1949 - 2023

Ease of Doing KYC - A Study

Bombay Chartered Accountants' Society

Ease of doing KYC - A Study

by **CA Raman Jokhakar**

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Dedication

Dedicated to crores of

depositors, investors

and taxpayers

who yearn for ease of living and
ease of doing business.

ACKNOWLEDGEMENT

We are grateful for inputs from the All-India Bank Depositors' Association (AIBDA) and for encouragement from the Forum of Free Enterprise (FFE), as Knowledge Partners. The common goal is to propose steps to ease conduct of financial transactions with the help of systematic research.

About BCAS

- The Bombay Chartered Accountants' Society founded in 1949 is one of the largest Independent Voluntary body of CAs in India with more than 8500 members. BCAS is a principle-centered and learning-oriented organisation to promote quality service and excellence in the profession of Chartered Accountancy and is proactive to change.
- The organisation has been successful in disseminating 5,00,000 + education hours through various educational activities such as seminars, workshops, residential refresher courses, study circles, lecture meetings, distant learning programs on Various Subjects and pioneered the residential refresher courses.
- BCAS publishes various books including its monthly BCA Journal. It has a track record of publishing the BCAJ for over 50 years and also publishes Referencer along with an easily readable e-book which is an indispensable tool for practicing professionals as well as those in the industry.
- BCAS is a strong community of experienced and dedicated volunteers, who are the strong pillars in disseminating knowledge to members, build skills and networks amongst them and encourage them to adhere to highest ethical standards and professional integrity.
- BCAS Foundation: The BCAS Foundation was formed with the principal agenda to apply its income and the corpus to various public charitable purposes such as relief to poor, education, medical relief, rural development and other object of general public utility.

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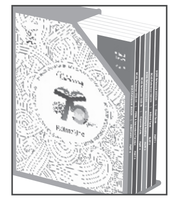

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Foreword

In the world of ever-evolving regulations and rapid technological advancements, navigating the intricate web of Know Your Customer (KYC) processes is a pivotal challenge for businesses and individuals. CA Raman Jokhakar has shown a remarkable endeavour to shed light on this intricate domain through extensive research based on real-life examples and analysis.

The Bombay Chartered Accountants' Society has continually endeavoured to transcend its role beyond the traditional realms of accounting and taxation. Serving as a beacon of knowledge and guidance, BCAS aspires to function as a think tank, steering the public towards adeptly overcoming the complexities and challenges entrenched in laws and reporting standards. CA Raman Jokhakar's research paper is a testament to this vision, focusing on the KYC process and its analysis, providing pragmatic solutions rooted in practical experiences.

The KYC landscape presents a formidable labyrinth of compliance requirements, often posing significant hurdles for businesses and individuals in their day-to-day operations.

Real-life case studies form the bedrock of this research paper, offering tangible insights and actionable recommendations. It is through the lens of these practical examples that BCAS seeks to catalyse pragmatic change, simplifying the complex KYC procedures and charting a course towards streamlined compliance without compromising on efficacy.

The KYC process, often deemed burdensome due to its multifaceted requirements, is examined through a unique lens in this research paper. By pinpointing the smallest issues faced by individuals and businesses, BCAS endeavours to unravel complexities, promoting ease of living for the common man and facilitating ease of doing business in India.

As we delve into the pages of this research paper meticulously curated by CA Raman Jokhakar, let us embrace the spirit of collaboration and transformation. May this work serve as a guiding compass, propelling us towards a future where compliance is alleviated, businesses are relieved, and the public at large experiences the ease envisioned in their endeavours.

CA Chirag Doshi
President

Bombay Chartered Accountants' Society
(2023-24)

Preface

Improving CX of the KYC process

The Bombay Chartered Accountants' Society is in its 75th year. Over the years, it has pioneered numerous initiatives, emulated today by other professional bodies. A few years ago, when I was the editor of the BCA Journal, I felt that BCAS had the potential to offer more than making representations to the authorities on tax, audit, company law, FEMA and so on. A representation is generally made on issues and challenges on draft laws placed for approval of the legislature or on the ways, a law is implemented by rules and procedures framed for its application. Representation from a professional body is worthy, considering the cumulative wealth of experience and close touch with the ground reality that variety of professionals have.

At the same time, I felt that professionals could do much more if they zoomed out more and looked at the comprehensive and interconnected picture since they deal with issues in an integral manner. I saw this as an editor of the BCA Journal. This led me to ask whether BCAS can evolve as a **think tank**, and look at larger contexts, see them holistically by studying them in detail, and present a broader picture to the regulators to consider refinements, corrections and hardships faced by citizens. **The aim should be a solution that is better and integrated which keeps the spirit and goal intact but resolves the problem of a bumpy, winding and arduous road to reach that goal.** Often we look at so many things, but we don't see them. We thought study, survey, research and analysis can lead towards a better vision of Bharat, by clearing the rough patches, and make ease of living (EoL) and ease of doing business (EoDB) a reality. Fortunately, we have the Hon PM Modi as the chief proponent of EOL and EoDB.

In the BCAS tradition, the one who gives an idea is usually honoured to seed, nurture, and transform that idea into reality. Further, in the seventy fifth year, we thought it would be great to evolve and extend the reach of our offerings in this way. This first study on the **Ease of Doing KYC** is a step in a direction that can lead towards improving the experience of crores of banked citizens of India.

In the last more than fifteen years, I have come across numerous KYC issues relating to near and dear ones as well from people I know. Most of these, as you will note from the Chapter 5 are unreasonable, illogical, and over the top or a combination of these in varying measures. Such actions in the financial services area, affects large number of taxpayers and investors in a country with a growing middle class. This is true for the strata beneath the middle-income group as well. I have taken **Nine real life case studies** as use cases, drawn issues from them and raised questions on the way KYC process is undertaken. These use cases are validated by a **survey** of bank depositors and investors in Chapter 6. The study ends with

recommendations that can improve CX or Customer Experience of the KYC process. This study is succinct and focussed and yet aimed to give logical pragmatic recommendations that I believe will result in EoL and EoDB.

KYC process and all paraphernalia around it, like many other things in India, seeks disproportionate effort from citizens. Further, the effort of KYC from the banks' side is a cost to depositors. I must confess that I was tempted and resolute to keep the names of banks involved in these use cases given in chapter 5 to make the tale more real and relatable. However, I have not given their names, as these banks may feel that they alone are 'targeted'. Well one can only talk about one's experiences with those one has dealt with and no one would have possibly dealt with every bank. **One hopes that banks will be better off taking feedback as a call for improvement of CX rather than anything else**. Let me state, that banks covered are none other than the largest private sector banks and top foreign banks whose advertisements promise the world to customers!

I am grateful for inputs from **All-India Bank Depositors' Association**, to the **Forum of Free Enterprise** for their encouragement and to both for being '**partners in purpose**' to facilitate ease of living for our country's citizens. I cannot thank BCAS enough for taking this step, which we hope, can lead to more studies in varied fields towards making EoL and EoDB a reality.

CA Raman Jokhakar
26th December, 2023,
Margashirsha Poornima

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"Depositors' interest forms the focal point of the regulatory framework for banking in India. There is a widespread feeling that the customer does not get satisfactory service even after demanding it and there has been a total disenfranchisement of the depositor. There is, therefore, a need to reverse this trend and start a process of empowering the depositor."

- Reserve Bank of India Master Circular on Customer Service in Banks, July 1, 2015

1. Preamble

For one individual:

PAN is one,

Aadhaar remains same

The nation is one

Government is one

Ministries that deal with much of this are the same,

address is often one or irrelevant,

then why KYC so many times, with varied practices and illogical consequences?

For a common citizen, it is hard to understand this phenomenon. Many things help the right causes, but only when they are done rightly. In the battle of means and end – citizens should be central. **KYC story is one such story – a story with the right cause, but often not done rightly.**

One may ask what ‘rightly’ means? In Sanskrit, in this context, one can call it उचित or उपयुक्त; both are renditions of the word सम्यक्. **Rightly** is a subjective word, and one can elaborate on it further:

- Knowing **why** this is required by the one actually carrying it out.
- Knowing **how** it should be done to serve that purpose.
- Knowing **who** should handle this.
- Knowing how **frequently** it should be done.
- Knowing to whom it should be done to.
- Knowing which bodies should undertake such KYC.
- Knowing sensitivities of the process and people and ensuring that regulations/ processes do not become blind compliance but remain sensitive to situations.

This paper aims to provide a **basis and ideas for efficiency in the system for ease of compliance with KYC regulations**, which apply to all bank accounts. There are 330.1 Crore[1] (330,00,00,000) bank accounts, out of which 294.5 Crore are fully protected[2] bank accounts[3]. India is on its way to become the third-largest economy in the world and an economic powerhouse already compared with much of the world. Bank accounts and financial inclusion are interconnected. These ideas and facts are big on the national agenda, critical for the growth of the economy and desirable development for crores of Indians. This study seeks to deepen those thoughts. One of the foundations for the study is the belief that **regulations should be enablers and not an impediment; regulations should facilitate ease of living and ease of doing business. A nation can stand out and flourish if it can call its regulations as its grand enabling feature and a competitive advantage. The time has come for India to accomplish this.**

While the economy must be protected from shocks, it must simultaneously be kept free of shackles. **The protective and freeing mechanisms act together** if designed that way. Protection from shocks is the defensive mechanism, and freeing from shackles is enabling one.

1. Crore is 10 million
2. By DICGC Insurance, RBI Annual Report 2022-23, page 168
3. RBI Annual Report 2022-23, page 168

2. Ease of Living (EOL)

This study aims to bring forth what a common person and especially a tax-paying citizen faces. Ease of living is what citizens want from the state in its interaction with regulated entities. Today **'ease of living'** theme is played by none other than the highest elected leader of our country, and as you read on about the phenomena that happen around KYC, they are quite the contrary. This study provides a survey and specific instances, that show that regulations are applied in a manner that makes little **sense to the regulated. A common citizen** doesn't know how **to handle situations, its form and frequency and the lack of appropriate and sufficient recourse against excess**. Much of this, I believe is undesirable and avoidable.

In this study, **absolute statements do not suggest that all of this happens all the time.** However, it conveys **the system's susceptibility to such events, and therefore, the system can override ease of living easily where a common citizen has to struggle for something that does not necessitate that discomfort.** Ease of living should also stand for allowing people to live without **frequent interruptions from regulators and regulations** that are duplicating in nature. Many of KYC-related activities are captured elsewhere in the national process and therefore, their so-called 'compliance' is of no consequence when you look at the whole. Ease of living should also mean that citizens' funds and assets, do not get frozen/suspended for discretionary and far fetched reasons.

