

Guidance Note on Politically Exposed Person Due Diligence for Designated Non Financial Businesses and Professions (DNFBPs)

1.0 Introduction

Politically Exposed Persons (PEPs), described as an individual who is or has been entrusted with a prominent public function, are often in positions that potentially can be abused for the purpose of committing money laundering (ML) offences and related predicate offences, including corruption and bribery, as well as conducting activities related to terrorist financing (TF). Potential risks associated with PEPs may include using their **families** or **close associates** to conceal funds or assets that have been misappropriated as a result of abuse of their official position or resulting from bribery and corruption. In addition, they may also seek to use their power and influence to gain representation and/or access to, or control of, legal entities for similar purposes.¹

These potential risks associated with PEPs justify the application of additional anti-money laundering/counter-terrorist financing (AML/CFT) preventive measures with respect to business relationships with PEP.

The Guidance Note provides clear direction to Designated Non-Financial Businesses and Professions (DNFBPs) in implementing measures to prevent the misuse of their business by PEPs, and to detect such potential abuse if and when it occurs.

¹ Wolfsberg PEP Guidance 2017

2.0 Who is a politically Exposed Person?

Section 30 of the Money Laundering (Prevention and Prohibition) Act, 2023 describe Politically Exposed Persons (PEPs) as—

- (a) Individuals who are or have been entrusted with prominent public functions by a foreign country, for example Heads of State or Government, senior politicians, senior government, judicial or military officials, senior executives of State owned corporations and important political party officials,
- (b) 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 and important political party officials, and
- (c) persons who are or have been entrusted with a prominent function by an international organisation and includes members of senior management such as directors, deputy directors and members of the board or equivalent functions and their family members and close associates, other than middle ranking or more junior individuals in the foregoing categories;

2.1 Foreign Political Exposed Person

Persons listed who hold prominent public function in other countries other than Nigeria or are representative of other countries in Nigeria, should be regarded as Foreign PEPs, i.e. senior members of the diplomatic corps such as Ambassadors, Chargés d'affaires etc.,

DNFBPs should note that PEPs are solely natural persons (individuals). However, special notice should be taken of legal persons and arrangements controlled by or associated with a PEPs or those control or associated with family members of PEPs as it could increase the risks involved in establishing or maintaining a business relationship with such an entity.

2.2 Other categories of PEPs

a. International organisation PEPs: Persons who are or have been entrusted with a prominent function by an **international organisation**, 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. Such international organizations include but not limited to the following:

- United Nations and its Agencies
- International and Regional Development Finance Institution (WorldBank, International Monetary Fund, African Development Bank etc.,)
- Development Agencies of Foreign Governments (USAID, DFIDs, etc.,)
- International Humanitarian Organizations with special status such as (ICRC, Red Cross & Red Crescent,)

b. Family members: Individuals who are related to a PEP either directly or through marriage or similar (civil) forms of partnership such as adoption.

c. Close Associates: Individuals who are closely connected to a PEP, either socially or professionally.

2.3. What is a Prominent Public Function?

In determination of the “prominence” of the public function which a PEP holds, DNFBPs should consider the following:

1. **Political importance of the office:** Presidency and high ranking presidency offices, Gubernatorial offices, Senior officials of major political parties, Legislature, both state and federal (including senior career offices within the legislative arms such as the Clerk of the National Assembly), Chairpersons and members of legislative Committees)
2. **Importance of the public office to the Nigeria Economy:** In this regard, senior government positions in the following sectors should be regarded as **prominent public functions**:
 - (a) **Oil and Gas Industry** and other **extractive industry subsectors**,
 - (b) **State owned corporations, or companies** where government hold substantial shareholding interest in the oil & gas industry and other extractive subsectors
 - (c) **Regulatory and licensing agencies** and other related agencies within the oil gas and other extractive industry subsectors
 - (d) Agencies with responsibilities for **regulation of ports and shipping** activities including the Nigeria Custom Service
 - (e) **Regulatory and Licensing authorities** for the financial sector, including the Central Bank, National Insurance Commission, Securities and Exchange Commission etc.,
 - (f) **Defense and Security** sector
 - (g) **Ministries, Departments and Agencies** of government particularly with responsibilities for large public works, or project involving health, agriculture, education etc.,

- 3. Agencies with judicial or prosecutorial powers:** Particularly Senior judicial officials who sit on bodies whose decisions are not subject to further appeal and anti-corruption agencies.

