



Financial Intelligence Centre
Republic of Zambia

REVISED GUIDANCE NOTE

ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM PROCEDURES FOR POLITICALLY EXPOSED PERSONS

DECEMBER 2017

THE FINANCIAL INTELLIGENCE CENTRE

REVISED GUIDANCE NOTE **AML/CFT PROCEDURES FOR POLITICALLY EXPOSED PERSONS**

1. Introduction

The Financial Intelligence Centre Act, No, 46 of 2010 (as amended by Act No. 4 of 2016) ('the Act') provides for High Risk Customers whose definition includes Politically Exposed Persons (PEPs).

This Guidance Note is intended to provide reporting entities with an overview of individuals that are considered as PEPs in Zambia and the AML/CFT measures that apply to them. It is provided as general information only. It is not legal advice, and not intended to replace the AML/CFT legislation.

This Guidance Note replaces the previous (2015) Guidance Note on PEPs issued by the Centre.

2. Understanding of PEPs in Zambia

As defined under section 2 of the Act, a "Politically Exposed Person" means

- (a) an individual who holds, or has held public office, and includes-
- (i) a Head of State or Government;
 - (ii) a Minister;
 - (iii) a Deputy Minister;
 - (iv) a politician;
 - (v) a political party official;
 - (vi) a judicial official or other senior official of a quasi-judicial body;
 - (vii) a military official;
 - (viii) a member of an administrative management or supervisory body of a State owned enterprise;
- (b) an individual who is, or has been, entrusted with a public function by a State, public body or a local or international organisation;
- (c) an immediate family member of a person referred to in paragraph (a),
or
- (d) a close associate of a person referred to in paragraph (a).

Due to their position and influence, it is recognised that PEPs are in positions that potentially can be abused for the purpose of committing money laundering offences and related predicate offences, including corruption and bribery, as well as conducting activity related to terrorism financing. The potential risks associated with PEPs justify the application of additional Anti-Money Laundering/ Countering the Financing of Terrorism or Proliferation (AML/CFT/CPF) measures, designed to prevent and detect this conduct.

To address these risks, the Financial Action Task Force (FATF) standards require countries to ensure that financial institutions and designated non-financial businesses and professions (DNFBPs) implement measures to prevent the misuse of the financial system and non-financial businesses and professions by PEPs, and to detect such potential abuse if and when it occurs.

However, it is noted that if a person is a PEP, this does not mean that there is an automatic link to criminal activities or abuse of the financial system. The additional AML/CTF measures applied in the case of PEPs are preventative and should not be interpreted as stigmatising PEPs as being involved in criminal activity; rather these measures recognise the increased risk, including opportunity, associated with holding this type of role.

3. AML/CTF measures applied in the case of PEPs

Reporting entities shall, in addition to performing customer due diligence (CDD) procedures, put in place

- i. appropriate risk management systems to determine whether a potential customer or existing customer or the beneficial-owner is a politically exposed person. This means that proactive steps must be taken, such as assessing customers on the basis of risk criteria, risk profile, business model, verification of CDD information and the reporting entity's own search to determine whether a customer or a beneficial owner is a PEP

- ii. Reporting entities should consider whether they may be more vulnerable to domestic PEPs compared to foreign PEPs
- iii. obtain senior management approval before they establish a business relationship with a PEP
- iv. Where a customer has been accepted or has an ongoing relationship with the reporting entity and the customer or beneficial-owner is subsequently found to be or becomes a PEP, a reporting entity shall obtain senior management approval in order to continue the business relationship
- v. Reporting entities shall take reasonable measures to establish the source of wealth and the sources of funds of customers and beneficial-owners identified as PEPs and report any suspicious transactions immediately to the Centre
 - a. **'source of wealth'** refers to the origin of the PEP's entire body of wealth (the total assets), which in turn will give reporting entities an indication of both the volume of wealth the customer would be expected to have and how the PEP acquired that wealth.
 - b. **'Source of funds'** refers to the origin of the particular funds or assets which are the subject of the business relationship between the PEP and the reporting entity, such as the amounts being invested, deposited or transferred.
- vi. Reporting entities in business relationships with PEPs are required to conduct enhanced CDD of that relationship. Examples of enhanced CDD measures include but are not limited to: (a) obtaining additional information on the customer; (b) obtaining additional information on

the intended nature of the business relationship, and on the reasons for intended or performed transactions; (c) 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.

In the event of any transaction that is unusual or suspicious, reporting entities are required to flag the account and to report immediately to the Centre.

4. Determination of Politically Exposed Persons

PEPs are individuals who are, or have been, entrusted with prominent public functions and their family members and close associates. Family members are individuals who are related to a PEP either directly or through marriage or similar forms of partnerships. Close associates are individuals who are closely connected to a PEP either socially or professionally.

Further, determination of foreign and domestic PEPs by reporting entities cannot be overemphasised. The difference between a foreign PEP and a domestic PEP is the country which has entrusted the individual with the prominent public function, however, in both cases enhanced due diligence is expected to be done by reporting entities.

In addition reporting entities are required to determine another group of PEPs called International organisation PEPs. These are persons who are or have been entrusted with a prominent function by an international organisation who are 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.

