

## Politically Exposed Persons and Sanctions – Best Practice

### Introduction

Firms must ensure they have measures in place to identify financial crime risks to their business and customers. These measures must also be proportionate to the business and implemented based on an assessment of risk. A factor that could increase the risk to a firm is a business relationship with a Politically Exposed Person (“PEP”), due to the potential exposure of proceeds of bribery and corruption being laundered, or assets otherwise stripped from their country of origin. PEPs may also be in a position to abuse their public office for private gain. It must however not be assumed that a politically exposed person has engaged in criminal activity purely due to their role. Business relationships should also not be rejected based on such an assumption.

Each firm must have documented procedures and processes for identifying and managing business relationships with Politically Exposed Persons.

This paper provides best practice principles for firms to use when identifying, managing and monitoring financial crime risks associated with PEPs, and complying with the relevant regulations.

### Regulations

The Money Laundering and Terrorist Financing (Amendment) Regulations 2019, amended the Money Laundering, Terrorist financing and Transfer of Funds (Information on the Payer) Regulations 2017 (known here after as the Money Laundering Regulations 2017) implementing the legislative changes required under the EU 5<sup>th</sup> Money Laundering Directive.

### Definition of a PEP

A PEP is someone who’s been appointed by a community institution, an international body or a state, including the UK, to a **high-profile** position within the last 12 months. PEPs, their families and any close associates should be subject to enhanced scrutiny. Family and close associates are not themselves PEPs solely as a result of their connection to a PEP but rather may benefit from, or be used to facilitate, the abuse of public funds by the PEP. A case-by-case basis should be applied when assessing all PEPs.

UK PEPs when identified should be treated as a lower risk PEP and, only if there are other indicators that would increase the risk should additional enhanced due diligence be conducted.

### PEPs can be:

- Heads of state, heads of government, ministers and deputy or assistant ministers;
- Members of parliament or of similar legislative bodies;
- Members of the governing bodies of political parties;
- Member of supreme courts, of constitutional courts or of any judicial body the decisions of which are not subject to further appeal except in exceptional circumstances;
- Members of courts of auditors or of the boards of central banks;
- Ambassadors, charges d’affaires and high ranking offices in the armed forces;

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- Members of the administrative, management or supervisory bodies of State-owned enterprises;
- Directors, deputy directors and members of the board or equivalent function of an international organisation.

Family members include:

- Spouse or civil partner
- Children and their spouses or civil partner
- Parents
- Brothers and sisters, potentially

Known close associate of a PEP: -

- (i) an individual known to have joint beneficial ownership of a legal entity or a legal arrangement or any other close business relations with a PEP;
- (ii) an individual who has sole beneficial ownership of a legal entity or a legal arrangement which is known to have been set up for the benefit of a PEP.

When deciding whether a person is a known close associate of a politically exposed person, a firm need only have regard to information which is in its possession, or to credible information which is publicly available.

#### **Identifying a PEP:**

A PEP can be identified from the following information, during the onboarding process and on a periodic basis:

- Self-declaration on the application form
- Public domain e.g. parliament and government websites
- Reliable public registers e.g. Companies House “register of companies”
- “PEP Screening Lists” – commercial databases which contain lists of PEPs, family members and known close associates – periodic screening of PEP lists should be defined

#### **Due Diligence & Approval of PEPs:**

The due diligence measures applied, and assigned risk rating of PEP, should be defined on a risk based approach based on:

- The prominent public function the PEP holds (UK considered to be low risk)
- Nature of the proposed business relationship
- Country of residence of the PEP – high risk of corruption
- Source of funding – inconsistent with personal wealth
- Type of transaction
- Nature of the product – potential to be misused for purposes of corruption

**Enhanced due diligence** measures should be applied to PEPs, considered on a case-by-case basis:

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- Senior management and MLRO approval must be provided and documented – establishing/continuing relationship
- Conduct “adverse media” search using public sources and/or specific vendor databases for negative news
- Obtain source of wealth and source of funds, verified by documentation if deemed required based on risk
- Obtain proof of address, if deemed appropriate based on risk
- Ongoing monitoring on account activity by flagging the account on the register

#### **For how long is someone considered to be a PEP?**

A PEP must continue to be treated as a PEP for a period of at least 12 months after the date on which that person ceased to be entrusted with a public function that meets the criteria of a PEP. Each firm can set its own period for which it will continue enhanced monitoring for an ex PEP.

Family members should cease to be treated as family members of a PEP from the point that the PEP leaves office. No enhanced due diligence measures should be taken from this point unless the customer risk assessment dictates it due to other factors.

#### **Reporting of PEPs:**

To ensure adequate Management Information and oversight, the volume of PEPs, with associated risk rating etc should be included in regular management reporting, MLRO reporting and fund Board reporting.

Firms will also be expected to report any non-UK PEPs as part of their annual REP-CRIM return to the FCA.

#### **Periodic Review:**

In order to assess risk on an ongoing basis, a periodic risk-based review of PEP relationships should be established. The review process should:

- a) Review data on the PEP account, confirm the individual still holds the role, identify any material changes, identify new accounts held by family members etc
- b) Identify any negative news in relation to the PEP
- c) Review transaction history, any significant transactions, activity not consistent with prior patterns etc

All PEP accounts should be approved utilising a risk-based approach e.g. non-UK PEPs should be re-approved by senior management.

#### **Suspicious Activity Reporting:**

Any suspicious activity detected by a PEP should be reported, documented and submitted to the National Crime Agency (NCA) in accordance with the firm’s AML policy, ensuring no tipping off to the account holder. All decisions and communications regarding suspicious activity reports must be clearly documented and maintained on file.

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**Training:**

The identification, risk assessment, monitoring and reporting of PEPs should be included in the firm's AML training program and associated materials.