through the AFIP, is part of the multilateral agreement for the exchange of information signed within the scope of the OECD, thus accessing the Common Reporting Standard (CRS) of the OECD. With these agreements, the AFIP can receive information on financial accounts, bank deposits, securities or shares, participations in investment funds and insurance of Argentine citizens abroad.

However, this information accessed by the AFIP is protected by the fiscal secrecy governed by art. 101 of Law No. 11.683 (Law on Fiscal Procedures). In accordance with this law, the AFIP is obliged to keep the absolute secrecy of all that comes to its knowledge in the performance of its functions,

without being able to communicate it to any person, body or entity, except in case of judicial request in matters of family or in criminal proceedings. Revealing that information is a crime.

As mentioned above, there are certain exceptions to the tax secrecy of some of the Law Enforcement Agencies, which can access this information. These exceptions include members of the judiciary in judicial cases for common crimes and when there is a direct relationship between the information and the facts being investigated. The representatives of the Public Prosecutor's Office and the specific investigative units working within the General Prosecutor's Office are also exempt from secrecy. To access the information, it is necessary a court order or a request of the intervening prosecutor himself, when he/she is in charge of conducting the investigation, in accordance with the provisions of Articles 180 second paragraph and 196 first paragraphs, of the Code of Criminal Procedure of the Nation.

Regarding the information received from abroad by means of international agreements, although the same is exempt from tax secrecy, for the purposes of information exchange, it is governed by the confidentiality rules of Article 26 (2) of the Convention Tributary Model or in Art. 8 of the TIEA Model. According to these agreements, the information obtained in the course of a request for assistance will be accessible only to persons directly responsible for or involved in the determination of taxes, or administrative control of that determination.

d) Please indicate, if available, the yearly number of requests in 2014, 2015 and 2016 by law enforcement, anti-corruption and AML authorities

YEAR	AMOUNT OF REQUESTS
Judicial Authorities	
2014	392
2015	391
2016	541
FIU	
2014	142
2015	115
2016	46

e) Please indicate which of your country's law enforcement, anti-corruption and AML-authorities can request such information.

The Financial Information Unit (FIU) in Argentina as a regulatory entity in the area of Prevention and Money Laundering and Financing of Terrorism, is authorized within the framework of art. 14 inc. 1 of Law 25.246 and amendments to request reports, documents, background and any other element deemed useful for the performance of their duties, any public, national, provincial or municipal body, and natural or legal persons, public or private, all which will be obliged to provide them within the term fixed to them, under the warning of law.

In accordance with law No. 26.087 (which amends AML/CFT Law No. 25.246), in the case of a STR and

/ or within a financial intelligence case carried out by the FIU, the banking secrecy is lifted. However, the FIU has a strict secrecy of the information it analyzes.

Also, in accordance with that law, the FIU must share the information and its conclusions with Public Prosecutors (MPF) if there is any suspicion of AML/CFT or others criminal offences. The FIU has also the obligation of cooperate with Law Enforcement authorities and the judiciary in the investigation and prosecution of AML/CFT cases. On the other hand, cooperation between Law Enforcement Agencies is established by a coordinated participation on preliminary investigation and as co-plaintiff in criminal trials that includes FIU, AFIP, and the Anticorruption Office. That procedure allows each agency to share its information and expertise according to the case.

The Directorate of Transparency Policy Planning belonging to the Anti-Corruption Office, is empowered by Decree 102/99 - art. 14 to request information relating to all public agents that it considers of interest.

The Judicial Branch and the Public Prosecutor's Office, mainly through its Office of Economic Crime and Money Laundering - PROCELAC, are empowered to request information in the framework of the investigations in which they intervene.

Questions f) - k) not applicable

2. How to find out if a natural or legal person owns real estate in the country?

The Argentine property regime is based on the principle of registry advertising (Law 17.801). Therefore, in order for any real right over real state to be enforceable against third parties, it is necessary to include in the records of real estate, acts that:

- Constitute, transmit, declare, modify or extinguish real estate rights and,
- Have embargoes, inhibitions and other precautionary measures.

According to Article 21 of Law 17.801, all information contained in the registry is public for anyone who has a legitimate interest in ascertaining the legal status of the property, documents, limitations or prohibitions registered. Some jurisdictions have limited the concept of legitimate interest.

Therefore, any individual or public authority may freely request all information about ownership, levies or inhibitions on real estate.

However, there is no single centralized registry or database of properties throughout the country;

but each of the 24 jurisdictions of the Argentine Republic (the Autonomous City of Buenos Aires and the 23 provinces) have their own registers of real estate.

As a consequence of this and the effects of complying with the recommendations of the FATF, the Ministry of Justice has given impetus to the implementation of a National Information System for Property Registry (SINAREPI). SINAREPI was created through a network of Agreements signed by the National Ministry of Justice and Human Rights and different provincial jurisdictions in order to interconnect real property registries throughout the country. It is requested through a registry of any jurisdiction, a report of another registry, and receives the answer at the same point of origin, without having to register before the informant registration, but only before the Registry nearest to the address. The same operate on an interconnected structure between each database of the Real Property Registry of the provinces that sign cooperation agreements.

Its formal structuring is under way through a draft Administrative Decision that creates the National Directorate under the orbit of the Secretariat for Registration Affairs, and which is entrusted within its missions and functions, the integration of the system.

The implementation of SINAREPI has, to date, the adhesion of 17 jurisdictions, 11 of which already have evidence of effective interconnection. The computer system already developed, was updated in 2016 with respect to the previous version 2012, improving its speed and security. It is hoped to have the aforementioned system in the course of the end of this year and the beginning of the next.

Another relevant situation regarding this issue was the creation, within the Ministry of Justice and Human Rights, of the Federal Registration Council (COFER), in order to plan and coordinate cooperation between the Nation and the Provinces, tending to establish common policies on registration advertising services.

In the context of decentralization described in the previous section, AFIP can be considered as another key organism to remedy the problem identified. Hence, any real estate transaction must be reported to the AFIP.

In that sense, Article 3 bis of Law 17.801 provides that no registry entries can be made that do not have the key or code of identification of the intervening parties granted by that collecting agency or by the National Administration of Social Services (ANSES).

Title VII of Law 23.905 established, throughout the National territory, the tax on the domain transfer for consideration of real estate located in the country. At the same time, the General Resolution of the AFIP No. 2371 created the information system regarding the negotiation, offer or transfer of real

estate throughout the country. According to this regime, the various parties involved in the sale and purchase of real estate have a series of information obligations that reach owners, intermediaries (real estate agents and notaries or officials authorized to perfect operations).

This information that AFIP owns is protected by the fiscal secrecy governed by art. 101 of Law No. 11.683 (Law on Fiscal Procedures). In accordance with this norm, AFIP is obliged to maintain the absolute secrecy of all that comes to its knowledge in the performance of its functions, without being able to communicate it to any person, body or any entity, except in case of judicial request in matters of family or in criminal proceedings.

Real estate and money laundering information:

To the extent that there is suspicious money laundering operation report (STR), AFIP will be required to provide information to the FIU.

Likewise, since public notaries are also obliged to submit STR, these professionals have the duty to inform the FIU of the businesses in which they intervene, when they consider them to be unusual transactions that they consider to be suspicious of Money Laundering or Financing of Terrorism.

3. How to find out if a natural or legal person owns a company/business in the country?

As it was mentioned above (answer of question #1), by FIU Resolution No. 30/2017, every competent authorities, financial institutions and designated nonfinancial activities and professions is called to adopt a risk-based approach for AML/CFT prevention. That means that they should conduct a risk assessment to identify the risks and ensure that measures implemented are adequate and proportionate to prevent or mitigate the identified risks.

For the purposes of identifying clients, concepts such as risk assessment, client, due diligence, designated subjects, corporate governance, prevention guidelines, suspicious operations, Politically Exposed Persons and operations reports, among others, have been defined.

Likewise, the owner or final beneficiary were defined as: any human person who controls or can control, directly or indirectly, a legal person or legal entity without legal personality, and / or who owns at least the 20% of the capital or voting rights, or that by other means exercises its final control, directly or indirectly. At the same time, when it is not possible to identify a human person, the identity of the President or the highest authority must be requested and verified.

The General Inspectorate of Justice (IGJ), among its functions, is in charge of the Public Registry of

Commerce within the Autonomous City of Buenos Aires (it should be clarified that the provinces have their own public registries), where the constitution and other legal acts of shareholding and non-shareholding companies, companies incorporated abroad, civil associations and foundations, registration of trust agreements whose purpose includes shares and/or capital contributions of companies registered in the Public Registry to their charge, contracts for the transfer of establishments, associative contracts and individual registrations such as human persons carrying out an organized economic activity, auctioneers, non-real estate brokers, customs brokers and institor agents.

However, the IGJ as the authority responsible for keeping the Public Registry of Commerce within the Autonomous City of Buenos Aires does not keep a register of shareholders. Stock companies must keep a stock record book.

The entities at the time of their incorporation must provide the IGJ with information regarding their capital, purpose, term, headquarters, partners, authorities, etc. In turn, these have the obligation to update certain information in accordance with current legal regulations.

We also report that there are companies that are regulated in Section IV of the General Corporate Law No. 19.550 that are not registered in the Public Registry.

The IGJ issued General Resolution No. 7 of 2015, whereby, in the registration procedures carried out by national, binational companies, companies incorporated abroad and/or registration or modification of associative contracts or trust agreements, it must present an asset disclosure indicating who are the final beneficiaries of the partnerships, partnership agreement or trust agreement, depending on the case. The final beneficiary is understood as human persons who have at least twenty percent (20%) of the capital or voting rights of a legal person or who by other means exercise final, direct or indirect control over a legal person or other legal structure (article 510 inc. 6 of RG 07/15).

The asset disclosure must be submitted once per calendar year. If no presentation is made during an entire calendar year, the due asset disclosure must be presented at the first opportunity in which registration of a registration process is requested. The asset disclosure must be submitted with the signature of the final beneficiary or legal representative and certified by a clerk.

With regard to public companies or public limited companies, their control and inspection is carried out by the National Securities Commission (CNV) - an autonomous agency, which operates in the orbit of the Ministry of Finance. The CNV has jurisdiction throughout the territory of the Republic. Its objective is to authorize the public offer of negotiable securities ensuring the transparency of the securities markets and the correct formation of prices in them, as well as the protection of investors.

The action of the CNV is projected on the companies that issue securities to be placed by means of public offering, on the secondary markets of securities and on the intermediaries in those markets.

What is important with regard to companies subject to control by the CNV is that all matters relating to the public offering and placement of marketable securities in the capital markets are governed by the principle of market transparency. This principle is supported, mainly in Decree No. 677/2001, which regulates the Transparency Regime of the Public Offering. This regime requires companies to periodically provide extensive information on the economic development of the company, financial and accounting statements, composition of the majority of the share capital, classes of shares issued and the rights they grant, etc.

On February 16, 2017, the National Securities Commission (CNV) issued Resolution No. 687/17, whereby Article 24 of the “CNV Rules” (2013) was amended and established to ensure that there is adequate, accurate and timely information on the final beneficiary and the control of legal persons. Based on this resolution, companies are required to report, through the “FINANCIAL INFORMATION HIGHWAY”, the identification of their final beneficiaries; nationality, real address, date of birth, national identity document or passport, CUIT, CUIL or other forms of tax identification and occupation of the final beneficiaries.

Following the guidelines of the FATF, the CNV understands the final beneficiary as “the natural person(s) who finally owns or controls a client and / or natural person in whose name a transaction is made. It also includes persons exercising final effective control over a legal person or other legal structure.” In this sense, although Resolution CNV No. 687/17 is not clear in relation to the percentages, the CNV uses the parameters set by the FIU in Resolution FIU No. 202/2015 (06/18/2015), which defines the final beneficiary as “natural persons who have at least TWENTY percent (20%) of the capital or voting rights of a legal person or who by other means exercise final, direct or indirect control over a legal person, or other entities assimilable in accordance with the provisions of this resolution. The identification of the final beneficiary must lead to a natural person and not to another legal person.”

Moreover it must be mentioned that the CNV enacted the Resolution CNV No. 631/2014, which addresses the standards of the FATCA and the OECD standards for Automatic Exchange of Financial Information in Tax Matters. By this Resolution all registered agents shall take the necessary steps to identify the account holder reached by those standards, providing information about the identity, nationality, country of residence, tax identification number in that country, address, and place and date of birth.

Drawing upon the FATF Recommendations, the OECD standard for the Common Reporting Standard (CRS) identifies the term “Controlling Persons” with the concept of “beneficial owner”, understood as the natural person(s) who exercises control over the Entity, generally natural person(s) with a controlling ownership interest in the Entity, which can be exercised directly or indirectly, represented in the holding of more than 25 percent of the shares or voting rights of an Entity. But also, if no person holds over the 25 percent, the standard applies for any natural person that otherwise exercises control over the management of the Entity (e.g., the senior managing official of the company).

However, it should be taken into account that the information collected by the CNV, in the exercise of its functions, is protected by stock secrecy (Law 17.811). Therefore requests for information to the CNV must be requested by a judge in the framework of a criminal case.

Finally, the important role of cooperatives in Argentina can be highlighted, given the functions they fulfill. According to statistics for 2016 in the country there were approximately 30,000 active cooperatives (http://sitionuevo.economiasolidaria.org.ar/?page_id=2839), which generated more than 250,000 jobs. Cooperatives are governed by Law No. 20,337.

The National Institute of Associativism and Social Economy (INAES) is a decentralized agency of the Ministry of Social Development and has as its mission the registration of entities, the supervision of cooperatives and mutual societies throughout the country. It is responsible for the education and development of cooperativism and mutualism. The INAES is also an agency in charge of the Prevention of Money Laundering and Financing of Terrorism, as a Public Organ of the Comptroller of Cooperatives and Mutuels.

Within the control rules on cooperatives, there are some that are linked to the identification of the beneficiaries of cooperatives. These include Resolutions of INAES No. 519/74, No. 1088/79 and No. 5586/12, which oblige cooperatives to periodically inform INAES of the identification and complete information of their associates with the subscribed capital, of the members of the board of directors, the members of the supervisory board. They also have the duty to report their balance sheets and results tables.

Also, by resolution INAES No. 5588/12, cooperatives that carry out credit operations or provide mutual financial assistance services are subjects designated to report suspicious operations of ML/TF, being obliged to do the due diligence of their clients or identify to the PEPs with which they operate. They must also declare the origin of the donations or contributions of third parties that they receive; affidavit on the status of politically exposed person of the members of the administrative and supervisory bodies; and inform their addresses, telephone numbers, tax identification codes, activities

carried out, revenue or annual turnover figures, identification of their authorities, legal representatives, list of associates with percentage of ownership, among others.

This information can be requested by any authority.

Dispersion of corporate information - National Register of Corporations:

As previously mentioned, the IGJ fulfills the functions of Public Registry of Commerce with respect to commercial companies constituted within the scope of the Federal Capital. Therefore, since the country is composed of 24 subnational jurisdictions (23 provinces and the Autonomous City of Buenos Aires), in the case of corporate information there would be a problem similar to that of real estate information.

To remedy this situation, through Law 26.047, the National Government regulated the functioning of the National Registry of Stock Corporations, which operates within the scope of the IGJ under the Ministry of Justice. This register also includes Foreign Companies, Civil Associations and Foundations and Non-Stock Corporations.

This does not mean that the IGJ will carry out the control of all companies incorporated or located in the country, but must develop a system of registration and access to centralized information. The information in this registry is of public consultation and without the invocation of an interest and its maintenance is financed through the tariffication of the consultations that are carried out, except for the National, provincial and municipal Public Administrations.

According to Article 2 of Law 26.047, it was stipulated that the organization and functioning of the National Registry would be done through computer systems developed and provided by the Federal Public Revenue Administration; with a model of adherence to the system of provincial jurisdictions through the signing of agreements.

In order to remedy some of these problems, and with the intention of making the management of open data more transparent, the Ministry of Modernization made available to the public an open Internet portal that systematizes and makes accessible the data processed by different agencies public policies. Among these data, information on Entities, Domiciles, Balance sheets, Authorities and Assemblies of Entities set up in the General Inspection of Justice (IGJ) is available for free and of free consultation. See portal in <http://datos.gob.ar/dataset/entidades-constituidas-inspeccion-general-justicia>.

4. How to find out if a natural or legal person has non-banking financial interests (life insurance portfolio where applicable, securities) in the country?

As a general rule, the authorization to issue and control financial instruments such as mutual funds, negotiable obligations, debentures and trusts is carried out by the National Securities Commission (CNV)

Mutual Funds:

Mutual funds are regulated by Law 24.083 and constitute a widely used investment instrument.

Although the CNV maintains up-to-date information on all mutual funds generated on the spot, this body does not carry out the registration of co-owners or quota holders of the MF. In addition, in order to determine whether a natural or legal person has made investments in this type of financial instrument, information may be required from the legal entities that the MF generates; They are: the MANAGING COMPANY and the DEPOSITORY COMPANY, which are usually banks or financial entities.

In case these subjects are financial institutions, they will govern the same reservations as for bank information.

Negotiable Obligations:

Law 23.576 regulates the loans that may be contracted by joint stock companies, cooperatives and civil associations established in the country, and branches of corporations constituted abroad, through the issuance of negotiable obligations, the form of cancellation of such securities and the possibility of converting the notes into shares of the issuing corporation.

The CNV is the controlling body for entities that decide to list their negotiable obligations on a stock exchange through the public offering. However, the CNV controls the legality and transparency of the issuance of the securities, but does not control the subscribers of these securities.

In case companies make private offers of negotiable obligations, the only way to determine who the subscribers of these securities are, is through consultations with the same company, or through the placing entities.

Financial Trusts:

Another investment vehicle that can be channeled through the public offering of negotiable securities is the financial trusts.

In these cases, fiduciary agents are financial entities or companies specially authorized by the CNV and the beneficiaries are the holders of certificates of participation in the fiduciary domain or debt securities, generally denominated trust securities, guaranteed by the goods thus transmitted.

The new National Civil and Commercial Code, in force since August 1, 2015, establishes, in its article 1.671, for the purpose of identifying the beneficiary of the trust, that the beneficiary may be a human or legal person, which may exist or not at the time of granting the contract; in the latter case, the data that allows its future individualization must be included. The trustor or the trustee may be a beneficiary.

On the other hand, the CNV General Resolution No. 687/17 has laid down rules to ensure that adequate, accurate and timely information is available on the final beneficiary and the control of legal persons and trusts, including information on trustors, trustees and beneficiaries. There it was determined that in case the companies have shares in a trust or similar figure, a certificate must be credited that individualizes the fiduciary business cause of the transfer and includes the name and surname or denomination, address or branch, ID or passport or registry number, authorization or incorporation of the trustor(s), trustee(s), or equivalent, and / or beneficiaries or their equivalents according to the legal regime under which the act, the contract and / or the proof of registration of the contract in the relevant PUBLIC REGISTRY, if applicable, have been constituted or concluded.

Information related to life insurance, retirement, disability, etc.:

In pursuance of its missions as a competent authority for the prevention of money laundering and financing of terrorism, the FIU has issued a series of resolutions with the measures and procedures that the National Superintendency of Insurance and insurance companies, as obligated subjects to carry out suspicious money laundering operations, must observe, to prevent, detect and report the facts, acts or operations that may arise from the commission of such crimes. The most recent resolutions were Resolution UIF No. 92/2012, amending Res. 19/2011, for the National Superintendency of Insurance and Resolution UIF No. 202/2015, amending Res. 230/2011, and updated By Resolution 104/2016, for companies in the insurance sector.

Among the proposed measures, we highlight those of identification and knowledge of clients whether they are natural or legal persons, the preparation of procedures manuals, training, the adoption of internal audit systems, the preservation of documentation for a ten-year term and systems of systemic reporting and reports of suspicious operations.

Thanks to the anti-money laundering regulations, the FIU can access, through the National Superin-

tendence of Insurance, the databases on life and retirement insurance policies (SSN—<https://seguro.ssn.gov.ar/antilavado/>)

5. How to find out if a natural person or legal person owns luxury goods such as boats or planes registered in the country?
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Registered Movables:

In the case of registered movable property, there are national registries that concentrate the registration information of assets of the whole country.

MOTOR VEHICLES AND AUTOMOTIVES:

In order to know whether a natural or legal person is the owner of a motor vehicle in any place of the country, any person or public authority can request information to the National Registry of Motor Vehicles and Chattel Mortgages.

This registry is in charge of the National Directorate of the National Registry of Motor Vehicles and Chattel Mortgages, organism of the National Executive Branch, that works in the scope of the National Ministry of Justice. The information can be requested from the National Directorate of the National Registry of Motor Vehicles and Chattel Mortgages, which has the registration information on all the motor vehicles registered in the country, or any of the sectional records if it is known in which sectional a motor vehicle is inscribed in.

This type of information is public but is subject to tariffs. In any case, judges can request it at no cost and many public bodies have signed agreements with the National Directorate to provide them with information.

SHIPS OR WATERWAY VESSELS:

In the case of waterway vessels, Law 19.170 regulated the Organic Regulation of the National Ship Registry. This registry is in charge of the Argentine Naval Prefecture (PNA), which is the national maritime authority and is under the National Executive Branch.

Before the National Registry of Vessels, any document that establishes, transmits, declares, modifies, extinguishes real rights on ships, vessels or naval artifacts that belong to the National Registry or that has embargoes, prohibitions or any other domain affectation that rests on them must be inscribed.

AIRCRAFTS:

By Decree No. 1770/07, the National Civil Aviation Administration (ANAC) was granted the function of Maintaining the registration of aeronautical material and aircraft. The ANAC is an agency of the National Executive Branch, which operates within the Ministry of Federal Planning, Public Investment and Services.

The office in which registrations and cancellation of registrations on any aircraft of the country are carried out is the National Registry of Aircraft Department, which is in charge of the Argentine Airworthiness Directorate of ANAC.

Before this office, queries can be made about the domain, inhibitions or restrictions on any aircraft registered in the country.

INFORMATION ON OTHER ASSETS OF VALUE OR SUBSIDIARIES:

The Law on Money Laundering, Law 25,246, has placed in the hands of natural or legal persons engaged in the sale of works of art, antiquities or other luxury goods, philatelic or numismatic investment, or the export, import, manufacture or industrialization of jewelry or goods with metals or precious stones, the duty to inform the FIU of suspicious transactions linked to the operations in which they act as intermediaries.

Therefore, through the FIU, one could know if a person has acquired goods of this type outside a normal or habitual framework and provided that a suspicious transaction report (ROS) has been generated with the FIU.

B. AUSTRALIA

1. How to find out if a natural or legal person holds or controls bank accounts in the country?

See below response to (c)

a) Has your country established a centralized account register or equivalent data retrieval system?

No.

b) Does your country intend to establish a centralized account register or equivalent data retrieval system?

No.

On 13 February 2017 the Australian Government released for public consultation a paper entitled 'Increasing Transparency of the Beneficial Ownership of Companies'. The consultation paper sought views on increasing transparency of the beneficial ownership of companies for relevant authorities in order to combat illicit activities. The consultation paper did not cover the beneficial ownership of bank accounts.

Through the consultation paper, the Australian Government sought feedback on what information needs to be collected to achieve this objective and how it should be collected, stored and kept up to date. It also sought feedback on the expected compliance costs for affected parties. Submissions are currently being considered by Government.

c) If your country does not use a centralized account register or equivalent data retrieval system to obtain the relevant information, please indicate any other mechanism your country has to find out if a natural or legal person holds or controls bank accounts in the country (e.g. an established channel for requesting all financial institutions to promptly disclose whether they have a named customer). Please describe what steps your country's authorities need to take and the material requirements (such as reasonable grounds for suspicion) that need to be met in order to find out

i. if a given natural person is a bank account's

(1) legal owner

(2) beneficial owner

ii. who is a given bank account's

(1) legal owner

(2) beneficial owner.

Please also indicate, in particular, if a court order is necessary to request the information, how requests are transmitted to banks, the delay for banks to respond to requests, and remedies banks can use against requests.

Please also indicate how long it usually takes for authorities to access information.

Sections 3ZQN and 3ZQO of the *Crimes Act 1914* (Crimes Act) enable prescribed law enforcement agencies to obtain information about accounts held with financial institutions. These provisions can only be used where an officer has reasonable grounds to believe a particular financial institution has documents relevant to the investigation, and the offence under investigation must be an offence under the Crimes Act (a serious offence, which is defined in section 15GE of the Crimes Act as a series of offences such as theft, fraud, slavery, money laundering, people smuggling that are punishable by a term of imprisonment for three years or more, or a terrorism or related offence). For notices relevant to serious offences, the officer must apply to the court to obtain the notice. For serious terrorism offences, officers are able to issue the notice themselves. The notice can specify a minimum time limit for the financial institution to provide information of 3 days, if justified, or up to 14 days in other instances.

Section 213 of the *Proceeds of Crime Act 2002* (POCA) enables prescribed officials of the Australian Federal Police, the Integrity Commissioner (the head of the Australian Commission for Law Enforcement Integrity), prescribed officials of the Australian Criminal Intelligence Commission, the Commission of Taxation, the Comptroller-General of the Australian Border Force (formerly Australian Customs) and the Chairperson of the Australian Securities and Investments Commission (Australian corporate regulator) to issue written notices to financial institutions requiring them to provide information and documents for prescribed purposes (such as determining whether an account is held by a specified person and details of related accounts). The threshold for an officer to meet before issuing a notice is that they reasonably believe the notice is required in relation to proceeds of crime proceedings or to determine whether proceeds of crime action should be initiated. These notices would therefore be used where proceeds of crime actions, such as restraint, seizure and forfeiture of assets, are being pursued by law enforcement officials. The notice can specify a minimum time limit of 3 days for the financial institution to provide information, if justified (if the officer believes it is appro-

appropriate to do so given the urgency of the situation), or up to 14 days in other instances. Financial institutions that comply with such notices are protected from any law suits that arise as a result of their actions (under section 215).

d) Please indicate, if available, the yearly number of requests in 2014, 2015 and 2016 by law enforcement, anti-corruption and AML authorities

No information available.

e) Please indicate which of your country's law enforcement, anti-corruption and AML-authorities can request such information.

See above response to (c).

Questions f) - k) not applicable

2. How to find out if a natural or legal person owns real estate in the country?

Registration of real estate in Australia is undertaken by state and territory government agencies in data systems in individual states and territories.

Information on ownership can be accessed from the land registries in each state/territory. These are:

Australian Capital Territory – Access Canberra, ACT Land Information System, website

https://www.accesscanberra.act.gov.au/app/answers/detail/a_id/2108/kw/land%20ownership

New South Wales – Land and Property Information, website <http://www.lpi.nsw.gov.au/>

Northern Territory – Department of Justice, Land Titles Office (LTO), website

http://www.nt.gov.au/justice/bdm/land_title_office/

Queensland – Business Queensland, Titles Registry, website

<https://www.business.qld.gov.au/industries/building-property-development/titles-property-surveying/titles-property>

South Australia – South Australian Integrated Land Information System, website

<https://www.sa.gov.au/topics/planning-and-property/buying-a-home-or-property/researching-a-property>

Tasmania – Department of Primary Industries, Parks, Water and Environment, Land Tasmania, website <http://dpi.pwe.tas.gov.au/land-tasmania>

Victoria – Department of Environment, Land, Water and Planning, Land Use Victoria, website <https://www.propertyandlandtitles.vic.gov.au/>

Western Australia – Landgate, website <https://www0.landgate.wa.gov.au/>

There are second tier companies who purchase access to this data and on-sell it creating their own centralized networks in which property ownership can be searched. These companies sell access to their data systems which are accessible by subscription or fee per search requests. Law enforcement agencies generally subscribe to one or more of these data retailers in the same manner as other users of the system such as real estate agents. Certified property extracts are generally obtained from the relevant State government land registry.

Any document required for legal process should be verified or sourced directly from the relevant State Land Titles office, however the identification of the key reference numbers from discovery through the data retailers will greatly assist that process.

The information will not readily disclose the beneficial owner and if it is a company, then a search would have to be conducted on the company to ascertain the Directors and shareholders/beneficiaries. The information is open source and can be accessed by any person interested.

3. How to find out if a natural or legal person owns a company/business in the country?
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Australia has a number of publicly available registers to ascertain the ownership of a business within the jurisdiction.

The Australian Securities and Investments Commission (ASIC) maintains a register of Australian companies. Company information kept on the register and available to be searched by the public include:

- company name and Australian Company Number (ACN)
- date of registration, type of company and status of registration
- addresses of the registered office and the principal place of business within Australia
- for each director and company secretary—the person's name, the person's usual residential address (or, if applicable, entitled alternative address) and the person's date and place of birth
- the date of appointment or cessation of each director, secretary or alternate director

- for issued shares—the classes of shares, the number of shares in the class, the total amount paid up for the class and the total amount unpaid for the class
- for a proprietary company—the names and addresses of the top 20 members in each class
- for a proprietary company that has a share capital—the total number of shares in each class held by each of the members, whether or not the shares are fully paid, whether or not the shares are beneficially owned, and
- if the company has an ultimate holding company—its name and its ACN or its Australian Registered Body Number (ARBN) or place of incorporation or formation if not registered in Australia.

A director of a company must be a natural person and a member (or shareholder) of a company may be a natural or legal person.

Company register information can be found through ASIC's website at www.asic.gov.au. A fee applies to an extract of the information, which is currently \$9 for current information and \$19 for current and historical information.

A natural or legal person starting up or running a business may apply for an Australian Business Number (ABN) and will be registered on the Australian Business Register (ABR). The ABR publicly displays details of the entity and its ABN as well as the business locality and registered business name (if any). The ABR can be found at www.abr.gov.au. No fee applies to the display of this information on the ABR.

The registration of business names was transferred from the Australian states and territories to a central register maintained by ASIC in May 2012. An entity that carries on a business under a name that is not the entity's name must register a business name except in certain legislated circumstances. The Business Names Register can be searched by any person for free through ASIC's website. Searches can be made for a registered business name or an entity that holds a business name registration. No fee applies to the display of the information on the website, but a fee applies to an extract of the information, which is currently \$9 for current information and \$17 for current and historical information.

The information available on the business names register includes the name of the entity that holds the registration and the entity's ABN, the addresses for service of documents and principal place of

business, and date and status of registration.

Legislation regulating company registration (the *Corporations Act 2001*) and business name registration (the *Business Names Registration Act 2011*) both require entities to display the ACN or ABN and name on written communications such as invoices and at the place of business or office.

In addition to the website facilities to search the registers which are maintained by ASIC and ABR, a number of private data services directly access the register databases to offer combined information products to the public. A list of entities offering such services, known as information brokers, is available on ASIC's website.

4. How to find out if a natural or legal person has non-banking financial interests (life insurance portfolio where applicable, securities) in the country?

There is no central data system for the identification of securities in Australia. Information on Life insurance or securities would have to be traced from individual companies. This information can only be obtained from individual security or insurance companies or stock broker's registry. Normally one would get to know about ownership while undertaking investigations or gathering intelligence from bank statements which may show entries payable to these companies or through documents obtained from the suspects premises. This information is not available from open sources, so court orders are required for access by the beneficiaries and law enforcement agencies.

5. How to find out if a natural person or legal person owns luxury goods such as boats or planes registered in the country?

The ownership of motor vehicles and registered vessels is recorded with each state and territory and to access full current and historical extracts, a request is sent to that jurisdiction's registry. This may be called the Department of Transport or Maritime Agency or a similarly titled Government agency. State law enforcement agencies can access their State's records for boats and vehicles through direct online access to the State's transport data base.

Federal law enforcement agencies can generally access these records through their direct access to state police data systems or through their central records department which can search all states. It should be noted that most states can search on the registered owner and discover any vehicles or vessels they currently or previously owned or they can search on the registered number, chassis number or vehicle identification number to locate the registered owner. Vehicle ownership is linked to drivers licence records, which are the primary form of identification.

A record of planes in Australia is maintained by the Civil Aviation Authority established under the *Civil Aviation Act 1998*. The data information on aircraft registration is centrally maintained in the Civil Aircraft Register and can be obtained online on <http://www.casa.gov.au/> by any interested person. The search can be by name, mode, engine number or date of manufacture.

Part 47 of the *Civil Aviation Safety Regulations 1998* requires that to be a registration holder you must be a legal entity and be able to supply proof of this. However, you will only need to supply documentary proof of identity if notified to do so by CASA.

A legal entity is an individual, an incorporated body, a corporation with an ACN, or a government or government agency. An example of the proof required for an individual is a certified true copy of a current driver's license or one that expired in the last two years. An organization would need to supply their ACN or a certified true copy of a Certificate of Incorporation. To identify the beneficial owner where a company is the registered owner, a search of the company would have to be undertaken to find out the shareholders.

C. BRAZIL

1. How to find out if a natural or legal person holds or controls bank accounts in the country?

Brazil has a National Data-basis on Financial System Clients ("*Cadastro Nacional de Clientes do Sistema Financeiro-CCS*"). It is a digital system that allows access to a data-basis held by Banco Central do Brasil, and that indicates the Brazilian financial institutions in which natural persons, legal entities and companies maintain current accounts and other kinds of financial assets. CCS may be consulted by Courts, by authorities with investigative powers (Public Prosecution Services and Police Departments), public accounts controlling agencies and by the financial intelligence unit (COAF).

Besides this centralized data-basis, CCS also allows access to decentralized data-basis, kept by the financial institutions, with the identification of current and savings accounts numbers, and individuals authorized by the account owner to act and make financial transactions on those accounts (legal agents or mandataries).

In this point, it is important to clarify that the Brazilian centralized account register (CCS, as explained in question number 1) holds information regarding the owner of bank accounts (both natural and legal persons). It does not present information regarding the beneficial owner – such information is demanded by the financial institutions, as provided by Banco Central do Brasil's rules. The information on the beneficial owner may be obtained in three different ways:

- Directly from the financial institutions;
- By matching the information on the CCS with other data-basis, such as CNPJ (National Data-basis on Legal Entities) and CPF (National Data-basis on Natural Persons);
- Sped e-Financeira: this system is used by the Federal Revenue Service (RFB) and centralizes the information sent by financial institutions. It is not considered, however, a centralized account register, given that information is not organized and retrieved in a formal, standardized manner. By using Sped e-Financeira, the RFB may consult any number registered in the CPF and CNPJ and search for accounts related to such number. The type of relationship between the person and the account is identified by the financial institution that sends such information to the system, and it may be identified if this person is the account's holder, mandatary, legal representative, intermediary, beneficial owner, or if he/she gives or receives any loan.

a) Has your country established a centralized account register or equivalent data retrieval system?

Yes.

Questions b) -e) not applicable.

f) Does your country's centralized account register or equivalent data retrieval system allow to research

i. if a given natural person is a bank account's

(1)legal owner ?

(2) beneficial owner?

ii. who is a given account's

(1) legal owner?

(2) beneficial owner?

See answer to question 1.

g) Please describe the data available related to the legal and beneficial owners (e.g. name, place and date of birth, number of identity card). Please also indicate on what additional types of accounts information is included (e.g. payment accounts, securities accounts).

1.) Concerning the Data-Basis on Financial System Clients – CCS (centralized basis):

Data-basis centralized by Banco Central do Brasil - identification of bank relationship owner, identification of financial institution with whom bank relationship is maintained, dates of the beginning and ending of relationship, when applicable.

Decentralized data-basis, in financial institutions - kind of relationship (main owner, legal representative or mandatary), kind of asset (current account, savings account, payment account, other investments), account number and branch identification.

2.) Concerning data on clients held by financial institutions, including information on beneficial owner (decentralized) - Recommendation 10 by GAFI/FATF

Complete qualification, that is, complete name, affiliation, nationality, date and place of birth, identification number and IRS identification number (CPF); residential and professional address; phone number; month revenue and properties data.

3.) Concerning Sped e-Financeira: the information available include name, address, registry number, foreign fiscal identification number, country of fiscal residence, nationality, date of birth.

The place of birth is to be included. The type of account are the same provided by international regulations for exchange purposes (FATCA and CRS).

h) Please describe how the information in your country's centralized account register or equivalent data retrieval system is populated (e.g. if banks are required to submit information to the register) and how it is kept up to date.

- 1.) CCS (centralized) is provided by information coming from financial institutions on a daily basis.
- 2.) Records held by financial institutions comprehend information provided by clients and verified by the financial institutions (decentralized).
- 3.) Sped e-Financeira: information is kept updated every semester, with monthly detailing. They must be transmitted according to a layout defined by the RFB and may be ratified within 5 years. Financial institutions are subject to fine if they do not comply with the deadline for delivery of information, as well as for any omission or mistake.

i) Which of your country's law enforcement authorities, anti-corruption authorities and AML-authorities can access the centralized account register or equivalent data retrieval system?

- 1.) CCS (centralized): by Judges and courts, authorities leading investigations (Public Prosecutor and Police Authorities), public account controlling agencies and financial intelligence units.
- 2.) Records held by financial institutions informing personal data, affiliation and address (decentralized): Public Prosecutor and Police authorities (art. 17-B of Law 9.613/1998)
- 3.) Judiciary and law enforcement agencies may request information to the RFB regarding Sped e-Financeira.

j) Please describe the steps that your country's authorities need to take and the material requirements (such as reasonable grounds for suspicion) that need to be met in order to access the centralized account register or equivalent data retrieval system. Please also indicate how long it usually takes for authorities to access information.

- 1.) CCS: centralized digital system, with on-line access, upon information of legal process number or investigation procedure basing the access.

2.) Records held by financial institutions (decentralized): upon a request by a law enforcement authority.

3.) Information held by the RFB: information may be granted through judicial order or inter-agencies agreements. Direct access to judges and prosecutors should be provided in the future, after granting access to the system to such authorities. There is no statistics available regarding how long it takes for authorities to access such information.

k) Please indicate, if available, the yearly number of access requests in 2014, 2015 and 2016 by law enforcement, anti-corruption and AML authorities.

This information is not available.

2. How to find out if a natural or legal person owns real estate in the country?

The authorities have access to a number of public registries and government databases that contain information which is useful for the purpose of tracing the ownership of real estate. The Council for Financial Activities Control (COAF) has developed its own database, SISCOAF, which provides with a direct connection to several authorities' databases. This includes access to the Declaration of Real Estate Operations.² COAF has also access to a few non-government held databases.

The RFB may access such information in several internal sources of information regarding ownership of both urban and rural property:

- 1) Provided directly by the owner (legal or natural persons);
 - Natural persons are obliged to present information annually in the Income Tax Declaration, being every real estate owned included in the same form;
 - Legal and natural persons are obliged to present a Tax Declaration on Rural Property, being each property included in a specific form;
- 2) Provided by intermediaries (legal or natural persons):

² For more information, see FATF Federative Republic of Brazil's Mutual Evaluation, 25 June 2010, §237, p. 63

- Servants of Justice responsible for registration of documents related to transactions of real estate must issue the Declaration on Real Estate Operations;

Companies that works with construction, incorporation, allotment and act as intermediary in acquisitions/alienations of real estate must present a Declaration of Information on Real Estate Activities.

3. How to find out if a natural or legal person owns a company/business in the country?

The authorities have access to a number of public registries and government databases that contain information which is useful for the purpose of tracing the ownership of companies.³ All legal entities doing business in Brazil are required to register with the federal tax authority (the RFB). Upon registration, the RFB issues, at the national level, a unique tax identification number - the Number Identifier of Business Register (NIRE) – which is stored in the National Register of Legal Persons (Cadastro Nacional da Pessoa Jurídica) (CNPJ).

All commercial companies are required to register at the Trade Board located in the state where they are doing business. The Trade Boards (located in each of Brazil's 27 states) are administratively subordinate to the National Department of Corporate Registration (DNRC). Each Trade Board collects and maintains information relating to the legal ownership and control of companies. However, the Trade Boards do not collect and maintain information on the beneficial ownership and control of companies.

The information held by the Trade Boards is publicly available for a small fee, and freely available to the competent authorities through the National Database of Enterprises (Cadastro Nacional de Empresas) (CNE) which was launched in December 2008. The CNE is a web-based database containing information on all legal persons registered in Brazil and their representatives, thereby centralizing access to information on the legal ownership and control of legal persons. Competent authorities can access this database without prior judicial authorization. However, as the CNE is recent, the DNRC continues to receive a lot of paper requests for company registration information.

Domestic and foreign companies are required to maintain a record of their shareholders at their registered office in Brazil. The shareholder register must be updated whenever there is a change in ownership, address, number of shares, capital and shareholders. These events must be registered with the Registrar of Companies. Any changes must also be communicated to the RFB by the time of the delivery of the annual Income Tax Declaration, which contains all information in the CNPJ

³ Law 8934/1994 Commercial Boards

register, including the legal entity's corporate structure. The information held by the Secretariat of Federal Taxes and Revenue (RFB) in the customer's tax registration number (CNPJ/CPF) database is available to several entities. Access is direct (through a search system, under identification and password, to access individual files) or indirect (usually to obtain information concerning several CNPJ numbers at the same time). For the FIU, access to the CNPJ/CPF database is immediate and has been integrated into COAF's database¹¹ to ensure that beneficial ownership information is available to the competent authorities.

Foreign legal persons who wish to invest in a publicly-traded Brazilian company must obtain a CNPJ number, even if they have no physical presence in Brazil, and must also appoint, as their representative, a natural person in Brazil who has a CPF number. However, the same requirements do not apply to legal persons who are the owners of the investing foreign legal person. The beneficial owner may be identified, provided that all parties in the chain of ownership have CNPJ and CPF numbers. In practice, this means that the beneficial owner may always be identified in the following circumstances: the legal person is owned by other legal persons which have been issued CNPJ numbers; the legal person is owned by natural persons who were issued CPF numbers.

4. How to find out if a natural or legal person has non-banking financial interests (life insurance portfolio where applicable, securities) in the country?
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Through Sped e-Financeira, information regarding financial assets accounts are reported to the RFB, according to international agreements for the exchange of fiscal information (FATCA and CRS), such as: accounts under custody (related to titles and securities values, maintenance of derivative contracts, among others), accounts of social security and life insurance, and data related to consortia.