Thus, **ease of living is worth only if it is an APPLIED INTENTION** in every aspect of a citizen's life when dealing with processes envisaged by regulations and carried out by regulated entities (RE), otherwise, it will be a mere rhetoric. It would be important to **ARTICULATE EOL** by regulators in their regulations CONSISTENTLY in relation to SPECIFIC regulations and their application to citizens. At the end of regulations, we need Ease of Living/Doing Business aspects specifically mentioned. Otherwise, a generic citizen charter has proved to be a poster kept on walls of departments and websites. We are talking about this subject because EOL is largely lacking across the board as far as KYC is concerned, as the survey on page 28 points out. We cannot deny that in many areas of life, EOL has increased significantly. Therefore, **more introspection and action** at the regulatory and RE levels is needed to make regulations citizen-focussed and ensure EOL aspects are woven in the implementation of regulations. **In the world of Technology, much of this is possible and even cost-effective for entities providing customer services.** However, many things in this country take disproportionately longer than they should. Often, the discussions are about doing something better when it is not required at all. So, let's get started then!!!

Ease of Living in the context of KYC can be as follows:

a. Transactions should not be stopped for a genuine customer[4].

b. Onus should be on bank and others as they need it, and therefore what they need is sought months in advance.

c. The process of doing this should be minimal, non-intrusive, sensitive to specific situation of the customer/citizen, and humane as opposed to tick-box approach.

d. The frequency of doing KYC from customer's perspective should be considered and not the RE or Regulator perspective alone.

Regulator and the regulated often believe that when something is mandated, it must be done 'anyhow'. Often, that is portrayed as part of RULE BASED system. **However, in a RULES BASED SYSTEM, setting RULE becomes CRITICAL and CENTRAL to ensure that HOW IT IS DONE is emphasized more to ensure that WHAT is done is aligned to WHY it is done by the shortest and easiest route. The way to do this is to keep the customer in the centre.** To step into the customer's shoes and see how a rule will work in different situations. The singular approach, where the RULE is more central than the RULED, leads to slow progress. RBI, in its master circular on Customer Services, 2015 says this "*Depositors' interest forms the focal point of regulatory framework…There is a widespread feeling that the customer does not get satisfactory service even after demanding it and there has been a total disenfranchisement of the depositor. There is, therefore, a need to reverse this trend and start a process of empowering the depositor*."

4. Existing customer, whose complete financial and other data is available with the Bank, has an Aadhaar registered with the Bank irrespective of risk levels, has been banking with the Bank for 5-10-20-30-40 years and his transactions do not reflect suspicion.

3. Scope and Purpose of this Study

A few months back, the BCAS leadership went to meet a well-respected senior tax lawyer, Shri Sohrab Dastur, in connection with the 75th year celebration of the BCAS. The first thing, and amongst two things, he said was that BCAS should do something about KYC. Shri Dastur is over 85 years of age and would have appeared as a counsel in thousands of tax cases at all levels.

When the president told me about this, it only confirmed what I had already suggested as a topic of study and research during the 75th year of BCAS. In fact, several years ago, I had proposed at the AGM, that BCAS should also evolve to be a think tank of sorts since it has people with decades of ground-level experience with regulators, regulations and regulated. Along with making representations, which are often specific *post facto* requests, BCAS should suggest futuristic, practical and holistic ideas to the government that will improve EoL and EoDB. This study is a step in that direction especially because it is also citizen-centric.

The purpose is how to make ease of living and ease of doing business a reality with specific suggestions based on specific instances/nuances of how rules are structured and implemented. I have faced the disturbing side of KYC (not in its essential character, but in how it is rolled out) for more than a decade. In that context, we have this study on KYC, which needs a re-look and re-design.

This study covers:

a. what is KYC and primary sources;

b. how KYC process is undertaken through some examples;

c. pointing out aspects that are excessive/illogical/repetitive/discretionary and therefore undesirable;

d. how genuine customers face discomfort/harassment/account blocking;

e. lack of robust and timely recourse in certain situations;

f. making suggestions to the regulators to integrate and improve these aspects where the goal of KYC is met yet it is done with ease.

The guiding factors of this study were:

a. to keep the study **short;**

b. to bring out real-life experiences as **case studies;**

c. to take a **dipstick survey** of people dealing with REs;

d. to **question approaches** and premises which are dated and inefficient;

e. to bring number of regulators on common ground where they can collaborate;

f. to see if there are **alternative ways** to accomplish the same goal;

g. to bring out **specific suggestions** to regulators to make the process consistent, less cumbersome, humane, and less repetitive.

This paper primarily focuses on Indian citizens; however, a few instances of non-Indian citizens and legal entities are also given to make a point. A specific consideration for Non-Resident Indians is a must as we consider much of the diaspora to be an extension of Bharat they are the largest contributors to inward remittances and otherwise. I have not included Beneficial Owners, controlling interests and complex corporate structures like Trusts here.

A special consideration to technology is necessary where 1000s of crore transactions take place in India via UPI, etc. Mobile, Email and SMS have become a norm, and instead of customers visiting a branch, a branch is now on the phone. So many banks open bank accounts online in other countries and some banks in India have done that too recently.

The purpose of the paper is to bring out:

1. **Difficulties**,
2. Varied **Multiplicity of Methods** and lack of uniformity,
3. **Quality of Discharge** of KYC compliance,
4. **Frequency and Repetitiveness/Duplication**,
5. How **KYC** should be distinct from **Know Your Customer Documents (KYCD)**,
6. **Forms and Formats** and clarity on requirements and need for uniformity,
7. Need for effective use of **central shared KYCs** for Bharat,
8. Need for **regulation on gathering data/documents** in the name of KYC,
9. Generating data and reports from those administering/doing KYC,
10. **Remedies to citizens** who face problems with timelines for resolution including, **rights of customers** against blocking their funds and actions bordering harassment without recourse,
11. **Challenging** what is being done to make the process consistent with ‘ease of living’ mandate,

12. **Bring out** specific suggestions/recommendations for regulators to re-look and have a debate on existing practices or lack thereof.

Actual experiences and dipstick survey forms part of this paper where actual experiences highlight **HOW KYC is handled and executed in reality** under different situations**.** These are real-life instances that I have personally come across or through sources known directly. Every case study or use case ends with an **analysis and questions** regulators and REs should ask themselves. It ends with a summary of recommendations for consideration of RBI and others who regulate/monitor/undertake KYC.

Let me start with several questions for a number of regulators and citizens:

a. If we are one country, we have one identity, why do we need KYC so many times to prove who I am?

b. One can understand the pre-Aadhaar era; however, with Mobile – Aadhaar and massive technology deployment where is the need for so many entities asking for KYC?

c. Does different entities mean each can ask for KYC repeatedly?

d. Who can collect so much data? It seems like a proliferation of data like never before!

e. Are these entities covering their back or helping the customer/citizens?

You the reader, can decide! You, the regulator can decide!

This Study, is a living document after over 10-15 years of dealing with KYC.

4. KNOW YOUR CUSTOMER (KYC)

Reserve Bank of India is the first and most important body that is the proponent and guardian of KYC for banking. Banking is at the heart of all activities as everything is related to money and assets. However, RBI (which includes its regulated entities or REs) is not the only unit that requires it. Here is the well-known list of those who ask for KYC:

1. Banks,
2. NBFCs,
3. Mutual Funds,
4. Insurance,
5. PF & PPF,
6. Post Office,
7. NSDL/CDSL,
8. Stock Exchanges,
9. Brokers/Intermediaries on Stock Exchanges,
10. GST,
11. Income Tax,
12. Ministry of Corporate Affairs/DIN,
13. Companies accepting deposits,
14. Digital Signature Certificates,
15. Hospital (Third party Administrator),
16. Courier Companies.

One can divide KYC into two parts

a. Initial KYC,
b. Re-KYC,
c. Transactional KYC (Point 13 and 16).

KYC or Knowledge of the other person has become highly document/evidence-based. **It is hard to make out whether it is Know Your Customer or Know Your Customer Documents.** Earlier banks opened accounts based on the recommendation of an existing customer. Today, banks open accounts based on knowledge of the customer via documents she brings – to prove that she exists and that her antecedents/profile can be evidenced. Perhaps a customer without papers may not be treated as a customer.

Origins of KYC

"KYC regulations originated from years of unchecked financial crimes. The initial guidelines were drafted in 1970 when the U.S. passed the Bank Secrecy Act (BSA) to prevent money laundering. Notable additions came years later, after the Sept. 11, 2001 terrorist attacks and 2008 global financial crisis."[5]

It is quite clear that KYC is a **deterrent to the Crimes Industry**. Crimes have roots and end in money, and therefore, link to financial channels like banks, markets, etc., which are otherwise formal and legal channels for citizens to carry out transactions in a free society without hindrance.

The goal is to identify, track and reach the source of money for suspicious transactions/ behaviours akin to money laundering[6], to combat drug money and terrorism financing by using financial systems. In simple words, whether funds are from criminal activities and sought to be made legitimate or funds are directed towards criminal activities from a legitimate source.

FATF[7] was formed to combat money laundering and terror financing. FATF paper INTERNATIONAL STANDARDS ON COMBATING MONEY LAUNDERING AND THE FINANCING OF TERRORISM & PROLIFERATION[8] has a nexus to the current system of KYC. "FATF is an inter-governmental body established in 1989 by the Ministers of its Member jurisdictions. The mandate of the FATF is to set standards and to promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and the financing of proliferation, and other related threats to the integrity of the international financial system".

5. https://www.dowjones.com/professional/risk/glossary/know-your-customer/#:~:text=KYC%20regulations%20originated%20from%20years,and%202008%20global%20financial%20crisis.
6. Money laundering is a pattern of behavior intended to disguise the proceeds of crime or money intended for terrorist activities. This is done by disguising the owner of the assets, the source of where it came from (e.g. drug trafficking), and/or what or for whom the money is intended.
7. Financial Action Task Force www.fatf-gafi.org
8. https://www.fatf-gafi.org/content/dam/fatf-gafi/recommendations/FATF%20Recommendations%202012.pdf.coredownload.inline.pdf

Therefore, one needs to know the identity of persons, sources and trails of money flow. A frequently used word is **RISK**. The report begins with the words of adopting a **risk-based approach**. Risk is not defined, but risk based approach is required to be in line with Notes to FATF recommendations and recommendation 1. At other places, **'Risk and Materiality'** (Page 15) are necessitated to be applied.

RISK is directly linked with the process to identify, to assess, monitor, manage, and mitigate AML/CFT (Anti Money Laundering and Combating the Financing of Terrorism) risks. **Risks stand for RISK OF MONEY LAUNDERING AND TERRORIST FINANCING[9].** The nature of Risk (essential character of what that risk is) is AML/Terror Financing and the function (what that risk will lead to/outcome of risk) of risk materialising is abuse. This is central to the discussion.

