

Politically Exposed Persons (PEPs) and Reliance on Third Parties



Agenda

- Politically Exposed Persons;
- Reliance;
- Outsourcing;
- Case studies;



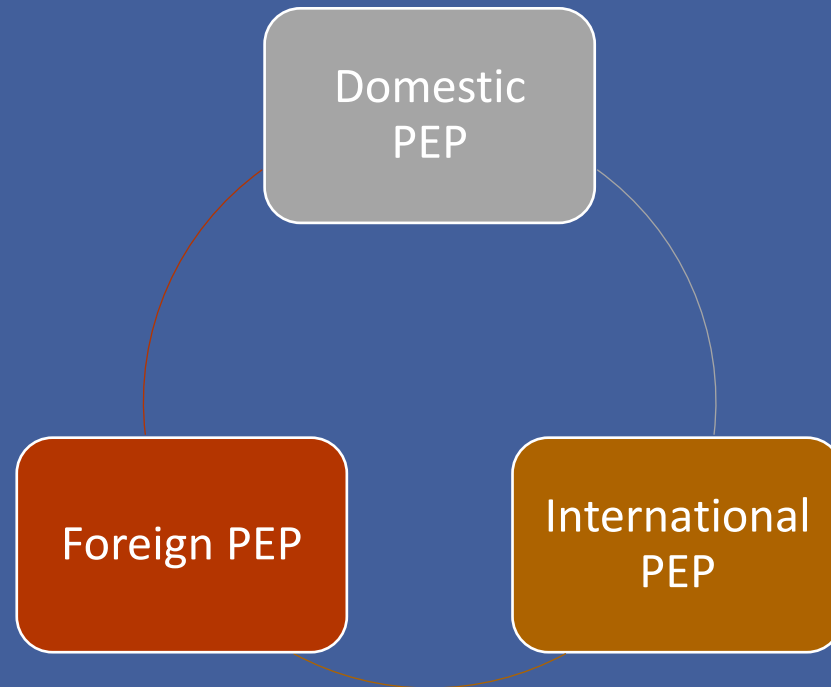
What is a Politically Exposed Person (“PEP”)?

A PEP is an **individual** with a **high-profile** political role, or someone who has been entrusted with a **prominent public function**. These individuals present a higher risk of involvement in money laundering and/or terrorist financing because of the position they hold.



Definition of a PEP

- The term “politically exposed person”, sometimes used interchangeably with “Senior Foreign Political Figure”, emerged in the late 1990s in the wake of the Abacha Affair: a money-laundering scandal in Nigeria which galvanized global efforts to prevent abuse of the financial system by political figures.
- The Financial Action Task Force (FATF) subsequently codified the term in its AML guidance, setting out the following 3 classifications of PEP:



PEP risk

PEPs pose a high risk of ML/FT due to the position they occupy and the influence they exercise. PEPs may abuse of their prominent public functions for private gain, namely through **corrupt practices, accepting bribes or abusing/misappropriating public funds.**

These crimes
generate proceeds
that would need to be
laundered

Application of EDD
measures



Who is a PEP?

- Public functions which are considered as prominent public functions and would therefore render the holder thereof a PEP include:
 - Heads of State, Heads of Government, Ministers, Deputy or Assistant Ministers, and Parliamentary Secretaries;
 - Members of Parliament or similar legislative bodies;
 - Members of the governing bodies of political parties;
 - Members of the superior, supreme, and constitutional courts or of other high-level judicial bodies whose decisions are not subject to further appeal, except in exceptional circumstances, including Magistrates;
 - Members of courts of auditors, or of the boards of central banks;
 - Ambassadors, charge d'affaires and other high-ranking officers in the armed forces;
 - Members of the administrative, management or supervisory boards of state-owned enterprises;
 - The Attorney General;
 - Permanent secretaries within all the Government ministries;
 - Chiefs of staff within all the Government Ministries;
 - The Commissioner and Deputy Commissioners of Police;
 - Anyone exercising a function equivalent to those set out above within an institution of the European Union or any other international body.

