

## **Politically Exposed Persons (PEPs)**

The Anti-Money Laundering Regulations of 2011 (AMLR) and the Anti-Terrorism (Prevention of Terrorist Financing) Regulations of 2011 (ATR) 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 country or 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 cohabitating in a relationship with a person for more than five years;
  - (iii) children and their spouses or partners as defined in sub-paragraph (ii);
  - (iv) parents;
  - (v) grandparents and grandchildren; or
  - (vi) 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.

### **Topics Discussed:**

- \* **Definition of PEPs**
- \* **Classes of PEPs**
- \* **Enhance Monitoring**
- \* **The Risks associated with PEPs**
- \* **Legislative References**

### **Classes of Politically Exposed Persons (PEPs)**

There are three (3) classes of PEPs: (i) Domestic (St. Kitts-Nevis), (ii) Foreign and (iii) International Organization PEPs.

Recommendation 12 of the Financial Action Task Force (FATF) 40 Recommendations require Financial Institutions to determine whether a customer or beneficial owner is a Domestic or Foreign PEP and ascertain the level of due diligence required to establish a business relationship with such customer or beneficial owner. PEPs are generally considered high risk.

**\*Please note that the St. Kitts and Nevis AMLR and ATR will be revised to include Domestic PEPs and be in accordance with the FATF Recommendations. Financial Institutions are encouraged to review their procedures to comply with this FATF requirement.**



## Enhanced Monitoring

Most regulated entities view PEPs as a potential compliance risk, and therefore perform enhanced monitoring of transactions for customers who fall within this category. Screening for PEPs is usually performed at the beginning of the establishment of the business relationship. This is called Initial Due Diligence or Know Your Customer (KYC). Screening of customers or transactions are performed as part of ongoing due diligence. Due diligence to uncover PEPs can be time consuming and requires the checking of names, dates of birth, national identification numbers and photos of clients against a reputable database of known PEPs, which usually contains close to one million profiles. This database can be an internally generated database or an external database.

Regulated entities should ensure that proper mechanisms are established for enhanced ongoing due diligence. The risk a PEP poses should be determined and the necessary measures applied to minimize these risks.

Regulation 5 of the AMLR and the ATR outlines enhanced due diligence procedures when conducting business with customers who may present a higher risk of money laundering or terrorist financing.



## The Risks Associated with PEPs

When considering whether to establish or continue a business relationship with a PEP, the focus should be on the level of Money Laundering (ML) and Terrorist Financing (TF) risk associated with the particular PEP, and whether the financial institution or DNFBP has adequate controls in place to mitigate that ML/TF risk. This is to avoid the institution's exposure of being abused for illicit purposes should the PEP be involved in criminal activity. A decision should be made on the basis of the customer due diligence process and with an understanding of the particular characteristics of the public functions that the PEP has been entrusted with. The decision to establish or continue a business relationship with PEPs should be guided primarily by an assessment of ML/TF risks, even if other considerations, such as regulatory risk, reputational risk or commercial interests, are taken into account.

Financial institutions and DNFBPs should consider whether they may be more vulnerable to Domestic PEPs compared to Foreign PEPs. For example, small financial institutions, with little or no exposure to foreign financial markets, who determine they are conducting business with a foreign PEP, should consider in detail the reasons why such a relationship is being started. Financial institutions who operate in domestic markets where there are known issues relating to corruption should consider whether their exposure to Domestic PEPs may be higher than to Foreign PEPs.

When establishing business relationships with PEPs, the AMLR and the ATR outlines that:

Financial institutions should perform customer due diligence measures, to:

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

The customer due diligence and monitoring requirements for all types of PEPs should also apply to family members or close associates of such PEPs. In all cases, where a financial institution or DNFBP suspects or has reasonable grounds to suspect that funds used in a transaction are the proceeds of criminal activity, an STR (Suspicious Transaction Report) should be filed with the FIU (Financial Intelligence Unit).



## Legislative References:

- \* *Financial Services Regulatory Commission Act, No. 22 of 2009*
- \* *Anti-Money Laundering Regulations (AMLR), No. 46 of 2011*
- \* *Anti-Terrorism (Prevention of Terrorist Financing) Regulations (ATR), No. 47 of 2011*
- \* *Financial Services (Implementation of Industry Standards) Regulations (FSR), No. 51 of 2011*