

Politically Exposed Persons — Overview

Objective. *Assess the adequacy of the bank’s systems to manage the risks associated with senior foreign political figures, often referred to as “politically exposed persons” (PEP), and management’s ability to implement effective risk-based due diligence, monitoring, and reporting systems. If the relationship is a private banking account²⁶⁸ refer to core overview section, “Private Banking Due Diligence Program (Non-U.S. Persons),” page 125, for guidance.*

Banks should take all reasonable steps to ensure that they do not knowingly or unwittingly assist in hiding or moving the proceeds of corruption by senior foreign political figures, their families, and their associates. Because the risks presented by PEPs vary by customer, product/service, country, and industry, identifying, monitoring, and designing controls for these accounts and transactions should be risk-based.

The term “politically exposed person” generally includes a current or former senior foreign political figure, their immediate family, and their close associates. Interagency guidance issued in January 2001 offers banks resources that can help them to determine whether an individual is a PEP.²⁶⁹ More specifically:

- A “senior foreign political figure” is a senior official in the executive, legislative, administrative, military or judicial branches of a foreign government (whether elected or not), a senior official of a major foreign political party, or a senior executive of a foreign government-owned corporation.²⁷⁰ In addition, a senior foreign political figure includes any corporation, business, or other entity that has been formed by, or for the benefit of, a senior foreign political figure.
- The “immediate family” of a senior foreign political figure typically includes the figure’s parents, siblings, spouse, children, and in-laws.
- A “close associate” of a senior foreign political figure is a person who is widely and publicly known to maintain an unusually close relationship with the senior foreign political figure, and includes a person who is in a position to conduct substantial domestic and international financial transactions on behalf of the senior foreign political figure.

²⁶⁸ For purposes of 31 CFR 1010.620, a “private banking account” is an account (or any combination of accounts) maintained at a bank that satisfies all three of the following criteria:

- Requires a minimum aggregate deposit of funds or other assets of not less than \$1 million;
- Is established on behalf of or for the benefit of one or more non-U.S. persons who are direct or beneficial owners of the account; and
- Is assigned to, or is administered by, in whole or in part, an officer, employee, or agent of a bank acting as a liaison between the covered financial institution and the direct or beneficial owner of the account.

²⁶⁹ *Guidance on Enhanced Scrutiny for Transactions that may Involve the Proceeds of Foreign Official Corruption* issued by the U.S. Treasury, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, Office of Thrift Supervision, and the U.S. Department of State, January 2001.

²⁷⁰ It is important to note that while government-owned corporations may present risks of their own, the government-owned corporations themselves are not within the definition of a “senior foreign political figure.”

The definition of senior official or executive must remain sufficiently flexible to capture the range of individuals who, by virtue of their office or position, potentially pose a risk that their funds may be the proceeds of foreign corruption.²⁷¹ Titles alone may not provide sufficient information to determine if an individual is a PEP, because governments are organized differently from jurisdiction to jurisdiction. In those cases when a bank files a SAR concerning a transaction that may involve the proceeds of foreign corruption, FinCEN has instructed banks to include the term “foreign corruption” in the narrative portion of the SAR.²⁷² Banks should establish risk-based controls and procedures that include reasonable steps to ascertain the status of an individual as a PEP and to conduct risk-based scrutiny of accounts held by these individuals. Risk varies depending on other factors, such as products and services used and size or complexity of the account relationship. Banks also should consider various factors when determining if an individual is a PEP including:

- Official responsibilities of the individual’s office.
- Nature of the title (e.g., honorary or salaried).
- Level and nature of authority or influence over government activities or other officials.
- Access to significant government assets or funds.

In determining the acceptability of higher-risk accounts, a bank should be able to obtain sufficient information to determine whether an individual is or is not a PEP. For example, when conducting due diligence on a higher-risk account, it would be usual for a bank to review a customer’s income sources, financial information, and professional background. These factors would likely require some review of past and present employment as well as general references that may identify a customer’s status as a PEP. Moreover, a bank should always keep in mind that identification of a customer’s status as a PEP should not automatically result in a higher-risk determination; it is only one factor the bank should consider in assessing the risk of a relationship.