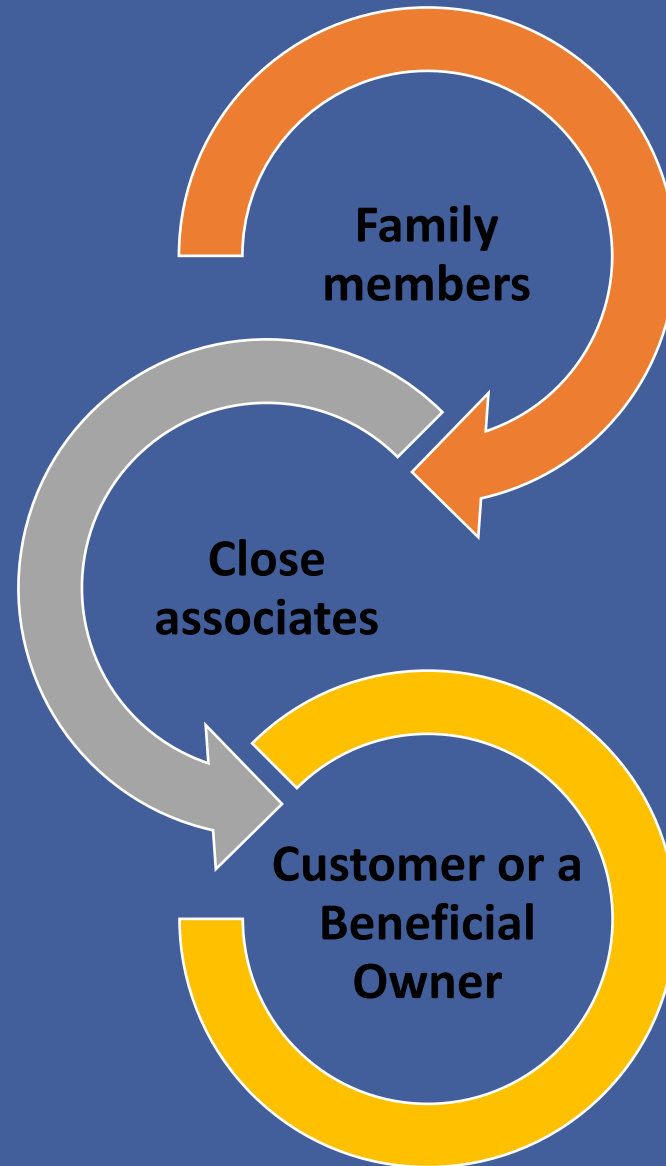


Who is a PEP?

In the Maltese context, the prominent public functions indicated in the PMLFTR that would render their holder a PEP should be understood as follows:

Heads of State, Heads of Government, Ministers, Deputy or Assistant Ministers, and Parliamentary Secretaries	President of the Republic of Malta, the Prime Minister and all ministers and parliamentary secretaries
Members of Parliament or similar legislative bodies	Speaker and all Members of the House of Representatives
Members of the governing bodies of political parties	The term 'political parties' should be limited to those political parties represented in the House of Representatives. Persons falling within this category would include individuals entrusted with the management and administration of that political party and does not include paid-up member or regional or town representatives
Members of the superior, supreme, and constitutional courts or of other high-level judicial bodies whose decisions are not subject to further appeal, except in exceptional circumstances	All judges of the Courts of Malta and Gozo
Members of courts of auditors, or of the board of central banks	The Auditor General, the Deputy Auditor General and the Governor and Deputy Governor/s of the Central Bank of Malta.
Ambassadors, charge d'affaires and other high ranking officers in the armed forces	Charge d'affaires of foreign jurisdictions in Malta, as well as all Maltese ambassadors and charges d'affaires abroad. Honorary Consuls are not to be considered as PEPs. The Commander and Deputy Commander of the Armed Forces of Malta also fall within this category.
Members of the administrative, management or supervisory boards of state-owner enterprises	Members of the administrative, management or supervisory boards of commercial entities and companies in which the Government of Malta has an ownership interest or control of more than 50%

Who is a PEP?



Family Members



Close Associates

Persons known to be close associates also classify as PEPs and include:

- a natural person known to have:
 - (1) Joint beneficial ownership of a body corporate or any other form of legal arrangement;
 - (2) Or any other close business relations, with that PEP; and
- a natural person who has sole beneficial ownership of a body corporate or any other form of legal arrangement that is known to have been established for the benefit of that PEP.

In the case of personal relationships, the social, economic and cultural context may also play a role in determining how close those relationships generally are



Customer or a Beneficial Owner

Rely on publicly available information

- **Assess the reliability**
- **Refer to different sources**

Obtain information directly from the customer or BO

- **SP may develop a questionnaire with specific criteria to identify a PEP**

Use commercial databases

- **Prior to making use, subject persons should understand how the CD is populated and to what extent it is able to detect and flag PEPs**



PEP Control of Organisations

If a PEP is the beneficial owner or has the requisite control of an operating company or organisation, that person may be in a position to use the organisation in furtherance of corrupt purposes.

- In such circumstances, a subject person should consider whether it would be appropriate to subject that organisation to relevant elements of the control framework established for PEPs.
- In the case of Close Family Members or Close Associates who are beneficial owners or have requisite control of an organisation, consideration to the level of due diligence should be made.



PEP Control of High-Risk Organisations

- In situations where a PEP has such control, there may be circumstances that mitigate against concluding that such treatment is warranted. The level of political risk exposure may vary depending on factors such as the relationship of the PEP to the organisation and the function and regulated status of the organisation.
- Accordingly, the level of due diligence performed may vary from that of a direct PEP relationship.
- Generally, an entity created for the sole benefit of a PEP (such as a private investment vehicle or trust owned by a PEP) would present the highest level of political risk, i.e. akin to establishing an account directly for the PEP



PEP Control of Low-Risk Organisations

On the other end of the spectrum, where a board member or corporate officer is a PEP of the following types of organisations, a subject person may be exposed to a significantly lower level of risk and may consider adjusting their due diligence treatment accordingly:

- Where it is a publicly traded company listed on a recognised exchange, subject to appropriate listing rules, good governance requirements and transparent reporting
- Where the organisation is well regulated and subject to independent supervision, e.g. banks and other FIs
- Private or state owned organisations (including Central Banks, sovereign wealth funds) subject to good governance, appropriate checks and balances and transparent reporting



PEP Control of State-Owned Entities and Public Sector Bodies

Many state owned entities and public sector bodies will have PEPs in controlling positions within the organisation. However, this does not always mean that the PEP will transfer corruption risk to that organisation.

