



Wolfsberg Frequently Asked Questions (“FAQs”) on Politically Exposed Persons (“PEPs”)

1. Preamble

The continuing threat of money laundering through Financial Institutions is most effectively managed by understanding and addressing the potential money laundering risks associated with customers and their transactions.

This set of revised Questions and Answers updates the original Wolfsberg Group guidance on PEPs (Politically Exposed Persons) issued in 2003. PEP identification and risk management continue to be major issues for Financial Institutions and this update reflects the concept of the “Risk Based Approach” (RBA) which has emerged as a major regulatory theme since the original document was written. In addition, whilst the Wolfsberg Group’s first area of focus was private banking/wealth management its focus since then has extended to other financial service segments.¹

Consequently the Wolfsberg Group has updated the original FAQs to address these developments with this revised set dealing with the initial identification of PEPs and providing assistance in the design of an appropriate control framework that can be tailored to fit an individual Institution’s particular customer and product range as well as different regulatory regimes.

It should however be understood that, where a risk based approach is recognised, the risk factors associated with PEPs are simply additional factors that need to be considered as part of an Institution’s RBA rather than being an assessment that can or should exist in isolation from

¹ In considering guidance on PEPs in contexts other than private banking, it should be noted that, the Group’s statements and principles are now viewed in a much wider context.

those considerations and influences. It is therefore reasonable that different control and oversight frameworks would apply, e.g. within a private banking/wealth management relationship from other environments such as certain high volume retail businesses for example retail banking and/or insurance.

2. Why relationships with PEPs may represent an increased risk for Financial Institutions?

Relationships with PEPs may represent increased risks due to the possibility that individuals holding such positions may misuse their power and influence for personal gain and advantage or for the personal gain or advantage of family and close associates. Such individuals may also use 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.

It is however important to understand that the majority of PEPs do not abuse their position and will not represent any undue additional risk to a Financial Institution solely by virtue of that categorisation.

3 What is the definition of a PEP?

There is no single, universally agreed definition of a PEP. In formulating these FAQs, consideration was given to the standards issued by internationally-recognised bodies such as the Financial Action Task Force on Money Laundering (FATF). Local or regional regulations may differ in respect of particular elements of the PEP definition, and should be considered by a Financial Institution when determining PEP categorisation standards and relationship management procedures.

A basic element of the PEP definition is that a PEP is a natural person. The involvement of a PEP in the management of an operating entity, as treated below in Section 6, could result in an increased risk of a relationship with such an entity, but would not necessitate the categorisation of the entity as a PEP. To the extent that it is appropriate to establish beneficial ownership of a trust, personal investment company or foundation, accounts for such entities should, if beneficially owned by a PEP, Close Family or Close Associate (For definitions see question 4), be subjected to the control framework appropriate for PEPs.

While all holders of public functions are exposed to the possibility of corruption or the abuse of their position to a certain degree, those holding senior, prominent or important positions with substantial authority over policy, operations or the use or allocation of government-owned resources have much more influence and therefore normally pose greater risks for an Institution and should accordingly be categorised as PEPs for purposes of control and oversight frameworks.

Financial Institutions should consider a range of factors when determining whether a particular holder of a public function has the requisite seniority, prominence or importance to be categorised as a PEP. Relevant factors could include examining the official responsibilities of

the individual's function, the nature of the title (honorary or salaried political function), the level of authority the individual has over governmental activities and over other officials, and whether the function affords the individual access to significant government assets and funds or the ability to direct the awards of government tenders or contracts.

PEPs are also often the subject of intense public and media scrutiny, with the increased possibility of commensurate reputation risks for Financial Institutions that maintain relationships with them.

Characterisations of specific senior public functions, such as those noted below, can be useful as indicators of seniority, prominence or importance and used to determine whether an individual should be considered a PEP:

- Heads of State, Heads of Government and Ministers
- Senior Judicial Officials
- Heads and other high-ranking Officers holding senior positions in the armed forces
- Members of ruling Royal Families with governance responsibilities
- Senior Executives of state-owned enterprises
- Senior Officials of major political parties

In addition, the following **may** also be considered to fall within the definition but may be excluded in areas where the risk of corruption or abuse is considered to be relatively low as they do not have the same ability to control or divert funds.

