

## SOUTH KOREA

### 1. 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 measures<sup>112</sup>. 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.<sup>113</sup> 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 institutions<sup>114</sup>: it allows general information to be provided to other financial institutions except customer identification information unless consent is obtained from the customer<sup>115</sup>.

Since 2006, financial supervisory authorities can exchange information with foreign financial supervisory authorities<sup>116</sup>. 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 information<sup>117</sup> 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)<sup>118</sup>. Public prosecutors and judicial police officers have the authority to seize, search or inspect evidence in order to identify and

---

<sup>112</sup> Pursuant to the Financial Transaction Reports Act

<sup>113</sup> 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)

<sup>114</sup> Article 4(1) of the Real Name Financial Transactions Act

<sup>115</sup> Korea's Mutual Evaluation Report on AML/CFT, 26 June 2009, §432, p. 110

<sup>116</sup> Amendment to the Real Name Financial Transactions Act, Article 4(1)(6)

<sup>117</sup> Pursuant to Article 13 of the Financial Transaction Reports Act (FTRA, 2020) and Article 14 of the Presidential Enforcement Decree of the FTRA

<sup>118</sup> 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 proceeds<sup>119</sup>. Search warrants are required<sup>120</sup> 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**

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.**

<sup>119</sup> Articles 195 and 196 of the Criminal Procedure Act

<sup>120</sup> 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 10 million<sup>1</sup>.

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.

---

<sup>1</sup> Financial Transaction Report Act article 4-2, FTRA enforcement decree article 8-2(1)

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 recent five years by law enforcement, anti-corruption and AML authorities**

Number of STRs provided at the request of domestic LEAs in the past 5 years

2017: 38,439  
2018: 38,023  
2019: 37,975  
2020: 35,797  
2021: 41,645

**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.**

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

Although there is no explicit requirement<sup>121</sup> for customer due diligence measures to be conducted in real estate brokerage business, real estate agents do carry out identification of customers, both

---

<sup>121</sup> Under the Act on Real Estate Agents

individuals and legal entities, when conducting transactions<sup>122</sup>. All real estate agents certified or not, are subject to the Code of Ethics<sup>123</sup> 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 contract<sup>124</sup>. 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 property<sup>125</sup> 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

---

<sup>122</sup> Korea's Mutual Evaluation Report on Anti-Money Laundering and Combating the Financing of Terrorism, 26 June 2009, §650, p. 159

<sup>123</sup> Under the Act on Certified Real Estate Agents

<sup>124</sup> Pursuant to article 27 of Business Affairs of Licensed Real Estate Agents and Report of Real Estate Transaction Act

<sup>125</sup> 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.

### **3. 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 incorporation<sup>126</sup>. A company comes into existence on registration of its incorporation at the place of its principal office<sup>127</sup>. 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 companies<sup>128</sup>. 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 registers<sup>129</sup>.

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 confidential<sup>130</sup>. 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 shareholders<sup>131</sup>. The stockholder registry must also

---

<sup>126</sup> 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

<sup>127</sup> Article 172 of the Commercial Act

<sup>128</sup> *Ibid.*, Article 183, 269, 317, and 549

<sup>129</sup> Korea's Mutual Evaluation Report on Anti-Money Laundering and Combating the Financing of Terrorism, 26 June 2009, §697, p. 168

<sup>130</sup> According to the Framework Act on National Taxes

<sup>131</sup> Article 396 of the Commercial Act

include information on names of foreign shareholders including their passport numbers<sup>132</sup>. 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 offences<sup>133</sup>.

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 Diligence). 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.

<b>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?</b>
--

Trustees of personal trusts must maintain information as to the management of the accounts<sup>134</sup> and personal information collected is limited to the trustee. As to business trusts, trust companies must

---

<sup>132</sup> 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

<sup>133</sup> Article 119 of the Corporate Tax Act

<sup>134</sup> 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 contract<sup>135</sup>. 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 documents<sup>136</sup>.

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 Act<sup>137</sup>. 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 order<sup>138</sup>.

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.

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

Vessels must be registered with the Ministry of Land, Transport and Maritime Affairs or local government<sup>139</sup> as well as aircraft owned or leased by individuals<sup>140</sup>.

---

<sup>135</sup> Article 109 of the Financial Investment Services and Capital Markets Act

<sup>136</sup> Ibid., Article 419

<sup>137</sup> Article 33 of the Trust Act

<sup>138</sup> Korea's Mutual Evaluation Report on Anti-Money Laundering and Combating the Financing of Terrorism, 26 June 2009, §714, p. 171

<sup>139</sup> In accordance with SHIP ACT and Water-Related Leisure Activities Safety Act

<sup>140</sup> Article 3, 5 of the Aviation Act