- **In some cases, the individual will only be classified as a PEP as a result of their position within that organisation, in which case it is not appropriate to subject the organisation itself to the PEP control framework.**
- In other cases, the individual may be a PEP as a result of a different position, but may be acting in their official rather than personal capacity within the organisation in question (for example, Finance Ministers representing their countries on the board of international financial institutions). Again, this does not mean the organisation should be treated in the same way as a PEP.

However, some State Owned Entities will have genuine PEP risk. This is more likely to occur where the ruler of a country appoints family members to key positions, or where there is not a sufficiently clear separation between state finances and the personal finances of those in power.



The 4 Quadrants of risk



High Risk

Level 1 PEPs

- Heads of state and government
- Members of government (National and regional)
- Members of parliament (National and regional)
- Heads of military, judiciary, law enforcement and board of central banks
- Top ranking officials of political parties



Medium Risk

Level 2 PEPs

- Senior officials of the military, judiciary and law enforcement agencies
- Senior officials of other state agencies and bodies and high ranking civil servants
- Senior members of religious groups
- Ambassadors, consuls and high commissioners



Medium Risk

Level 3 PEPs

- Senior management and board of directors of state owned businesses and organisations



Low Risk

Level 4 PEPs

- Mayors and members of local, county, city and district assemblies
- Senior officials and functionaries of international or multinational organisations



Key Components of a PEP Risk Management Framework



Application of EDD measures

Article 11(5) and (8) of the PMLFTR require subject persons to apply specific EDD measures in relation to PEPs, their family members and persons known to be close associates.

Subject persons should assess the different types of risks it is exposed to, namely:

- Geographical
- Product/service/transaction
- Customer
- Delivery/distribution channel

Based on the CRA, subject persons are to determine the level of EDD measures required.

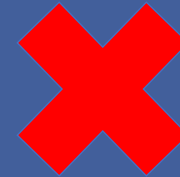


When to say no?

If after having:

- ✓ Collected all necessary information and documentation on the prospective customer, customer or its beneficial owner; and
- ✓ Undergone a customer risk assessment

the subject person determines that the prospective business relationship or occasional transaction falls outside its risk appetite (risks posed are higher than it can effectively mitigate)



PEP poses a higher risk

- a) when the customer is seeking to have access to a product, service or transaction that is capable of being misused to launder the proceeds of corruption or bribery;
- b) personal wealth or lifestyle is inconsistent with known legitimate sources of income or wealth;
- c) credible allegations of financial misconduct; and
- d) the PEP is entrusted with a prominent public function in a jurisdiction where there is a higher risk of corruption and where information available indicates that the jurisdiction shows the following characteristics (therefore, the subject person should assess the jurisdiction separately):
 - high levels of corruption;
 - political instability;
 - weak state institutions;
 - weak AML/CFT defences;
 - armed conflict;
 - non-democratic forms of government;
 - widespread organised criminality;
 - political economy dominated by a small number of people or entities with close links to the state;
 - lack of a free press where journalistic investigation is constrained;
 - a judicial and criminal justice system vulnerable to political interference;



Family member/close associate of a PEP poses a higher risk

wealth derived from the granting of government licences (such as mineral extraction concessions, licence to act as a monopoly provider of services, or permission for significant construction or other projects);

wealth derived from preferential access to the privatisation of former state assets;

wealth derived from commerce in industry sectors associated with high barriers to entry or a lack of competition, particularly where these barriers stem from law, regulation or other government policy;

wealth or lifestyle inconsistent with known legitimate sources of income or wealth;

credible allegations of financial misconduct (e.g., facilitated, made, or accepted bribes); or

appointment to a public office that appears inconsistent with personal merit.



Measures to be applied to PEP

When undertaking additional CDD measures on PEPs, their family members of persons known as close associates, subject persons must apply **all the EDD measures** set out in Article 11(5) PMLFTR, namely:



1. Obtain senior management approval

- Approval of a senior management officer of the subject person with sufficient knowledge of the subject person's ML/FT risk exposure
- Sufficient seniority to take decisions affecting its risk exposure
- Approval should be clearly documented
- Approval will ensure subject persons that they are not entering into a business relationship without applying the necessary controls
- When seeking approval of a PEP relationship, senior management should base their decision on the level of MT/FT risk that the subject person would be exposed to and how equipped it is to manage such risk.



2. Adequate measures to establish SOW and SOF involved

Why?

