Due diligence in India

Jurgen MAERSCHAND
Trade and Investment Commissioner

Sherlynn D'COSTA
Trade Advisor

Flanders Investment and Trade
Consulate General of Belgium | 7th Floor TCG Financial Centre
C-53, G – Block | Bandra - Kurla Complex, Bandra - East | Mumbai - 400 098 | Phone: +91 22 66710627-30
Website: www.flandersinvestmentandtrade.com
The purpose of this document is to provide you with a basic step by step guide on how to better understand a business partner/collaborator in India. We are often contacted by Flemish companies seeking financial and business information on companies in India. Business information and basic financial information for Indian companies are not always centralized, hence we have provided you with a brief guide on how to go about doing basic ‘due Diligence’ and contacts who can assist you with in-depth analysis.

Often, the key to success in India is finding a good business partner. Before signing any agreement, it might be good to do a ‘due diligence’ on your prospective business partner. This document gives more information on which sources can be consulted to do such a background check and how to obtain them.

**Due Diligence in India**

For major transactions, like acquiring an Indian company, taking a share in an Indian company or setting up a Joint-Venture with an Indian company their business reliability, financial background & resources, willingness and ability to invest, marketing strength, regional presence, industry expertise, and credit worthiness should be evaluated. A well-executed due diligence research can reduce the risks involved. During the due diligence research, both parties enter into a non-disclosure agreement before starting an investigation into the sensitive financial, operational, legal and regulatory information that is disclosed during the due diligence process. It is the seller who bears the responsibility to provide the required documents to execute the due diligence. But what are the documents that are available in India? Depending on the willingness of the prospective Indian partner, the following documents can usually be obtained for the execution of an in-depth due diligence of a private limited company (Pvt. Ltd).

- Memorandum of Association
- Articles of Association
- Certificate of Incorporation
- Shareholding Pattern
- Financial Statements
- Income Tax Returns
- Bank Statements
- Tax Registration Certificates
- Tax Payment Receipts
- Statutory Registers
- Property Documents
- Intellectual Property Registration or Application Documents
- Utility Bills
- Employee Records
- Operational Records

**Verifying documents from the Ministry of Corporate Affairs**

A substantial part of the information for the due diligence research can be acquired through the Ministry of Corporate Affairs (MCA). The Ministry is primarily concerned with the administration of the Companies Act 2013, the Companies Act 1956, the Limited Liability Partnership Act, 2008 & other allied Acts and rules & regulations framed there-under, mainly for regulating the functioning of the corporate sector in accordance with law.

All the master data of each company can be accessed on the website of the MCA: [http://www.mca.gov.in/MinistryV2/master+details.html](http://www.mca.gov.in/MinistryV2/master+details.html). By law, the documents are provided by the registered companies and the Registrar of companies (ROC) has the ability to approve them. The submitted documents are accessible against a small fee.
More information on the fee structure: 
http://www.mca.gov.in/mcafoportal/enquireFeePreLogin.do

The following documents are made available upon payment:

1. Certificates
2. Change of directors
3. Incorporation documents
4. Charge documents
5. Annual returns and balance sheet (e-form)
6. LLP (Limited Liability Partnership) forms (conversion of company to LLP)
7. Other eForm documents
8. Other Attachments

The above is applicable for documents filed after the 16th of September 2006. All documents filed before this date were handed in on paper at the respective ROC offices. Access to this data is possible only through consulting the respective local ROC office.

Registrar of Companies (ROC) appointed under Section 609 of the Companies Act covering the various States and Union Territories are vested with the primary duty of registering companies and LLP's floated in the respective states and the Union Territories and ensuring that such companies and LLP's comply with statutory requirements under the Act. The information can be found for free through the following link: http://www.mcac.gov.in/MinistryV2/master+details.html

Usually the following information is freely available from the Registrar of Companies: If you have trouble in extracting the information please do contact our office for assistance.

- LLPIN - Limited Liability Partnership Identification number
- LLP Name
- Number of Partners
- Number of Designated Partners
- ROC Code
- Date of Incorporation
- Registered Address
- Email Id
- Previous firm/ company details, if applicable
- Total Obligation of Contribution
- Main division of business activity to be carried out in India
- Description of main division
- Date of last financial year end date for which Statement of Accounts and Solvency filed
- Date of last financial year end date for which Annual Return filed
- LLP Status

Reputation

Besides legal information, looking at the reputation of the company in the market is also recommended.
- What is the image of the company in relation to customers, suppliers, employees and other shareholders?
- Does the company have a reliable and trustworthy name in the market?
- Does the company have a healthy payment reputation?
- Were there strategic partnerships in the past and how did these partnerships work out?

Besides the information published on the website of the Indian firm, the industry trade association that the company is part of, could also be a reliable source of information. India has
several national trade associations which often have regional branches. The most important organizations are:

- Confederation of Indian Industry (CII): [www.cii.in](http://www.cii.in)
- Federation of Indian Chambers of Commerce and Industry (FICCI): [www.ficci.com](http://www.ficci.com)
- The Associated Chambers of Commerce of India (ASSOCHAM): [www.assocham.org](http://www.assocham.org)
- Chamber of Commerce and Industry (PHD): [www.phdcci.in](http://www.phdcci.in)


### Credit rating agencies

There are several private credit rating agencies that provide information against a fee. They can be an additional resource of information as they provide a credit profile on individuals, organizations and partnerships.