DNFBPs should note that public junior and middle level positions are not considered in the description of "Prominent Public Function". However, when officers in such junior and middle level positions act on behalf of a PEP, all relevant enhanced measures applicable to a PEP transaction should apply to them.

3.0 Identification of a Customer as a Politically Exposed Person or their Close Family members or close associates

DNFBPs are mandated to put in place risk management system to determine whether a potential customer or existing customer or beneficial owner is politically exposed person. The following measures may be appropriate and effective when seeking to identify and risk assess a PEP;

- I. Making enquiries regarding the PEP status of prospective customers before establishment of business relationship. DNFBPs may seek the following information to that effect:
 - Occupation
 - Position
 - Clarify suspected relationship with a PEP

DNFBPs do not necessarily have to tell the customer that the purpose of the information is to identify them as PEPs.

- II. Screening new and prospective customers and key principals of the overall customer relationship against a database of such persons. These databases may be developed internally or provided by an external service provider.

Internally developed database might involve records of PEPs that has business relationship with the client currently or had in the past.

DNFBPs should exercise adequate caution in using commercial databases as they might not necessarily be comprehensive or reliable. Commercial Database should not replace the usual Customers Due Diligence (CDD)

- III. In certain circumstances, searching for publicly available information from reputable sources
- IV. Self Declaration: DNFBPs may adopt customer self declaration in their customer/client on-boarding form. **However DNFBPs should seek additional information to verify the declaration made by the customer/client.**
- V. The inclusion of appropriate PEP training to relevant staff. This may form part of regular anti money laundering (AML) training to develop their capacity.

3.1 Ongoing Review of CDD information

Existing clients sometimes become PEPs after they enter a business relationship, so it is essential that DNFBPs monitor non-PEP customers for a change in the PEP status, customer profile or business activity and update customer information.

3.1 Risk Consideration in Identification for PEP, Close families and Close Associates

DNFBPs must be mindful of the fact that not all PEPs have the same level of risk. While FATF Recommends that **all Foreign PEPs should be treated as high risk**, some domestic PEP may also present risk similarly higher risks. More importantly, When considering whether to establish or continue a business relationship with a PEP, the focus should be on the level of ML/TF risk associated with the particular PEP, and whether the DNFBP has adequate controls in place to mitigate that ML/TF risk so as to avoid the institution from being abused for illicit purposes should the PEP be involved in criminal activity.

This decision should be taken 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 customer relationship with a PEP 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

Therefore DNFBPs should assess ML/TF risk of customer on the basis of the four risk criteria:

1. Customer

- All foreign PEPs should be classified as high risk customers (additional measures should be applied on PEPs from high risk jurisdictions as published by the Nigerian Financial Intelligence Unit (NFIU)(<https://www.nfiu.gov.ng/>)
- PEPs that have prominent public function in sectors known to be highly exposed to corruption, such as the oil and gas, mining, construction, natural resources, defense and security (see paragraph 2.3)
- PEPs with judicial and investigative functions/powers
- PEPs with controls over regulatory approvals, licenses, concessions etc., in key economy sector like banking, real

estate, oil and gas, shipping and port administration, custom services etc.,

- The PEPs from a country that prohibits or restricts its/certain citizens to hold accounts or own certain property in a foreign country

2. Product/Services

Product risk will vary across the DNFBP subsectors. However consideration should be given to the following:

- High value goods (Real estate, luxury cars, precious stones and Jewellerys,
- Transactions across borders
- Fiduciary services (express trust, nominee services etc.,)
- Investment advisory
- Construction services

3. Geography/Location

- High risk jurisdictions (listed by the NFIU from time to time)
- Federal or State capitals or other administrative centres with significant government presence
- Countries with a mono economies (economic dependency on one or a few export products)
- Countries identified by credible sources as having a high risk of corruption.

3. Delivery Channels

- International funds transfers where a PEP is both the ordering and beneficiary customer
- Large and frequent cash transactions
- Use of professional intermediaries
- Use of legal persons and legal arrangements

- Crypto currencies

DNFBPs should classify domestic and international organization PEPs (only) into High, Medium and Low risk categories and apply commensurate measures to mitigate their risk of Money Laundering, Terrorist Financing and Proliferation Financing

3.2 CDD Applicable to Different Risk Categories of PEPs

- **Medium or low-risk PEPs**

For domestic PEPs or international organisation PEPs who are customers or beneficial owners of a customer, you must apply the same customer identification and verification procedures that you use for individuals.