5. How to find out if a natural person or legal person owns luxury goods such as boats or planes registered in the country?
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The authorities have access to a number of public registries and government databases that contain information which is useful for the purpose of tracing the ownership of aircraft⁴ and maritime vessels⁵. Particularly, authorities have access to the Register of Aircrafts and the National Register of Vessels via batch request.

⁴ Law 7565/1986 Brazilian Aeronautics Code

⁵ Law 7652/1988 Maritime Property Registry

D. CANADA

1. How to find out if a natural or legal person has bank accounts in the country?

Under the Canadian Charter of Rights and Freedoms⁶, law enforcement's ability to seize information requires prior judicial authorization. However, an organization may be authorized to disclose personal information to government institutions without judicial authorization⁷. The Criminal Code⁸ provides authority for law enforcement to obtain essential information confirming the existence of an account relationship from any financial institution⁹.

The Canadian FIU FINTRAC¹⁰ has authority to collect information from two major national police databases. The first database is a computerized system that links criminal justice and law enforcement partners across Canada and internationally. This system has four data banks, Investigative, Identification, Intelligence and Ancillary, which includes files and information such as: vehicles, persons and property. The second database is the Royal Canadian Mounted Police's automated information management system used to store, update and retrieve information on operational case records. This database captures data on individuals who have been involved in investigations under the Criminal Code, federal and provincial statutes, municipal by-laws and territorial ordinances¹¹.

Law enforcement could inform FINTRAC of a particular sum of money believed to be proceeds of crime which has been transferred to a bank account in another country through the submission of a Voluntary Information Report (VIR). Civil Law in Canada also allows for private investigation and search of public domain databases where relevant information may be located.

Canada does not have a central register of bank accounts. If an authority wants to find out if a natural or legal person holds a bank account in the country, there is no immediate tool. A court order sent to all financial institutions (fishing expedition) seems to be the only way to find out.

⁶ Section 8.

⁷ Personal Information Protection and Electronic Document Act (PIPEDA), Section 7(3)(c.1).

⁸ Section 487.013.

⁹ As defined in section 2 of the Bank Act.

¹⁰ Under the PCMLTFA.

¹¹ For further information on access to law enforcement databases, see *Ibid.*, p.79.

Current legislation on customer identification measures in Canada does not impose a requirement for financial institutions to conduct Customer Due Diligence (CDD) and to understand the ownership and control structure of the customer nor oblige to determine the natural persons that ultimately own or control the customer¹².

2. How to find out if a natural or legal person owns real estate in the country?

The PCMLTFA applies to real estate broker or sales representative when they act as agent regarding the purchase or sale of real estate. In addition, it applies to real estate developers. Under this regime, and in order to enable tracing of real estate, they must report suspicious transactions, terrorist property, large cash transactions involving amounts of CAN 10,000 or more received in cash.

Real Estate ownership in Canada is registered with the respective Provincial or Territorial Property /Land Title Registry Office in which the Real Estate property is located. These Registries are considered Public Records and no court authorizations are required to conduct the searches. A small fee is usually required to complete the search.

3. How to find out if a natural or legal person owns a company / business registered in the country?

The principle federal law is the Canada Business Corporations Act (CBCA). When a corporation is created, the record that is used to confirm a corporation's existence includes the corporation's registration number¹³. Information on registered corporations is stored in several databases including the Registries of companies, and Business Profiles.

The Criminal Code¹⁴ provides a specific process to properly obtain the production of income tax information in a criminal investigation. Such production is not available to trace assets pre-indictment in cases that do not involve organized crime, drug or terrorism charges. The importance of a Criminal Code production order for tax information in any investigation¹⁵ is that the tax

¹² Canada's Third Mutual Evaluation Report on Anti-Money Laundering and Combating the Financing of Terrorism, 29 February 2008, §27, p. 10.

¹³ Under section 65(2) of the PCMLTF Regulations.

¹⁴ Section 462.48.

¹⁵ For the offences set out in subparagraph 462.48(1.1).

authorities are otherwise immune from criminal search warrants¹⁶.

There is no requirement to list identifying information relating to shareholders when filing incorporation documentation. No information on the beneficial owners of the company being established is collected¹⁷. However, law enforcement authorities (including Police, CRA, FINTRAC and securities regulatory authorities) have a variety of powers that enable them to secure information about the control and ownership of legal persons in Canada both from publicly available sources and through a variety of coercive measures. Regulatory and supervisory authorities also maintain records on persons who are the beneficial owners of their regulated institutions. For example, information is obtained by the Director of Corporations

Canada and securities regulators obtain information on persons that hold 10% or more of the shares in listed companies¹⁸.

4. How to find out if a natural or legal person has non banking financial interests (life insurance portfolio where applicable, securities) in the country?
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Life insurance companies, agents or brokers who receive CAD 10 000 or more for an annuity or life insurance policy over the duration of the product, must keep a client identification record¹⁹. When the transaction is conducted on behalf of an entity, the insurance company, broker and agent must also confirm the existence of every entity.

There are a number of registries of securities (Legal Registries) which are provincially regulated. Law enforcement can access the information access as long as it is located in a database considered to be a public domain or dealing with a publicly traded company²⁰.

Under the Constitution of Canada, property is a matter of provincial legislative jurisdiction. Except for

¹⁶ Pursuant to section 241 of the Income Tax Act.

¹⁷ However, PCMLTF Regulations provides that financial institutions should to take reasonable measures to obtain information on the beneficial owners of corporations, including keeping a record of the name, address and occupation of any person who owns or controls 25 per cent or more of the shares of the corporation.

¹⁸ Canada's Third Mutual Evaluation on Anti-Money Laundering and combating the financing of terrorism, 29 February 2008, §1385, p. 248.

¹⁹ Section 56 of the PCMLTF Regulations and FINTRAC Guideline 6A "Record Keeping and Client Identification for Financial Entities".

²⁰ Project outcomes and recommendations, Action: JLS/2009/ISEC/AG/017 30-CE-0281275/00-38 "Camden Assets Recovery Inter-Agency Network Conference in 2010", p. 69.

the province of Quebec, all provinces are common law jurisdictions. Under this regime, the trust property can be any form of property whether real or personal, tangible or intangible.

When opening an initial account for a trust, an Investment Dealers Association of Canada (IDA) Member must ascertain the identity of the settlor of the trust and of any known beneficiaries of more than 10% of the trust²¹. This does not apply to a testamentary trust or a trust whose units are publicly traded²². Trust companies must also confirm the existence of any entity that is the settlor of an institutional trust.

The only public and accessible Trusts Registry in Canada is the Superintendent of Bankruptcy. These Registries are in each Provinces and Territories (Civil Court Registry).

5. How to find out if a natural person or legal person owns luxury goods such as boats or planes registered in the country?
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Vessels are registered in accordance with the relevant provisions²³: registration is required if it is not a pleasure craft; it is wholly owned by qualified persons; and is not registered in a foreign state. Registration has to be approved by the Chief Registrar, through the Registrar of Vessels at any Port of Registry. As to aircraft registration, the Canadian Civil Aircraft Register centralizes information about the registration process and owners identification. Law enforcement agencies have access to several databases. This includes the Canadian Civil Aircraft Register Computer System (CCARCS), which is an automated system for registering aircraft and maintaining the Canadian Civil Aviation Aircraft Register, and the NAPA Issued Certificates Online (NICO), which is a query application that allows the general public to view NAPA certificates and approval information on-line via the internet²⁴.

Searches for an aircraft can be conducted via a National database. Registration information is easier to obtain when utilizing an Aircraft Registration Number than a natural or legal person's name. Although Water Crafts are federally registered, the search of the registry has to be conducted at the

²¹ Ibid., §681, p. 129.

²² In its Notice of June 7, 2004, IDA provides further guidance to securities dealers on beneficial ownership identification, see Ibid., §681 and §682, p.130

²³ In its Notice of June 7, 2004, IDA provides further guidance to securities dealers on beneficial ownership identification, see Ibid., §681 and §682, p.130.

²⁴ In its Notice of June 7, 2004, IDA provides further guidance to securities dealers on beneficial ownership identification, see Ibid., §681 and §682, p.130.

Provincial or Territorial level in which the craft was registered.

E. CHINA

1. How to find out if a natural or legal person holds or controls bank accounts in the country?

Under secrecy provisions²⁵, commercial banks have the right to refuse to answer the inquiries into, or to freeze, deduct or transfer deposits. Pursuant to the Anti-Money Laundering Law²⁶, all customer identification material and transactions information shall be confidential, unless otherwise specified by law. In addition, a financial institution must create and maintain a depositor's database to record information of holders of bank settlement accounts, including in the case of a an individual or corporate customer²⁷.

China's FIU is located in the People's bank of China (PBC). The PBC can obtain information pertaining to suspicious transactions²⁸ and is authorized to perform an administrative investigation on relevant accounts²⁹. Financial institutions are required to cooperate with the investigation and provide relevant documents and material.

All of law enforcement agencies, including the courts, public prosecutors, state security and the customs that are entitled to seize or freeze have powers to identify and trace criminal proceeds and instrumentalities³⁰. Other administrative authorities, such as the People's Bank of China (PBC) and the tax authorities also have similar powers. The competent authorities' ability to obtain information is based on several laws³¹ and may be implemented by judicial authorities, investigation agencies, administrative agencies and regulatory institutions³². The domestic procedures for identifying and tracing property³³ also apply in the context of mutual legal assistance requests to that effect. Law

²⁵ Articles 29 and 30 of the Law on Commercial Banks

²⁶ Article 5 of the 2007 of the Anti-Money Laundering Law of the People's Republic of China, 2007

²⁷ People's Republic of China's First Mutual Evaluation Report on AML/CFT, 29 June 2007, §375, p. 84. See also Article 10 RMB-LVT/STR Rules

²⁸ Article 11 of the AML Law

²⁹ Articles 23-24 AML Law

³⁰ Articles 114, 117, 158 and 119 of the Criminal Procedure Code

³¹ The Civil Procedure Law, Law on Administrative Penalties, Criminal Procedure Law, Law of the PBC (article 35), Law on Banking Supervision and Administration (articles 33-36), Securities Law, Insurance Law and the AML Rules (articles 6, 13, 14, 17 and 18)

³² People's Republic of China's First Mutual Evaluation Report on AML/CFT, 29 June 2007, §370, p. 83

³³ Under Articles 109 to 118 of the CPC

enforcement and state security organs³⁴, are empowered to seize and obtain transaction records, identification data obtained through the customer due diligence process, account files and business correspondence, and other records, documents or information held or maintained by financial institutions and other businesses or persons³⁵.

Competent authorities and institutions may share the information obtained. The PBC, the China Banking Regulatory Commission (CBRC), the China Securities Regulatory Commission (CSRC) and the China Insurance Regulatory Commission (CIRC) are required³⁶ to establish an information-sharing mechanism³⁷. Financial institutions are required to cooperate with an investigation being undertaken by a competent authority, and to provide relevant documents and specific provisions describe the process by which documents and records may be accessed under articles 23-25 of the AML Law and Article 21 of the AML Rules .

To summarize, if a competent Chinese authority wants to find out if a natural or legal person holds a bank account in the country, there is no immediate tool. A court order sent to all financial institutions (fishing expedition) seems to be the only way to find out.

a) Has your country established a centralized account register or equivalent data retrieval system?

No.

b) Does your country intend to establish a centralized account register or equivalent data retrieval system?

Under feasibility evaluation.

c) If your country does not use a centralized account register or equivalent data retrieval system to obtain the relevant information, please indicate any other mechanism your country has to find out if a natural or legal person holds or controls bank accounts in the country (e.g. an established channel for requesting all financial institutions to promptly disclose whether they have a named

³⁴ Pursuant to Article 26 AML Law; article 32 of the Law on the PBC; Article 6 of the Customs Law; Articles 37-40 and 54-58 of the Law on the Administration of Tax Collection; and Chapter 4 of the Law on Administrative Supervision

³⁵ Article 34 of the Law on Banking Supervision and Administration; Article 180 of the Securities Law; Article 109 of the Insurance Law; and Article 2 of the Regulations on the Management of Foreign Exchanges

³⁶ Article 6 of the Law on Banking Supervision and Administration

³⁷ Article 6 of the Law on Banking Supervision and Administration

customer). Please describe what steps your country's authorities need to take and the material requirements (such as reasonable grounds for suspicion) that need to be met in order to find out

i. if a given natural person is a bank account's

(1) legal owner

(2) beneficial owner

ii. who is a given bank account's

(1) legal owner

(2) beneficial owner.

Please also indicate, in particular, if a court order is necessary to request the information, how requests are transmitted to banks, the delay for banks to respond to requests, and remedies banks can use against requests.

Please also indicate how long it usually takes for authorities to access information.

If there exists needs for law enforcement, anti-corruption and AML authorities to check the information, the specific agency can submit an application to People's Bank of China. The latter will review and decide whether the request accords with law and then transmit the request to the specific bank to get the information.

Art. 142 of the Criminal Procedure Law of China regulates that law enforcement agencies can send a request to FIU for information of banking, stocks and other financial accounts.

The law enforcement and PBC have established certain cooperation mechanism and a series of standards, such as that the case is officially set on file, shall be met before a request is sent. If the law enforcement cannot meet the requirement, their request will be turned down.

d) Please indicate, if available, the yearly number of requests in 2014, 2015 and 2016 by law enforcement, anti-corruption and AML authorities

No information available.

e) Please indicate which of your country's law enforcement, anti-corruption and AML-authorities can request such information.

Law enforcement, anti-corruption and AML authorities.

Questions f) - k) not applicable.

2. How to find out if a natural or legal person owns real estate in the country?

Private ownership of land is unknown in China. The real estate industry focuses its business on the buying and selling of rights to use land. The land in urban districts is owned by the state. Land in the rural areas is collectively owned by the people. Land owned by the state or collectively owned by the people may be allocated for use by units or individuals according to the Land Administration Law³⁸. There are two ways to acquire rights to use land: for public interest purposes or the government may sign a contract with a natural or legal person allowing particular uses of land in return for a fee.

Real estate development enterprises must be registered with the State Administration of Industry and Commerce (SAIC). When applying to register an urban real estate transfer, the agent must submit the applicant's identity card (in the case of a natural person) or certificates (in the case of a legal person)³⁹. Real estate development enterprises are required to keep transaction records on the sale of commercial houses or the service provided for the real estate transactions.

3. How to find out if a natural or legal person owns a company/business in the country?

All legal persons are required to apply to the State Administration of Industry and Commerce (SAIC) for registration. Additionally, to obtain authorization to conduct business, a legal person must obtain a business license before the incorporation process is complete. The SAIC is responsible for registering legal persons authorized to do business (LPABs) and maintaining the corresponding registry system (one registry for every province). All registries keep records of every LPAB within their jurisdiction⁴⁰.

The public security and prosecutorial organs have the ability to access the Company Registry which is maintained by the SAIC or to obtain information from the legal person itself, using their general powers to collect evidence from relevant entities and individuals⁴¹. Access to files by any public

³⁸ People's Republic of China's First Mutual Evaluation Report on AML/CFT, 29 June 2007, §39, p. 16

³⁹ Article 13 of the Measures on the Administration of the Registration of Urban House Title and the Provisions on the Administration of Urban Real Estate Transfer

⁴⁰ For further information regarding the registration system, see People's Republic of China's First Mutual Evaluation Report on AML/CFT, 29 June 2007, §572, p. 127

⁴¹ Pursuant to the Criminal Procedure Law and Provisions on Procedures of the Public Security Organs in

security agency is subject to the approval of the person in charge of that agency at or above the county level.

Likewise, the tax authorities can get the registry information of LPABs⁴². Additionally, the SAIC has the right to obtain registry information concerning persons who are applying to incorporate a foreign invested enterprise, so as to obtain a preliminary understanding of the ownership and control information of legal persons. Members of the general public may also obtain registry information⁴³.

A shareholder may be a domestic or foreign natural person, a legal person, a legal arrangement, or a beneficial owner. Every foreign natural, or legal person or arrangement who holds shares of a LPAB must be approved by the competent authority⁴⁴. Chinese authorities can collect foreign investors' names, the countries of registration, the legal address, business licenses, registration documents and capital credibility reports. If a foreign investor is a foreign natural person, the authorities can also request identification information. However, none of this data is directed towards determining beneficial ownership and there is no requirement for legal persons to keep a record of beneficial ownership information⁴⁵.

In recent years, there are some private providers of company/business information, such as the qichacha.com. People can also get company/business information including the legal ownership of a company via those platform, which forms positive complement to the public one.

4. How to find out if a natural or legal person has non-banking financial interests (life insurance portfolio where applicable, securities) in the country?
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The administrative rules and regulations of the China Securities Regulatory Commission (CSRC) require securities to be recorded in the securities account of the securities holder and in the securities account of a nominal holder. In such cases, the securities registration and settlement institution may require the nominal holder to provide information concerning the person who has

Handling Criminal Cases

⁴² Under the Law on the Administration of Tax Collection

⁴³ People's Republic of China's First Mutual Evaluation Report on AML/CFT, 29 June 2007, §576, p. 128

⁴⁴ Regulations on the Administration of Company Registration; Measures on the Administration of Foreign Enterprises' Permanent Representatives Offices Registration; and the Measures on the Administration of Foreign Enterprises' Operation in Chinese Territory Registration

⁴⁵ People's Republic of China's First Mutual Evaluation Report on AML/CFT, 29 June 2007, §574, p. 128

the rights to and interest in the securities⁴⁶. However, this provision is not to be seen as a compulsory requirement for the securities institutions to identify the beneficial owner and to verify its identity.

The concept of the trust is new in Chinese law and very few such arrangements have been established. In practice, where trust investment corporations were to act as trustees, they would be bound by the same regulations as the banking system with respect to customer identification, record-keeping and other preventive measures but would not be required to establish the beneficial ownership of legal persons that are beneficiaries of trusts⁴⁷. It is not clear if there is a registry of trusts in China that is easily accessible to the authorities.

Also the insurance authority, the China Insurance Regulatory Commission, takes a stricter administration over insurance purchase and sale to prevent people from using insurance to launder money. Insurance companies are requested to check and record insurance purchase activities including who buys the insurance for whom.

5. How to find out if a natural person or legal person owns luxury goods such as boats or planes registered in the country?
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The General Administration of Civil Aviation of China (CAA) is in charge of aircraft registration.

According to the Regulations on ship registration, a vessel's port of registry should be chosen by a ship owner depending on the proximity of the port of registry to its place of registration or principal place of business. The MSA (China Maritime Safety Administration) at the vessel's port of registry will handle registration.

⁴⁶ Article 18 of the Measures for the Administration of Securities Registration and Clearing (SRC Measures)

⁴⁷ People's Republic of China's First Mutual Evaluation Report on AML/CFT, 29 June 2007, §587, p. 130

F. FRANCE

1. How to find out if a natural or legal person holds or controls bank accounts in the country?

FICOBA is a centralized bank accounts register, set up in 1982. This register is managed by the Directorate General for Public Finance. It lists all accounts opened in France by natural and legal persons, including foreign ones. All types of account are included (bank accounts, postal accounts, savings accounts, stock portfolios, etc.).

The database is accessible to competent authorities such as tax administration, customs administration, judicial authorities and law enforcement agencies acting under their authority, and the French FIU TRACFIN.

Account opening, closure or modification declarations contain the following information: (a) name and address of the institution managing the account; (b) account number, nature, type and characteristics – date and nature of the declared operation (opening, closure, modification); (c) surname, first name, date and place of birth, and address of the account holder, plus the SIRET number of self-employed people. The name, legal form, SIRET number and address are given for legal persons.

FICOBA data are kept for three full years following the recorded account closure, for accounts held by a natural person, and for ten full years following the recorded account closure for accounts held by a legal person⁴⁸.

The French FIU TRACFIN can access this central database directly and immediately without court order.

The database does not include the list of safe-deposit boxes a person holds or any non-banking financial products such as life insurance policies either. Nor does it include a history of the operations recorded for an account. To obtain such a history, the judge or investigator must apply direct to the banking or postal institution. FICOBA contains information from tax declarations that have to be provided by organizations which manage accounts (banking and financial institutions, postal cheque centres, stock brokers, etc.).

<http://www.cnil.fr/en-savoir-plus/fichiers-en-fiche/fichier/article/ficoba-fichier-national-des-comptes-bancaires-et-assimiles/>

⁴⁸ FATF Mutual Evaluation Report - France, FATF/ME(2011)1, point 364, page 106

a) Has your country established a centralized account register or equivalent data retrieval system?

Yes.

Questions b) – e) not applicable

f) Does your country's centralized account register or equivalent data retrieval system allow to research

i. if a given natural person is a bank account's

(1) legal owner ?

(2) beneficial owner?

ii. who is a given account's

(1) legal owner?

(2) beneficial owner?

No information available.

g) Please describe the data available related to the legal and beneficial owners (e.g. name, place and date of birth, number of identity card). Please also indicate on what additional types of accounts information is included (e.g. payment accounts, securities accounts).

(A) The name, usual name, pseudonym, given names, date and place of birth, nationality, personal address of the natural person or persons beneficially beneficiary;

(B) The procedures for the control exercised over the legal person by beneficial natural persons;

(C) The date on which the natural person (s) became the beneficial owner of the legal person.

h) Please describe how the information in your country's centralized account register or equivalent data retrieval system is populated (e.g. if banks are required to submit information to the register) and how it is kept up to date.

France has created two different registers in this field.

One is FICOBA: National bank and similar bank account. It serves to identify accounts of any kind (bank, postal, savings ...), and to provide the authorized persons with information on the accounts

held by a person or a company. Only persons or bodies authorized by law who, in accordance with the conditions laid down by the latter, benefit from a waiver of professional secrecy. The main ones are:

- The agents of financial administrations (tax administration, customs, TRACFIN ...)
- The agents of the “Autorité des marchés financiers” ;
- Social security agencies ;
- The banks ;
- The magistrates and judicial police officers ;
- The magistrates of the Court of Auditors and the regional audit chambers ;
- The bailiffs ;
- Notaries in charge of succession.

The Directorate General of Public Finance (DGFIP) enters the registrations on receipt of the declaration of the bank that opened the account, changed it or closed it. The civil status data of the persons (surname, first name, date and place of birth, gender) are certified by INSEE, which also informs the DGFIP of any changes.

DGFIP uses the SIRENE file to certify and update the identifying elements of the organizations (change of name or company name, address or registered office, legal form, assignment, cessation of activity).

The other is the register of beneficial owners of legal persons. Indeed, companies established in France are obliged to obtain and keep accurate and up-to-date information on their beneficial owners. Companies submit information on their beneficial owners to the French register of commerce and companies when they register, and then regularly to update them.

The information required is as follows:

With regards to the company:

- Its name or company name, its legal form, the address of the registered office and, where applicable, its identification number completed by the mention RCS.

In respect of the beneficial owner:

- The name ;
- Use name ;
- Pseudonym ;
- First names ;
- Date and place of birth ;
- Nationality ;
- Personal address of the natural person ;
- The methods of control exercised over the company ;
- The date on which the natural person (s) became the beneficial owner of the company.

The clerk of the Commercial Court receives and verifies the information relating to the beneficial owners. A new document shall be filed within thirty days of any fact or act requiring the rectification or completion of the information referred to therein.

The president of the court may, if necessary, order an undertaking to proceed with or cause to be made the deposits of documents relating to the beneficial owner to which it is bound.

Failure to deposit information relating to the beneficial owner in the Register of Commerce and Companies or to file a document containing inaccurate or incomplete information shall be punished with a criminal penalty.

i) Which of your country's law enforcement authorities, anti-corruption authorities and AML-authorities can access the centralized account register or equivalent data retrieval system?

FICOBA : to access information about a specific person's bank accounts, you must be:

- that person ;
- his or her guardian ;
- one of his heirs or the notary in charge of his estate.

A civil trial judge may also have access to a person's information.

In addition, the tax administration, judicial police officers, bailiffs and certain agents of the Family Allowance Fund (CAF) have access to the entire file.

Register of beneficial owners of legal persons: information relating to beneficial owners shall be

available to competent authorities in the fight against money laundering (judicial authorities, customs officers, financial intelligence units, tax collectors and persons referred to in Article L.561-2 of the Monetary and Financial Code (CMF)), etc.

Moreover, this information is also accessible "to any person justifying a legitimate interest and authorized by the judge in charge of monitoring the RCS [...]" (Article L.561-46.4 ° (CMF)).

j) Please describe the steps that your country's authorities need to take and the material requirements (such as reasonable grounds for suspicion) that need to be met in order to access the centralized account register or equivalent data retrieval system. Please also indicate how long it usually takes for authorities to access information.

The competent authorities shall empower their agents having access to the register, the taxable entities must declare to act only in the context of their due diligence measures. The planned access is online so immediate and an access request may concern one or more legal persons.

k) Please indicate, if available, the yearly number of access requests in 2014, 2015 and 2016 by law enforcement, anti-corruption and AML authorities.

The register is in place in 2017.

2. How to find out if a natural or legal person owns real estate in the country?

National Asset Database (BNDP): this file contains key information about assets held by persons known to the tax administration through their various tax declarations. It consists mainly of extracts of deeds of transfer of ownership in exchange for payment (sales of buildings and land), or free of charge (gifts and inheritances), and the identities and addresses of the persons and properties concerned. TRACFIN has access to it upon request (no need of a court order)

The database allows authorized officials of the Directorate General for Public Finance to access, via a secure intranet, information contained in heritage documents filed by taxpayers or their representatives in income taxes or conservation mortgage (Conservation des Hypotheques). It also ensures the supply of automated updates of cadastral information (MAJIC 2).

The categories of information processed are: name and address of the editor of the document, its nature and date, zone "comment" which only receives tax information in relation to the objective purpose of treatment, the identity of parties: names, additional names, dates and places of birth, SPI tax for individuals, corporate name, legal nature, SIREN number for legal persons, addresses of the

parties; if it is a building: registry references, description of the property (address, area, rental value, number and type of parts for buildings built) if it is a piece of furniture: description and value of the property , Identity of the lessor for transactions involving a business, identity of the corporation whose social rights are subject to a transaction, the transaction itself: legal provision of the property, details of the transaction according to its nature.⁴⁹

TRACFIN has also access to this database.

- The wealth tax register (fichier de l'impôt de solidarité sur la fortune) can be used to find out the movable and immovable assets of natural persons where these are worth more than EUR 760 000.
- Useful information such as the known addresses of a person may be obtained from the "Simplified tax procedures" (Simplification des procédures d'imposition - SPI) file.
- Other files consulted: the land registry file of developed land (buildings) and undeveloped land.

This can be used to find out the identity of owners of premises or land, and where they live if they do not live at the property. The furnished accommodation tax file can be used to find out the identity of the occupiers of particular premises (the tenant or non-rent-paying occupier) and whether the property is a first or second home.

Beside TRACFIN's access for performing its core functions, all these databases are accessible by law enforcement agencies acting under the supervision of the prosecutor or the investigative magistrate.

The tax administration holds information on the value of the real estate and the cadastral plan. It holds information on legal acts concerning them (declarations of succession, donations, registration of notarial deeds ...).

It also ensures the publicity of real estate by maintaining the real estate file, which lists the legal elements relating to all the built and undeveloped properties. It thus guarantees the legal security of real estate transactions.

The tax administration holds information on the value of the real estate and the cadastral plan. It holds information on legal acts concerning them (declarations of succession, donations, registration of notarial deeds ...).

It also ensures the publicity of real estate by maintaining the real estate file, which lists the legal

⁴⁹ <http://droit.org/jo/20050505/BUDL0500053A.html>

elements relating to all the built and undeveloped properties. It thus guarantees the legal security of real estate transactions.

3. How to find out if a natural or legal person owns a company/business in the country?

All of the legal information appearing in the “Registre du Commerce et des Societes” (RCS) is accessible via the website <http://www.Infogreffe.fr>. That website makes it possible to consult all of the registers of commercial businesses and to obtain copies of and extracts from entries therein, and any documents and acts that are filed therewith. The website is managed by a GIE bringing together all of the registrars of the commercial courts. Consultation and issue of copies, of extracts, or of certificates are pay services except when judicial authorities use them, the rates of the services being set by decree (Annex 7-5 to Article R. 743-139 of the Commercial Code)⁵⁰.

Among the information appearing in the RCS is information on the management bodies of the company and on its partners. Although the information on the beneficial owners does not appear therein as such, various details useful for identifying them are available as regards certain types of legal persons:

- as regards SAs, when the shareholders are legal persons, the list of subscribers indicating the number of shares subscribed to and paid up by each of them is available; and
- if either of the duties of management or of direction, or if the power to commit the company on a usual basis is exercised by legal persons governed by French law and registered in the register (except for foundations), their “SIREN” national business number and the indication “RCS” followed by the name of the city of location of the registry in which they are registered are recorded in the registry. Thus, traceability of the information is possible in a “chain of companies” scenario, at least for companies registered in France.

This information is publicly available.

The Register of Commerce and Companies will have, from 2017 onwards, information concerning the beneficial owners who control the legal entities in France which they must inform.

Entities subject to the anti-money laundering regime must also collect information on the beneficial owners who control the legal persons and retain them for 5 years after the end of the business relationship or the occasional transaction.

⁵⁰ FATF Mutual Evaluation Report - France, FATF/ME(2011)1, point 1991, page 472

4. How to find out if a natural or legal person has non-banking financial interests (life insurance portfolio where applicable, securities) in the country?

Securities portfolios are disclosed in the FICOPA database. The AMF (Autorite des Marchés Financiers) maintains information on beneficial owners and shareholders of listed companies.

Regarding life insurance contracts, no centralized tool to identify a life insurance contract by the name of its holder exists. However, as many banking institutions in France also provide life insurance contracts as financial products (bancassurance), once a bank account is identified in one financial entity, the entity is able to identify if it holds a life insurance contracts on the client's name.

There is also a national registry of trusts⁵¹, established by Decree of 2 March 2010 and managed by the tax authorities, which centralizes information relating to the trust agreement. It identifies, for each trust agreement, information regarding the identification of the constituents, trustees and beneficiaries, the date and registration number of the contract and its amendments with the tax and, where appropriate, information formalities relating to land registration.

The "FICOVIE" file lists capitalization contracts or investments of the same type, in particular life insurance contracts, the amount of which is greater than or equal to € 7,500.

It also allows authorized persons to obtain information on these contracts or investments.

It is held by the tax authorities.

It contains the following information:

- The name or business name and address of the organization;
- The nature of the contract or placement;
- The date of purchase of the contract or placement;
- The contract or placement reference, or its policy number;
- The names, surnames, date and place of birth, and domicile of the individual subscriber (s) or business name, address of the registered office and the SIREN or RNA number of the legal entity or subscribers;

⁵¹ In French : fiducies

- The name, first name, date and place of birth, and domicile of the insured person (s);
- In the event of the termination of the contract or placement, the date and cause of such termination;

5. How to find out if a natural person or legal person owns luxury goods such as boats or planes registered in the country?
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The Direction Generale de l'Aviation Civile maintains a register for all the airplanes registered in France. The register is searchable by name of the owner. The French Customs are responsible for maintaining a register that ensures the publicity of the ownership of registered boats in France. The record of vehicle registrations (Ministry of Interior) enables competent authorities to detect the possession of luxury cars by a person or entity.

The Registre International Francais is a EU registry, which guarantees to the vessels registered in it access to national European Union members states waters cabotage provided they are not solely exploited on national cabotage. Such a registry allows search by names of the owner of the vessels.

Moreover, the personal data related to the solidarity tax on wealth (this tax applies where the assets value exceed EUR 1,300,000) allow the identification of real estate possessions and luxury goods, like artworks for instance, for persons who are taxable in France under this regime.

G. GERMANY

1. How to find out if a natural or legal person holds or controls bank accounts in the country?

Germany has set up an automated account access system controlled by the BaFin. The system is designed to allow the authorities to determine whether a particular person (natural or legal) has a bank account or a safe custody account (collectively, “accounts”) with a German credit institution or a foreign credit institution with a branch in Germany. Banks and investment companies are required to record core data on each account (not transaction data, such as account balance, account volumes, etc.), and must ensure that the BaFin has automated access to these core data at all times.

Core data is defined in Section 24c (1) of the Banking Act to mean:

- The account number;
- The dates on which the account was opened and closed;
- The names and dates of birth of account holders and persons authorized to dispose of an account;
- The name of a legal person that is an account holder or authorized to dispose of an account; and
- The name and, if possible, the address of any other beneficial owner as defined in Section 1 (6) of the AML Act.

The data has to be updated on a daily basis.

The automated account access system enables the BaFin to speedily identify accounts which might be subject to freezing or other requirements under Section 6a of the Banking Act, to provide support for international pre-notification and notification of terrorist lists (nationally coordinated by the Federal Ministry of Economics and Technology) and the determination of accounts held by those under investigation for ML or TF offenses and to detect accounts that could be used for unauthorized money remittance activity. Under Section 24c of the Banking Act, the BaFin is responsible for managing the system and ensuring that all financial institutions create and record the necessary master files containing prescribed information.

System access is limited to the BaFin, other financial market supervisory authorities, authorities responsible for mutual legal assistance, the authority responsible for enforcing the Foreign Trade and Payments Act, the FIU and – in cases of criminal proceedings – several law enforcement agencies (e.g. police, public prosecutors, tax investigation units, customs authorities, and courts).

a) Has your country established a centralized account register or equivalent data retrieval system?

Yes.

Questions b) – e) not applicable

f) Does your country's centralized account register or equivalent data retrieval system allow to research

i. if a given natural person is a bank account's

(1) legal owner ?

(2) beneficial owner?

ii. who is a given account's

(1) legal owner?

(2) beneficial owner?

Yes.

g) Please describe the data available related to the legal and beneficial owners (e.g. name, place and date of birth, number of identity card). Please also indicate on what additional types of accounts information is included (e.g. payment accounts, securities accounts).

Data available for a given person:

- number of any account of which that person is the legal or beneficial owner or on which that person is authorized to draw

Data available for a given account:

- full name and date of birth of legal owner (account holder) of the account;
- full name and date of birth of any person authorised to draw on the account
- name and, if available, address of beneficial owner of the account

Types of accounts included:

current accounts, savings accounts, payment accounts, securities accounts, deposit accounts, credit accounts, credit card accounts.

h) Please describe how the information in your country's centralized account register or equivalent data retrieval system is populated (e.g. if banks are required to submit information to the register) and how it is kept up to date.

By law banks are required to maintain, at their own expenses, a database including the relevant information and to put in place all the measures necessary for the automated data access and data

retrieval by the competent authorities. These measures include the procurement of the equipment necessary to ensure confidentiality and protection against unauthorised access, the installation of a suitable telecommunications link and participation in the closed user system, as well as the ongoing provision of these facilities.

Banks and the Federal Financial Supervisory Authority put in place state-of-the-art measures to safeguard data protection and data security, which in particular shall guarantee the confidentiality and integrity of the retrieved and transmitted data. This includes technical and organizational measures preventing banks from being made aware of information being retrieved from their database.

The database must be updated daily and any update has to be reported to Federal Financial Supervisory Authority

i) Which of your country's law enforcement authorities, anti-corruption authorities and AML-authorities can access the centralized account register or equivalent data retrieval system?

The Federal Financial Supervisory Authority Direct, the Federal Central Tax Office and (as of 26 June 2017) the Financial Intelligence Unit have direct automated access to the banks' databases.

Upon request the Federal Financial Supervisory Authority retrieves data also by means of an automated procedure and provides it to other authorities. These authorities include all law enforcement authorities such as courts, public prosecutors, police, which are also responsible for fighting corruption and money laundering, as well as tax authorities and customs.

In addition, the Federal Financial Supervisory Authority may, in certain cases, also provide foreign agencies with information.

j) Please describe the steps that your country's authorities need to take and the material requirements (such as reasonable grounds for suspicion) that need to be met in order to access the centralized account register or equivalent data retrieval system. Please also indicate how long it usually takes for authorities to access information.

The authorities have to file a request with the Federal Financial Supervisory Authority by fax or mail. A request requires that a criminal investigation was initiated. The Federal Financial Supervisory Authority verifies the permissibility of such transmission only if it has particular grounds for doing so.

Banks have to ensure that the Federal Financial Supervisory Authority has automated access at all times and the requested information can usually be accessed within minutes.

In urgent cases, the information is forwarded to the requesting authority within a short delay. In other cases, due to the large amount of requests, it might take longer (up to a maximum of five weeks) for the requesting authority to receive the answer.

k) Please indicate, if available, the yearly number of access requests in 2014, 2015 and 2016 by law enforcement, anti-corruption and AML authorities.

We cannot differentiate between law enforcement, anti-corruption and AML authorities because

they are mainly the same

The numbers for law enforcement authorities were:

2014: 137363

2015: 132718

2016: 136361

2. How to find out if a natural or legal person owns real estate in the country?

According to German property law, the correctness and completeness of land register entries is presumed by law, i.e. a person entered in the land register as the owner of a piece of land is legally presumed to be the owner of the property. Therefore, finding out if a natural or legal person owns real estate in Germany generally only requires the consultation of said land register. In addition to information regarding the owner of each piece of land, the land register also contains information on land property itself, including allotment and parcel numbers and information on encumbrances such as mortgages, servitudes and pre-emption rights. When an entry is made in the land register (e.g. change of ownership), the former entries are not irrevocably deleted, but are merely struck out. This means that the old entries are invalid but still remain visible, as they still have informative value e.g. in providing a chronological overview of ownership for a piece of land.

Information held in the land register can generally be accessed both online by search engines and on-site in local land registry offices. Access is provided to anyone who demonstrates a legitimate interest in a particular piece of land. For certain public bodies such as notaries, courts and other public authorities such as law enforcement agencies, a legitimate interest is generally presumed and does not need to be demonstrated for every single search.

The constitution of the Federal Republic of Germany accords responsibility for legislation on land register procedures to the Federal Republic. The responsibility of managing the land registers themselves is accorded to the Federal States (Länder). In practice, each local court manages a land register for pieces of land in its area. All Länder provide online portals for accessing land register entries in that State, which means that searching the land register online is possible for all pieces of land in Germany. These search portals provide several search parameters such as the ability to search by the name of the owner. The land register is currently being transformed into a fully searchable database structure. Following a federal Act of 1 October 2013 (Gesetz zur Einführung eines Datenbankgrundbuchs vom 1.10.2013), the Länder are currently preparing a pilot land register system. Once a uniform database structure is in place, land register searches will be possible via a

single nationwide search portal.

3. How to find out if a natural or legal person owns a company/business in the country?

The commercial register (Handelsregister) is a public register, which holds the essential details on the legal status of registered companies and merchants, i.e. the type of legal entity, the subject of its business activity, its registered offices and, if applicable, the registered capital. The exact content of specific entry in the commercial register depends largely on the type of legal entity to be entered. In all cases, however, the register displays the power of representation of the respective managing partners or directors.

All limited liability companies and stock companies must be entered in the commercial register regardless of the size and nature of their business undertaking, since registration is the condition for their existence from a legal point of view. The shareholders of a limited liability company are not entered into the commercial register itself, but into a list of shareholders that has to be filed with the commercial register and can be inspected by anyone electronically.

The shareholders of a stock corporation are not entered into the commercial register itself either, only the founders are; but in case the stock corporation issues registered shares, the shareholders may want to be entered into the company's share register to be able to have their claims towards the corporation.

Similar to the commercial register, the cooperative register (Genossenschaftsregister) holds the essential information on the legal status of cooperatives and European Cooperative Societies (SCE). Cooperatives and SCE's acquire legal personality upon registration in the cooperative register, run by the local courts. Their by-laws must be provided at registration and contain the names of members of the board of directors and must be signed by their members. The board of directors must keep a list of all cooperative members, which is open to inspection by everyone with a legitimate interest.

The essential details on the legal status of partnership companies are held in the partnership register (Partnerschaftsregister). The partnership register provides information on the identity of all partners. Any subsequent changes in partners must also be registered.

At the federal level, the business register (Unternehmensregister), maintained by the Federal Minister of Justice, gathers most of legally relevant company data. In particular, the business register provides access to the information contained in the commercial register, cooperative register and partnership register (to entries in the registers and to their publication, as well as to documents

submitted to the registers in electronic form), to accounting documents, to publications in the Federal Gazette that are required under partnership and company law, to company-relevant messages from securities issuers such as voting right notifications.

All information in the commercial register, the cooperative register, the partnership register and the business register is public and can be accessed electronically. (however, there are still some older documents which are available only in paper form at the local registers).

A central register of beneficial owners (“Transparency Register”) will complement the registers mentioned above. The law establishing this beneficial ownership register entered into force on 26 June 2017, transposing the EU’s 4th Anti-Money Laundering Directive (EU/2015/849). The register will be operational shortly and can be accessed under www.transparenzregister.de.

The register will provide information on the beneficial owner of legal persons of private law, other registered commercial entities as well as on trusts and similar legal arrangements.

In line with the EU directive, three groups are granted access to the register (1) competent authorities (including all law enforcement authorities) and financial intelligence units, (2) obliged entities when complying with their customer due diligence obligations under anti-money laundering legislation, and (3) any person or organization, such as for example journalists and NGO’s, that can demonstrate a legitimate interest with respect to money laundering, terrorist financing, and the associated predicate offences, such as corruption, tax crimes and fraud.

Regarding legal persons of private law and other registered commercial entities, the register provides a link to the already existing registers mentioned above containing up-to-date and reliable information on legal ownership which will in the vast majority of cases be identical with beneficial ownership. Where the beneficial owner is not the same person as the legal owner, entities are obliged to register the beneficial owner with the new BO-register. In addition, so far there is no register for foundations. For them, the BO-register will for the first time provide information on beneficial ownership. The same is true for trusts and similar legal arrangements. Trustees which are residents in Germany need to notify the Transparency Register as regards beneficial ownership of a trust; this also applies to similar legal arrangements as defined in the new anti-money laundering law.

