

Risk-based Industry Baseline

Politically Exposed Persons (PEPs)

Introduction

When entering into or continuing an existing business relationship with, or carrying out a transaction for a Politically Exposed Person (PEP), Wwft article 8 sub 5b requires banks to apply Enhanced Due Diligence (EDD) measures. In accordance with the European Banking Authority (EBA) ML/TF Risk Factors Guidelines and Financial Action Task Force (FATF) Recommendation 12, the EDD measures can be adjusted proportionate to the risk associated with the PEP.

Banks can adjust the intensity of the EDD measures in a risk relevant manner. Meaning that banks will diligently assess the risks associated with the PEP and, in accordance with the identified risk, proportionately apply the EDD measures. If deemed necessary, additional information and/or documentation should be obtained from the client to assess and mitigate the perceived risks.

This NVB Industry Baseline describes an approach on how banks can perform Client Due Diligence (CDD) and EDD measures for PEPs in a risk relevant matter, taking into account several risk indicators, to assess whether the PEP poses a higher risk. It describes the risk-based Dutch banking practice to implement the legal requirements for low, neutral and high risk scenarios if a

client or the Ultimate Beneficial Owner (UBO) of a client is a PEP and how to mitigate the perceived PEP risks. The indicated risk level of a scenario should be interpreted in the full context of the client, and has, in this Industry Baseline, the focus on the specific risks related to the PEP. In this context, measures to assess e.g. the purpose and intended nature of the business relationship or the product usage equally apply, as well as the assessment whether the PEP is connected to a complex structure or transactions are within the expected transaction behaviour. The measures described in this Industry Baseline apply to both a business relationship with a PEP and an occasional transaction with a PEP outside a business relationship, unless it is specifically stated otherwise.

The risks related to PEPs consist of the fact that they may be in a position to abuse their public office for private gain and may use the financial system to launder the proceeds of this abuse of office. Because of their function they may have access to public funds, control over public tendering and the allocation of public works to the private sector. This makes PEPs vulnerable to bribery and corruption. PEPs may be in a position to misuse – either directly or through an entity – banks to obscure illicit sources of their funds or wealth.

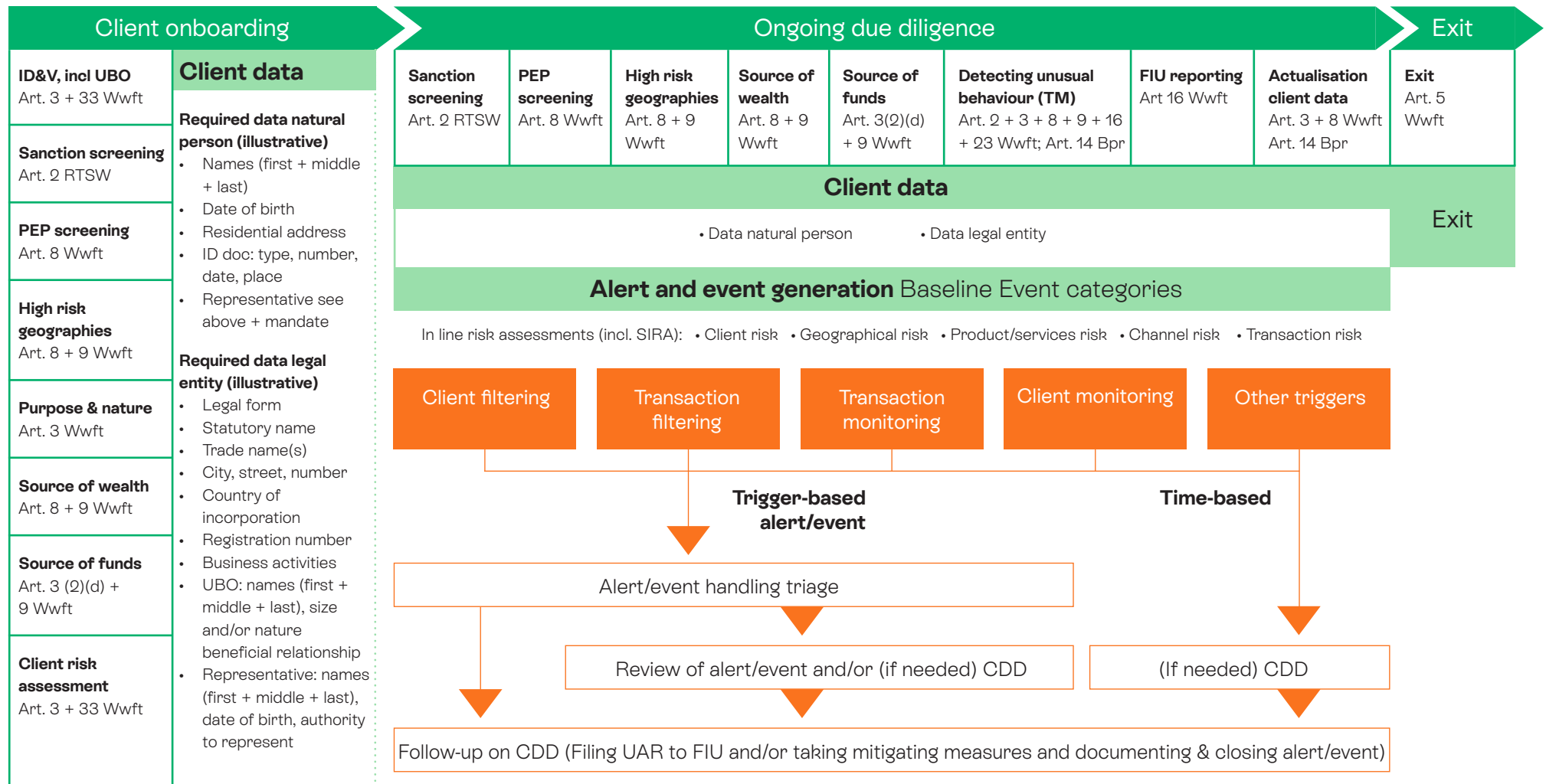
Relatives and close associates (RCAs) of PEPs should be subject to the same EDD measures as PEPs. The risk related to an RCA is that a PEP may use this relationship to obscure the illicit source of funds or wealth of the PEP. It should be noted that RCAs are not PEPs themselves, because they do not fulfil a politically exposed function. Applying PEP-status to every RCA would cause an undesired snowball effect (e.g. by designating the RCA of the RCA of the RCA as a PEP).

