

THE FINANCIAL INTELLIGENCE CENTRE
REVISED GUIDANCE NOTE
AML/CFT PROCEDURES FOR PROMINENT INFLUENTIAL PERSONS

1. Introduction

The Financial Intelligence Centre (FIC) Amendment Act, No. 16 of 2020 ('the Act') provides for Prominent Influential Persons (PIPs), previously defined as Politically Exposed Persons (PEPs) in the FIC Act No. 46 of 2010.

This Guidance Note is intended to highlight the amendments in the FIC Act relating to the definition of Prominent Influential Persons. This definition is in line with the Financial Action Task Force (FATF) definition of PEPs

The Guidance Note further provides reporting entities with an overview of individuals that are considered as PIPs in Zambia and the Anti-Money Laundering/Countering the Financing of Terrorism and Proliferation (AML/CFTP) measures that apply to them.

This Guidance Note replaces the previous Guidance Note on PEPs issued by the Centre in 2017.

2. Understanding of Prominent Influential Persons

As defined under section 2 of the Amendment Act No. 16 of 2020, a "Prominent Influential Person" means

- (a) an individual who is or has, been entrusted with a prominent public function by a State or an international or local body or organisation but is not of middle or junior ranking and includes—
- i. a head of State or of Government;
 - ii. a minister;
 - iii. a member of an executive organ of a political party;

- iv. a magistrate, judge and other senior officials of quasi judicial bodies;
 - v. a senior military official;
 - vi. a senior government official; and
 - vii. a member of the board or an official in senior management of an administrative or supervisory body, or a state owned enterprise or statutory body;
- (b) an immediate family member of an individual under paragraph (a) and includes—
- (i) a spouse;
 - (ii) a sibling;
 - (iii) children and their spouses; and
 - (iv) parents; and
- (c) a known close associate of an individual under paragraph (a) and includes—
- (i) any individual who is known to have joint beneficial ownership or control of a legal entity or legal arrangement, or any other close business relationship, with an individual referred to in paragraph (a);
 - (ii) any individual who has sole beneficial ownership or control of a legal entity or legal arrangement which is known to have been set up for the benefit of an individual referred to in subparagraph (a); and
 - (iii) any individual who is closely connected to an individual referred to under paragraph (a), either socially or professionally;

Due to their position and influence, it is recognised that many PIPs 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 PIPs justify the application of additional AML/CTFP measures, designed to prevent and detect this conduct.

To address these risks, the 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 PIPs, and to detect such potential abuse if and when it occurs.

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

3. AML/CTFP measures applied in the case of Prominent Influential Persons

Reporting entities¹ 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 prominent influential 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 beneficial owner is a PIP;

¹ Reporting Entity: An Institution regulated by a Supervisory Authority and required to make a suspicious transaction report to the Financial Intelligence Centre

- ii. Reporting entities should consider whether they may be more vulnerable to domestic PIPs compared to foreign PIPs;
- iii. Obtain senior management approval before they establish a business relationship with a PIP;
- 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 PIP, 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 PIPs and report all anomalies immediately to the Financial Intelligence Centre (the Centre).
 - a. **'source of wealth'** refers to the origin of the PIP'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 PIP 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 PIP and the reporting entity, such as the amounts being invested, deposited or transferred.
- vi. Reporting entities in business relationships with PIPs are required to conduct enhanced ongoing monitoring 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.

- vii. In relation to life insurance policies, insurance companies are required to take reasonable measures to determine whether the beneficiaries and/or, where required, the beneficial owner of the beneficiary, are PIPs. This should occur, at the latest, at the time of the pay-out. Where higher risks are identified, insurance companies should inform senior management before the pay-out of the policy proceeds, to conduct enhanced scrutiny on the whole business relationship with the policyholder.

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 Prominent Influential Persons

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

Further, determination of **foreign** and **domestic** PIPs by reporting entities cannot be overemphasised. The difference between a foreign PIP and a domestic PIP 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 PIPs called **International organisation PIPs**. 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, ie directors, deputy directors and members of the board or equivalent functions.

A PIP 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 PIP, 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 PIP. If the person who is acting on behalf of a PIP, or if a customer or beneficial owner is identified as a family member or close associate of a PIP, then AML/CFTP measures for PIPs should also apply accordingly. Determining whether customers or beneficial owners are PIPs and/or finding out who their family members and close associates are is important in the AML/CFTP regime. It is important that reporting entities periodically monitor their existing client base against changes in the PIP 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 PIP.

5. Time limits of Prominent Influential Person status

The general glossary of the FATF definition defines a PEP (PIP in the Zambian context) as *an individual **who is** or **has been** entrusted with a prominent public function*. The language of the FATF definition of a PEP is consistent with a possible 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 / Proliferation risk of a PIP 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 PIP; 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 Prominent Influential Persons, their family members and close associates

Determining whether customers or beneficial owners are PIPs and/or finding out who are their family members and close associates can be challenging. Another implementation issue is determining whether

existing clients of reporting entities have become PIPs since the business relationship began.

To this effect, it is important that reporting entities periodically monitor their existing client base against changes in the PIP 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 PIP.

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 PIP such as commercially held databases published by recognized organizations. 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 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 PIP. In relation to foreign PIPs, it is best practice for entities within international financial groups to share information on PIPs for Anti-Money Laundering and Countering the

Financing of Terrorism (AML/CFT) purposes. Effective due diligence and risk assessment procedures put in place by reporting entities not only identify persons who are PIPs, 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 PIPs during a customer relationship. This list of red flags/suspicious indicators is intended to assist in the detection of suspicious behaviour among those PIPs who abuse the financial system. It is not intended to stigmatize or 'brand' all PIPs. Among the indicators are:

a. Prominent Influential Persons attempting to shield their identity

PIPs are aware that their status as a public figure may facilitate the detection of their illicit activities. PIPs 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 PIP;
- 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 PIP.

b. The Prominent Influential Person and his/her behaviour

Specific behaviour and individual characteristics of PIPs 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 PIP makes inquiries about the institution's AML policy or PIP policy;
- iii. The PIP seems generally uncomfortable to provide information about source of wealth or source of funds;
- iv. The information that is provided by the PIP is inconsistent with other (publicly available) information;
- v. The PIP 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 PIP does not appear to have ties;
- vii. The PIP is or has been denied entry to the country (visa denial).

c. The Prominent Influential Person's position or involvement in business

The position that a PIP holds and the manner in which the PIP presents his/her position are important factors to be taken into account. For example:-

- i. The PIP has a substantial authority over or access to state assets and funds, policies and operations;
- ii. The PIP has control over regulatory approvals, including the award of licences and concessions;
- iii. The PIP has the direct or indirect control over the mechanisms established to prevent and detect ML/TF;

- iv. The PIP 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 PIP:-

- i. The foreign or domestic PIP is from a higher risk country
- ii. Foreign or domestic PIPs from countries identified as having a high risk of corruption.
- iii. Foreign or domestic PIPs from countries reputed to be dependent on the export of illicit goods, such as drugs.
- iv. Foreign or domestic PIPs 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 on the address below:

The Financial Intelligence Centre
P. o. Box 30481

LUSAKA

Mary Chirwa (Ms)
Director General
Financial Intelligence Centre

Published on 19th February, 2021.