



GOVERNMENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO

FINANCIAL INTELLIGENCE UNIT
MINISTRY OF FINANCE AND THE ECONOMY



GUIDANCE NOTE
AML/CFT PROCEDURES FOR POLITICALLY EXPOSED PERSONS

PURPOSE AND CONTENTS

The Financial Intelligence Unit of Trinidad and Tobago (“the FIU”) provides this overview of the obligations under the Anti-Money Laundering/Counter Financing of Terrorism (AML/CFT) regime of Trinidad and Tobago for Politically Exposed Persons (PEPs).

This Guidance Note is intended to provide Financial Institutions and Listed Business with guidance on the application of customer due diligence requirements to PEPs. It adheres to the Recommendations of the Financial Action Task Force (FATF).

This guidance uses plain language to explain the most common situations under the specific laws and related regulations which impose AML/CFT requirements. It is provided as general information only. It is not legal advice, and not intended to replace the AML/CFT Acts and Regulations.

A. WHO IS A POLITICALLY EXPOSED PERSON?

A PEP is defined by the FATF as “an individual *who is or has been* entrusted with a prominent public function.” The FATF recognizes that, due to their status and influence, many PEPs are in positions that can be platforms for committing money laundering and related predicate offences. These include corrupt practices and bribery, as well as conducting activity related to the financing of terrorism.

Consequently, the FATF Recommendations require the application of additional customer due diligence to business relationships with PEPs due to the potential risk associated with PEPs. It must be emphasized that these measures are preventive in nature. **It is NOT to be inferred that all PEPs are involved in criminal activity or that they have been incriminated in any corruption.**

To address the risks associated with PEPs requires the effective implementation of FATF Recommendations (Rec.) 12 and 22. Rec. 12 sets out Anti Money-Laundering/Counter-Terrorism Financing (AML/CTF) measures applicable to financial institutions which engage in or enter into a business relationship with a PEP and Rec. 22 requires the same measures to be applied by Listed Business.

B. CATEGORIES OF PEPs

The FATF definition of PEPs identifies Foreign PEPs, Domestic PEPs, International Organisations PEPs and Individuals who are closely related to or close associates of a PEP.

1. **Foreign PEPs:** individuals who are or have been entrusted with prominent public functions by a **foreign country**, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials.
2. **Domestic PEPs:** individuals who are or have been entrusted **domestically** with prominent public functions, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials.

The following examples of domestic PEPs are included in the above definition:*

- i. Head of State – the President of the Republic of Trinidad and Tobago
- ii. Head of Government – the Prime Minister
- iii. Senior Members of the Legislature e.g. The Speaker of the House and the President of the Senate
- iv. Senior Politicians e.g. all Members of Parliament, Government Ministers, Mayors, Leader of the Opposition, Chairman and Chief Secretaries of the Tobago House of Assembly, Parliamentary Secretaries
- v. Senior Government Officials e.g. Permanent Secretaries¹, Chief Technical Officers, an Ambassador or High Commissioner, Assistant Commissioner of Police or higher rank
- vi. Judicial Officials e.g. Magistrates, Judges of the Supreme Court, Judges of the Industrial Court, Judges of the Caribbean Court of Justice.
- vii. Military Officials – a Lieutenant Colonel or higher rank
- viii. Senior executives of State owned corporations e.g. Members of the Boards of all Statutory Bodies and State Enterprises including those bodies in which the State has a controlling interest
- ix. Senior political party officials e.g. Chairman, Political Leader and Deputy Political Leader of a political party.

*** NOTE: these examples are NOT exhaustive.**

3. **International organisation PEPs:** persons who are or have been entrusted with a prominent function by an international organisation, 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.

¹ <http://www.opm.gov.tt/ministers-of-government/ps/> see also <http://www.ircp.gov.tt/permanent-secretaries-deputy-permanent-secretaries#hide> *these are public listings of Permanent Secretaries currently available, however, please note that website information shown are subject to continuous updates

International Organisations include but are not limited to:

- i. United Nations and affiliated international organisations
- ii. Organization of American States
- iii. Inter-American Development Bank
- iv. International Labour Organization
- v. Caribbean Financial Action Task Force

4. **Immediate Family members** are individuals who are related to a PEP either through birth or marriage. *Regulation (Reg.) 20(1) (e) of The Financial Obligations Regulations, 2010 (FORs)*, defines immediate family member as, "...the spouse, parents, siblings or children" of the PEP and the parents, siblings and additional children of the PEP's spouse."

References to parents, siblings or children include the half and whole blood and relationships through adoption. Spouse includes ex-spouse.

5. **Close associates** are individuals who are closely connected to a PEP, either socially or professionally. Reg. 20 (1) (f), FORs defines a Close associate as ..."any individual publicly known or actually known to the relevant financial institution (or Listed Business vide Rec 22) to be a close personal or professional associate..." of the PEP e.g. a business partner.

