

# GUIDANCE ON POLITICALLY EXPOSED PERSONS(PEPs)

for  
**(DNFBPs)Supervised by The Compliance  
Commission**

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# PEP DEFINITION

(Who is a PEP?)

The Financial Action Task Force (FATF) defines a Politically Exposed Person or (PEP) as “an individual who is or has been entrusted with a prominent public function.”

FATF classifies PEPs into three categories:

- **Foreign PEPs**
- **Domestic PEPs**
- **International Organization PEPs**

# PEP CLASSIFICATION

(Foreign PEPs)

- Foreign PEPs are individuals who have been entrusted with a prominent public function by a **foreign** jurisdiction, inclusive of, a head of state or government, legislator, senior politician, senior government, judicial or military official, senior executive of a state owned corporation, or **senior** political party official.

# PEP CLASSIFICATION

## (Domestic PEPs)

- **Domestic PEPs** are Individuals who are elected to political positions or appointed to prominent public roles within **their** country of residence. Like foreign PEPs, the domestic category includes heads of state and other foreign government officials, members of political parties, members of the military, members of the judiciary and senior executives.

# PEP CLASSIFICATION

## (International Organization PEPs)

- **International Organization PEPs** are persons who have been entrusted with a prominent function by an international organization, and refers to members of senior management or individuals who have been entrusted with equivalent functions, i.e. directors, deputy directors and members of the board or equivalent functions.

# PEP CLASSIFICATION

## (International Organizations)

Examples of some International organizations are;

- United Nations (UN)
- International Monetary Fund (IMF).
- Organization of American State (OAS)
- Inter-American Development Bank (IDB)

# PEP CLASSIFICATION

## (Family Members)

- Immediate Family members are individuals who are related to a PEP either through birth/blood or through marriage or similar (civil) forms of partnership e.g. the spouse, parents, siblings, children and children of the spouse of the person (client).

# PEP CLASSIFICATION

## (Close Associates)

- **Close Associates** are individuals who are closely connected to a PEP, either socially or professionally, and includes a person who is in a position to conduct substantial domestic and international financial transactions on behalf of the PEP. Examples are (business partners and individuals involved in financial transactions with politically exposed persons or heads of international organizations.)



# PEP RISK

(High Political Profile /Senior Public Office)

- PEP Risk is the risks associated with providing financial and business services to those with a high political profile or who hold high public office. The potential risk stems from the possibility of PEPs misusing their **position** and **power** for personal gain through bribery or corruption. Family members and close associates of PEPs may also pose a higher risk as PEPs may use family members and/or close associates to conceal any misappropriated funds or assets gained through abuses of power, bribery or corruption.

# PEP QUIZ

## Can you Identify a Politically Exposed Person?

1. **Preston has recently started his career in politics and has been hired by a political party as a PR assistant, helping to write press releases. He is also the son of a member of parliament.**
  - **Is Preston a Politically Exposed Person (PEP)?**
    - a. Yes
    - b. No
  - Ans: **Yes**
  - Explanation: While a junior role within a political party does not present a high risk, close family members of government ministers are classified as PEPs.
2. **Donna is a keen member of a left wing political party and often attends political rallies. She volunteers her time for door to door canvassing during political campaigns.**
  - **Is Donna a Politically Exposed Person (PEP)?**
    - a. Yes
    - b. No
  - Ans: **No**
  - Explanation: Ordinary members of a political party generally aren't responsible for prominent public functions and therefore don't pose a high risk.
3. **Rhi is a foreign real estate investor and has set up a new company to manage her portfolio. The company has received investment from her best friend from college, who is also the CFO of a state owned oil company.**
  - **Is Rhi a Politically Exposed Person (PEP)?**
    - a. Yes
    - b. No
  - Ans: **Yes**
  - Explanation: This example is a close associate of a senior executive in a state-owned enterprise and therefore should be considered a PEP. A close associate can be defined as a business partner.
4. **Ray is the Chairman of a private security and military tech firm. The company has won a contract to sell its services to a government in Asia.**
  - **In relation to FATF's Recommendation 12 and 22, is Ray a PEP?**
    - a. Yes
    - b. No
  - Ans: **Yes**
  - Explanation: Although this example is an employee of a private organization, FATF guidance on recommendation 12 and 22 takes into account those who perform a prominent public function in sectors known to be exposed to levels of corruption such as oil and gas, mining, sport, construction, natural resources and defense industries.

# PEP RISK

(ML, Terrorist Financing & Proliferation Financing)

- In addition to Money Laundering (ML) and related predicate offences such as bribery and corruption, PEPs are also known to be involved in activities related to Terrorist Financing (TF) & Proliferation Financing (PF). According to FATF, the potential risks associated with PEPs justify the application of additional anti-money laundering / counter-terrorist financing (AML/CFT) preventive measures with respect to business relationships with PEPs.