FATF also gives a list of High Risk countries that require enhanced Due Diligence (DD) measures. Countermeasures should be proportionate to the risk says FATF (pg 19). Lower country risk also means simplified measures, whereas higher-risk countries would need enhanced risk to manage and mitigate those risks. India is not in that HIGH-Risk list of countries, therefore India is apparently in lower/normal risk countries.

On reading FATF material, one can consider that **risk should be in relation to**

— **Person** (natural or legal person),

— **Amounts** (Quantitative and Qualitative aspects of flow of money),

— **Circumstances** (Situational/Source/Destination/Products/Services/Delivery Channel/ Complexity of Transaction),

— **Geographical Areas**,

— **Combination of the above and more**.

The 2023 Recommendations Report says that *most measures previously focussed on terrorist financing are now integrated throughout the recommendations*[10].

Customer Due Diligence (CDD) (Para 10, Page 14) is an important aspect that we should understand. CDD is a means to combat anonymous customers or accounts in fictitious names.

9. Page 19, Point 19 The FATF Recommendations February 2023
10. Page 8, ibid

The Central Purpose of FATF Guidance and the core of KYC is to put in place measures to track and curtail crime money (terror, drugs) and its laundering. The aim is critical, and therefore the process must follow and lead towards the fulfilment of that aim. Means and End need clarity, and Trigger for such means should be central to the entire process. The element used for PRUDENTIAL purposes and the Element of AML/CFT needs a deeper study and evaluation of measures, outcomes and everything in between.

We can also see the entire KYC mechanism from three levels

1. FATF level – International/Inter-Governmental,
2. Country Level/Regulator Level,
3. Entity Level/Implementation Level.

It is important to see how Point 1 is translated into 2 and Point 2 into 3 without losing essence and focus on RISKS.

Reserve Bank of India – Master Circular/Master Direction and KYC Guidelines

At the national level, for banks and financial institutions (hereafter referred to as banks and others), Master Direction[11] issued by RBI is the guiding document. The Master Direction consolidates all instructions issued. The Master Directions on page three points out that it is issued under the powers of the Banking Regulation Act, and therefore, non-compliance will attract penalties. MD also gathers its force from enabling laws such as FEMA, PMLA, etc.

It clearly states that KYC guidelines are issued for two purposes:

a. To prevent banks/FIs from being used, intentionally or unintentionally, for money laundering or terrorist financing activities.

b. To enable banks/FIs to know/understand their customers and their financial dealings better and manage their risks prudently[12].

The Master Direction and Master Circular give the frequency of KYC from the date of opening or last KYC:

1. **High-Risk Customers:** These customers must conduct the re-KYC process once every two years by visiting a bank branch closest to them.

2. **Medium-Risk Customers:** These customers are only asked to complete this process once every eight years by visiting a bank branch nearby.

11. RBI/DBR/2015-16/18 – Master Direction – Know Your Customer (KYC) Direction, 2016
12. July 1, 2015 Master Circular RBI/2015-16/42

3. **Low-Risk Customers:** These customers have to complete the process once every ten years and can execute re-KYC online via the simplified methods.

Master Directions spell out in good detail what the RBI would like the banks and other entities to do. A brief description of key elements is given below:

Chapter 2, Para 5 of the MD gives KYC Policy[13] to include the following:

a. Customer Acceptance Policy (Chapter III),

b. Risk Management (Chapter IV),

c. Customer Identification Procedures - CIP (Chapter V),

d. Monitoring of Transactions (Para 5).

Customer Due Diligence (Chapter VI) is also emphasized in a separate chapter although not part of the KYC Policy, it is an overarching concept.

Broadly, the RBI MD gives instructions on people and process responsible for KYC Policy implementation.

The bedrock of **Customer Acceptance Policy** is that anonymous or fictitious customers should not result in bank account opening. RE must be able to apply Customer Due Diligence measures and certain documents should be verified from the issuing authority (Example PAN).

The main concepts on Risk Management given in Chapter IV state that a customer should be categorised as low, medium or high risk. This seems like an instruction where every customer should be boxed in one of the risk categorisations based on assessment and risk perception by the RE. **RE should also lay down broad principles for Risk categorisation. It is stated that risk categorisation shall not be disclosed to the customer to avoid tipping off. One wonders why such perpetual blanket non-disclosure is necessary unless a large volume of people in the banking system use it for illegal operations. While potentiality exists about everything, its probability is important.** I am not sure if those I have entrusted to keep my money as a lay citizen should be treating me from a risk perspective, especially as a high-risk customer. MD doesn't give more detailed guidance on how to risk classify a customer.

13. RBI Master Direction, 2016

Chapter V on Customer Identification Procedure (CIP) largely deals with the commencement of an account-based relationship or under special circumstances. Third-party CIP is permitted if such third party is monitored with standards similar to those of banks under PMLA.

Chapter VI, Customer Due Diligence, deals with how to go about it for individuals and others. It mentions that address other than that available with the central identities data repository (Aadhaar database), can be given by self-declaration amongst other things. It also states that with the consent of the customer, records can be downloaded from the KYC Identifier. It has an interesting paragraph on V-CIP (Video-based Customer identification process).

5. Customer Experiences of KYC Process and Analysis

My first experience with KYC was during my ordeal with one of the largest and oldest foreign bank, at Fort 400001. This PIN code is where India's largest banks reside, thousands of crores of money is exchanged, largest insurance companies are located and so is the RBI. I was consulting CCIP – Paris Chamber of Commerce and Industry at that time. CCIP was set up in France by Napoleon in 1803. It had a Liaison Office (LO) in Mumbai. They decided to leave India and close the LO. The banker insisted that to close the account, amongst a number of things, they needed a PAN and ITR. In those years, PAN was not mandatory, nor was ITR. However, their list had both these for account closure. It took me months of explaining before this was accepted. However, I learnt that the bank had the upper hand, it could **hold a customer hostage** for amounts as low as Rs. 400,000, which is small in Euro terms even years ago.

Once, I received from another largest and oldest foreign bank a wrong form for opening the bank account of HUF. After everything was given, and received by the gentleman representing the bank, and after passing of many days, I was told that form was wrong and that I will have to refill a new form as this was a non-individual account.

I have come across numerous cases of such instances of wrong forms, multiple back and forth between back end and front end, that are avoidable and could have made customer experience so much better instead of one of endless follow-ups.

KYC Instances

Another recent story in 2020 from the same branch was interesting too. For a Charitable Trust I was a trustee of, this well known and well advertised foreign bank wanted address proof for a Re-KYC. The Bank had the Charitable Trust account for a few decades' right from its inception. It was a trust where family members were trustees, and its registered office under Income Tax, PAN, and Bank was at our office address by giving a no objection letter since the office belonged to the Trustees who were partners in the firm. In fact, one trustee was also banking with that bank for 40-plus years, and his address was same as the Trust.

The bank sent a list of 13 address proofs that they will accept. They included:

Documents acceptable as a proof of business/registered address of an Entity	
1.	Service tax registration certificate.
2.	Excise registration certificate.

3.	Value added tax (VAT) registration certificate/Taxpayer Identification Number certificate.
4.	Turnover tax registration certificate.
5.	Professional tax registration certificate.
6.	Commercial tax registration certificate.
7.	Certificate/License issued by the municipal authorities under the Shops and Establishment Act or Municipal Trade/Tax bill.
8.	License issued by the Food and Drug Control authorities/Drug Control Department.
9.	Small Scale Industries registration certificate/Entrepreneurs Memorandum (Part II).
10.	Importer Exporter Code (IEC) number certificate.
11.	Certificate of practice issued by bodies such as The Institute of Chartered Accountants of India (ICAI), The Institute of Cost and Work Accountants of India (ICWAI), The Institute of Company Secretaries of India (ISCI), Indian Medical Council.
12.	Registration under Software Technology Park scheme.
13.	Tax Deduction and Collection Account Number certificate.
14.	Certificate issued by 'State' Pollution Control Board.
15.	Certificate issued by Agricultural & Processed Food Products Export Development Authority.
16.	Registration-cum-Membership Certificate in name of entity which is issued by competent authority set-up by Ministry (Government of India).
17.	Registration certificate issued by the Securities and Exchange Board of India (SEBI).
18.	GSTIN Certificate.

None of these applied to our Charitable Trust. I must say that these had zero relevance most Charitable Trusts that I have come across. Finally, they said you will have to register the Address of the Trustee's residence as the address of the Trust. This was a disproportionately long and arduous process with months of emailing back and forth. To top this, I could open a Bank account with PSB with my office address without much problem.

The examples given above made me learn the hard way that:

a. Bank can insist on the irrelevant;

b. Hold and prolong the matter indefinitely/disproportionately long;

c. May follow a process you never were made aware of, and eventually that process could be wrong, too;

d. Dislodge an address or other coordinates they had accepted for years and reject them suddenly after years of being a customer;

e. Customers will have to fight a battle for their rights and 'prove' a point against a bank (see the scale of a bank and an individual customer);

f. Logic fails as banks follow a so-called 'system' or 'process' that their staff simply tell you and that you have to 'follow' as no discussion is possible since you cannot speak to backend people handling this;

g. You cannot close the account and leave, especially if you have FDs under income tax for a trust that are supposed to be kept for certain tax purposes;

h. Despite the bank knowing that money comes from HO in case of a LO and can go out to HO, and MCA and tax Department had already given a NOC, they insist on things whose primary regulators had already approved.

What comes across is that banks and other entities have their own way of handling this, where a customer doesn't matter much and so does a bit of logic carry its weight. Here are nine actual experiences that will prove these points. Obviously, these may not be all pervasive and at all times. However, I have personally come across all of these.

I. VS STORY

A customer, named VS was a non-Indian tax resident with a PAN having a bank account of her small company with the same bank. She had left India after COVID lockdown opened to her home country. Her small one-person type private company was under closure a top private sector bank asked for Re-KYC. The customer sent all the documents via courier to the concerned RM. There was no response for months. She emailed me to see if I can be of help as we had incorporated the company and also recommended her a few banks including this bank being a respectable private bank. For 2 months her Pvt. Ltd. company account was frozen. She was in France. I called the RM but he did not respond for weeks. Then I contacted again with cc to 2 levels above RM and received a reply asking for three further details. RM wrote as below:

"For ReKYC few documents signature and stamp are not their please find the list of documents pending.

- PAN in the name of entity (Signature & stamp required on it).
- Latest list of Directors on Letter head signed by Director or CS (This should match with MCA site. If there is mismatch, then Form 32 with ROC receipt for appointment or resignation as per latest KYC circular (Signature & stamp required on it).
- Certificate of Commencement of Business in the name of company (Applicable for Limited Companies registered under companies act 1956)".

