

**FINANCIAL INFORMATION UNIT
BANK OF MONGOLIA**

**GUIDELINES FOR REPORTING ENTITIES ON IDENTIFICATION
OF POLITICALLY EXPOSED PERSONS**

1. Introduction

- 1.1. This Guideline is issued pursuant to AML/CFT Law, Preventive measures regulations on combating money laundering and terrorism financing.
- 1.2. This Guideline is provided as an aid to interpret and apply CDD obligations relating to politically exposed persons (PEPs). Nothing in this Guideline should be construed as releasing reporting entities from any of their obligations under the AML/CFT law or Preventive Measures Regulations.

2. Definitions

- 2.1. In these guidelines, unless the context otherwise requires, words and expressions used shall have the same meaning respectively assigned to them in the AML/CFT Law and the Preventive Measures Regulations, and the following words shall have the meaning ascribed to them:
 - 2.1.1. "Act" means the AML/CFT Law;
 - 2.1.2. "AML" means anti-money laundering;
 - 2.1.3. "beneficial owner" means a natural person who ultimately owns or controls a customer or a natural person on whose behalf a transaction is being conducted and also includes a person who exercises ultimate effective control over a legal person or arrangement. For purposes of these guidelines, "ultimately owns or controls" and "ultimate effective control" refer to situations in which ownership or control is exercised through a chain ownership or by means of control other than direct control;
 - 2.1.4. "CDD" means customer due diligence;
 - 2.1.5. "RE" means reporting entity;
 - 2.1.6. "close associates" are individuals who are closely connected to a PEP, either socially, personally or professionally or through business relations.
 - 2.1.7. "family members" means individuals who are related to a PEP either directly (consanguinity) or through marriage or similar (civil) forms of partnerships and includes but is not limited to:
 - 2.1.7.1. his/her spouse or common-law partner;
 - 2.1.7.2. his/her child, including adopted and stepchild;
 - 2.1.7.3. his/her mother, stepmother or father, stepfather;
 - 2.1.7.4. the mother or father of his/her spouse or common-law partner; and
 - 2.1.7.5. a child of his/her mother, stepmother, father or stepfather (sibling);
 - 2.1.8. "FATF" means the Financial Action Task Force;
 - 2.1.9. "FIU" means the Financial Intelligence Unit;
 - 2.1.10. "PEP" is politically exposed person;
 - 2.1.11. "STR" means suspicious transaction report;

3. Domestic PEP and foreign PEP and international PEPs

- 3.1. The country of domicile or nationality of a person is relevant in determining the type of PEP, and is relevant in determining the level of risk of a specific domestic PEP.
- 3.2. Without limiting the generality of the definition of domestic PEPs, the following persons shall be regarded as a domestic PEP:
 - 3.2.1. President of Mongolia, Prime Minister of Mongolia, Government Ministers;

- 3.2.2. First deputies and deputies of ministers, heads of other central executive authorities, their first deputies and deputies;
 - 3.2.3. Members of the Mongolian Parliament;
 - 3.2.4. Governor and members of the Board of the Bank of Mongolia, members of the governing council, Chairman and members of the Board of the Financial Regulatory Commission;
 - 3.2.5. Chairperson and judges of the Constitutional Court of Mongolia, the Supreme Court of Mongolia, and the higher specialized courts;
 - 3.2.6. Prosecutor General and his/her deputies;
 - 3.2.7. Head of the GIA Mongolia and his/her deputies;
 - 3.2.8. Ambassadors extraordinary and plenipotentiary;
 - 3.2.9. Commander-in-Chief of the Armed Forces of Mongolia, Commanders of the Land Forces, Air Forces, and Naval Forces of Mongolia and his and her deputies;
 - 3.2.10. Heads of regional bodies of the central executive authorities, regional bodies of prosecution, the GIA of Mongolia, chairpersons and judges of courts of appeal, district courts;
 - 3.2.11. Heads of administrative, management or supervisory bodies of state-owned and fiscal enterprises, economic partnerships with a share of more than 50% in the statutory capital owned by the state;
 - 3.2.12. Chairpersons of governing bodies of political parties and members of their central statutory bodies.
 - 3.2.13. Head of a government agency;
 - 3.2.14. President/chairman of a corporation that is wholly owned directly the Mongolian government or regional governments
 - 3.3. Foreign PEPs shall include, but are not limited, to persons in foreign countries and jurisdictions holding similar functions as set out in Article 3.3.
 - 3.4. The list of domestic and foreign PEPs in Article 3.3 is not exhaustive and it is the responsibility of the reporting entity that all relevant domestic and foreign PEPs are identified.
 - 3.5. Without limiting the generality of the definition of international PEPs, the following persons shall be regarded as an international PEP:
 - 3.5.1. officials of international organizations who hold or have held, in the course of the last 2 years, management positions in such organizations (directors, heads of the boards or their deputies) or
 - 3.5.2. Officials of international organization who perform or performed any other management functions on the highest level, particularly in international and intergovernmental organizations,
 - 3.5.3. Members of international parliamentary assemblies;
 - 3.5.4. Judges and management officials of international courts.
- 4. Customer Due Diligence for PEPS**
- 4.1. Reporting entities shall apply CDD and risk-based approach measures to any type of customer, whether being a PEP or not.
 - 4.2. Where a reporting entity is provided with information which clearly indicates a PEP status of an occasional customer, the reporting entity shall apply the following enhanced due diligence requirements:

- 4.2.1. have appropriate risk-management systems to determine whether the customer or beneficial owner is a PEP;
- 4.2.2. obtain written senior management approval for establishing a business relationship or continuing (for existing customer) with such business relationship;
- 4.2.3. take reasonable measures to establish the source of funds and source of wealth;
- 4.2.4. conduct enhanced ongoing monitoring of the business relationship.
- 4.3. A reporting entity which is a financial institution shall take reasonable measures to determine, during a pay-out, whether the beneficial owner or beneficiary of a life policy is a PEP.
- 4.4. If the reporting entity which is a financial institution determines that there is a higher risk by virtue of the beneficial owner or beneficiary of the life policy being a PEP, the financial institution shall:
 - 4.4.1. inform senior management before the pay-out of the policy proceeds; and
 - 4.4.2. conduct enhanced scrutiny on the whole business relationship with the policy-holder, and consider making a suspicious transaction report where necessary.
- 4.5. A reporting entity shall, periodically, monitor and conduct ongoing due diligence on its existing client base against changes in the PEP status, and not only at the time of establishing the relationship.

5. Determine if a customer is a domestic PEP

- 5.1. A reporting entity shall take reasonable measures to determine whether a customer or beneficial owner is a domestic PEP by reviewing, CDD data collected, open sources, databases or commercially available sources with information on PEPs. when:
 - 5.1.1. establishing a business relationship;
 - 5.1.2. carrying out occasional transactions above the threshold designated by Law,
 - 5.1.3. carrying out occasional cross-border and domestic wire transfer transactions above the designated threshold;
 - 5.1.4. there is a suspicion of money laundering or terrorist financing; or
 - 5.1.5. a reporting entity has doubts about the accuracy or adequacy of previously obtained customer identification data.
- 5.2. Where a reporting entity identifies a domestic PEP, it shall apply the following enhanced customer due diligence and risk mitigation measures;
 - 5.2.1. obtain additional information on the customer such as volume of assets;
 - 5.2.2. update more regularly the identification data of the customer and beneficial owner,
 - 5.2.3. obtain additional information on the intended nature of the business relationship;
 - 5.2.4. obtain information on the source of funds or source of wealth;
 - 5.2.5. obtain information on the reasons for intended or performed transactions;
 - 5.2.6. obtain the approval of senior management to commence or continue the business relationship; or
 - 5.2.7. conduct enhanced monitoring of the business relationship by increasing the number and timing of controls applied; and selecting patterns of transactions that need further examination.
- 5.3. A reporting entity shall assess the ML/TF of a PEP and in accordance with the relevant risk factors, apply the appropriate enhanced CDD measures.

6. **Determine if a Customer is a foreign PEP**
 - 6.1. A reporting entity shall put in place appropriate risk management systems, as part of its internal rules, to determine whether a customer or beneficial owner is a foreign PEP by taking proactive steps such as:
 - 6.1.1. assessing customers on the basis of risk criteria, risk profiles, and the business model;
 - 6.1.2. verifying the CDD information; and
 - 6.1.3. undertaking a reporting entity's own research on the customer or the beneficial owner.

7. **Determine if a Customer is an international organization PEP**
 - 7.1. A reporting entity shall apply the criteria for a domestic PEP to determine whether a customer or its beneficial owner is an international organization PEP;
 - 7.2. The requirements for a domestic PEP shall apply to an international organization PEP.

8. **Establishing or continuing a business relationship with a PEP**
 - 8.1. When considering whether to establish or continue with a business relationship, a reporting entity shall:
 - 8.1.1. determine the level of money laundering or terrorist financing risk associated with the particular PEP; and
 - 8.1.2. consider whether the reporting entity has adequate controls in place to mitigate money laundering or terrorist financing risk.
 - 8.2. The decision whether to establish or continue with the business relationship shall be taken at the level of senior management.
 - 8.3. A reporting entity shall increase the level of monitoring of the business relationship in order to determine whether transactions or activities under the business relationship appear unusual or suspicious.