A PEP could be the customer or the beneficial owner of a legal entity that is the client. When conducting CDD, reporting entities are required to identify the beneficial owner, and take reasonable measures to verify the identity of the beneficial owner. If there are objective grounds to believe that a beneficial owner is a PEP, complete verification is mandatory.

Where a person is purporting to act on behalf of a beneficial owner (or is acting on behalf of a natural person), it is best practice to inquire the reason for doing so. This may lead to awareness that the beneficial owner of the client is a PEP. If the person who is acting on behalf of a PEP, or if a customer or beneficial owner is identified as a family member or close associate of a PEP, then AML/CFT measures for PEPs should also apply accordingly. Determining whether customers or beneficial owners are PEPs and/or finding out who are their family members and close associates is important in the AML/CFT regime. It is important that reporting entities periodically monitor their existing client base against changes in the PEP universe and not just at the time of client on-boarding. Ongoing customer due diligence is the key source of information for the purpose of determining that a customer is a PEP.

5. Time limits of PEP status

Recommendation 12 of FATF defines a PEP as being someone who has been (but may no longer be) entrusted with a prominent public function. Recommendation 12 provides for an open ended approach (i.e. “once a PEP–always a PEP”). In Zambia, once a person no longer holds a prominent public position, a reporting entity should continue to apply a risk-based approach to determine whether an existing customer who no longer holds a prominent position should continue to be treated as a high-risk customer.

The handling of a customer who is no longer entrusted with a prominent public function should therefore be based on an assessment of risk and not on prescribed time limits.

The risk based approach requires that reporting entities assess the Money Laundering/Terrorist Financing/Proliferation risk of a PEP who is no longer entrusted with a prominent public function, and take effective action to mitigate this risk. Possible risk factors include:

- i. The level of (informal) influence that the individual could still exercise;
- ii. the seniority of the position that the individual held as a PEP; or

- iii. Whether the individual's previous and current function are linked in any way.

6. Guidance on the use of sources of information for the determination of PEPS, their family members and close associates

Determining whether customers or beneficial owners are PEPs and/or finding out who their family members and close associates are can be challenging. Another implementation issue is determining whether existing clients of reporting entities have become PEPs since the business relationship began.

To this effect, it is important that reporting entities periodically monitor their existing client base against changes in the PEP universe and not just at the time of client on-boarding. Therefore, CDD is the key source of information for the purpose of determining that a customer is a PEP.

For example, a key factor in this ongoing process is the customer's principle occupation or employment.

However, there are several other sources of information that can be used by reporting entities to assist in determining if a customer is a PEP such as commercially held databases published by recognised organisations. Reporting entities should have access to a valuable source of information: the customer. They should utilise this rather than relying on third party providers. However, reporting entities will often need to use more than one of these sources of information to support CDD and/or to gather other information such as on the source of funds and the source of wealth.

As a general starting point to enable an assessment of risk of specific customers, risk management systems or other internal control mechanisms should draw on a range of sources for establishing Money Laundering and Terrorist or Proliferation Financing risk and take this information effectively into account.

In a nutshell, reporting entities should develop in-house databases as a tool to assist in the determination of a PEP. In relation to foreign PEPs, it is best practice for entities within international financial groups to share information on PEPs for AML/CFT purposes. Effective due diligence and risk assessment procedures put in place by reporting entities not only identify persons who are PEPs, but will also assist reporting entities to detect any suspicious transactions or behaviour related to money laundering and related predicate offences.

7. 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. Among the indicators are:

a. 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:-

- i. Use of corporate vehicles (legal entities and legal arrangements) to obscure beneficial ownership
- ii. Use of corporate vehicles without a valid business reason
- iii. 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
- iv. 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.

b. The PEP and his/her behaviour

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

- i. Use of corporate vehicles (legal entities and legal arrangements) to obscure ownership or business(es)/company(ies) involved
- ii. The PEP makes inquiries about the institution's AML policy or PEP policy
- iii. The PEP seems generally uncomfortable to provide information about source of wealth or source of funds
- iv. The information that is provided by the PEP is inconsistent with other (publicly available) information
- v. The PEP is unable or reluctant to explain the reason for doing business in the country of the financial institution or listed business
- vi. Funds are repeatedly moved to and from countries to which the PEP does not appear to have ties
- vii. The PEP is or has been denied entry to the country (visa denial).

c. 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:-

- i. The PEP has a substantial authority over or access to state assets and funds, policies and operations
- ii. The PEP has control over regulatory approvals, including the award of licences and concessions

- iii. The PEP has the direct or indirect control over the mechanisms established to prevent and detect ML/TF
- iv. The PEP has access to, control or influence over, government or corporate accounts.

d. 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:-

- i. The foreign or domestic PEP is from a high risk country
- ii. Foreign or domestic PEPs from countries identified as having a high risk of corruption
- iii. Foreign or domestic PEPs from countries reputed to be dependent on the export of illicit goods, such as drugs
- iv. Foreign or domestic PEPs from countries identified by credible sources as having high levels of organised crime.

Please note that the aforementioned red flags are not exhaustive.

For more information or clarification, do not hesitate to contact the Centre at the address below:

The Financial Intelligence Centre
P. o. Box 30481
LUSAKA



Mary Chirwa Tshuma (Mrs)
Director General
Financial Intelligence Centre

November 2017