4. How to find out if a natural or legal person has non-banking financial interests (life insurance portfolio where applicable, securities) in the country?
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Germany does not have a database of securities⁵². However, deducing ownership of all securities to be held and owned in Germany can be done on the level of credit institutions. Each institute would be able to find out their clients' securities accounts. The central depository in Frankfurt, moreover, would be in the same way able to know those individuals or institutions which hold securities directly with the central depository. Nevertheless there is a legal restraint due to basic principles under the rule of law. It is legally prohibited for the central depository or the credit institution to hand out information of their clients without any reason and without any legal basis to just an outsider coming along. But if someone has achieved a legal title based on a civil law claim or a criminal procedure it is certainly possible to collect information about someone's assets in a securities account.

The Financial Intelligence Unit as well as the law enforcement authorities have the legal power to demand information from life insurance companies and depository banks whether a person is the owner or beneficiary of a life insurance policy or of a custody account. These are well established and effective tools to trace non-banking financial assets.

5. How to find out if a natural person or legal person owns luxury goods such as boats or planes registered in the country?

Planes

The German Luftfahrt-Bundesamt, the Federal Aviation Office, is responsible for maintaining the aircraft register, which is searchable by name of owner and must register any change in ownership.
http://www.lba.de/DE/Technik/Verkehrszulassung/Verkehrszulassung_node.html

Boats

There are several options for registering a pleasure craft. There is the option of registering it in the German register of ships through the local courts, of requesting an International Certificate for Pleasure Craft in accordance with UNECE Resolution No. 13, which is issued on behalf of the Ministry of Transport by the Deutscher Segler-Verband, the Deutscher Motoryachtverband and the ADAC, or of requesting a flag certificate from the Federal Maritime and Hydrographic Agency (BSH).

Registration is mandatory only for pleasure craft having a length of 15 m or more (sea-going ships) or having a deadweight capacity of more than 20 tonnes or having a water displacement of more than

⁵² reply to CARIN survey JLS/2009/ISEC/AG/017 30-CE-0281275/00-38

10 m³ (inland waterway vessels).

Upon request, law enforcement authorities will obtain information on data or documents stored with the aforementioned institutions.

Attachment: Automated Access to Account Data according to Section 24c of the German Banking Act (KWG)

I. Main Content of the Rule

With Section 24c KWG coming into force on 1 April 2003 a modern bank account register system was realised in Germany which grants the Federal Financial Supervisory Authority (BaFin) automated access to bank account details.

As a result BaFin is able to combat the financing of terrorism, money laundering and unauthorised/illegal banking transfers and financial service transactions more effectively via these centralised searches.

Banks and investment companies are required to store basic accounts data (not transaction data like turnover figures etc.). The institutions have to make sure that BaFin has automated access to these data at all times. Furthermore, the institutions have to take technical and organisational measures to ensure that they cannot monitor such data retrievals. Basic data according to Section 24c (1) KWG are:

- number of an account (e.g. current account, deposit account, securities account etc.),
- the day on which the account was opened and closed,
- the names and dates of birth for account holders and other authorised persons,
- the name of a legal person as account holder or authorised person,
- the name and – if possible – address of any other beneficial owner.

The data has to be updated on a daily basis.

II. Authorized Institutions

Data can be obtained by the following institutions:

- BaFin itself to perform its legal tasks according to the Banking Act (KWG), the German Insurance Supervision Act (VAG) or the German Money Laundering Act (GwG), Sections 24c (2) KWG, 305 (6) VAG
- any other financial market supervisor with responsibilities relating to KWG or GwG, Section 24c (3) Sentence 1 No. 1 KWG

- Authorities or courts responsible for providing international judicial assistance in criminal cases, and otherwise for the prosecution and punishment of criminal offences, Section 24c (3) Sentence 1 No. 2 KWG
- the national authority responsible for imposing restrictions on capital transfers and payment transactions pursuant to Foreign Trade and Payments Act (Außenwirtschaftsgesetz) to the extent necessary to enable it to perform its functions ensuing from the Foreign Trade and Payments Act or from legal instruments of the European Communities in connection with imposing restrictions on economic and financial relations, Section 24c (3) Sentence 1 No. 3 KWG
- the Financial Intelligence Unit (FIU) of the Federal Criminal Police Office, Section 10 (3) GwG

Besides BaFin none of the institutions is permitted direct access to the registries. According to Section 24c (3) KWG other institutions have to post a request with BaFin. BaFin then checks the request for formal criteria (e.g. if it comes from an authority authorised by Section 24c (3) KWG, if it bears a proper reference number and enough data to make a request in the databases possible – at least a name or an account number). Finally, BaFin retrieves the account data, verifies the results for plausibility and according to data protection rules and passes them on to the other institution. The responsibility for the legitimacy of the request remains with the requesting authority, Section 24c (3) Sentence 4 KWG.

By not only giving BaFin access to the account data but by opening that possibility (via BaFin) to clearly defined other authorities a requirement has been met which enables Germany to effectively fulfil its obligations from Section 1 of the Additional Protocol to the Convention on Mutual Assistance in Criminal Matters between Member States of the European Union of October 16, 2001.

Furthermore the automated access to account data follows the Final Declaration of the Conference of the Parliaments of the European Union against Money Laundering held on February 7 and 8, 2002 in Paris. The participants had unanimously been in favour of a centralized registration of banking accounts in order to more effectively combat money laundering.

III. Automated Access to Account Data and Privacy

The decentralised bank account register system in Germany has advantages over a centralised system in which all bank accounts would have been compiled by the supervisory authority. Such a solution would have lead to a large database at BaFin containing much unnecessary personal data. This

would not have been compatible with the constitutional principle of restrictive use of personal data.

In terms of security of personal data Section 24c KWG prescribes that credit institutions have to delete accounts and other data which are no longer valid from the database after three years.

For the purpose of monitoring the protection of personal data BaFin must log important information (e.g. the name of the requesting authority and its reference number, the time and the reference number of the retrieval, the received data, the name of the retriever and the data used during the retrieval) for each data request. According to Section 24c (4) KWG this data has to be backed up for at least 18 months and has to be deleted no later than after 24 months.

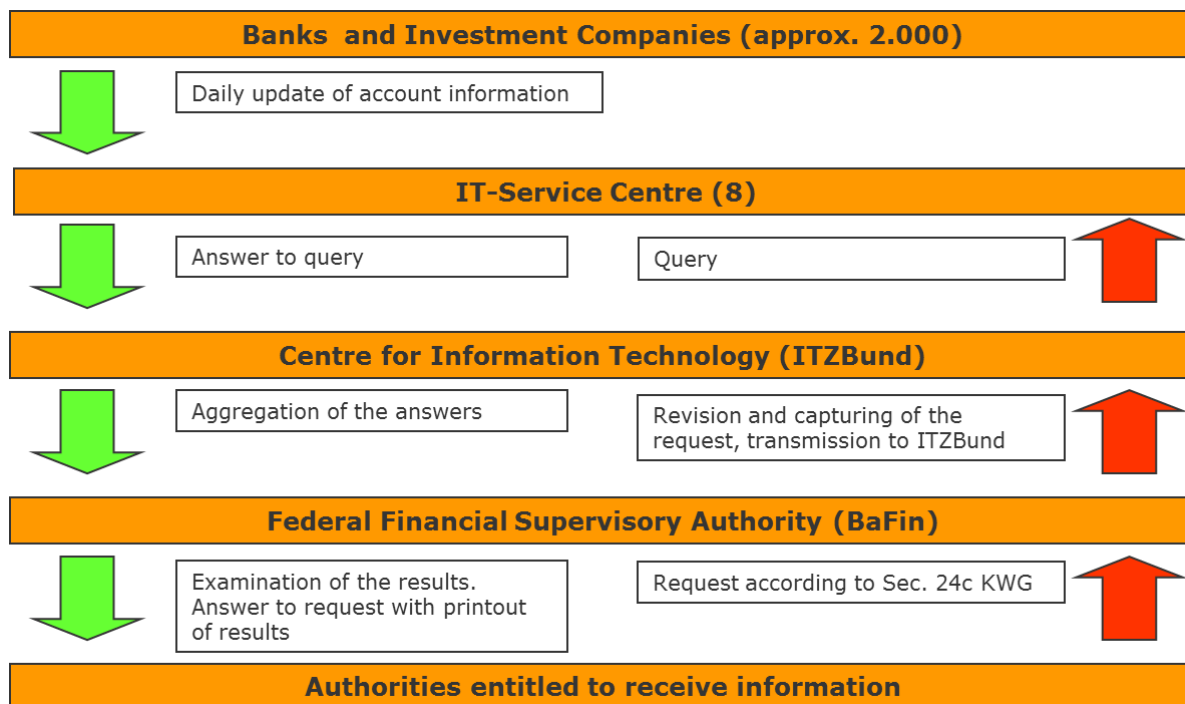
With its decision of June 13, 2007 the Federal Constitutional Court (BVerfG) decided that Section 24c KWG complies with the constitution and does not interfere with fundamental rights of individuals. The automated access to account data according to Section 24c KWG serves important concerns of the general public like law enforcement or international mutual assistance in criminal matters. In this context the Constitutional Court made clear that the retrieval of account data for law enforcement authorities and courts according to Section 24c (3) Sentence 1 No. 2 KWG has to be necessary for the fulfilment of their legal responsibilities and requires specific and criminal investigations or mutual assistance in criminal matters. Moreover in regard to the principle of commensurability the requesting authority has to check in every single case if an investigational procedure with less effect to the basic rights of the individual could be taken into consideration, e.g. the open retrieval of the data.

Therefore BaFin checks prior to the processing of the request if the authority has confirmed that a criminal procedure has officially been commenced. Without this confirmation the request will not be processed.

BaFin does not check if the retrieval of account data is necessary and commensurable in the individual case. According to Section 24c (3) Sentence 4 KWG this obligation falls under the responsibility of the requesting authority.

IV. Course of Proceedings

For the technical proceedings of the data retrieval according to Section 24c (2) KWG and requests according to Section 24c (3) KWG BaFin makes use of the Centre for Information Technology (ITZ-Bund). ITZBund is the centralized IT-service provider for the Federal Ministry of Finance. The banks usually make use of IT-service providers to provide the database for the system as well. Each service provider usually works for a multitude of banks.



Simplified display of proceedings

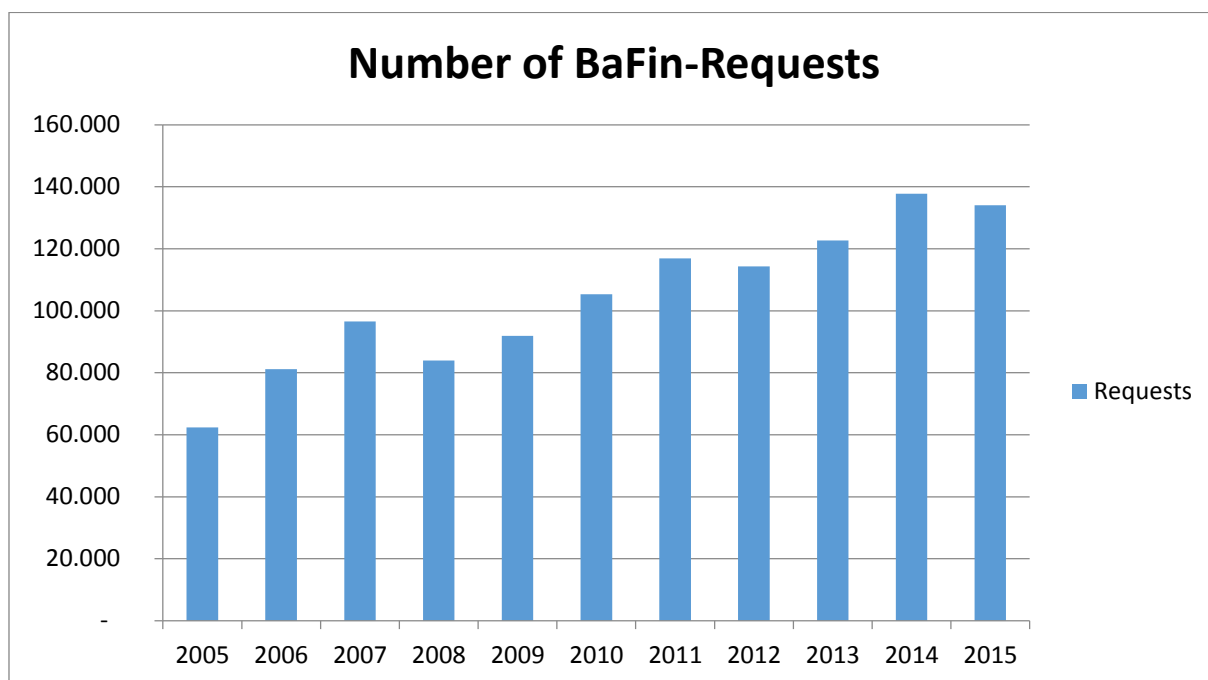
The details of the technical proceedings are regulated by BaFin and are laid down in an interface specification which also contains regulations concerning confidentiality of the data and protection from unauthorised access, Section 24c (5) KWG.

V. Effectiveness of the account register system according to Section 24c KWG

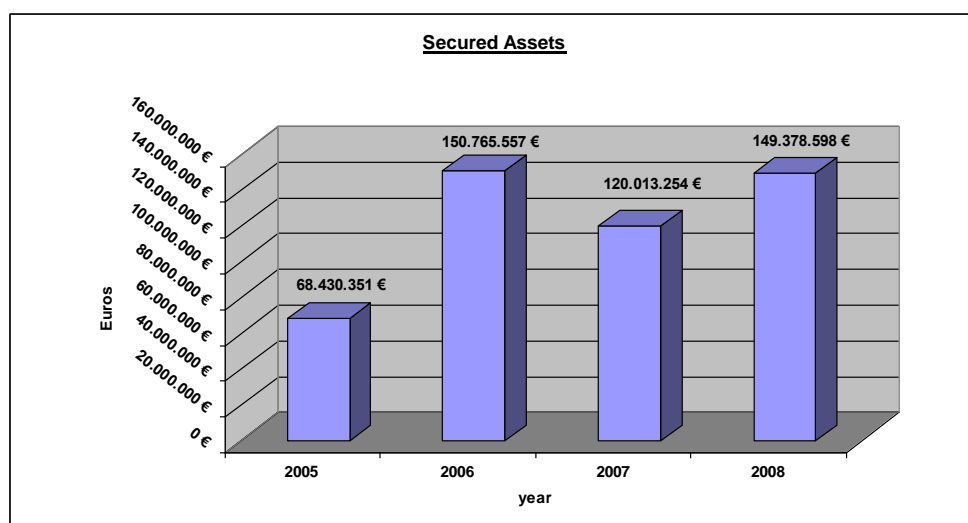
The automated access to account data offers BaFin an opportunity to efficiently find out if and at which bank in Germany a person or entity holds an account. Based on this information regulatory action can be taken, e.g. freezing of an account according to Section 6a KWG in cases of an account being suspected to be used in financing of terrorism; or further investigations can be started to examine if there is other objectionable behaviour, e.g. unauthorized financial service transactions.

There is positive feedback from the external authorities as well. The possibility to retrieve account data is of special relevance for the area of financial investigation. The data allocated to police, customs and tax authorities are an important instrument to secure assets. In this context the authorities especially appreciate the anonymity of the data retrieval. The secrecy prevents that the investigation's success is negatively influenced by premature information of the suspect about the investigation.

The number of requests according to Section 24c KWG has risen strongly since 2005. This success in the development is shown in the chart below.



The efficiency of the data retrieval system which has become an indispensable resource for many investigators has been proven also by a questionnaire sent to the relevant authorities in 2006 (201 authorities generating 80 per cent of all requests had been interviewed; 77 per cent of them gave a feedback) and 2009 (302 authorities generating 66 per cent of the requests of the year 2008 had been interviewed; 80 per cent of them – representing 56 per cent of the requests of the year 2008 - gave a feedback). According to these questionnaires assets could be secured with the aid of the data retrieval system at least in the following amount of:



Predominantly, the quality of the forwarded results is rated as “good” according to both question-

naires.

	excellent	good	pass	satisfactory	unsatisfactory
questionnaire 2006	24%	71%	4%	1%	-
questionnaire 2009	30%	65,5%	4%	-	0,5% (1 authority)

The main cases in which the authorities make use of the bank account register system are cases of fraud, money laundering, drug abuse, tax evasion and corruption.

Generally, the forwarded results are considered as helpful.

	always helpful	usually helpful	partially helpful	usually not helpful	not helpful
questionnaire 2006	51%	47%	2%	-	-
questionnaire 2009	51%	47%	2%	-	-

H. INDIA

1. How to find out if a natural or legal person holds or controls bank accounts in the country?

Law enforcement agencies, whether at the Federal level or state level, are equipped with statutory powers to access information from the banking companies in respect of the person under investigation. The Financial Intelligence Unit –India (FIU-IND) also has powers under PMLA to obtain information from reporting entities.

FIU-IND also maintains a centralized database of Cash Transaction Reports (CTRs) and Suspicious transaction Reports (STRs) which can be used to find out if a natural or legal person has bank accounts in the country in which large cash transactions or suspicious transactions have taken place. This information can be searched on name, address, Date of Birth/Incorporation, ID etc.

a) Has your country established a centralized account register or equivalent data retrieval system?

No.

b) Does your country intend to establish a centralized account register or equivalent data retrieval system?

Yes.

At present India has a system to identify the owner of a bank account, given the account, but not the other way round (identify all bank accounts of a person, given his/her identity).

Legislative provisions: Rule 9 of Prevention of Money Laundering (Maintenance of Records) Rules states that it is obligatory for all reporting entities (banking company, financial institution, intermediary or a person carrying on a designated business or profession) to identify natural person and beneficial owner at the time of commencement of an account based relationship. This Rule is applicable for individuals, company, partnership firm, unincorporated association or body of individuals, trust. The term “beneficial owner” has been defined as the natural person who ultimately owns or controls a client and/or the person who exercises ultimate effective control over a juridical person. Government of India has specified a procedure for determination of beneficial ownership: -

A. Where the client is a person other than an individual or trust, the banking company and financial institution, as the case may be, shall identify the beneficial owners of the client and take reasonable measures to verify the identity of such persons, through the following information-

(i) The identity of the natural person, who, whether acting alone or together, or through one or more juridical person, exercises control through ownership or who ultimately has a controlling ownership interest.

Explanation: Controlling ownership interest means ownership of/entitlement to more than 25 percent of shares or capital or profits of the juridical person, where the juridical person is a company; ownership of/entitlement to more than 15% of the capital or profits of the juridical person where the juridical person is a partnership; or, ownership of/entitlement to more than 15% of the property or capital or profits of the juridical person where the juridical person is an unincorporated association or body of individuals.

(ii) In cases where there exists doubt under (i) as to whether the person with the controlling ownership interest is the beneficial owner or where no natural person exerts control through ownership interests, the identity of the natural person exercising control over the juridical person through other means. Explanation: Control through other means can be exercised through voting rights, agreement, arrangements, etc.

(iii) Where no natural person is identified under (i) or (ii) above, the identity of the relevant natural person who holds the position of senior managing official.

B. Where the client is a trust, the banking company and financial institution, as the case may be, shall identify the beneficial owners of the client and take reasonable measures to verify the identity of such persons, through the identity of the settler of the trust, the trustee, the protector, the beneficiaries with 15% or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.

C. Where the client or the owner of the controlling interest is a company listed on a stock exchange, or is a majority-owned subsidiary of such a company, it is not necessary to identify and verify the identity of any shareholder or beneficial owner of such companies.

Banks may review their KYC policy in the light of the above instructions and ensure strict adherence to the same. Further As per Section 12 A of Prevention of Money Laundering Act read with its Section 12, The Director may call for from any reporting entity any of the records referred in Sub-section (1) of Section 12 and any additional information as he considers necessary for the purpose of this Act.

Central KYC Records Registry (CKYCR): When it becomes fully operational, the KYC details of all accounts would be available with CKYCR and all accounts of a customer would be linked by a common KYC number. This information will be accessible to financial institutions registered as users

with CKYCR and when specifically authorized by the concerned customer to access his/her information by providing his/her unique KYC number.

c) If your country does not use a centralized account register or equivalent data retrieval system to obtain the relevant information, please indicate any other mechanism your country has to find out if a natural or legal person holds or controls bank accounts in the country (e.g. an established channel for requesting all financial institutions to promptly disclose whether they have a named customer). Please describe what steps your country's authorities need to take and the material requirements (such as reasonable grounds for suspicion) that need to be met in order to find out

i. if a given natural person is a bank account's

(1) legal owner

(2) beneficial owner

ii. who is a given bank account's

(1) legal owner

(2) beneficial owner.

Please also indicate, in particular, if a court order is necessary to request the information, how requests are transmitted to banks, the delay for banks to respond to requests, and remedies banks can use against requests.

Please also indicate how long it usually takes for authorities to access information.

i. If Court order is necessary to request the information,

The Law Enforcement Agencies (LEA) can make request on their own and court order is not required to obtain such information.

ii. How request are transmitted to the banks,

The request to the bank are sent by the LEA in the form of notices/ written requests.

iii. The delay for banks to respond to requests

Normally the information is furnished on time

iv. Remedies banks can use against requests.

Since legal orders are issued by LEAs for any information, the banks are required to follow them.

d) Please indicate, if available, the yearly number of requests in 2014, 2015 and 2016 by law enforcement, anti-corruption and AML authorities

No information available.

e) Please indicate which of your country's law enforcement, anti-corruption and AML-authorities can request such information.

Central Bureau of Investigation, Enforcement Directorate and All State Police Forces.

Questions f) - k) not applicable.

2. How to find out if a natural or legal person owns real estate in the country?

Real Estate related records are maintained in the local revenue administrative units in respect of Rural Properties and at sub-registrar's office in respect of urban properties. Each state maintains its own registry where records of ownership can be provided to any interested party.

Law Enforcement Agencies can find out if a natural or legal person owns real estate in India by making a reference to the relevant registrar.

The Income Tax Department also receives details of transactions of purchase or sale by any person of immovable property valued at three million rupees or more under the Annual Information Return (AIR) Scheme which can also be used to find out if a natural or legal person has been involved in purchase or sale of real estate.

3. How to find out if a natural or legal person owns a company/business in the country?

Registrars of Companies (ROCs) appointed under Section 609 of the Companies Act, 1956 covering various States and Union Territories are vested with the primary duty of registering companies and ensuring that such companies comply with statutory requirements under the Act.

Company records can be obtained by any interested party on payment of prescribed fee. Section 151—153B of the Indian Companies Act 1956 contains provisions relating to register of members, index of members, debenture holders, beneficial owners, declaration as to shares and debentures held in trust.

Regulatory, supervisory and law enforcement authorities (including Police, Income Tax authorities, FIU and securities regulators) have adequate powers that enable them to access information about the control and ownership of legal persons in India.

Since foreign companies are not required to keep a copy of their shareholder register in India, access to the shareholder register of foreign companies is available only through a formal mutual legal assistance process. This means that such information is not available to the Indian authorities on a timely basis.

4. How to find out if a natural or legal person has non-banking financial interests (life insurance portfolio where applicable, securities) in the country?
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Law enforcement agencies are equipped with statutory powers to collect information about non banking financial interests from the financial institutions in respect of person under investigation. The Financial Intelligence Unit –India (FIU-IND) also has powers under PMLA to obtain additional information from reporting entities.

Under section 11 of the SEBI Act and respective regulations governing the functioning of securities markets intermediaries, the SEBI is authorized to call for any information from any of its stock exchanges, mutual funds, and other persons associated with securities market intermediaries and self-regulatory organizations. Additionally, they are able to access any information of publicly listed companies and share this information for financial investigation purposes.

The IRDA is empowered under section 14(2)(h) of the IRDA Act to call for information from insurers, intermediaries, insurance intermediaries and other organizations connected with the insurance business.

5. How to find out if a natural person or legal person owns luxury goods such as boats or planes registered in the country?
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The Motor Vehicle Act, 1988 requires registration of motor vehicles. Information on the ownership can be obtained online through website of the Ministry of Transport at <https://vahan.nic.in>. All planes are registered in India under the Aircraft Act 1934 and the rules made hereunder as amended in 2007. Registration information is held by the Director General of Civil Aviation and information can be obtained online through their website <http://dgca.nic.in/>.

Law enforcement agencies are adequately equipped with statutory powers to collect information from the state registration authorities and the Director General of Civil Aviation in respect of person

under investigation.

I. INDONESIA

1. How to find out if a natural or legal person holds or controls bank accounts in the country?

The new AML Law⁵³ requires banks and other reporting entities to apply know-your-customer (KYC) principles set out by their respective supervising and regulating agencies⁵⁴. The reporting entities are required by the law to identify that the service user is carrying out a transaction for himself/herself or for and on behalf of another person⁵⁵. The law also requires any person or corporation who engages a business relationship with the reporting entities to provide its/his/identity⁵⁶. In the event that a transaction is performed on behalf of another party, persons or corporations engaged in the business relationship must provide information regarding the other party's personal identity, the source of funds, and purpose of the transaction.

The current central bank regulations (BI) specify what requirement the new AML law sets in concern with the identification of customer, underlying relationships, and beneficial owner in banking industry. The BI regulation also requires banks to have information system that would enable banks to undertake effective identification, analysis, monitoring, and reporting⁵⁷.

Since 2004, the Financial Transactions Reports and Analysis Center (PPATK)⁵⁸ was using a reporting application named TRACeS⁵⁹ which has been recently replaced by a new reporting tool to cope with a growing number of reporting entities. PPATK/INTRAC is given the authority to obtain information from financial service providers (FSP) and other reporting entities as well.

In 2011, Indonesia enacted an Asset Forfeiture Bill (new AML Law)⁶⁰, which gives powers to

⁵³ Law No. 8 of 2010 the concerning Prevention and Eradication of Money Laundering replacing the Law No. 15 of 2002 on Money Laundering as amended by Law No. 25 of 2003

⁵⁴ Ibid., Article 18

⁵⁵ Ibid., Article 20

⁵⁶ Ibid., Article 19. Information shall at least comprise its/his/her personal identity, source of funds and purpose of the transaction

⁵⁷ Article 41, BI Regulation No. 11/28/PBI/2009 concerning Implementation of Anti Money Laundering and Combating the Financing of Terrorism Program for Commercial Bank dated on 1 July 2009 that amends BI Regulation No. 3/10/PBI/2001 and BI Regulation No. 5/21/PBI/2003 on Know Your Customer Principles

⁵⁸ The Indonesian Financial Intelligence Unit

⁵⁹ APG 2nd Mutual Evaluation Report on Indonesia 9 July 2008, §301, p. 62

⁶⁰ Planned revisions to the 2001 Anticorruption Law. The new AML Law extends the scope of Reporting Parties which include Financial Service Providers (FSPs) and Designated Non-Financial Businesses.

investigators from the Attorney General's office, Anti Corruption Commission, National Drugs Agency, Directorate General of Tax, and Directorate General of Customs and Excise to investigate money laundering. In addition, the AML Law allows investigators, including the National Police (POLRI) to request information concerning the suspect's wealth from Providers of Financial Services (PFS). In requesting such information, the law on bank secrecy and other financial transactions secrecy provisions are not applicable⁶¹. In addition, the Criminal Code confers investigators the authority to issue a subpoena, block bank accounts, request hard copies of transaction documentation from bank accounts. In collecting bank records, the provisions on bank secrecy are not applicable⁶².

a) Has your country established a centralized account register or equivalent data retrieval system?

Yes.

Questions b)-f) not applicable.

f) Does your country's centralized account register or equivalent data retrieval system allow to research

i. if a given natural person is a bank account's

(1) legal owner ?

(2) beneficial owner?

ii. who is a given account's

(1) legal owner?

(2) beneficial owner?

Information about legal owner only.

g) Please describe the data available related to the legal and beneficial owners (e.g. name, place and date of birth, number of identity card). Please also indicate on what additional types of accounts information is included (e.g. payment accounts, securities accounts).

⁶¹ Otherwise applicable under Article 40 of Law 7/ 1997 as amended by Law 10/ 1998 (Banking Act)

⁶² APG 2nd Mutual Evaluation Report on Indonesia, 9 July 2008, §354, p. 72

This database system collects information on:

a. Banking Sector

- For Individual Customer: This system creates database on Individual's Name, Place and Date of Birth, Address, Identity Number, and Single Customer Identification File.
- For Corporate Customer: This system creates database on Corporate's Name, Address, Tax Number, and Single Customer Identification File.

b. Non-Banking

- For Individual Customer: This system creates database on Individual's Name, Place and Date of Birth, Address, Identity Number, and Payment/Securities Accounts Number.
- For Corporate Customer: This system creates database on Corporate's Name, Address, Tax Number, and Payment/Securities Accounts Number.

h) Please describe how the information in your country's centralized account register or equivalent data retrieval system is populated (e.g. if banks are required to submit information to the register) and how it is kept up to date.

The financial service providers are required to submit information and provide update information every 3 months to the register electronically.

i) Which of your country's law enforcement authorities, anti-corruption authorities and AML-authorities can access the centralized account register or equivalent data retrieval system?

All law enforcement in Indonesia, including anti-corruption authorities have access to this system.

j) Please describe the steps that your country's authorities need to take and the material requirements (such as reasonable grounds for suspicion) that need to be met in order to access the centralized account register or equivalent data retrieval system. Please also indicate how long it usually takes for authorities to access information.

To access this information, law enforcement authorities should provide reasonable grounds for suspicion. The administrative process to access the information may take 2 weeks

k) Please indicate, if available, the yearly number of access requests in 2014, 2015 and 2016 by law enforcement, anti-corruption and AML authorities.

No information available.

2. How to find out if a natural or legal person owns real estate in the country?

All law enforcement agencies may obtain the relevant data from Agrarian and Spatial Planning Ministry/ Land National Agency (BPN) and big real estate or property developer. As anti-corruption agency, KPK, have an access to the asset disclosure database system. Public officials in Indonesia are required to report their asset before and after they are in office, including updating the report every two years or if their position is changed. The data recorded includes income, ownership of movable property and immovable property, including real estate. If the data needed is unavailable in the database system, KPK may continue to request the data and information to BPN.

BPN organizes, arranges, and collects the data and information of real estate including asset recording, asset certificate issuance, asset acquisition, and asset freezing, etc. Thus, law enforcement agencies may obtain the data and information related to natural or legal person who owns real estate from BPN. Formally, these agencies may follow the procedure of requesting the data by making the letter describing the data and information needed. The request will be fulfilled after it is approved by the Head of the Land Office. However, KPK is entitled to have direct access on the data and information of the Center for Land Data and Information of the Land National Agency.

3. How to find out if a natural or legal person owns a company/business in the country?

Law enforcement agencies may obtain data of ownership of companies or businesses from General Legal Administration of the Ministry of Law and Human Rights, the Ministry of Trade, and Indonesian Chamber of Commerce and Industry. The ownership information database in the Ministry of Law and Human Rights is only available for limited liability companies. For companies in partnership arrangement are registered in the each district court. The Indonesian Chambers of Commerce and the Ministry of Trade register all companies that are participating in commercial trade and industry. To request ownership information, law enforcement agencies have to submit a letter of request and describing the data and information needed to relevant institution.

Basically, ownership information located in the Ministry of Law and Human Rights is available to public. If law enforcement agencies would like to acquire more information than the published-version, they have to submit letter of request to the Ministry of Law and Human rights. KPK has

direct access to all information and data on company ownership in the Ministry of Law and Human Rights.

Legal persons are not required to maintain a record of beneficial owners or whether company shareholdings are held beneficially. There is a requirement in law to notify the company registry of changes to directors and shareholders, the competent authorities are yet to issue implementing G20 regulations and provide a support structure to receive such reports. While law enforcement and regulatory agencies have some powers to obtain information on beneficial ownership, the timeliness and adequacy of such information is questionable⁶³.

4. How to find out if a natural or legal person has non-banking financial interests (life insurance portfolio where applicable, securities) in the country?
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Securities companies, investment managers, and custodian banks are required to apply Know Your Client Principles⁶⁴. PPATK/INTRAC is authorized to obtain information from financial service providers (FSP) and other reporting entities as well.

In the context of doing activity as Securities Company, the FSP shall possess information system to identify, analyze, control and provide reports effectively on characteristic of transaction conducted by capital market customers. The information system have to enable the FSP in capital market area to trace each transaction whenever it is needed, including to trace ability on identity of customer, form of transaction, date of transaction, amount and denomination of transaction, as well as origin of fund used for transaction. Information has also been provided for the concerned areas of FSP in order to detect high risk countries on money laundering and terrorist financing activities. In case a prospective customer coming from one of these areas are representing Beneficial Owner, the FSP on Capital Market and NBFI thus shall request document or proof of identity and/or other information related to the Beneficial Owner.

Indonesia has a civil law system therefore express trusts and other legal arrangements are not recognized. Where a foreign trust is a customer of an Indonesian financial institution, the financial

⁶³ See APG 2nd Mutual Evaluation Report on Indonesia, p161

⁶⁴ Bapepam-LK (Capital Market and Financial Institutions Supervisory Board) Rule Number V.D.10. See also amendment of previous Rule No. V.D.10 by issuing the Chairman of Capital Market and Financial Institution Supervisory Board Regulation No. 476/BL/2009 on 23 December 2009 regarding KYC Principle in Capital Market Sector, and the previous Minister of Finance Regulation No. 74/PMK/2006 by the Minister of Finance Regulation No. 30/PMK.010/2010 on 9 February 2010 regarding KYC for Non-Bank Financial Institution

institutions are required to perform customer due diligence (CDD) under the AML Law⁶⁵.

Law enforcement agencies may investigate and request the information on natural or legal person who has non-banking financial interests to the Indonesia Financial Intelligence Unit who administer a database system containing ownership of banking and non-banking accounts.

If law enforcement would like to seek for more information, they can request such information to insurance companies, the Indonesia Stock Exchange (IDX), and/or the Indonesia Custodian Central Exchange (KSEI).

5. How to find out if a natural person or legal person owns luxury goods such as boats or planes registered in the country?
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The aircraft ownership information

This information can be obtained from the Ministry of Transportation. Law enforcement agencies should submit the request in written on the ownership information.

As to civil aircraft registration requirements⁶⁶, the Register of Civil Aircraft shall be established and maintained by the Director General of the Ministry of Transportation. An aircraft may be registered only by and in the legal name of its owner. Certificate of registration is not evidence of ownership of aircraft in any proceeding in which ownership by a particular person is in issue. The Director General does not issue any certificate of ownership or endorse any information with respect to the ownership on a Certificate of Registration. The Director General issues a Certificate of Registration to the person who appears to be the owner on the basis of the evidence of ownership submitted with the application for aircraft registration, or record at the Civil Aircraft Register⁶⁷.

The private vessel ownership information

Law enforcement agencies may request information to the Department of Transportation on the local government. Law enforcement agencies should submit the request in written on the ownership

⁶⁵ APG 2nd Mutual Evaluation Report on Indonesia , §787, p. 161.

⁶⁶ Under Article 25 of the Aviation Act No. 1 year 2009

⁶⁷ Republic of Indonesia, Ministry of Transportation, Civil Aviation Safety Regulations (CASR), Part 47, Aircraft Registration, p. A1 and B1

information.

The motor vehicles ownership information

Law enforcement agencies may request data on the ownership of luxury motor vehicles to One Roof System of motor vehicle registry and administration. Law enforcement agencies should submit the request in written on the ownership information. KPK has direct access to the data recorded this One Roof System of Jakarta, Banten, and West Java.

J. ITALY

1. How to find out if a natural or legal person holds or controls bank accounts in the country?

Banking secrecy is not provided for in the Italian legislation. Therefore, it cannot be invoked before the Bank of Italy, the Unità di Informazione Finanziaria (Italy's FIU), the Commissione Nazionale per le Società e la Borsa (Consob, Italy's Stock Exchange Commission) or the Nucleo Speciale di Polizia Valutaria of the Guardia di Finanza (NSPV).

By law⁶⁸, all financial intermediaries are required to maintain a single computerized and standardized database (Archivio Unico Informatico, AUI), where substantial information on all business relationships and transactions over €15,000 or its equivalent are recorded and stored for ten years. A code is provided for each type of transaction, and data is captured about the client, any representative or principal involved, the counterpart for wire transfers, the branch involved, and other transaction details. The FIU, as well as law-enforcement bodies and judicial authorities may request data on the underlying transactions for analytical purposes, even without an STR having been filed.

In accordance with Law n. 248 of 2006, financial intermediaries shall also report to the Anagrafe dei Rapporti Finanziari, namely Italy's Register of Financial Operations:

- a) Personal data of customers having any business relation with the bank or performing any financial operation on their or third person's behalf, as well as the nature of such relation and/or operation; and
- b) In the event of occasional transactions, the nature of such operation and the customer's personal data.

The Register can be directly accessed by the FIU, law enforcement bodies and judicial authorities. Each financial intermediary is further required to monthly transmit aggregated information pertaining to transactions carried out for an amount above €15,000 to the Unità di Informazione Finanziaria.

In case of financing of terrorism investigations, law-enforcement agencies can also identify and trace

⁶⁸ Legislative Decree 231/2007 is the legal milestone of the Italian AML/CFT system, assessed in 2016.

<http://www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-Italy-2016.pdf>

assets⁶⁹. Italy's Penal Procedure Code empowers Law-Enforcement Agencies and Prosecutors to trace and identify assets during the course of criminal investigations. The Anti-Mafia Investigative Department (Direzione Investigativa Antimafia, DIA) and the Nucleo Speciale di Polizia Valutaria of the Guardia di Finanza (NSPV) are entitled to have access and copy - without judicial proceeding - of CDD and transaction records from registered financial institutions⁷⁰. As judicial police, Italy's law-enforcement agencies can execute a search warrant (court order) and seize any evidence and proceeds of crime.

Italy's AML/CFT Law requires financial institutions to identify any person (and verify the identity thereof) on whose behalf the transaction is carried out; specific requirements apply to detect the ownership and control structure of a customer being a legal person, or to determine the natural persons that ultimately own or control the customer. Financial institutions may accept as customers also trusts under foreign legislation. Specific requirements apply as to the identification of the settlor, trustee and beneficiaries. Should financial institutions fail to identify and verify the identity of their customer or that of the beneficial owner of any transaction they are required to perform or of any business relationship they entertain, they are required to refrain from finalizing the transaction or to establish or continue the relationship and may consider filing a STR.⁷¹

a) Has your country established a centralized account register or equivalent data retrieval system?

Yes.

Questions b) - e) not applicable.

f) Does your country's centralized account register or equivalent data retrieval system allow to research

i. if a given natural person is a bank account's

(1) legal owner ?

(2) beneficial owner?

ii. who is a given account's

⁶⁹ For further information, see Decree-Law No. 374 of 18 October 2001

⁷⁰ Italy's Mutual Evaluation Report on AML/CFT, 2016.

⁷¹ Article 42 of Legislative Decree 231 of 2007

(1) legal owner?

(2) beneficial owner?

Yes.

Following the entry into force of the new national AML Law (L.D. 90/2017 amending L.D. 231/2007), the Italian Legislator will further implement the creation of the beneficial ownership central registry, in abidance by art. 30 of the above-mentioned EU Directive.

Through such Central Registry, to be managed by the Chambers of Commerce [www.registroimprese.it], Italy will ensure that competent authorities have timely access to BO information regardless of any unreasonable limitation.

Secondary legislation concerning implementation of the central registry will ensure that collection of BO information, as well as legal ownership information, will be adequate, accurate and maintained up-to-date.

The central registry is a key instrument to guarantee availability and prompt accessibility to the whole set of relevant information concerning trusts (including the main actors involved therein: settlors, protectors, trustees, beneficiaries) and similar legal arrangements.

Based on the monitoring and screening required by CDD measures, quality information on potential ML/TF cases is detected and reported through STRs to the Financial Intelligence Unit for Italy (Unità d'Informazione Finanziaria - UIF).

g) Please describe the data available related to the legal and beneficial owners (e.g. name, place and date of birth, number of identity card). Please also indicate on what additional types of accounts information is included (e.g. payment accounts, securities accounts).

Data related to the legal and beneficial owners of bank accounts is promptly available to competent authorities mainly through two means:

- the Archivio Unico Informatico (Single Electronic Archive).
- the Register of Accounts (Archivio unico dei rapporti finanziari, to which all competent authorities have access) enables the timely identification of the relevant bank (in instances where the company/person has an account in Italy).

Information related to legal and beneficial owners of bank accounts (name, place and date of birth, number of identity card) is firstly available through the electronic single archive which is a tool, typical of our AML legislation (L.D. 231/2007), required to financial obliged entities for compliance with record-keeping requirements.

Indeed, the obliged entities, mentioned in the AML legislation, have to retain and record all relevant information acquired from the customer due diligence (CDD) procedures.

In particular, CDD, set forth in the Italian AML Law (L.D. 231/2007), enables reporting entities into the identification of their customers, the verification of their identity, including identification and verification of all the persons involved in financial transactions: not only the customer, but also the executor, and either the beneficial owner if any.

The verification is made on the basis of documents, data or information obtained from a reliable independent source:

- if the customer is a natural person, identification is achieved by acquiring the ID data provided by the interested party or taken from a valid ID document.
- if the customer is a person other than a natural person, it shall operate via the natural persons having the power to represent it. Accordingly, in such cases, the identification shall involve: the customer, through the acquisition of ID data and information on the type of entity, legal form, object and/or activity undertaken and, where they exist, the details of the entry in the company register and the registers kept by any sectorial supervisory authorities.

ID cards and other identification documents referred to in Articles 1 and 35 of Presidential Decree n. 445 of 28 December 2000 are considered valid for identification purposes.

With regard to the BO identification in bank accounts, all financial institution, obliged under the Italian AML Law (L.D. 231/2007), must take appropriate measures to identify the beneficial owner of a legal person and understand the ownership and control structure of their corporate customer.

To that purpose, AML Law provides the follow definition of BO: “beneficial owner” shall mean the natural person on behalf of whom a transaction or activity is conducted, or, in the case of a legal entity, the natural person(s) who ultimately own(s) or control(s) such entity [Art. 1.2-pp) and Art. 20 of the new AML Law]. In the case of non-profit organizations, information must also be obtained on the category of beneficiaries (BO) their activities are aimed at (e.g. the homeless, the disabled and victims of natural catastrophes and wars, etc.).