Ascertaining whether a customer has a close association with a senior foreign political figure can be difficult, although focusing on those relationships that are “widely and publicly known” provides a reasonable limitation on expectations to identify close associates as PEPs. However, banks that have actual knowledge of a close association should consider their customer a PEP, even if such association is not otherwise widely or publicly known. Banks are expected to follow reasonable steps to ascertain the status of an individual, and the federal banking agencies and FinCEN recognize that these steps may not uncover all close associations.

Risk Factors

In high-profile cases over the past few years, PEPs have used banks as conduits for their illegal activities, including corruption, bribery, and money laundering. However, not all PEPs present the same level of risk. This risk varies depending on numerous factors,

²⁷¹ 71 Fed. Reg. 495–515.

²⁷² Refer to [Guidance to Financial Institutions on Filing Suspicious Activity Reports regarding the Proceeds of Foreign Corruption](#), FIN-2008-G005, April 17, 2008.

including the PEP's geographic location, industry, or sector, position, and level or nature of influence or authority. Risk may also vary depending on factors such as the purpose of the account, the actual or anticipated activity, products and services used, and size or complexity of the account relationship.

As a result of these factors, some PEPs may be lower risk and some may be higher risk for foreign corruption or money laundering. Banks that conduct business with dishonest PEPs face substantial reputational risk, additional regulatory scrutiny, and possible supervisory action. Red flags regarding transactions that may be related to the proceeds of foreign corruption are listed in the January 2001 interagency guidance. Banks also should be alert to a PEP's access to, and control or influence over, government or corporate accounts; the level of involvement of intermediaries, vendors, shippers, and agents in the industry or sector in which the PEP operates; and the improper use of corporate vehicles and other legal entities to obscure ownership.

Risk Mitigation

Banks should exercise reasonable judgment in designing and implementing policies, procedures, and processes regarding PEPs. Banks should obtain risk-based due diligence information on PEPs and establish policies, procedures, and processes that provide for appropriate scrutiny and monitoring. Having appropriate risk-based account opening procedures for large-dollar or higher-risk products and services is critical. The opening of an account is the prime opportunity for the bank to gather information for all customers, including PEPs. Commensurate with the identified level of risk, due diligence procedures should include, but are not necessarily limited to, the following:

- Identify the accountholder and beneficial owner, including the nominal and beneficial owners of companies, trusts, partnerships, private investment companies, or other legal entities that are accountholders.
- Seek information directly from the account holder and beneficial owner regarding possible PEP status.
- Identify the accountholder's and beneficial owner's countr(ies) of residence and the level of risk for corruption and money laundering associated with these jurisdictions.
- Obtain information regarding employment, including industry and sector and the level of risk for corruption associated with the industries and sectors.
- Check references, as appropriate, to determine whether the account holder and beneficial owner is or has been a PEP.
- Identify the account holder's and beneficial owner's source of wealth and funds.
- Obtain information on immediate family members or close associates either having transaction authority over the account or benefiting from transactions conducted through the account.
- Determine the purpose of the account and the expected volume and nature of account activity.

- Make reasonable efforts to review public sources of information. These sources vary depending on each situation; however, banks should check the account holder and any beneficial owners of legal entities against reasonably accessible public sources of information (e.g., government databases, major news publications, commercial databases and other databases available on the Internet, as appropriate).

PEP accounts are not limited to large or internationally focused banks. A PEP can open an account at any bank, regardless of its size or location. Banks should have risk-based procedures for identifying PEP accounts and assessing the degree of risks involved, which will vary. Management should be involved in the decision to accept a PEP account. If management determines after-the-fact that an account is a PEP account, it should evaluate the risks and take appropriate steps. The bank should exercise additional, reasonable due diligence with regard to such accounts. For example, the bank may increase reference inquiries, obtain additional background information on the PEP from branches or correspondents operating in the client's home country, and make reasonable efforts to consult publicly available information sources. Ongoing risk-based monitoring of PEP accounts is critical to ensuring that the accounts are being used as anticipated. Refer to core overview section, "Private Banking Due Diligence Program (Non-U.S. Persons)," page 125, for expectations regarding private banking relationships with PEPs.