9. **Transactions**
 - 9.1. A reporting entity conducting a transaction involving a PEP must undertake enhanced and ongoing monitoring of such a transaction.

10. **Reporting**
 - 10.1. Where a reporting entity suspects or has reasonable grounds to suspect that funds of a PEP are the proceeds of a criminal activity, the reporting entity shall file a suspicious transaction report with the FIU.
 - 10.2. The reporting of a suspicious transaction shall be in accordance with AML/CFT law and Preventive measures regulation.

11. **Risk assessment of the PEP's business relationship**
 - 11.1. In assessing risk of a PEP or the business relationship with the PEP, a reporting entity shall gather sufficient information to understand the particular characteristics of the public function that the PEP has been entrusted with.

- 11.2. In the case of an international organization PEP, a reporting entity shall gather sufficient information to understand the business model of that organization. The assessment of the business relationship may take into account:
 - 11.2.1. customer risk factors;
 - 11.2.2. country risk factors;
 - 11.2.3. product, service, transaction or delivery channel risks; or
 - 11.2.4. nature of the prominent public function that the PEP has or hold, such as his or her level of seniority, access to or control over public funds and the nature of the position held.
- 11.3. Potential risk situations, which are not intended to be exhaustive, are set out in the Schedule.

12. **Beneficial owners**

- 12.1. A reporting entity shall, when conducting CDD, identify the beneficial owner and shall take reasonable measures to verify the identity of the beneficial owner. This should include legal persons and arrangements whose ultimate beneficiary owner or controller are a PEPs or his/her family member or associate.
- 12.2. If there are reasonable grounds to believe that a beneficial owner is a PEP, a reporting entity shall verify if the beneficial owner is a PEP.
- 12.3. A reporting entity shall inquire the reason for a person purporting to act on behalf of a beneficial owner in order to determine whether the beneficial owner of the customer or client is a PEP.
- 12.4. If a person who is acting on behalf of a PEP, or if a customer or beneficial owner is identified as a family member or close associate of a PEP, a reporting entity shall apply all the requirements for a PEP.
- 12.5. A reporting entity that processes payments purporting to be from life insurance policy pay-outs shall apply risk-based monitoring of such payments to determine if the recipient of the funds is a PEP.

Note: There needs to be specific provisions for reporting entities who are insurance and re-insurance companies to determine if a PEP or his or her close relative or associate is a beneficiate and if so to undertake the necessary CDD measures.

13. **Prominent public function**

- 13.1. In determining what constitutes prominent public function, a reporting entity shall undertake a risk assessment by considering factors such as the powers and responsibilities associated with particular public functions held by the PEP.

14. **Time limits of PEP status**

- 14.1. A reporting entity shall ensure that the handling of a customer or client who is no longer entrusted with a prominent public function is based on an assessment of risk and not on prescribed time limits.
- 14.2. In assessing the money laundering or terrorist financing risk of a PEP who is no longer entrusted with a prominent public function, a reporting entity shall consider, amongst others, the following possible risk factors:
 - 14.2.1. the level of (informal) influence that the individual could still exercise;
 - 14.2.2. the seniority of the position that the individual held as a PEP; or

14.2.3. whether the individual's previous and current function are linked in any way, including but not limited to, formality by appointment of the PEP's successor, or informally by the fact that the PEP continues to deal with the same substantive matters.

15. Family members and close associates

- 15.1. A reporting entity shall apply the requirements for all types of PEPS to family members and close associates of a PEP.
- 15.2. In establishing whether a person is a family member of a PEP, a reporting entity shall consider the level of influence that person have, and how broad the circle of close family members and dependents tends to be. A reporting institution should further consider the social, economic, and cultural context to determine whether a particular person would generally be considered a family member;
- 15.3. In establishing whether a person is a close associate of a PEP, a reporting entity shall examine the relationship established between such person and the PEP which may include, among others:
 - 15.3.1. prominent members of the same political party, civil organization, employee union or employer's association as the PEP;
 - 15.3.2. business partners or associates, especially those that share beneficial ownership of legal entities with the PEP, or who are otherwise connected through joint membership of a company board or otherwise; or
 - 15.3.3. known sexual partners outside the family unit, including but not limited to, boyfriends, girlfriends or mistresses, in which case a reporting institution should further consider the social, economic, and cultural context to determine how close the relationship generally is.
- 15.4. For the assessment of risk, a reporting entity shall establish the links between the close associate or family member with the PEP to determine the level of risk.
- 15.5. The period for which the requirements for all types of PEPS should apply to a close associate or family member of a PEP who is no longer entrusted with a prominent public function should be determined in accordance with the assessment of the risk for the PEP.