**CREDIT ANALYSIS & RESEARCH LTD (CARE)**

**Address:** 4th Floor, Godrej Coliseum, Somaiya Hospital Road, Sion (East), Mumbai – 400022 (Maharashtra)

**Telephone:** +91 22 67543456

**Fax:** +91 22 67543457

**Email:** care@careratings.com

**Website:** [www.careratings.com](http://www.careratings.com)

**Contact Person:** Ms. Minal Sikchi – Director, Business Development

**Details:** CARE is a full service rating company that offers a wide range of rating and grading services across sectors. It was incorporated in 1993 by a consortium of Banks/financial institutions in India. The three largest shareholders are IDBI Bank, Canara Bank and State Bank of India. CARE Ratings provides the entire spectrum of credit rating that helps corporates to raise capital for their various requirements and assists the investors to form an informed investment decision based on the credit risk and their own risk-return expectations.

**CRISIL**

**Address:** CRISIL House, Central Avenue, Hiranandani Business Park, Powai, Mumbai – 400076 (Maharashtra)

**Telephone:** +91 22 33423000

**Fax:** +91 22 33423001

**Email:** crisilratingdesk@crisil.com

**Website:** [www.crisil.com](http://www.crisil.com)

**Contact Person:** Ms. Ashu Suyash – Managing Director and Chief Executive

**Details:** CRISIL, a Standard & Poor's global company was set up in the year 1987 in order to rate the firms and then entered into the field of assessment service for the banks. As a full-service rating agency, the company rates the entire gamut of debt instruments, and provide a globally unique and affordable rating service for SMEs.
ICRA
Address: 1802, 18th Floor, Tower 3, Indiabulls Finance Centre, Senapati Bapat Marg, Mumbai – 400025 (Maharashtra)
Telephone: +91 22 61693300
Fax: +91 22 24331390
Website: www.icra.in
Contact Person: Mr. L. Shivakumar - Executive VP
Contact Person: Mr. Gaurav Bhutiani – AVP (small & emerging corporates)
Details: ICRA, a Moody’s alliance was established in the year 1991 by the collaboration of financial institutions, investment companies, and banks. The company has formed the ICRA group together with its subsidiaries. The company’s services offered include Corporate Governance Rating, Stakeholder Value and Governance Rating, Credit Risk Rating of companies.

FITCH RATINGS INDIA PVT LTD
Address: Wockhardt Towers, 4th Floor, West Wing, Bandra Kurla Complex, Bandra (East), Mumbai – 400051 (Maharashtra)
Telephone: + 91 22 40001700
Website: www.fitchratings.com
Contact Person: Mr. Amit Ganju – Senior Director
Details: Fitch commenced its operations in India in 2001, after it took over Duff & Phelps Credit Rating Co. Fitch, a subsidiary of Fitch Inc. It is engaged in credit rating of corporate, public finance institutions, financial institutions, infrastructure companies, microfinance institutions, etc. Fitch Credit Research provides timely independent research and analytical insight to help you evaluate the creditworthiness of a company, country or security. Identify risk - and opportunities.

MIRA INFORM PRIVATE LTD
Address: 605, Palmspring, Near D’Mart, Link Road, Malad (West), Mumbai – 400064 (Maharashtra)
Telephone: +91 22 40448000
Fax: +91 22 40448045 / 46
Email: mira@mirainform.com
Website: www.mirainform.com
Contact Person: Mr. Mitesh Gandhi – Managing Director
Details: Established in 1983 with a modest beginning, MIRA INFORM caters to the needs of several national and international banks, Credit insurers & factoring companies. Mira Inform is an information solutions and credit management company and partners with some of the largest credit management service providers globally.
Indian business culture

Few pointers that are essential for the success of your business

- Indian companies may come across as being overwhelmingly friendly and hospitable to prospective foreign partners. This alone should not be considered an indicator of a successful alliance.
- It is advisable to avoid over-questioning Indian partners during due diligence.
- Indians normally do not like to say 'no' be it verbally or non-verbally. This 'No problem' mindset and believing that there is a solution to everything could lead to complex negotiations.
- The Indian business culture resorts to name dropping to push ideas. Most Indians have a degree of access to powerful/influential people. The access to power is often cited as a means of showing one's own influence. It is advisable to avoid taking a decision solely based on such cited connections.
- Compared with other transaction based business cultures, Indians prefer to build a long-standing relationship prior to doing business.
- Taking time to get to know your business partner can work in your advantage in case of a legal situation. Legal procedures are best avoided as they could take years and are very costly.
- In India everything is negotiable and is considered a key part of doing business. Be patient and maintain your composure during the process. Expect delays especially when dealing with the Government.
- Agreements and contracts are not bound and determined, and there may be a possibility of clauses getting renegotiated, even after being signed.
- The final decision will be made by the owner or the senior most person in the organisation.

Compiled by:

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