



**Politically Exposed Persons  
&  
Enhanced Due Diligence**



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*servant, senior judicial or military official, senior executive of a state-owned corporation or senior political party official;*

Additionally, In February 2012, the FATF expanded the mandatory requirements to domestic PEPs and PEPs of international organisations, in line with Article 52 of the *United Nations Convention against Corruption* (UNCAC). Article 52 of the UNCAC defines PEPs as “individuals who are, or have been, entrusted with prominent public functions and their family members and close associates”, and includes both domestic and foreign PEPs.

For risk management reasons, regulated entities should treat all individuals who hold such positions as mentioned above as PEPs. In accordance with Regulation 5 of AMLR clients who are PEPs ought to be subjected to EDD.

**POLITICALLY EXPOSED PERSONS**

The Anti-Money Laundering Regulations, 2011 (“**AMLR**”) define a politically exposed person (“**PEP**”) as a person who is

(a) an individual who is a prominent public person or a person who has been entrusted with a prominent public function in a territory outside St. Christopher and Nevis or by an international organization outside St. Christopher and Nevis, including

- (i) heads of state, heads of government, senior politicians;
- (ii) senior government, judicial or military officials;
- (iii) senior executives of state owned corporations; or
- (iv) important political party officials;

(b) an immediate family member of a person mentioned in paragraph (a), including any of the following:

- (i) a spouse;
- (ii) a partner, being someone who is considered by his or her national law as equivalent to a spouse; or who has been cohabiting in a relationship with a person for more than five years;
- (iii) children and their spouses or partners as defined in subparagraph (ii);
- (iii) parents;
- (iv) grandparents and grandchildren;
- (v) siblings;

(c) close associates of an individual referred to in paragraph (a), including any person who is known to maintain a close business relationship with such individual or a person who is in a position to conduct substantial financial transactions on his or her behalf.

The definition of what is considered to be a “prominent public function” as outlined in Regulation 2 of the AMLR *includes the role held by a head of state, head of government, government minister, senior civil*

**ENHANCED DUE DILIGENCE (EDD)**

FATF Recommendation 12 states that financial institutions should be required, in relation to foreign PEPs (whether customer or beneficial owner), in addition to performing normal customer due diligence (“**CDD**”) measures, to:

- (a) have appropriate risk-management systems to determine whether the customer or the beneficial owner is a PEP;
- (b) obtain senior management approval for establishing (or continuing, for existing customers) such business relationships;
- (c) take reasonable measures to establish the source of wealth and source of funds; and
- (d) conduct enhanced ongoing monitoring of the business relationship.

In addition, the following conditions may also be given due consideration for EDD measures:

- If a client has not been physically present for identification purposes;
- If a business relationship or occasional transaction is to be undertaken with a PEP;

**GUIDANCE ON THE USE OF SOURCES OF INFORMATION FOR THE DETERMINATION OF PEPs**

Determining whether customers or beneficial owners are PEPs and/or finding out who are their family members and close associates can be challenging, particularly when dealing with foreign PEPs for whom current information may not be readily available. Another implementation issue is determining whether existing clients of regulated entities have become PEPs since the business relationship began. It is important that regulated entities periodically monitor their existing client base against changes in the PEP universe and not just at the time of client on-boarding.

It is important to stress that CDD is the key source of information for the purpose of determining that a customer is a PEP, as required by FATF Recommendations 10 and 12.

◇ INTERNET AND MEDIA SEARCHES

Regulated entities should use the Internet and media as sources of information for the determination, monitoring, verification of information in relation to PEPs, although noting that information retrieved may not in all cases be comprehensive or reliable. While general searches on the larger search engines can prove difficult because of the number of "hits" that would require reviewing, free search tools are offered through AML-specific websites that would be more targeted. In addition, searching focused sources that could be linked to the customer may assist in locating relevant information (for example, (social) media websites in the customer's country of origin). Internet searches can also assist in retrieving general relevant (country) information.

◇ COMMERCIAL DATABASES

There are a variety of commercial databases available which may assist in the detection of PEPs. The use of these databases should never replace traditional CDD processes. Such databases are simply additional sources of information about higher risk individuals in determining whether the person is a potential PEP or family members and close associates of PEPs. Commercial databases also have limitations of which competent authorities and regulated entities should be aware.

Commercial databases are not necessarily comprehensive or reliable as they generally draw solely from information that is publicly available and thus the subscribing regulated entity has no way of verifying the accuracy, comprehensiveness and/or quality of the information contained in the databases. With elections, cabinet changes, and the general turnover of public officials taking place almost daily around the world, these lists cannot be relied upon as being up-to-date.

THE LIMIT OF PEP STATUS

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.

RISK-BASED APPROACH

A risk-based approach to CDD will identify situations which can present a higher risk of money laundering or terrorist financing. Regulation 5 of the AMLR stipulates certain situations where EDD measures must be applied as follows:

- (2) A relevant person shall apply the following measures on risk-sensitive basis:
  - (a) enhanced CDD procedures where regulation 4(1)(a) to (d) (of the AMLR) apply; and
  - (b) enhanced CDD procedures in any other situation which by its nature can present a higher risk of ML.

(3) If the business transactions referred to in subregulation (1)(d)(i) have no apparent economic or visible lawful purpose, the background and purpose of such transactions shall, as far as possible, be examined, and written findings shall be made available by the relevant person to assist the Reporting Authority, the Commission or any other competent authorities.

(4)(a) Where the minimum anti-money laundering requirements of St. Christopher and Nevis differ from those of the branches and subsidiaries of the relevant person or its customers located outside of the Federation, the higher standard of EDD measures shall be applied with the consent of the Commission.

(b) The relevant person shall inform the Commission when a foreign branch or subsidiary is unable to observe appropriate anti-money laundering measures as a result of prohibitive laws of the host country.

The risk based approach requires that regulated entities 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. Possible risk factors are:

- 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).

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GENTLE REMINDERS

LICENSING RENEWAL PROCEDURES

Regulated Entities are reminded of the requirement to submit the renewal form and supporting documents as a condition for the renewal of their Registered Agent License for 2016.

NEW GUIDELINES FOR APPROVAL OF COMPLIANCE / REPORTING OFFICERS

The Financial Services Regulatory Commission has approved the Minimum Guidelines for the Role and Appointment of Compliance/ Reporting Officers pursuant to the Financial Services Regulatory Commission Act, and other relevant legislation. These Guidelines will take effect from **January 01, 2016**.

Source

FATF Recommendations, R12  
 Anti-Money Laundering Regulations, 2011  
 FATF Guidance on Politically Exposed Persons (Recommendations 12 and 22), June 2013