16. Sources of information for PEPs

- 16.1. A reporting entity shall continuously conduct CDD as a source of information for the purpose of determining that a client or customer is a PEP.
- 16.2. When conducting CDD, a reporting entity shall identify the client's or customer's principal occupation or employment or line of business.
- 16.3. A reporting entity may source information from AML-specific websites, international instruments, FATF, FATF-styled regional bodies, International Monetary Fund, World Bank and other reports and assessments, whether mutual evaluations or assessments, and analyses of AML or CFT compliance, governance, revenue management and transparency and open sources, databases or commercially available sources with information on PEPs.

17. Change in PEP status

- 17.1. A reporting entity shall monitor non-PEP relationships for a change in a PEP status, client or customer profile or transaction activity to determine if existing clients or customers have become PEPs after establishing a business relationship with the reporting entity.
 - 17.2. A reporting entity shall update client or customer information regularly and ensure that such ongoing monitoring is based on assessment of risk.
- 18. Internal control policies**
- 18.1. A reporting entity shall establish and maintain internal control policies that include ongoing employee training programs.
 - 18.2. The training programs, which should be regularly updated, shall be designed to address effective ways of determining whether a client or customer is a PEP and to understand, assess and handle the potential risks associated with PEPs.
- 19. Information sharing**
- 19.1. Reporting entities that are part of financial groups may share information amongst themselves on PEPs for AML/CFT purposes, provided that there are adequate safeguards on the confidentiality and use of information exchanged.
- 20. Senior management**
- 20.1. Consistent with the requirement for a reporting entity to obtain senior management approval for establishing or continuing a business relationship with a PEP, a reporting entity shall determine what constitutes senior management within the reporting entity.
 - 20.2. What will constitute senior management shall depend on the size, structure, and nature of the reporting entity involved.
 - 20.3. A reporting entity shall ensure that senior management are aware of relationships with PEPs and in no circumstances shall the reporting entity undertake business relationships with PEPs in the absence of adequate controls by senior management.
 - 20.4. In assessing whether a reporting entity should undertake a business relationship with a PEP, senior management involved shall:
 - 20.4.1. have full knowledge and understanding of the reporting entity 's AML or CFT internal control programs;
 - 20.4.2. have a strong understanding of the potential or existing client's or customer's ML or TF risk profile; and
 - 20.4.3. have active involvement in the approval process of the reporting entity's AML or CFT policies and procedures.
 - 20.5. Without limiting the determination or otherwise of a reporting entity assessing what constitutes senior management, a reporting entity may establish monitoring committees, or comparable decision-making structures that:
 - 20.5.1. review establishment of business relationships with PEPs at the acceptance stage and on an on-going basis;
 - 20.5.2. ensure that all relevant internal information is carefully considered in specific cases;
 - 20.5.3. manage the termination of a business relationship with a PEP in appropriate circumstances; and

20.5.4. ensure that appropriate information, which include internal policies, procedures, and controls regarding PEPS, is available within the reporting entity when and where necessary.

21. Sources of funds and wealth

- 21.1. A reporting entity shall take reasonable measures to establish the source of funds of a PEP.
- 21.2. The source of funds, for purposes of these guidelines, shall refer to the origin of the particular funds or other assets which are the subject of the business relationship or an occasional transaction between a reporting entity and a PEP, amongst others: the amount being invested, deposited, or transferred as part of the business relationship.
- 21.3. A reporting entity shall take reasonable measures to establish the source of wealth of a PEP.
- 21.4. The source of wealth, for purposes of these guidelines, shall refer to the origin of a PEP's volume of wealth or total assets which shall include information on how much wealth a PEP would be expected to have accumulated, and how the PEP acquired such wealth.
- 21.5. A reporting entity shall conduct ongoing CDD measures on the business relationship with a PEP to ensure that the level and type of transactions are consistent with the reporting entity's knowledge of the PEP's sources of funds and sources of wealth.
- 21.6. When conducting ongoing CDD, a reporting entity shall take the following factors into account to ensure that the business relationship is commensurate with what could be reasonably expected from a PEP in particular circumstances:
 - 21.6.1. the current income of a PEP;
 - 21.6.2. sources of funds;
 - 21.6.3. sources of wealth;
 - 21.6.4. business undertaking; and
 - 21.6.5. family businesses.
- 21.7. Where the level or type of activity in the business relationship is different from what can be reasonably explained, given the knowledge of a PEP's sources of funds and sources of wealth, a reporting entity shall undertake a further assessment on the business relationship to establish whether to:
 - 21.7.1. continue with or terminate the business relationship; or
 - 21.7.2. file a suspicious transaction report to the FIU.
- 21.8. A reporting entity may use different sources of information for verifying the accuracy of a PEP's sources of funds and sources of wealth, which may include but not limited to; public property registers, land registers, asset disclosure registers, past transactions, or information about legal and beneficial ownership where available.
- 21.9. When establishing the source of funds and the source of wealth of a PEP, a reporting entity shall focus on what can be reasonably explained, as opposed to what might be expected.

