

## OBLIGATIONS UNDER INTERNATIONAL AGREEMENTS

Banks must comply with international standards for combating terrorism financing, including the **United Nations**

**Security Council (UNSC)** sanctions:

### 1. Restricted Accounts

- Banks cannot open or maintain accounts for individuals/entities listed in:
  - **ISIL (Da'esh) & Al-Qaida Sanctions List.**
  - **1988 Sanctions List** (Taliban-related individuals/entities).

### 2. Measures for Listed Individuals/Entities

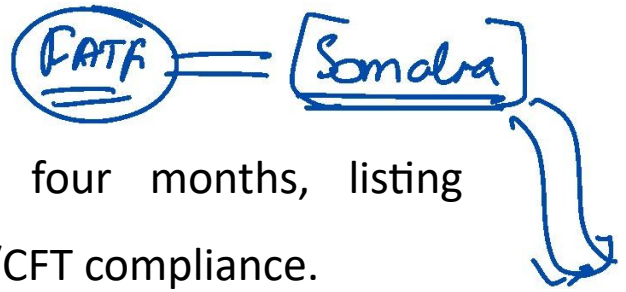
- Actions if a match is found:
  1. Notify **FIU-IND** and the **Ministry of Home Affairs (MHA)** as per the **UAPA notification (dated 2nd February 2021)**.
  2. Follow the **freezing of assets** procedure as directed by MHA.
- Adhere to any other UNSC resolutions circulated by RBI.

FIU IND  
UAPA

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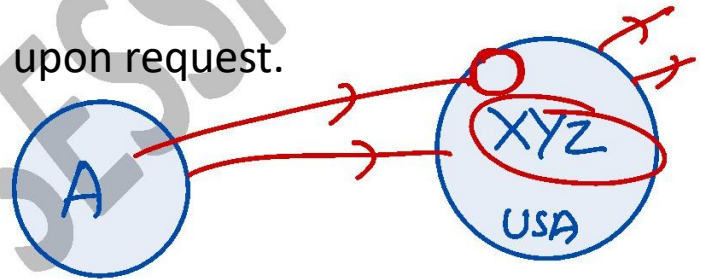
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### FATF Identified Jurisdictions

- **FATF Statements:** Issued every four months, listing countries with deficiencies in AML/CFT compliance.
- **Required Measures:**
  - **Special attention** to transactions and relationships with individuals/entities from these jurisdictions.
  - **Examine background and purpose** of such transactions.
  - Retain written findings and supporting documents for **RBI or other relevant authorities** upon request.



### CORRESPONDENT BANKING

- **Definition:** A relationship where one bank (correspondent) holds deposits for another bank (respondent) and provides services like payments.
- **Risks:** Vulnerable to **money laundering (ML)** and **terrorism financing (TF)** due to differences in AML/CFT compliance across jurisdictions.

### Norms for Correspondent Relationships:

- Have a policy outlining conditions for establishing such relationships.
- Conduct due diligence:

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- Nature of the bank's business, management, and activities.
  - AML/CFT compliance level.
  - Purpose of the account and third-party usage.
  - Regulatory framework in the bank's home country.
- Avoid relationships with **shell banks** and ensure respondent banks do not use accounts for shell banks.
- Exercise caution with banks in jurisdictions with **AML/CFT deficiencies**.

### Reporting Under FATCA/CRS

*Common Reporting  
Stds*

- FATCA (Foreign Account Tax Compliance Act):
  - U.S. regime requiring financial institutions to identify and report U.S. accounts to the IRS or a local authority under an inter-governmental agreement (IGA).
  - ~~Aim: Prevent U.S. persons from evading U.S. taxes via foreign banks.~~
- CRS (Common Reporting Standards):
  - Global initiative under the OECD for tax transparency.
- Compliance in India:
  - Income Tax Rules 114F, 114G, and 114H:

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FATCA / CRS

- Mandate banks to declare if they are Reporting Financial Institutions.
- Submit reports for accounts taxable in the U.S. (FATCA) or other foreign countries (CRS).