Coherently, all the above obligations on obliged entities are supplemented by the general obligation on customers to provide all the necessary and updated information in their possession to enable obliged entities to comply with their CDD obligations (article 22 of the new AML Law).

h) Please describe how the information in your country's centralized account register or equivalent data retrieval system is populated (e.g. if banks are required to submit information to the register) and how it is kept up to date.

Customer Due Diligence represents the main source of information on clients and data related to their bank accounts.

According to art. 17 of the AML Law, obliged entities are required to undertake CDD when:

1) establishing relationships with, and performing transactions for, their customers; there is CDD obligation also with respect to: occasional transactions amounting to EUR 15 000 or more; when there is a suspicion of ML or TF, in the case regardless of any thresholds or exemptions elsewhere; and when there are doubts about the veracity or adequacy of previously obtained customer identification data.

In parallel, for the purpose of improving effectiveness of CDD, there are disclosure obligations on customers. (art. 17 L.D. 231/2007).

Customers shall provide, upon their own responsibility, all the necessary and updated information for the natural and legal persons subject to this Decree in order to comply with the relevant Customer Due Diligence (CDD) requirements. For the identification of beneficial owners, customers shall provide in writing, upon their own responsibility, all the necessary and updated information in their possession.

The Customer Due Diligence (CDD) procedures shall apply to all new customers. As well as for existing customers, the aforementioned procedures shall apply whereby it is advisable in view of a changed profile of ML/TF risks associated to the customer (Art. 17.4 of the new AML Law). Pursuant to Article 31 of the AML Law, obliged entities shall retain the documents and record the information collected in satisfying the Customer Due Diligence (CDD) requirements.

With reference to the **data retrieval system** and the compliance technical tools for registration, a **“single electronic archive,”** is to be set up in such a way as to ensure clarity, completeness and accessibility of the data. Single electronic archive refers to an archive, created and managed electronically, for the centralized storage of all the data and information acquired in performance of

the obligations of customer identification and registration.

BoI regulation on Single Electronic archive (effective from January 1, 2014) provides further, more detailed provisions on the type of transaction data required and the criteria of registration.

The recording requirement applies to the establishment, variation and closing of ongoing relationships.

The recording requirement subsists for every transaction ordered by a customer, including split transactions, that entails the transmission or transfer of means of payment for an amount of €15,000 or more. In accordance with the CDD requirement of above, an exemption to the EUR 15 000 threshold is made in respect of transactions carried out by financial institutions through financial or payment agents. In such cases records of all transactions must be retained. However, this provision does not apply in relation to transactions by customers who have been subject to the exemption from CDD requirements.

FIs are to retain documents relatively to the customer or beneficial owner, and references of the copies of all transactions of EUR 15 000 or more (whether carried out as a single operation or a series of related operations) for a period of ten years after the transaction was carried out or the business relationship terminated.

The information to be retained includes: the date of the transaction, the payment details, amount, type of transaction, means of payment and ID data of the person carrying out the transaction or on whose behalf it was carried out.

As to art. 31, the purpose of record keeping is to provide information for any investigation into, or analysis of, possible money laundering or terrorist financing conducted by the FIU or other competent authorities.

With reference to the availability of bank information, it should be remarked that banks and financial institutions and intermediaries are, pursuant to DPR 605/1973, required to keep identification data of all customers they have a relationship with; in addition, they have to communicate all this information to the Anagrafe Tributaria through which it becomes available to the Italian Revenue Authority.

Therefore, the Italian Revenue Authority (also known as “Agenzia delle Entrate”/AE) has an indirect access to data stored in the single electronic archive by means of access to the **“Bank Current Accounts Database” (Archivio dei rapporti finanziari)** that is an official database where updated

information (including financial transactions, the customer's personal data, and tax code) - regarding bank accounts and financial relationships held or controlled by natural or legal person in the country - is uploaded and stored (article 37.4 Decree Law 223/2006). The database also includes information about occasional transactions carried out outside of an ongoing business relationship. All the operations performed during a specific month must be inserted into the database before the last day of the following month. As per article 7.11 of the D.P.R. 29-9-1973 n. 605, the information contained in the database can be used for investigative purposes, in the course of criminal proceedings, and for the application of preventive measure.

i) Which of your country's law enforcement authorities, anti-corruption authorities and AML-authorities can access the centralized account register or equivalent data retrieval system?

Accessibility to the centralized account register is to be guaranteed to: The Ministry of Economy and Finance, sectoral supervisory authorities, Italy's Financial Intelligence Unit (Unità di Informazione Finanziaria – UIF), the Anti-Mafia Investigation Department (Direzione Investigativa Antimafia – DIA), and Guardia di Finanza operating through its Foreign Exchange Special Unit (Nucleo Speciale Polizia Valutaria) without any restriction.

j) Please describe the steps that your country's authorities need to take and the material requirements (such as reasonable grounds for suspicion) that need to be met in order to access the centralized account register or equivalent data retrieval system. Please also indicate how long it usually takes for authorities to access information.

The competent authorities conducting financial analysis or investigations of ML, TF, and associated predicate offenses (Italy's National Antimafia and Counter-Terrorism Directorate/DNA, Finance Police/GdF, FIU) have comprehensive powers to obtain, access and exchange in a timely fashion all available documents and information for use in those analysis, investigations, prosecutions, and related actions, included and not stringently limited to data contained in centralized account register. These authorities are also able to obtain financial, tax, and banking information linked to natural and legal persons – see also the new art. 21.2. In particular, in order to perform their institutional function for the prevention of ML/TF:

The Ministry of Economy and Finance shall:

Carry out inspections at obliged entities in order to acquire useful elements in the conduct of proceedings falling within their institutional competences for prevention of money laundering and terrorist financing. On the occasion of such inspections, inspectors shall request or disclose any

existing news or findings detected at the inspected subjects.

UIF shall:

Acquire, also via inspections, data and information from obliged entities. Receive communication of aggregated statistical data from obliged entities and communications required to Public Administrations pursuant to Article 10.

Sectoral Supervisory Authorities shall:

Carry out inspections and checks, including upon request for display or transmission of all documents, **records** and any other information useful to the performance of their supervisory and control functions.

The National Anti-Mafia and Counter-Terrorism Directorate shall:

Receive promptly from UIF, via the NSPV – Nucleo Speciale Polizia Valutaria of Guardia di Finanza, or, insofar as it relates to the reports concerning organised crime, through the Anti-Mafia Investigation Directorate, data relating to Suspicious Transaction Reports (STRs) and related personal data of the subjects reported or connected to them, necessary to verify their possible involvement in ongoing legal proceedings, and may require any other information and analysis elements they may deem to be of interest, including for the purposes of the initiative power of initiative attributed to the National Prosecutor.

Have access to information on the Beneficial Owner (BO) of legal persons and express trusts, contained in a special section of Italy's Business Register (Registro delle Imprese)

Please indicate, if available, the yearly number of access requests in 2014, 2015 and 2016 by law enforcement, anti-corruption and AML authorities.

No information available.

2. How to find out if a natural or legal person owns real estate in the country?

Real estate agents are registered at the Special Register instituted at Italy's Chamber of Commerce, Industry, Crafts and Agriculture⁷². Official records of all property transactions are maintained by the Italian Government's real estate registry (Conservatoria dei Registri Immobiliari), having a central

⁷² Pursuant to Law 39/1989. See also Italy's Third Mutual Evaluation Follow-Up Report on AML/CFT, p. 37

office in Rome and several regional offices.

When a property is registered, it is given an official date and time of registration, known as the *data certa*. In order to ensure their ownership interest, obtain such registration date is strictly required. The government property register, so called the *Catasto*, managed by the *Conservatoria* (registry), contains detailed information on properties.

3. How to find out if a natural or legal person owns a company/business in the country?

With regard to companies, the acquisition of legal personality is based on their registration in the Public Register of Companies (*Registro delle Imprese*⁷³). Companies with legal personality may be: a *società per azioni-Spa* (joint stock company), or a *società a responsabilità limitata-Srl* (limited company), or a *società in accomandita per azioni*, (limited partnership company⁷⁴). Italy's FIU has direct access to public and commercial databases such as the Register of Companies⁷⁵.

Joint stock companies are required to publish lists of their shareholders and lists of persons who hold rights on securities. Such information is available to the relevant authorities and, upon request, the public at large, also on line. Listed joint stock companies may issue both nominative and bearer shares. However, the use of bearer shares is limited to specific circumstances. They are therefore not anonymous, which facilitates the identification of the beneficial ownership and control of legal entities⁷⁶.

Shareholder companies are constituted through a public act drawn up by a Notary and have to be registered in the above Register of Companies (*Registro delle imprese*), managed by the relevant local Chambers of Commerce under the supervision of a Judge⁷⁷. This Register is available online at national level via the *InfoCamere Network*, and includes relevant information, including details on the company's managers⁷⁸. All information on the nominee shareholders (and consequently on national beneficial owners) is available to the authorities, including the *Unità di Informazione Finanziaria* - Italy's FIU and *Guardia di Finanza*.

⁷³ Italy's Mutual Evaluation Report on AML/CFT, 2016.

⁷⁴ *Ibid.*, §42, p. 8

⁷⁵ *Ibid.*, p. 37

⁷⁶ *Ibid.*, §43, p. 9

⁷⁷ Following a reform of company incorporation by Law n. 5803 of 1993

⁷⁸ Italy's Mutual Evaluation Report on AML/CFT, 2016.

4. How to find out if a natural or legal person has non-banking financial interests (life insurance portfolio where applicable, securities) in the country?

Borsa Italiana is the main Stock Exchange based in Milan and operates the central register of securities⁷⁹.

Italian legislation does not specifically provide for the constitution of legal arrangements such as trusts. However, in respect of trusts, Italy has ratified⁸⁰ the Hague Convention on the law applicable to trusts and their recognition. It therefore recognizes that a trust subject to foreign governing law has legal effect within the Italian system. Trusts may be created in Italy under a foreign law, and trust funds may be held or administered by Italian financial intermediaries⁸¹.

The AML/CFT Legislative Decree provides for specific requirements in respect of the information to be collected by the financial intermediaries and professions dealing with foreign trusts. Consequently, through such channel, authorities have access to adequate, accurate and timely information on the beneficial ownership and control of trusts handled in Italy.

5. How to find out if a natural person or legal person owns luxury goods such as boats or planes registered in the country?

With regard to vehicles registration, the Auto e-Counter⁸² is a gateway enabling access to services and information relating to car registration and ownership. It can dialogue simultaneously with the Ministry of Infrastructure and Transport and the *Automobile Club Italia*, ACI. ACI provincial offices (*Uffici Provinciali*, ACI), Central Civil Motoring Authority (*Uffici Provinciali*, M.C.T.C.) provincial offices, and commercial agencies operating as e-counters can establish a direct link with either the ACI e-System or with the e-System back-office of the Ministry of Infrastructure and Transport. The system allows for immediate processing of any request and real-time delivery of the relevant final certification.

Registro Aeronautico Italiano (RAI) is the civil aviation registry. Aircrafts are sorted by the number of their Certificate of Airworthiness (CofA) issued by Ente Nazionale per l'Aviazione Civile (Italian Civil

⁷⁹ Project outcomes and recommendations, Action: JLS/2009/ISEC/AG/017 30-CE-0281275/00-38 "Camden Assets Recovery Inter-Agency Network Conference in 2010", p. 70

⁸⁰ Through Law n. 364 of 16 October 1989

⁸¹ Italy's Mutual Evaluation Report on AML/CFT, 2016.

⁸² D.P.R. n. 358 of 6 December 2000

Aviation Authority, ENAC). The information stored in the database includes the name of the aircraft owner and the name of the aircraft operator, whereby they are different entities.

K. JAPAN

1. How to find out if a natural or legal person holds or controls bank accounts in the country?

While the Act on the Protection of Personal Information prohibits financial institutions from providing personal data to third parties without prior consent of the customer, the Act contains exemptions⁸³ under which, the requirement for financial institutions to share information with government agencies⁸⁴ would trigger the existing waivers.

Since 2003, financial institutions are obligated to verify the customer identity when opening an account or conducting transactions above a prescribed amount⁸⁵. In January 2007, the threshold which requires customer identification in wire transfer was reduced to JPY 100 000⁸⁶. In addition, the scope of business operators obligated to undertake customer identification, record keeping, and suspicious transactions reporting was expanded in 2008 to include DNFBPs⁸⁷.

Japan's Code of Criminal Procedure provides the police and public prosecutor with all the required authority to trace and identify instrumentalities and proceeds of crime⁸⁸. Chapter 9 of the Code of Criminal Procedure provides for broad and effective search and seizure authority⁸⁹. Moreover, specific authority to trace is conferred to public prosecutors and judicial police officers, who investigate offenders and seek evidence of a crime, by enabling them to ask a suspect to appear and answer questions⁹⁰.

The Customer Due Diligence (CDD) framework did not fully address the issue of authorized persons,

⁸³ Article 23

⁸⁴ Under Article 9 of the Act on the Prevention of the Transfer of Criminal Proceeds

⁸⁵ Pursuant to the Customer Identification

⁸⁶ Japan's Third Mutual Evaluation on Anti-Money Laundering and Combating the Financing of Terrorism, 17 October 2008, §331, p.66

⁸⁷ Pursuant to the Act on the Prevention of Transfer of Criminal Proceeds which came into force on 1 April 2007. As to suspicious transactions reporting, certain kinds of DNFBP (attorney, judicial scrivener, administrative scrivener, certified public accountant and licensed tax accountant etc.) are exempt from this obligation.

⁸⁸ Ibid., §250-252, p.51-52

⁸⁹ Japan's Third Mutual Evaluation on Anti-Money Laundering and Combating the Financing of Terrorism, 17 October 2008, §252, page 52

⁹⁰ Article 198 of the Code of Criminal Procedure

representatives and beneficiaries or of beneficial ownership. There was no requirement for financial institutions to gather information on the purpose and intended nature of the business relationship or to conduct ongoing due diligence on these relationships⁹¹. However, the Act to revise a part of the Act on Prevention of Transfer of Criminal Proceeds was promulgated on April 28, 2011, which stipulates that 1) financial institutions should, upon conducting a transaction, verify the purpose of transaction, customer's occupation, the business substance, identity of beneficial owner, 2) financial institutions should take measures to keep customer identification record up to date⁹².

a) Has your country established a centralized account register or equivalent data retrieval system?

No.

b) Does your country intend to establish a centralized account register or equivalent data retrieval system?

No.

c) If your country does not use a centralized account register or equivalent data retrieval system to obtain the relevant information, please indicate any other mechanism your country has to find out if a natural or legal person holds or controls bank accounts in the country (e.g. an established channel for requesting all financial institutions to promptly disclose whether they have a named customer). Please describe what steps your country's authorities need to take and the material requirements (such as reasonable grounds for suspicion) that need to be met in order to find out

i. if a given natural person is a bank account's

(1) legal owner

(2) beneficial owner

ii. who is a given bank account's

(1) legal owner

(2) beneficial owner.

⁹¹ Ibid., §20, p.9

⁹² This Act shall come into force as from the date specified by a Cabinet Order within a period not exceeding 2 years from the day of promulgation.

Please also indicate, in particular, if a court order is necessary to request the information, how requests are transmitted to banks, the delay for banks to respond to requests, and remedies banks can use against requests.

Please also indicate how long it usually takes for authorities to access information.

While the Act on the Protection of Personal Information prohibits financial institutions from providing personal data to third parties without prior consent of the customer, the Act contains exemptions under which, the requirement for financial institutions to share information with government agencies would trigger the existing waivers.

Since 2003, financial institutions are obligated to verify the customer identity when opening an account or conducting transactions above a prescribed amount. In January 2007, the threshold which requires customer identification in wire transfer was reduced to JPY 100,000. In addition, the scope of business operators obligated to undertake customer identification, record keeping, and suspicious transactions reporting was expanded in 2008 to include DNFBPs.

The police asks financial institutions about such information by written inquiry on investigation-related matters if a natural or legal person holds or controls bank accounts in Japan.

Following the amendment of the Act on Prevention of Transfer of Criminal Proceeds in November 2014, the revision of relevant cabinet orders and ministerial ordinances came into force on October 1, 2016. As a result, financial institutions, including trustees as well as designated non-financial business and professions are obliged to verify the natural person as a beneficial owner of a legal person or a legal arrangement.

d) Please indicate, if available, the yearly number of requests in 2014, 2015 and 2016 by law enforcement, anti-corruption and AML authorities

No information available.

e) Please indicate which of your country's law enforcement, anti-corruption and AML-authorities can request such information.

Any of Law enforcement (Police and Public-prosecutors), anti-corruption and AML-authorities

Questions f) - k) not applicable

2. How to find out if a natural or legal person owns real estate in the country?

Any person who intends to operate a real estate transaction business must obtain a license from Minister of Land, Infrastructure, Transport and Tourism (MLIT) when the person establishes the offices in two or more prefectures. Legal title registration of the property is performed by judicial scriveners and the financial aspect by financial institutions. Judicial scriveners are not currently subject to AML/CFT supervision. The Ministry of Justice, however, has general powers under the Act on the Prevention of Transfer of Criminal Proceeds to request reports, conduct onsite inspections and issue orders for rectification.

Information on the ownership of real property in Japan can be found at land registry of each locality. In 1999, the Japanese government passed a bill that will allow Internet access to real property registers beginning in April 2000. Registration requires the presentation of a document that contains the name of the owner, the identification number and location of the property, and any particular rights or encumbrances specific to the property.

3. How to find out if a natural or legal person owns a company/business in the country?

There are four types of companies authorized under the Japanese Companies Act: i) stock companies; ii) general partnership companies; iii) limited partnership companies and iv) limited liability companies. All companies must be registered to be legally formed. Any persons can obtain the extract of the registered matters.

General partnership companies and limited partnership companies must register the names and addresses of the partners. Also, limited liability companies must register the names of the executive partners as well as the names and addresses of the representative partners. Any person can obtain the extract of the registered matters.

Stock companies are required to record the names and addresses of shareholders; the number of shares held and the day of acquisition of the shares. In addition, the ordinance on the commercial registration was amended and came into force on October 1st, 2016, to require the stock companies to submit lists of major shareholders, and to make certain major shareholders information (i.e., names, addresses, numbers of voting rights, etc.) available for relevant authorities at registry offices without court orders.

There was no requirement for financial institutions to understand the ownership and control structure of a legal person customer nor was there an obligation to determine who was a natural person who ultimately owned or controlled the legal person. There were specific instances in which identification of beneficial ownership was called for. For example, financial institutions were required

to conduct Customer Due Diligence (CDD) on both the settler and beneficiary of a trust and on the beneficiary of an insurance contract. These provisions were not a general requirement for financial institutions to identify beneficial ownership prior to establishing a business relationship.

However, the Act to revise a part of the Act on Prevention of Transfer of Criminal Proceeds which came into force on April 1, 2013 stipulates that financial institutions etc. should verify the purpose of transaction, the business substance, identity of beneficial owner, and should take measures to keep customer identification record up to date.

Following the amendment of the Act on Prevention of Transfer of Criminal Proceeds in November 2014, the revision of relevant cabinet orders and ministerial ordinances came into force on October 1, 2016. As a result, financial institutions, including trustees as well as designated non-financial business and professions are obliged to verify the natural person as a beneficial owner of a legal person or a legal arrangement.

4. How to find out if a natural or legal person has non-banking financial interests (life insurance portfolio where applicable, securities) in the country?
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Trust companies are supervised by the relevant administrative agencies under the Trust Business Act. In case a license for trust business is not required, this type of trust business may be conducted only by business corporations that should be registered by the Prime Minister⁹³.

Trust companies that are non-financial institutions are registered and supervised by staff in Local Finance Bureaus under the Ministry of Finance who have been delegated supervision powers from the FSA (Financial Services Agency)⁹⁴. Self-trusts also require registration under the Trust Business Act if the trust has more than 50 beneficiaries⁹⁵.

National public employees at the rank equivalent to a deputy director general or higher at the headquarters of the Cabinet Office and each Ministry are required to submit a report on purchase and sales of stocks⁹⁶, if not the entire amount of non banking financial interests they have.

⁹³ Article 7 of the Trust Business Act

⁹⁴ Ibid., §775, p. 171

⁹⁵ Article 50-2 of Trust Business Act, Article 15-2 of Ordinance for Enforcement of the Trust Business Act

⁹⁶ Pursuant to Article 7, paragraph1 of the National Public Service Ethics Act

5. How to find out if a natural person or legal person owns luxury goods such as boats or planes registered in the country?

The Maritime Bureau and the Civil Aviation Bureau of the Ministry of Land, Infrastructure, Transport and Tourism are responsible for registration of boats and planes, respectively.

L. MEXICO

1. How to find out if a natural or legal person holds or controls bank accounts in the country?

A peculiar feature of the Mexican system is that all the authorities allowed to have access to information protected by banking secrecy (except judges in limited cases) are prevented from requesting the information directly from financial institutions. Instead, they must send their requests to the appropriate supervisory agency (in practice the CNBV is most commonly used, though there are other as the CNSF, CONSAR, SAT and the SHCP for their respective competences), which in turn sends out requests to the supervised institutions, collects the responses and forwards them to the requesting authority (Article 180 of the Federal Code of Criminal Procedures. A similar procedure is foreseen in article 9 of the Federal Law against Organized Crime).

The obtained information and documents may only be used for criminal processes and investigations purposes, keeping strict confidentiality.

Article 117 of the Credit Institutions Law requires credit institutions to provide information on transactions and services as appropriate to identify the movement of funds, without violating banking and fiduciary secrecy, when requested by the Office of the Attorney General, state level and federal district level prosecutor's offices, the Office of the Attorney General for Military Justice, the Financial Intelligence Unit, federal finance authorities, and foreign finance authorities, among others.

For the case of protected information exchanges by confidentiality provisions, there must be a signed agreement of information exchange with the respective finance authorities, which must include the reciprocity principle. The CNBV may refrain from providing the required information or to ask for the devolution of the provided information when the intended use may be different to that which it was requested for, if it may go against public order, national security or the terms established in the respective agreement of information exchange.

In accordance with the provisions under Article 15, Section VII of the Internal Regulations of the Ministry of Finance and Public Credit, the FIU can request and obtain from reporting entities information and documentation related to actions, transactions, and services that could be linked to the crimes of money laundering and terrorist financing. This must be done through the reporting entities' corresponding supervisory body. The reporting entities are in turn obliged to provide to the FIU, through the appropriate supervisory body, any additional information and documentation it may require relative to transaction reports.

Competent administrative, law enforcement, prosecutorial and judicial authorities are allowed to obtain any information and documentation kept by banking institutions. An apparent limitation could exist in the arrangements where the prosecution (PGR) must channel all requests for information from banking institutions through the banking supervisor (CNBV). Judges (unlike prosecutors and law enforcement authorities) have direct access to information from financial institutions, but in practice they have preferred to request it through the CNBV.

Interagency cooperation has been materialized by the implementation of auxiliary instruments of Law Enforcement in criminal procedures, such as the Agreement of Interagency Collaboration held between PGR and the CNBV on April 30, 2009. This document establishes the lineaments for obtaining fast and accurate information and financial documentation related to criminal investigations; and also the use that this information may have once it has been obtained.

Moreover, as a result of this collaboration, the CNBV implemented a computer system designated as Authority's Requirement Attention System, which allows several public administration units, including PGR and state attorneys, to formulate by electronic ways the requirements for information and financial documentation, as well as the implementation of precautionary actions on bank accounts or financial instruments, which is in due time informed to the regulatory authority, which in turn will forward it to the recipient financial institution for its attention, which allows to reduce times in execution and response, compared with the previously used mechanisms and allowing a more effective capital identification.

According to PGR officials the system has improved markedly since 2006 and a response now may take as low as three to five business days when they clearly identify the person prior to sending the request through the CNBV. Even when the identification data is limited, the entire process of obtaining information from financial institutions does not take more than one month, down from up to six months a couple of years ago⁹⁷.

a) Has your country established a centralized account register or equivalent data retrieval system?

No.

b) Does your country intend to establish a centralized account register or equivalent data retrieval system?

⁹⁷ Source : FATF MER, 2008

Yes.

The AML/CFT General Rules for banks were amended in order to establish, among others, the creation of a centralized database by the Central Bank of Mexico, by means of which Mexican banks shall share information of their cross-border transfers and domestic transfers in foreign currencies they send/receive, as well as of the identification data and documentation, as the case may be, of the clients/customers that send/receive them. The centralized database has two main components:

- a) Transactional: aggregated information of transfers initiated in Mexico.
- b) KYC: more and better information of each client/customer, in accordance with the information enrichment that banks provide to the centralized database.

The level of information required for each client/customer, will depend on the aggregated number and value of their transfers.

Soon the guideline issued by the Central Bank of Mexico will be reviewed in order to operate the centralized database aforementioned.

c) If your country does not use a centralized account register or equivalent data retrieval system to obtain the relevant information, please indicate any other mechanism your country has to find out if a natural or legal person holds or controls bank accounts in the country (e.g. an established channel for requesting all financial institutions to promptly disclose whether they have a named customer). Please describe what steps your country's authorities need to take and the material requirements (such as reasonable grounds for suspicion) that need to be met in order to find out

i. if a given natural person is a bank account's

(1) legal owner

(2) beneficial owner

ii. who is a given bank account's

(1) legal owner

(2) beneficial owner.

Please also indicate, in particular, if a court order is necessary to request the information, how requests are transmitted to banks, the delay for banks to respond to requests, and remedies banks

can use against requests.

Please also indicate how long it usually takes for authorities to access information.

The AML/CFT General Rules for banks have been recently amended to improve and enhance the identification of the beneficial owner of their customers that are legal persons, regardless of their level of risk.

- In this regard, banks must gather information that allow them to know their clients that are legal entities: (i) shareholding structure or equity interests regardless of their risk grade, and (ii) in the event that the client has a risk grade other than low, its internal corporate structure. (ART. 4, Section II subparagraph c); Art. 4 Section VI AML/CFT General Rules for banks)
- Regular update of the identification files of clients that are legal persons, regardless of their risk grade. (Art. 21 AML/CFT General Rules for banks)

Banks shall have automated systems that allow them to preserve and update, as well as to consult, the information related to their customers' files. (art. 51a AML/CFT General Rules form banks)

Banks shall give, among others, the foregoing information upon request of the authority (Ministry of Finance through de National Banking and Securities Commission [CNBV] or CNBV [art. 66 AML/CFT General Rules for banks]).

According to the article 142, the Credit Institutions Law, the information and documentation related to the transactions and services that said Law regulates, are confidential. However, the Credit Institutions must provide the information when the judicial authority requests it, based on a judicial order in which the owner or, where applicable, the settlor or trustee, is a part or defendant. The credit institutions are also obliged to provide information in the cases where it is requested by the Attorney General's Office or the public official to which the power to request information has been entrusted, in order to prove the facts that the law established as crimes and the probable liability of the defendant.

In this sense, the authorized public officials of the Attorney General's Office (PGR) are entitled to make information and documents requests related to acts, operations and services, concerning natural or legal persons, to which the General Law of Credit refers, to the National Banking and Securities Commission (CNBV), through the Ministry of Finance and Public Credit, by means of a CNBV mechanism called System of Attention to Authority Requirements (SIARA). Likewise, said Ministry is entitled to obtain additional information from other persons for the same aim and to

provide said data to the relevant authorities.

Those authorities that are specifically within the exception of handing in information as well as protected documentation due to financing secrecy from their corresponding financing ordinances, have administrative units that according to their inner regulation, are entitled to request information, which is why their incorporation to SIARA must be required, thus remitting the formats that for the effect are provided to the authorized agent, in which the people that will have access to the system must be indicated, the security profiles that they may require, and the formats with the properties and foundations of the requesting administrative unit, including their regarding legal act. These requirements are located in the General Characteristics Depositions that norm the functioning of the SIARA. The CNBV can refrain from providing law enforcement agencies with the required information, if the petition is not being rightly sustained, motivated or does not fully comply with the requirements indicated in the General Characteristics Depositions that norm this application procedure.

The CNBV, based on the request of information made by the investigative authorities, requires the entities of the Mexican financial system the relevant data. Once the CNBV receives the information from said entities, sends it to the requiring investigative authority.

For such purpose, the Mexican legislation has General Regulations (DCG) applicable to the financial entities, through which the guidelines for the identification policy of clients or users of the financial entities are set, such as:

- To establish the criteria, measures and procedures for the identification and knowledge of their clients and users, including the ones related to the verification and update of the data that they provide.
- Integration and conservation of an identification file of each of their clients before they open an account or celebrate a contract to conduct operations of any kind and, in such case, of their users when they fulfill the requirements established in the aforementioned General Regulations. Additionally, the requirements that must be identified and collected in the respective identification file of the client are set.
- The DCG set forth various identification thresholds for their clients and users, depending on the operations conducted with them, as well as on the level of risk that they represent.

In that sense, the policy of clients and users knowledge to which the DCG refer establishes that the financial entities must include, at least:

- Follow-up procedures for the transactions of their clients and users.
- Procedures for the due knowledge of the transactional profile of each of their clients and the group of transactions of the users, in order to implement a risk-based approach in their due diligence and to adopt the necessary measures to mitigate the money laundering risk.
- The hypothesis in which the transactions move away from the transactional profile of each of their clients.

Through the aforementioned mechanism, financial information can be requested by electronic means, to determine the probable criminal liability for the commission of the offenses. The request can be made to one or all the financial institutions of the country, such as: general depository warehouses, brokerage houses, exchange offices, development banking institutions, multiple banking institutions, cooperative savings and loan societies, integral distribution companies of shares of investment companies, multi-purpose financial corporations, popular financial companies, companies operating equity investment companies and debt instruments and credit unions.

The response time to a financial request through the SIARA system can go from 5 working days up to 2 months, this refers to the time that takes for the information to be sent to the CNBV. In the practice, the CNBV takes approximately 2 working days to deliver the requested information to the investigative authority.

As part of the efforts of the PGR and the CNBV, in order to make more efficient the electronic transmission of financial information, the CNBV published in the Official Journal of the Federation on April 28, 2017 an Agreement to speed up the collection of information to facilitate its handling and consultation.

Concerning the sections i and ii, the Ministry of Finance and Public Credit is entitled to request information and documents corresponding to said acts, transactions and services, related to a certain bank account.

In Mexico it is not necessary to issue a judicial order as a prerequisite so that the investigative authority can request the information to the financial institutions. The public prosecutor is entitled to do it without a decision of the judicial body, when there is a formal investigation for the probable commission of a crime under its competence.

Previously, in the traditional system, the request of information had to be based on an investigation properly formalized. Currently, in the adversarial system, it is requested the existence of an investigation file.

The documents and data provided by the credit institutions, can only be used in the corresponding procedures according to the law and must be treated with the most strict confidentiality, even if the public official leaves the public service.

The CNBV can impose the sanctions that it considers appropriate to the credit institutions that do not comply with its terms and conditions.

When conducting an investigation, the public prosecutor can request to the financial institutions

To make said request to the SIARA system, the investigative authority must provide the number of preliminary investigation or investigation file along with the due substantiation and motivation, stating the person from which the information is requested (the information may concern to the owner, co-owner, associate, shareholder, beneficiary, settlor, legal representative of bank accounts), the financial sector to which the request is directed, and the financial products to be obtained: account balances, of brokering, deposit, saving, investment, checks, safety boxes, trusts, purchase and sale of stock values, as well as all the credit, debit and prepaid cards, currency operations, credits granting, investment funds, investments in the money market, investment in the capital market or any similar financial instrument offered in the financial market.

Once the CNBV sends to the investigative authority the information provided by the financial institutions, it will be possible to know and determine how the schemes and money flows happened, which would allow for the effective identification of the beneficial owner, since the information that is provided does not restrict to the account owners, but it also extends to its users and beneficiaries.

d) Please indicate, if available, the yearly number of requests in 2014, 2015 and 2016 by law enforcement, anti-corruption and AML authorities

Year	Number of requests by the Specialized Unit of Financial Analysis
2015	233
2016	590

This data was provided by the Specialized Unit of Financial Analysis, which only had access to the SIARA as of 2015.

Is worth mentioning that each request does not restrict to one natural or legal person, but they can include an unlimited number of persons, for example, one of the requests included more than 200 people.

e) Please indicate which of your country's law enforcement, anti-corruption and AML-authorities can request such information.

The relevant units of the Attorney General's Office (the Heads of the Specialized Unit of Financial Analysis and the Specialized Unit of Investigation of Operations with Resources of Illicit Origin and Falsification and Altering of Currency) are entitled to request information to the CNBV, through the Ministry of Finance and the National Banking and Securities Commission can request such information.

Questions f) - k) not applicable.

2. How to find out if a natural or legal person owns real estate in the country?

The Mexican legislation states that the titles for which the domain, original possession and other rights of properties area created, declared, recognized, acquired, transmitted, modified, restricted, taxed or extinguished, must be incorporated to the Public Registry of Property. In this sense, the information can be requested to the Registry, to the public registries of the federative entities or to the cadastral offices. Information can also be requested to the General Direction of Notaries, when there is a formal investigation ongoing.

Additionally, the PGR is working in the conclusion of agreements with the federative entities, in order to have direct and quick access to the information available in their Public Registry of the Property, for the investigation and prosecution of the offences of operation with resources of illicit origin.

3. How to find out if a natural or legal person owns a company/business in the country?

The federal civil legislation also foresees that the statutes and instruments by which societies and civil associations are constituted, reformed or dissolved, must be incorporated to the Public Registry of Property, as well as the instruments that set the protocol of the associations' statutes and foreign societies of civilian nature.

Said Registry must contain the name of the grantors, the business name or denomination, the purpose, duration and address, the social capital, and, if applicable, the contribution of each shareholder, among other data.

Likewise, information can be obtained from the Integral System of Registration Management (SIGER), by means of the Secretariat for Economic Affairs, which, in coordination with the Governments of the 32 states, operates the Public and Commercial Registry (RPC).

In addition, the Public Registry of Property and Commerce is requested to provide the constitutive minutes of the companies or to the public notary that notarized the companies.

Through the Specialized Unit of Financial Analysis, the PGR has direct access to the information in SIGER, where it is possible to find the following information:

- Real folio
- Commercial sheet
- Constitutive minutes
- Protocols
- Partners
- Shareholders
- Social capital
- Legal representative
- Appointment of powers
- Business name
- Address
- Purpose of the company

4. How to find out if a natural or legal person has non-banking financial interests (life insurance portfolio where applicable, securities) in the country?

The information regarding accounts and values is requested to the CNBV, while the information about securities is requested to the National Insurance and Bonding Commission.

5. How to find out if a natural person or legal person owns luxury goods such as boats or planes registered in the country?

According to the Navigation and Marine Commerce Law, the Secretary of the Navy has the National Maritime Public Registry which can incorporate larger vessels, by Mexican citizens; Mexican legal persons, and foreigners residing in the country, in the case of recreational or sports boats. Such registry shall contain information relating to acquisition, transfer or assignment contracts, as well as the constitutive rights of property, their modalities, mortgages and levies on Mexican vessels.

On the other hand, the Secretary of Communications and Transportation has the Mexican Aeronautical Registry and must register the documents by which the property, possession and other real rights over Mexican civil aircraft and their engines are acquired, transmitted, modified, taxed or extinguished, as well as the leasing of Mexican or foreign aircraft; the registration and airworthiness certificates; the resolution of the aeronautical authority in case of abandonment, loss, destruction, futility or final disarming of the aircraft; the concessions and permissions that cover the air transport service, as well as the acts and legal resolutions that modify or terminate them, and the insurance policies.

It should be noted that the aforementioned registers may be requested by the Attorney General's Office due to its investigation of crimes, since the National Code of Criminal Procedure in the Article 131, section IX provides, inter alia, the obligation to request reports or documentation to other authorities and individuals to obtain evidence.

M. NETHERLANDS

1. How to find out if a natural or legal person holds or controls bank accounts in the country?

a) Has your country established a centralized account register or equivalent data retrieval system?

No.

b) Does your country intend to establish a centralized account register or equivalent data retrieval system?

Yes.

The Netherlands intends to have established a fully operating digital bank detail register by 1 January 2019. A pilot version of this will start by 1 January 2018. This register will be a technical provision (portal) that enables enforcement and investigation agencies to query identifying banking details of both natural and legal persons, in real-time. After requesting a digital query in the portal (a request will be filed by an enforcement official and conducted by filling in a digital pre-modelled form including the legal grounds), the provision will direct the request to the relevant financial institution(s) connected to the system. This is an automated process and it will take seconds rather than minutes for connected systems to answer to a request (real-time). The request must contain the legal ground(s) as well as the specific type of information requested and, if so desired, the period over which the requested information is/was relevant. In case of system failure, the fall back option is to proceed manually, as is currently the case. According to the law financial institutions are obliged to respond to a legal request within a 'reasonable term', which usually accounts for a maximum of two weeks but also depends on the sincerity of the case at hand and the extent of the request. Although financial institutions are under an obligation to ask for the UBO of bank accounts (in case of a legal person), the portal does not provide for the option to disclose this information at first. Perhaps this will follow from the EU's 5th Anti-money Laundering Directive, which is currently being negotiated, but for now UBOs will not be incorporated in identifying details of the queries.

There are three types of queries that can be performed:

1. A query based on personal or address information (name, citizen service number, registration number at Chamber of Commerce)
2. A query based on a product (product number or type of product)

3. Verification of an account number

The legal framework for queries will be the same as is currently in place. Legal grounds are mentioned under the answer to question 1f.

c) If your country does not use a centralized account register or equivalent data retrieval system to obtain the relevant information, please indicate any other mechanism your country has to find out if a natural or legal person holds or controls bank accounts in the country (e.g. an established channel for requesting all financial institutions to promptly disclose whether they have a named customer). Please describe what steps your country's authorities need to take and the material requirements (such as reasonable grounds for suspicion) that need to be met in order to find out

i. if a given natural person is a bank account's

(1) legal owner

(2) beneficial owner

ii. who is a given bank account's

(1) legal owner

(2) beneficial owner.

Please also indicate, in particular, if a court order is necessary to request the information, how requests are transmitted to banks, the delay for banks to respond to requests, and remedies banks can use against requests.

Please also indicate how long it usually takes for authorities to access information.

Currently, there is no specific mechanism in the Netherlands to find out whether a national or legal person holds or controls bank accounts other than case-by-case queries or investigations. The only way in which this can be done is to query banks or financial institutions in writing with a specific legal request based on:

- Criminal procedure Code art. 126 and 577;
- Economic Offences Act art. 19;
- General Law on State Taxes art. 53;
- Collection of State Taxes Act art. 62;
- Anti-money Laundering and Anti-Terrorist Financing Act art. 17).

In most cases permission for the query can be granted by a public prosecutor or a deputy prosecutor when there are reasonable grounds for suspicion of a criminal offence. This is time consuming and it lacks efficiency. As stated elsewhere, financial institutions are obliged to respond to a legal request within a 'reasonable term', which usually accounts for a maximum of two weeks but also depends on the sincerity of the case at hand and the extent of the request. Financial institutions can face sanctions in case of non-cooperation. In some cases (under General Law on State Taxes art. 53; Collection of State Taxes Act art. 62) no permission is needed since this entails verification carried out under the monitoring function of the Tax authorities and/or Customs.

d) Please indicate, if available, the yearly number of requests in 2014, 2015 and 2016 by law enforcement, anti-corruption and AML authorities

No aggregated number of requests is available.

e) Please indicate which of your country's law enforcement, anti-corruption and AML-authorities can request such information.

f) Does your country's centralized account register or equivalent data retrieval system allow to research

i. if a given natural person is a bank account's

(1) legal owner ?

(2) beneficial owner?

ii. who is a given account's

(1) legal owner?

(2) beneficial owner?

Only data about legal owner.

l) Please describe the data available related to the legal and beneficial owners (e.g. name, place and date of birth, number of identity card). Please also indicate on what additional types of accounts information is included (e.g. payment accounts, securities accounts).

The designated authorities that can request and have access to detailed bank account information are the following:

- Public Prosecution Service
- National Police
- Military police (Royal Marechaussee)
- Internal Affairs
- Tax administration
- Customs service
- Fiscal Intelligence and Investigation Service
- Anti-Corruption Centre
- Financial Intelligence Unit - NL
- Netherlands Food and Consumer Product Safety Authority – investigatory branch
- Human Environment and Transport Inspectorate – Investigatory branch
- Inspectorate SZW (Social affairs) – Investigatory branch

m) Please describe how the information in your country's centralized account register or equivalent data retrieval system is populated (e.g. if banks are required to submit information to the register) and how it is kept up to date.

The financial service providers are required to submit information in real-time upon legitimate requests. The register itself will not be filled with information, but the information will be coming directly from the financial institution's internal systems. This way the risk of security breaches is minimized and the information will always be up to date.

n) Which of your country's law enforcement authorities, anti-corruption authorities and AML-authorities can access the centralized account register or equivalent data retrieval system?

The designated authorities that can request and have access to detailed bank account information are the following:

- Public Prosecution Service
- National Police
- Military police (Royal Marechaussee)
- Internal Affairs- Tax administration
- Customs service

- Fiscal Intelligence and Investigation Service
- Anti-Corruption Centre
- Financial Intelligence Unit - NL
- Netherlands Food and Consumer Product Safety Authority – investigatory branch
- Human Environment and Transport Inspectorate – Investigatory branch
- Inspectorate SZW (Social affairs) – Investigatory branch

o) Please describe the steps that your country's authorities need to take and the material requirements (such as reasonable grounds for suspicion) that need to be met in order to access the centralized account register or equivalent data retrieval system. Please also indicate how long it usually takes for authorities to access information.

To access the information, the authorities listed under 1d should provide reasonable grounds for suspicion of a criminal offence. The information will be available in real-time, so it will be a matter of minutes to access it.

p) Please indicate, if available, the yearly number of access requests in 2014, 2015 and 2016 by law enforcement, anti-corruption and AML authorities.

No information available.

2. How to find out if a natural or legal person owns real estate in the country?

One can query the Dutch cadaster (Kadaster) for information on who is the owner of a certain lot or real estate. The information can be requested against a small fee per query. Government authorities are exempted from paying this fee.