Positioning within the Financial Crime Framework

Banks generally identify PEPs in their screening processes through the handling of the generated client filtering alerts. The risk-based EDD measures with respect to PEPs are mitigating measures for ML/TF risks, and these measures are applied proportionate to the assessed risks.

Financial Crime Framework

Risk-based



Regulatory requirement
 Risk detection mechanism

Risk-based Industry Baseline

1 Type of PEP

This Industry Baseline distinguishes the following types of PEPs. [1]

1 PEP – client

When the client qualifies as a PEP.

2 PEP – UBO based on ownership and/or control or being the senior managing official

In case of a PEP-UBO, banks assess

- 1 the risk of the related entity of that PEP, specifically the risk that the PEP misuses the entity to facilitate (personal) transactions with illegally gained funds or to obscure funds;
- 2 the type of UBO, i.e. ownership, control or senior managing official.

In the case of a business relationship with a state-owned company [2] or a government entity, the fact that the senior managing official formally can be considered a PEP does not mean that this is by default a high risk indicator for the relationship with state-owned company or government entity. Assessment of the source of wealth (SoW) of a senior managing official (designated as a pseudo-UBO) who is considered to be a PEP, only needs to be performed proportionate and relevant to the identified risks. If that senior managing official has a business relationship with the bank in his or her private

capacity, EDD measures, including analysis of the SoW apply. Banks will always record to what extent already available information is sufficient.

3 PEP – RCA

In case of a PEP-RCA (as a client or as UBO), banks assess

- 1 the risk of the PEP;
- 2 the nature of the relationship of the RCA with the PEP.

In assessing the risk of a PEP-RCA, banks look into the possibility that the source of funds (SoF) involved in the business relationship is linked to the PEP. The level of risk of the PEP-RCA may also be impacted by the nature of the relationship with the PEP.

A PEP-RCA can be a client or UBO of a client even when the PEP itself does not have a relationship with the bank. Nevertheless, the nature of the relationship of the RCA with the PEP can affect the risk of the business relationship that the PEP-RCA has with the bank. For instance, a business relationship with a PEP-RCA, who is a board member of a Dutch organisation alongside a PEP, does not have to be increased risk when it concerns the PEP-RCA's private account. On the other hand, the business relationship with a PEP-RCA, who is a financial advisor of a PEP from a high risk country, may be increased risk.

The type of PEP should be taken into account while assessing the related risk. For the purpose of this Industry Baseline, the term PEP refers to all three types of PEPs, unless it is stated otherwise.