- To be satisfied that it does not handle proceeds derived from corruption or criminal activity associated with PEPs.
- The extent of information/documentation will vary depending on the risk posed by the customer.
 - In lower risk –less intrusive and exhaustive steps to establish source of wealth and funds of the PEP and therefore may use information already available (transaction records or publicly available information)
 - In higher risk –more intrusive and rigorous and subject persons should not rely on information provided by the customer but must refer to multiple resources of information (asset and income declarations)

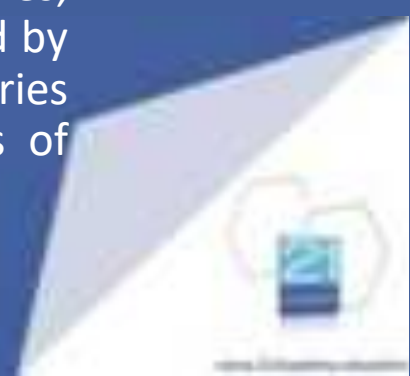


FATF 2013 guidance on SOW

The FATF 2013 Guidance states that the following factors should be taken into account when establishing source of wealth for a PEP:

- the current income of the PEP;
- source of wealth and funds, which could be explained from previous employment;
- business undertakings;
- family estates.

The Guidance advises that there is often an absence of information to help determine the source of wealth. Some firms will rely on basic information on publicly disclosed assets. Many countries with asset disclosure systems have provisions in place for public access to the information in the disclosures, and make disclosures available online. While in many cases only a summary of the information filed by officials is made publicly available, the information that can be accessed sometimes includes categories such as values of income, real estate, stock holdings, sources of income, positions on boards of companies, etc.