3. How to find out if a natural or legal person owns a company/business in the country?

The Dutch Chamber of Commerce holds a register of all legal persons and their shareholders and/or owners. Some aspects of the register can be consulted for free. Other, in-depth, information can be requested against a small fee per query. Government authorities are exempted from paying this fee.

Next to this, the Netherlands is planning to implement a public Ultimate Beneficial Ownership-register (UBO) in the summer of 2018. This provision, emanating from the EU's 4th Anti-money Laundering Directive, will list all UBOs with a statutory share of 25% or more.

Furthermore, in January 2017 a bill was proposed by Parliament to establish a so-called Central

Shareholders Register (CAHR). The proposal has not yet been discussed in Parliament and the process is intended to run parallel to the UBO process. The register envisages to list all shareholders (regardless of the amount of shares) of Dutch limited and non-stock-exchange-listed unlimited companies. It will be filled by the notaries and operated by the Royal Dutch Association of Civil-law Notaries. The register will not be a public one, due to privacy limitations. It will be available to the shareholders themselves, notaries and designated authorities such as the public prosecution and enforcement agencies. The register will be operated by the Dutch Chamber of Commerce.

4. How to find out if a natural or legal person has non-banking financial interests (life insurance portfolio where applicable, securities) in the country?

Unfortunately there is no such thing as a register for non-banking financial interests yet. In order to find out whether a natural or legal person has any such interests, individual requests will have to be made to the relevant insurance company or companies. Legal grounds are the same as mentioned under question 1f.

5. How to find out if a natural person or legal person owns luxury goods such as boats or planes registered in the country?

Next to registering real estate ownership, Kadaster keeps score of luxury goods such as boats and planes but registration is not mandatory. The register can be consulted by law enforcement authorities.

N. NORWAY

1. How to find out if a natural or legal person holds or controls bank accounts in the country?

a) Has your country established a centralized account register or equivalent data retrieval system?

Yes

Questions b) -e) not applicable.

f) Does your country's centralized account register or equivalent data retrieval system allow to research

i. if a given natural person is a bank account's

(1) legal owner ?

(2) beneficial owner?

ii. who is a given account's

(1) legal owner?

(2) beneficial owner?

In Norway, all account information is available in the taxation register as financial institutions report information on accounts, account holders and account balances to the tax authorities

A National Registry for ownership is open to everyone. Please find website here:

<https://www.altinn.no/no/Starte-og-drive-bedrift/Drive/Andre-driftsoppgaver/Aksjeselskapet/Aksjeeier/>

g) Please describe the data available related to the legal and beneficial owners (e.g. name, place and date of birth, number of identity card). Please also indicate on what additional types of accounts information is included (e.g. payment accounts, securities accounts).

In Norway, all account information is available in the taxation register as financial institutions report information on accounts, account holders and account balances to the tax authorities

A National Registry for ownership is open to everyone. Please find website here:

<https://www.altinn.no/no/Starte-og-drive-bedrift/Drive/Andre-driftsoppgaver/Aksjeselskapet/Aksjeeier/>

h) Please describe how the information in your country's centralized account register or equivalent data retrieval system is populated (e.g. if banks are required to submit information to the register) and how it is kept up to date.

Financial institutions are obligated by the Norwegian Tax Administration Act s.5 to report the information mentioned above annually.

i) Which of your country's law enforcement authorities, anti-corruption authorities and AML-authorities can access the centralized account register or equivalent data retrieval system?

The Tax Assessment Act allows the tax authorities to share information they hold regarding income and asset declarations with the Prosecution Authority and the police (hereunder FIU) both spontaneously and upon request.

j) Please describe the steps that your country's authorities need to take and the material requirements (such as reasonable grounds for suspicion) that need to be met in order to access the centralized account register or equivalent data retrieval system. Please also indicate how long it usually takes for authorities to access information.

Law enforcement agencies have direct access to this information, which can be used for intelligence or investigations.

k) Please indicate, if available, the yearly number of access requests in 2014, 2015 and 2016 by law enforcement, anti-corruption and AML authorities.

No information available.

2. How to find out if a natural or legal person owns real estate in the country?

Through the real estate register

3. How to find out if a natural or legal person owns a company/business in the country?

Through the company register, and/or tax register

4. How to find out if a natural or legal person has non-banking financial interests (life insurance portfolio where applicable, securities) in the country?

Through the tax register, and/or securities register

5. How to find out if a natural person or legal person owns luxury goods such as boats or planes registered in the country?

Through the relevant register for the type of object, and/or through the tax register

O. RUSSIA

1. How to find out if a natural or legal person holds or controls bank accounts in the country?

Federal tax service (FTS) possesses information on bank accounts. Under the article 86 of the Tax codex credit institutions are required to inform FTS within three days about opening, closing, changing of requisites of accounts of legal entities (individual enterprisers). As for natural persons the appropriate information is provided by them in the income statement to the FTS.

This system is therefore close to a central register of bank accounts. However, it does not seem to contain information on bank accounts held by natural persons who are not taxable (non-residents for instance).

In case of the seizure of subjects and documents containing information on deposits and accounts in banks and other credit institutions, if the information is protected by confidentiality and secrecy provisions, the law enforcement authorities need a court order to process.

The FIU has the right to request additional information from the reporting entity, in order to verify the accuracy of the information obtained and to detect ML/FT transactions or activities. Rosfinmonitoring (the Federal Financial Monitoring Service) sends written requests to reporting entities and asks for more information on the transaction or requests duly notarized copies of specific documents. Reporting entities are required to answer Rosfinmonitoring within five working days after receiving the request, but Rosfinmonitoring may change this deadline if necessary.

a) Has your country established a centralized account register or equivalent data retrieval system?

Yes.

Questions b) – e) not applicable

f) Does your country's centralized account register or equivalent data retrieval system allow to research

i. if a given natural person is a bank account's

(1) legal owner ?

(2) beneficial owner?

ii. who is a given account's

(1) legal owner?

(2) beneficial owner?

Only legal owner.

g) Please describe the data available related to the legal and beneficial owners (e.g. name, place and date of birth, number of identity card). Please also indicate on what additional types of accounts information is included (e.g. payment accounts, securities accounts).

For natural persons: passport details

For legal entities: name, INN (Russian tax ID), OGRN (state registration number)

Information is also available for the deposits and transactional accounts of legal entities.

h) Please describe how the information in your country's centralized account register or equivalent data retrieval system is populated (e.g. if banks are required to submit information to the register) and how it is kept up to date.

According to Article 86 of the Tax Code of the Russian Federation it is mandatory for credit institutions to provide information about opening and closing accounts as well as changing details of bank accounts to the FTS electronically on an automatic basis. This information must be provided within 3 days after the corresponding event.

i) Which of your country's law enforcement authorities, anti-corruption authorities and AML-authorities can access the centralized account register or equivalent data retrieval system?

There is a wide range of Russian law enforcement, anti-corruption and AML authorities who can request information from our system, including Ministry of Internal affairs and Rosfin Monitoring (Financial Intelligence Unit), Investigative Committee, Federal Service of Court Bailiffs.

j) Please describe the steps that your country's authorities need to take and the material requirements (such as reasonable grounds for suspicion) that need to be met in order to access the centralized account register or equivalent data retrieval system. Please also indicate how long it usually takes for authorities to access information.

Information maintained in the FTS system is protected by tax secrecy which is established in article 102 of the Tax Code. The federal legislation includes provisions governing the right of each govern-

ment authority to access such information.

Information on bank accounts from the FTS system can be provided electronically via a gross government information exchange tool in case the requesting authority is authorized by law to receive such information and has reasonable grounds for it, e.g. an ongoing prosecution or court case etc.

Access to the documents containing a secret protected by federal law, classified as confidential information, is carried out in accordance with the procedure established by the Code of Criminal Procedure of the Russian Federation.

Powers of Russian law enforcement agencies are regulated by corresponding legislative acts on their activities. In accordance with these acts agencies are empowered to request necessary data about bank accounts of natural persons and legal entities, about the immovables they possess, and also about luxury goods propertyed by them (like private yachts (boats) and airplanes).

Bodies of internal affairs may be provided with such information (1) in criminal proceedings (on a basis of a judgement) or (2) while the implementation of operational and investigative activities on the grounds provided by Article 7 of Federal Law N 144-FZ of 12 August, 1995 "On operational-search activities".

According to Point 7 Part 2 Article 29 of the Code of Criminal Procedure of the Russian Federation it is only the Court is competent to take decisions on seizure of objects and documents that comprise information about bank deposits and accounts (as well as other credit units).

Besides these two above mentioned provisions the info may be also obtained if there is a request sent in accordance with the established procedure to verify in accordance with Federal Law N 273-FZ of 25 December, 2008 "On Counteracting Corruption" data about income and expenses, property and liabilities of a property nature, compliance with the prohibition of restrictions by the citizens holding (or claiming to hold) governmental posts as well as their spouses and underage children.

The main problem of revealing and seizure of illegal assets abroad is the special status of property data that is determined by the legislation of personal information protection. In this regard, it is quite usual when the corresponding info about an examined person, his property or bank accounts is not provided on request sent on within the framework of assistance in combating crime. It becomes necessary to send a request for legal assistance in criminal matters.

Point 4 Article 21 of the Code of Criminal Procedure of the Russian Federation ensures the obtaining of information about property owned by property rights. In accordance with it all the agencies, com-

panies, organisations, officials and citizens must comply with the legitimate requirements, instructions and requests of the prosecutor, head on investigative body, investigator, body of inquiry and inquirer.

k) Please indicate, if available, the yearly number of access requests in 2014, 2015 and 2016 by law enforcement, anti-corruption and AML authorities.

	No. of requests	No. of replies
2016 (06.07.2016 - 31.12.2016)	1407	1407
2017 (01.01.2017 - 03.07.2017)	9114	9112

Statistics for earlier periods is not available. Before 06.07.2016 information was requested\provided on paper.

2. How to find out if a natural or legal person owns real estate in the country?

According to paragraph 1 of article 130 of the Civil Code of the Russian Federation (hereinafter – the Civil Code) the following items shall be referred to the immovables (the immovable property, real estate): the land plots, the land plots with mineral deposits and everything else, which is closely connected with the land, i.e., such objects that cannot be shifted without causing an enormous damage to their purpose, including the buildings and all kind of structures, objects under construction, residential and non-residential premises, parts of buildings or structures designed for the parking of vehicles (car parking spaces), if the boundaries of such premises, parts of buildings or structures are properly recorded under the procedure set in the legislation regarding the keeping of the state cadastral record. The air-borne and sea-going vessels, the inland navigation ships and the space objects shall also be referred to the immovables.

Under paragraph 1 of article 131 of the Civil Code the right of ownership and other proprietary rights to the immovables, the restriction of these rights, their accrual, transfer and termination shall be subject to the state registration in the unified state register by the bodies carrying out the state registration of rights to real estate and transactions therewith.

The Federal Service for State Registration, Cadastre and Cartography (Rosreestr, official website <http://www.rosreestr.ru>) is a federal body of executive power exercising functions of organization of a unified system of state cadastral and state registration of rights to real estate, including functions of state registration of rights to real estate and transactions therewith, providing state services in the sphere of state cadastral registration of real estate.

The right of ownership and other rights to immovables, restrictions on these rights, their occurrence, transfer and termination shall be the subject of state registration in the Unified State Register of Real Estate by the Federal Service for State Registration, Cadastre and Cartography (Rosreestr) (<https://rosreestr.ru/site>).

Rosreestr is obliged to provide information on the registration and registered rights to any person (paragraph 4 of Article 131 of the Civil Code of the Russian Federation).

The website of Rosreestr contains open data, as well as a public cadastral map of real estate objects.

In accordance with article 1 of the Federal Law № 218-FZ of 13 July, 2015 «On State Registration of Real Estate» (hereinafter – the Federal Law № 218-FZ) state registration of rights to immovable property is a legal act of recognition and confirmation of accrual, change, transfer, termination of a person's right to real estate or restrictions of such right and encumbrances to immovable property. State registration of rights is carried out by entry in the Unified State Register of Real Estate (hereinafter - EGRN) of records on right to real estate, information on which is included in EGRN.

The provisions of the Federal Law № 218-FZ shall not apply to state registration of rights to aircraft and sea vessels, inland vessels, land plots with mineral deposits.

In order to find out if a natural or legal person owns real estate in the country, it is necessary to request an extract from EGRN on rights of a person to real estate. The procedure and conditions of providing information from EGRN are determined by the Federal Law № 218-FZ and the Order of the Ministry of Economic Development of the Russian Federation № 968 of 23 December, 2015.

According to article 62 of the Federal Law № 218-FZ information on rights to existing or existed properties is information with limited access and is provided only to the persons specified in part 13 of article 62 of the Federal Law № 218-FZ, including owners of real estate or their legal representatives, individuals and legal persons who have authorization from owners of real estate or his legal representative, heads (officials) of federal government agencies, the list of which is determined by the President of the Russian Federation, and senior officials of subjects of the Russian Federation (heads of higher executive bodies of state power of subjects of the Russian Federation)

for the execution of their duties in combatting corruption.

In addition, according to article 9 of the Federal Law № 115-FZ the state authorities of the Russian Federation provide to the authorized body information and documents necessary for the exercise of its functions (except information on citizens' privacy) free of charge, including providing automated access to its databases in order established by the Regulation of the Government of the Russian Federation № 630 of 8 July, 2014 (hereinafter - the Regulation № 630) which replaced the Regulation of the Government of the Russian Federation № 425 of 14 June, 2002. Rosreestr provides information on ownership of real estate to the Federal Financial Monitoring Service (Rosfinmonitoring) under the Regulation № 630.

3. How to find out if a natural or legal person owns a company/business in the country?

All legal entities and individual businesses are required to register or update their registration at the moment of their establishment, reorganization and liquidation as well as when any changes to the constituent documents are introduced.

The law describes the data that have to be submitted to the registry (the Unified State Register of Legal Entities, USRLE) – which is maintained by the Federal Tax Service. Information is publicly available, except for certain types of information that is only available to the state authorities (article 6, State Registration Act). Information about the market share of a natural or moral person in the authorized capital stock and subsequently about the level of control over it can be identified on the basis of data of the USRLE.

Banking and personal information is available to state authorities, including law enforcement bodies and courts (for legal cases), local authorities, bodies of state extra budgetary funds and persons determined by federal law and regulation.

In order to improve efficiency of interagency cooperation the exchange of information system between relevant government bodies was established in the Russian Federation.

For instance, the Agreement between the General Prosecutor's Office of the Russian Federation and the Federal Tax Service of the Russian Federation signed in 2014 provides for exchange of information within the framework of prosecutor's investigations on anti-corruption compliance.

At present, relevant information can be received not only via written, but also electronic requests.

Information on the state registration of a legal entity, including data about its founders (participants)

- individuals and legal entities is maintained in the Unified State Register of Legal Entities (<https://egrul.nalog.ru>).

However, not all data on founders (participants) of a legal entity are public and publicly available. For example, access to personal data of individuals is limited (Article 6, Federal Law on State Registration of legal entities and individual entrepreneur, B'h August 2001 M 129-FZ).

At the same time, state authorities, including law enforcement agencies, courts (for court cases), local authorities, state non-budgetary funds and individuals, defined by the federal law, have access to full information of state registration of a legal entity, including information on personal data of individuals.

According to the Russian legislation there are no restrictions for law enforcement agencies to obtain access to data about property owned by individuals and legal entities.

4. How to find out if a natural or legal person has non-banking financial interests (life insurance portfolio where applicable, securities) in the country?
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No information on the holders of life insurance portfolios is available in public sources in Russia. Insurance companies are prohibited to disclose information on policy holders by Article 946 of the Russian Civil Code.

Title to shares and bonds is recorded by register holders and depositories, however security registers and information on securities recorded on depo accounts are not available to the public.

A public joint-stock company is subject to mandatory disclosure obligation in relation to persons holding 5% or more of its stock (directly or indirectly). Joint- stock companies, not being the public companies, must also disclose their shareholding in certain cases, e.g. if a non-public joint-stock company acquires 20% or more of the voting shares of another public or non-public joint-stock company.

5. How to find out if a natural person or legal person owns luxury goods such as boats or planes registered in the country?
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Planes

In accordance with Federal Law № 31-FZ of 14 March, 2009 «On the State Registration of Rights to Aircraft and Transactions Therewith» data on the state registration of rights to aircraft shall be public.

State registration of civil aircrafts, as well as maintenance of State Register of Civil Aircraft of the Russian Federation is within the responsibility of Federal Air Transport Agency (Rosaviatsia, <http://www.favt.ru>) which is subordinate to the Ministry of Transport.

Rosaviatsia is obliged to provide information about registered rights to any person (paragraph 4 of Article 131 of the Civil Code of the Russian Federation).

The Internet site of the Federal Air Transport Agency contains public data, including the Unified State Register of Rights to Aircraft and Transactions with Aircraft.

The Federal Air Transport Agency of the Russian Federation (hereinafter – Rosaviatsiya) is obliged to provide the data contained in the Comprehensive State Register of Rights to Aircraft to any person producing a document certifying the identity thereof (to a legal entity producing a document that proves registration of this legal entity and the authority of its representative) and the application in writing or in electronic form verified by enhanced encrypted and certified or simple digital signature.

Moreover, Rosaviatsiya shall provide the information contained in the Comprehensive State Register of Rights to Aircraft to the bodies that provide state services and the bodies that provide municipal services, in connection with interagency inquiries concerning the information required for the provision of such services on the applicant's request.

Data on the content of the right-proclaiming documents in respect of aircraft, except for those on limitation (charging) of rights to aircraft, summarized data on the rights of a person to the aircraft which he/she has, as well as extracts containing data on the transfer of rights to aircraft, shall be provided: to the possessors of rights themselves; to the natural persons and legal entities holding powers of attorney issued by the possessors of rights; to the tax authorities; to the federal state antimonopoly body and to regional agencies thereof; to courts, law enforcement bodies and to bailiffs handling cases connected with aircraft and/or possessors of right thereto; to persons entitled to inherit an aircraft either on the basis of a will or under law; to the Chairman of the Accounts Chamber of the Russian Federation, deputies thereof and auditors of the Accounts Chamber of the Russian Federation; to the bodies that provide state services and the bodies that provide municipal services, in connection with interagency inquiries concerning the information required for the provision of such services on the applicant's request.

Within five working days as of the date of filing the application for providing data contained in the Comprehensive State Register of Rights to Aircraft, Rosaviatsiya shall provide to the person filing such application the requested information in writing or shall issue thereto a reasoned refusal to do

it in writing. Such refusal may be disputed by this person in court.

Boats

In the Russian Federation data on ships registered by natural or legal persons could be requested in the Federal Agency for Marine and River Transport of the Russian Federation, in relation to small vessels used in non-commercial purposes – in State Inspectorate for Small Vessels of the Russian Emergency Ministry.

Information on ships and its owners, depending on the type of vessel, is contained in the State Ship's Register or the Russian International Register of Ships (<http://regmorsud.ru>).

Updating information in these registers and providing information on sea vessels and its owners are carried out by the captains of seaports in accordance with the Regulations on the Captain of the Seaport.

Extracts from the register of small vessels shall be provided to the possessors of rights themselves, as well as to the competent government bodies (including law enforcement agencies and courts) as provided by the law.

Vehicles:

The Ministry of Industry and Trade of the Russian Federation annually publishes a list of cars worth over 3 million RUB (<http://minpromtorg.gov.ru/docs>).

At the same time, state registration of vehicles and maintenance of the register of vehicles is the responsibility of the State Traffic Safety Inspectorate of the Ministry of Internal Affairs of the Russian Federation.

According to the Russian legislation there are no restrictions for law enforcement agencies to obtain access to data about luxury items owned by individuals and legal entities (like personal yachts and airplanes).

P. SAUDI ARABIA

1. How to find out if a natural or legal person holds or controls bank accounts in the country?

In 2008, the Saudi Arabia Monetary Agency (SAMA) issued rules governing the opening of accounts and general operation guidelines in Saudi Arabia which provides for all the different interest groups in the country including legal persons/companies.

Article 8-2 of the AML IRs requires that all documents, records, and information be submitted to the competent authorities promptly upon request. The timeframe is not given in this regard.

Requests for information by the judicial authorities, BIP, or FIU have to be channeled through supervisory authorities (SAMA, MOCI, CMA, and MOJ). Pursuant to an agreement between the FIU and SAMA (circulated to all banks), any request coming from SAMA has to be answered by the banks within 10 days.

there are no specific legal requirements for law enforcement agencies to request documents, records, and information from supervisory authorities or accessing the ownership databases. Nonetheless, there is no certain classification for accounts information requested from SAMA, as it is determined by the law enforcement agencies through its use in the investigation, based on the Anti-Money Laundering Law, issued by Royal Decree No. (M/31) dated 11/05/1433H, Article (10) which states that *"As an exception to provisions relating to confidentiality, financial institutions, designated non-financial businesses and professions, and non-profit organizations shall submit documents, records, and information to the Financial Intelligence Unit, the competent investigation authority or the judicial authorities upon request by the monitoring agency."*

Additionally, based on Article (10) of the Anti-Money Laundering Law referred to above and its Executive Regulations which provides in Paragraph (10/1) that *"Financial Institutions, designated non-financial businesses and professions, and non-profit organizations may not invoke the principle of confidentiality of accounts, identity of clients, information or transactions registered under any other system."* Paragraph (10/2) of the Executive Regulations also provides that *"The judicial authority or the Public Prosecution or the Financial Investigation Unit shall request documents, records, and information from the financial institutions, designated non-financial businesses and professions, and non-profit organizations through the anti-money laundering units of the relevant monitoring and supervisory agencies. All documents, records, and information shall be submitted by financial institutions, designated non-financial businesses and non-profit organizations to the Judicial Authority or the Public Prosecution or the Financial Investigation Unit when requested by the anti-money laun-*

dering units of the relevant monitoring and supervisory agencies."

In addition, the Rules Governing Anti-Money Laundering and Combating Terrorist Financing for all banks and money exchangers and foreign banks' branches states that *"Under the Saudi AML Law, financial institutions are authorized and required to cooperate and share relevant information with local competent authorities, such as FIU and law enforcement authorities, for matters relating to money laundering, terrorist financing and other financial crimes. Banks and money exchangers should, therefore, have in place appropriate policies and procedures, such as: Where records are to be provided to the authorities, establishing the form of such records (original or copies) and the receipt and forms to be used for providing and receiving information by the MLCU/ designated Compliance Officer."*

The Financial Action Task Force (FATF) recommended in number (31) of The FATF Recommendations that "When conducting investigations of money laundering, associated predicate offences and terrorist financing, competent authorities should be able to obtain access to all necessary documents and information for use in those investigations, and in prosecutions and related actions."

a) Has your country established a centralized account register or equivalent data retrieval system?

No.

b) Does your country intend to establish a centralized account register or equivalent data retrieval system?

No.

c) If your country does not use a centralized account register or equivalent data retrieval system to obtain the relevant information, please indicate any other mechanism your country has to find out if a natural or legal person holds or controls bank accounts in the country (e.g. an established channel for requesting all financial institutions to promptly disclose whether they have a named customer). Please describe what steps your country's authorities need to take and the material requirements (such as reasonable grounds for suspicion) that need to be met in order to find out

i. if a given natural person is a bank account's

(1) legal owner

(2) beneficial owner

ii. who is a given bank account's

(1) legal owner

(2) beneficial owner.

Please also indicate, in particular, if a court order is necessary to request the information, how requests are transmitted to banks, the delay for banks to respond to requests, and remedies banks can use against requests.

Please also indicate how long it usually takes for authorities to access information.

In 2012, SAMA issued rules governing Anti-Money Laundering & Combating Terrorist Financing, which provide guidelines in relation to beneficial owners (Natural & Legal) verification.

Based on the Rules Governing Anti-Money Laundering and Combating Terrorist Financing for all banks and money exchangers and foreign banks' branches which states that; **Know Your Customer Principle (KYC)** *The KYC principle is intended to enable a bank or money exchanger to have an appropriate perspective that it knows the true identity of each customer with an appropriate degree of confidence and knows the types of business and transactions the customer is likely to undertake. In order to follow that principle, measures of banks and money exchangers should include the following arrangements: 1. Identification and verification of all permanent and casual customers and beneficiaries owner on a continuous basis and in accordance with the Rules Governing the Opening of Bank Accounts and the General Operational Guidelines. 2. Identification and verification of beneficiaries owner of all transactions executed by customers to an extent that ensures their perfect understanding. 3. Assessing risks connected with different types of customers and taking proper measures for enhancing requirements of identification and verification of customers or beneficiaries owner. 4. Adopting proper measures that ensure updating requirements of identification and verification of customers and beneficiaries owner on a continuous basis. 5. Following up changes in the identity of customers and beneficiaries owner and taking the necessary decision on their impact on control and supervision requirements. 6. Making records of identification of customers and beneficiaries owner available to the compliance officer entrusted with ensuring compliance with AML/CTF requirements and to other relevant officials. 7. Verification of the identity of customers and beneficiaries owner from authenticated and autonomous sources.*

4.3.1 Customer Identification Process *The Saudi AML Law and its Implementing Regulations require financial institutions not to carry out any financial, commercial or similar operations under anonymous or fictitious names. Banks are also prohibited from opening or dealing with numbered accounts. Banks and money exchangers must verify the iden-*

tity of the customer and beneficiaries owner depending on official documents provided at the start of dealing with such customer or upon concluding commercial transactions therewith in person or in proxy. Banks and money exchangers must further verify legal person's official documents that indicate the name of the entity, its address, names and addresses of its owners, managing directors, and any other relevant data. Banks and money exchangers should , as a minimum, apply the following rules for appropriate identification of customers and beneficiaries owner: 1. Establishing valid identification by reference to proper and official documents provided for in the SAMA's Rules Governing the Opening of Bank Accounts and the General Operational Guidelines in Saudi Arabia. 2. At the outset of the relationship or account, obtaining a copy of the customer identification documents and verifying them against their original. 3. Obtaining SAMA approval for opening accounts or establishing relationships with non-residents, except with GCC citizens. 4. Not to open accounts for or establish relationships with any non-face-to-face customers (refer to SAMA's Rules Governing the Opening of Bank Accounts), and subject all accounts to interview and identity verification. 5. Identification is not limited to customers having accounts at the bank; it should also include those who benefit from other banking or financial services, such as credit cards, express remittances, large transfers/ transactions, foreign exchange transactions and safe deposit boxes. It should also cover owners, authorized signers, holders of powers of attorney, directors, trustees and partners. 6. Setting a systematic measure for identifying customers and not to establish any relationship or process any transaction until the personal or commercial valid identity of the individual or legal entity has been verified satisfactorily. 7. Obtaining customer personal information, such as name, address, signature, contact telephone numbers, occupation, source of funds/ income or wealth, and other information depending on the type of customer, as stated in the SAMA's Rules Governing the Opening of Bank Accounts. 8. Requesting from the customer to provide information about any existing bank accounts or relationships with other local banks, which should be followed up if suspicions arise. 9. Conducting further due diligence and efforts if there are doubts about the integrity or accuracy of previously obtained customer identification data and, in such case, re-verifying the identity of the customer and re-assessing the relationship. 10. Not to accept any transactions from walk-in customers, with the exception of transactions stated in the SAMA's Rules Governing the Opening of Bank Accounts. 11. No new accounts, business relationships or transactions should be accepted, and any freezing any existing account, business relationship or transaction when: a. Identity of the customer cannot be verified; b. Identity of the beneficial owner is not known; and/ or c. Failure to obtain information on the purpose and nature of the relevant business. **4.4 Customer Due Diligence (CDD)** Application of due diligence means the effort made by banks and money exchangers to monitor financial transactions of customers and beneficiaries owner, ensure they understand them, and verify all business of customers, data required for

opening bank accounts or establishing a banking relationship, and ensure their authenticity and clarity. Instructions require banks and money exchangers operating in the Kingdom to apply basic due diligence measures on all permanent and casual customers and beneficiaries owner. Such measures shall be continuous and consistent with the risk level of business and transactions of customers as follows:

1. Following up activities of financial transactions and their consistency with the purpose provided upon opening of the account.
2. Due diligence is required upon establishing a business relationship, execution of casual transactions over the single or aggregated disclosed limits or being suspected of their connection with money laundering or terrorist financing, regardless of exemptions or limits specified for amounts of transactions, or if there are doubts about the accuracy or adequacy of previously obtained customer identification data.
3. Verifying any person (natural or legal) acting on behalf of the customer and ensuring validity of such action.
4. Identifying persons (natural or legal) who have control on the customer.
5. Increasing level of due diligence with respect of those customers business relationships that are determined to be of higher risk. This may be the result of the customer's business activity, ownership structure, volume or types of potential or actual transactions, including those transactions involving higher risk countries or defined by the applicable law or instructions as posing higher risk, such as correspondent banking relationships and PEPs.
6. Simple CDD measures and arrangements are not acceptable whenever there are suspicious transactions of money laundering or terrorist financing
7. The CDD requirements may be reduced with respect to low risk relationships, such as:
 - a. Companies listed in the Capital Market which are subject to regulatory disclosure requirements.
 - b. Other banks or financial institutions (domestic or foreign) working within the AML/CTF system in consistency with the FATF Recommendations.
 - c. Individuals whose main source of funds is a salary, pension or social assistance from identified and appropriate sources and where transactions are commensurate with the source of funds.
 - d. Transactions involving small amounts or particular types of transactions.

Thus, when designing and implementing controls related to due diligence to manage and mitigate the identified risks, according to the risk-based approach, banks and money exchangers should follow the following steps:

1. Managing and mitigating the identified risks by developing measures to verify the customer's identity; collect additional information about the customer and monitor the customer's transactions.
2. Establishing control measures for:
 - a. Introducing a customer identification program, actions of which vary appropriately with the customer's risks in the area of money laundering and terrorist financing.
 - b. Requiring the quality of evidence, documents, technologies, and third-party guarantees to be of a specific standard.
 - c. Obtaining additional information on the customer. Such information should be appropriate to the customer's assessed money laundering and terrorist financing risks.
 - d. Monitoring customer's transactions and activities.
3. Establishing a customer identification program that is graduated to reflect risks, involving:
 - a. A

basic database, held in which all data on customers. b. Basic verification requirements for all customers. c. More extensive due diligence on acceptance of higher risk customers. d. Specific basic measures for identity verification of low risk customers and products. e. Monitoring the customer's activities and transactions based on the risk assessed. 4. Investigation into the customer's source of funds and wealth for higher-risk customers. 5. Developing monitoring guidelines for high risk customers versus low risk customers.

4.4. 1 Beneficiaries owner (Natural & Legal) Banks and money exchangers should verify the beneficiaries owner of all accounts and relationships and should conduct due diligence on all final beneficiaries owner in accordance with the following:

1. Natural Persons When the account or relationship is in the name of an individual, the bank or money exchanger should determine whether the account is used in the interest of the client in whose name it was recorded and for the purpose for which it was opened. If doubt exists, the bank should establish the capacity in which and on whose behalf the customer is acting. Identity of the beneficiaries owner, should be established to the bank's or money exchanger's satisfaction by reference to official identity documents. Banks and money exchangers should also ensure that any person claims to act on behalf of the customer, is so authorized, and identify and verify the identity of that person.

2. Legal Persons / Companies Where the customer is a legal person/ company or establishment, the bank or money exchanger should understand the ownership structure of the establishment or the company sufficiently to determine the provider of funds, principal owners of the shares and those who ultimately own or have control over the assets such as the directors, based on the memorandum of association of the establishment/company and those with the power to give direction to the directors of the company in accordance with the company's articles of association. With regards to a joint stock company, the bank or money exchanger should establish the identity of all shareholders or beneficiaries owner who own 5% and more of the company's shares. Banks and money exchangers should obtain documentary evidence of the legal entity and existence along with the identity cards of stakeholders including the actual natural persons owning or controlling the entity in accordance with the Rules for Opening Bank Account and General Rules for their operation issued by SAMA. In all the above cases, if a customer states that he/she is acting on his/her own, then a declaration to this effect, whether as a separate document or as a part of the account opening agreement, should be obtained from the customer, as follows:

a. For new customers: at the time of opening an account, establishing a relationship or conducting a significant transaction;

b. For existing customers: whenever there is a suspicion that the account, relationship or transaction is being used for a different or illegal purpose, thus requiring more information from the customer during the mandatory continuous updation of customer information, as per the Rules Governing the Opening of Bank Accounts by SAMA.

4.4.2 Customer & Transaction Profiling Banks and money exchangers should have a process in place to capture sufficient

information about customers, and their anticipated use of their products and services, that will allow to develop a customer profile of expected activity to provide a basis for recognizing unusual and higher risk activities and transactions, which may indicate money laundering or terrorist financing. The information should be obtained at the establishment of a relationship or opening of an account and prepared for all types of relationships, including accounts and credit cards. The extent and nature of the information details depend on the different types of customers (individual, corporation, etc.) and the different levels of risk resulting from the customer's relationship with the bank or money exchanger. Higher risk relationships, accounts and transactions will require greater scrutiny than lower risk ones. The information should be kept up-to-date and monitoring of activity and transactions should be undertaken throughout the course of the relationship to ensure that the activity or transaction being conducted is consistent with the bank's or money exchanger's knowledge of the customer. Customer Profiles and Transaction Profiles should be reviewed and updated continuously whenever there is a suspicion of illegal transactions or activities.

1. Customer Profile A customer profile is a means of collecting detailed information on a customer or an account/ relationship. Depending on the type of the customer, profiling will include basic information such as owners' names (including beneficial owners), partners, shareholders (except for minor shareholders of a joint stock company, holding less than 5%), authorized signers, power of attorney holders, etc.; customers' addresses including phone numbers, postal and street/ location address, e-mail, fax, etc.; purpose and the intended nature of business relationship, information of the business activities, financial information, capital amount, source of funds, source of wealth, branches, countries and products dealing in, etc. At the discretion of the bank or money exchanger, this could be an automated process. Customer identification information and documents should be Remain continuously at customer profile.

2. Transaction Profile A transaction profile should be prepared to capture the number of transactions expected to be used by a customer, and the value of transactions for an average month, for each product and service. Banks and money exchangers should develop a system using specialized software to provide automatic preparation of transaction profiles and detect unusual patterns of transactions and trends that may indicate suspicious activities that are not consistent with initial assessments or expectations. All efforts should be made to establish the source of funds to the bank's or money exchanger's satisfaction and the customer and transaction profiling methodology should assist in establishing source of funds. Transaction profile is not required for employed/ payroll, pension and fixed-income individual accounts or relationships, whose source of funds and usage of account can be determined, provided the account or relationship is used for the intended purpose. However, for accounts and relationships used for business purpose and for high-risk accounts, an appropriate transaction profile based on risk assessment, should be prepared to include all types of products and services expected to be

used by the customer in the account, during the period of a month, the number of expected transactions, and their estimated monetary value, especially for high-risk products/ services such as cash, transfers, etc. The transaction profile should be reviewed and updated continuously to establish continued consistency between the profile and the actual transactions. Major inconsistencies should be investigated. Banks and money exchangers may prepare a transaction profile on the basis of generic expected activity and transactions for certain types of products and services, however, for more complex products or services a tailored transaction profile will be necessary.

d) Please indicate, if available, the yearly number of requests in 2014, 2015 and 2016 by law enforcement, anti-corruption and AML authorities

No information available.

e) Please indicate which of your country's law enforcement, anti-corruption and AML-authorities can request such information.

Law Enforcement Authorities (Ministry of Interior).

Public Prosecution

Questions f) - k) not applicable.

2. How to find out if a natural or legal person owns real estate in the country?

The Ministry of Justice has developed the Comprehensive Real Estate System which functions as a real estate database in Saudi Arabia. Searching can be carried out through:

Natural Person:

- Citizens: by National Identification Number.
- Non-Citizens: by Residency Identification Number.

Legal Persons: by Commercial Registration Number.

3. How to find out if a natural or legal person owns a company/business in the country?

Ownership of a company/business in Saudi Arabia must be registered with the Ministry of Commerce and Investment on the Commercial Register (CR). The CR includes information such as name of the owner, national identification number, and address. Accordingly, the official authorities can find out

the ownership of a natural or legal person via the Commercial Registration System.

Corporations are regulated by way of the Law of Professional Companies (the Companies Law) and the Commercial Register Law (CRL). A company register is maintained by the Ministry of Commerce and Industry (MOCI), whereby all company forms are required to register. Article 1 of the CRL provides that the MOCI shall maintain a register containing the names of Saudi merchants and companies. Article 3 CRL further provides that it is up to the company management to submit an application for registration within 30 days from the notarization of the company formation contract. The Registration Department has about 40 branches in all regions (emirates) of KSA, and all branches are all linked through a centralized electronic database.

Article 11 CRL provides that anybody, including the competent authorities, may obtain a copy of the information held at the commercial register with respect to registered entities. With the exception of judgments or bankruptcy notifications in cases where reparation has been adjudicated and judgments concerning interdictions or attachments that have been lifted, all information held at the register as outlined above is freely accessible. In the absence of a registration record, a certificate evidencing such absence can be issued.

In addition, for joint stock companies and partnerships limited by shares, the MOCI publishes the company formation contract and the company by-laws in the Official Gazette. Information and documentation held at the registry is maintained indefinitely.

Pursuant to Article 102 of the Companies Law, shares issued to registered holders are transferred by means of an entry in the shareholder register that is kept by the company. The register contains the shareholder names, nationalities, residence addresses and occupations, the number of shares held by each shareholder, and the amounts paid up on such shares. A transfer of title to any registered share is only considered effective from the date of its entry into the shareholder register.

4. How to find out if a natural or legal person has non-banking financial interests (life insurance portfolio where applicable, securities) in the country?
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The Saudi Arabian Monetary Authority (SAMA) issued the Cooperative Insurance Companies Control Law (Article 17) which states that "All insurance and re-insurance companies subject to the provisions hereof must maintain a separate account for each insurance class in accordance with the requirements of the Implementing Regulations of this Law. They must also maintain records and books in which shall be entered the insurance policies issued by the company, the names and addresses of the policy holders, the date of executing each policy, its validity, the rates and conditions stated

therein and any amendment or alterations effected thereon. The Agency may, at its own direction, issue resolutions requiring insurance companies to enter in such records and books any information needed for exercising the Agency's supervisory powers. Such recorded data and information may be stored on the computer under the rules and procedures set forth in the Implementing Regulations of the Commercial Books Law."

Also, (SAMA) issued rules regarding Anti Money Laundering & Combating the financing of Terrorism and Regulations for Implementing the Cooperative Insurance Companies Control Law which consist of provisions for determining beneficiaries' names, DOBs, and addresses.

Moreover, The Capital Market Authority (CMA) issued Investment Accounts Instructions, which aim to regulate the opening and operation of investment accounts held by authorised persons licensed to conduct the activities of dealing, managing, or custody; and to define the related investment accounts controls and supervisory rules.

As stated in Article 3 of the Instructions, before accepting and opening an investment account for any client, the Authorized Person (AP) must ensure their/his compliance with all of their his obligations stated in the Capital Market Law (CML) and its Implementing Regulations, in addition to the Anti-Money Laundering Law and its Implementing Regulations ("AML"), and the Law of Terrorism Crimes and Financing.

Moreover, the instructions provide more details regarding the requirements for opening an investment account for either a natural or legal person as specified in Articles 6 and 7 of the instructions.

With that said, the CMA continuously cooperate and deal with requests from the Kingdom's governmental bodies regarding the sharing of information on natural or legal persons interests as per the relevant applicable Laws and Regulations.

For further information on the requirements regarding investment accounts, please refer to the link below:

<https://cma.org.sa/en/RulesRegulations/Regulations/Documents/InvestmentAccountsInstructionsEN.pdf>

In addition and pursuant to the CML, the Securities Depository Center is the sole entity in the Kingdom authorized to deposit, transfer and register ownership of Saudi Securities traded on the Saudi Stock Exchange.

The Depository Center's rules approved by the Board of the Capital Market Authority Pursuant to its

Resolution Number (2-17-2012) Dated 8/6/1433H corresponding to 29/4/2012G, amended Pursuant to Resolution Number (1-28-2017) specify the regulatory framework and procedures for registration, settlement and clearance of securities traded on the Exchange, including the procedures for the opening of a depository account. It is important to note that in accordance with the CML, the Depository Center shall be the sole entity which registers all property rights in securities traded on the Exchange. The final points reported in the records of the Depository Center serve as conclusive evidence and proof of ownership of the securities indicated therein together with the encumbrances and rights associated therewith.

Please refer to the below link:

https://www.tadawul.com.sa/wps/wcm/connect/dfca23e7-2e70-4c1d-b5ae-35f8160d26af/En2_Securities%2BDepository%2BCentre%2BRules_2.pdf?MOD=AJPERES

5. How to find out if a natural person or legal person owns luxury goods such as boats or planes registered in the country?
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Aircraft Registration with the Aviation Authority is mandatory as well as display of nationality and registration marks. Details of registration are kept with the Saudi National Aircraft Register. The Authority may grant others access to data contained in said Register in accordance with conditions set thereby.

Registration of vessels and boats is regulated under the maritime Regulation of the Kingdom. Article 169 provides the procedures for the registration. Once all documents have been approved and before registration, the report is placed in the 2 local dailies for any objections. Once there is none, then a provisional certificate is issued and finally the final certificate is issued. The information is public and can be obtained by any interested party.

Registering vessels or boats in Saudi Arabia is regulated by Ministerial resolution No. 11 of 1406AH. Article (6) of this ministerial resolution contains some conditions which have to be met:

1. Natural Person: Shall be a Saudi national.

2. Legal Person:

a) 100% of capital shall be Saudi

b) shared;

- Shall be registered in Saudi Arabia.
- 51% or more of capital shall be Saudi.
- Director shall be a Saudi national.
- 2/3 of Board of Directors shall be Saudi Nationals, including the Chairman, and the manager in charge shall also hold residency in Saudi Arabia.
- Permanent residency shall be in Saudi Arabia.

Article (7) of this ministerial resolution, regarding registration procedure, states the information that must be provided with a registration request, including;

- Owner's/owners' name.
- Owner's shares.