2 Assessment approach

It is important that the risks of a PEP are assessed and mitigated where necessary. The mitigating measures should therefore focus on that specific risk, bearing the purpose of the legislation in mind. The risk a PEP poses to a bank depends on various risk indicators which may differ per PEP relationship. Therefore the following approach is taken.

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- 1 Banks may consider applying EDD measures in a risk-based manner to PEPs who are (legal) representatives of a client.
 - 2 According to the list of Prominent public functions in the Netherlands there are no state-owned entities (staatsbedrijven) in the Netherlands. However a bank may enter into a relationship with a (foreign) entity in which a foreign state has (in)direct control. (In)direct control may be defined according to the OECD in their Guidelines on Corporate Governance of State-Owned Enterprises as enterprises that are under control of the state, either by the state being the ultimate beneficial owner of the majority of voting shares or otherwise exercising an equivalent degree of control. It should be noted that with the upcoming AML Regulation the definition of state-owned entity will include both state-owned entities (staatsbedrijven) and companies where the state is a shareholder (staatsdeelnemingen).

1 Determine potential risk of PEP based on indicators	→	2 Determine level of PEP risk in a holistic manner	→	3 Apply risk-based EDD measures
<ul style="list-style-type: none"> • Function • Country • Sector • Adverse media • Economic link • Ongoing relationship 		<ul style="list-style-type: none"> • High • Neutral • Low 		<ul style="list-style-type: none"> • Assessment of SoF/SoW • Senior management approval • Enhanced ongoing monitoring

3 Risk indicators

While qualifying as a PEP can be seen as an increased risk in itself, a bank should still distinguish between low, neutral, and high risk scenarios in order to determine the extent to which the EDD measures need to be performed. Therefore, the first step is to assess the risk a PEP poses to the bank, taking all risk indicators related to PEPs into account. These risk indicators must not be seen in isolation, but require a holistic assessment and should be considered in the entirety of all available information of the PEP.

When assessing the risk of a PEP-RCA, it should be considered whether the risk indicators apply to both the involved PEP and the PEP-RCA. In case of a PEP-UBO, it should also be considered whether a risk indicator also applies to the involved client-entity.

The following indicators are considered when assessing the risk of a PEP:

- 1 Function
- 2 Country
- 3 Sector
- 4 Adverse media
- 5 Economic link
- 6 Ongoing relationship

3.1 Function

Whether or not the function of the PEP gives access to public funds, the right to grant licences/permits and/or to other forms of power or control is an important factor to take into consideration while assessing the risk related to the PEP. PEPs who have power or control, for example by means of access to public funds or the right to grant licenses/permits, can be considered to have a high impact function and can therefore pose a higher risk.

If the PEP has been out of the function that classifies as a PEP-function for more than twelve months, the bank assesses whether the person still has political powers or political influence. If not, that person does not qualify as a PEP anymore. If the person can still exercise a noteworthy level of (informal) influence, or the person's previous and current function are linked in any way, the person is still a PEP and this can be a risk-increasing indicator necessitating to continue the risk-based EDD-measures.

3.2 Country

The risk of a PEP decreases if the PEP is entrusted a prominent public function by a country with low or neutral ML/TF risk (including bribery or corruption risks [3]), whereas if a PEP is entrusted a prominent public function by a country with a high ML/TF risk, this increases the risk. The same applies to the country where a PEP is residing. If the PEP resides in a high risk country, the risk of the PEP increases. If the PEP resides in a low or neutral risk country, the risk of the PEP decreases.

Banks take into account the relation that the PEP has with the country of residency or with the country or organisation that is the source of its political exposure. For example, the fact that a

³ Banks can make use of lists ranking the corruption risk of countries, for example the Corruption Perception Index of Transparency International.

Dutch ambassador represents the Netherlands in a high risk country does not automatically increase the risk of that PEP. Or a PEP originally from a high risk country but without any clear links to that country (for instance when that person has been a resident of another country since childhood, does not automatically result in a higher risk.

3.3 Sector

The sector in which a PEP, or if applicable, the related client entity, is active can be relevant for the risk level of the PEP. Some sectors pose a higher risk (e.g. defence industry, government procurement, construction and large infrastructure) than others because those sectors are dependent on a license/permit of the government to carry out assignments or to supply goods or services. There are also sectors that by their very nature have a higher risk of bribery and corruption. [4]

3.4 Adverse media

Based on information from public sources, the bank assesses the reputation of the PEP. In general, PEPs with a good reputation pose less risk than PEPs on whom adverse media is found, especially when this adverse media relates to the misuse of power or to financial crime, including bribery and corruption. The absence of adverse media does not automatically decrease the risk.