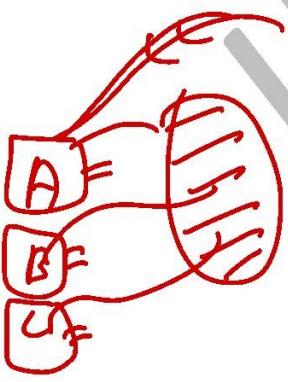


- To FIU-IND: ← 5 Reports
  - Monthly reports due by the **15th of the following month:**

1. CTR: Cash Transaction Report.
2. CBWTR: Cross-Border Wire Transfer Report.
3. NTR: Non-Profit Organisation Transaction Report.
4. CCR: Counterfeit Currency Report.

- Suspicious Transaction Report (STR):

- Submit within **7 days of suspicion.**
- Transactions considered suspicious include:
  1. Proceeds likely linked to a crime under PMLA.
  2. Complex or unjustified circumstances.
  3. Transactions with no economic rationale or bona fide purpose.



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### 4. Transactions possibly linked to terrorism financing.

- Value is irrelevant; report monetary, non-monetary, or even attempted transactions.

### Implications of Non-Compliance with PMLA

■ **Risks:** Penal actions by RBI and Director, FIU-IND for failing to meet PMLA and PMLR obligations.

#### • **Punitive Measures by FIU:**

##### 1. Written Warning.

##### 2. Directive for remedial actions and submission of an action-taken report.

##### 3. Monetary penalty:

- Minimum: ₹10,000.
- Maximum: ₹1 lakh per violation.

##### 4. **Delay penalties:**

- Each day of delay in submission or rectification is considered a separate violation.

### Secrecy Obligations in Banking

Banks are obligated to maintain the confidentiality of customer information, as this arises from the contractual



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relationship between the bank and its customers. Key aspects of these secrecy obligations include:

### 1. General Principles

**Customer Information:** Banks must ensure that customer information is not disclosed for purposes such as:

- **Cross-selling.**
- Any other purposes without **explicit customer consent.**

When responding to requests for information from government or other agencies, banks must:

- Verify that such disclosure does not violate laws protecting secrecy in banking transactions.

### 2. Exceptions to Secrecy Obligations

Disclosure is permitted under the following circumstances:

1. **Compulsion of Law:** When mandated by legal provisions or court orders.
2. **Duty to the Public:** When the public interest justifies disclosure.
3. **Bank's Interest:** When the bank's own interests necessitate disclosure.
4. **Customer Consent:** When the customer has given express or implied consent.

# Chapter - 4 module A

## ACCOUNTS OF INDIVIDUALS

### Eligibility Criteria:

1. **Major by Age:** The individual must be 18 years or above.
2. **Sound Mind:** should not suffer from any mental incapacity.
3. **Legal Capacity:** The individual must not be:
  - An **undischarged insolvent**.
  - **Disqualified from contracting** under any applicable laws.

### Account Opening Process:

#### 1. Form Signing:

- The individual in whose name the account is to be opened must sign the account opening form.
- ~~For minors or individuals not of sound mind, the form must be signed by:~~
  - **Court-Appointed Guardian:** In cases where a guardian has been appointed by a court.
  - **Natural Guardian:** Typically a parent or close relative.

#### 2. KYC Compliance:

- **Documents for Individuals:**
  - ~~Identity proof~~ (e.g., Aadhaar, Passport, PAN).
  - ~~Address proof~~.
- **Guardian's KYC:**

- As per Anti-Money Laundering (AML) regulations, the guardian is considered a "customer."
  - The guardian must submit their identity and address proof.

### Examples:

- **Case 1:** A 25-year-old opens a savings account. They provide a copy of their Aadhaar card and utility bill as KYC documents.   
 ↳ POI/POA
- **Case 2:** A 10-year-old minor wishes to open an account. Their father, acting as a natural guardian, provides the minor's birth certificate along with the father's Aadhaar and address proof.

### Joint Account Holders

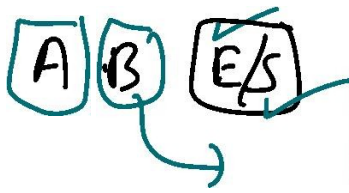
A joint account is an account opened in the names of two or more individuals who share control over the funds. These accounts are commonly used for convenience, shared expenses, or estate planning.