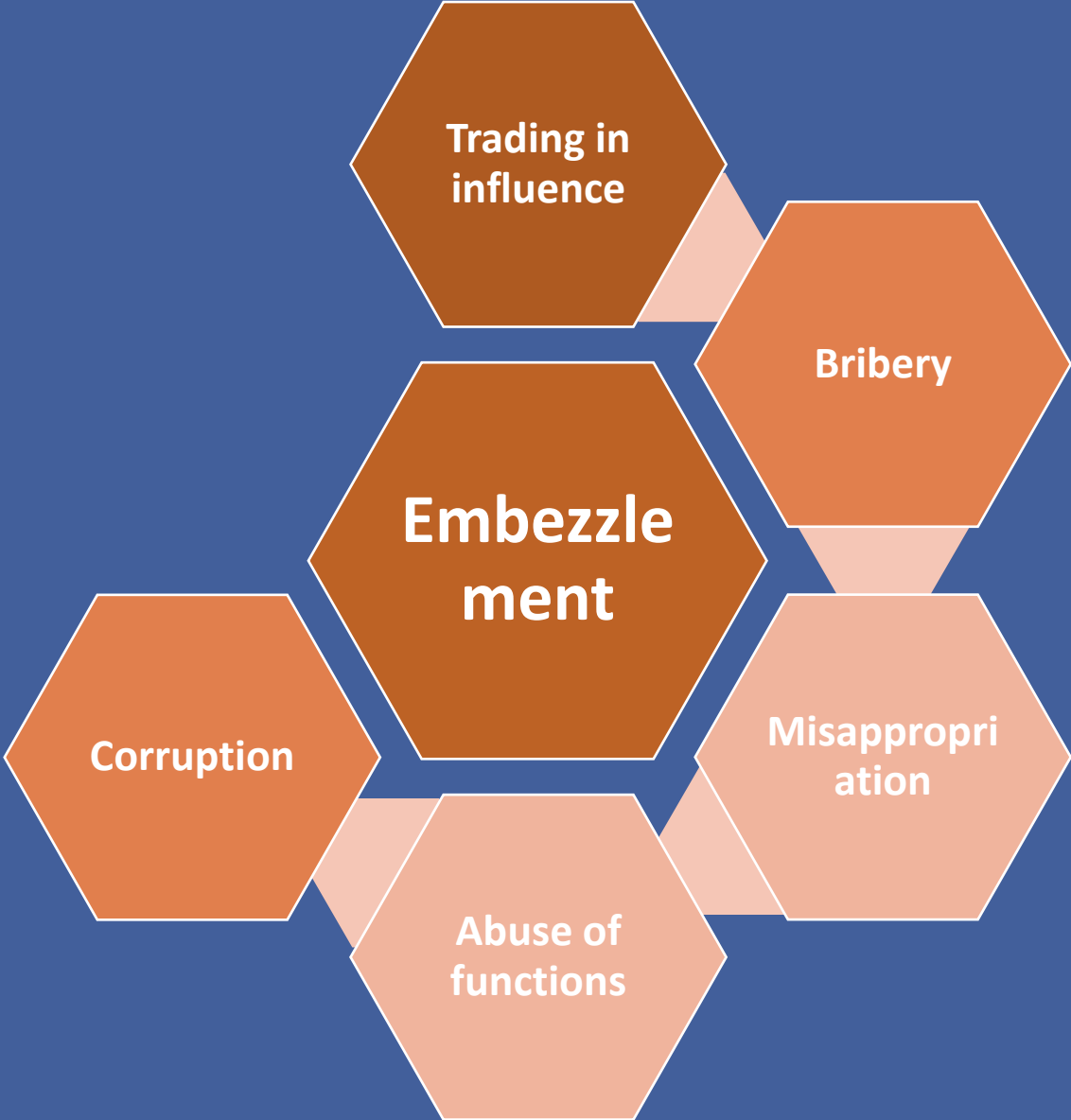


3. Enhanced ongoing monitoring of relationship

- For **low-risk customers**, subject person is required to:
 - Undertake less frequent reviews
 - Periodically review the CDD measures and update the CDD documentation/info
 - Review and update CDD documentation/info obtained at the commencement of the business relationship when a new product/service/transaction is requested
 - Less monitoring of regularity and extent of transaction
- For **high-risk customers**, subject person is required to:
 - Conduct ongoing monitoring more regularly and thoroughly
 - Closer analysis on the transaction and its origin
 - Regularly consider whether the business with such customers should be maintained
- In **both** cases, subject persons should:
 - Identify suspicious or unusual transactions and ensure any new information affecting CRA is identified
 - Appropriate methods/systems to detect when existing customers become PEPs

Automated system of checks against publicly available information or specialist PEP databases

Problems associated with PEPs



Risk-based PEP screening

A **risk based approach** requires firms to deploy AML/CFT measures commensurate with the level of risk their clients present – applying enhanced due diligence measures (EDD), for example, to higher risk customers. In the context of **PEP screening** best practices:

- **Fuzzy searches:** PEP search settings may be less fuzzy than those deployed for sanctions searches. Unlike sanctions targets (which should never be onboarded), PEPs are less likely to vary their names.
- **Search frequency:** While sanctions lists change constantly, the PEP landscape is less volatile. Accordingly, PEP screening processes may take place on a weekly or monthly basis.
- **True positives:** When sanctions screening returns a hit, firms must apply enhanced due diligence and freeze the relevant transaction. For PEP screening, however, certain jurisdictions allow for firms to adjust their compliance response: for example, it may be permissible to apply less intensive EDD measures to domestic PEPs than foreign PEPs



PEP Screening

- PEP screening is the screening of customer names and associated details against PEP information at certain points during the customer relationship. While some relevant, competent authorities do publish PEP lists, **this is the exception rather than the norm** as PEP lists are usually compiled internally or sourced from vendors/list providers.
- Regulatory requirements require the adoption of reasonable, risk-based measures to identify PEPs. While this could include PEP screening, the decision as to the manner in which screening should be conducted will depend on the size, scale, footprint and capability of each given subject person and on the inherent risk of PEPs using the subject person's products and services to launder the proceeds of crime. Where deemed to be an appropriate control, PEP screening should be automated. However, manual screening may be acceptable where deemed appropriate for the size of the business and the materiality of the inherent risk posed by PEPs.



PEP Screening

PEP screening should occur in accordance with an entity's risk appetite applying an RBA and take place at least:

- As part of the onboarding process
- At periodic customer review
- When there is a trigger event which warrants a customer due diligence review.

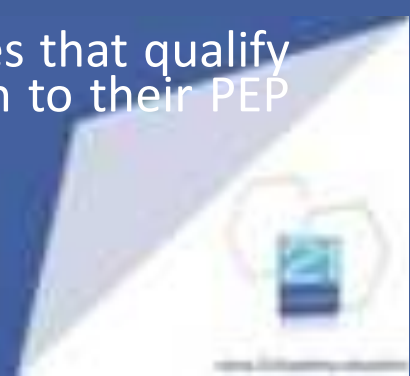
It should be noted that, in many instances, PEP screening is not the primary control for identifying PEPs. The responsibility for PEP identification remains with business lines who have direct contact with the customer and should be embedded within a firm's CDD processes.



Change in PEP status

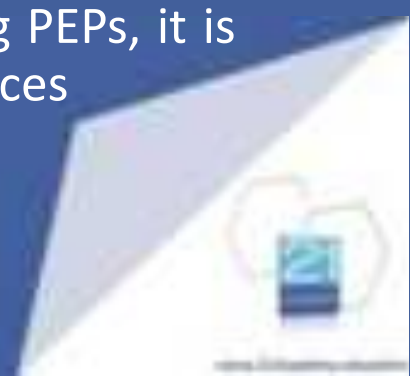
The FATF also sets out guidance for detecting changes in PEP status:

- **Customer due diligence:** Firms should monitor non-PEP customer accounts on an ongoing basis to capture changes in PEP status. Practically this means ensuring effective customer due diligence **processes** are in place.
- **Employee training:** Firms should train their employees to detect changes in PEP status. The FATF recommends ongoing training programs incorporating real-life case studies and input from human compliance experts.
- **Adverse media:** Changes to a customer's PEP status may be revealed in news stories before confirmation by official sources. Accordingly, firms should **search for media** involving their customers, across both internet, screen, and print sources.
- **Commercial databases:** PEPs are listed in a variety of commercially-available databases. While these databases should not be regarded as a replacement for CDD measures, firms may use them to add depth to their PEP screening measures.
- **Government PEP lists:** Many governments maintain lists of PEPs and lists of public roles that qualify their holders as PEPs. Like commercial databases, these lists may help firms add depth to their PEP screening process but should not replace CDD.