# PEP RISK

## Preventive Measures

- To address these risks, FATF Recommendations 12 and 22 require countries to ensure that financial institutions and designated non-financial businesses and professions (DNFBPs) implement measures to prevent the misuse of the financial system and non-financial businesses and professions by PEPs, and to detect such potential abuse if and when it occurs. These requirements are preventive (not criminal) in nature, and should not be interpreted as stigmatizing PEPs as such being involved in criminal activity. **Refusing a business relationship with a PEP simply based on the determination that the client is a PEP is contrary to the letter and spirit of Recommendation 12.**

# LEGAL REQUIREMENTS

## (Risk Management Systems)

In keeping with FATF's Recommendations 12 and 22, The Financial Transaction Reporting Act (FTRA) 2018 section 14(1), requires that every financial institution have in place appropriate **risk management** systems to determine whether a facility holder or beneficial owner is a Politically Exposed Person and shall;

# LEGAL REQUIREMENTS

## (Risk Management Systems)

- **(a)** Prior to establishing or continuing a business relationship with PEP facility holders or beneficial owners, obtain the approval of **senior** management of the institution;
- **(b)** Take reasonable measures to identify the source of wealth (SOW) and source of funds (SOF) of the facility holder.
- **(c)** Conduct enhanced on-going monitoring of the business relationship;

# RISK MITIGATION & MANAGEMENT

## (Controls & ML/TF Risk Level)

When a DNFBP is considering whether to establish or continue a business relationship with a PEP, the focus should be on **(1)** the level of ML/TF risk associated with the particular PEP, and **(2)** whether the institution has adequate controls or checks in place to mitigate the risk in order to prevent the institution from being used for illicit purposes should the PEP be involved in criminal activity.

# RISK MITIGATION& MANAGEMENT

## (CDD & Risk Assessment)

- This decision (i.e. establishing/continuing of a business relationship with a PEP ) should be taken on the basis of the customer due diligence **(CDD)** process and with an understanding of the particular characteristics of the public functions that the PEP has been entrusted with. The decision should be guided primarily by an **assessment** of ML/TF risks, even if other considerations, such as regulatory risk, reputational risk or commercial interests, are taken into account. Financial institutions and DNFBPs should consider whether they may be more vulnerable to domestic PEPs compared to foreign PEPs



# RISK MITIGATION & MANAGEMENT

## (Suspicious Transaction Reports)

For example, small financial institutions, with little or no exposure to foreign financial markets, who determine they are dealing with a foreign PEP, should consider in detail the reasons **why** such a relationship is being started. Financial institutions who operate in domestic markets where there are known issues relating to corruption should consider whether their exposure to domestic PEPs may be higher than to foreign PEPs. In all cases, where a financial institution or DNFBP suspects or has reasonable grounds to suspect that funds are the proceeds of criminal activity, a **STR** (Suspicious Transaction Report) should be filed with the FIU (Financial Intelligence Unit).

# RISK MITIGATION & MANAGEMENT

## (Domestic & International Organization PEPs)

- Foreign PEPs are always considered high risk and require the application of **enhanced** due diligence (EDD) measures, as is the case for all higher risk customers.
- For domestic PEPs and international organization PEPs, financial institutions must take reasonable measures to determine whether a customer or beneficial owner is a domestic/international organization PEP, and then assess the risk of the business relationship. For higher risk business relationships with domestic PEPs and international organization PEPs, financial institutions should take additional measures consistent with those applicable to foreign PEPs. (FATF) (Obtain senior management approval before establishing or continuing, for existing customers such business relationships).

# RISK ASSESSMENT

## (Understanding the Public Function(s))

- In case the customer is determined to be a domestic/international organization PEP, then financial institutions or DNFBPs should undertake a **risk** assessment of the PEPs business relationship. To this effect, they should gather **sufficient** information to **understand** the particular characteristics of the public functions that the PEP has been entrusted with and, in the case of an international organization, the business model of that organization. Information on international organizations, for example, may be found on their respective website

# RISK ASSESSMENT

## (Risk Factors/Elements)

- The risk assessment should be a composite assessment of **all** the risk factors, and needs to be done to determine if the business relationship with the PEP is of a higher risk. This assessment of the business relationship may take into account, among other factors **i) customer** risk factors, **ii) country** risk factors, and **iii) product**, service, transaction or **delivery** channel risks. Additional factors to be taken into account should include the **nature** of the prominent public function that the PEP has, such as his or her level of seniority, access to or control over public funds and the nature of the position held.

# RISK ASSESSMENT

## (On-Going Monitoring)

- If the risk assessment establishes that the business relationship with the domestic/international organization PEP presents a normal or low risk, the financial institution and DNFBP is still required to conduct enhanced on-going **monitoring** of the business relationship. If, however, it suggests that the business relationship is of a higher risk, then the financial institution or DNFBP needs to take consistent measures that are required for foreign PEPs i.e. **EDD**

# ENHANCED CDD MEASURES

## (Identify & Verify)

The enhanced CDD measures applied to high risk PEP relationships may include the following:

- 1. Identifying** and verifying the customer/facility holder and the ultimate beneficial owner (UBO) of the assets.

Where a person is purporting to act on behalf of a beneficial owner (or is acting on behalf of a natural person), it is best practice to **inquire** the **reason** for doing so. This may lead to awareness that the beneficial owner of the client is a PEP.