- Heads of Supranational Bodies, *e.g.* UN, IMF, WB
- Members of Parliament or National Legislatures, senior members of the Diplomatic Corps *e.g.* Ambassadors, Chargés d'affaires or Members of Boards of Central Banks

Holders of public functions not meeting the above-referenced standards of seniority, prominence or importance (and therefore not categorised as PEPs) could still represent a heightened reputational or money laundering risk for Financial Institutions. Such individuals should be assessed using appropriate risk factors.

4 How should “Close Associates” and “Close Family” of a PEP be defined?

PEPs may abuse their power and position for the personal gain and advantage of immediate family members or close associates or use them to conceal funds or assets that have been misappropriated as a result of abuse of their official position or resulting from bribery and corruption. It is therefore important to define “Close Family” and “Close Associates” and include them within the control framework established for PEPs.

- Close Family: will include a PEP's direct family members including spouses, children, parents and siblings of the PEP. In any of these cases there may be circumstances which mitigate against such a categorisation including separation and estrangement although these facts should be investigated and recorded

- Close Associate: will include a PEP's widely- and publicly-known close business colleagues and/or personal advisors, in particular financial advisors or persons acting in a financial fiduciary capacity

5 How can a PEP or their "Close Family or Associates" be identified?²

The following measures may be appropriate and effective when trying to identify a PEP, but it may be a difficult undertaking particularly if an applicant fails to provide relevant information.

- Making enquiries regarding PEP status of prospective customers during the account establishment process
- Screening prospective customers against a database of such persons. These may, for example, be developed internally, provided by an external service provider or obtained from a reputable source
- The inclusion of PEP related training to appropriate staff which may be part of the regular AML training

Despite the reasonable efforts of a Financial Institution it may be difficult to identify a PEP, particularly if the customer fails to provide important information, furnishes false details or their circumstances change during the course of the relationship. Financial Institutions do not have access to critical information to identify all such persons. They must rely on their customer identification procedures and associated due diligence processes to try to detect such connections and relationships. The level of details available to an Institution will also vary by product or service; in a retail relationship there will be less opportunity to establish such connections than in a private banking/wealth management situation. The difficulties of identifying Close Family and Close Associates are typically even greater than for identifying PEPs.

6 PEP control of an operating company: when might it matter, how should it be dealt with and to what extent should such involvement be ascertained?

If a PEP (or Close Family or Close Associate) has the requisite control of an operating company, such person may be in a position to use the company in furtherance of corrupt purposes, so that transactions of the company should be considered from that perspective. Aside from the potential of abuse of the company, the mere fact of significant PEP involvement in a company may raise reputational issues.

² As noted above, there is no single universally agreed definition of a PEP. In formulating these FAQs consideration was given to the standards issued by internationally-recognised bodies such as the Financial Action Task Force on Money Laundering (FATF). Local or regional regulations may differ in respect of particular elements of the PEP definition, and should be considered by a Financial Institution when determining PEP categorisation. To date, countries have not taken the opportunity to identify PEP's with respect to their own countries. The Wolfsberg Group recommends that the FATF encourage its membership and those of its associate and regional bodies to publish lists of senior, prominent or important holders of public functions, their Close Family and Close Associates in order to mitigate the challenge faced by Financial Institutions in this regard (considering that FATF members (unlike Financial Institutions), are in the position of having the requisite knowledge, or are in a position to obtain it).

If a PEP (or Close Family or Close Associate) is in a position to exercise control over an operating company, then a Financial Institution should, accordingly, consider subjecting that company to relevant elements of the control framework established for PEPs. Even in situations, however, where a PEP has such control, there may be circumstances that militate against concluding that such treatment is warranted. Such situations include the following:

- Where it is a publicly traded company listed on a recognised exchange subject to appropriate listing rules, good governance requirements, transparent reporting etc
- Where it is well regulated, subject to independent supervision, including banks and other Financial Institutions

Normal due diligence undertaken in respect of an operating company may include basic due diligence on the management, board members, persons with significant ownership interests and other individuals capable of exercising control over corporate decisions. Using a risk-based approach to corporate due diligence, as outlined more extensively in the Wolfsberg RBA paper and the Wolfsberg FAQs on Investment and Commercial Banking, the nature and extent of corporate due diligence applied in determining PEP involvement could vary depending on the circumstances.