### Purpose of Joint Accounts:

1. **Shared Ownership:** When funds belong to multiple individuals, they can exercise joint control over their usage.

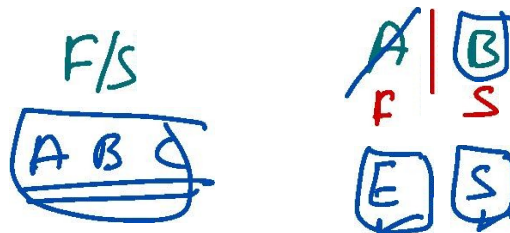
A B C      [Jointly]





2. **Convenient Access:** If funds are earned by one individual but need to be accessed by another (e.g., a spouse managing family expenses).
3. **Estate Planning:** To ensure easy access to funds in the event of the death of one account holder.

### Key Requirements:



#### 1. Account Opening:

- **All account holders must sign** the account opening form.
- The **relationship** among the account holders and the purpose of the account should be clearly stated.
- The **nature of expected fund inflows** should also be documented.

#### 2. KYC Compliance:

- KYC documents (identity and address proofs) must be provided by all account holders.
- These documents should be verified to ensure compliance with regulations.

#### 3. Eligibility:

- [Primarily opened by residents in India.]

- Joint accounts with Non-Resident Indians (NRIs) are permitted only if the NRI is a **close relative** of all the resident account holders.

**Modes of Operation:** E/S

- #1 • **Either or Survivor (E or S):** Any account holder can operate the account, and after the death of one, the survivor retains access.
- #2 • **Former or Survivor:** F/S Only the first account holder can operate the account during their lifetime; the survivor gains access post their death.
- #3 • **Jointly:** All account holders must approve and sign for any transaction.

**Examples:**

- **Case 1:** A husband and wife open a joint account to manage household expenses. The mode of operation is **E or S**, allowing either of them to access funds.
- **Case 2:** A father and son open a joint account for the son's education expenses. The father opts for **Former or Survivor**, ensuring he retains control until needed.

Parameter	Details
Eligibility	<u>Residents; NRIs (if close relatives).</u>
Modes of Operation	E or S, Former or Survivor, Jointly.
Documents Required	<u>KYC for all account holders.</u>

## Accounts of Illiterate Persons

### 1. Explanation in a Known Language:

- The bank must explain the **account rules clearly to the illiterate person** in a language they understand.
- The customer should be informed that they must visit the bank in person with the passbook for withdrawals.
- **Current Accounts:** Not permitted for illiterate individuals.

2. **No Cheque Book Facility:** Illiterate persons are not issued cheque books, even for joint accounts.

### 3. Thumb Impression:

- The left-hand thumb impression of the account holder is obtained on the account opening form.
- This must be done in the presence of an authorized bank officer and attested by a person well known to the bank.

4. **Photographs:** Two passport-sized photographs are mandatory:

- One attached to the account opening form.
- One affixed to the passbook.

5. **Withdrawal Process:** Every withdrawal must be orally confirmed by the account holder to an authorized bank official.

6. **Account Operation with a Literate Person:**

- If an illiterate depositor wishes to allow a literate person to operate the account:
  - They must submit an **authorization-cum-indemnity letter** in the prescribed format.
  - The account must be operated **jointly by both**.
- **Restrictions:**
  - No operation facilities like "Either or Survivor (E or S)" are allowed.
  - Accounts cannot be operated solely by the literate person.

**Example:** An illiterate farmer opens a savings account with assistance from their family. They regularly visit the branch with their passbook for withdrawals, with thumb impressions recorded for transactions.

Parameter	Details
Cheque Book Issuance	Not allowed.
Withdrawal Process	Personal visit with passbook required.
Account Operation with Others	Allowed only with joint authority.

