



GOVERNMENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO



FINANCIAL INTELLIGENCE UNIT OF TRINIDAD AND TOBAGO

Ministry of Finance

**GUIDANCE TO SUPERVISED ENTITIES WHEN
CONDUCTING BUSINESS WITH POLITICALLY
EXPOSED PERSONS
UPDATED 30 September 2021**

Purpose

This Guidance is intended to provide assistance to Non-Regulated Financial Institutions and Listed Businesses (collectively "Supervised Entities") supervised by the Financial Intelligence Unit of Trinidad and Tobago

FIUTT REFERENCE: GN/003/2021

Table of Contents

- 1. INTRODUCTION 2
- 2. IDENTIFYING PEPs 3
 - 2.1 FOREIGN PEPs 4
 - 2.2 DOMESTIC PEPs..... 5
 - 2.3 INTERNATIONAL ORGANISATION PEPs 6
 - 2.4 IMMEDIATE FAMILY MEMBER OF A FOREIGN OR DOMESTIC PEP 7
 - 2.5 CLOSE PERSONAL OR PROFESSIONAL ASSOCIATES OF A FOREIGN, DOMESTIC OR INTERNATIONAL ORGANISATION PEP 7
- 3. HOW LONG DOES A PERSON REMAIN A PEP? 9
- 4. COMMON RED FLAG ASSOCIATED WITH PEPs 10

1. INTRODUCTION

This Guidance is intended to provide Supervised Entities (“SEs”) with assistance on the application of customer due diligence requirements to PEPs.

PEPs are described by the Financial Action Task Force generally, as "**individuals who are, or have been, entrusted with prominent public functions and their family members and close associates**". Drawing on definition and examples in FATFs Glossary, Regulation 20(1) of the Financial Obligations Regulations (“FORs”) categorises PEPs under four (4) headings:

1. Foreign or Domestic PEPs;
2. International Organisation PEPs;
3. Immediate family members of Foreign, Domestic or International Organisation PEPs; and
4. Close personal or professional associates of Foreign, Domestic or International Organisation PEPs.

These categories of persons are generally regarded as having a higher risk for ML/TF since they hold positions of power and influence which may be abused to commit ML/TF and/or related predicate offences such as corruption and bribery. The family and close associates of these persons may also be used to conceal misappropriated funds or assets from abuse of their position or received from bribery. PEPs may use their position to gain access to, or control of, legal entities for personal gain.

Although the position held may be subject to such abuse, care must be taken not to stigmatise all PEPs as being involved in criminal activity. There may be PEPs who are neither in a position to, nor do they abuse their official position and will therefore, not represent elevated risk solely by their categorization as a PEP.

SEs are therefore required to take appropriate steps to identify when their customer (or the beneficial owner of a customer) is a PEP and to mitigate any elevated risks associated with the potential abuse of their power and influence. Business relationships with the family and known close associates of a PEP should also be subject to greater scrutiny.

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2. IDENTIFYING PEPs

PEP screening is part of the CDD process as outlined in Part III of the FORs and must be undertaken for all customers. SEs must take appropriate measures to identify and verify the identities of PEPs whether at on-boarding or during the ongoing due diligence process in accordance with Regulation 20(2) of the FORs.

Appropriate measures include, but are not limited to, one or more of the following actions:

- i. **Obtain information at inception of the relationship:** Obtaining the customer's occupation or employment information before entering into a business relationship or prior to conducting a transaction with the customer is a key factor in determining whether the customer is a PEP. SEs should also directly ask the customer whether he/she is an immediate family member or close associate of a PEP. Obtaining updates on the customer's employment information during the ongoing due diligence process can also assist with this determination.
- ii. **Conducting open source searches:** SEs may use the internet and media as sources of information for the determination, monitoring, verification of information in relation to PEPs, but bear in mind that information retrieved from social media sources may not in all cases be comprehensive or reliable.
- iii. **Consulting a source of commercially available information:** SEs should consider the limitations of using commercially available databases, if this source is used. It should be noted that use of these databases should never replace the SE's risk based CDD processes.