Q. SOUTH AFRICA

1. How to find out if a natural or legal person holds or controls bank accounts in the country?

Section 26 of the Financial Intelligence Centre Act (FIC Act) of 2001 empowers any officer of the FIU (the Centre) to access any banking records kept by a financial institution. The FIC Act enables the Centre to gather customer identification and transaction information. The Centre has the power to access and take copies of any records kept by a reporting institution in terms of Sections 22 or 24 of the FIC Act. This power can only be exercised during ordinary working hours on the authority of a warrant issued in chambers by a magistrate, regional magistrate or judge (s.26 (1)-(2)). In terms of s. 26 (3) of the FIC Act a warrant may only be issued if it appears to the judge, magistrate or regional magistrate from information on oath or affirmation that there are reasonable grounds to believe that the records referred to in subsection (1) may assist the Centre to identify the proceeds of unlawful activities or to combat money laundering activities.

In addition to these sources of information, the FIC Act also enables the Centre to gather customer identification and transaction information at its discretion without any further requirements for a warrant. Section 27 allows the Centre to request a reporting institution whether: (a) a specific person is or has been a client of that institution; (b) a specific person is acting or has acted on behalf of any client of that institution; or (c) a client of the accountable institution is acting or has acted for a specific person, and the accountable institution must inform the Centre accordingly. In terms of s. 50, an accountable institution that fails to inform the Centre in accordance with section 27, is guilty of an offence.

The Centre is also authorised to obtain additional information relating to a report received, which it may reasonably require to perform its functions (s.32, FIC Act). Obtaining such additional information from the accountable institution, person or entity that had submitted the suspicious transaction report (STR) is done by mere request without any requirements for a warrant. When a financial institution or person receives such a request, the Centre must be furnished with the additional information without delay. In terms of s. 57 an accountable institution, reporting institution or any other person that fails to comply with a request made by the Centre or an investigating authority acting under the authority of an authorised officer in terms of section 32 (2), is guilty of an offence.

In terms of s. 40 of the FIC Act, inter alia the following entities are entitled to information held by the Centre:

(a) an investigating authority inside the Republic, the South African Revenue Service and the

intelligence services, which may be provided with such information (i) on the written authority of an authorised officer if the authorised officer reasonably believes such information is required to investigate suspected unlawful activity; or (ii) at the initiative of the Centre, if the Centre reasonably believes such information is required to investigate suspected unlawful activity;

(b) an entity outside the Republic performing similar functions to those of the Centre, or an investigating authority outside the Republic which may, at the initiative of the Centre or on written request, obtain information which the Centre reasonably believes is relevant to the identification of the proceeds of unlawful activities or the combating of money laundering activities or similar offences in the country in which that entity is established.

General provisions of the Criminal Procedure Act allow a Director of Public Prosecutions (DPP) to subpoena persons to supply information in connection with the commission of any criminal offence (s.205, CPA). In terms of this provision a judge of the supreme court, a regional court magistrate or a magistrate may upon the request of a Director of Public Prosecutions (DPP) or a public prosecutor authorised thereto in writing by the DPP, require the attendance before him or any other judge, regional court magistrate or magistrate, for examination by the DPP or the public prosecutor authorised thereto in writing by the DPP, of any person who is likely to give material or relevant information as to any alleged offence, whether or not it is known by whom the offence was committed: Provided that if such person furnishes that information to the satisfaction of the DPP or public prosecutor concerned prior to the date on which he is required to appear before a judge, regional court magistrate or magistrate, he shall be under no further obligation to appear before a judge, regional court magistrate or magistrate.

This power is most often used to access financial records and other confidential information. It may be used after having locating the relevant assets, which seems to be done only by sending circular requests to all banks in South Africa.

a) Has your country established a centralized account register or equivalent data retrieval system?

No.

b) Does your country intend to establish a centralized account register or equivalent data retrieval system?

No.

c) If your country does not use a centralized account register or equivalent data retrieval system to

obtain the relevant information, please indicate any other mechanism your country has to find out if a natural or legal person holds or controls bank accounts in the country (e.g. an established channel for requesting all financial institutions to promptly disclose whether they have a named customer). Please describe what steps your country's authorities need to take and the material requirements (such as reasonable grounds for suspicion) that need to be met in order to find out

i. if a given natural person is a bank account's

(1) legal owner

(2) beneficial owner

ii. who is a given bank account's

(1) legal owner

(2) beneficial owner.

Please also indicate, in particular, if a court order is necessary to request the information, how requests are transmitted to banks, the delay for banks to respond to requests, and remedies banks can use against requests.

Please also indicate how long it usually takes for authorities to access information.

The Financial Intelligence Center (FIC) has access to data relating to Suspicious Transaction Reports (STRs), Terror Financing Reports (TPRs) and Cash Threshold Reports (CTRs) that are filed on legal and beneficial owners.

In regards to a natural or legal person or an entity on whose behalf a report is made, the report contains:

- The full name of the person or entity;
- The identity number/registration number of the person or entity;
- The date of birth of the person;
- The detailed address of the person or entity;
- The surname and initials of a contact person at the entity

The transactions reported under STRs, TPRs and CTRs contain the following additional information when readily available:

- the transaction date, or, in the case of various transactions the period over which the transactions took place;
- the involved property or type of funds;
- the value or amount of the property involved;
- the currency in which the transaction was conducted;
- the method in which the transaction was conducted;
- the method used for disposing the funds or property;
- the amount of the disposition of the funds, and
- the currency in which the funds were disposed of;
- the reason for the transaction;
- the name of any other institution or person involved in the transaction;
- the number of any account held at the reporting institution or at another institution involved in the transaction;
- the name and identifying number of the branch or office where the transaction was conducted, and
- any remarks, comments or reason the person conducting the transaction may have given.

In South Africa, a “beneficial owner” is defined in terms of the Financial Intelligence Centre Amendment Act (Act 1 of 2017) (FICA) in respect of a legal person as the natural person who, independently or together with another person, owns the legal person, or exercises effective control of the legal person.

Law enforcement statutes with powers to obtain information on bank account Beneficial Ownership holders include: the Prevention of Organised Crime Act (Act 121 of 1998) (POCA)⁹⁸; the Financial Intelligence Centre Amendment Act (Act 1 of 2017)⁹⁹; the South African Police Service Act¹⁰⁰ (Chapter

⁹⁸ Money laundering in the country is addressed in part by the Prevention of Organised Crime Act, No. 121 of 1998, which provides for offences relating to the proceeds of unlawful activities. Prevention of Organised Crime Act (Act 121 of 1998) (POCA): <https://www.npa.gov.za/sites/default/files/Library/PREVENTION-OF-ORGANISED-CRIME-ACT-121-OF-1998.pdf>

⁹⁹ The Financial Intelligence Centre Act, No. 38 of 2001, places money laundering control obligations on all major financial institutions and encourages self-regulation by institutions that are most likely to be exploited for money-laundering purposes.

¹⁰⁰ South African Police Service Amendment Act (Act 57 of 2008):

6A which establishes the Directorate for Priority Crimes Investigations (DPCI); the Prevention and Combating of Corrupt Activities Act (Act 12 of 2004) (PRECCA)¹⁰¹ and the Prevention of Constitutional Democracy against Terrorism and Related Activities Act (Act 32 of 2004)¹⁰². Other supplementary relevant legislation include the Promotion of Access to Information Act (Act 2 of 2000) (PAIA) According to the Companies Act (Act 71 Of 2008).

A number of regulatory bodies are empowered to investigate corruption in South Africa. These include, among others, the:

- Special Investigating Unit (SIU).
- The National Prosecuting Authority (NPA).
- Auditor General.
- Public Protector (an institution set up to investigate complaints against government agencies or officials).
- Public Service Commission.
- South African Police Service (SAPS).

Regulatory bodies with powers to obtain information on bank account Beneficial Ownership holders include the Financial Intelligence Centre; Financial Services Board (FSB) and the South African Reserve Bank (SARB).

Establishing and verifying the identities of natural persons

A natural person's identity can be determined by reference to a number of characteristics. At the very basic level these characteristics are the person's full names, date of birth and, in most cases, a

https://www.saps.gov.za/resource_centre/acts/downloads/saps/act_57_of_2008.pdf

¹⁰¹ Corruption in both the public and private sectors is curtailed by the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004. This Act allows for international reach in that it criminalises corrupt actions undertaken outside South Africa by any South African citizen, anyone domiciled in South Africa, or any foreigner, if: (a) the act concerned is an offence under that country's law; (b) the foreigner is present in South Africa; or (c) the foreigner is not extradited. It also criminalises the act of not reporting attempted or actual corrupt transactions. <http://www.justice.gov.za/legislation/acts/2004-012.pdf>

¹⁰² The Protection of Constitutional Democracy Against Terrorist and Related Activities Act, No. 33 of 2004, criminalises the offence of terrorism and provides for measures to prevent and combat terrorist and related activities.

unique identifying number issued by a government source (e.g. in the case of a South African citizen or resident, his/her identity number or, in the case of other natural persons, a passport number or numbers contained in asylum seeker or refugee permits, work permits, visitors' visas etc.). It is expected that these basic characteristics will always be used in accountable institutions' processes to establish a natural person's identity.

Information about a natural person's identity may be supplemented by applying other characteristics of a natural person including his/her physical appearance or other biometric information, place of birth, family circumstances, place of employment or business, residential address, contact particulars (e.g. telephone numbers, e-mail addresses, social media), contacts with the authorities (e.g. tax numbers) or with other accountable institutions. This list of examples is not exhaustive and there may be other characteristics of particular persons or categories of persons which accountable institutions may include in their identification processes.

Establishing the identity of legal persons, trusts and partnerships

Section 21 of the Financial Intelligence Centre Act (Act 1 of 2017) (FICA) (the requirement to establish and verify a client's identity) applies to clients who are not natural persons acting in their personal capacity. Clients of this nature are referred to as corporate vehicles and include legal persons, trusts and partnerships. In addition to the obligation to establish and verify the identities of corporate vehicles, section 21B of the FIC Act also require accountable institutions to apply additional due diligence measures namely to establish-

- the nature of the client's business;
- the ownership and control structure of the client; and
- the beneficial ownership of clients, and to take reasonable steps to verify the identity of the beneficial owners.

The requirements to establish and verify the identities of corporate vehicles and to apply the additional due diligence measures are discussed separately in respect of legal persons, partnerships and trusts or similar arrangements in the sections that follow. The requirements set out in sections 21 and 21B of the FIC Act apply whether the legal person, partnership or trust or similar arrangement between natural persons is incorporated or originated in South Africa or elsewhere.

A legal person is defined in the FIC Act as any person, other than a natural person, that establishes a business relationship or enters into a single transaction with an accountable institution and includes a person incorporated as a company, close corporation, foreign company or any other form of corporate arrangement or association but excludes a trust, partnership or sole proprietor.

The characteristics which describe a legal person's identity include:

- The name under which the legal person has been incorporated;
- Its form, e.g. whether it is a company or a close corporation;
- The registration number under which it is incorporated;
- The address of its registered office;
- The powers that regulate and bind the legal person;
- Its directors (in the case of a company);
- Its senior management e.g. its chief executive officer;
- Its trading name if it is different from the name under which it has been incorporated;
- Its business address if it is different from the address of its registered office; and
- Its income tax and value added tax numbers.

In addition to establishing and verifying a legal person's identity an accountable institution also must establish the nature of the legal person's business and its ownership and control structure. Furthermore, an accountable institution must also establish who the beneficial owner of the legal person is and take reasonable steps to verify the beneficial owner's identity.

In addition, section 21B(2) of the FIC Act provides for a process of elimination which accountable institutions must follow to determine who the beneficial ownership of a legal person is: The process starts with determining who the natural person is who, independently or together with another person, has a controlling ownership interest in the legal person. The percentage of shareholding with voting rights is a good indicator of control over a legal person as a majority shareholder, in most cas-

es, exercises control. In this context ownership of 25 per cent or more of the shares or voting rights of the legal person is usually sufficient to exercise control of the entity.

If the ownership interests do not indicate a beneficial owner, or if there is doubt as to whether the person with the controlling ownership interest is the beneficial owner, the accountable institution must establish who the natural person is who exercises control of the legal person through other means, for example, persons exercising control through voting rights attaching to different classes of shares or through shareholders agreements.

If no natural person can be identified who exercises control through other means, the accountable institution must determine who the natural person is who exercises control over the management of the legal person, including in the capacity of an executive officer, non-executive director, independent non-executive director, director or manager.

Once the accountable institution has determined who the beneficial owner of a legal person is, the institution must take reasonable steps to verify that person's identity. The underlying element of this requirement is that the accountable institution must be satisfied that it knows who the beneficial owner is.

The concept of a beneficial owner in the context of a partnership encompasses all the partners in the partnership. Hence, section 21B(3) of the FIC Act requires accountable institutions, over and above the requirements of sections 21 and 21A, to establish the identity of every partner in a partnership. This includes every member of a partnership en commandite (a partnership where the liability of certain partners who contribute a fixed amount and who remain undisclosed as partners, is limited according to the partnership agreement establishing and governing the partnership), an anonymous partnership (a partnership where the partners' names are not disclosed to persons who are not partners in the partnership) or any similar partnership.

Section 21B(3) of the FIC Act also requires accountable institutions to establish the identity of the person who exercises executive control over the partnership, if there is such a person, indicating that accountable institutions should determine the notion of control over (in addition to benefit from) a partnership. Moreover, the provision requires accountable institutions to establish the identity of each natural person who is authorised to enter into a single transaction or establish a business relationship with the accountable institution on behalf of a partnership. Accountable institutions are required to take reasonable steps to verify the names of the natural persons covered by section 21B(3) FIC Act.

Trusts

As in the case of partnerships, trusts are not incorporated entities and do not have legal personality. This means that accountable institutions have to determine whether the trust is identified by a unique name or description. The existence of a trust must be registered at an office of the Master of the High Court before legal effect can be given to the trust and the trustee(s) can obtain authority from the Master of the High Court to perform their functions. Therefore, accountable institutions must establish the unique reference number identifying the trust in the Master's Office and the address of the Master of the High Court where the trust is registered as part of the elements describing the identity of the trust.

In addition to establishing this information, accountable institutions must take reasonable steps to verify it. This means that accountable institutions must apply measures that are commensurate with the assessed ML/TF risk relating to a trust in a given case. The most reliable source of confirmation for this information is the trust deed (the agreement which establishes the trust and governs its functioning) and the information controlled (and documentation issued) by the relevant offices of the Masters of the High Court. The measures which an accountable institution uses to verify the identities of trusts must be described in the institution's Risk Management Compliance Plan.

The concept of a beneficial owner in the context of a trust encompasses all the natural persons who may be associated to the trust. Hence, section 21B(4) of the FIC Act requires accountable institutions, over and above the requirements of sections 21 and 21A, to establish:

- The identity of the founder;
- The identities of each trustee and each natural person who purports to be authorised to enter into a single transaction or establish a business relationship with the accountable institution on behalf of the trust, and
- The identities of each beneficiary referred to by name in the trust deed or other founding instrument in terms of which the trust is created; or
- If beneficiaries are not referred to by name in the trust deed or other founding instrument in terms of which the trust is created, the particulars of how the beneficiaries of the trust are determined.

Reasonable Grounds for Suspicion

PAIA preamble, “the State must respect, protect, promote and fulfil, at least, all the rights in the Bill of Rights which is the cornerstone of democracy in South Africa; the right of access to any information held by a public or private body may be limited to the extent that the limitations are reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom as contemplated in section 36 of the Constitution; reasonable legislative measures may, in terms of section 32 (2) of the Constitution, be provided to alleviate the administrative and financial burden on the State in giving effect to its obligation to promote and fulfil the right of access to Information”¹⁰³

Search and seizure

The general powers to search for (via search warrants), and seize, articles are contained in Sections 20 and 21 of the CPA. The CPA also provides for exceptions where a search and seizure may take place without a warrant (Section 22, CPA). Articles which may be seized under these provisions include articles that may afford evidence of the commission or suspected commission of an offence. This can include information which is subject to confidentiality arrangements such as transaction records, identification information relating to a customer, account files, business correspondence and any other records relating to a customer which a financial institution may hold. Searches and seizures in terms of these provisions are conducted by police officials.

The NPA Act also provides that an Investigating Director of the NPA may search for and seize anything which has a bearing on an investigation conducted by the Investigating Director (Section 29, NPA Act). In particular, Section 29(10)(a) indicates that the Investigating Director may without a warrant enter upon any premises if he or she upon reasonable grounds believes that the required warrant will be issued to him or her if he or she were to apply for such warrant, and the delay caused by the obtaining of any such warrant would defeat the object of the entry, search, seizure, and removal. Items that can be searched for and seized under this power can include any object, book or document and can therefore also information which is subject to confidentiality arrangements such as transaction records, identification information relating to a customer, account files, business correspondence and any other records relating to a customer which a financial institution may hold.

General search and seizure powers are contained in the Criminal Procedure Act 1977 (Act No. 51 of 1977) (CPA) which are provided by means of a warrant issued by a judicial officer,¹⁰⁴ and under section 13 South African Police Service Act 1995 (Act No. 68 of 1995) (SAPS Act). Chapter 2 of the CPA

¹⁰³ Preamble to the Promotion of Access to Information Act (Act 2 of 2000).

¹⁰⁴ Criminal Procedure Act (Act No. 51 of 1977), Chapter 2, Sections 20, 21.

provides for the application and granting of search warrants, seizure, forfeiture and disposal of property connected with any offence. Section 20 covers the seizure of any article which is —concerned or on reasonable grounds is believed to be concerned in the commission or suspected commission of an offence in the Republic of elsewhere; which may afford evidence of the commission or suspected commission of an offence, whether within the Republic of elsewhere; or which is intended to be used or is on reasonable grounds believed to be intended to be used in the commission of an offence.¹⁰⁵

The Prevention of Organised Crime Act (Act 121 of 1998) (POCA) provides for the confiscation of —proceeds of unlawful activities. Section 1 of the POCA specifies that —unlawful activities include —any conduct which constitutes a crime. Confiscation extends not only to benefits derived from offences of which the defendant has been convicted, but also to proceeds of —any criminal activity which the Court finds to be sufficiently related to those offences. Chapter 5 of the POCA provides for conviction based forfeiture and confiscation. Under section 18, confiscation is not mandatory but may be requested by the prosecutor where a defendant has been convicted of an offence. Any realisable property of the accused, including legitimately obtained and untainted, may be subject to confiscation. Proceedings on application for a confiscation order are civil proceedings. Consequently, **the rules of evidence applicable in civil proceedings (i.e. —balance of probabilities) apply, and not the stricter rules of evidence applicable in criminal proceedings (i.e. —beyond reasonable doubt).**¹⁰⁶ Chapter 6 of the POCA provides for non-conviction based forfeiture. Under section 38, the High Court may make a preservation order in respect of proceeds and instrumentalities of crime. This property can eventually be forfeited to the State if the Court finds, **on the balance of probabilities**, that the property concerned constitutes the proceeds of unlawful activities.¹⁰⁷

Investigatory powers

The NDPP may direct a Director of Public Prosecutions (such as the head of the Directorate for Priority Crime Investigations (DPCI) or an Investigation Director) to conduct an investigation before instituting asset forfeiture or criminal proceedings (National Prosecuting Authority Act, 1998). This is undertaken when the National Director has reason to suspect that there may be property (in any place or in any person's possession, custody or control), which may either:

¹⁰⁵ Criminal Procedure Act (Act No. 51 of 1977), Chapter 2, Section 20(a), (b), (c).

¹⁰⁶ Prevention of Organised Crime Act (Act 121 of 1998) (POCA), Section 13.

¹⁰⁷ Prevention of Organised Crime Act (Act 121 of 1998) (POCA), Section 50(l).

- Have been used in the commission, or for the purpose of or in connection with any corruption offence.
- Have facilitated the commission of such an offence.
- Have enabled any person or entity to commission such an offence.
- Have provided financial or economic support to a person or entity in the commission of such an offence.
- Be the proceeds of such an offence.

The Asset Forfeiture Unit (AFU), a directorate of the NDPP, is authorised under the Prevention of Organised Crime Act (POCA) to seek temporary restraining orders or permanent forfeiture orders to restrain the use of the proceeds of crime or to permanently confiscate the proceeds for either return to the victim or forfeiture to the state. Proceedings are instituted by application (motion). Very urgent proceedings for temporary orders obtained without notice to the party against whom relief is sought may be granted overnight. Normal applications can vary widely depending on the nature of the matter and the extent of the opposition to the application. A typical opposed application can take about six to months to finalise.

Extra-territorial jurisdiction

Liability under the Prevention and Combating of Corrupt Activities Act (PRECCA) extends to South Africans (individuals, companies or other entities) who commit offences outside of South Africa in certain instances, even if the commission of that offence is not a crime in the jurisdiction where it was committed. Liability under PRECCA can also extend to individuals who are not South African citizens or residents but commit offences which affect South African companies or individuals and the perpetrator is arrested in or extradited to South Africa.

The International Co-operation in Criminal Matters Act, 1996 (ICCMA) allows South Africa to respond to requests for assistance in obtaining evidence once the Director-General of the Department of Justice is satisfied that the proceedings have been instituted in a court or tribunal and that there are reasonable grounds for believing that the offence has been committed in the requesting state or an investigation is underway. The ICCMA also provides for a reciprocal provision for South Africa as the requesting state.

South Africa has acceded to United Nations Convention against Transnational Organized Crime, 2000, together with its three supplementary protocols.

South Africa has Mutual Legal Assistance in Criminal Matters Treaties (MLA treaties) with the following countries: Canada, USA, Lesotho, Egypt, Algeria, Nigeria, France, China, and India. South Africa has also signed the Southern African Development Community (SADC) Protocol on Mutual Legal Assistance in Criminal Matters together with Angola, Botswana, Democratic Republic of Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, Kingdom of Swaziland, Tanzania, Zambia and Zimbabwe.

The ICCMA provides for the confiscation and transfer of assets obtained from criminal activities to be requested by South Africa or made to South Africa.

These are indications of increased cross-border co-operation between regulatory authorities, and South African authorities are no exception. In practice, information sharing does occur cross-border

Generally, the National Prosecuting Authority can apply for injunctions, freezing orders, confiscation orders and other court orders under the Criminal Procedure Act (CPA), read with the Prevention of Organised Crime Act (POCA). The NPA must apply to court for any such order and, depending on the level of urgency, the application may be heard within a week of being brought, or in the ordinary course, which can take a number of months.

Reports can be made under section 34 of PRECCA by a person in a position of authority to the Directorate for Priority Crime Investigation (DPCI) of SAPS by completion of the required form found at www.saps.gov.za/dpci/reportingguide.php . The South African Reserve Bank (SARB) acts as supervisory body for the Banks Act and the Inspection of Financial Institutions Act. The Financial Services Board (FSB) is the statutory supervisory body for financial services other than banking.

There is no specific fraud regulator in South Africa. The South African Reserve Bank (SARB) and the Financial Services Board (FSB) serve as regulators to the banking and financial services industries. The South African Police Service (SAPS) has an all-encompassing duty to investigate suspected fraud in all other areas. These authorities all have investigative powers, including search and seizure powers. Once they have accumulated sufficient information, legal proceedings may be instituted at the appropriate Magistrates' Court or High Court. There is a distinction between civil and criminal proceedings. A victim and a number of regulatory and enforcement authorities can bring civil proceedings for fraud. Only the prosecution authority can bring criminal proceedings against offenders.

Common forms of court orders or interdicts (injunctions) that can be granted for fraud include freezing orders, interim interdicts and disclosure orders. The Asset Forfeiture Unit (AFU), a directorate of the National Director of Public Prosecutions (NDPP), is authorised under the Prevention of Organised Crime Act, 1998 (POCA) to seek temporary restraining orders or permanent forfeiture orders to restrain the use of the proceeds of crime or to permanently confiscate the proceeds for return either to the victim or for forfeiture to the state.

Proceedings are instituted by way of application (motion), with evidence presented by way of affidavit. Very urgent proceedings for temporary orders obtained without notice to the party against whom relief is sought may be granted overnight. Normal applications can vary widely depending on the nature of the matter and the extent of the opposition to the application. A typical opposed application can take about six to months to finalise.

The International Criminal Court Act 2002 (ICCA) grants South African courts extra-territorial jurisdiction over offences committed or affecting South African citizens or people ordinarily resident in South Africa. Regulatory authorities increasingly interact with overseas regulators.

The Prevention and Combating of Corrupt Activities Act (PRECCA) provides measures to prevent and combat corruption and corrupt activities in South Africa. It applies to both the public and private sector, including both legal entities and individuals. PRECCA creates the general offence of corruption, as well as a number of specific offences relating to corrupt activities. It also provides for investigative measures to be adopted by the South African Police Service (SAPS) in relation to corruption offences.

The following statutes also support the prevention and combatting of corruption in South Africa:

- Prevention of Organised Crime Act (POCA), which was introduced to combat organised crime, money laundering and related gang and racketeering offences. POCA applies to both organised crime and cases of individual wrongdoing.
- Special Investigating Units and Special Tribunal Act, 1996 (SIU Act), which empowers the Special Investigating Unit (SIU) to investigate maladministration in relation to state institutions, state assets and public money.
- Protected Disclosures Act (PDA), which protects whistleblower employees from occupational detriment by their employers.

- The Protection of Constitutional Democracy against Terrorism and Related Activities Act, 2004 (POCDATARA), which introduces laws to prevent terrorism (including financial support for terrorism) and aligns South African law with international conventions and treaties.
- The International Co-operation in Criminal Matters Act, 1996 (ICCMA) allows co-operation between South Africa and foreign countries to assist in the investigation into or freezing of assets that are suspected to be the proceeds of crime.
- The Companies Act 2008 incorporates anti-corruption measures through section 72(4), read with Regulation 43, which requires the establishment of social and ethics committees for certain companies, including all publically listed and state-owned companies. Social and ethics committees are required to perform a wide range of activities, including monitoring the company's anti-corruption activities.

National Prosecuting Authority (NPA) Asset Forfeiture Unit (AFU):

The Prevention of Organised Crime Act (Act 121 of 1998) POCA, Section 71 provides for the access to information in terms of:

“(1) The National Director may request any person employed in or associated with a Government Department or statutory body to furnish him or her with all information that may reasonably be required for any investigation in terms of this Act and such person shall notwithstanding anything to the contrary contained in any law which prohibits or precludes him or her-

(a) from disclosing any information relating to the activities, affairs or business of any other person; or

(b) from permitting any person to have access to any registers, records or other documents, or electronic data which have a bearing on the said activities, affairs or business, furnish the National Director with such information and permit the National Director to have access to any registers, records, documents, and electronic data, which may contain such information.”

Section 72 of POCA provides furthermore: “Whenever the National Director has reason to believe that any person may be in possession of information relevant to the commission or intended commission of an alleged offence in terms of this Act, or any person or enterprise may be in possession, custody or control of any documentary material relevant to such alleged offence, he or she may, prior to the institution of any civil or criminal proceeding, under written authority direct that a particular Director of Public Prosecutions shall have, in respect of a specific investigation, the power to

institute an investigation in terms of the provisions of Chapter 5 of the National Prosecuting Authority Act, 1998.”

In terms of Sharing of information, Section 73 of POCA provides: Notwithstanding the provisions of section 4 of the Income Tax Act, 1962 (Act 58 of 1962), and with regard to any other secrecy provision in similar legislation, whenever any investigation is instituted in terms of this Act, including an investigation into any offence referred to in Schedule 1, and an investigation into the property, **financial activities**, affairs or business of any person, the Commissioner of the South African Revenue Services or any official designated by him or her for this purpose, shall be notified of such investigation with a view to mutual co-operation and the sharing of information.

Financial Intelligence Centre (FIC):

Accountable institutions (banks, long-term insurance companies, estate agents, attorneys, auditors, financial advisors, and others) must undertake proper due diligence procedures in identifying and verifying customers, keeping records of transactions and reporting suspicious transactions. These accountable institutions must also register with the Financial Intelligence Centre (FIC), formulate appropriate internal rules and appoint a compliance officer. All other businesses have reporting obligations for suspicious or unusual transactions.

Under the Financial Intelligence Centre Act (FICA), the Financial Intelligence Centre (FIC) can appoint inspectors with powers of routine inspection and who, subject to a warrant being obtained from court, can conduct inspections based on a suspicion of a failure to comply with FICA or any order, determination or directive made under FICA, or a contravention of FICA, and because the inspector suspects that information pertaining to such failure or contravention may be discovered during an inspection.

A High Court may, on application without notice by the National Director of Public Prosecutions to a judge in chambers, make an order prohibiting any person from engaging in any conduct concerning property in respect of which there are reasonable grounds to believe that the property is owned or controlled by or on behalf of, or at the direction of either:

- Any entity that has committed, attempted to commit, participated in or facilitated the commission of a specified offence under The Protection of Constitutional Democracy against Terrorism and Related Activities Act (POCDATARA).
- A specific entity identified in a notice issued by the President under POCDATARA.

Section 27 of the Financial Intelligence Centre Amendment Act¹⁰⁸ (2017) PART 3 “Reporting duties and access to information” allows the FIC, through an authorised representative, to request an accountable institution to confirm whether a person, entity or trust, is or has been, a client of that institution. Only staff members of the FIC are authorised to make requests of this nature to accountable institutions. The FIC act functions similar to a centralised account registry whereby Requests for information from law enforcement and other investigative authorities must be routed to the Centre via an Authorised Officer duly appointed in terms of the FIC Act . These requests are subsequently registered on the FIC database and forwarded to accountable institutions concerned. Once responses are received, the intelligence is reverted to the requester. Feedback from Accountable Institutions on requests in terms of section 27 of the FIC Act are generally received within 5 working days, although urgent matters can be expedited for a response within hours.

In terms of section 32 of FICA, the Centre or an investigating authority acting with the permission of the Centre or under the authority of an authorised officer, may request an accountable institution, a reporting institution or any other person that has made a report in terms of section 28, 29 or 31 to furnish additional information concerning the report and the grounds for the report. The Centre does not need a warrant to make such request.

South African Revenue Service (SARS):

In the context of tax administration, South African Revenue Service (SARS) has substantial statutory information gathering powers it may use to obtain information of the legal or beneficial owner of a bank account. Most of these powers do not require a court order or other judicial approval. SARS may use its statutory information gathering powers to obtain information that is foreseeably relevant to the administration of a tax Act (as set out in section 3 of the Tax Administration Act, 2001 (TAA)¹⁰⁹). See, for example, section 46 of the TAA. The period afforded within which information must be provided depends on the ambit of the information sought, but generally it would be two weeks. Information requests are delivered to banks physically, by ordinary or registered mail or to an electronic address of the bank (telefax, email or, for example, tax e-Filing platform of the bank). Banks can oppose the request for information on the basis that the request does not comply with the

¹⁰⁸ Financial Intelligence Centre Amendment Act (act 1 of 2017)
http://www.fic.gov.za/Documents/FICA_Act%201%20of%202017.pdf

¹⁰⁹ Tax Administration Act, Act 28 of 2011 (TAA) <http://www.sars.gov.za/AllDocs/LegalDoclib/AABC/LAPD-LPrim-Act-2012-01%20-%20Tax%20Administration%20Act%202011.pdf>

legal requirements thereof. The established channel for requesting financial institutions to disclose third party information is SARS's Third Party Data reporting e-Filing platform.

South Africa is also a signatory to Automatic Exchange of Information (AEOI) international agreements or tax standards such as the United States of America (USA) Foreign Account Tax Compliance Act (FATCA) Intergovernmental Agreement (IGA) and the OECD Standard for Automatic Exchange of Financial Account Information (AEOI), which includes the Common Reporting Standard (CRS). The FATCA IGA, an international tax agreement entered into in accordance with the Income Tax Act, 1962, which gives it the force of law in South Africa and the CRS Regulations issued under the Tax Administration Act, 2011, are enforceable laws in South Africa. These laws require qualifying South African Reporting Financial Institutions (RFIs) to review the financial accounts managed by them by applying prescribed due diligence procedures to find accounts held by individuals or entities that may be tax resident in the US (for FATCA purposes) or any other foreign jurisdiction (for CRS purposes). In the case of an entity being the account holder, RFIs are required to apply the 'see-through' principle to determine who the controlling persons/beneficial owners (CP/BO) of these entities are. If such CP/BO are tax resident in a foreign jurisdiction, the prescribed details of the account and CPs/BOs must be reported to SARS. This information is then exchanged under AEOI with countries with who South Africa has international exchange of information agreements in place. If SARS receives information regarding South African tax residents (individual account holders or CPs/BOs of entity account holders) with offshore bank accounts, it will apply a risk analysis to determine which individuals may have been non-compliant with their tax obligations. SARS may also require additional information from its exchange partners under EOIR.

SARS may disclose information to other regulatory or law enforcement bodies in the circumstances prescribed in Chapter 6 of the TAA. Exchanged information may only be disclosed in accordance with the confidentiality provisions of the relevant international exchange agreement.

The South African Revenue Service (SARS) also issues regular notices in the Government Gazette in terms of section 69 of the Income Tax Act, No 58 of 1962 (the Act), which section has been superseded by section 26 of the Tax Administration Act, No 28 of 2011 (the TAA). In terms of the notices, banks are obliged to furnish financial information to SARS relating to taxpayers including both natural and juristic persons during specific Tax years, including:

- Names, surname, date of birth/Registered name if juristic person;
- Address, identity number/registration number if juristic person, tax number;

- Bank account number and dates account was opened/closed;
- Closing balance of account at end of period;
- Interest accrued;
- Monthly totals of all credits and debits to the account and;
- FICA status of the taxpayer.

Department of Trade and Industry (dti) Companies and Intellectual Property Registry Commission (CIPC)

A company must keep accurate and complete accounting records, in any official language, that enable the company to prepare its annual financial statements and that include accounting records kept in the prescribed manner and form (section 28, Companies Act). South Africa has 11 official languages. Accounting records must be kept at or be accessible from the registered office of the company. Regulation 27 of the Companies Regulations, 2011 (Companies Regulations) provides that a company's records should be prepared in accordance with the relevant International Financial Reporting Standards (IFRS) or South African Generally Accepted Accounting Practice (SA GAAP), where appropriate. These records, the financial statements and all the supporting and underlying documents must be kept for at least seven years.

Under regulation 25 of the Companies Regulations a company's accounting records must also include records:

- Of the company's assets and liabilities.
- Of any property held by the company.
- Of the company's revenue and expenditure.
- Of inventory and stock in trade, statements of annual stock taking.
- Enabling the value of the company's shares at the end of the financial year to be determined.

According to the Companies Act (Act 71 Of 2008)¹¹⁰ Chapter 2 Part C “Transparency, accountability and integrity of companies”, Section 24-26:

Section 24: Form and standards for company records

24. (1) Any documents, accounts, books, writing, records or other information that a company is required to keep in terms of this Act or any other public regulation must be kept—

(a) in written form, or other form or manner that allows that information to be converted into written form within a reasonable time; and

(b) for a period of seven years, or any longer period of time specified in any other applicable public regulation, subject to subsection (2).

(2) If a company has existed for a shorter time than contemplated in subsection (1)(b), the company is required to retain records for that shorter time.

(3) Every company must maintain—

(a) a copy of its Memorandum of Incorporation, and any amendments or

alterations to it, and any rules of the company made in terms of section 15(3) to (5);

(b) a record of its directors, including—

(i) details of any person who has served as a director of the company, for a period of seven years after the person ceases to serve as a director; and

(ii) the information required by or in terms of subsection (5);

(c) copies of all—

(i) reports presented at an annual general meeting of the company, for a period of seven years after the date of any such meeting;

(ii) annual financial statements required by this Act, for seven years after the date on which each such particular statements were issued; and

¹¹⁰ Companies Act (Act 71 Of 2008): http://www.cipc.co.za/files/2413/9452/7679/CompaniesAct71_2008.pdf)

(iii) accounting records required by this Act, for the current financial year and for the previous seven completed financial years of the company;

(d) notice and minutes of all shareholders meetings, including—

(i) all resolutions adopted by them, for seven years after the date each such resolution was adopted; and

(ii) any document that was made available by the company to the holders of securities in relation to each such resolution;

(e) copies of any written communications sent generally by the company to all holders of any class of the company's securities, for a period of seven years after the date on which each such communication was issued; and

(f) minutes of all meetings and resolutions of directors, or directors' committees, or the audit committee, if any, for a period of seven years after the date—

(i) of each such meeting; or

(ii) on which each such resolution was adopted.

(4) In addition to the requirements of subsection (3), every profit company must maintain—

(a) a securities register or its equivalent, as required by section 50; and

(b) the records required in terms of section 85, if that section applies to the company.

(5) A company's record of directors must include, in respect of each director, that person's—

(a) full name, and any former names;

(b) identity number or, if the person does not have an identity number, the person's date of birth;

(c) nationality and passport number, if the person is not a South African;

(d) occupation;

(e) date of their most recent election or appointment as director of the company;

(f) name and registration number of every other company or foreign company of which the person is a director, and in the case of a foreign company, the nationality of that company; and

(g) any other prescribed information.

(6) To protect personal privacy, the Minister, by notice in the Gazette, may exempt from the application of subsection (5)(a) categories of names as formerly used by any person—

(a) before attaining majority, or by persons who have been adopted, married, divorced or widowed; or

(b) in other circumstances prescribed by the Minister.

Section 25: Location of company records

25. (1) The records referred to in section 24 must be accessible at or from the company's registered office or another location, or other locations, within the Republic.

(2) A company must file a notice, setting out the location or locations at which any particular records referred to in section 24 are kept or from which they are accessible if

those records—

(a) are not kept at or made accessible from the company's registered office, as contemplated in subsection (1); or

(b) are moved from one location to another.

Section 26: Access to company records

26. (1) A person who holds or has a beneficial interest in any securities issued by a company—

(a) has a right to inspect and copy the information contained in the records of the company—

(i) mentioned in section 24(3)(a), (b), (c)(i) and (ii), (d) and (e); or

(ii) contemplated in section 24(4)(a) or (b);

(b) has a right to any other information to the extent granted by the Memorandum of Incorporation, as contemplated in subsection (2); and

(c) may exercise the rights set out in paragraph (a) or (b)—

(i) by direct request made to the company in the prescribed manner, either in person or through an attorney or other personal representative designated in writing; or

(ii) in accordance with the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

(2) In addition to the information rights set out in subsection (1)(a), the Memorandum of Incorporation of a company may establish additional information rights of any person, with respect to any information pertaining to the company, but no such right may negate or diminish any mandatory protection of any record, as set out in Part 3 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

(3) The register of members and register of directors of a company, must, during business hours for reasonable periods be open to inspection by any member, free of charge and by any other person, upon payment for each inspection of an amount not more than R100,00.

(4) The rights of access to information set out in this section are in addition to, and not in substitution for, any rights a person may have to access information in terms of—

(a) section 32 of the Constitution;

(b) the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000); or

(c) any other public regulation.

(5) The Minister may make regulations respecting the exercise of the rights set out in this section.

(6) It is an offence for a company to—

(a) fail to accommodate any reasonable request for access, or to unreasonably refuse access, to any record that a person has a right to inspect or copy in terms of this section; or

(b) to otherwise impede, interfere with, or attempt to frustrate, the reasonable exercise by any person of the rights set out in this section.

Section 26 of the Companies Act No. 71 of 2008 (Companies Act) a person who holds or has a beneficial interest in any securities of a profit company or who is member of a non-profit company has the right to inspect and copy, without any charge for such inspection or upon the payment of no more than prescribed maximum charge for the copying of the following records of a company:

- memorandum of incorporation;
- register of directors;

- reports to annual meeting and annual financial statements;
- notices and minutes of annual meetings; and
- the securities register of a profit company or the members register of a non-profit company.

Section 26 further provides that, in the context of a profit company, “any other person” has a right to inspect or copy the securities register of a company or the register of directors at a prescribed fee; and that person is entitled to inspect the register of directors during the business hours for an inspection fee of no more than ZAR 100 (one hundred Rand). It should be noted that the inspection hours and payment of the ZAR 100, only applies to “the register of directors of a company”, thereby excluding the fee mentioned to inspect or copy the securities register. The prescribed fee referred to make the relevant copies is not prescribed by the Companies Act as opposed to the prescribed inspection fee above.

A request for such information in terms of the Companies Act No. 71 of 2008 (“Companies Act”) may be made either by an attorney, or in person or via a designated person in writing. The Companies Act does not qualify the word “copy” and it is suggested that the company can provide such a copy irrespective of the means by which it is made in order to comply with this section. There is in turn no specification or restriction on the means used to make the copy by the person desiring such a copy. We submit that in either case a standard photocopy should be sufficient. It is important to note that section 26, insofar as it relates to the rights of “any other person” that does not have a beneficial interest in a company, does not incorporate the right to access to the books of account and financial statement of the company.

Section 26(9) of the Companies Act provides that if a company fails to accommodate any reasonable request for access to, or to unreasonably refuse access to any record that a person has a right to inspect or copy in terms of section 26 (Access to company records) or to otherwise impede, interfere with, or attempt to frustrate, the reasonable exercise by any person of the rights of access to the company records, it constitutes an offence in terms of the Companies Act.

Section 76 (Standards of directors conduct) provides that a director of a company, when acting in that capacity, must exercise the powers and perform the functions of director –

- in good faith and for a proper purpose;
- in the best interests of the company; and

- with the degree of care, skill and diligence that may reasonably be expected of a person –
 - carrying out the same functions in relation to the company as those carried out by that director; and
 - having the general knowledge, skill and experience of that director. Section 218 (Civil actions) provides that any person who contravenes any provision of the Companies Act is liable to any other person for any loss or damage suffered by that person as a result of that contravention.

The Companies Act further provides that any person convicted of an offence in terms of the Companies Act, is liable to a fine or to imprisonment for a period not exceeding 12 months, or to both a fine and imprisonment.

Rights and possible actions against the directors and/or the company:

- A complaint relating to an alleged contravention of the Companies Act may be reported to Companies and Intellectual Property Commission (“CIPC” or “Commission”) by completing a form 1, and sending it to the Commission.
- A form 1 is a simple form requiring information such as:
 - the nature of the complaint;
 - if the conduct is still continuing;
 - if you would like the Commission to commence court proceedings in your name;
 - an attached document describing the conduct in question;
 - complainant contact details; and
- generally such a complaint is not public record and you have the right to identify information that you believe is confidential.

