

H. INDIA

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

While there is no centralised facility to check if a natural or legal persons holds or controls banks accounts in India, the same may be determined indirectly by various mechanisms including those described below:

Statutory Mechanisms: These powers may be exercised in respect of one or more banks to determine if accounts are held by an identified natural or legal person:

- Law enforcement agencies, whether at the federal level or state level, are equipped with broad statutory powers to call for information from banks where relevant to any investigation or inquiry. In addition, the Financial Intelligence Unit – India (FIU-IND) is empowered under the Prevention of Money Laundering Act, 2002 (as amended) to obtain information from “reporting entities” (as defined under the PMLA) which includes banks and other financial sector constituents.

Other Mechanisms

- Law enforcement, revenue, and regulatory agencies, as well as FIU-IND, each maintain records and databases as may be required to discharge their statutory functions. Many of these agencies have also entered into arrangements or MoU which permit the exchange of information and intelligence. Based on the facts and circumstances of a case, it may be possible for relevant databases to be queried seeking whether any information is available linking the concerned natural or legal person with any bank accounts within India.
 - For example, FIU-IND maintains a centralized database of Cash Transaction Reports (CTRs) and Suspicious transaction Reports (STRs) which can be queried to determine if a natural or legal person has bank accounts in the country in which large cash transactions or suspicious transactions have been reported.
- Central Repository of Information on Large Credits (CRILC), maintained by Department of Supervision, RBI to collect, store and disseminate data on borrowers' credit exposures, *inter alia* collects information from the banks on current accounts of customers based on certain criteria. The criteria laid down for reporting under Section 3 (Reporting of Balance in Current Account) of CRILC format are as under (format of template is available on RBI website under the link https://rbi.org.in/scripts/BS_Listofallreturns.aspx) :
 - i. Balance (either credit or debit) in current account as on reporting date is ₹1 crore and above or,
 - ii. Total of credit summation (sum of all credit transactions) during the reporting quarter is ₹5 crore and above, or
 - iii. Total of debit summation (sum of all debit transactions) during the reporting quarter is ₹5 crore and above.

The aforesaid reporting has also been extended to UCBs having total assets of ₹500 crore and above as per RBI circular dated January 16, 2020 (<https://rbi.org.in/Scripts/NotificationUser.aspx?>

Id=11790&Mode=0).

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

No. Analogous frameworks are as described in other responses below.

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

In view of the mechanisms described above, there is presently no requirement to establish a central account register or equivalent data retrieval system.

Further, it may be noted that India has rolled out the Central KYC Registry (CKYCR). This initiative is intended to create a common KYC profile for individuals across financial institutions. In practice, each account (across financial institutions) pertaining to a natural or legal person would be linked by a common KYC identifier. Therefore, in respect of covered accounts, the CKYC registry may permit back-tracing of all accounts linked to an individual based on querying against the common KYC identifier.

Submission of KYC information is required for all bank accounts opened after 2017. In addition, when a legacy customer (i.e., a customer who established account based relationship with a regulated entity such as a bank, prior to 2017) is subject to periodic updation of KYC, the KYC record is uploaded to the CKYCR. Therefore, it is expected that, in years to come, CKYCR will serve as a single repository of information linked to a single KYC profile.

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.

Mechanism: As discussed in responses above, various statutory and non-statutory mechanisms exist to determine if a person holds bank accounts in India. In respect of the described statutory powers, these can be utilised to require one or more banks to report, within a time-bound manner, whether they hold an account of any natural or legal person. The accuracy of such an exercise would depend on the quality of identifiers used for carrying out such queries.

Procedure and Thresholds:

- The steps to be taken or the thresholds required to be satisfied before such a query / call for information may be addressed would depend on the statutory framework governing the authority making such query. While typically no court orders are required to access such information, this would also depend on the statutory framework at issue. In this regard, no generalised responses are possible.
- Queries / calls for information may be transmitted either electronically or in written format. As in the case of other exercises of statutory authority, banks may elect to challenge any such queries received by pursuing ordinarily available constitutional or statutory remedies. While uncommon, such challenges would typically be brought before the jurisdictional High Court.

Delays in response to such calls for information are uncommon and, normally, the information called for is furnished within the prescribed period.

In India, banks and other financial institutions are required by law to verify the identity of their customers and their beneficial owners. Therefore, the above mechanisms may be utilised either the legal or beneficial owner of a bank account based on the holder's name or vice versa.

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.

As discussed in the responses above, specific powers available to an authority would depend on the statutory framework concerned. Indicatively, authorities which can call for such information include:

- i. The Central Bureau of Investigation (CBI);

- ii. The Enforcement Directorate (ED);
- iii. The National Investigation Agency (NIA);
- iv. Revenue and tax authorities;
- v. Financial Intelligence Unit - India (FIU-IND); and
- vi. 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?

Land and land records is a state subject under India's federal polity. As there is no centralised land registry disclosing land ownership of a natural or legal person, this would require the examination of real estate records maintained by state land revenue administration. Each state maintains its own land record registry where records of ownership can be provided to any interested party. Land record system of the states is mostly digitized and available online to citizens as well as law enforcement agencies.

Therefore, such records may be reviewed to determine if an identified natural or legal person owns real estate in a specific area. Law enforcement agencies are also empowered to call for such information from the concerned authority.

In addition, where a natural or legal person may have undertaken a real estate transaction, details of the same may have been reported to (federal) the Income Tax Department. The Income Tax Department *inter alia* 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?

PAN number allotted by Income Tax Department is now being made a common identifier for all companies / businesses owned by a person, such specific information may be obtained by reviewing corporate / company records available with the Ministry of Corporate Affairs. Through Registrars of Companies (ROCs), covering various States and Union Territories, the Ministry is vested with the primary duty of registering companies and ensuring that such companies comply with statutory requirements under the Act. As part of such compliance, detailed records and documentation - including in connection with ownership and beneficial ownership - are collected from incorporated entities on an ongoing basis.

Much of the information maintained by the Ministry is available to the general public on payment of a fee. Regulatory, supervisory, and law enforcement authorities are also empowered to seek access to such records as may be

required.

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 in the case above, law enforcement, regulatory, and supervisory 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) is also empowered to obtain such information as non-banking financial institutions (such as insurance companies and securities market intermediaries) are also considered 'reporting entities'.

In the case of insurance and securities market stakeholders, concerned sectoral regulators also possess broad powers to obtain requisite information.

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

Where the luxury good in question is subject to a registration, various publicly accessible portals or regulators may provide the requisite information. For instance:

- Under the regulatory framework for motor vehicles, all vehicles are required to be registered. Certain information on the ownership can be obtained online through website of the Ministry of Transport at <https://vahan.nic.in> based on the provision of requisite identifiers.
- Similarly, information relating to ownership of aircraft registered in India may be obtained from the Directorate General of Civil Aviation, Certain information relating to aircrafts added to the Register may be accessible online through their website <http://dgca.nic.in/>.
- The Directorate General of Shipping (DGS) is responsible for maintaining the Central Register of Indian ships. Certain information relating to ships registered in India may also be made available by classification society (e.g. IRS/IRClass) on their portals (e.g. <https://www.irclass.org/shipsearch>). However, this would only extend to vessels surveyed by such society.

Where any relevant information may not be accessible in the public domain, law enforcement agencies as well as regulators are empowered to seek the same from the concerned record-maintaining authorities. However, the same would be subject to any statutory safeguards as may be present within the respective framework.