- **High-risk PEPs**

For high-risk PEPs, including foreign PEPs, who are customers or beneficial owners of a customer, you must use the same customer identification and verification procedures that you use for individuals, as well as your **enhanced customer due diligence program** (ECDD). This includes:

- getting senior management approval before starting or continuing a business relationship with the customer, or before providing a designated service to them
- taking reasonable measures to establish the source of the customer's and each beneficial owner's wealth ('reasonable' means what is practical and necessary in line with your identified money laundering/terrorism financing risk)
- taking reasonable measures to identify the source of the customer's and each beneficial owner's funds
- Complying with ECDD requirements, such as verifying information and analyzing transactions.
- Conduct enhanced ongoing monitoring of the business relationship

3.3 Monitoring transactions of high-risk PEPs

You should closely monitor the transactions of all foreign PEPs and of high-risk domestic or international organisation PEPs. If you suspect a transaction involves funds linked to corruption or other criminal activity, you must submit a Suspicious Transaction Report (STR) to the Nigerian Financial Intelligence Unit.

Sometimes an existing customer can become a PEP during the course of your business relationship with them. Your ongoing customer due diligence (OCDD) procedures should allow for this possibility, especially if the customer tells you their circumstances have changed. If this happens, you must update their status, carry out ECDD and adjust your transaction monitoring processes to take into account the changed money laundering/terrorism financing risk.

3.4 Politically Exposed Persons Returns to the Special Control Unit against Money Laundering.

Pursuant to the EFCC (Anti-Money Laundering, Combating the Financing of Terrorism and Proliferation of Weapons of Mass Destructions for DNFBPs and other Related Matters) Regulations, 2022, DNFBPs are mandated to file monthly reports on transactions above One Hundred million Naira (N100,000,000) in respect of their transactions with Politically Exposed Persons

3.5 Specific Measures for Different Categories of PEP

3.6 Foreign PEP

DNFBPs are required to have appropriate risk management systems as part of their internal AML/CFT policy to determine if a customer or beneficial owner is a foreign PEP.

Foreign PEPs are to be regarded as high risk customer given the following reasons:

- Inability to obtain information as to the “prominence” or importance of the public function the PEP holds. For example in countries royals have governing roles, while they don’t in some countries.
- Inability to obtain first-hand knowledge or direct access to information about variables such as what a reasonable income would be for a foreign public official at a particular level or in a particular position
- Inability to obtain some country specific information that may triggers red flags such as whether the foreign PEP is from a country that prohibits such transactions (example holding foreign account or property)

As a standard measure, Enhanced Due Diligence including ascertaining Source of Funds and Sources of Wealth, must be conducted for all foreign PEP.

Where a foreign PEP controls a legal person or legal arrangement, enhanced due diligence must be applied to all transactions and business relationship with that entity.

Risk assessment should not be used to vary CDD levels for a foreign PEP, but as an additional safeguard measure. All foreign PEPs are to be treated as high risk customers

3.7 Domestic and International Organization PEPs

DNFBPs should review the Customer Due Diligence information they obtain from every customer to determine if they are domestic PEPs.

Domestic PEPs and International Organization PEPs should be subjected to rigorous risk assessment as all domestic and international Organization PEPs should not be treated the same

The risk assessment should consider the following information:

1. Particular characteristics of the public functions that the PEP has been entrusted with;
2. In the case of an international organisation, the business model of that organization. Information on International organisations, for example, may be found on their respective website. The risk
3. Assessment should be a composite assessment of all the risk factors and needs to be done to determine if the business relationship with the PEP is of a higher risk. This assessment of the business relationship may take into account, among other factors i) customer risk factors, ii) country risk factors, and iii) product, service, transaction or delivery channel risks.⁸
Additional
4. Information on the nature of the prominent public function that the PEP has, such as his or her level of seniority, access to or control over public funds and the nature of the position held

Where a DNFBP identify a domestic or international PEP as low or medium risk, enhance due diligence need not apply to the transaction or business relationship.



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