The Commission then may proceed as follow:

- they may choose not to investigate if the complaint appears to be frivolous, vexatious or does not allege any facts that would constitute grounds for remedy;

- they can refer the matter, should it be more practical to do so, for resolution by mediation, conciliation or arbitration to the Companies Tribunal or an accredited entity or any other person;
- they can direct an investigator or inspector to investigate the complaint; or
- they can initiate the complaint on the own accord.

In terms of the Companies Act the Commission has the power to, inter alia:

- issue a compliance notice;
- apply for administrative fines;
- refer matters to the National Prosecuting Authority (NPA), Companies Tribunal, other regulatory authorities concerned and/or for alternative dispute resolution;
- issue a summons; or
- issue and enter a search under warrant.
- complaints in terms of the Companies Act may not be initiated by, or made to, the Commission/CIPC, more than three years after the act or omission that is the cause of the complaint; or in the case of a course of conduct or continuing practice, the date that the conduct or practice ceased.

d) Please indicate, if available, the yearly number of requests in 2014, 2015 and 2016 by law enforcement, anti-corruption and AML authorities

No information available.

e) Please indicate which of your country's law enforcement, anti-corruption and AML-authorities can request such information.

Anti-Corruption Task Team (ACTT), South African Police Service (SAPS), Directorate for Priority Crime Investigations (DPCI), South African Revenue Service (SARS), State Security Agency (SSA), National Prosecuting Authority (NPA), Asset Forfeiture Unit (AFU), Special Investigating Unit (SIU), Auditor General South Africa (AGSA)

Questions f)-k) not applicable.

2. How to find out if a natural or legal person owns real estate in the country?

Ownership of real estate property is recorded in Deeds Registries which are Government run offices. There are Deeds Offices in most provinces. The full name, identity number and marital status of a natural person, the full name and registered numbers of a company, close corporation and trusts have to be disclosed for all parties to a real estate transaction. Ownership records are public information and anyone may approach the Deeds Registries for information about ownership, mortgagees and servitudes. Most law firms and real estate agents have online access to search the records of the Deeds Registries.

All transactions relating to the purchase and sale of real estate must be recorded on the property deed which is registered electronically in one of South Africa's nine deeds offices. The property registry is maintained by the Department of Land Affairs and is accessible to the authorities.

The Deeds Office Person Search provides online information from the Department of Rural Development and Land Reform on property ownership on a natural or juristic person at any of the 10 Deeds Offices in South Africa. Searches are performed by providing a name or identity (ID)/registration number. Searches are available for one or multiple Deeds Offices (with a search charge applicable for each selected Deeds Office). A batch search facility is also available and can be accessed from the Deeds Office Person Search input page.

A Deeds Person search will yield the following information:

1. Person information, which includes the natural or juristic registered name and ID or registration number (when available). It also includes the marital status of a natural person at the time of the property transaction.
2. Property information. All properties owned by the search subject will be displayed, including Deeds Office property description, LPI code (the unique Surveyor General code for the property, used mainly for mapping purposes), title deed number, microfilm reference, purchase price, sale date and registration date.
3. Contracts. Contracts registered at the Deeds Office are detailed and include antenuptial contracts, interdicts, and notarial bonds.

Deeds Company search

A Deeds Company search will return the following information:

1. Property information. The property information returned includes the complete Deeds Office description, LPI code, extent, diagram deed number and local authority.

2.Ownership details (individual and juristic with ID or registration number). These include the percentage of ownership for multiple owners. Also included are the title deed document number, purchase price, purchase date and registration date.

3.Endorsements. Deeds Office endorsements include interdicts, subdivisions, consolidations and bond details.

4.Historical ownership of the property is noted, including the owner name, purchase price (when available) and title deed document details.

Deeds Erf search: Convert any erf number into a street address by entering the official property description from the Deeds Office (erf or sectional scheme).

Deeds Farm search: Searched for any farm in in South Africa by using the following search criteria:

- Farm name
- Farm number
- Portion
- Registration division

The results you will get from a Deeds Farm search include:

1. Property information.
2. Ownership information.
3. Bond information.
4. Historic document.

Deeds Sectional Title: Searches for any Sectional Title in South Africa by using the following search criteria:

- Scheme prefix
- Sectional title name
- Sectional scheme number
- Unit number

Search results return the following information:

1. Ownership information.

2. Sectional information.
3. Scheme details.
4. Purchase date.
5. Title deed number.

Deeds Document

Several kinds of documents are registered at the Deeds Office, including title deeds, bond documents, antenuptial agreements and interdicts. Searching by document number at the appropriate Deeds Office will give you the details of that document and the option to request a document copy.

Ownership of real property is recorded in Deeds Registries which are Government run offices in most provinces. The full names, identity number and marital status of natural persons, the full names and registered numbers of companies, close corporations and trusts have to be disclosed for all parties to a real estate transaction. All properties are identified on cadastral diagrams, general plans or sectional plans prepared by land surveyors and approved by Surveyor General Offices run by the Government. All properties have their own number and their exact location in relation to survey beacons is described. Ownership records are public information and anyone may approach the Deeds Registries for information about ownership, mortgagees and servitudes. Most law firms and real estate agents have online access to search the records of the Deeds Registries.

South Africa has an efficient system of registration of title to land, based on a land survey system. Each portion of land is determined by a diagram prepared by a surveyor and registered in the Surveyor General's Office. This gives rise to a certain and definite basis of registration of land. Pursuant to the land survey, property registers have been established in the various deeds registries within the different provinces of South Africa. Those registers are properly indexed and are now accessible electronically, the originals of title deeds and other documentation having been digitised. The deeds registries are established under the relevant government department, and all fall under a Chief Registrar of Deeds. Given the definite underlying survey system, the property registers are very accurate and create a definite form of land registration. All ownership of land is recorded in a deeds registry. Ownership of land is evidenced by a title deed issued by the deeds registry, which will record the owner's details and the conditions under which the land is held. These conditions are normally imposed by local authorities and by private agreement. If ownership is not registered in a deeds registry, it is most likely that ownership of the property has not passed. Transfer of ownership

of property is also evidenced by registration in the deeds registry.

The law applicable to the transfer and registration of land, is, in the first instance, the Deeds Registries Act 47 of 1937, together with its regulations. There are a number of other statutes that govern the ownership and transfer of land, but in essence, there is no restriction on ownership of land in South Africa and any natural person or juristic person may own land.

It is possible to own units in buildings through the Sectional Titles Act 95 of 1986. These are known as sectional title units, and are registered in a deeds registry, by reference to a sectional title plan, prepared by a surveyor registered with the Surveyor General. Property rights are protected in the Constitution of South Africa 1996. The Bill of Rights in the Constitution restricts the deprivation of property, except in the case of expropriation in terms of a law of general application, which must then be subject to compensation, which must be agreed by the affected persons or approved by a court. That compensation must be just and equitable and generally requires that regard be given to the fair-value principle. There is a process of restitution to persons dispossessed of land through racially discriminatory laws, which is governed by the Restitution of Land Rights Act 22 of 1994.

South African property law provides for various types of registered land title including freehold title, sectional title, and long lease. Ownership may be held by a natural person, partnership, company, close corporation, trust, association, or any other recognised entity. The country has one of the finest land registration systems in the world. The precise location, status and identity of any given surveyed land parcel are unquestionable, contributing to secure land ownership. Ownership by foreign legal entities is subject to certain restrictions, notably those contained in the Companies Act, No. 71 of 2008.

Save for some formalities contained in various laws, including the Alienation of Land Act, No. 68 of 1969, and the Occupational Health and Safety Act, No. 85 of 1993, South African law does not prescribe the form or content of an agreement of sale of land. All disposals of immovable property are subject to transfer duty or VAT. Real security may be gained from encumbering land with a mortgage bond(s).

Transferring ownership or limited real rights over land requires the registration of a deed under the Deeds Registries Act, No. 47 of 1937. The registration process is driven by attorneys who have qualified as conveyancers. The average time to register a transaction once a deed of sale has been signed and has become unconditional is between two to four weeks.

Pertinent developments in real estate law include the:

- new Real Estate Investment Trusts tax dispensation, which aims to align the country's listed property sector with international standards;
- Expropriation Bill, which seeks to expedite land reform in South Africa;
- Property Valuation Bill which provides for the appointment of a valuer-general and the valuation of land identified for land reform, for expropriation, or for acquisition by the State; and
- proposed amendment to the Restitution of Land Rights Amendment Bill, which will extend the time frame within which claims for restitution can be made.

There is no restriction on foreign investors acquiring property in South Africa. Foreign companies wishing to acquire property in South Africa must register as an external company in terms of the Companies Act 2008. A withholding amount is payable by the purchaser of the foreign owned immovable property to the South African Revenue Service ('SARS') pending determination of the tax liability of the non-resident seller to SARS. The current rates are 5 per cent for individuals, 7.5 per cent for companies and 10 per cent for trusts. Treaty relief may be available to taxpayers in terms of international treaties.

Before the proceeds of the sale of immoveable property in South Africa or shares in a company owning South African immoveable property may be remitted abroad by a non-resident, South African Reserve Bank approval is required, and one of the requirements for approval is that all taxes have been paid. That aside, there is generally no restriction on remitting the proceeds from the sale of a property, provided the purchase price was funded from abroad.

3. How to find out if a natural or legal person owns a company/business in the country?

All companies doing business in South Africa, including foreign companies, must be registered in the national company registry, CIPC (Companies and Intellectual Property Commission). It resorts under the Dept of Trade and Industry. From 1 May 2011, close corporations are no longer being registered, but information can still be obtained for previously registered close corporations. The 426 public companies that are listed have additional disclosure and reporting obligations. They must comply with the JSE listings requirements on an on-going basis. These deal mainly with the disclosure and timing of financial information (3.15 to 3.25 and 3.86 and 8.64 of the JSE Rules). There is the general obligation to issue announcements where there is information which cannot be kept confidential and the knowledge thereof may lead to movements in the company's share price i.e. trading statements and cautionary announcements (3.4 to 3.10). They must announce the dealings of directors and certain other parties when trading in the listed company's securities.

The registration requirements for companies (public or private), close corporations and co-operatives are similar. When registering a company, the applicant must file the requested business name, address, power of attorney, articles of association (for a company without share capital) or memorandum of association (for a company with share capital), and details of the directors. The particulars of the directors and officers to be supplied and updated include: surname, full forenames, former surname and forenames, identity number or, if not available, date of birth, date of appointment, designation, name and registration number of every other company of which the person is a director, residential address, business address, postal address, nationality (if not South African), occupation, and whether resident in South Africa or not. Companies are required to notify CIPRO within 15 days of changes to certain particulars (occupation, residential and business address) and within 28 days of changes to directors or officers. Failure to file the particulars or changes to particulars is an offence, but one that is punishable only by a token fine (ZAR 150 / EUR 13) (ss.211 and 216 Companies Act). Directors and other persons directly or indirectly involved in the management of the company must be natural persons. However, nominee directorship is allowed, and there is no requirement to file with CIPRO information concerning the underlying party. Nominee shareholders are also allowed, and the Registry does not contain information on shareholders, meaning that, the Registry cannot be relied upon for information on either legal or beneficial ownership.

When registering a close corporation, the applicant must supply a —founding statement that includes the close corporation's name, the principle business to be carried on, postal address, the full name of each member, identity number (or date of birth if he/she does not have an ID number), and residential address, and the size, expressed as a percentage, of each member's interest in the corporation, and particulars of contribution and fair monetary value thereof (if applicable) (s.12 Close Corporations Act). Although members generally must be natural persons, there is an exception for trustees (provided that the trustee does not benefit from the trust). There is no requirement for a member trustee who is a legal person to register with CIPRO information concerning the underlying natural person(s). Close corporations are required to notify the CIPRO of any changes in the particulars referred to above within 28 days (s.15 Close Corporations Act). CIPRO can remind CCs of this obligation and write a written notice to comply, for which there is a penalty of 5 ZAR per day upon which the reminder was sent and not complied with.

When registering a cooperative, the applicant must submit the list of founding members and directors, and the constitution of the cooperative (including the name, objectives, description, location of registered office and general meetings, etc.) (ss.6 and 14 Cooperatives Act.). The

Cooperatives Act does not specify what information on directors must be supplied or updated, and they are not limited to being natural persons. Where a director is a legal person, there is no obligation to register with CIPRO information about the beneficial owner(s) of that director.

For legal persons generally, CIPRO is a good depository of information concerning legal control and, in the case of close corporations and cooperatives, legal ownership. However, the Registry does not collect information on beneficial ownership and control, as those terms are defined by the FATF. Another overarching problem in relation to all of the information contained in the Registry is that none of it is verified, so it cannot be said to be accurate.

In South Africa, a company is a resident if it is incorporated in South Africa under the Company Act 71 of 2008. In terms of the Company Act, the directorship of the company must be made public and a company is obliged to have a shareholder register which is kept at its principal place of business. A member of the public is entitled under the Company Act to request a copy of the shareholder register. The incorporation, registration, organisation and management of companies and the capitalisation of profit companies are governed by the Companies Act, No. 71 of 2008 (the Act).

Each type of company must comply with specific reporting and accountability requirements. The Act prescribes the management structure for each type of company. The board of a company has the authority to exercise all of the powers and perform any of the functions of the company, except to the extent that the company's constitutional document provides otherwise. Directors are subject to common law duties as well as statutory duties.

South African companies must keep registers of the directors and officers (s.215 Companies Act). Similar requirements apply to foreign companies, including in relation to the types of particulars on directors must be recorded and supplied (s.322 Companies Act). Foreign companies must appoint a local South African representative and maintain in South Africa a register of directors, managers and secretaries; the provisions in ss. 211, 215 and 216 cited above also apply the local agent (ss.327). Changes must be recorded in the register by the end of the financial year, and reported to CIPRO within 14 days of their entry in the register. Similarly, cooperatives must maintain registers of the directors, including name, address, identification number, the date and which such director became a director (s.21).

For legal persons generally, CIPC is a good depository of information concerning legal control and, in the case of close corporations and cooperatives, legal ownership. However, the Registry does not collect information on beneficial ownership and control. Another overarching problem in relation to all of the information contained in the Registry is that none of it is verified, so it cannot be said to be

accurate.

There are no impediments to accessing the information available. The Company Register is publically available. Any person who pays a nominal fee may obtain the information contained in the CIPC register.

Company registers of directors and shareholders, and close corporation registers of members are also open to public inspection by any person (s.113 Companies Act). These provisions provide easy and timely access to investigative and supervisory authorities for any purpose. The available information does not capture accurate and current information on the beneficial ownership and control of legal persons. In particular, the information in CIPC is not verified, and the provisions relating to nominee shareholders may obscure beneficial ownership in the company's share registry. Share warrants to the bearer may also obscure beneficial ownership and control.¹¹¹

The administration of trusts is regulated by the Trust Property Control Act, 1988 (TPC Act). There are basically two types of trust in South Africa: (a) an inter-vivos trust created between living persons; and (b) a testamentary trust which derives from a valid will of a deceased person. All inter-vivos trusts involving property that is located in South Africa must be registered, regardless of where the settler, trustee or beneficiaries are located. Trusts are usually registered in the jurisdiction where the trust assets are located. Where a legal person is a founder, trustee or beneficiary, there is no obligation to obtain information on the beneficial owner of the legal person. The identification information on the founder and beneficiary is not verified by the trust register. No records exist of the 2 000 trusts that were created prior to 1987 when the TPC Act came into effect.

4. How to find out if a natural or legal person has non-banking financial interests (life insurance portfolio where applicable, securities) in the country?
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South Africa has the Stock Market Act, 1985, the Securities Services Act, 2004 and the Insurance Laws legislation which regulate life insurance and securities. The records are kept by the respective institutions and except for the life insurance information are readily accessible. Access to life insurance information by any person is not clearly regulated; however the law enforcement agencies would get direct access the procedure stipulated in s 205 of the CPA.

South Africa has a vibrant and well-regulated financial services industry that is backed by legislation,

¹¹¹ Source : FATF MER, 2009

regulation and specific rules. The provision of financial services in South Africa is regulated mainly by the Financial Markets Act, No. 19 of 2012 (FM Act) and the Financial Advisory and Intermediary Services Act, No. 37 of 2002 (FAIS Act). The FM Act regulates and controls exchanges and the trading of securities. It aims to reduce systemic risk while promoting international competitiveness and requires that only licensed persons operate as exchanges, central securities depositories or clearing houses. The only licensed exchange in South Africa, the Johannesburg Stock Exchange (JSE), currently operates three markets each with their own listings, membership requirements and rules. They are the Equities Market, the Derivatives Market, and the Interest Rate Market.

Companies must keep a register of members (shareholders) which includes a statement of the shares issued to each member, distinguishing each share by its number, if any, and by its class or kind and the date on which each name was entered in the register as a member and the date that he ceased to be a member. Each member is entitled to a share certificate which reflects the shares registered in his or her name. Where a company has converted any of its shares into stock (whether in certificated or uncertificated form), the register must show the amount of stock held by each member instead of the number of shares and the particulars relating to the shares. Foreign companies must keep a register of shares at a registered office in South Africa. The register of members must be open to inspection by any member and any other person upon a nominal fee (s.113 Companies Act).

Shareholders may be natural or legal persons. Nominees shareholders are allowed, and shares can be held on behalf of another person. Where shares are held on behalf of another person, the registered shareholder is under a duty to disclose to the company the identity of the person on whose behalf the share is being held, and the number and class of securities so held. This duty of disclosure is triggered at the end of every three-month period. A company may also, by notice, require the registered shareholder to disclose this information if it is suspected that shares are being held on behalf of someone else. All companies are required to maintain a register of such disclosures and shall publish in their annual financial statements a list of persons who hold beneficial interest equal to or in excess of 5% of the total number of securities of that class issued by the issuer together with the extent of those beneficial interests (s.140A, Companies Act). However, the duty to disclose the identity of the person on whose behalf the share is being held, that person could be a natural or legal person, and the duty to disclose would not extend any further. This does not capture the FATF's concept of beneficial ownership/control – i.e. the natural person that exercises ultimate ownership/control.

5. How to find out if a natural person or legal person owns luxury goods such as boats or planes

registered in the country?

All planes and aircrafts are registered and regulated by the South African Civil Aviation Authority. Any information on records kept by them can be obtained online through their website <http://www.caa.co.za/>. Such information however is unlikely to disclose the beneficial ownership.

South African Maritime Safety Authority

The South African regime of registration of ships is governed by the South African Maritime Safety Authority (SAMSA) and the Regulations promulgated in terms thereof. The legislation comprises seven chapters and three schedules and addresses the establishment of the South African Ship register, the entitlement to register, formalities of registration, charges levied, penalties and offences, private law provisions for registered ships, laws amended by the Act and certain transitional provisions.

The South African Maritime Safety Authority (“SAMSA”) was established in terms of SAMSA Act, 1998 (“the Act”) as a juristic person.

Its objectives are—

- (a) to ensure safety of life and property at sea;
- (b) to prevent and combat pollution of the marine environment by ships; and
- (c) to promote the Republic’s maritime interests.

In terms of section 2 of the Act, SAMSA is responsible to administer the following pieces of legislation:

- Merchant Shipping Act, 1951
- Marine Traffic Act, 1981
- Marine Pollution (Control and Civil Liability) Act, 1981
- Carriage of Goods by Sea Act, 1986
- Marine Pollution (Prevention of Pollution from Ships) Act, 1986
- Marine Pollution (Intervention) Act, 1987
- Maritime Zones Act, 1994
- Wreck and Salvage Act, 1996
- SAMSA Act, 1998
- SAMSA Levies Act, 1998
- Ship Registration Act, 1998

The Act establishes one central register which is administered in Cape Town by the Ship Registration Office and its various branch offices under the control of a Registrar appointed from the staff of South African Maritime Safety Authority (SAMSA). The Registrar's duties include those prescribed in the SRA and in particular the recording of all information and documents and the issuing of all certificates in terms of the SRA.

Section 15 SRA provides for the ownership of a ship to be divided into 64 shares, that the number of persons registered as owners of a ship may not at any time exceed 64, any number of persons not exceeding five may be registered as joint owners of a ship or of one or more shares in a ship, a joint owner of a ship or of one or more shares in a ship may not dispose of his or her interest separately and that a person may not be registered as the owner of a fractional part of a share in a ship.

Ships are divided into categories of those which are entitled to be registered and those in respect of which registration is prohibited. Only South African owned ships, small vessels (other than fishing vessels) and ships on bareboat charter to South African nationals are entitled to register, while ships registered in terms of the law of another state, wooden ships of primitive build and ships of less than 3 metres in length may not be registered.

Registration of ships in South Africa is governed by the Ship Registration Act 58 of 1998. This Act establishes and regulates the South African register of ships; the entitlement to register; formalities of registration; charges, levies and penalties. The Office of the Ship Registrar is created in terms of s33 of the Act. The Registrar's office is based in Cape Town.

Only ships that have a South African nationality, and ships that are entitled to be on the South African register, may be registered. Ships that are entitled to be registered are, a 'South African-owned ship' and any ship on a bareboat charter to a South African national. A South African national may be, inter alia, a citizen or a body corporate established and with a place of business in South Africa.

A 'South African-owned Ship' is one which is:

- i. wholly owned by a South African national;
- ii. is owned as an undivided whole by three or more joint owners of whom the majority in number are South African nationals; or
- iii. has a majority of its 64 shares owned by South African nationals as part-owners (or co-owners) in 'common'.

The facility of being able to register a ship in South Africa where the majority of the owners are South

African nationals is a far reaching provision of the system created by the South Africa Ship Registration Act.

South African Civil Aviation Authority

The South African Civil Aviation Authority (SACAA) is a Schedule 3A public entity in terms of the Public Finance Management Act ("PFMA"). It was established on the 1st of October 1998, following the enactment of the now repealed South African Civil Aviation Authority Act, 1998 (Act No. 40 of 1998).

The Act provided for the establishment of a stand-alone authority charged with promoting, regulating and enforcing civil aviation safety and security. It reflected the Government's priorities and was in line with international trends in the aviation world where more and more states implemented this option.

The abovementioned Act was repealed as a whole by the Civil Aviation Act, 2009, (Act No. 13 of 2009). The Act, provides for the establishment of a stand-alone authority mandated with controlling, promoting, regulating, supporting, developing, enforcing and continuously improving levels of safety and security throughout the civil aviation industry. The SACAA is an agency of the Department of Transport (DoT).

The above is to be achieved by complying with the Standards and Recommended Practices (SARPs) of the International Civil Aviation Organisation (ICAO), whilst considering the local context.

Access to information contained on the South African Civil Aircraft Register (SACAR)

Official Notice relating to access to information contained in the South African Civil Aircraft Register. In terms of Part 47 of the Civil Aviation Regulations (CARs), the South African Civil Aviation Authority (SACAA) is expected to keep a record of all aircraft registered in South Africa.

The Regulation states the following:

Part 47.01.7

(1) The Director shall maintain a register of South African aircraft, which is called the "South African Civil Aircraft Register (SACAR)".

(2) The SACAR shall contain at least the following particulars:

2.1. the full names and, if any, the trade name of the holder of the certificate of registration;

2.2. the postal, physical address and other possible contact details such as telephone and email of

the holder of the certificate of registration;

2.3. the date on which the aircraft was registered on the SACAR for the first time;

2.4. the date on which the aircraft was registered in the name of the holder;

2.5. the aircraft manufacturer's type designation, model and serial number; and

2.6. the nationality and registration marks of the aircraft.

(3) With the exception of (2.2) above, the SACAA has made the above information available which may be accessed by clicking on the link called List of aircraft on SACAR to the right of this screen or by clicking on this link.

According to the Promotion of Access to Information Act (PAIA) some information relating to aircraft ownership can only be made available to the public as prescribed in the provisions of the Act. This is due to the sensitive nature of such information. For this reason, the SACAA has established the below process through which interested parties can access information from the SACAR without contravening the provisions of existing legislation relating to access to information. Industry or related parties who need access to the information in the SACAR must therefore follow the below guide to access this information: Visit the SACAA website (www.caa.co.za) Information may be requested by completing Form CA 183-113. Such a request must be accompanied by the appropriate payment as stipulated. General queries relating to the South African Aircraft Register can be forwarded by email. Telephonic queries can be directed to the Aircraft Registry Manager

R. SOUTH KOREA

2. How to find out if a natural or legal person holds or controls bank accounts in the country?

Financial institutions are obliged to identify and verify the identification of customers as part of CDD measures¹¹². With the enactment of the AML/CFT Regulation in July 2010 and its amendment in May 2014, financial institutions are obliged to take necessary measures to identify the beneficial owner when they conduct basic customer due diligence. Financial institutions are obliged to keep financial information confidential.¹¹³ However, they are required to provide financial transaction information when competent authorities request the information, including the FIU when analyzing STRs. One provision limits sharing of information between financial institutions¹¹⁴: it allows general information to be provided to other financial institutions except customer identification information unless consent is obtained from the customer¹¹⁵.

Since 2006, financial supervisory authorities can exchange information with foreign financial supervisory authorities¹¹⁶. This includes information on the identity of the person placing orders for securities transactions, location where the orders are placed, and the identity of the party making the payment.

The Commissioner of KoFIU may access financial, administrative and law enforcement information¹¹⁷ such as family register; information on resident registration; and basic information on business. Investigations are also conducted by the Ministry of Justice, Public Prosecutors' Office (PPO), National Police Agency (NPA), Korea Customs Service (KCS), National Tax Service (NTS), National Election Commission (NEC) and the Financial Services Commission (FSC)¹¹⁸. Public prosecutors and judicial police officers have the authority to seize, search or inspect evidence in order to identify and

¹¹² Pursuant to the Financial Transaction Reports Act

¹¹³ Pursuant to Article 4 of the Real Name Financial Transactions Act (guarantee of secrecy of financial transactions), Article 22 of the FETA (guarantee of secrecy of foreign exchange transactions), Article 32 of the Use and Protection of Credit Information Act (consent regarding provision and use of personal credit information), and Article 42 of the same act (prohibition of disclosure of secrets for non-business purposes)

¹¹⁴ Article 4(1) of the Real Name Financial Transactions Act

¹¹⁵ Korea's Mutual Evaluation Report on AML/CFT, 26 June 2009, §432, p. 110

¹¹⁶ Amendment to the Real Name Financial Transactions Act, Article 4(1)(6)

¹¹⁷ Pursuant to Article 10 of the Financial Transaction Reports Act (FTRA, 2006) and Article 14 of the Presidential Enforcement Decree of the FTRA

¹¹⁸ For further details, see Korea's Mutual Evaluation Report on AML/CFT, 26 June 2009, §232-236, p. 68

track properties subject to confiscation or other criminal proceeds¹¹⁹. Search warrants are required¹²⁰ for investigations conducted by the PPO and they are issued by the District Court.

a) Has your country established a centralized account register or equivalent data retrieval system?

No.

b) Does your country intend to establish a centralized account register or equivalent data retrieval system?

No.

c) If your country does not use a centralized account register or equivalent data retrieval system to obtain the relevant information, please indicate any other mechanism your country has to find out if a natural or legal person holds or controls bank accounts in the country (e.g. an established channel for requesting all financial institutions to promptly disclose whether they have a named customer). Please describe what steps your country's authorities need to take and the material requirements (such as reasonable grounds for suspicion) that need to be met in order to find out

i. if a given natural person is a bank account's

(1) legal owner

(2) beneficial owner

ii. who is a given bank account's

(1) legal owner

(2) beneficial owner.

Please also indicate, in particular, if a court order is necessary to request the information, how requests are transmitted to banks, the delay for banks to respond to requests, and remedies banks can use against requests.

Please also indicate how long it usually takes for authorities to access information.

¹¹⁹ Articles 195 and 196 of the Criminal Procedure Act

¹²⁰ Ibid., Article 215

The Korea Financial Intelligence Unit (KoFIU) receives information on transaction including account information from financial institutions when there are suspicious transactions (STRs), or cash transactions (CTRs) above KRW 20 million.

In addition, KoFIU may request financial transaction information to financial institutions if supervision or examination on particular financial institution is needed.

The Financial Transaction Reports Act obligates financial institutions to take measures to identify the beneficial owner, as part of basic due diligence.

The Korea Financial Intelligence Unit (KoFIU) under the Financial Services Commission (FSC) may request financial company to provide financial transaction information when analyzing the suspicious transaction report.

The Article 4 of Act on Real Name Financial Transactions and Confidentiality stipulates that no financial company shall provide transaction information to other persons without the written consent of the holder of a title deed. Provided that the same shall not apply in cases in which the transaction information is requested by the Court, National Tax Security Service (NTS), Financial Services Commission (FSC), Financial Supervisory Service (FSS), Deposit Insurance Corporation (DIC), etc. to the minimum limit necessary for the purpose of use thereof. In this case, it shall be requested at a specified business place of a financial company, by means of the standard form as stipulated by the Financial Services Commission, containing personal information on the holder of a title deed; trade period subject to a request; legal ground for a request; purpose of the use of information; contents of transaction information requested; personal information of the person in charge and the responsible person in the institution to be requested. Where a financial company has provided transaction information, the financial company shall notify in writing the holder of the title deed of the major contents, purpose of use, person provided, date of provision, etc.

If necessary for the investigation of crimes, only when there are circumstances where a criminal suspect is suspected of having committed a crime and the financial transaction information to be seized, searched, or inspected is deemed to be connected with the relevant case, public prosecutors and judicial police officers must take a search and seizure warrant to request the financial transaction information for investigation which is issued by the District Court (warrant examination usually takes 1 or 2 days). In this case, financial company has to respond to the request without delay and no remedy can be used against it.

Name, ID number and nationality are checked.

When KoFIU receives STRs from financial institutions, account number, date of account opening, name of financial institution which opened the account, purpose of account opening, whether or not a proxy holder is opening the account are checked.

d) Please indicate, if available, the yearly number of requests in 2014, 2015 and 2016 by law enforcement, anti-corruption and AML authorities

Actual number of LEAs' requests which FIU have delivered on considering the necessity for criminal investigation

2014: 25,468

2015: 30,525

2016, January - June: 16,096

e) Please indicate which of your country's law enforcement, anti-corruption and AML-authorities can request such information.

Public Prosecutors Office (PPO) may request the financial transaction information for investigation according to the warrant issued by the District Court.

Ministry of Public Safety and Security, National Tax Service, Korea Customs Service, National Election Commission, Financial Services Commission, Financial Supervisory Service, Korea Deposit Insurance Corporation, and National Intelligence Service may request information to KoFIU.

KoFIU, Financial Supervisory Service, and other entity with supervision/examination authorities granted by KoFIU may request financial transaction information to financial institutions.

Questions f) - k) not applicable.

3. How to find out if a natural or legal person owns real estate in the country?

Although there is no explicit requirement¹²¹ for customer due diligence measures to be conducted in real estate brokerage business, real estate agents do carry out identification of customers, both

¹²¹ Under the Act on Real Estate Agents

individuals and legal entities, when conducting transactions¹²². All real estate agents certified or not, are subject to the Code of Ethics¹²³ under which they must report the actual transaction cost to the mayor, county governor or head of the district where the transaction takes place when entering into a real estate contract¹²⁴. In addition, in order to obtain the land registration for real estate transfers, the prescribed form for registration must be completed and a original document or certified copy of a written contract for the sale of property that proves the grounds of registration must be submitted with the application for registration.

In conducting real estate transactions, real estate agents are not required to identify beneficial ownership of customers or the source of funds involved in the transactions. Real estate trust companies should deposit trust deeds establishing the arrangements with the District Court in the county where the land subject to the trust is located. The original register on trusted real estate submitted to the district court where property is located is computerized and disclosed to the public as part of a register of properties.

The Land registration Department is maintaining a register of properties acquired by non-resident Koreans. Regardless of nationality, those who acquire real estate shall apply for registering a transfer of ownership on property¹²⁵ within 60 days of the validity of a contract. In addition, acquisition, loss or change of the rights of real estate takes effect when registered. Given that title registration under a third party's name and abbreviated registration are strictly prohibited except a few cases and are subject to a criminal penalty, real estate registration is mandatory in Korea.

According to the article 25-2(Confirmation of Owners, etc.) of Licensed Real Estate Agents Act which was newly inserted in 2013, where necessary for the performance of brokerage business, a practicing licensed real estate agent may request the brokerage client to present resident registration certificate or any other certificate which verifies his/her identification.

The Act on Report on Real Estate Transactions and its Presidential Enforcement Decree stipulates that where parties enter into real estate sales contracts, they shall jointly report their personal

¹²² Korea's Mutual Evaluation Report on Anti-Money Laundering and Combating the Financing of Terrorism, 26 June 2009, §650, p. 159

¹²³ Under the Act on Certified Real Estate Agents

¹²⁴ Pursuant to article 27 of Business Affairs of Licensed Real Estate Agents and Report of Real Estate Transaction Act

¹²⁵ Pursuant to the relevant provisions of Act on Special Measures for the Registration of Real Estate

information to the relevant report-receiving authority including Mayor having jurisdiction over the location of the real estate within 60 days from the date of the transaction contract.

4. How to find out if a natural or legal person owns a company/business in the country?

Relevant legislation requires certain information in order to approve registration of incorporation¹²⁶. A company comes into existence on registration of its incorporation at the place of its principal office¹²⁷. The Commercial Registration Office must be notified of changes to registration information after incorporation but that office is not required to verify the accuracy of any information provided or to cross reference personal information produced by those forming companies¹²⁸. Some basic information on corporations is publicly available, such as registration number and stockholder fluctuations in public companies. Regulatory, taxation, supervisory and law enforcement authorities have a variety of statutory powers to secure information about the ownership and control of legal persons, both from publicly available sources. But the scope of beneficial ownership information is limited to what is recorded in corporate shareholder registers¹²⁹.

Every business owners including corporations and individuals subject to national taxes are required to register their businesses to the National Tax Services (NTS). For corporations, especially, they are also required to submit a stockholders' list. However, taxpayers' information which the NTS owns are confidential¹³⁰. Such information can only be released under special circumstances such as when a governmental institution requests one to file charges against a tax criminal, or with a court order or warrant.

On incorporation, a company must keep a general shareholder register at its principal office which must contain names of individual shareholders¹³¹. The stockholder registry must also

¹²⁶ Pursuant to the Commercial Act and the Commercial Registration Act. For more information on the common registration information required for each type of company, see *Ibid.*, §688, p. 166

¹²⁷ Article 172 of the Commercial Act

¹²⁸ *Ibid.*, Article 183, 269, 317, and 549

¹²⁹ Korea's Mutual Evaluation Report on Anti-Money Laundering and Combating the Financing of Terrorism, 26 June 2009, §697, p. 168

¹³⁰ According to the Framework Act on National Taxes

¹³¹ Article 396 of the Commercial Act

include information on names of foreign shareholders including their passport numbers¹³². In cases where stockholders are legal persons, the requirement only extends to the names of the legal persons, the locations of the headquarters of those legal persons, and their business registration number. There is no requirement to determine and disclose the names of the natural persons standing behind the shareholder company.

No information is required information in relation to beneficial ownership beyond the registered shareholder. The shareholder register is available to shareholders and creditors of the legal person at any time.

With respect to share transfers, the Commercial Act, the Corporate Tax Act and the Presidential Enforcement Decree of the Corporate Tax Act provide that share transfers must be recorded in the shareholder register. Beyond, a corporation with changes in stock during the business year shall submit a detailed statement of those changes to the chief of the District Tax Office. That report is subject to tax secrecy laws and is not available for inspection by government agencies except in relation to the investigation of tax offences¹³³.

With the amendment of the Financial Transaction Reports Act in 2014, the AML/CFT Regulation requires financial institutions to take necessary measures to identify the beneficial owner of not only the corporate customer whose transaction is suspicious or has concern that the customer might be involved in money laundering but also all the customers who newly start transactions with the financial institutions or make a single financial transaction(basic Customer Due Dilligence). With respect to high-risk customers, financial institutions are required to identify the purpose of the transaction and source of the funds for the transaction.

5. How to find out if a natural or legal person has non-banking financial interests (life insurance portfolio where applicable, securities) in the country?
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Trustees of personal trusts must maintain information as to the management of the accounts¹³⁴ and personal information collected is limited to the trustee. As to business trusts, trust companies must

¹³² Article 118 of the Corporate Tax Act. Other identification information is required pursuant to Article 160 of the Presidential Enforcement Decree of the Corporate Tax Act

¹³³ Article 119 of the Corporate Tax Act

¹³⁴ Article 33 of the Trust Act

be licensed under the Financial Investment Services and Capital Markets Act and they are required to include identification information when entering in trust contract¹³⁵. Trust companies are regulated by the Financial Supervisory Service (FSS) which has administrative powers of access to information held by trust companies and may request trust companies to submit relevant documents¹³⁶.

Law enforcement agencies have powers to obtain information on both personal and business trusts, including the settlor, and to some extent beneficiaries. Given the absence of a central registry for personal trusts, the information is limited to what is required under the Trust Act¹³⁷. And while personal trusts are obliged to file tax returns, given the laws on tax secrecy, the information is not available to other agencies except for a criminal investigation in relation to tax matters or pursuant to a court order¹³⁸.

Trust companies are regulated by the Financial Supervisory Service (FSS) and are subject to AML/CFT obligations therefore they are required to identify beneficiaries of trusts. However, transparency concerning beneficial ownership and control of trusts is limited. Law enforcement authorities have the authority to obtain or access available information on beneficial ownership on trusts in these trust companies only in case of criminal investigations or pursuant to a court order.

With the enactment of the Act on Electronic Securities in March 2016 (before enforcement), listed securities, beneficiary certificates of an investment trust, stocks of an investment company, etc. have to be electronically registered.

6. How to find out if a natural person or legal person owns luxury goods such as boats or planes registered in the country?
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Vessels must be registered with the Ministry of Land, Transport and Maritime Affairs or local government¹³⁹ as well as aircraft owned or leased by individuals¹⁴⁰.

¹³⁵ Article 109 of the Financial Investment Services and Capital Markets Act

¹³⁶ Ibid., Article 419

¹³⁷ Article 33 of the Trust Act

¹³⁸ Korea's Mutual Evaluation Report on Anti-Money Laundering and Combating the Financing of Terrorism, 26 June 2009, §714, p. 171

¹³⁹ In accordance with SHIP ACT and Water-Related Leisure Activities Safety Act

¹⁴⁰ Article 3, 5 of the Aviation Act

S. SPAIN

1. How to find out if a natural or legal person holds or controls bank accounts in the country?

SEPBLAC (Servicio Ejecutivo de la Comisión de Prevención del Blanqueo de Capitales e Infracciones Monetarias) has direct and immediate access to statistical information on movement of capital and overseas financial transactions from the Bank of Spain (balance of payments, Article 48.2 Law 10/2010¹⁴¹).

In addition, identification of bank accounts' holders will be possible in Spain through a central database detained by the Spaniard FIU. SEPBLAC may pass on any information it has to the police, provided an application to do so is made in accordance with article 43 of Law 10/2010, which creates a new instrument called "Financial Ownership File":

"1. In order to forestall and prevent money laundering and terrorist financing, credit institutions shall report to the Executive Service, at intervals determined in the regulations, on the opening or cancellation of current accounts, savings accounts, securities accounts and term deposits. The statement shall, in any event, contain the data identifying the holders, representatives or authorised persons, together with all other persons with withdrawal powers, the date of opening or cancellation, the type of account or deposit and the information identifying the reporting credit institution.

2. The reported data shall be included in a publicly owned file, called a Financial Ownership File, for which the Secretariat of State for the Economy will be responsible. The Executive Service, as processor, shall, in accordance with Organic Act 15/1999, determine the technical characteristics of the database and approve the appropriate instructions.

3. When investigating crimes related to money laundering or terrorist financing, the examining judges, the Public Prosecutor's Office and, upon judicial authorisation or that of the Public

¹⁴¹ Ley 10/2010, de 28 de abril, de prevención del blanqueo de capitales y financiación del terrorismo. *"In the exercise of its functions in respect of financial institutions covered by special legislation, the Executive Service may obtain from the Bank of Spain, the National Securities Market Commission or the Directorate-General for Insurance and Pension Funds, as appropriate, all of the information and cooperation it requires for the performance of said functions. Without prejudice to the previous subparagraph, the Executive Service shall have direct access to statistical information on capital movements and foreign economic transactions reported to the Bank of Spain in accordance with the provisions of the legislation applicable to such transactions. Likewise, the managing bodies and the Treasury General of Social Security shall transfer the personal data and information they may have obtained in the exercise of their functions to the Commission for the Prevention of Money Laundering and Monetary Offences, at the request of its Executive in the exercise of the powers conferred on it by this Act".*

Prosecutor, the law enforcement agents may obtain information reported to the Financial Ownership File. The Executive Service may obtain the above data in the exercise of its powers. The State Tax Administration Agency may obtain the above data as laid down in General Tax Act 58/2003 of 17 December. Any request for access to the data of the Financial Ownership File shall be adequately reasoned by the requesting body, which shall be responsible for the correct form of the demand. In no case may access to the File be demanded for any purpose other than the prevention or suppression of money laundering or terrorist financing.

4. Without prejudice to the powers that correspond to the Spanish Data Protection Agency, a member of the Public Prosecutor's Office appointed by the Attorney General in accordance with the procedures set forth in the Organic Statute of the Public Prosecutor's Office, who, in the exercise of this activity, is not carrying out his/her duties in any of the bodies of the Public Prosecutor's Office responsible for prosecuting crimes of money laundering or terrorist financing, shall ensure correct use of the file, for which purpose he/she may request full justification of the reasons for any access”.

a) Has your country established a centralized account register or equivalent data retrieval system?

Yes.

Questions b) - e) not applicable.

l) Does your country's centralized account register or equivalent data retrieval system allow to research

i. if a given natural person is a bank account's

(1) legal owner ?

(2) beneficial owner?

ii. who is a given account's

(1) legal owner?

(2) beneficial owner?

No information available.

m) Please describe the data available related to the legal and beneficial owners (e.g. name, place

and date of birth, number of identity card). Please also indicate on what additional types of accounts information is included (e.g. payment accounts, securities accounts).

