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In 1993, General Sani Abacha, Minister of Defence and Chief of Army Staff took power through a coup. Under General Sani Abacha, corrupt practices became blatant and systematic. Funds were removed in cash from the Central Bank, sometimes by the truckload, and taken out of the country by members of the Abacha family and their associates.

In some cases (USD 386 million), the monies were transferred directly from the Central Bank of Nigeria by wire to bank accounts abroad, held by offshore companies in Europe.

Following the death of General Sani Abacha, newspaper articles reported allegations of his plundering of the Central Bank of Nigeria's foreign reserves. The public began to demand that these allegations be investigated.

Through mutual assistance and lodging of criminal complaints, about USD 2 billion were frozen in ten jurisdictions, of which USD 1.2 billion were recovered. Recently, in 2019, approximately USD 300 million for Jersey bank accounts were returned to Nigeria.

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Following the Abacha case, the concept of PEP emerged through a United Nation Convention against Corruption and later through the FATF.

FATF

A PEP is an individual who is or has been entrusted with a prominent public function.

- Foreign PEPs: individuals who are or have been entrusted with prominent public functions by a foreign country, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials.
- Domestic PEPs: Introduced in 2012. As above except that they are entrusted domestically with prominent public functions.
- An international organisation PEP: also introduced in 2012. Persons who are or have been entrusted with a prominent function by an international organisation, refers to 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.
- Family Members: individuals who are related to a PEP either directly (consanguinity) or through marriage or similar (civil) forms of partnership.
- Close Associates: individuals who are closely connected to a PEP, either socially or professionally

Local laws and regulations

Same definition but also includes 'and such other person or category of persons as may be specified by a supervisory authority or regulatory body after consultation with the National Committee'

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Middle ranking or more junior individuals are explicitly excluded. However, the precise level of seniority which triggers the PEPs requirements is not specified.

Lack of guidance can cause:

- unintended determinations of who is and who is not a PEP
- Improper allocation of resources

As per the FATF, factors that may be taken into consideration as guidance for countries are:

- particular positions within government which are sufficiently prominent
- to use asset disclosures of public officials who are required to disclose their assets.
- the types of responsibilities that are sufficiently prominent (e.g., final approval over government procurement processes, decision making powers over government subsidies and grants)

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The greatest risks appear to be present where a PEP seeks to establish a relationship with a financial institution beyond their country of political exposure and where there is no obvious rationale for holding an account outside of that jurisdiction.

Consideration should also be given to the fact that certain countries prohibit certain government officials from holding bank accounts outside the country where they hold office.

Corrupt PEPs would seek out a jurisdiction where they were liable to attract less attention, and thereby also complicate efforts to detect and counter their illicit activities by spreading the process over more than one jurisdiction.

In addition corrupt PEPs from developing countries might seek sophisticated and stable banking systems and financial products unavailable in their home countries.



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Risk Level

FATF vs Wolfsberg

FATF recommends that foreign PEPs be classified as high risks. The Wolfsberg Group however advocates for a Risk Based Approach and to take the following into consideration when assessing risks:

- The political environment and the vulnerability of the PEP's country of political exposure to corruption;
- The rationale for wishing to open an account in a jurisdiction beyond where political office is held;
- The products or services being sought;
- The individual circumstances of the customer; and
- Where appropriate, the source and amounts of the customer's funds and wealth.

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FIAML Regulations 2018 – Regulation 15

Foreign PEP	Domestic PEP/ International Organisation
(1) (a) put in place and maintain appropriate risk management systems to determine whether the customer or beneficial owner is a PEP;	(2) (a) take reasonable measures to determine whether a customer or the beneficial owner is such a person; and
(b) obtain senior management approval before establishing or continuing, for existing customers, such business relationships;	(b) in cases when there is higher risk business relationship with a domestic PEP or an international organization PEP, adopt the measures in paragraphs (1)(b) to (d)
(c) take reasonable measures to establish the source of wealth and the source of funds of customers and beneficial owners identified as PEPs; and	
(d) conduct enhanced ongoing monitoring on that relationship	

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Many state owned entities and public sector bodies will have PEPs in controlling positions within the 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).

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.

If the risk assessment establishes that the business relationship with the domestic/international organisation PEP presents a normal or low risk, the financial institution and DNFBP is not required to apply enhanced due diligence measures – section 27 of the FATF Guidance on politically exposed persons (recommendations 12 and 22)

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Family members and close associates of PEPs should be determined to be PEPs because of the potential for abuse of the relationship for the purpose of moving the proceeds of crime, or facilitating their placement and disguise.

Determining whether customers or beneficial owners are PEPs and/or finding out who are their family members and close associates can be challenging, particularly when dealing with foreign PEPs for whom current information may not be readily available.

Scope not defined – depends to some extent on the social-economic and cultural structure of the country of the PEP.

Factors that needs to be considered:

How broad the circle of close family members and dependents tends to be.

In some cultures, the number of family members who are considered to be close or who have influence may be quite small (e.g., parents, siblings, spouses/partners, and children). In other cultures, grandparents and grandchildren might also be included, while in others, the circle of family members may be broader, and extend to cousins or even clans.