NON-EXHAUSTIVE POTENTIAL RISK SITUATIONS

1. Customer risk factors

- (a) the business relationship is conducted in unusual circumstances (e.g. significant unexplained geographic distance between a reporting entity and the PEP);
- (b) non-resident PEP;
- (c) PEP establishing a legal person or arrangements that are personal asset-holding vehicles;
- (d) PEP having control in companies that have nominee shareholders or shares in bearer form;
- (e) use of intermediaries when this does not match with normal business practices or when this seems to be used to shield identity of a PEP;
- (f) use of family members or close associates as legal owner;
- (g) PEP involved in business that is cash-intensive;
- (h) PEP making inquiries about the institution's AML policy or PEP policy;
- (i) PEP being uncomfortable with information about sources of funds and sources of wealth;
- (j) information provided by a PEP being inconsistent with other publicly available information;
- (k) PEP moving funds repeatedly from and to countries to which the PEP does not seem to have ties with;
- (l) PEP from a country that prohibits or restricts its citizens to hold accounts or own property in a foreign country;
- (m) PEP providing inaccurate or incomplete information;
- (n) PEP having substantial authority over or access to state assets and funds;
- (o) PEP having control over regulatory approvals, including awarding of licenses and concessions;
- (p) PEP downplaying importance of his or her public function;
- (q) PEP having access to, control or influence over government or corporate accounts; or
- (r) the ownership structure of the company associated with a PEP appears unusually or excessively complex given the nature of the company's business.

2. Country risk factors

- (a) PEP from country identified by credible sources, such as mutual evaluation or detailed assessment reports or published follow-up reports or FATF website, as having inadequate AML/CFT systems;
- (b) PEP from a country subject to sanctions, embargos or similar measures
- (c) PEP from a country identified by credible sources as having significant levels of corruption, drug or human trafficking or other criminal activities;
- (d) PEP from a high-risk country having control or influence over decisions that would effectively address identified shortcomings in the AML/CFT system;
- (e) PEP from a country that have not signed or ratified or sufficiently implemented relevant anti-corruption conventions;
- (f) PEP from a country that is dependent on the export of illicit goods such as drugs;
- (g) PEP from a country with a political system that is based on personal rule, autocratic regime, or a country known to enrich those in power and with high level of patronage appointments;
- (h) PEP from a country with poor governance and accountability principles; or
- (i) PEP from a country or geographical area identified by credible sources as providing funding or support for terrorist activities, or having designated terrorist organizations operating within such country.

3. Product, service, transaction or delivery channel risk factors

- (a) PEP engaged in private banking;
- (b) anonymous transactions (which may include cash) with a PEP;
- (c) non-face-to-face business relationships or transactions with a PEP;
- (d) PEP engaged in arms trade;
- (e) business involved in government procurement;
- (f) construction and large infrastructure;
- (g) PEP engaged in extraction and mining;
- (h) multiple suspicious transaction reports submitted on a PEP;
- (i) consistent use of rounded amounts where this cannot be explained by the expected business;
- (j) personal and business related money flows are difficult to distinguish from each other;
- (k) financial activity is inconsistent with legitimate or expected activity, funds are moved from and to an account or between reporting entities without a business rationale;
- (l) an account shows substantial activity after a dormant period or over a relatively short time, or shortly after commencing business;

- (m) PEP receiving large international funds transfers to a gaming account. The PEP withdraws a small amount for gaming purposes and withdraws the balance by way of cheque;
- (n) PEP using multiple bank accounts for no apparent commercial or other reason;
- (o) wire transfers from and to a PEP account that cannot be economically explained, or that lack relevant originator or beneficiary information;
- (p) PEP dealing in precious metals and stones;
- (q) PEP dealing in luxury transport services including motor vehicles, helicopters or planes; or
- (r) payment received from unknown or un-associated third parties with a PEP.