It is also important that SEs **periodically monitor** their existing customers to identify whether any customers have become PEPs since the inception of the business relationship. Monitoring media reports concerning changes to appointments to prominent public positions can assist with making this identification.

Some sources of information for identifying PEPs include:

- [Parliament website](#) and the [Tobago House of Assembly website](#);
- the [list of Accounting Officers](#) appointed under the Exchequer and Audit Act;
- the [Ministry of Finance website](#) (for information on Boards of state-owned entities);
- the website of the [Judiciary of the Republic of Trinidad and Tobago](#);
- the website of the [Ministry of Rural Development & Local Government](#); and
- '[ttconnect](#)' for diplomatic representatives and honorary consuls in Trinidad and Tobago.

Once a PEP has been identified, regulation 20(4) specifies that the SE must acquire the approval of its senior management before establishing or continuing a business relationship with a PEP.

Where information collected by an SE on a PEP cannot be verified or is later determined to be false, the SE shall immediately discontinue the business relationship with the PEP and report the matter to the SE's Compliance Officer.

2.1 FOREIGN PEPs

These are individuals who are or have been entrusted with prominent public functions by **a foreign country**, their immediate family members and close personal and professional associates.

Examples of Foreign PEPs include the following categories of state and government officials of a foreign country:

- i. Heads of State
- ii. Heads of Government
- iii. Senior Members of the Legislature
- iv. Senior Politicians
- v. Senior Government Officials
- vi. Senior Judicial Officers
- vii. Military Officials
- viii. Senior Executives of State owned corporations
- ix. Important political party officials
- x. Diplomats and Ambassadors

Please note that the above list is not exhaustive and should not be used as the sole determining factor of a customer's PEP status. Whether or not a person should be considered a Foreign PEP should be determined using the measures highlighted in the [Identifying PEPs](#) section above.

Foreign PEPs are considered high risk and require the application of enhanced due diligence measures ("EDD")¹, as for all higher risk customers. For Foreign PEPs who are no longer entrusted with a prominent public function, the SE should consider the risk profile of the former Foreign PEP in keeping with the SE's Risk Based Approach, including the factors referred to in the section below entitled "[How Long Does a Person Remain A PEP?](#)".

Examples of EDD measures which can be applied when establishing a business relationship with a Foreign PEP include, but are not limited to:

- i) obtaining additional information on the customer, for example documenting the length of time, title, position and country in which the PEP holds, or held political exposure;
- ii) obtaining additional information on the intended nature of the business relationship, and on the reasons for intended or performed transactions;
- iii) obtaining information on the source of funds and source of wealth of the customer; and
- iv) conducting enhanced monitoring of the business relationship, potentially by increasing the number and timing of controls applied, and identifying patterns of transactions that warrant additional scrutiny.

¹ Please see the FIUTT's Customer Due Diligence Guidance to Supervised Entities for further information on Enhanced Due Diligence.

2.2 DOMESTIC PEPs

These are individuals who are or have been entrusted with prominent public functions within Trinidad and Tobago.

Examples of Domestic PEPs Are as Follows:

- xi. **Head of State** – The President of the Republic of Trinidad and Tobago;
- xii. **Head of Government** – The Prime Minister of the Republic of Trinidad and Tobago;
- xiii. **Senior Members of the Legislature** e.g. The Speaker of the House of Representatives and the President of the Senate;
- xiv. **Senior Politicians** include persons elected to office in national, local or Tobago House of Assembly elections; or persons appointed to (i) serve as a Senator in the Parliament of Trinidad and Tobago, (ii) serve on the Tobago House of Assembly under the Tobago House of Assembly Act Chap. 25:03 or (iii) serve as an Alderman in a Municipality or Regional Corporation under the Municipal Corporations Act Chap. 25:04; e.g. all Members of Parliament, Government Ministers, Mayors, Leader of the Opposition, Assemblymen, Chief Secretary and Deputy Chief Secretary of the Tobago House of Assembly, Parliament Secretaries;
- xv. **Senior Government Officials** include a Permanent Secretary or any other person appointed as an Accounting Officer under the Exchequer and Audit Act or individual holding equivalent positions in a foreign country, e.g. Permanent Secretaries²,
- xvi. **Senior Judicial Officers** e.g. the Chief Justice, Judges of the Supreme Court (Court of Appeal and High Court Judges), Judges of the Industrial Court, Judges of the Caribbean Court of Justice, Masters, Chief Magistrate, Deputy Chief Magistrate, Magistrates, the Registrar, Deputy Registrar and Assistant Registrars³;
- xvii. **Military Officials** – Senior Defence Force Officials including Major General, Brigadier General, Colonel, Lieutenant-Colonel. Senior Air Guard Officials including Group Captain, Wing Commander, Squadron Leader and Senior Coast Guard Officials including Rear Admiral, Commodore, Captain and Commander⁴;
- xviii. **Senior Executives of State owned corporations** include (a) the chairman, deputy chairman, president or vice-president of the board of directors; (b) the managing director, general manager, comptroller, secretary or treasurer; or (c) any other person who performs for the body corporate functions similar to those normally performed by the holder of any office specified in (a) or (b) and who is duly appointed to perform those functions⁵. State owned

² A list of Permanent and Deputy Permanent Secretaries as at June 2017 may be found by following this link: <http://www.ircp.gov.tt/permanent-secretaries-deputy-permanent-secretaries>. A list of accounting officers appointed under the Exchequer and Audit Act may be found at this link

³ By reference to the Supreme Court of Judicature Act Chap. 4:01

⁴ By reference to the Defence Act Chap. 14:01

⁵ By reference to the FORs Reg. 20(1)

corporations also include all Statutory Bodies and State Enterprises including those bodies in which the State has a controlling interest;

- xix. **Important political party officials** include the Chairman, Deputy Chairman, Political Leader, Deputy Political Leader, Secretary and Treasurer of a political party registered under the Representation of the People Act Chap. 2:01 or individuals holding equivalent positions in a foreign country⁶.

Please note that the above list is not exhaustive and should not be used as the sole determining factor of a customer's PEP status. Whether or not a person should be considered a Domestic PEP should be determined using the measures identified in the [Identifying PEPs](#) section above.

It is important to understand that **not all Domestic PEPs are considered high risk**. By virtue of Regulation 20(3A) **SEs must adopt a risk based approach** when initiating or continuing a business relationship with a Domestic PEP and **only apply EDD in circumstances where higher risk has been identified**.

The assessment of the Domestic PEP's risk should include, but are not limited to, the following factors in keeping with a risk based approach:

- i) customer risk factors;
- ii) country risk factors;
- iii) product, service, transaction or delivery channel risks;
- iv) the nature of the prominent public function that the PEP has;
- v) his or her level of seniority, access to or control over public funds and the nature of the position held.

For further information on the Risk Based Approach to be applied, please see the FIUTT's Guidance on [adopting a Risk Based Approach](#).

2.3 INTERNATIONAL ORGANISATION PEPs

These are persons who are or have been entrusted with a prominent function by an international organisation. This refers to members of senior management of international organisations or individuals who have been entrusted with the equivalent functions of senior management, such as directors, deputy directors and members of the board.

Similar to Domestic PEPs, **not all International Organisation PEPs are considered high risk**. By virtue of Regulation 20(3A) **SEs must adopt a risk based approach** when initiating or continuing a business relationship with an International Organisation PEP and **shall only apply EDD in circumstances where higher risk has been identified**.

In addition to gathering sufficient information to understand the particular characteristics of the public function of the International Organisation PEP, SEs should also obtain information on the business model of the International Organisation to better understand any risks which may be apparent. Such information, for example, may be found on the organisation's website.