### Accounts of Blind Persons

1. **Legal Eligibility:** Blind individuals are legally allowed to open and operate accounts.
2. **Care in Account Handling:** Due diligence is necessary as signatures may not be consistent.
  - The risk of being cheated is higher as blind customers often depend on others for transactions.
3. **Photographs:** Two passport-sized photographs are required:
  - One for the account opening form.
  - One for the passbook.
4. **Thumb Impression/Signature:** The thumb impression or signature of the blind customer must be attested by someone well known to the bank.

5. **Operation by the Account Holder:** The Branch Manager can allow a blind customer to operate their account personally or through a next of kin with a proper **letter of authority**.

6. **Signature Inconsistency:** If inconsistency is observed in signatures, the left-hand thumb impression may also be taken.

7. **Passbook Updates:** The balance and transaction details must be updated in the passbook after every transaction.

**These details should be read aloud to the blind customer**

privately to maintain confidentiality.

**Example:** A blind teacher opens a savings account. They operate the account personally, with assistance from a trusted relative for withdrawals. Each transaction is confirmed verbally, and the passbook is updated regularly.

<b>Parameter</b>	<b>Details</b>
Cheque Book Issuance	Permitted if authorized by Branch Manager.
Withdrawal Process	Personal or through authorized next of kin.
Signature Inconsistencies	Left-hand thumb impression may be obtained.



## Accounts of Minors

### Legal Background:

#### 1. Indian Majority Act, 1875:

- A minor attains majority on completing **18 years** of age.
- If a **court appoints a guardian for the person or property** of a minor, majority is attained at 21 years.

#### 2. Indian Contract Act, 1872:

*Void-ab-initio*

- A minor is **not legally competent** to enter into a contract.
- **Contracts for the supply of necessities of life are valid.**
- **A minor can act as a beneficiary and recover money advanced to others.**

- #### 3. Negotiable Instruments Act, 1881 (Section 26): A minor may draw, endorse, and negotiate negotiable instruments, such as cheques.

### Banking Provisions for Minors:

*in self operated minor A/c*  
*no nomination available*

- #### 1. Encouraging Savings: Banks allow minors above the age of 10 years to open and operate deposit accounts under certain conditions.

- Purpose: Inculcate the habit of saving and thrift.

#### 2. Natural Guardian:

*Father/mother [natural]*  
*legal guardian*  
*Testamentary guardian*

- Typically, the father is considered the natural guardian.
- Banks can permit mothers to act as guardians as per RBI guidelines.
- **Exclusions:** Stepmother or stepfather cannot act as natural guardians.

3. **Joint Accounts:** Two minors cannot open a joint account.

4. **Facilities for Minors:** Internet banking, ATM cards, and debit cards are allowed. credit card

**Restrictions:** Accounts cannot be overdrawn.

### **Documents Required:**

#### 1. For Minor:

- Date of birth proof (e.g., birth certificate, Aadhaar).

#### 2. For Guardian:

nomination

- Identity proof and address proof.
- Relationship proof with the minor.

### **Rules for Operation - Accounts of Minors:**

1. **No Overdraft:** Minor accounts must not have overdraft facilities.

~~2.~~ **Cheque Operations:** Minors can draw and negotiate cheques as per Section 26 of the Negotiable Instruments Act.

**3. Upon Attaining Majority:**

- The guardian loses the right to operate the account.
- The now-major account holder must:
  - Confirm the account balance.
  - Provide fresh operating instructions.
  - Submit updated specimen signatures.

**4. Account Limits:** Balances in minor accounts may be capped, as decided by the bank.

**5. In the Event of Death:**

- **If the minor dies**, the guardian must close the account.
- **If the guardian dies** while the minor is still underage, the balance is payable to the minor upon attaining majority.

**Examples:**

- **Case 1:** A 12-year-old opens a savings account with a guardian's authorization. [They receive an ATM card but cannot overdraft or apply for loans.]

DDU

looking after

- **Case 2:** Upon turning 18, the individual updates their signature and provides new operating instructions to continue using the account independently.

Parameter	Details
Minimum Age for Self-Operation	10 years.
Guardian Requirement	Father or mother; no step-guardians.
Joint Account Restrictions	Two minors cannot open a joint account.
Facilities Allowed	Internet banking, ATM, debit cards (no overdraft).
Fresh Instructions	Required after attaining majority.