In assessing the information detected during adverse media screening, banks take into account:

- time passed since the occurrence of the case;
- materiality of the event (e.g. the event is related to serious or financial crime, including bribery and corruption, and the PEP plays a key role);
- whether there has been a formal accusation, arrest or conviction or whether it concerns allegations or rumours;
- quality of the source, authoritative sources are more credible.

3.5 Economic link

The economic link that the PEP has with the country of his/her function and the country of residence will also be a factor to consider whilst assessing the risk. For example, an ambassador who represents his country in the Netherlands, has a clear economic link with the Netherlands. This may be an indication for lower risk. For a foreign PEP without any connection to the Netherlands, the economic link lacks. This may be an indication for higher risk.

3.6 Ongoing relationship

For ongoing relationships, the available CDD and transaction information is also relevant to consider in the risk assessment of the PEP. For an existing client who becomes a PEP, a bank can initially analyse the available information to assess the risks. When during the relationship, all transactions match the expected transaction behaviour and the

bank has never had any indications of ML/TF, this does not evoke additional measures (see also the NVB Industry Baseline on Ongoing Due Diligence).

4 EDD measures

The following EDD measures are applied to PEPs in a risk relevant manner:

- assessment of the SoF and SoW;
- senior management approval;
- enhanced ongoing monitoring.

The extent to which these EDD measures must be applied depends on the outcome of the assessment of the risk indicators.

4.1 Source of funds and source of wealth

The objective of the SoF and SoW assessment for banks is to be satisfied that the funds or wealth do not originate from illicit sources. For the SoF and SoW assessment, information can be obtained via the three-step approach described below. The information obtained should be plausible and explain the origin of the funds or wealth. If there are doubts about the explanation or if the obtained information is not sufficient to mitigate the

4 The FATF Guidance on Politically Exposed Persons (recommendations 12 and 22) provides examples of high risk sectors for bribery and corruption

perceived risks, additional research is required, and where necessary, the information should be substantiated with reliable documentation. [5]

Source of funds is the origin of the particular funds or other assets which are the subject of the occasional transaction or the business relationship between the client and the bank. The assessment of the legitimate origin of the funds also depends on the risk the PEP poses to a bank. In case of higher risk, more information and, if applicable, evidence should be obtained.

Source of wealth refers to the origin of the PEP's total assets. It relates to those activities that have generated the PEP's total assets including real estate. This information will usually give an indication as to the volume of wealth the PEP would be expected to have, and a picture of how the PEP acquired such wealth. The purpose of establishing the SoW is not to determine the exact

value of the PEP's overall net worth, but to have a reasonable belief that the wealth of the PEP does not result from bribery, corruption or other criminal activity.

In general, information on the SoF and SoW will be obtained through a sequential three-step approach, with each next step only taken if necessary.

- 1 Desk research by means of external sources and/or internal analysis
- 2 Client contact and outreach
- 3 Obtaining additional documentation

If the assessment of the PEP's SoF results in sufficient comfort and there are no risk indicators, the SoF assessment may generate sufficient insight into the SoW as well. For instance, if a bank has a long standing business relationship with a private individual who has become a PEP, the

information available from external sources, CDD processes and product use can be sufficient to mitigate the perceived PEP risks. The bank only needs to obtain additional information when the available information is not sufficient to assess and mitigate the PEP risks.

In case of high risk scenarios more extensive steps should be taken to assess SoF and SoW. The information and/or documentation obtained should be plausible and explain the origin of the funds and/or wealth. The nature and depth of the obtained information will be different per case.

Indication of the total net worth of the PEP may be obtained through internal and external sources and/or through information provided by the PEP. The indicated total wealth, the displayed lifestyle of the PEP and transaction behaviour should be consistent with the function of the PEP and known legitimate sources of income or wealth. Where doubts arise, banks must assess the SoW based on reliable data, documents or information. In cases where it proves impossible to establish the SoW, banks should demonstrate to have taken sufficient effort to assess the SoW. Banks should record all steps taken to adequately mitigate the PEP-risks.

EDD measures	Low and neutral risk	High risk
Taking adequate measures to assess the SoF.	Assess if available information obtained as part of the CDD process is sufficient. Banks can follow the sequential three-step approach, taking step 2 and 3 when needed.	Assess if available information obtained as part of the CDD process is sufficient. Banks can follow the sequential three-step approach, taking step 2 and 3 when needed.
Taking adequate measures to assess the SoW.	The SoF assessment may generate sufficient insight into the SoW as well.	Assess the SoW via desk research, and if needed by obtaining information from the client or other sources. In case of doubts on the SoW, documents, data or information from reliable sources should be obtained.