⁶ By reference to the FORs Reg. 20(1)

Examples of International Organisations include but are not limited to:

- i. United Nations (UN) and affiliated international organisations;
- ii. Organisation of American States (OAS);
- iii. Inter-American Development Bank (IDB);
- iv. International Labour Organisation (ILO);
- v. Caribbean Financial Action Task Force (CFATF).

2.4 IMMEDIATE FAMILY MEMBER OF A FOREIGN OR DOMESTIC PEP

Immediate Family members are individuals who are related to a Foreign or Domestic PEP either through birth or marriage. Regulation 20(1)(c) of the FORs, gives examples of immediate family members of PEPs: ***“...the spouse, parent, siblings, children and children of the spouse of that person”***.

References to parents, siblings or children include biological as well as adopted children or step-children. A co-habitant or common-law spouse should also be treated as an immediate family member and a “spouse” for the purposes of Regulation 20(1)(c) of the FORs⁷. Even an ex-spouse may be included.

***It should be noted that connected familial relations as set out in Regulation 20(1)(c) FORs are only relevant in relation to foreign and domestic PEPs and do not apply to International Organisation PEPs.**

2.5 CLOSE PERSONAL OR PROFESSIONAL ASSOCIATES OF A FOREIGN, DOMESTIC OR INTERNATIONAL ORGANISATION PEP

Close personal or professional associates are individuals who are closely connected to any PEP, in either a personal or professional capacity. Reg. 20(1)(d) of the FORs defines a Close associate as ***...“any individual publicly known or actually known to the relevant financial institution or Listed Business to be a close personal or professional associate...”*** of the PEP.

Not all close personal or professional associates of Domestic and International Organisation PEPs International Organisation PEPs should be considered high risk. By virtue of Regulation 20(3B) of the FORs SEs must adopt a risk based approach when initiating or continuing a business relationship with a close personal or professional associates of a Domestic or International Organisation PEP and shall only apply EDD in circumstances where higher risk has been identified.

Examples of close associates may include girlfriends, boyfriends or other publicly or actually known persons who are in a romantic relationship with a PEP; business partners with, or who beneficially owns or controls a business with a PEP; persons involved in financial transactions with a PEP; a prominent member of the same political party as a PEP; or persons closely carrying out charitable works with a PEP.

Supervised Entities may consider using open source information, such as news reports and social media when identifying close associates of a PEP either personally or professionally.

⁷ By reference to The Cohabitation Relationships Act Chap. 45:55

Notwithstanding these examples, not every person associated with a PEP will be considered a “close associate”. Supervised Entities may also consider other factors, such as the level of influence the PEP may have on the associated person and the extent of the close associate’s exposure to and influence on the PEP.

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3. HOW LONG DOES A PERSON REMAIN A PEP?

The handling of customers who are no longer entrusted with a prominent function should be based on an assessment of risk and not on prescribed time limits⁸.

In keeping with a risk based approach, the following risk factors may also be included in the SE's risk assessment of the customer:

- i. The seniority of the position that the individual held as a PEP;
- ii. Whether the individual's previous and current function are linked in anyway (e.g., his involvement in the appointment of his successor);
- iii. Whether the PEP continues to deal with the same substantive matters and the level of influence that the individual may still exercise.

The period for which immediate family members and close personal and professional associates of Domestic and Foreign PEPs, who are no longer entrusted with a prominent public function, should be treated as PEPs, is directly related to the assessment of risk for the PEP by the Supervised Entity.

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⁸ FATF Guidance Politically Exposed Persons (Recommendations 12 and 22), June 2013

4. COMMON RED FLAG ASSOCIATED WITH PEPs

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.

4.1 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.” Regulation 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 Regulation 13 of the FORs– 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.

4.2 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/CFT 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).

4.3 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.

4.4 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 Recommendation 19, or the Interpretative Note to Recommendation 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.

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