C. **DUE DILIGENCE MEASURES**

Due Diligence measures must be applied to each PEP, whether the PEP is a customer or beneficial owner, and to his/her immediate family members and close associates as defined above.

In addition to performing normal customer due diligence measures, Financial Institutions and Listed Business must apply the following enhanced due diligence measures:-

1. Have appropriate risk-management systems to determine whether the customer or the beneficial owner is a PEP, or immediate family member or close associate of a PEP.
2. Obtain senior management approval **BEFORE** establishing (or continuing, for existing customers) the business relationship;
3. Take reasonable measures to determine the source of wealth and source of funds; and
4. Conduct enhanced on-going monitoring of the business relationship.

Reasonable measures should be taken to determine whether a customer or beneficial owner is a foreign or domestic PEP or a person who is or has been entrusted with a prominent function by an international organisation. The requirements for PEPs must also be applied to immediate family members and close associates of such PEPs.

The key to the effective monitoring of a business relationship with a PEP, is for Financial Institutions and Listed Business to **APPLY 'KNOW YOUR CUSTOMER' (KYC) MEASURES.**

D. RED FLAGS/SUSPICIOUS INDICATORS

The FATF has developed a list of red flags /suspicious indicators that can be used to assist in detecting the misuse of the financial systems by PEPs during a customer relationship. This list of red flags/suspicious indicators is intended to assist in the detection of suspicious behaviour among those PEPs who abuse the financial system. It is not intended to stigmatize or 'brand' all PEPs.

1. PEPs ATTEMPTING TO SHIELD THEIR IDENTITY

PEPs are aware that their status as a public figure may facilitate the detection of their illicit activities. PEPs may therefore attempt to shield their identity, to avoid detection. Examples of ways in which this is done are:-

- ❖ Use of corporate vehicles (legal entities and legal arrangements) to obscure beneficial ownership. A "beneficial owner means the person who ultimately owns and controls an account, or who exercises ultimate control over a legal person or legal arrangement." Reg. 12 (5) of the FORs.
- ❖ Use of corporate vehicles without a valid business reason.
- ❖ Use of intermediaries in cases which do not match normal business practice or when this appears to be a means of shielding the identity of a PEP. Pay attention to Reg. 13 of the FOR – Representative applicant.
- ❖ Use of family members or close associates as legal owners. The business partner, or child or spouse, for example, may appear in legal documents for the business/company, as the legal owner and not the PEP.

2. THE PEP AND HIS/HER BEHAVIOUR

Specific behaviour and individual characteristics of PEPs may raise red flags or a suspicion. For example:-

- ❖ Use of corporate vehicles (legal entities and legal arrangements) to obscure ownership or business(es)/company(ies) involved.
- ❖ Country of nationality/citizenship
- ❖ The PEP makes inquiries about the institution's AML policy or PEP policy.
- ❖ The PEP seems generally uncomfortable to provide information about source of wealth or source of funds.
- ❖ 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 Listed Business.
- ❖ Funds are repeatedly moved to and from countries to which the PEP does not appear to have ties.
- ❖ The PEP is or has been denied entry to the country (visa denial).

3. 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. For example:-

- ❖ 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 the award of licences and concessions.
- ❖ The PEP has the direct or indirect control over the mechanisms established to prevent and detect ML/TF.
- ❖ The PEP has access to, control or influence over, government or corporate accounts.
- ❖ The PEP (wholly or partially) owns or controls Financial Institutions or Listed Business, either privately, or *ex officio*.

4. COUNTRY SPECIFIC RED FLAGS AND SUSPICIOUS INDICATORS

Country or geographic risk factors may make a customer higher risk but additionally, the following red flags and indicators relating to countries should 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 Rec. 19, or the Interpretative Note to Rec. 10*).
- ❖ Foreign or domestic PEPs from countries identified as having a high risk of corruption.
- ❖ Foreign or domestic PEPs from countries reputed to be dependent on the export of illicit goods, such as drugs.
- ❖ Foreign or domestic PEPs from countries (including political subdivisions) with political systems that are based on personal rule, autocratic regimes, or countries where a major objective is to enrich those in power and countries with high level of patronage appointments.
- ❖ Foreign or domestic PEPs from countries identified by credible sources as having high levels of (organised) crime.

For further guidance on PEPs, please refer to <http://www.fatf-gafi.org/documents/documents/peps-r12-r22.html>.

And for further guidance on AML/CFT, you may refer to the following: <http://www.fiu.gov.tt> and <http://www.fatf-gafi.org>.

Susan S. François
Director
Financial Intelligence Unit

Published on September 30, 2013.