5 Refer for more information to the NVB Risk-based Industry Baseline Source of Funds.

4.2 Senior management approval

One of the EDD measures is to obtain approval from senior management for entering into or continuing the business relationship with a PEP. The purpose of this EDD measure is to demonstrate the accountability of senior management for accepting ML/TF risks. Moreover, by deciding on the risk appetite, approving the systematic integrity risk analysis (SIRA) and signing-off on the AML/CFT policy ensures their accountability with regard to managing risks of carrying out transactions for and having business relationships with PEPs.

The Wwft defines senior management as the persons who determine the day-to-day policy of an institution, or the persons working under the responsibility of an institution, who perform a management function directly below the echelon of the day-to-day policymakers and who are responsible for natural persons whose activities affect an institution's exposure to ML/TF risks.

This definition deviates from the definition of 'senior management' in the revised 4AMLD. In the 4AMLD senior management means an officer or employee with sufficient knowledge of the institution's ML/TF risk exposure and sufficient seniority to take decisions affecting its risk exposure, and need not, in all cases, be a member of the board of directors.

It is deemed possible to use a framework for the execution of the senior management approval at a lower level in banks. Pursuant to this framework senior management gives its prior approval for a business relationship with a PEP in defined scenarios, fitting (i) size of the bank and (ii) risks identified with the transaction or the business relationship.

Lower management will then be able to assess in individual cases whether the business relationship or transaction fits within the pre-defined framework and thus whether the senior management approval may be considered given. Individual cases that do not fall within the pre-defined framework will still have to be approved separately by senior management. Establishing and operationalising this approval framework will be executed according to the bank's governance model.

This framework encompasses, among others, the following elements:

- description of the defined risk-based low, neutral and high risk scenarios;
- prior approval by senior management for business relationships with PEPs fitting the

defined scenarios;

- knowledge and decision level of the designated lower management;
- reporting obligation on PEPs to senior management;
- audit trail of the implementation.

The designated lower management should:

- have sufficient knowledge of ML/TF risks;
- have the appropriate decision level, and;
- be adequately informed regarding risks of transactions and business relationships related to PEPs.

Accountability remains with senior management and to demonstrate that, a reporting obligation to senior management should be part of the framework. This reporting encompasses the exposure with respect to business relationships and transactions related to PEPs. The reporting method includes:

- frequency and manner of reporting, including information on number, nature and risk profile of business relationships with PEPs, alerted, investigated and closed transactions, either manually or in an automated way;

EDD measure	Low and neutral risk	High risk
Obtaining senior management approval	Senior management approval in accordance with the applicable framework. Senior management must be sufficiently informed on ML/TF risks related to PEPs.	Senior management approval on an individual basis and in accordance with the applicable framework. Senior management must be sufficiently informed on ML/TF risks related to PEPs.

- scenarios submitted to senior management for confirmation;
- monitoring and auditing by 2nd and 3rd LoD of the applicable framework.

4.3 Enhanced ongoing monitoring

In line with the NVB Industry Baseline on Ongoing Due Diligence (ODD), banks can move towards a trigger-based ODD framework. This framework provides conditions that banks should continuously screen and monitor their clients and to keep the assigned risk classification up to date. The ODD framework enables the continuous screening and monitoring of the client. Banks are allowed to transition away from predefined periodic review (PR) cycles for their entire client population, including PEPs, relying on client data actualisation and (partially) automated risk assessments.

Regarding enhanced TM processes in high risk PEP scenarios, banks should:

- set thresholds based on data analysis for scenarios relevant for bribery and corruption risks or for PEPs;
- not apply autoclosure of alerts for scenarios relevant for bribery and corruption risks or for PEPs;
- take into account that a transaction is related to a PEP when assessing TM-alerts.

EDD measure	Low and neutral risk	High risk
Conducting enhanced ongoing monitoring	Having adequate transaction monitoring controls in place (including for PEPs) meets the requirement of enhanced monitoring.	<p>PEPs are typically subject to more frequent reviews. Having adequate transaction monitoring controls in place (including for PEPs) meets the requirement of enhanced monitoring.</p> <p>As part of enhanced TM banks:</p> <ul style="list-style-type: none"> • use relevant thresholds based on data analysis; • do not apply the autoclose option for alerts related to bribery, corruption or PEPs; • take PEP-risk into account when assessing TM-alerts.