Type of accounts: current accounts, savings accounts, securities accounts and term deposits

The declaration by financial institutions shall include the identification data of the holders, beneficial owners if any, representatives or authorised persons, and any other persons with powers of disposal, the opening or cancellation dates, and the type of account or deposit and its number.

Information related to the legal and beneficial owners: Name, ID document (number and type), date of birth /date of incorporation in case of legal entities, nationality, country issuing the identification document, when nationality is not available, country of residence.

n) Please describe how the information in your country's centralized account register or equivalent data retrieval system is populated (e.g. if banks are required to submit information to the register) and how it is kept up to date.

Banks are required to report to a central database managed by the FIU (Sepblac). Every month this information is updated by these entities.

o) Which of your country's law enforcement authorities, anti-corruption authorities and AML-authorities can access the centralized account register or equivalent data retrieval system?

The examining judges, the Public Prosecutor's Office and, upon judicial authorisation or that of the Public Prosecutor, the law enforcement agents may obtain information reported to the Financial Ownership File. The Executive Service may obtain the above data for the exercise of its powers. The State Tax Administration Agency may also have access.

In addition to this, there are ongoing legislative discussion so as to enable access to this information by the Assets Recovery and Management Office.

p) Please describe the steps that your country's authorities need to take and the material requirements (such as reasonable grounds for suspicion) that need to be met in order to access the centralized account register or equivalent data retrieval system. Please also indicate how long it usually takes for authorities to access information.

First, the authorities must request and obtain from the public prosecutor's office a general authorization to access to the centralized account register, in which the technical and safety requirements of access are also established. This authorization is only requested once.

Once granted and established the connection with the centralized account register, each authority is in charge of managing the access of its own officials or employees, accesses that remain under its responsibility.

In every access or consultation to the central registry, the officials must necessarily include a justification for the existence of an investigation related to AML and, when appropriate, the identity of the Judicial or Fiscal Authority that has agreed or authorized to obtain data.

Once the requirements have been met, the data consulted are available online and immediately.

All accesses and their justifications are registered, and are made available to the public prosecutor to be audited.

q) Please indicate, if available, the yearly number of access requests in 2014, 2015 and 2016 by law enforcement, anti-corruption and AML authorities.

This database was fully operational last May 2016.

The level of use of the information is increasing steadily among different institutions. Total accesses until May 2017 were 2806.

2. How to find out if a natural or legal person owns real estate in the country?

The FIU has direct and immediate access to the Notarial Records and the Tax authority (Article 48 Law 10/2010).

Besides that, pursuant to article 10 of the Ministerial Order 114/2008, notaries are required to record in a database the information of the acts that they undertake. The Notaries Self Regulatory Organisation (SRO) maintains a database with the information recorded by all notaries. Law enforcement authorities can access automatically on-line all the information contained in the database. SEPBLAC has also immediate access.

Any further request from competent authorities (e.g. copies of the acts of incorporation, etc.) is immediately provided by the SRO. After the enactment of the Act 10/2010, the SRO developed a database of beneficial owners, now fully operational, which is accessible to competent authorities.

There is also an electronic and centralized Land Registry in Spain (Registro de la Propiedad) which is accessible by public authorities. Registrars have also a centralised preventative body in charge of their cooperation with public authorities in the prevention of money laundering and monetary

offences. So, apart from the general access, there is a specific collaboration channel with the FIU.

3. How to find out if a natural or legal person owns a company/business in the country?

Through the Business Register (Registro Mercantil). SEPBLAC has direct and immediate access to Business Registry (Registro Mercantil Central). Search by name of owner / administrator is permitted and the register is publicly available (www.rmc.es).

In addition, the incorporation of legal companies requires a notarial deed which must be afterwards registered in the Business Register. A wide range of other acts also subject to the intervention of notaries (i.e, transmission of Notaries SROs). The data can be accessed by SEPBLAC and law enforcement agencies (LEAs) as explained above.

Pursuant to article 4.2 of the Act 10/2010, notaries must also identify the beneficial owner of the legal persons participating in such acts. A specific database on beneficial owners has been created ready for consultation by SEPBLAC and LEAs, as well as other obliged entities (banks, and other financial entities).

4. How to find out if a natural or legal person has non-banking financial interests (life insurance portfolio where applicable, securities) in the country?

SEPBLAC has direct and immediate access to the National Commission for Stock Market (CNMV) and to the Directorate General of Insurance and Pension Funds (DGSFP) (Article 48 of Law 10/2010).

Iberclear and the databases of the National Tax authority may provide some information on securities holders. IBERCLEAR is the Spanish Central Securities Depository which is in charge of both the Register of Securities.

The Ministry of Justice keeps a Registry of whole life assurance policies (Registro de contratos de seguros de cobertura de fallecimiento).

5. How to find out if a natural person or legal person owns luxury goods such as boats or planes registered in the country?

The Ministry of Development keeps Registers for both boats (Registros de Matrícula de buques) and planes (Registro de Matrícula de Aeronaves Civiles) for administrative purposes in which registration is mandatory.

The Register for personal (movable) property (Registro de Bienes Muebles) also includes a section on

planes and boats.

T. TURKEY

1. How to find out if a natural or legal person holds or controls bank accounts in the country?

There is specific administrative body that is responsible for tracing suspicious financial transactions and financing of terrorism, namely Financial Crimes Investigation Board (MASAK). A court order is not necessary in accessing bank information as MASAK has statutory authority to make request for the same. However, in order to find out if a person holds a bank account in a financial institution settled in the country, MASAK has to contact all financial institutions (33 Banks+5 Participation Banks) separately. In addition, Turkey has a conviction based confiscation system with no extended confiscation provisions. Assets subject to confiscation (in this respect to be identified, traced and seized) are exclusively counted in Criminal Law (Law number: 5237) Article 55, where asset confiscation is regulated: (i) material benefits obtained through the commission of an offence, or constituting the subject of an offence or provided for the commission of an offence, (ii) economic proceeds obtained by the investment or conversion of the material benefits mentioned above. There is no specific legal provision for tracing these assets; general principles of criminal investigation (Criminal Procedure Law, Law number: 5271) apply. If, during a criminal investigation, it is determined that a crime has been committed and material benefits have been obtained through the commission of it, or constitute the subject of it or have been provided for the commission of it, these material benefits are identified and traced by the police unit which conducts the investigation. During this process, certain information and documentation about the ownership, concealment, transfer, consumption, investment and conversion of material benefits might be needed. In this case, the Public Prosecutor who is in charge of the investigation prepares & signs a disclosure order asking the relevant person or institution to provide the investigative police unit with applicable information and documents. Besides, according to article 128 of Criminal Procedure Law, judicial authorities may request an asset research report according to its relevance from Banking Regulation and Supervision Agency, Capital Markets Board, MASAK, Undersecretariat of Treasury and Public Oversight Accounting and Auditing Standards Authority. With the exception of motor vehicle records and trade registry, the Police has neither statutory power to compel persons or institutions to provide information and documentation that might be helpful for asset tracing, nor has authorization to access databases where this kind of information & documentation is kept.

On corruption matters, there are administrative bodies which have a legal duty to carry out investigation through bank accounts. The law No.3628 on “Asset Declaration and Fight against Bribery and corruption” gives Inspection Boards which are structured under the Prime Ministry and

other ministries the authority to request information regarding the assets of anyone who is alleged to acquire illicit assets.

a) Has your country established a centralized account register or equivalent data retrieval system?

No.

b) Does your country intend to establish a centralized account register or equivalent data retrieval system?

No.

c) If your country does not use a centralized account register or equivalent data retrieval system to obtain the relevant information, please indicate any other mechanism your country has to find out if a natural or legal person holds or controls bank accounts in the country (e.g. an established channel for requesting all financial institutions to promptly disclose whether they have a named customer). Please describe what steps your country's authorities need to take and the material requirements (such as reasonable grounds for suspicion) that need to be met in order to find out

i. if a given natural person is a bank account's

(1) legal owner

(2) beneficial owner

ii. who is a given bank account's

(1) legal owner

(2) beneficial owner.

Please also indicate, in particular, if a court order is necessary to request the information, how requests are transmitted to banks, the delay for banks to respond to requests, and remedies banks can use against requests.

Please also indicate how long it usually takes for authorities to access information.

According to Article 3 of the Law no 5549 on the Prevention of Laundering Proceeds of Crime, the obliged parties (including banks) shall identify the persons carrying out transactions and the persons on behalf or for the benefit of whom the transactions are conducted within or through the obliged parties before the transactions are conducted. An important amendment to Article 3 of the

Regulation on Measures Regarding Prevention of Laundering Proceeds of Crime and Financing of Terrorism has been as “h) (Amended – Official Gazette – 10.06.2014/29026) Beneficial owner means natural person(s) who ultimately control(s) or own(s) natural person who carry out a transaction within an obliged party, or the natural persons, legal persons or unincorporated organizations on whose behalf a transaction is being conducted within an obliged party,... ..” in 2014. In the same Regulation Article 17/a has been added with the same amendment as “Identification of Beneficial Owner (Added – Official Gazette – 10.06.2014/29026) ARTICLE 17/A- (1) Obligated parties shall take necessary measures in order to detect the beneficial owner. (2) When establishing permanent business relationship with legal persons registered to trade registry, obliged parties shall identify, in accordance with article 6, the natural person partners holding more than twenty-five percent of the legal person’s shares as the beneficial owner. (3) In cases where there is a suspicion that the natural person partner holding more than twentyfive percent of the legal person’s shares is not the beneficial owner or where there is no natural person holding a share at this rate, necessary measures shall be taken in order to detect the natural person(s) who is/are ultimately controlling the legal person. And natural person(s) detected shall be considered as beneficial owner. (4) In cases where the beneficial owner is not detected within the scope of paragraphs 2 and 3, the natural person(s) holding the position of senior managing official, whose authorization to represent the legal person is/are registered to trade registry, shall be considered as beneficial owner. (5) Within the scope of permanent business relationship with other legal persons and unincorporated organizations, necessary measures shall be taken in order to detect the natural person(s) who is/are ultimately controlling the legal person. In case where the beneficial owner is not detected, the natural person(s) holding the position of senior managing official within them shall be considered as beneficial owner. (6) In the scope of the paragraphs (1) to (5), obliged parties shall identify the beneficial owner and take necessary measures in order to verify the beneficial owner. In this framework, a notarized circular of signature including identity information can be used. (7) When establishing permanent business relationship with legal persons registered to trade registry, obliged parties shall also identify, in accordance with article 7, the legal person partners holding more than twenty-five percent of the legal person shares.”.

In addition, according to the Article 7 of the same Law, public institutions and organizations, natural and legal persons, and unincorporated organizations shall fully and accurately provide all kinds of information, documents and related records when requested by MASAK. These issues are regulated chapter II of the Regulation on Measures (RoM) Regarding Prevention of Laundering Proceeds of Crime and Financing of Terrorism in detail (Article 7 of the RoM regulates customer identification in legal persons and Article 17/A regulates the identification of beneficial owners). Thus, MASAK has the

authority to request the customer and beneficial owner identification information from the banks with regard to money laundering or financing of terrorism files.

With regard to the analysis, evaluation and examination of money laundering and financing of terrorism files in MASAK, no court or prosecution authority's order is required to request such information from the banks. According to article 31 of the RoM, MASAK directly sends a letter to the banks, in some urgent cases the compliance officers of the banks may be called by telephone. A certain period of not less than 7 days is determined for submission of information and documents requested in writing. When information and documents are requested verbally, the request is confirmed in written form.

d) Please indicate, if available, the yearly number of requests in 2014, 2015 and 2016 by law enforcement, anti-corruption and AML authorities

No information available.

e) Please indicate which of your country's law enforcement, anti-corruption and AML-authorities can request such information.

All of the above mentioned authorities can request such information but thanks to the Law no 5549, MASAK can request such information from the banks without any further order. Other authorities require a court or prosecution authority's order.

Questions f) - k) not applicable

2. How to find out if a natural or legal person owns real estate in the country?

<http://tkgm.gov.tr/tkgm/index.php> : website of the Cadastre and Land Registry in Turkey.

Although the Directorate of Land Register is not an obliged party in the scope of STR under the AML provisions, there is no obstacle for reporting to MASAK any information relevant to its duty to MASAK. Furthermore, The Turkish FIU may access the data it holds, while performing its function of analysis of an STR.

As of now, there is no national united/centralized registry for real estate ownership. To be able to find out if a natural or legal person has real estate, Regional Land Registry Divisions (22) should be contacted separately. There is an ongoing project by the Ministry of Environment and Urbanization - General Directorate of Cadastre and Land Registry, to integrate the registrations of land registry divisions in one national electronic database.

MASAK has protocols with the Revenue Administration and Cadaster and Land Registry. MASAK has direct access to the Revenue Administration's database while it has limited access to Cadaster and Land Registry's database with the help of a web service for the purpose of making queries.

3. How to find out if a natural or legal person owns a company/business in the country?

Commercial enterprises and companies are established by registering to trade registry. The trade registry is kept by 238 directorates of commercial registry which operates within chambers of commerce and industry under the supervision and oversight of the Ministry of Customs and Trade. Commercial registry transactions are carried out on Central Registration Recording System (MERSIS).

MERSIS is a centralized information system that allows carrying out the commercial registry processes and storing the commercial registry data electronically. Pilot application has been initiated in Mersin Commercial Registry in May 2010. Following the completion of the pilot project in December 2013, the system was activated on 1 January 2015, in 238 directorates of commercial registry. Currently, all the commercial registry relating to commercial enterprises and companies which is operating in Turkey has been transferred to MERSIS and the commercial registry processes in all directorates of commercial registry are carried out electronically via MERSIS. MERSIS was updated at the beginning of 2017, and the new version of the system is operational since 6 March 2017.

The system enables rapid access to information of the owners or directors of a company. Inquiries and investigations may be conducted into the ownership of legal persons and through government authorities' powers to compel production of information by following a trail of ownership through a series of legal persons back to the actual persons owning or controlling the entities. As of 30 September 2017, MERSIS has 528.434 users.

According to article 124 of Turkish Commercial Code, commercial companies are general partnerships, limited partnerships, joint-stock companies, limited companies and cooperative companies. Joint stock companies and limited companies are most commonly preferred types of companies in Turkey.

According to the data obtained from MERSIS, as of 30 September 2017, there are 115.695 joint-stock, 719.415 limited companies, 10.869 collective companies, 1.783 limited companies, 35.201 cooperatives and 698.018 commercial enterprises registered in Turkey.

Commercial companies and commercial enterprises are registered to Commercial Registry Office in

the location where their head office is established. Commercial companies obliged to have a written articles of association and this document must be registered. In terms of commercial enterprises (sole traders) the establishment information is also registered. The names of founding partners are included in this information. According the Code, share transfers are also registered in the commercial register except joint stock companies. Therefore, current shareholder information in all companies (except joint stock companies) and commercial enterprises is accesible from MERSIS.

4. How to find out if a natural or legal person has non-banking financial interests (life insurance portfolio where applicable, securities) in the country?
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Insurance Information and Monitoring Center started its operations under the title of Insurance Information Center pursuant to the regulation published in the Official Gazette No. 26962 dated 9 August 2008 prepared by Undersecretariat of Treasury and its title was changed to Insurance Information and Monitoring Center with another regulation published in the Official Gazette No. 28131 dated 03/11/2011.

Insurance Information and Monitoring Center was founded as a non-commercial with legal entity in the body of Union of Insurance and Reinsurance Companies of Turkey.

Insurance Information and Monitoring Center keeps the data for Life, Disease/Health, Compulsory Motor Vehicles Third Party Liability, Green Card, Compulsory Seat Personal Accident Insurance for Road Passenger Transportation, Casco, Compulsory Medical Malpractice Liability Insurance, Compulsory Hazardous Materials And Hazardous Waste & Gas Tube Insurance, Professional Indemnity Insurance.

Individual pension products are more common and savings are safekept by Settlement and Custody Bank (Takasbank) from which information can be accessed.

It is aimed at gathering data in relevant branches in a single center, carrying out insurance activities more comprehensively and efficiently, ensuring implementation uniformity throughout the industry, enabling healthy pricing, preventing abuses, creating reliable statistics, increasing the confidence in insurance system and activating public monitoring-audit.

There is a national registry for securities including equities, corporate debt securities, warrants, exchange traded funds and mutual funds. To be able to find out if a natural or legal person has non-banking financial interests, the Central Records Administration should be contacted.

The provisions of the Capital Market Law (CML) and other laws related to the capital market are

supervised and enforced by the Capital Market Board (CMB). Natural and legal persons from whom information is requested are not able to refuse to provide information by claiming confidentiality and secrecy provisions. According to Article 22 of the CML, collaborating in any way and exchanging information regarding the capital market with equivalent foreign authorities is allowed.

Intermediary institutions are required to register accounting records related with securities transactions within one day. The intermediary institutions are obliged to keep all kinds of correspondence, contracts, commitments, guarantees, documents, promissory notes and court announcements that were received or made due to the activities of capital market, and the documents received or arranged as part of identification procedures. They must also notify changes in address information of account holder customers to the ISE Settlement and Custody Bank Inc. within two days. When required, identity and address information of customers must be submitted to the Board and those charged by the Board.

According to the article 7 of the AML Law (Law no 5549 on Prevention of Laundering Proceeds of Crime), MASAK has authority to request all kinds of information, documents and related records from all public and private institutions, natural and legal persons and unincorporated organizations.

Besides, According to article 9 of the same Law, MASAK is authorized to establish an access system to the data processing systems of public institutions and organizations which keep records regarding to economic activities, wealth items, tax liabilities, census information and illegal activities in accordance with their laws or activities within the principles and procedures defined together by the Ministry and competent authorities of related Ministry and institutions and organizations in the nature of public bodies.

5. How to find out if a natural person or legal person owns luxury goods such as boats or planes registered in the country?
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All aircrafts and planes are registered under the Turkish Civil Aviation Act No.2920 of 1983. The registration records are kept by the Turkish Aircraft Register; in addition foreign aircrafts are required to obtain authorization from the Ministry of Transport, Maritime Affairs and Communications to fly on Turkish airspace. Article 20 states that conditions for registration and licensing for operations for individuals and companies by the Ministry of Transport, Maritime Affairs and Communications shall be as prescribed by the Ministry. This gives discretion and it is not automatic that the beneficial owner can easily be identified. The records are held by a public body and can be accessed without a court order.

There is a national registry for maritime vessels. To be able to find out if a natural or legal person has a maritime vessel Ministry of Transport, Maritime Affairs and Communication should be contacted.

MASAK receives these information both from the databases of Revenue Adminsitraion and Ministry of Transport, Maritime Affairs and Communications. MASAK has a protocol with the Ministry and it receives the relevant data with the help of a web service application.

U. UNITED KINGDOM

1. How to find out if a natural or legal person holds or controls bank accounts in the country?

Information on bank records is in the custody of individual banks. Account details are considered closed sources of information and access by third parties can only be given to the law enforcement agencies and only through court orders.

For the purposes of financial investigations and asset recovery, UK Law Enforcement Agencies primarily rely on the powers conferred by the Proceeds of Crime Act 2002 to obtain court orders to access the account details and when necessary to get freezing orders. Such orders can be served across a range of institutions depending on the circumstances. Access for evidential purpose can also be achieved through service of production orders under s.345 of Proceeds of Crimes Act.

Under the Proceeds of Crime Act 2002 (s.363) there is provision for an appropriate officer to make application before a judge for the granting of a 'customer information order'. The effect of such an order is to make the financial institutions (upon which served) disclose all relevant details of the subject and his/her accounts. Such an order can be served upon a whole range of institutions. The scope of the order can be on a limited number of institutions or on a much wider range of banks/institutions dependent upon the circumstances. Each application and the institutions upon which it is intended to serve the orders are assessed on a case by case basis.

In the case of financial intelligence, the United Kingdom Financial Intelligence Unit-UKFIU (located within the National Crime Agency-NCA) has the national responsibility for receiving, analysing and disseminating financial intelligence submitted through the Suspicious Activity Reports (SARs) Regime. SARs provide pieces of information which alert law enforcement that certain client/customer activity, for example, the cash purchase of a high-value asset or a series of large out-of-character deposits - is in some way suspicious and might indicate money laundering or terrorist financing. The UKFIU would identify the appropriate LEA, based on its analysis and disseminate the SAR to that LEA. The LEA would access the intelligence and reach a decision as to any subsequent action.

The existence of accounts might also be identified through closed sources such as the credit rating agencies. However, such searches would not identify savings accounts and may not encompass all accounts' holders in the UK.

a) Has your country established a centralized account register or equivalent data retrieval system?

No.

b) Does your country intend to establish a centralized account register or equivalent data retrieval system?

This will be established in line with requirements under the Fifth Money Laundering Directive (5MLD). We expect the 5MLD to include a requirement to establish a national register/electronic retrieval mechanism for information on bank and payment accounts. The final text of 5MLD will likely be finalised late this year or in early 2018, with transposition and implementation timetables to be determined.

c) If your country does not use a centralized account register or equivalent data retrieval system to obtain the relevant information, please indicate any other mechanism your country has to find out if a natural or legal person holds or controls bank accounts in the country (e.g. an established channel for requesting all financial institutions to promptly disclose whether they have a named customer). Please describe what steps your country's authorities need to take and the material requirements (such as reasonable grounds for suspicion) that need to be met in order to find out

i. if a given natural person is a bank account's

(1) legal owner

(2) beneficial owner

ii. who is a given bank account's

(1) legal owner

(2) beneficial owner.

Please also indicate, in particular, if a court order is necessary to request the information, how requests are transmitted to banks, the delay for banks to respond to requests, and remedies banks can use against requests.

Please also indicate how long it usually takes for authorities to access information.

Please indicate, if available, the yearly number of requests in 2014, 2015 and 2016 by law enforcement, anti-corruption and AML authorities

States can use police-to-police enquiries, the UK Financial Intelligence Unit at the NCA, Europol or the Asset Recovery Office (within the NCA) to find out this information on an intelligence basis.

Although the UK does not have a centralised database of bank accounts, there are some intelligence enquiries that can be made that will help to ascertain if a person has a bank account. Once it is ascertained that a person has a bank account, production orders under section 345 of POCA should be used to obtain documentation. Often the transactions in the banking information obtained will show the existence of other bank accounts, and the trail can be followed. Disclosure orders under section 357 of POCA are available, as noted above.

Another method of ascertaining bank account information or information on legal or beneficial ownership of assets is by the use of search and seizure warrants, under section 352 of POCA – which enable search of a premises for material which will be of significant value to a confiscation, money laundering or civil recovery investigation. Warrants can be used if production orders have not been complied with or material cannot be specified. The UK Serious Fraud Office has bespoke powers of compulsion to require information or documents to be furnished or to search premises.

If a restraint order is granted under section 41 of POCA, the court has a power under section 41(7) to make any order it believes is appropriate to ensure the restraint order is effective – this can be against any person (not just the subject of the investigation), including third parties, and require disclosure of information.

If the court is proceeding to confiscation, orders can be made under section 18 of POCA against the defendant to disclose any information necessary to assist the court in carrying out its functions, i.e. to disclose information. Further, under section 18A of POCA the court can order a third party who it is thought may have an interest in property held by the defendant, to disclose information to enable such interest to be determined.

Production orders and search warrants are also available under the Police and Criminal Evidence Act 1984 and other law enforcement agencies or regulatory bodies have powers to demand information to be disclosed, e.g. the Financial Conduct Authority and the Department of Work and Pensions.

On an evidential basis, sections 363 to 367 (397 to 403 for Scotland) of the Proceeds of Crime Act (POCA) 2002 provide an investigation power called a “customer information order”. A customer information order requires all (or a targeted sample of) banks and other financial institutions to provide details of any accounts held by the person who is the subject of a confiscation, money laundering or civil recovery investigation. The order can also apply to persons who appear to hold property that is subject to a civil recovery investigation. Customer information orders should only be used if other avenues of information have not worked or are not likely to work and other methods to obtain information should be considered first.

The Proceeds of Crime Act also includes a power of “disclosure order”. This provides that in a confiscation and civil recovery investigation a person can be required to (1) answer questions, either at a time specified in the notice or at once, at a place so specified; (2) provide information specified in the notice, by a time and in a manner so specified; and (3) produce documents, or documents of a description, specified in the notice, either at or by a time so specified or at once, and in a manner so specified. This could be used for identifying the legal owner and beneficial owner of a bank account.

The “disclosure order” power is to be extended to money laundering investigations and there are other similar powers, such as that available to the Serious Fraud Office under section 2 of the Criminal Justice Act 1987. Other general criminal investigation powers could also be utilised to obtain information in this area.

Serious Crime Prevention Orders (SCPOs) available under the Serious Crime Act 2007 are bespoke orders that can impose a wide-range of prohibitions, restrictions and requirements to notify on offenders to prevent and disrupt offending. The prohibitions, restrictions or requirements used in SCPOs can include notifying all financial matters (including banking, property and commerce) to law enforcement.

Further powers introduced in the Criminal Finances Act 2017 (amending the Proceeds of Crime Act) will also assist in this issue - notably, “unexplained wealth orders” under sections 1 to 6 and “further information orders” under section 12. It should be noted that this is not the primary purpose of these provisions.

The UK’s Joint Money Laundering Intelligence Taskforce (JMLIT) uses the provisions of Section 7 of the Crime and Courts Act and a formal Information Sharing Agreement to share intelligence between law enforcement and the banking sector / HM Revenue and Customs in a secure environment. There is a broad information sharing gateway in section 7 of the Crime and Courts Act 2013 that enables information to be shared with and by the NCA. Most, if not all, information that could potentially be shared is capable of being shared under that gateway. Under s7, information may be shared with or by the NCA without breaching any duty of confidence owed by the person sharing the information.

Information sharing within JMLIT is voluntary. The NCA, and other law enforcement agencies have powers to compel the provision of information, but as a consequence of JMLIT’s strong governance, clear priorities and well-defined participant roles and responsibilities there is an inherent willingness to share information based on a collaborative approach to tackle money laundering.

d) Please indicate which of your country's law enforcement, anti-corruption and AML-authorities can request such information.

No information available.

Questions f) - k) not applicable.

2. How to find out if a natural or legal person owns real estate in the country?

There is centralized database on real estate for all the registered land in England and Wales, Scotland and Northern Ireland that can be obtained from the Lands registry physically or from its website www.landregistry.gov.uk/wps/portal/Property. Information regarding real estate is classified as open source and does not require any court order in order to access the information.

Information can be obtained using names, title of the property, postal address or through generic search by areas. The search certificate provided will show the current ownership details and the previous owner since 2000 as well as the price or value of the property and particulars of the address. Some real estate titles may show the beneficial owners while some only the registered owners and in case of a company, again a search would have to be undertaken at the Company House to know the Directors and shareholders. A property inquiry can be made daily between 7 am and 12 midnight from Monday to Saturday. Since the information is regarded as open source, it can be accessed by the law enforcement agencies and any interested person.

Not all businesses are required to be registered with the Company House for example limited liability partnerships and sole traders. There is a closed source which can be accessed to determine whether a natural or legal entity owns a company or business for example Dun and Bradstreet.

The Criminal Finances Act 2017 contains a number of new powers, amending the Proceeds of Crime Act. These are in relation to further combat money laundering, corruption and other financial crime. Notably the “unexplained wealth order” will place an obligation on the holder of property, in specific circumstances, to explain the source of their wealth and financial affairs. This can be used to trace the beneficial owner of property, including real estate. The other new powers and those contained in the Serious Crime Act 2015, notably a compliance order in relation to enforcing a confiscation order and the extension of the investigation powers for the purposes of enforcement, can also be used to identify the owner of real estate.

Amendments to the POCA 2002 by the Serious Crime Act 2015, sections 10A and 18A and compliance orders under section 13A & B, which mean the Court can make any order it believes appropriate for

securing a successful confiscation order – includes conditions such as seizing passports to prevent defendants leaving the jurisdiction before the confiscation order is satisfied, and could feasibly include information on assets. Both the Serious Crime Act 2015 and the Criminal Finances Act 2017 include amendments to provide that investigation powers continue to be available after a confiscation order is made, to ensure that assets can continue to be traced when new information comes to light.

3. How to find out if a natural or legal person owns a company/business in the country?
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See answer to question (2)

This information is also considered open source. UK has a centralized data on companies kept and managed at the Companies House and can be accessed online on their website at <http://www.companieshouse.gov.uk>. the main functions of the Company House is to incorporate and dissolve limited companies, examine and store company information delivered under the Companies Act,2006 and make information available to the public. Not all businesses are required to register with Companies House. Limited Liability Partnerships and Sole traders are two examples of business entities that can, but are not obliged, to be registered.

Information can be obtained on companies and Trusts registered in England and Wales, Scotland and Northern Ireland from this source. These documents include constitutional information about the company and details of those involved in its formation (notably its first directors and members).

All Companies are required to keep an up to date register of the names and addresses of its members (section 352 of the 1985 Act, section 113 of the 2006 Act), which is to be kept available for inspection by the public. The register is to be kept (or at least made available) at the company's registered office or some other place in the part of the UK where it is registered (i.e. England and Wales, Scotland or Northern Ireland) which has been notified to the registrar of companies.

The UK's approach to preventing the unlawful use of legal persons and legal arrangements for ML and FT relies on the investigative and other powers of law enforcement, regulatory, supervisory, and other competent authorities to obtain or get access to information. With very few exceptions, all the information disclosed to the registrar of companies is available to the public.

There are alternative closed sources which can be accessed to determine whether a natural or legal entity owns a company or business - for example, Dun & Bradstreet.

Additionally, the Small Business Enterprise and Employment Act 2015 introduced the UK's public

beneficial ownership register, known as the PSC (persons with significant control) Register, which is housed on the Companies House Website. More information can be found here: <http://www.legislation.gov.uk/ukpga/2015/26/contents/enacted>

Since June 2016, all UK companies have been required to identify and record the people who own or control their company, as part of the information they submit to the UK public Companies House business register. The PSC register increases transparency over who owns and controls UK companies and helps inform investors when they are considering investing in a company. It will also support law enforcement agencies in money laundering investigations.

New money laundering regulations came into force in 2017 (Statutory Instrument 2017 no. 692) on Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer). Part 5 sets out that corporate bodies and trusts must obtain information relating to legal and beneficial owners when entering into relevant transactions with relevant persons. This information is available to specified law enforcement agencies on request, and HM Revenue and Customs will maintain a register of trusts.

4. How to find out if a natural or legal person has non-banking financial interests (life insurance portfolio where applicable, securities) in the country?
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See answer to question (2)

The United Kingdom has no centralized database for securities or insurances. It is not easy to obtain information on who holds securities or life insurance portfolios or who are the beneficial owners. This information can only be obtained from individual security or insurance companies or stock broker's registry.

Normally one would get to know about ownership while undertaking investigations or gathering intelligence from bank statements which may show entries payable to these companies or through documents obtained from the suspects premises.

It is not clear whether this information is considered open source or whether court orders are required but access is limited to the beneficiaries and law enforcement agencies (in this case NCA, UKFIU, Police or the TAX Man). This industry is also regulated under the Financial Services Agency created under the Financial Services and Market Act, 2007 which regulates the financial institutions including insurances and provides information when requested under the Freedom of Information Act, 2000.

The 2007 FATF MER noted that supervision for certain entities currently categorized as “small firms” should be strengthened, especially small banks (even if they are supervised more closely than the other small firms), securities brokers/investment managers, and insurance firms which are Core Principles institutions.

5. How to find out if a natural person or legal person owns luxury goods such as boats or planes registered in the country?
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See answer to question (2)

Additionally, the Civil Aviation Authority and the Maritime and Coastguard Agency both keep registers of British owners of vessels/aircraft. However this does not include any foreign-registered vessels/aircraft that happen to be in the UK, nor details of value.

V. UNITED STATES OF AMERICA

1. How to find out if a natural or legal person holds or controls bank accounts in the country?

Where the location of bank or financial accounts are unknown

U.S. law enforcement can query whether any U.S. financial institution that reports to FinCEN has any financial information relevant to specific investigative targets.

FinCEN's regulations promulgated under Section 314(a) of the USA PATRIOT Act of 2001 enable Federal, state, local, and certain foreign law enforcement agencies, through FinCEN, to query more than 37,000 points of contact at more than 15,000 U.S. financial institutions to locate accounts and transactions of persons or entities involved in investigations where there is credible evidence of terrorist financing or significant money laundering activity. As a general practice, this authority is used after more traditional investigative measures have been exhausted.

Financial institutions have 2 weeks from the posting date of the request to respond with any positive matches. If their search does not uncover any matching of accounts or transactions, the financial institution is instructed not to reply to the 314(a) request.

FinCEN receives requests from law enforcement and, upon review and approval, provides the 314(a) subject information to designated points of contact within financial institutions across the United States every 2 weeks via a secure website. The subject information contains as much identifying information as possible to assist the financial institutions in searching their records. The financial institutions must query their records for data matches for any accounts maintained by the named subject during the preceding 12 months and any transactions conducted within the last 6 months.

Additionally, as the U.S. Financial Intelligence Unit, FinCEN maintains a searchable database of all reports filed by U.S. financial institutions, businesses, and the public. Appropriate law enforcement can query this database for information on cash transactions exceeding \$10,000 (CTR),¹⁴² suspicious activity (SAR),¹⁴³ receipt of currency exceeding \$10,000 reported by a trade or business (8300),¹⁴⁴ declarations of physical cross-border transportation of currency exceeding \$10,000 (CMIR),¹⁴⁵ and

¹⁴² 31 CFR 1010.310

¹⁴³ 31 CFR 1010.320

¹⁴⁴ 31 CFR 1010.330

¹⁴⁵ 31 CFR 1010.340

financial interest or signatory authority in a foreign bank account exceeding \$10,000 in value (FBAR).¹⁴⁶ Although not a comprehensive database of assets, such database contains records of hundreds of millions of financial transactions that could serve as lead information for the identification of assets.

With respect to SARs, FinCEN has deemed the documentation supporting the SAR filing to be part of the SAR. While kept in custody by the filing institution, these supporting documents must be produced by an institution at the request of FinCEN or appropriate law enforcement or regulatory agencies.

Law enforcement tools to trace identified bank and financial accounts

Generally speaking, law enforcement can obtain financial records through various coercive measures, including grand jury subpoenas¹⁴⁷, administrative subpoenas¹⁴⁸, and search warrants¹⁴⁹, as well as information obtained under general or case-specific information sharing agreements with regulatory agencies. A law enforcement agency, if it has statutorily been given such authority, can, without prosecutorial or judicial authorization, issue an administrative subpoena or summons in investigations of offenses over which they have jurisdiction. However, notification to the customer of a financial institution is required if an administrative subpoena is used unless the agency obtains a court order which delays such notification.

The power to subpoena records and testimony is an inherent function of the grand jury. See Fed. R. Crim. Pro. 6; *United States v. R. Enterprises* 498 U.S. 292, 296 (1991); *Costello v. United States*, 359, 362 (1956)). The grand jury is the single most important tool in criminal investigations and its subpoenas are exempt from the provisions requiring financial institutions to provide notice to their customers when their financial information is sought. U.S. law enforcement can also use, when appropriate, administrative subpoenas requiring no judicial or prosecutorial approval (18 U.S.C. § 3486, 21 U.S.C. § 876 and 31 U.S.C. § 5318(a)(4)) or search warrants requiring a judicial finding of probable cause (Fed. R. Crim. Pro. 41(c)(1)). They can also access information from regulatory

¹⁴⁶ 31 CFR 1010.350

¹⁴⁷ See, generally, Fed. R. Crim. Pro. 6. The power to subpoena records and testimony is an inherent function of the grand jury. See *United States v. R. Enterprises* 498 U.S. 292, 296 (1991); *Costello v. United States*, 359, 362 (1956)

¹⁴⁸ 18 U.S.C. § 3486, 21 U.S.C. § 876 and 31 U.S.C. § 5318(a)(4)

¹⁴⁹ Fed. R. Crim. Pro. 41(c)(1); Supp. Rule G of the Supplemental Rules for Admiralty and Maritime Claims, and 21 U.S.C. §881(b) and 18 U.S.C. § 981(b)(2)

agencies obtained under general or case-specific information sharing agreements with such agencies.

When law enforcement uses a grand jury subpoena to obtain the financial records of a customer, no notification to the customer is required. Grand jury investigations are treated as confidential therefore, disclosure of such information obtained by the grand jury is strictly limited as set forth in Rule 6 of the Federal Rules of Criminal Procedure.¹⁵⁰ A federal court may authorize disclosure of matters disclosed to the grand jury upon the U.S. prosecutor's request when such information is sought by a foreign court or prosecutor for use in an official criminal investigation occurring in the foreign country.

The United States can also obtain financial records for foreign investigations pursuant to 18 U.S.C. § 3512 and 28 U.S.C. § 1782. In a U.S. judicial proceeding for forfeiture in rem where a verified complaint has been filed, a prosecutor can issue a trial subpoena for bank records through the Clerk of the Court¹⁵¹. Assistance in tracing and identifying assets may not necessitate formal proceedings and can be done in an informal way via police-to-police communication (e.g., via foreign law enforcement attachés and CARIN contacts). Law enforcement can ask FinCEN to transmit information to a foreign FIU at any time and for any criminal offence that is a predicate offence for money laundering.

a) Has your country established a centralized account register or equivalent data retrieval system?

No.

b) Does your country intend to establish a centralized account register or equivalent data retrieval system?

No.

c) If your country does not use a centralized account register or equivalent data retrieval system to obtain the relevant information, please indicate any other mechanism your country has to find out if a natural or legal person holds or controls bank accounts in the country (e.g. an established channel for requesting all financial institutions to promptly disclose whether they have a named customer). Please describe what steps your country's authorities need to take and the material requirements (such as reasonable grounds for suspicion) that need to be met in order to find out

¹⁵⁰ Fed. R. Crim. Pro. 6

¹⁵¹ 18 U.S.C. §986

i. if a given natural person is a bank account's

(1) legal owner

(2) beneficial owner

ii. who is a given bank account's

(1) legal owner

(2) beneficial owner.

Please also indicate, in particular, if a court order is necessary to request the information, how requests are transmitted to banks, the delay for banks to respond to requests, and remedies banks can use against requests.

Please also indicate how long it usually takes for authorities to access information.

See question 1

d) Please indicate, if available, the yearly number of requests in 2014, 2015 and 2016 by law enforcement, anti-corruption and AML authorities

Obtained from <https://www.fincen.gov/sites/default/files/shared/314afactsheet.pdf>

To date, the 314 Program Office has processed 3,269 requests.

Based on the total feedback we have received using the current revised feedback reporting form, 95% of 314(a) requests have contributed to arrests or indictments.

e) Please indicate which of your country's law enforcement, anti-corruption and AML-authorities can request such information.

Request come from U.S. federal, state, local, and foreign (European Union) law enforcement agencies, including FinCEN. Section 314(a) inquiries require the requestor to submit a form certifying that the investigation is based on credible evidence of terrorist financing or significant money laundering and that all available traditional means of investigation have been exhausted.

Questions f)-k) not applicable.

2. How to find out if a natural or legal person owns real estate in the country?

All real estate recording systems in the United States are administered differently by each state, district or territory of the United States. Real estate records, including land ownership, are generally maintained at a county, borough, parish or municipal level and many, if not all, property records are available online and, if not, are otherwise publically available and “hand searchable.” Generally speaking, law enforcement has access to all of this information via commercial databases made available to law enforcement for a fee.

3. How to find out if a natural or legal person owns a company/business in the country?

The formation, operation and dissolution of U.S. corporations are governed by state, district or territorial law. In order to form a corporation, every state, district or territory requires the filing of articles or a certificate of incorporation together with the payment of a filing fee. All states require that every corporation maintain a registered office within the state or an agent for service of process. Basic information regarding the formation of a corporate entity may be obtained through the Secretary of State’s office in which the entity of interest is believed to be located or incorporated.

Some states also maintain publicly accessible databases through which limited corporate identifying information such as date of incorporation, identification of corporate officers and directors, corporate addresses, and the identification of a corporate agents may be found, often for a fee, but sometimes free of charge.

The databases do not contain information about the beneficial ownership of corporations

The Internal Revenue Service (IRS) uses an Employer Identification Number (EIN) as an information tool to identify taxpayers that are required to file various business tax returns. Any person other than an individual - which includes corporations and other legal entities - must obtain and use an EIN. To obtain an EIN a legal entity must designate a “responsible party,” which is defined as the individual “who has a level of control over, or entitlement to, the funds or assets in the entity that, as a practical matter, enables the individual, directly or indirectly, to control, manage, or direct the entity and the disposition of funds or assets.” Information contained in the application forms for EINs is used as a tool to identify potential taxable accounts of employers, sole proprietors, corporations, partnerships, estates, trusts, and other entities. With a court order, U.S. law enforcement entities may also use this as a resource for obtaining relevant corporate data.

4. How to find out if a natural or legal person has non-banking financial interests (life insurance portfolio where applicable, securities) in the country?

There are no centralized ownership registers of publicly traded shares. Individual broker-dealers would know what shares their clients hold and maintain records of that. There are certain filings requirements under the U.S. securities laws that would require the public disclosure of beneficial ownership interests for certain publicly traded companies and for certain stock ownership levels.

5. How to find out if a natural person or legal person owns luxury goods such as boats or planes registered in the country?
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Aircraft are registered with the Federal Aviation Administration (FAA) Registry under relevant legislation (14 CFR Parts 13, 47, and 91 [Docket No. FAA–2008–0188; Amendment Nos. 13–34, 47–29, 91–318]). Access to aircraft data and most individual aircraft records is routine for law enforcement and security agencies.

As to vessels, they must be documented with the US Coast Guard under relevant legislation (Federal Motorboat Act of 1910; the Federal Numbering Act of 1918; the Federal Boating Act of 1958; and the Federal Boating Safety Act of 1971). Pursuant to the legislation, states are required to assign numbers to all vessels that are used in waters under federal jurisdiction. The way numbers are assigned to vessels by states is either through a title or registration system. Information concerning ownership is kept by the National Vessel Documentation Center. This information is readily available to law enforcement and security agencies.