Points to keep in mind

- the definition of a PEP should **focus on those in senior, prominent political positions, who have substantial authority over policy**, operations or the use or allocation of government-owned resources and are therefore more vulnerable to grand corruption
- the definition of a PEP should not be diluted by the inclusion of categories of natural persons who may exert considerable influence and are politically connected, but do not hold public office
- not all foreign PEPs are higher risk by definition
- while, under certain circumstances, relatives and close associates should be subjected to the same control framework as PEPs, they should not themselves be considered PEPs in all cases
- the principle of “once a PEP, always a PEP” runs counter to an appropriate RBA and should be considered very carefully before being applied
- regulatory requirements set out the need for reasonable risk-based measures for identifying PEPs, it is noted that while this may include automated screening, this is not necessary in all circumstances

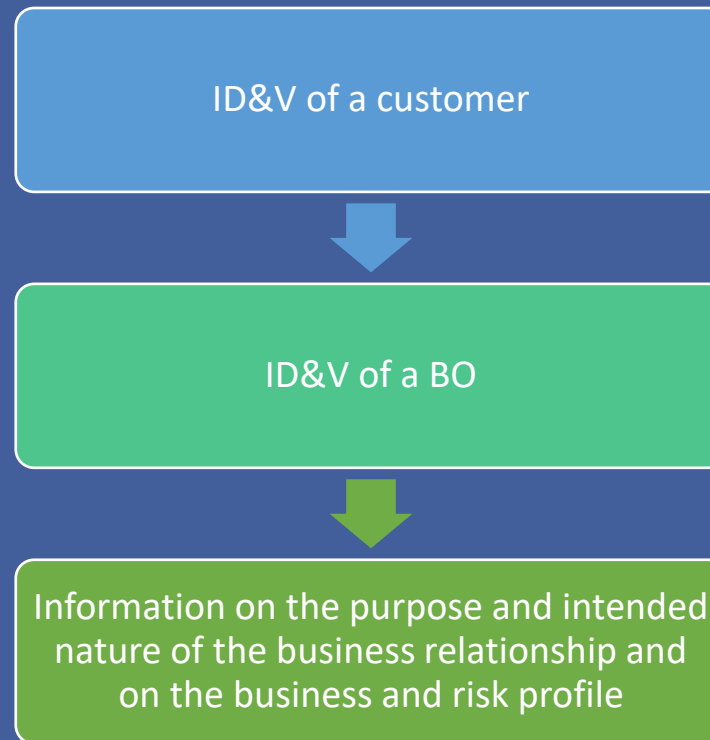


Reliance



Scope

Subject persons may only rely on the CDD measures undertaken by other subject persons or third parties in relation to:



Scope (cont.)

- The obligation to carry out **ongoing monitoring** of the business relationship continues to rest with the subject person.
- **Subject persons always remain ultimately responsible for compliance with their CDD requirements.**
- Subject persons must understand whether the measures carried out by the other entity to counter the risks of ML/FT are equivalent to those that the subject person deems sufficient. Prior to entering into a reliance arrangement, the subject person should thus ensure that it understands the type of CDD measures which the entity undertakes on its customers.
 - Such assessments should be put down in writing and documented accordingly.
- **Having a chain of reliance arrangements is not permissible.**



Reliance scenarios

- a) subject person A enters into a business relationship with the customer of subject person B by accepting instructions given through subject person B on behalf of the customer (e.g., Maltese company service provider in Malta sets up a company in Malta for the client of a company service provider in another jurisdiction);
- b) subject person A and subject person B both act for the same customer in respect of an occasional transaction (e.g., subject person A is the customer's lawyer and subject person B is the customer's accountant, and both are assisting the customer in the acquisition of an undertaking); or
- c) subject person A and subject person B form part of the same group of companies but carry out different relevant activities.



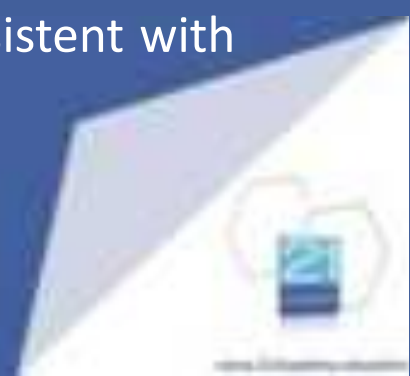
Entities that can be relied upon

Subject persons may rely on the CDD measures carried out by:

1. Persons falling within the definition of 'subject person' under the PMLFTR; and
2. Third parties being:
 - Persons or institutions undertaking activities equivalent to 'relevant financial business' or 'relevant activity';
 - Member organisations or representative bodies of such persons; or
 - Other institutions or persons in an EU Member State or other third country

As long as the persons listed under (2) above also:

- apply CDD requirements and record keeping requirements that are consistent with those laid down under the PMLFTR; and
- have their compliance with AML/CFT obligations monitored in a manner which is consistent with the 4th AML Directive.