5 Impact

In low and neutral risk scenarios the EDD measures for PEPs are applied in a risk-based manner depending on the risk of the PEP. Additional outreach to clients in these scenarios can be considered disproportionate and experienced as unnecessary and burdensome for both banks and clients when available information is considered sufficient. In low and neutral risk scenarios using available CDD information, and where necessary desk research, is in accordance with the risk profile of these clients and their transactions. However, if based on the risk involved required information is not available, client outreach is needed. The administrative burden for clients and banks is thus reduced and less intrusive when no client outreach is needed.

6 Use cases

The use cases below are examples to illustrate a practical application of this Industry Baseline and not intended to be exhaustive. These use cases are based on low, neutral and high risk scenarios to analyse the PEP risk at onboarding and during the business relationship.

Low risk

Existing client becoming a PEP-RCA

Example

The mother of an individual who has just become an EU parliamentarian has had a bank account and mortgage with the bank for more than 10 years. There is no adverse media on the mother nor the EU parliamentarian. There are no sudden and substantial changes in transaction patterns.

Industry Baseline

- Risk is assessed as low due to:
 - no high impact PEP function;
 - granted by a low/neutral risk country
 - no adverse media
 - mortgage is not a high risk product
 - long standing relationship
 - no indication that funds of the EU parliamentarian are used
- Assessment of the available information on SoF and SoW is assessed as sufficient in this low risk scenario.
- The risk assessment and applied EDD measures are recorded.
- Senior management approval in accordance with the applicable framework.
- Conduct ongoing monitoring.

Low risk

New client with UBOs being a Dutch PEP and RCAs

Example

A Dutch tennis club (association) has three board members, of which the chair is a judge at the Hoge Raad. The treasurer wants to open a bank account for the tennis club. At onboarding adverse media screening was performed on the tennis club, PEP and other board members and did not result in indications of ML/TF risks.

Industry Baseline

- Risk is assessed as low due to:
 - no high impact PEP function;
 - granted by a low/neutral risk country
 - no adverse media
 - no high risk sector
 - logical and plausible purpose and nature of the relationship
- Available information as part of the CDD process is assessed as sufficient.
- Due to the low risk scenario assessment of the SoW of the three board members is not deemed necessary as it will not further mitigate perceived PEP risks.
- The risk assessment and applied EDD measures are recorded.
- Senior management approval in accordance with the applicable framework.
- Conduct ongoing monitoring.

Neutral risk

Existing client with UBO who becomes a PEP-RCA

Example

A Dutch BV active in IT-services has had a bank account at the bank for five years. The UBO of the BV is married to someone who recently became ambassador and is currently stationed at the Dutch embassy in Dakar, Senegal. There is no adverse media on the ambassador.

Industry Baseline

- Risk is assessed as neutral due to:
 - no high impact PEP function;
 - granted by a low/neutral risk country
 - no adverse media
 - no high risk sector
 - existing relationship
 - PEP-UBO residing in a high risk country
 - PEP-UBO has no access to the account
- Activities of the BV and the UBO have already been assessed in the CDD process.
- Available information on SoF of the BV is assessed as sufficient in this neutral risk scenario.
- Both the risk assessment and the applied EDD measures are recorded.
- Senior management approval in accordance with the applicable framework.
- Conduct ongoing monitoring.

High risk

New client who is a PEP in an international organisation

Example

A person recently moved to the Netherlands because she is appointed as judge of the International Criminal Court in the Hague. She applied for a private banking account and indicated she will regularly transfer money to her family still living in her home country Pakistan. Also, she will transfer some funds earned in her home country with real estate investments to the Netherlands.

Industry Baseline

- Risk is assessed as high due to:
 - involvement of a high risk country
 - providing private banking services
 - funds from real estate investments
- Due to the high risk scenario, the client is requested to provide information on SoF, SoW and real estate investments.
- The bank conducts desk research to verify the information provided by the client.
- In case of doubt, the bank will obtain additional documentation, data or information from a reliable source.
- The risk assessment and the applied EDD measures are recorded.

- Senior management approval on an individual basis and in accordance with the applicable framework.
- Conduct ongoing monitoring and enhanced TM.

High risk

Master and feeder funds with a UBO who is a PEP-RCA

Example

A Dutch closed-end collective investment fund invests in renewable energy private equity within the EU. The fund sponsors are a Dutch pension fund and a Sovereign Wealth Fund (SWF) domiciled in the United Arab Emirates. The investors invest through a nominee company, being an EU regulated financial institution. One of the investors holds >25% in the nominee and is therefore an UBO. This investor is a close associate of the president of the USA.