7 Should State-owned enterprises be considered PEPs?

State-owned enterprises, including central banks, should not be considered PEPs. The individuals who manage and run the state-owned enterprise at senior levels, however, could qualify as PEPs if they sought to establish a relationship with a Financial Institution *on their own behalf or via a Close Family member or Close Associate*. All state-owned enterprises are not necessarily low risk; such entities should be assessed using appropriate risk factors.

8 Should a “non-foreign” PEP be treated differently to a “foreign” PEP?

The greatest risks appear to be present where a PEP seeks to establish a relationship with a Financial Institution beyond the jurisdiction in which they hold the public position that gave rise to the categorisation. Nevertheless, domestic persons, i.e. non-foreign otherwise coming within the definition of PEP as set forth above, may be categorised as PEPs in instances where an Institution understands there to be heightened reputational risk.

Such assessments should give due regard to any appropriate legislation or regulatory guidance and be subject to senior management approval.

9 When is it no longer necessary to regard an individual as a PEP?

There is no agreed method for determining the time period that an individual should be regarded as a PEP after they have left the public function that gave rise to the initial categorisation. The risk associated with a PEP is closely related to the office or function they

held and the influence associated with that post. Although that influence may well substantially reduce as soon as they have left office, a PEP may have been in a position to acquire his or her wealth illicitly, so that a high level of scrutiny with regard to such individuals may be warranted even after they have left office.

In the case of a former PEP, continued treatment as a PEP may not be warranted if there has been no sufficiently adverse or derogatory information widely published for a period of time that is long enough to conclude that:

- Taking into account the susceptibility of the former position to corruption, their source of wealth is legitimate and
- The individual has not abused such remaining influence as he or she may have.

Any de-categorisation should be subject to an appropriate level of senior management review and approval. This review should be documented.

10 How should the Wolfsberg Guidance on the Risk Based Approach be applied to the management of PEP relationships?

In jurisdictions where the adoption of an RBA is permissible, an Institution may consider a number of factors related to the nature of PEP relationships when determining the appropriate controls. This may include the products or services being sought, the individual circumstances of the customer and, where appropriate, the source and amounts of the customers' funds and wealth.

This paper should therefore be read in conjunction with the Wolfsberg statement "Guidance on a Risk Based Approach for managing Money Laundering Risks."³

11 What control framework is appropriate for the management of PEP relationships?

A wide range of controls may be considered for the identification and management of PEP relationships but not all will be appropriate for application across an Institution's entire range of business. For example, in retail banking relationships a different balance of controls may be relevant from those considered to be appropriate within a private banking/wealth management environment:

- **New Client Approval:** institutions should have reasonable procedures designed to try to identify PEPs either before the relationship is established or shortly thereafter, where permitted under applicable law. Whilst normal client relationships are subject to an institution's minimum approval standards, PEP relationships should be escalated for approval to a senior level

³ See www.wolfsberg-principles.com and also the FATF Guidance on the Risk-Based Approach to combating money laundering and terrorist financing, 12 July 2007 at <http://www.fatf-gafi.org/dataoecd/43/46/38960576.pdf>

- Identification – Existing Clients: where an Institution becomes aware that an individual has become a PEP it should apply appropriate enhanced procedures and controls
- Enhanced Due Diligence: once identified and depending on the product or service sought, additional research and analysis may be appropriate including validation of information provided for a number of factors including an understanding of the source of funds and wealth
- Enhanced Monitoring: accounts with a PEP relationship may, using a risk-based approach, be subject to enhanced monitoring to detect unusual and potentially suspicious activity
- Reviews – Existing PEP Clients: such relationships should be subject to periodic review to ensure that due diligence information remains current and the risk assessment and associated controls remain appropriate. Reviews should generally be approved by relevant senior management
- Training & Education: staff members are the first line of defence in preventing and detecting money laundering and also have a crucial role to play in identifying clients or potential clients who are PEPs. It is therefore vital that the risk, policies, procedures and processes associated with such individuals are communicated to relevant employees and form part of the regular AML training program

12 Should Financial Institutions apply global standards?

Wherever possible, standards of identification and control should be applied globally. Nevertheless, in certain jurisdictions, local regulatory requirements may require, for example, the application of a broader PEP definition, specific control requirements, or guidance with respect to de-categorisation as a PEP. In such cases local regulatory requirements will need to augment or replace global standards in respect of that jurisdiction.