Carrying out reliance

- The subject persons placing reliance should **immediately obtain** the information required from the subject person or third party being relied on, regardless of the fact that the subject person is relying on another entity for the fulfilment of CDD requirements.
- The subject person must still obtain the **information** concerning the customer's identity, the identity of the beneficial owner (where applicable), the information on the purpose and intended nature of the business relationship and the customer's business and risk profile.



Obtaining documentation

- The subject person placing reliance is not obliged to receive copies of the identification and verification data, and other relevant documentation (in relation to the purpose and intended nature of the business relationship and on the customer's business and risk profile) obtained by the other subject person or third party being relied on, unless the subject person requests the entity being relied on to provide such information.
- This is in line with the principle behind the concept of reliance i.e., that multiple requests for documentation are not always necessary, and that one has relied on a reputable entity to carry out verification. It is to be further noted that, in the case of verification data and/or documentation, the subject person has to rely on the entity with whom it has entered into a reliance arrangement even for keeping that documentation up to date since it would otherwise be impractical to seek updated documentation directly from the customer.

Should the subject person require this information and documentation, it must be forwarded by the entity being relied on **immediately on request**



Reliance agreement

- Written and signed **formal agreement** regulating the procedures and conditions concerning such requests, in order to ensure that the data is made available immediately.
- Consider carrying out **occasional tests** to ensure that the entity being relied upon is in a position to provide the requested information and documentation and, moreover, to ensure, from time to time, that the CDD measures undertaken by the entity are satisfactory.
- Provide for situations where the entity **terminates** its business relationship with the customer, or ceases to operate altogether, in order to ensure that the subject person is still in a position to fulfil its obligations at law, even where the reliance agreement ceases to be in force.
- Must be retained by the subject person as part of **its record keeping obligations**, together with any copies of the documentation forwarded by the entity being relied upon.



Outsourcing



Extent of outsourcing

- The obligations which may be outsourced, whether in whole or in part, relate to:
 - the implementation of risk assessments procedures;
 - the implementation of CDD procedures; and
 - the implementation of record keeping obligations
- The MLRO and monitoring functions cannot be outsourced – therefore, the determination as to whether a STR is to be filed with the FIAU or otherwise cannot be outsourced either and is to remain within the discretion of the MLRO.
 - Still, a subject person may still outsource a third party to flag unusual transactions that may become the subject of an internal report to the MLRO or engage consultants to assist in the determination of whether a STR is to be filed or otherwise.



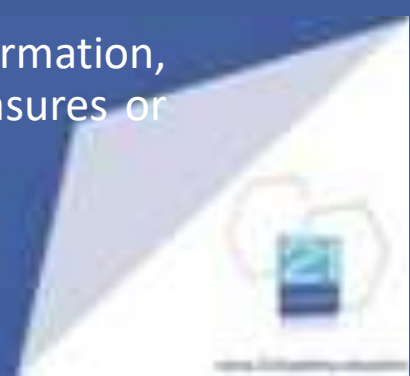
Conditions to which outsourcing is subject

- Prior to outsourcing to a third party, the subject person should: (i) make an assessment of any potential ML/FT risk due to the proposed outsourcing, (ii) maintain a written record of the assessment, and (iii) monitor the perceived risk.
- The subject person shall also ensure that all of the following conditions are met:
 - The outsourcing does not negatively prejudice the ability of the subject person to comply with its obligations at law and the effectiveness of its compliance and audit functions, nor will the outsourcing impede the effective supervision of the subject person by the FIAU or the compliance by the subject person with any obligation related to the analytical function of the FIAU;
 - The third party has the necessary resources, qualifications, skills and authorisations (if required) at its disposal to effectively carry out the measures and procedures it is to perform on behalf of the subject person;
 - The manner in which the third party proposes to implement the outsourced activities is in line with all applicable legal requirements and the subject person's own policies and procedures;
 - The third party is in good standing, there being no adverse information in its regard, and it is located and operating from Malta, an EU Member State or another reputable jurisdiction; and
 - The third party is not subject to any obligation which would lead to a breach of any data protection, professional secrecy, confidentiality or non-disclosure obligation to which the subject person has to adhere.
- The subject person shall maintain a copy of the assessment undertaken prior to entering into an outsourcing arrangement and shall make it available to the FIAU upon request.