Industry Baseline

- Risk is assessed as high due to:
 - UBO is PEP-RCA related to a PEP in a high impact function
 - involvement of a high risk country
 - high risk sector
 - private equity
- Conduct desk research on SWF and the PEP-RCA.

- Request information from the client on SoF and SoW of the SWF, the sponsors and the PEP-RCA. In case of doubts on SoF or SoW, documents, data or information from reliable source should be obtained.
- The risk assessment and the applied EDD measures are recorded.
- Senior management approval on an individual basis and in accordance with the applicable framework.
- Conduct ongoing monitoring and enhanced TM.

Context

Regulatory framework

The regulatory context for this topic is described in relevant parts of applicable laws, regulations and guidelines from various authorities, such as: FATF, EBA, Ministry of Finance and DNB. Below an overview of the current regulatory framework with reference to PEPs.

- **FATF Recommendation 12**

“Financial institutions should be required, in relation to foreign politically exposed persons (PEPs) (whether as customer or beneficial owner), in addition to performing normal customer due diligence measures, to:

- a) have appropriate risk-management systems to determine whether the customer or the beneficial owner is a politically exposed person;
- b) obtain senior management approval for establishing (or continuing, for existing customers) such business relationships;
- c) take reasonable measures to establish the source of wealth and source of funds; and
- d) conduct enhanced ongoing monitoring of the business relationship.

Financial institutions should be required to take reasonable measures to determine whether a customer or beneficial owner is a domestic PEP or a person who is or has been entrusted with a prominent function by an international organisation. In cases of a higher risk business relation-

ship with such persons, financial institutions should be required to apply the measures referred to in paragraphs (b), (c) and (d).”

- **Article 20 Revised 4AMLD**

“With respect to transactions or business relationships with politically exposed persons, Member States shall, in addition to the customer due diligence measures laid down in Article 13, require obliged entities to:

- a) have in place appropriate risk management systems, including risk-based procedures, to determine whether the customer or the beneficial owner of the customer is a politically exposed person;
- b) apply the following measures in cases of business relationships with politically exposed persons:
 - i obtain senior management approval for establishing or continuing business relationships with such persons;
 - ii take adequate measures to establish the source of wealth and source of funds that are involved in business relationships or transactions with such persons;
 - iii conduct enhanced, ongoing monitoring of those business relationships.”

- **EBA Risk Factor Guidelines, paragraphs 4.48-4.52**

“4.50. Firms that have identified that a customer or beneficial owner is a PEP must always:

- a) Take adequate measures to establish the source of wealth and the source of funds to be used in the business relationship in order to allow the firm to satisfy itself that it does not handle the proceeds from corruption or other criminal activity. The measures firms should take to establish the PEP’s source of wealth and the source of funds will depend on the degree of high risk associated with the business relationship. Firms should verify the source of wealth and the source of funds on the basis of reliable and independent data, documents or information where the risk associated with the PEP relationship is particularly high.
- b) Obtain senior management approval for entering into, or continuing, a business relationship with a PEP. The appropriate level of seniority for sign-off should be determined by the level of increased risk associated with the business relationship, and the senior manager approving a PEP business relationship should have sufficient seniority and oversight to take informed decisions on issues that directly impact the firm’s risk profile.
- c) When considering whether to approve a PEP relationship, senior management should base their decision on the level of ML/TF risk the firm would be exposed to if it entered into that business relationship and how well equipped the firm is to manage that risk effectively.

d) Apply enhanced ongoing monitoring of both transactions and the risk associated with the business relationship. Firms should identify unusual transactions and regularly review the information they hold to ensure that any new or emerging information that could affect the risk assessment is identified in a timely fashion. The frequency of ongoing monitoring should be determined by the level of high risk associated with the relationship.

4.51. Pursuant to Article 20(b) of Directive (EU) 2015/849, firms must apply all of these measures to PEPs, their family members and known close associates and should adjust the extent of these measures on a risk-sensitive basis.”

• **Wwft article 8(5) [6]**

“In addition to the customer due diligence measures referred to in Article 3:

- a) an institution shall have in place appropriate risk management systems, including risk-based procedures, to determine whether the customer or beneficial owner is a politically exposed person;
- b) an institution shall apply the following measures when entering into or continuing a business relationship with, or carrying out a transaction for, a politically exposed person:
 1. the establishment or continuation of that business relationship or the conduct of that transaction requires the consent of a person who is a member of the senior management personnel;

2. appropriate measures are taken to determine the source of wealth and of the funds used in this business relationship or transaction;
3. the business relationship is subject to enhanced ongoing monitoring.”