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Close associates are individuals who are closely connected to a PEP, either socially or professionally

BoM – includes:

- natural persons who are known to have joint beneficial ownership of legal entities or legal arrangements, or any other close business relations with a PEP; and
- natural persons who have sole beneficial ownership of a legal entity or legal arrangement, which is known to have been set up for the de facto benefit of a PEP.



FATF

Known sexual partners outside the family unit (e.g. girlfriends, boyfriends, mistresses); prominent members of the same political party, civil organisation, labour or employee union as the PEP; business partners or associates, especially those that share (beneficial) ownership of legal entities with the PEP, or who are otherwise connected (e.g., through joint membership of a company board

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The language of Recommendation 12 is consistent with a possible open ended approach (i.e., "once a PEP – could always remain a PEP").

Wolfsberg does not believe this is consistent with a Risk Based Approach

Factors to be considered include:

- The level of inherent corruption risk in their country
- The position held and its susceptibility to corruption or misappropriation of state funds or assets
- Length of time in office and likelihood of return to office in future
- The level of transparency about the source of wealth and origin of funds, in particular those funds generated as a consequence of office held
- The overall plausibility of the stated customer profile and their net worth
- Whether there is relevant adverse information about the customer widely published in reputable sources
- How politically connected they remain once they have left office

BoM

Where a PEP is no longer entrusted with a prominent public function financial institutions should, for at least 12 months, take into account the continuing risk posed by that person and apply appropriate and risk sensitive measures until such time as that person is deemed to pose no further risk specific to PEPs. Decision to declassify the customer as a PEP should be documented.

Family members and close associates – assessment is directly related to the assessment of risk for the PEP. For example, the infant son of a foreign PEP would not be a PEP (unless he holds a prominent public function, such as being the heir to the throne or Presidency). Although the infant son is not a PEP himself, he should be treated as a foreign PEP as long as his parent is considered to be a foreign PEP.

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Government issued PEP list

Uruguay has a PEP list which is disseminated by the Central Bank and which contains about 1600 persons. CIA has a list of the world's chief of states and members of the cabinet. The Bank of Mauritius published a list of positions which would tantamount to foreign and domestic PEP.

The use of these databases should never replace traditional CDD processes. Using any lists or database software to assist in the determination that a client is a PEP may increase the risk that financial institutions or DNFBPs wrongly assume that if a name is (not) in such a database then the client is (not) a PEP.

- These database derive information from public sources
- The definition of PEP used by them may not be aligned with every financial institution
- Inconsistent transliterations and spellings of names

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Quantifying the amount of money that has stolen and laundered by corrupt PEPs has proven difficult. The estimates available, therefore, provide rough approximations of the order of magnitude. The World Bank estimates that more than USD 1 trillion dollars is paid in bribes each year.

According to the IMF, countries that reduce corruption significantly are rewarded with surges in tax revenue. This was the case in Georgia, where in 2003 a new government launched an aggressive campaign to reduce corruption from very high levels. The result: tax revenue jumped from 12 percent to 25 percent of GDP in five years, even as tax rates were lowered.

FinCen - banks were only reporting the suspicious activities one, two, three years plus after they happened. It is like, they were taking their fee and then they were just kind of running with it and letting this behavior continue even when they knew that these were most likely shell companies and they are coming from politically exposed persons.

2013 - State-controlled oil giant Petrobras. Operation Car Wash, as the probe came to be known, discovered that some of Brazil's largest construction and engineering firms had paid billions of dollars in bribes over a period of years to secure lucrative contracts from Petrobras. The scandal implicated dozens of government officials and politicians.

1970s - politicians in Japan accepted bribes to approve contracts to buy US military aircraft. This scandal was one of the motivations for the passage of a law forbidding US companies to pay bribes abroad.

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140 politicians from more than **50** countries connected to offshore companies in **21** tax havens

Iceland - Former prime minister Sigmundur David Gunnlaugsson has concealed investments



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Nigeria - Former senate president Bukola Saraki did not declare assets held outside of Nigeria



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Pakistan - Former Pakistan prime minister, Nawaz Sharif, sentenced to imprisonment



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Angola - Isabel dos Santos, the billionaire daughter of former Angolan strongman president, Jose Eduardo dos Santos. Forbes magazine investigation estimates Isabel dos Santos wealth at USD 3 billion and attributes the fortune largely to nepotism.



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El Salvador - Former President Carlos Funes charged with money laundering



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Latvia - USD 10 million trust owned by the daughter of an influential Latvian politician – Aivars Lembergs



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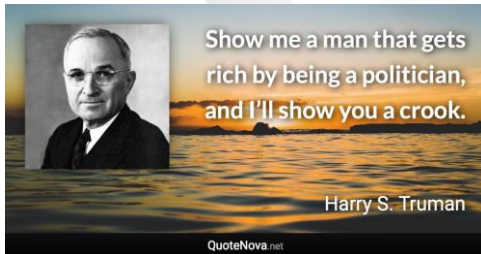
Malta - Former top government adviser, Keith Schembri, and his auditor, Brian Tonna, following an inquiry into alleged kickbacks from passport sales to wealthy Russians



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