



Politically Exposed Persons (PEPs)

Guidance on the Identification & Treatment of PEPs for AML/CFT Purposes

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Special Investigation commission,

Guidance document addressed to reporting entities mentioned under articles 4 and 5 of AML/CFT Law No.44 dated November 24, 2015.

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1. Introduction

1.1. Purpose & Applicability

In the ordinary course of their businesses, reporting entities establish business relationships with PEPs, who **may** use their positions, power and influence for committing money laundering (ML) and related predicate offences, including corruption and bribery, as well as conducting activities related to terrorist financing (TF). In addition, PEPs **may** seek to use their power and influence to gain representation and/or access to, or control of legal persons for similar purposes. Close family members and/or close associates of PEPs **may** also benefit from, or be used to facilitate the abuse of public funds by PEPs.

The Special Investigation Commission (SIC) is issuing this guidance on politically exposed persons (PEPs) to all reporting entities, financial institutions (FIs) and designated non-financial businesses & professions (DNFBPs) under articles 4 & 5 of AML/CFT Law No. 44/2015. The guidance takes reference from the Financial Action Task Force (FATF) standards and publications, and also from other international organization, as well as from best practices and red flags indicators applied across multiple jurisdictions.

The purpose of this guidance on PEPs is to assist reporting entities in:

- Developing procedures for identifying and managing their risks when initiating new business relationships or during the course of existing relationships,
- Detecting and preventing potential misuse of the financial system and non-financial businesses & professions by PEPs if it occurs.

Procedures regarding PEPs are preventive in nature. Being a PEP does not prejudice a link to illegal activities, or equate to being an abuser of the financial system.

2. Definitions and Identifications

2.1. Definition of PEPs

The following three sub-groups or categories of PEPs are defined by the FATF, and are mentioned in AML/CFT regulatory requirements issued via Banque du Liban (BDL) and SIC circulars:

- **Foreign PEPs:** Individuals who are or have been entrusted with prominent public functions by a foreign country.
- **Domestic PEPs:** Individuals who are or have been entrusted domestically with prominent public functions.
- **International Organizations PEPs:** Individuals who are or have been entrusted with a prominent function by an international organization.

*Not all public sector employees are PEPs. The definition of PEPs is not intended to cover middle ranking or more junior individuals. Reporting entities can apply in this respect regular customer due diligence measures. However, when assessing the overall risks of middle ranking and more junior individuals, reporting entities should take into account the possibility that such customers **may** act on behalf of a PEP.*

2.2. Identification of Customers as PEPs

Reporting entities should have AML/CFT risk-based procedures to manage risks associated with any public function. However, individuals holding senior, prominent or important positions with substantial authority over policy, operations or the use or allocation of government-owned resources, have much more influence and therefore normally pose greater risk and should accordingly be categorized as PEPs.

There is no exhaustive list of positions that constitute a “**prominent public function**” and therefore a PEP. As such, reporting entities must rely on their risk-based procedures and use discretion to identify whether a customer or beneficial owner is a PEP, including when determining if a government official or manager of a state-owned corporation is “**senior**” enough to qualify as a PEP.

Reporting entities are thus required to assess on a case by case basis whether a particular function meets criteria or characteristics for a “**prominent public function**”. It is important to note that the same public function may in one case or country lead its holder to be considered as a PEP, while in another situation or country this may not be the case.

Example: The position and powers of a head of municipality of a large city might not necessarily be equivalent to those of a head of municipality of a small village. Therefore the importance and risk posed by these functions must be treated differently, as the definition of a “prominent public function” does not necessarily apply to the head of municipality of the small village.

Consequently, the decision whether or not to treat a customer as a PEP should not be based solely on the customer’s title, seniority, public service rank, or other similar factors. Reporting entities should consider a number of factors when determining whether a particular holder of a public function has the seniority, prominence or importance to be categorized as a PEP.

Some of the relevant factors could include:

- The country’s vulnerability to corruption (publicly available independent indices);
- Roles and responsibilities within the system;
- Nature of the title (honorary or salaried prominent public function);
- The level of authority over governmental activities and over other officials;
- The ability to direct the awards of government tenders or contracts;
- Access to government funds and assets.

The below is a non-exhaustive list that will most likely give rise to PEP status:

- Heads of state, prime ministers and speakers of parliament;
- Senior politicians such as ministers and members of parliament;
- Senior officials and high ranking officers (ministries, judicial, military, law enforcement and members of boards of central banks);
- Governors of governorates & heads of municipalities;
- Members of the administrative, management or supervisory bodies of state owned enterprises;

- Members of governing bodies of political parties (those having significant executive power, including in distribution of funds/ selection of candidates, etc.);
- Senior members of the diplomatic corps (ambassadors, chargés d'affaires...);
- Chief, directors, deputy directors and member of the board or equivalent functions of an international organization such as the United Nations and its bodies, International Monetary Fund, World Bank...