Why these questions are flawed:

a. PAN doesn't change during the lifetime of a company. Even if the name changes, PAN never changes. Asking for PAN with signature and stamp subsequently makes no sense at all. The founder, largest shareholder and signatory remained the same from the inception of the bank account.

b. Asking for Self-certified PAN - if PAN doesn't change, why is self-certified PAN needed? There can only be two reasons: either checking PAN for no reason or checking is the customer is alive by their signature.

   Now, since many other self-certified documents were sent, which were signed by the customer, the customer's existence is very much in place, and the bank is even talking to the customer, including exchanging emails from registered email IDs.

   So why is the bank checking PAN?

c. Asking for Commencement of Business Certificate in case of a Limited company – the company was already in existence for about eight years. What is the point in asking for a COB Certificate/Declaration after being a bank customer for years and doing all the filings etc. Company was doing business for all these years, and whether it is for Banks to now monitor whether companies have COB Declaration?

d. List of Directors - MCA displays the list of Directors at any point in time. Director change is a straight-through process. The only thing required is a confirmation that THERE IS NO CHANGE IN DIRECTORS. While normally, one can see online that there is no change of Directors, even if a Form DIR 12 (erstwhile Form 32) remained to be filed - then one can say that there is no change.

They also wanted these in **Paper form**. Negotiable Instruments Act doesn't permit DSC (amongst other things like property purchase, wills also don't permit DSC). However, **can DSC certified list of Directors be permitted? Banks want Signed and Stamped PAPERWORK ONLY.** The question is – whether DSC certified list be acceptable proof of something for banks and others. **List of documents is not a 'negotiable instrument'.**

Analysis and Questions

1. **Why ask in ReKYC what never undergoes changes**?

2. For whether the **signatory is alive,** use other modes – like an online video verification link which is used by the competent authority issuing DSC.

3. **Paper copy** – To do away from paper copy and such attestation should be permitted via DSC as DSC is already a better proof as video verification of PAN/Passport/Aadhaar already done before issuance of DSC.

4. **Rubber Stamp/Seal** – I am unable to understand why a company STAMP (rubber stamp) is required? The rubber stamp (costs Rs. 100) is not akin to a company seal. MCA has abolished Common Seal of the company already. Can one write by hand or type for XYZ Private Limited ....Director and sign off?

5. **Commencement of business** – In case of a Private Limited entity this is not required. Only Public companies require. Why ask for things that are not applicable and make things complicated for a lay customer?

6. **List of Directors** – MCA is a real time web portal and most director appointment happen through a 'straight through process' and hence require no approval. What you see today is what is filed, at least till yesterday. Details of Directors should be asked only when the entity claims to have a different set of directors that don't match with MCA. A simple letter stating that there is no change or certifying MCA list of Directors should suffice.

7. **Immaterial balance** – In this case balance is less than Rs. 100,000. This is by every means a small balance in a mostly inoperative account. Whether a courier costing Rs. 4500 is required to be sent asking details available elsewhere. Are Banks covering their backs more than doing KYC? I feel Banks have huge costs at the expense of Depositors.

8. Does this type of Re-KYC warrant freezing of account? Freezing of accounts is a severe matter and should be applied in serious cases of money laundering or terror financing and such illegal matters. When accounts are sought to be closed, why do Re-KYC? Account freezing is dealt with separately in this paper. However, before freezing of the account, the customer should be allowed to close the account and return his money. When under the previous KYC, bank could open and accept money of customer, how can it freeze the account on same KYC which is supposed to be in place?

9. Is this Ease of Doing Business? or bank's attack on customer? or is this how KYC works?

10. The costs of Banks are charged to bank Depositors. Spending time and cost of senior officials itself is a bill to the customer.

    What comes across is that Crores of rupees go from under their nose - but Banks don't stop making taxpayers/citizens/small people a subject of their lack of understanding simply because a certain type of people are designated to deal with KYC who have little sense of WHY it is done in the first place.

11. Should banks be permitted to refund the money to people on record and close the account - by either giving a Bankers Cheque or allowing transfer to another account?

12. **FREEZING of Account** – Freezing tantamount to holding the customer hostage. I can understand freezing of a terror financier account. But when you can see the account - its details are with the bank - just for some frivolous reason - freezing the account sounds OVER THE TOP.

II. HOSPITAL KYC – ONE MORE KYC

I recently faced a medical emergency in my immediate family. At the cashless insurance counter, the hospital asked me to fill out a CERSAI form for KYC along with a copy of the cancelled cheque of the patient, the Insurance Policy of the patient, the PAN and Aadhaar of the patient. Advance payment was already made via credit card as they had asked. Hospital was covered for several days by that advance payment. Hospital already had PAN and Aadhaar. All of this was mandatory.

Now, here is the analysis and questions

1. PAN and Aadhaar are already given;
2. There is no cash payment;
3. There is cashless insurance applied for;
4. I had paid by credit card sufficient advance to cover the hospital charges;
5. I have given a cancelled cheque of the patient;
6. Insurance Policy is issued by one of the general insurance companies, and therefore is a regulated entity;
7. WHY one more KYC via CERSAI form?

III. M SOCIETY OF MUMBAI

In case of a charitable trust, one of the largest private sector bank blocked their account for KYC reasons. One of the things asked by them was tax exemption approval from Income Tax given to a charitable trust. They couldn’t submit old certificate for various reasons. When they came to me for guidance, I told them about the re-registration under the Income tax was done in 2021, that is effectively the registration for tax purposes and initial registration under sections 11-13 is redundant. Additionally, all registrations/approvals are there on the Income tax website for anyone to see.

I sent on email the application and granting of re-registration in PDF and the link on Income Tax website of all trusts that were granted registration by the Income Tax department. One can enter the Name and PAN and find out whether they are re-registered by the income tax department. One can download the registration in Form 10AC duly signed by the authorised official of the income tax department.

To this, the bank comes back and says that DSC of the Tax official showed a question mark and not a green tick and therefore this DSC was not acceptable. They had already frozen the bank account and didn't give bank statements for compliances whose deadline was fast approaching.

Analysis and Questions

1. Re-Registration of charitable trusts under the income tax department is already on the income tax website. Such a large bank didn't know that they could enter the name and PAN and view registered charities or is it done on purpose.

2. The bank is asking what is already available in the public domain.

3. They are questioning DSC applied by tax office. A customer doesn't know why a question mark 'inprint' is there on DSC. Anyone can download and get the same form Digitally Signed by a Tax officer.

4. Account is frozen.

What this shows is:

1. Asking what is already available in public domain is at one of the most prominent branches of one of the most well regarded banks.

2. Questioning a DSC affixed by a government department over which customer has no control as this came in an email from income tax department when name and PAN of the customer is already in public domain.

IV. PRIVATE FAMILY TRUST RUN BY PARENTS FOR A CHALLENGED DAUGHTER

Speaking to another client in September 2023– about a private trust - one of the largest private sector Bank had frozen the bank account.

I was informed by the father that they were saying Private Trust (made for a daughter who is challenged) should be registered on Darpan Website. Darpan website is for registering Charitable Trusts and Voluntary organisations. Plain reading from the website doesn't even make it mandatory.

A private trust doesn't require registration with regulators of charities. This shows that a client facing person at a bank can trigger a process, which leads to freezing of bank account.

While the RBI Master Directions talk about 'partial freezing' in a phased manner banks often jump to 'complete freezing'. Banks should on a monthly basis, display, complete details category wise - certified by CS or a CA – accounts under KYC non compliances, reasons and ageing before freezing. Why accounts are frozen should be disclosed with the number of accounts, category of accounts, reason category etc. Sunlight is best disinfectant for large entities managing public funds. The RBI says: "**In case of non-compliance of KYC requirements by the customers despite repeated reminders by banks/FIs, banks/ FIs may impose 'partial freezing' on such KYC non-compliant accounts in a phased manner.**" – Master Circular Dated: July 1, 2015, KYC Norms/AML/CFT/Obligations of Banks and FIs under PMLA, 2002.

Whereas the guidance is what is given above, the reality is different. In this case it seems the **bank is asking for what is not be asked to start with**.

RBI is quite reasonable, but many banks often aren't. It requires non-compliance by customer despite 'repeated reminders', 3 months notice, and followed by further three months. Thereafter, partial freezing (allowing credits) but disallowing debits with the freedom to close the accounts. When accounts remain KYC non-compliant for 6 months after partial freezing, then debits and credits should be disallowed. Bank Accounts can be closed by banks/FIs by giving due notice after senior level approval. If transactions seem to be suspicious, then banks can file STR (Suspicious Transactions Report) with FIU (Financial Intelligence Unit) of GOI (Department of Revenue) or CTR. It is nearly impossible to get an explanation and basis for freezing.

V. SENIOR AND SUPER SENIORS: HBJ INSTANCE WITH SEBI REGULATED ENTITY

HBJ is 85 years old, has low vision and has rheumatism in his fingers. I wrote to the broker to offer shares for a takeover offer. He said the account was blocked due to KYC. The stock broker could not tell nor fix it the same day, and this super senior citizen lost the opportunity to offer his shares for buyout. On the KRA website, it showed this Mobile Validation Failed.

Background of the person:

a. Professional,

b. Tax payer for at least more than 50 years,

c. Just filed his ITR in July 2023 with Aadhaar Validation,

d. He doesn't check his mobile but has to keep mobile for practical purposes as without mobile a person is *persona non grata.*

When one tried to enter the PAN on the KYC Portal of CDSL KRA – it was validated. I have the screenshot.

In reality:

a. Broking account was blocked.

b. So stock exchange didn't allow trade.

c. His Demat was blocked – so he could not make any transfer of shares.

d. The backend which is the KYC Registry – KRA – showed all was good.

e. There was no email, no letter, considering his age, and no phone call. KRA said (via my broker whose backend team speaks to KRA) they sent an SMS to validate a link, which was also not found on his mobile.

f. He doesn't check his mobile like most others considering age and health, and is often switched off due to constant sales calls and fraud calls which government is unable to save seniors from.

g. He had to sign 3 times on an Depository KYC form giving the exact details that they already knew – his address is same, his PAN is same, Aadhaar is same, Mobile is same and nothing has changed.

h. It took one month to get this activated after broker said banker/Demat had to do something and *vice versa*.

i. Fortunately, he has fit and able children to help. With his age and disability this would have gone into a never-ending spin a super senior would never know how to come out.

j. There was no recourse – no number one could call, and even though the son was a CA, he could not understand who was blocking and why.

Analysis and Questions

1. **A KRA can follow some random process, and without Notice, block all your financial assets in a second;**

2. There was no warning, advance notice.

3. KRA doesn't publish list of blocking, reason for blocking, time of blocking, notice prior to blocking, reason for unblocking.