Outsourcing agreement

- the exact parameters of the measure or procedure being outsourced to the third party;
- the precise requirements concerning the performance of the measure or procedure, taking account of the intended objective of the measure or procedure to be outsourced;
- the respective rights and obligations of the parties to the agreement;
- the circumstances under which the agreement can be terminated and the terms that would become applicable;
- the ownership of any data, information, reports or other documentation that may be produced, collated or collected in the course of carrying out the measure or procedure being outsourced, taking into consideration the record-keeping obligations of the subject person;
- that any processing of personal data has to take place in accordance with applicable data protection laws and any data, information, reports or other documentation are kept confidential and will not be disclosed to anyone other than in those circumstances where the law permits such disclosure;
- the communication lines to be followed, especially with regard to the transmission of data, information, documentation, reports or findings to the subject person by the third party related to the measures or procedures outsourced;



Outsourcing agreement (cont.)

- that the third party is to allow the FIAU, including anyone duly authorised to act on its behalf, direct access to its premises and to any data, information, documentation reports or finding relative to the outsourced measures or procedures as may be required by the FIAU;
- the fact that sub-contracting by the third party is not to be allowed without the prior agreement of the subject person, which consent can only be granted once the subject person has ascertained that the sub-contractor meets the conditions for outsourcing and that the sub-contracting will not impact negatively the arrangement entered into between the subject person and the third party;
- the subject person must regularly evaluate the performance of the third-party using mechanisms such as service delivery reports, self-certification, independent reviews or the subject person's own audit function.



Responsibilities

- The subject person must effectively monitor how the service provider is carrying out the outsourced AML/CFT measures and procedures to ensure that these are being carried out as required by law and in accordance with the subject person's own policies and procedures.
 - This can be done through periodical reports provided by the person to whom a function has been outsourced to the subject person, spot checks, and requests for CDD information on particular clients.
- The subject person must ensure that it has a contingency plan in the eventuality of a sudden termination of the outsourcing arrangement which would ensure that it can resume without undue delay the implementation of the outsourced AML/CFT obligations.
- The FIAU will at all times consider the subject person as responsible for compliance with its AML/CFT obligation



Case study 1 – EU Court of Justice ruling on PEPs

The court annulled a European regulation freezing the funds of Mr PyePhyo Tay Za. He was included on a list of persons who benefited from the government of Myanmar's economic policies via his father, the managing director of Htoo Trading Co and Htoo Construction Company.

His appeal was successful as he demonstrated there was no concrete evidence that he had benefited from his father's activities. The court stated that *restrictive measures imposed on a third country must be directed only – in so far as natural persons are concerned – against the leaders of that country and the persons associated with them...*

- *...the application of such measures to natural persons solely on the ground of a family connection with such persons who are associated with the leaders of the third country concerned – irrespective of the personal conduct of such natural persons – is contrary to EU law.*



Case study (cont.)

- This case is still to be fully ratified in the European Parliament, but it serves to highlight the need to have complete, detailed and verified identification of source of wealth when it comes to persons associated with PEPs. The court clearly set out the importance of this requirement in the comment:
- *Consequently, a measure freezing the funds and economic resources of Mr PyePhyo Tay Za could have been adopted only in reliance upon precise, concrete evidence which would have enabled it to be established that he benefited from the economic policies of the leaders of Myanmar.*

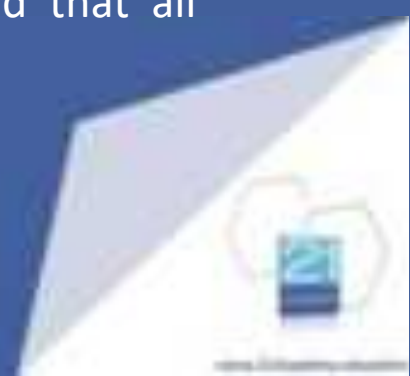


Enforcement action against Coutts & Company

In March 2012 the FCA fined Coutts & Company £8.8 million for failing to undertake sufficient EDD on its higher-risk corporate customers. The weaknesses in Coutts' controls resulted in an unacceptable risk of handling the proceeds of crime.

In particular, Coutts did not:

- assess adequately the level of money laundering risk posed by prospective and existing high-risk customers; this included failing to identify properly and record all politically exposed persons (PEPs)
- gather the appropriate level of due diligence information about a large number of prospective high-risk customers
- apply robust controls when starting relationships with high-risk customers in particular, the AML team failed to provide an appropriate level of scrutiny and challenge
- consistently apply appropriate monitoring to its existing high-risk customers to ensure that changes in circumstances and risk profiles were identified, assessed and managed appropriately and that all unusual transactions would be identified, or
- carry out adequate reviews of its AML systems and controls for high-risk customers.



Enforcement action against EFG Private Bank

- On 28 March 2013 the FSA fined EFG Private Bank £4.2 million for breaches surrounding management and control - it failed to take reasonable care to establish and maintain effective AML systems and controls in relation to its higher-risk customers.
- Around 400 of EFG's 3,342 customer accounts were deemed by the firm to present a higher risk of money laundering or reputational risk - 94 of which were PEP accounts.



Concluding Remarks



Any questions?





Peter Mizzi

Compliance and AML Advisor

peter.mizzi@camilleripreziosi.com

(+356) 2123 8989

Camilleri Preziosi

Level 3, Valletta Buildings

South Street

Valletta, VLT 1103

Malta



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