# ENHANCED CDD MEASURES

(Name Search/Country)

If the person who is acting on behalf of a PEP, or if a customer or beneficial owner is identified as a family member or close associate of a PEP, then the requirements for PEPs should also apply accordingly.

**2.** Knowing the customer's **country** of residence.

**3.** Utilizing resources such as google **searches**, Artificial intelligence, UN Sanctions name checks etc. to determine whether the customer is a PEP.

# ENHANCED CDD MEASURES

## (Information/Purpose for Account)

4. Obtaining information directly from the customer via account opening/**KYC** forms concerning his current PEP status.
5. Know the **purpose** for opening the account and the volume and nature of the activity expected for the facility or account if applicable.



# ENHANCED CDD MEASURES

(Intended Nature of Business)

6. Obtain additional information on the **intended nature** of the business relationship, and on the **reasons** for intended or performed transactions; conducting enhanced monitoring of the business relationship, potentially by increasing the number and timing of controls applied, and identifying patterns of transactions that warrant additional scrutiny.

# ENHANCED CDD MEASURES

## (Conclusion)

- Know the client's source of **wealth (SOW)** and **funds (SOF)**.
- Obtain information about the direct family members or associates who have the power to conduct transactions on the facility/account.
- Get **senior** management's full commitment to apply the "KYC" program, by setting the appropriate procedures and verifying their efficiency.

# TIME LIMITS OF PEP STATUS

(Is a PEP always a PEP?)

- FATF Recommendation 12 also defines a PEP as being someone who has been (but may no longer be) entrusted with a prominent public function. The language of Recommendation 12 is consistent with a possible **open-ended** approach (i.e. “once a PEP—could always remain a PEP”). The handling of a client who is no longer entrusted with a prominent public function should be based on an assessment of **risk** and **not** on prescribed time limits. The **risk-based** approach requires that DNFBPs assess the ML/TF risk of a PEP who is no longer entrusted with a prominent public function, and take effective action to mitigate this risk.

# TIME LIMITS OF PEP STATUS

**Possible Risk Factors** of a PEP who is no longer entrusted with a prominent public function:

- The level of (informal) influence that the individual could still exercise;
- The seniority of the position that the individual held as a PEP; or
- Whether the individual's previous and current function are linked in any way (e.g., formally by appointment of the PEP's successor, or informally by the fact that the PEP continues to deal with the same substantive matters).

# Red Flags and Suspicion Indicators

PEPs Attempting to Shield their **Identity**



PEPs are aware that their status as a PEP may facilitate the detection of their illicit actions. This means that they may attempt to **shield** their identity, to prevent detection. Examples of ways in which this is done are:

- Use of complex corporate vehicles, without valid business reason e.g (legal entities and legal arrangements) to obscure the beneficial owner.
- Use of intermediaries when this does not match with normal business practices or when this seems to be used to shield identity of PEP.
- Use of family members or close associates as legal owner.

# Red Flags and Suspicious Indicators

## The PEP and His Behavior (cont'd)



- The information that is provided by the PEP is inconsistent with other (publicly available) information, such as asset declarations and published official salaries.
- The PEP is unable or reluctant to explain the reason for doing business in the country of the financial institution or DNFBP.
- Funds are repeatedly moved to and from countries to which the PEPs does not seem to have ties with.

# Red Flags and Suspicious Indicators

The PEP'S **Position** or Involvement in Business



The **position** that a PEP holds and the manner in which the PEP presents his/her position are important factors to be taken into account. Possible red flags are:

- The PEP has a substantial authority over or access to state assets and funds, policies and operations.
- The PEP has control over regulatory approvals, including awarding licenses and concessions.

# Red Flags and Suspicious Indicators

**Industry**/Sector with which the PEP is involved



A connection with a high risk **industry** may raise the risk of doing business with a PEP. Examples of higher risk industries are:

- Arms trade and defense industry
- Businesses active in government procurement, (i.e., sell to gov.)
- Provision of public goods, utilities.
- Construction and (large) infrastructure
- Mining and extraction.
- Construction and (large) infrastructure.



# Red Flags and Suspicious Indicators

## Country Specific Red Flags and indicators



The following red flags and indicators relating to countries can be taken into account when doing business with a PEP:

- The foreign or domestic PEP is from a **higher risk** country (as defined by the FATF in Recommendation 19, or the Interpretative Note to Recommendation 10).
- Foreign or domestic PEPs from countries identified by credible sources as having a high risk of **corruption**.
- Foreign or domestic PEPs from countries that are dependent on the export of illicit goods, such as **drugs**.

# WHAT “PEP” DOES NOT MEAN

- A **PEP** or high-risk customer does **not** mean that the person(s) are or will automatically be involved in ML/TF or other criminal activity but that there is an increased opportunity to be involved.
- Additionally any one of the above Red Flag scenarios **alone** does not necessarily mean an individual is corrupt or the situation is automatically high risk. However DNFBPs should manage these risk scenarios by understanding and addressing the potential ML/TF risks associated with these customers and their transactions.

# Reference

- FATF Guidance politically exposed persons (Recommendations 12 and 22)
- 2021 LexisNexis Risk Solutions Group

*The End*