4. There is no helpline that one could call.

5. There was no email that this was blocked with ways to re-activate.

6. There is no consideration of age or any other health issues a super senior might have or other challenges as someone being all alone etc.

7. A large foreign bank that also took care of Demat, wanted a new KYC Form filled out. It took 7-10 days to get it activated. In between, they said some SMS will come and it never came for days.

8. Emails to NSDL and KRA went unanswered.

9. PG Portal – No answer.

10. SEBI Scores Portal – No response.

11. **Does one need a Mobile to run a Demat account, and can a Demat be frozen for some random Mobile Validation?**

This is an epitome of **disregard for a customer and the dark side of DIGITAL INDIA or whatever else is promoted under it.** What it shows:

- Someone somewhere can block all of all your life's earnings (if you are holding everything in Demat) because of missing an SMS.
- There is no recourse and no one guilty of anything.
- It is bizarre and brazen both. This is nothing short of holding you hostage to some invisible system that took 30 days to fix with a disproportionate effort at a PIN code of 400001, which is probably the most prime for the financial capital of India. This is as close as it can get to Confiscation of assets under some serious criminal law.
- The taxpayer and customer is helpless and at the mercy of those who inflict this. Would you call this Tyranny?
- **Bank had KYC in place, and the Bank also runs Demats. His bank KYC didn't help. Simply because a separate Regulator (SEBI) who didn't talk to another regulator (RBI) despite both dealing with the same thing – Financial Assets/Flow of Funds and that both streams run through the same physical entity – the Bank.**

Before this study went to print I received from someone who took the survey write about a disabled partner, bed ridden with severe conditions in US, and cannot renew passport/driving license. Due to this their partnership account frozen, and after passage of time now, money sent to RBI. They have not received any letter even from RBI on the matter. Bank didn't send a notice.

VI. MINOR TO MAJOR TRANSITION

I came across, within my family, a minor to major transition. The child turned major, as most children do. Another large private sector bank sent this SMS on the morning of birthday – "we wish to inform you that the status of your account A/c XXXX0000 has been changed from No Freeze to Debit Freeze on 00-00-2023 XXX bank". A perfect HAPPY BIRTHDAY message from a bank for a child turning major!

One knew something was going to happen, so the parent had spoken to the RM and collected the forms for the bank account and demat account. The parent was asked that he had to update the PAN with – Photograph and Signature. Bank already had the minor's bank account for a decade or longer and had the PAN of the minor as well. So parent submitted the PAN form with photo and signature on the birthday itself. The process was smooth, within 8 days or so, E-PAN was received on email and in 10-14 days PAN Card also came. However, private sector bank refused to accept E PAN. E PAN has the same information, Banks have access to PAN data base too.

However, the Debit freeze was in place throughout. The process was completed and unfreezing happened after 30 days. While parent informed them that blocking is illegal, parent received no response. Finally after 30 days an email comes about unfreeze.

The account was Child, Father and Mother – and anyone could sign. There was no change in sequence. Mother and Father have separate bank accounts with the same private sector Bank. It took a month to get the bank change happen with the wrong forms, additional signatures and such other avoidable time waste.

Initially, all three were asked to give all documents as if this was a new account. It seems this is a commonly done as it's a easy way out to hand over full set to all people without consideration whether they are account holders or not. This is in clear violation of KYC Master Direction, para 10(f).

Analysis and Questions

1. PAN application form, which has the receipt of submission containing name, and Form with Photograph and signature, should be valid proof for change of minor to major. Why is that not accepted?

2. There should be NO FREEZING of bank account. If parents wanted to steal the child's money they had 18 years and 364 days to do that. Page 35 in MD speaks about this but doesn't call for blocking the account. However, customer due diligence (CDD) documents must be procured as per applicable provisions at that time. RE can carry out fresh KYC also.

3. Banks ask for additional forms such as the "Resident Individual Customer Relation Form". This is just a Non mandatory gathering of individual data form.

4. Address is forced by banks to be taken as per Aadhaar. This is generally a home address. Now, at most times, this is not the best for 'correspondence'. Children are away at school/college and parents at work. Work address often works better, since there is someone to take delivery of courier, which banks use these days. **What is the point in forcing a residential address as correspondence address when there is no one home for receipt? Customer, once they give Aadhaar/passport etc. as proof, they should be able to choose the address they want for correspondence with sufficient proofs like electricity/phone duly certified by the place of business.**

5. Much of this should be done in advance instead of starting a process at 18 years. A no-freeze zone of 3 months should be there. In any case, parents have only opened the bank account. The bank took from the guardian a "Minor Attaining majority – Request form for change in status". Here, the Guardian signs off on minor becoming major.

6. Where there is no change, a 'Resident Individual Form', effectively a new account opening form is sought. This should be avoided when continuation of account is in the same order and same mode of operation, a simple form for the same be applied.

7. An updated photograph around 16 years age will be a good idea and then at 18 one will simply have to do less. Learner license is given at 16 years of age for non-geared vehicles.

In Minor to major case, there is a flaw with demat account opening. This private sector bank took all forms for an account, which was to be opened with daughter and father. Father hears after 3 weeks that they will keep the account only in single name, which was opened and operated by father all through the period. Therefore, futher was informed that such a account, which initially could ONLY be opened in the name of the minor is now 'transitioned' to single name. This seems unreasonable – as by force a minor account is opened only in single name. Obviously, the account is opened in most cases by parents and in lesser cases by guardians.

There is no proactive approach also from banks and if the account could be made 'debit freeze' one would expect the bank to intimate this in advance at the least instead of AFTER its DEBIT FREEZE. In respect of Demat linked to Bank Account, banks must be advised to follow the same process.

VII. INTERNATIONAL COURIER COLLECTING KYC DATA

I ordered something from overseas. Its cost was less than Rs. 6000. This global well known courier was the agency appointed by the seller to bring parcel into India and carry out customs formalities. I received the first email asking to go to a portal xxxindia-kyc.com to undertake KYC. It listed out PAN, Passport, Voter ID and Aadhaar as valid KYC. For address proof it asked:

a) Bank Account Statement,

b) Electricity Bill,

c) Employee ID,

d) Hotel Booking Receipt,

e) LPG Connection Receipt,

f) Rent Agreement.

I uploaded as required – one address proof of the address I had given and one identity proof.

I received rejection email asking for address proof to be attested stating that I was a partner. Thereafter, I had one more rejection (disguised as request) I had to give a letter that my firm will not take GST credit. The name on Order and Invoice was personal and no GSTN was given. I had no option but to comply. After three such rejections/requests, I received the parcel.

Analysis and Questions

1. Several people including courier agency can collect KYC (perhaps to do customs process at times).

2. However, even E Commerce Couriers or other delivery people, if OTP is not there or not working, ask for Aadhaar card copies.

3. Restrictions on collecting KYC documents are necessary as misuse is rampant.

4. Most countries where FATF is implemented have Privacy Laws – USA, Australia. There are strong requirements for data governance and data security. India doesn't seem to have that in place, and even if laws are there, implementation is close to zero.

5. Recently, a south Mumbai club asked for Face recognition as mandatory for entry to club. There is no recourse made available by the club and they can block the entry after the deadline. How they will protect the data etc. is not stated and not replied to.

VIII. PROCESS OF OBTAINING DIGITAL SIGNATURE CERTIFICATE

A Certifying Authority (CA) issues a Digital Signature Certificate under the Information Technology Act, 2000. A DSC is an electronic signature. DSC is issued after verification of Identity and address. The process is simple and quick. The CA collects the proofs of Identity and address and send a link to the customer on mobile/email and customer has to open that link and record a short video of less than 2 minutes saying his name, PAN and Aadhaar and showing them both clearly. Within a day or two, you receive the DSC token (a pen drive), and you can start using it to sign electronic documents or attesting PDFs with it. All such signatures are valid for all purposes except for Wills, Property Transactions and Negotiable Instruments Act. The legal force comes from the IT Act, 2000 which overrides provisions of all other laws.

This is a strong and quick KYC – It leaves a trail, shows the documents which were supplied earlier with self attestation. With Digital Public Infrastructure, validity of such documents can be easily verified.

Analysis and Questions

1. Why do banks and others not accept this format of doing KYC since that infrastructure is already in place?

2 If a customer has DSC, can that person be automatically KYC-compliant?

3. Can the infrastructure available for CA be used for banks in case of addressable population?

IX. TIME TO GET ACCOUNTS GOING

I had another very interesting meeting with someone from Singapore. He met his team in Mumbai - he works for a top global bank. He has clients who want to invest in India Bond markets. A bunch of Japanese institutional investors came to India to explore this opportunity that has recently opened up.

His Mumbai counterpart said to open an account to buy bonds will take 1-3 months. Original sighting of passports of all the individuals behind the Funds - generally directors will be necessary. Video is not allowed. Video was limited for Covid times only, they were informed.

KYC being initial and first experience of any financing activity, when disproportionately cumbersome, creates a wrong impression for an economy that considers/seeks to be in the top league. Financial process starts with KYC and therefore much more is required on the business side as well.

6. Dip Stick Survey on Ease of Doing KYC

We carried out a survey on Ease of Doing KYC. It was taken by 487 depositors/customers of banks and financial institutions with validated Google Accounts in about a week's time (10^{th} to 18^{th} December 2023).

Profile of 487 Respondents who held bank accounts also had other characteristics:

- 65% had Demat and Share Trading Account
- 53% Held insurance Policies
- 37% were business owners

Age Groups

- 21% were in the age group 18-35 years
- 47% were in the age group 35-60 years
- 32% were in the age group 60-75 years

They were asked ten multiple-choice questions, and here is the summary of their responses:

Q1. OVERALL EXPERIENCE

Do you feel KYC by Banks and other regulated entities has become cumbersome (too many forms, questions, documents, signatures at multiple places)?

Responses

Options	***Selection %***
Strongly Agree	**58%**
Generally Agree	**35%**
I like many forms, questions, documents, signatures at multiple places	**1%**
Strongly Disagree	**6%**

Respondents' View: 93% of respondents feel KYC process is cumbersome with too many forms, questions, documents, and signatures at multiple places.

Q2. FREQUENCY & DUPLICATION

Would you say KYC Frequency & Duplication (duration before next KYC and asking for nearly same KYC details by every institution) is reasonable in present time?

Options	*Selection %*
Too Frequent and should be reduced and integrated	**84%**
Moderate and seek no change in frequency	**16%**

Respondents' View: 84% of respondents feel KYC process frequency and Duplication are not reasonable and they should be reduced and integrated.

Q3. UNIFORMITY ACROSS BANKS/ENTITIES

Do you feel KYC process can be more uniform (formats and process) across banks and other regulated entities?