2.3. Identification of close family members and close associates of PEPs

PEPs may abuse their power and position for personal benefit by relying on their “Close Family Members” or “Close Associates” to conceal funds or assets that have been misappropriated as a result of abuse of their official position, or resulting from bribery and corruption.

Reporting entities should have in place systems, risk-based procedures and consider various factors such as the level of exposure or the length of the relation with the PEP to define and identify their “Close Family Members” and “Close Associates” as required by BDL & SIC circulars. Accordingly, the controls and monitoring measures established for PEPs, and the required enhanced due diligence measures should be applied.

Close family members of a PEP are individuals who are directly related to a PEP, and may include spouse, children, parents and siblings.

Close associates of a PEP are individuals who are closely connected to a PEP, either socially or professionally, and may include known partners, personal advisors, business associates, or individuals:

- Who share beneficial ownership of legal persons with the PEP;
- Who are connected to the PEP through joint membership of a company board;
- Who are the beneficial owner of a legal person that is known to have been established for the benefit of a PEP.

2.4. Identification of PEPs as Beneficial Owners

There is a risk that corrupt PEPs could circumvent AML/CFT and anti-corruption safeguards to open accounts, establish business relationships or conduct transactions by using third parties, including intermediaries (lawyers, private bankers,...) and legal persons. For example, corrupt PEPs may use legal persons to obscure their identity by being the beneficial owner of a natural or legal person to distance themselves from transactions, and to access the financial system undetected.

When conducting CDD measures, reporting entities are required to identify the beneficial owner, and to take measures to verify his/her identity. When the beneficial owner is a PEP, or if a person is acting on behalf of a PEP, the reporting entity should apply EDD measures.

Beneficiaries of life insurance policies:

Reasonable measures should be taken to determine whether the beneficiaries of a life insurance policy and/or, the beneficial owner of the beneficiary are PEPs. This should occur at the latest at the time of the pay out, and should be covered by the internal controls. Payments appearing to be from life insurance policy pay-outs should be subjected to risk-based monitoring to determine if the recipient of the funds is a PEP.

2.5. Time limits for PEP Status

PEPs do not cease to qualify as such simply because they no longer hold a prominent public function, nor do close family members or close associates of a PEP cease to require enhanced due diligence measures simply because the PEP to whom they are related no longer holds that position. A PEP's risk (and, indirectly, the risk of a related customer) derives from the PEP's power or influence over decisions, funds, or policies.

Since each PEP's case is different, the reporting entities' handling of a customer who is no longer entrusted with a prominent public function should be based on an assessment of risk rather than prescribed time limits (e.g. one year after relinquishing the public position). Therefore, while reporting entities may set a schedule to review PEPs status, they should make a risk-based decision as to when sufficient time has passed for a customer to no longer be classified as a PEP. In any case, the time limit from the point at which the customer is no longer entrusted with a prominent public function can be at least 2 years.

When determining whether to no longer classify a PEP as such, the following can be considered:

- The level of corruption in the country in which the customer is politically exposed;
- The customer's links to industries at high risk of corruption;
- The transparency of transactions associated with the customer's account;
- The customer's previous position, i.e., its susceptibility to corruption;
- The duration of the held position and the likelihood of holding office in the future;
- The customer's source of wealth and source of wealth acquired while in position;
- The customer's ongoing connections to the political establishment;
- The level of informal influence that the customer still exercises;
- The customer's relationships to other PEPs;
- Credible adverse media stories involving the customer.

2.6. Sources of Information & Screening

Reporting entities are required to have in place a system and risk based procedures to determine whether a customer or a beneficial owner is a PEP. This requirement is not only applicable to prospective customers but also to existing customers, given that an existing customer, may become a PEP or a PEP's close family member or close associate, at a point in time during the course of an ongoing relationship.

When seeking to determine PEPs, their close family members and close associates, the following sources of information are appropriate and effective for reporting entities:

- Customer due diligence: CDD is the key source of information as it provides the reporting entity with information regarding the customer's principle occupation or employment, source of fund and source of wealth.
- Reporting entity employees: Human input and analysis from experienced and trained employees can be more valuable than automated software programs for detection.
- Internet and media search.

- Customer self-declaration: Reporting entities may include a question in onboarding documents or interviews with prospective customers where the customer declares whether he/she is a PEP, a close family member or a close associate of a PEP. However, reporting entities must pay attention to the fact that customers may not be aware of the PEP definition.

The following are useful for verifying the accuracy of the customer's self-declaration about the source of wealth:

- Publicly available property/land registers;
 - Company registers;
 - Past transactions (in the case of existing customers).
- PEP screening: It is the screening of customers' names and associated details against PEP information at certain points during the customer relationship. The decision as to the manner in which screening should be conducted depends on the size and capability of each reporting entity and on the inherent risk of PEPs using its products and services. PEP screening should be automated, however manual screening may be acceptable where deemed appropriate for the size of the business and the materiality of the inherent risk posed by PEPs. PEP screening should take place at least:
 - As part of the onboarding process;
 - At periodic customer review;
 - When there is a trigger event which warrants a customer due diligence review (i.e. upon parliamentary elections, the formation of a new government, and the appointment of new prominent public functions...).