• **DNB Leidraad, paragraph 4.9.2 [7]**

“Institutions that have PEPs as clients may also set up their internal procedures for constant monitoring of these business relationships in a risk-based manner. For example, children of a Member of Parliament in the Netherlands with a simple checking account may be less risk-sensitive than the spouse of a head of state of a country with a heightened corruption risk who opens a private banking account. Nevertheless, PEPs essentially represent higher risk.”

“Establishing the source of wealth of a UBO who is a PEP can be particularly difficult in some situations, although the intensity of the efforts can be geared to the risk. In cases where it proves impossible to establish the source of the wealth, the institution must be able to demonstrate that it has made sufficient efforts to discover the source.”

6 Articles 8:6 – 8:11 Wwft also apply.

7 This is based on the DNB Leidraad of December 2020. At the time of publication of this NVB Industry Baseline, DNB was in the process of drafting the new Good Practices and Q&A.

• **Uitvoeringsbesluit Wwft 2018**

“Politically exposed functions as referred to in the definition of PEPs in the Wwft 1(1) are:

- a) heads of State, heads of government, ministers and deputy or assistant ministers;
- b) members of parliament or of similar legislative bodies;
- c) members of the governing bodies of political parties;
- d) members of supreme courts, of constitutional courts or of other high-level judicial bodies, the decisions of which are not subject to further appeal, except in exceptional circumstances;
- e) members of courts of auditors or of the boards of central banks;
- f) ambassadors, chargés d'affaires and high-ranking officers in the armed forces;
- g) members of the administrative, management or supervisory bodies of State-owned enterprises;
- h) directors, deputy directors and members of the board or equivalent function of an international organisation.

Middle or junior officials are not to be considered prominent public functions as referred to in the first paragraph.

Relatives as referred to in the definition of PEPs in the Wwft 1(1) are:

- a) the spouse of a PEP or a person equivalent to the spouse of a PEP
- b) children of a PEP and their spouses, or persons equivalent to a spouse
- c) the parents of a PEP.

Close associates as referred to in the definition of PEPs in the Wwft 1(1) are:

- a) 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.
- b) 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.

Relationship between ‘DNB Good Practices’ and ‘NVB Industry Baseline’

DNB aims to illustrate its supervisory practices to the benefit of supervised entities by, for example, providing an interpretation of regulatory requirements (Q&As) and examples on how regulatory requirements can be met (Good Practices). It is important to note that neither the DNB Q&As nor Good Practices are legally binding.

The NVB Industry Baseline describes the application and execution of the risk-based approach regarding PEPs. Additionally, it provides more practical examples on mitigating measures that can be applied in low, neutral and high risk scenarios.

Introduction

The purpose of this annex is to provide a non-exhaustive list of characteristics to obtain sufficient information and/or documentation on from a PEP when assessment of risks and available information demonstrate the need for client outreach.

Banks should decide on a case by case basis which information or, when applicable, documentation needs to be obtained. Therefore, the questions that banks ask PEPs may differ in individual situations. After responding to the questions, banks could ask for additional clarification, information or documentation to substantiate the provided answers.

Function, other jobs or activities of the PEP

- PEP function
 - access or control of public funds;
 - ability to grant licenses/permits;
 - possibility to use the function for personal gain.
- If the PEP has other jobs or activities or is connected to an entity
 - nature of the (business) entity.
 - role the PEP has within that entity.
 - information on the entity, such as an extract of the (equivalent of the) Chamber of Commerce, countries where the entity is active, profit and turnover, use of cash transactions.

Business relationship

- Reason and purpose for entering into a business relationship with the Dutch bank.
- Whether the PEP previously has been rejected by or the relationship with the PEP has been ended on the initiative of another bank.
- In case of a bank account
 - purpose and nature of the relationship;
 - expected transactions (e.g. type, volume, frequency, cash, international, countries);
 - source of incoming funds;
 - origin of funds transferred to the account.

SoF and SoW

- Sources of funds and level of the net annual salary.
- PEP's estimation of his/her total global wealth.
- Bank accounts with other banks/financial institutions. If present, a specification of the amount of savings/investments/loans and an explanation of the SoF and/or SoW (e.g. salary, inheritance, sale of property, gifts).
- Provided loans and gifts.
- Ownership of (commercial) real estate. If present, a specification of the real estate objects (e.g. number of objects, current estimated value, yearly rental income) and an explanation on its funding.
- Ownership of other assets such as an art collection, virtual assets, trust fund, vehicles (e.g. sports or other luxury cars, yacht, private

plane). If present, an estimation of the purchase price and/or current value and an explanation on the funding of these assets.



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