Responses

Options	*Selection %*
Yes	**94%**
No	**4%**
I don't know	**2%**

Respondents' View: Most people feel a uniform format and process is overdue across all banks and other regulated entities in the financial services market.

Q4. KYC PROCESS

Which of the following describe your KYC experience?

Responses

Options (more than one option can be selected)	*Selection %*
The customer is not explained in detail what is required from him/her	**35%**
The process is not clearly stated publicly, and there is discretion at the back end	**44%**
Small and minor problems are made show stoppers	**41%**
Turnaround time is not definite/given	**35%**
Can be done efficiently with use of technology with Aadhaar/PAN	**77%**
Often, Signatures are taken without Details filed out	**42 %**

Options (more than one option can be selected)	*Selection %*
It generally takes back and forth to complete KYC and is never done in one go	**42%**
There are too many questions about information that is otherwise available with government/regulators	**44%**
None of the above are true for me	**3%**

Respondents' View: Most people checked items listed first eight points, which call for better efficiency in KYC amongst other things.

Q5. ONE NATION ONE KYC

Do you feel there should be single KYC across all entities in India and Banks, NBFCs, Insurance Co., Mutual Funds, SEBI entities etc.? All entities should refer to that database instead of each entity asking same data and doing the same thing again and again?

Responses

Options	*Selection %*
This is the need of the hour	**96%**
We don't need one nation one KYC	**2%**
I don't know	**2%**

Respondents' View: All customers/clients dealing with banks and investments call for a common database instead of each entity asking for the same data/documents again and again.

Q6. BLOCKING OF ACCOUNTS

At some stage have you experienced that your own/family/business account or services were blocked due to KYC either by banks, demat, brokers etc. despite of you having documents/being a customer for a long time/without intimation?

Responses

Options	*Selection %*
Yes	**71%**
No	**29%**

Respondents' View: 71% respondents had some experience where account or services services were blocked.

Q7. Re-KYC

Do you feel Re-KYC can be shorter, considering India as the most biometrically covered country and with better use of technology?

Responses

Options	***Selection %***
Yes	**90%**
No	**3%**
Not Sure	**7%**

Respondents' View: Most people agree that India, being a biometrically covered nation, can make Re-KYC shorter with the use of technology.

Q8. CKYC Number

Were you ever given 14 Digit CKYC Number by banks and others that you can use for subsequent KYC?

BTW: This is required under applicable RBI Circular

Responses

Options	***%***
Yes	**27%**
No	**73%**

Respondents' View: A large number of depositors/customers never received CKYC number from their bankers as required by RBI Master Direction.

Q9. VIDEO or BIOMETRIC KYC

Have you been informed of Video or Biometric based KYC or done such KYC?

Responses

Options	***Selection %***
No I have not been informed of such electronic mode of KYC by Bankers	**72%**
Yes I was informed of such electronic modes of KYC or have done such KYC	**28%**

Respondents' View: 72% of customers feel that they could be serviced better with the use of technology.

Q10. TIMELY INTIMATION OF PENDING KYC

Are you generally informed about Re-KYC by banks and others well in advance or made to do urgently?

Responses

Options	*Selection %*
Generally informed well in advance	**45%**
Often a last-minute emergency is created when I am about to transact	**56%**

Respondents' View: Majority of customers feel they are informed about KYC at the last minute when they are about to undertake a transaction.

7. Recommendations: Measures for Ease of KYC

Here is the call for action part. Considering the use cases in the previous chapter and their analysis, this section carries recommendations to curtail excesses of AML aims by banks and others. From a depositor/investor/taxpayer perspective, one would want a much stronger and timely recourse when faced with blocking bank accounts. **The idea of regulations carries consideration of the regulated and being considerate to the regulated.** Both can go hand in hand. **It goes without saying that if one believes this needs to be done, it can be done**. India has shown that even the impossible can be done. **Ease of Doing KYC is well within the ambit of the possible if there is a will.**

I. FREEZING OF BANK ACCOUNTS DUE TO KYC

1) **Create Deterrence:** There should be **serious deterrence against freezing** of accounts.

   a. Freezing should be under stricter guidelines.

   b. high level approvals are required to be recorded.

   c. written Notice to customers should be mandatory via courier/registered post.

   d. where the situation demands such drastic step, the action should be in accordance with the Master Direction of RBI.

   e. A more detailed Annexure in MD would be desirable to clarify on freezing bank accounts.

   Same should be applied to lockers where due to KYC lockers are blocked.

2) **Remedies for Customer:** Common citizens should have **immediate high-level remedies** against FREEZING. Banks have nothing to lose and are holding customer's assets. A tab in the app/website monitored by the Bank's internal Ombudsman, with escalation visible to the customer.

3) **Fines and compensation against wrongful blocking:** A means of deterrence against wrongful FREEZE bank accounts and Assets due to KYC should be prescribed for not following Master Directions – banks and KRA should be required to pay fines and compensation for blocking funds of *bona fide* customers.

4) **Changes in KYC Policies:** Banks are allowed to have their own KYC policy and procedures. Customer is not informed of such policies and procedures changes. The RBI should monitor such policies and procedures even if they are left to the Board of the Banks. Customers' hands are tied after entering into a relationship with banks and

others. Therefore, **for change in KYC Policies and Procedures, a customer should be given an opportunity to discontinue the relationship without any questions, and the customer's funds should be transferred to another bank's account as desired by the customer unless money falls within PMLA etc.**

5) **Options for Non-Compliant Accounts:** A process should be prescribed where a customer can inform the bank to **transfer assets to another account** if there is any dispute about the KYC process. Customers should be able to specify that account and banks are mandated to transfer the money/assets there. This will be beneficial to both, where banks and others who have a secret 'risk attribution' of a customer and can change KYC policies and processes without intimation to customer should be obligated to give up the relationship and repay the depositors' balance instead of freezing legal source money.

6) **Dealing with Harsh measures by Banks:** Harsh measures should only be adopted when there is money laundering, suspicious transactions, terrorism-related, drugs and other crime-related activities in the financial transactions. Clause 10 of FATF guidelines prohibits keeping anonymous accounts and accounts in fictitious names. Indian laws have adequate provisions to report such customers/transactions and therefore for transactions, which fall outside those – should not block accounts of *bona fide* customers. It will be desirable for RBI to elaborate on this in their upcoming MD.

7) **Is Blocking an account 'temporary confiscation'?:** Blocking of an account in certain situations should be put at par with 'confiscation' as defined under local laws and as given under Vienna Convention/Palermo Convention/Terrorist Financing Convention/ FATF and avoid misuse and improper use of FATF guidelines. **Unless there is evidence to prove beyond reasonable doubt that there is laundering etc. there cannot be freezing.**

   One would want to understand number of instances where an account is frozen for regular customers except under KYC legal injunctions etc.. Freezing is very serious and is akin to confiscation (albeit temporary) of assets for frivolous reasons. Examples: PAN not self-attested (PAN is already available, and self-attestation does not make a difference when say a form is already signed.) Instead of seeing alternative superior evidence, bankers blindly follow a tick-box approach where staff has low level of understanding and logic.

8) **Customer termination of banking relationship:** A customer at any point in banking relationship who does not agree with KYC implementation should be able to tell the bank to transfer that amount to another bank account and have the bank account closed after that. No questions asked. Smaller amounts say below Rs. 50,000 should be given in cash and account closed if depositor doesn't have another account.

II. CUSTOMER RIGHTS IN KYC/RE-KYC PROCESS

9) **Information about the process and Customer Rights about KYC:** Every **customer should be informed about**

   a. **his rights about KYC**.

   b. what will be required of the customer, frequency and manner.

   c. Any change in the above should trigger an option for the customer to leave the relationship with banks and others.

10) **Disclosure of Step-by-Step KYC Process:**

   a. Bank's KYC process – Initial and Subsequent (Re-KYC) should be clearly disclosed on website and via other modes to customer well in advance including **a sample model form that will be considered valid**.

   b. Before a change in KYC Process, a customer should be able to terminate the banking relationship.

   c. **A distinction should be made between bank's own need for legally mandated data for account opening/operation and KYC**. IBA/RBI/Regulators should carry out a study of varying processes for account opening/Re-KYC by various banks and others.

11) **Super Senior and Senior Citizens:**

   a. Senior Citizens and Super Seniors should not be through an unduly massive KYC process.

   b. Super Seniors and Seniors should only be able to sign a one-pager for no change.

   c. Alternative means like personal visits etc. should be mandated instead of SMS and e-mails (refer Chapter V, page 21). Banks and REs seem to rely on insensitive approaches that cause issues for customers.

   d. Bank branch Manager should initiate KYC related process for seniors that is sensitive and sensible both and not just some tech driven process that sends SMS and blocks accounts.

   e. **A detailed study on varying practices and procedures will serve this purpose well.**

III. PERFORMANCE OF KYC

12) **Trained Staff dealing with KYC Process:**

a. Bank **staff should be trained** (not even saying well trained) to perform KYC. Attrition is already a big issue flagged off by the RBI.

b. A **separate KYC team** will be more feasible instead of normal banking staff.

c. One wonders whether a short training and diploma/**certificate course in KYC** be carried out by IBA/others. A subsequent mandatory **continuing education** should also be ensured for customer facing bankers.

d. I have encountered going through the entire process and after three weeks was told that the form given to me was wrong. This shows that big branches of global banks at their largest branch cannot provide the correct form.

e. **The most problematic link in the chain is staff facing the customer and the gap between backend and customer facing staff.** I have observed, that many customer-facing bankers are marketing driven and not service driven. Most issues would be avoidable if the staff were more sensitised about the current process, what to ask for and what not to ask.

13) **Next KYC:**

a. It is observed that KYC is often carried out suddenly and called for urgently.

b. Depositor/Customer at all times should know their next KYC and what they will be expected to give during Re-KYC well in advance.

c. Passbooks and statements should state last KYC and next KYC dates. Today its hidden in banks computers and causes a veil of opaqueness.

14) **Who can collect KYC Data:**

a. Strict norms for collecting KYC data are required and regulators should propose to the government about privacy and other legal mandates about procuring, storing such data.

b. A foreign courier collecting my PAN and Aadhaar is undesirable even if it is for customs purpose. One would instead upload it on the customs portal.

15) **Risk Attribution of Customers:** Definition and Disclosure of RISK and MATERIALITY should be done. This should be defined with regard to Assets and Income and not just income. Presently, it is the income of Rs. 100,00,000 if I am not mistaken. If a customer's assets are Rs. 10 Crores – Say a flat purchased in 2020 (therefore very well on record) and Shares in NSDL – then limit of Rs. 10 Crores doesn't sound relevant when compared to a person whose assets of 1 Crore but not available on formal records. **Known assets and assets comparison to actual income/fund movement in account are important.** With permission of the customer, tagging with income tax portal where **income tax returns filed with Aadhaar OTP/DSC should be treated as valid KYC** on a yearly basis. Certain professions – say CAs may fall within high-risk criteria under FATF recommendations when they carry out certain transactions for their clients. However, otherwise bundling all professionals as high-risk does not seem to make sense. Often a professional has 1-2 sources of income, largest coming from a firm/profession. In fact, most professionals will have known sources of funds flow. I was informed that since professionals are more mobile they could launder money. This pre supposition is akin to a broad-brush approach.