PEP lists are usually compiled internally or sourced from vendors/list providers. Commercial screening tools could support the reporting entity's screening, but it should never replace the traditional CDD process, and reporting entities should not assume that if a name is not in such databases, then the customer is not a PEP, for the following reasons:

- Commercial databases are not necessarily comprehensive and cannot be relied upon as being up-to-date.
- The definition of PEPs used by providers of such databases may or may not align with the jurisdiction's own definition.
- Inconsistent translation and spelling of names affect the ability of reporting entities to match names in general.

3. Enhanced Due Diligence Measures

Following the risk based approach, AML/CFT regulations require that reporting entities apply enhanced due diligence measures (EDD) in high risk circumstances, including when the customer and/or the beneficial owner is classified as PEP or when the customer is identified as a close family member or close associate. This is applicable upon entering into, or continuing a business relationship, as well as when executing operations.

For the purpose of risk management and mitigation, the below enhanced measures and procedures should be applied:

- To increase and prioritize control, and to conduct enhanced ongoing monitoring of the business relationship;
- To obtain more detailed information on customers and beneficial owners (Increased KYC Levels), in particular to determine the source of their wealth;
 - ✓ The source of wealth refers to the origin of the entire body of wealth (i.e., total assets). This information usually gives an indication as to the volume of wealth the customer would be expected to have, and a picture of how such wealth was acquired.
- To obtain the approval of senior management for entering into, or continuing, a business relationship with customers, and for executing operations, in a way that is commensurate with the specified level of risk;
- To review periodically the relationship with customers;
- To make continuous peer comparisons;

4. Training programs

Employees of reporting entities working in AML/CFT and in the anti-bribery & corruption division at banks have a crucial role in identifying customers or potential customers who are PEPs, and are thus the first line of defense in detecting money laundering (ML) and related predicate offences, including corruption & bribery, as well as terrorist financing (TF).

It is therefore important that the risk, policies, procedures and processes associated with PEPs are communicated to relevant employees and form part of their ongoing training programs as called for by AML/CFT regulations issued via BDL & SIC circulars.

5. Red Flags and Indicators for PEPs

5.1. Shielding identity or downplaying position

PEPs are aware of their status and may attempt to shield their identity or downplay their position to prevent detection. Some examples include:

- Use of legal persons to obscure the beneficial owner.
- Use of legal persons without valid business reason.
- Use of intermediaries when this does not match with normal business practices.
- Use of close family members or close associates.

Other examples include PEPs' behavior and the manner in which they present themselves:

- Making inquiries about the reporting entity's AML policy or PEP policy.
- Downplaying the importance of the public function held, or related/associated public functions.
- Not revealing all positions held including previous functions.

5.2. Purpose of business relationships or transactions

- Reluctance to provide details or credible explanation for establishing a business relationship, opening an account or conducting transactions.
- Seeming generally uncomfortable with providing information about the source of wealth or source of funds.
- Providing information that is inconsistent with other publicly available information.
- Being unable or reluctant to explain the reason for doing business in the country of the reporting entity.
- Providing inaccurate or incomplete information.
- Repeatedly moving funds to and from countries to which a PEP does not seem to have ties with.
- Use of multiple bank accounts for no apparent commercial reason.
- Moving funds between accounts or financial institutions without a business rationale.
- Substantial flow of cash or wire transfers into or out of the account.
- Inconsistency of financial activity with legitimate or expected activity.
- Difficulty in distinguishing between personal and business related money flows.
- Credible allegations of financial misconduct (eg facilitated, made, or accepted bribes).

5.3. Source of wealth

- Wealth or lifestyle inconsistent with known legitimate sources of income or wealth.
- Wealth is derived from the granting of government licenses (such as license to act as a monopoly provider of services, or permission for significant construction projects).
- Wealth is derived from commerce in industry sectors associated with high-barriers to entry or a lack of competition, particularly where these barriers stem from law, regulation or other government policy.

5.4. Country specific

When doing business with PEPs, the following country specific red flags and indicators can be taken into account:

- Identified by the FATF as a higher risk jurisdiction.
- Identified by credible sources as having a high risk of corruption.
- Having not signed or ratified or have not or insufficiently implemented relevant anti-corruption conventions, such as the UNCAC, and the OECD Anti-Bribery Convention.
- Political instability or weak state institutions.
- Facing armed conflict.
- Known for widespread organized crimes.
- Having a judicial and criminal justice system vulnerable to political interference.
- Having weaknesses in the transparency of registries of companies' ownership.