



19-August-2019

REF: AML-2019/4

## REGULATORY REMINDER

### POLITICALLY EXPOSED PERSONS

#### 1.0 INTRODUCTION

1.1 The Anti-Money Laundering and Financing of Terrorism (AML/CFT) Guidelines (**Guidelines**) issued by the Financial Services Commission (**Commission**) effective November 2013 require that financial institutions (**FIs**) apply a risk based approach to identifying politically exposed persons (**PEPs**) and to apply appropriate enhanced due diligence (**EDD**) measures when dealing with PEPs . Not all PEPs pose the same level of risk and the EDD measures to be applied should be proportionate to the risk attributed to a particular PEP.

1.2 This Regulatory Reminder should be read in conjunction with the Guidelines issued for the Commission's regulated FIs on anti-money laundering and anti-terrorism financing.

#### 2.0 POLITICALLY EXPOSED PERSONS

2.1 PEPs are defined by the Financial Action Task Force (**FATF**) as an individual who is or has been entrusted with a prominent public function. The FATF requirements cover foreign PEPs, domestic PEPs and PEPs of international organizations.

2.2 There is no precise definition for a 'prominent public function' in the Money Laundering and Financing of Terrorism (Prevention and Control) ACT, 2011-23, however the below **list of examples** are considered to hold a prominent function and is not intended to cover middle ranking or more junior individuals. This list **is not exhaustive**.

- a. Heads of State, Heads of Government, Ministers, Deputy or Assistant Ministers, Parliamentary Secretaries and Permanent Secretaries;
- b. Members of Parliament or similar legislative bodies;
- c. Members of the governing bodies of political parties;
- d. Members of the superior, supreme, and constitutional courts or of other high-level judicial bodies whose decisions are not subject to further appeal, except in exceptional circumstances;
- e. Members of the boards of central banks or other regulators;
- f. Ambassadors, *charge d'affaires* and other high ranking officers in the armed forces;
- g. The Commissioner and Deputy Commissioners of Police; and
- h. Members of the administrative, management or supervisory boards of state-owned entities/corporations.

2.3 Family members of PEPs and persons known to be close associates of PEPs are subject to the same EDD measures that are applicable to PEPs in view of the similar higher risk that they pose. A family member or known close associate of a PEP is not a PEP themselves purely as a consequence of being associated with a PEP.

2.4 With respect to the term 'family members' of PEPs, the term includes:

- a. the spouse, or any person considered to be equivalent to a spouse through a civil form of partnership;
- b. the children and their spouses, or persons considered to be equivalent to a spouse; and
- c. the parents.

2.5 With respect to the term 'close associates' of PEPs, the term includes individuals who:

- a. are closely connected to the PEP, either socially or professionally;
- b. have joint beneficial ownership of a body corporate or any other form of legal arrangement; or any other close business relations, with the PEP; or
- c. has sole beneficial ownership of a body corporate or any other form of legal arrangement that is known to have been established for the benefit of the PEP.

2.6 **It must be reiterated that the above lists are not exhaustive and represents only a list of examples.** FIs are therefore required to assess on a case by case basis whether a particular office presents characteristics which would fall within the definition of a ‘prominent public function’.

### **3.0 PEPS AND ENHANCED DUE DILIGENCE**

3.1 PEPs, by virtue of the positions they occupy and the influence they exercise are exposed to functions that may lead to abuse of office for personal gain or other interests. The application of EDD measures is therefore necessary to mitigate the potential risks associated with PEPs.

3.2 FIs need to maintain risk management procedures to determine whether a customer or a beneficial owner is a PEP. This requirement is applicable to both prospective and existing customers given that a customer may become a PEP in the course of an ongoing relationship. FIs should therefore ensure that their risk assessment procedures include a mechanism to ascertain when an existing customer becomes a PEP. This forms part of the ongoing monitoring obligation.

3.3 The application of EDD to PEPs, their family members and close associates is mandatory as long as a PEP remains entrusted with a prominent public function, and for a subsequent twelve (12) months period from when he/she ceases to be a PEP.

3.4 FIs must assess and determine the level of money laundering and terrorism financing (ML/TF) risks posed by a particular PEP, family member or close associate, and then determine, based on the risk assessment undertaken, the level of EDD measures required. The risk based approach shall however continue to apply, and customer due diligence (CDD) measures proportionate to the risk, including EDD where appropriate, should be applied.

3.5 It is important to note that the application of EDD measures to PEPs and their family members and persons known to be close associates does not necessarily mean that their business relationship or occasional transactions are connected to ML/TF.

3.6 In determining whether the customer or a beneficial owner is a PEP, FIs should not rely solely on one particular source. Consideration should be given to:

- a. information obtained directly from the customer or beneficial owner;
- b. publicly available information; and
- c. information from independent or commercial databases, as deemed necessary.

FIs should assess the reliability of the sources being relied upon, where publicly available information is used.

3.7 In the case of long-term insurance business, FIs must take reasonable measures to determine whether the beneficiaries of a policy and, where applicable, the beneficial owner of such beneficiary, are PEPs, their family members or known close associates, and such measures shall be taken no later than the time of payout or the time of the assignment, in whole or in part, of the policy.

3.8 For higher risk customers, a FI's ongoing monitoring should be conducted more regularly and more thoroughly, and a closer analysis should be undertaken on the transactions and their origin.

#### **4.0 RISK RATING OF PEPS**

4.1 FIs should assess and determine the level of ML/TF risk posed by that particular PEP, family member or person known to be a close associate by considering the associated geographical, product/service/transaction, customer, and delivery/distribution channel risks.

4.2 The following characteristics should be considered in the assignment of a risk rating to a PEP:

- a. the risk rating assigned to the product, service or transaction the PEP is seeking to access (for example a low risk product to which simplified due diligence may be applied);
- b. the ML/TF risk rating assigned to the PEPs jurisdiction, including the level of corruption, political stability and compliance with international AML/CFT rules; and
- c. whether the PEP
  - i. has executive decision-making responsibilities (e.g. an opposition member of the House of Representatives, or a member of the House of Representatives of the party in government but with no ministerial office);
  - ii. is responsible for, or able to influence, large public procurement exercises;

- iii. is subject to rigorous disclosure requirements (such as registers of interests, independent oversight of expenses etc.);
- iv. has personal wealth or lifestyle inconsistent with known legitimate sources of income or wealth;
- v. has wealth derived from the granting of government licences, preferential granting of government tenders and access to the privatization of former state assets; or
- vi. has credible allegations of financial misconduct.

4.3 Similar characteristics should be considered in the assignment of a risk rating to family member or person known to be a close associate of a PEP.