16) **Revisiting limits:** It was hard to find out the monetary limits. However, one would think, with inflation this limit should change. There should be an inflation-linked limits. Rs. 10 lacs income of 2015 is different from today.

17) **Re-KYC sets:** Banks seems to be covering their back more than following the spirit of regulation. **Indian laws are often tilted against *bona fide* citizens as laws are made for the worst case scenario/people/crimes without exceptions carved out for *bona fide* people.** Often full KYC set of papers is given to customers for Re-KYC. PAN doesn't change, and Aadhaar doesn't change; why to ask for all these details from the **highest biometrically covered people on the planet?**

18) **Unused CERSAI: With CKYC Registry in place since 2016 at least, customer of any bank or anyone with Aadhaar/PAN need not provide anything else other than confirmation to start a relationship with the RE.** Remaining data can be obtained with customer consent from KYC Identifier, tax and MCA portals. Chapter VI of MD also permits this (page 21). CERSAI forms are sought to be filled even from customers who have done this 15 times in the past 5 years. CKYCRR has 700 million records and 5000 regulated entities under it as of 2023[14]. **CKYC Identifier should be mandatorily printed on passbooks and bank statements.**

14. PDF on CERSAI website

19) **Data accepted as given:** Several data points in KYC forms are taken without evidence. In case of income – form provides several options to tick one. These ticks have no basis and customers often give blank forms and banks accept what customers supply without evidence.

20) **KYC vs. KYD:** The manner in which KYC is done is more of **Know Your Customer Documents (KYD)** rather than know your customer.

  a. A lot of data is un-validated or as given by customer.

  b. Many data points asked again are those that do not change like date of birth, gender (in all likelihood), Aadhaar, PAN etc.

  c. It's a checkbox approach and out of OVD proofs for photo and address there is no real verification of say the address whether it is actual or not.

  d. For Re-KYC, the risk profiles can be shared based on Drawings, ATM withdrawals, card or digital transactions, Remittances made outside and into India. This will help to know the customer instead of just relying on papers. If a customer is high-risk, bank can give notice and close the relationship.

  e. In addition, **the bank and its AI tools are already in possession of ALL TRANSACTIONS of that bank account. In fact, post Initial KYC, review of transactions is more critical and dependable instead of taking papers that are already there on record.**

21) **Lack of Uniform Forms across RE:** Every bank has its own form. No forms match. It is the need of the day to have forms that are uniform. Some forms had 11 options for choosing the income level of a customer. It is hard to understand what the purpose is and what difference does it make if one chooses income level between 5-10 lacs or 10-15 lacs as they are not validated in any case?

Every bank has less than uniform KYC formats. Uniformity would mean – Minimum data required – Identity, Address, Income/Wealth. Rest of the data should be distinct. The largest private bank Re-KYC form for activating dormant account asked for 11 types of income slabs – to choose 1. I am not sure why would they need to know my income slab so precisely especially when it is not even validated. **Every Account opening and Re-KYC form should have mandatory RBI defined part, and non-mandatory but bank-mandated second part.** The legally mandatory aspect should have a place to tick that you hold an account for so many number of years. Say my bank passbook shows my account since 1973. Once I have given that, and written Aadhaar and PAN and signed, nothing further should be called for. Of course FATCA etc. will form legally mandatory part.

22) **E-PAN not accepted:** When Digital India is the call of the day, **why is E PAN not a valid OVD?** Banks can access PAN database and easily verify E PAN data from the issuing authority. E-PAN carries the same photograph, same signature and taking PAN card is not mandatory. It seems like **Banks can dictate the unreasonable. (Refer use case VI, page 23)**

23) **CKYC identifier**: As per para 56(g) of MD, 14 digit KYC Identifier generated by CKYCR should be communicated by RE to the individual. However, this is seldom done (Refer Survey Q.8 on page 31). **CKYC Identifier should be published on all Bank Statements/Passbooks and in Apps/Websites for any customer to see.**

24) **V-CIP for outside India:** Video KYC is available only to people in India. NRIs face trouble in opening a bank account or for Re-KYC. For Re-KYC this should be allowed from low risk countries at least. Data of NRO accounts blocked for KYC reasons may be a worthwhile measure for reporting.

25) **Sequence of Bank account opening and KYC:** It is permitted to open bank accounts and then carry out KYC process. It is almost the other way round. Is everyone a potential criminal? It is permitted to give 3 months for KYC (page 8 of KYC MD). **We do not know how many parties are blacklisted due to PMLA and a list should be provided in Public Domain** – if not the name, some statistics of how many bank accounts are blocked due to PMLA and KYC/Other similar reasons. **Depositors should know that out of more than 300 crore accounts how many criminals are actually spotted and caught?**

I have come across instances of Jan Dhan accounts blocked due to migrant workers/ inoperative status/non KY compliant accounts. **Delink Account opening and KYC.** Even today the lowest strata find it difficult to go to a bank and integration is still underway.

IV. REPORTING OF KYC FREEZING ACCOUNTS

26) **Reporting:** Banks and others should be required to report internally and on their websites data about bank account freezing/blocking of bank accounts. This data capturing is critical to deal with frivolous blocking. This data table can be evolved and further fine tuned.

27) **Public Domain:** The report should be in public domain as stated, certified by Chief Compliance Officer and sent to RBI and Board of Directors every quarter for action taken.

28) **Frequency:** Report Frequency should be quarterly for first twelve months and then made monthly.

29) **Report Content:** Frozen bank Accounts Report Content should include – Type of bank Account, Amount involved, Age of First Account holder, length of freezing, Purpose Category specifying the reason for blocking, Number of Notices given prior to freezing, Pending Re-KYC field, Effort for unfreeze, Authorisation obtained before freeze, Report to Police if such account found to be illegal/having ML activities.

30) **Attestation of Reports:** Chief compliance officer should attest such reports and they should be presented to the Board of Directors every quarter with this data.

31) **Risk Level:** Frivolous measures like signature not matching etc. should be avoided and not used as a means to block account. Presently this is done without hesitation and consideration for customer. Banks and others should make an effort to meet the customer and close the matter. A composite table of risk associated – Say ML, Terror Financing, STR reportable, up to low level risks such as signatures not matching, should be evolved and total freezing be tabulated under each risk.

V. IMPROVING CUSTOMER SERVICE AND COMMUNICATION BY BANKS

32) **Risk level of customer:** The **c**ustomer should know once a year whether she falls within simplified measures or otherwise for the year.

33) **Next Due KYC:** Next due KYC should be informed to customer three months in advance.

34) **Risk categorisation** of customers and criteria for assigning risk, should be informed to a customer who are HIGH-RISK category. Definition of Risk along with categorisation should be mentioned for the customer's knowledge. Present risk determination is challengeable, overarching, and un-validated approach. For example, making professionals HIGH-RISK seems absurd and without basis. India has more than 10-20 lac lawyers, Company Secretaries, CAs. As a professional, a person has income from firm or two, capital gains and income from other sources such as dividend/interest. **Secondly, quantum should not be the sole criteria the nature of money flow should be considered**. If a person receives

Dividend from NACH and Interest from Banks and Remuneration and Share of Profit from a firm, there is no reason to put such a person as HIGH RISK. FATF paper points to those professionals who are doing transactions on behalf of clients and therefore **citizens should be spared from excesses**. (Also refer point 15 above).

35) **Emails from banks:** Banks should not send **emails with just CRN numbers or partial CRN**. If they are talking to a real person, they must be mandated to write emails for specific persons – with their names. It is very hard to see a number or its last 3 digits and read an email asking for something. It is humanly impossible to remember so many numbers by common persons. Presently one of the largest private sector bank sends CRN emails. Humans know themselves by their names and not a number.

36) **All bank Apps and websites to have Grievance Tabs:**

a. Banks and others should be mandated to have customer grievance tab on Apps and Websites.

b. Sub tabs under the grievance tab should contain common issues defined, **but also contain an OPEN field so that customer doesn't have to fit bank's classification**, but the process is grievance centric and instead of customer centric.

c. A separate item for urgent matters should also be provided.

d. Escalation mechanism should be automatic and visible to customer for bank freezing situations where assets and bank balance are held up.

e. A direct tab for bank ombudsman should be in the Banking App/Websites of the banks. Mandatory integration in the Bank website and App of complaint to bank Ombudsman and also RBI Ombudsman should be attempted. This will be a customer centric approach instead of a RE/Regulator centric approach.

f. It should not be forgotten that banks run entirely on depositor funds. Approach and attitude often seems to suggest otherwise.

g. Depositors and Customers should be allowed to lodge a grievance after unfreezing also. What banks do is they wrongly freeze accounts, then depositor is busy unfreezing, by the time unfreezing happens even when a complaint is made, the complain is closed that account is unfreezed. The depositor is at a loss as she cannot wait for complaint to be addressed. **Depositor should be permitted to turn a complaint into a matter for investigation even post unfreezing if he believes such wrong was done without due care and in violation of applicable norms.**

37) **Escalation matrix:** Regular emails about escalation matrix, giving complaint number, and other information that will be helpful to customer should be sent at least once every six months. The largest private sector bank has been sending it recently with three levels of escalation upto regional/zonal level head. This makes a difference and I could solve problems with intervention of senior staff.

38) **Seniors/Super Seniors:** In respect of **persons above 65** it should be sent via post in their preferred language (apparently there is no tab for preferred language in Account Opening Form). While bank forms asks for all kinds of data, language is CRITICAL data point.

39) **Client master for banking Relationship:**

a. A **client master** should be made on the same lines as in a Demat account and given to the customer upon request. All critical information that bank relies on should be made available in a 2 pager like NSDL/CDSL Client master.

b. It should contain: Name, Email, CRN, Address, Jt. Holders, Nominees, KYC validated, Next KYC, risk ranking, CKYC Number, Escalation matrix, branch Details, occupation and all other fields as per the bank System.

c. This will allow a customer to see what is recorded with the bank instead of finding a surprise.

d. It is common situation where years later banks say they do not have that information or have a different information. I have observed that once a wrong data is entered in say a MF record – such as a wrong Email – the only option is fill the form again in spite of showing copy of correctly submitted form.

e. This will solve many problems.

Some of the above is already stated in MD on Customer Services under Grievance related matters in para 16. However, I didn’t find a report under quarterly reporting of banks as recommended by Para 16.4. From random checks, customer grievance tab on the website didn’t work for top private banks. One wonders whether what is on paper is actually translated into action at branch, bank, and ombudsman level or not. **A study on customer service and grievance resolution should be undertaken independently by the regulator.** The grounds for complaints to the ombudsman is restricted and seems heavily favouring the RE. All of these aspects need a thorough revisit in light of present situation, facts and data available. One wonders whether delays from bank side gets reported as complaints; as often much of the issue is taken as legitimate bank policy. Perhaps turnaround time (TAT) for KYC and Re-KYC can be monitored, and the disproportionate time taken can be examined. Seeking *post facto* explanation should also be permitted – for example blocking minor to major bank account. Initially a customer may be keen to get the matter sorted, however, *post facto* she should be able to lodge a grievance.

VI. DATA PRIVACY LAWS

40) **Who can collect KYC Documents:** Several people collect 'KYC' documents. There is an explosion of data that businesses and people collect on the pretext of KYC. However, this is personal data and therefore needs to be suitably protected. This is clearly lacking in implementation. Perhaps regulators should represent to the government to enact suitable privacy laws. Australia has Privacy Act. India doesn't seem to have adequate legal infrastructure nor implementation and monitoring. Many frauds have also been reported due to this.

VII. Use of Technology

41) **Digilocker:** KYC should be linked to Digilocker with the customer's permission and documents can be taken from there. Those who do not want to be bothered every 2 years or even ever, will give their data access and those documents will be as validated as validation can be. This is suggested by RBI in its MD on KYC, however **data is not available in public domain about usage entities making use of such data**.

42) **Facilities for Non-Resident Indians:**

a. For Non-Residents video Re-KYC should be allowed.

b. Banks must develop a platform where a video verification can be done like DSC Certifying Authority.

c. Data such as OCI etc, can also be shared with Banks to pull out from Central Government database.

43) **Non-In-Person KYC:** A Non-In-Person/Non Face to Face KYC facility for Indians and NRIs via a secured link video verification can be helpful. For the purpose of 'existence' verification by banks and others irrespective of risk (HNI and value risk and not risk of terror/ML) be permitted. A DSC issued, which is probably as high a security, by Certifying Authority who issues a DSC, which can be used for everything (except negotiable instruments act, wills, and property registration documents etc.). Banks must formulate means, and with India FIRST motto in both meanings of the word, that this is done on an urgent basis.

44) **Banking Ombudsman:**

a. Awards of Banking Ombudsman should be displayed on bank website freely including a summary of important awards.

b. Complaints and resolution and time taken should be displayed freely.

45) **Funds Dedicated to Customer Service:**

a. **% of revenue applied to update technology and human resources dedicated to customer complaints/services should be disclosed by banks and others in Annual Reports**. I feel this is akin to CSR as banks carry the money of customers who have earned it with hard work.

b. A customer should know the number of complaints, numbers solved, Average time it took to solve, and customer confirmation for his branch in all urban branches.

c. Depositor should get confidence about ability of her bank to deal with complaints and issues. The most important part should be customer should confirm, before the complaint is closed, that his grievances are resolved.

d. Often, complaints are closed without checking with the customer.

46) **Cost Saving aspect of Efficient KYC:** Literally thousands of people are involved with KYC process. An efficient system will result in significant cost saving, better risk management and desirable customer service. Recent MF related news items talked of Rs. 50/KYC[15].

15. https://economictimes.indiatimes.com/markets/expert-view/sebi-move-on-reducing-sip-minimum-size-good-but-need-to-reduce-kyc-transaction-costs-nilesh-shah/articleshow/105919405.cms

47) **Not asking identity Documents:** Identity related documents should not be asked a second time. Identity once established doesn't change and the bank has already got access to issuing authority database. For example PAN of Company remains. PAN of individual humans in India remains same – even if name changes – as the word suggests – it is a **permanent** account number. Name of Individual changes due to marriage. But PAN remains constant. **Banks still ask same documents again and again.** Most of customers in urban and semi urban areas hold insurance, demat, taxpayer and other financial products, and they are part of ever growing middle class customers. Data from Demat accounts and Tax Returns confirm this that their identity and authenticity are established multiple times.

48) **Multiple KYC:** If one were to go to eight Banks to open a new account, they all will ask for the same documents, and same signatures on several forms. This is not required. Once an identity is established, once Aadhaar, PAN is available, only thing required is signature and photograph and their validation with the of PAN/Aadhaar repository.

49) **Minor to Major KYC Problems:** Say when a minor turns major – The account is same, persons are same, proof of identity is same, proof of address is likely to be same; the ONLY thing that changes is **MINOR photo** in PAN card instead of NIL photo AND **Signature** of the now MAJOR child appears on the PAN card. If Aadhaar is to be given to bank then Aadhaar will also have a new photo. Bank still sends a SMS and Email of DEBIT block on the account on the morning of her birthday, parent prohibited from taking forms and submitting in advance to avoid blocking. This is undesirable and also avoidable. Minor should be —

a. Allowed to continue the account and normal conduct of the relationship should not be disturbed.

b. Allowed to prefill the form and submit it one month before they turn major and confirm via SMS on his 18^{th} birthday.

c. Account should not be blocked, whether operated by a minor or others in the account for three months till PAN changes etc. are done and given to the bank.

d. A mandatory letter by post and email and SMS should be sent 3 months in advance giving the process, rights of minor and others and paperwork required.

e. Subsequent matching of the photo and signatures with PAN can be done within 3 months (banks allow NRO accounts for foreigners where address has to be given in 30 days).

f. Present freezing of Minor to Major Demat situation is also not in accordance with SEBI Master Circular.

g. Why cannot tax department not accept PAN card application with new photograph at 17 years when learning driving license is issued at 16? This can also be recommended.

50) **Risk Levels Description:** Master Circular of the RBI (Pg 21) CDD for subsequent KYC is defined where it is left to the RE to carry it out based on Risk profile every 2/8/10 years. However, the measures are vague, left at – **"confirming the identity and address and other particulars of the customer that the bank/FI may consider reasonable and necessary based on the risk profile of the customer, taking into account whether and when client due diligence measures were last undertaken and the adequacy of data obtained."** There is relaxation for low-risk customer but not for others.

51) **Flouting of Extant Norms:** RBI norms are quite clear in most respects. Mandatory Information such as Identity and Address, once received should reduce risk for bank and thereafter should never be asked. Optional/Additional details should be obtained separately (September 3, 2013 directions). **Banks need to have a better KYC audit in place internally or externally in addition to reporting to facilitate ease of KYC.** One time verification of Aadhaar – instead of multiple ask – Para 3.v of MD – should permit this to establish genuineness/*bona fide* nature of the customer.

52) **Violations by banks:** In respect of NRIs, in violation of the MD 3.v many RE do not accept documents attested by notary/scheduled bank branches on those countries etc. and seek mandatory attestation from Indian mission. Along with Notary Public Appostile should also be added in MD by the RBI, especially when they already have OCI.

53) **Numbers per Person:** Today, every citizen has a large number of numbers: Number of KYC Numbers – CERSAI, KYC Identifier, PAN, Aadhaar, Customer Relationship Number, DP ID, Client ID, CAS Number, email registered in a bank and demat account, phone registered, to name a few. Remembering numbers and passwords especially per family is a serious problem, and it takes huge amount of effort for a single person managing

number of family members and their accounts. **The ratio of numbers/person could be one of the highest in India. An effort to reduce these numerous and confusing markers of KYC– can these be consolidated into one - is a question to ease customer matters.**

54) **Sensitising Customers as per RBI Master Circular of 2015:** Not adequate sensitising of customers is done by banks. No pamphlets on websites of IBA or Private Banks or PSB or Foreign Banks. Correspondingly, in the Master Circular on Customer Services, much is stated but not done enough by banks. GOI have issued amazingly clear 2 pages when GST was introduced. Banks can easily do more.

55) **PAN/Aadhaar Self Attestation of paper Copy:** KYC MD says – Para 10(j) – that PAN should be verified from the verification facility of the issuing authority – why self-attestation is insisted? Same applies to Aadhaar. However, unfailingly PAN and Aadhaar are taken self-attested. **They are perhaps most frequently taken self-attested documents in the world.**

56) **Obtaining Data from Other Regulators:** Apart from PAN and Aadhaar, there is MCA from where data can be obtained. So can data be obtained from the Certifying Authority. Those who have KYC done at say a Certifying Authority should be entirely spared from KYC.

57) **Inter-polarity of KYC:** The biggest problem is that 10 plus different authorities ask for KYC constantly. If you are running a middle-class family, you will be doing KYC or similar activity once in every month at some place. A broker asking for KYC, a Share transfer agent (if you have some old shares in paper) will ask KYC, and then SEBI regulated entities will ask for KYC for Demat. For me some of the experiences could be turned into a serial: *kahaani KYC ki*.

58) **For Minor to Major:** Banks asked for all KYC of all persons when there was no change in Jt. Holders (parents). It is become a standard process to dish out a full forms set. Both parents and Minor in the case study in this paper, had Bank account in the same bank for more than 10 years. These accounts were active. Still the RM asked for all details once again. It's a constant fight.

59) **Is KYC already done:** Aadhaar – to be single identity and address as per December 10, 2012 directions. It will be worth gathering data as to:

   h. How many eKYC Done.

i. How many paper KYC Done.

j. % of each to total.

Further**, data on PAN and/or Aadhaar linked bank account might prove that major work is already done.** There is perhaps no need to do much of this.

Finally, until RBI, IRDA, SEBI, PFRDA, FMC and other regulators talk to one another and arrive at ONE NATION – ONE KYC POLICY and PROCEDURE the customer/Client/ citizen will not be at ease.

The sum and substance can be summarised as below

A. Have a nationwide, uniform KYC – One nation One KYC.

B. Have deterrence against account blocking with more reporting and guidelines on such freezing.

C. Empower the customer with smoother and swift high-level recourse and grievance booking via bank app and websites.

D. Reduce duplication/frequency by not asking for documents that do not change and use of CKYC Data to reduce frequency.

E. Better definition, communication by RE on KYC matters.

F. Improve the CX in Minor to Major cases, and Senior citizens and physically challenged people.

G. Use more technology for ease of doing KYC.

H. Publish more data on KYC related account freeze and carry out audit of KYC processes from a ease of KYC perspective.

I. Improving customer service by training staff interfacing with customers.

J. Improve KYC Experience by making Ease of Living and Ease of Doing Business central to the entire process.

For most bank depositors and financial services customers/clients, ease of KYC is not only possible but a plausible outcome. It can make consumer/citizen experience much better and bring Ease of Living to a new height for all.

Key References

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