Politically Exposed Persons – Preventive Measures for the Banking Sector

Overview:

This paper is designed as a policy note for banks and regulatory authorities, as well as for use by the standard setters, policy makers, FIUs, and other public authorities with a role in the implementation of PEP standards. Policy makers and standard setters may use the Recommendations and Good Practices to inform their efforts in ensuring that effective laws and standards are adopted. The paper is focused on the banking sector, not on other financial and nonfinancial sectors vulnerable to the laundering of corrupt funds.

The paper is organized into four major parts:

Part 1 sets out some of the main observations and trends in PEPs compliance and an analysis of the principal reasons for poor compliance and overall ineffectiveness of systems to detect and monitor PEPs. Part 2 focuses on the implementation of PEP measures by regulatory authorities and banks. Part 3 reviews the roles of the public authorities that are primarily involved in preventing abuse by corrupt PEPs. These authorities include the regulatory authority, which is responsible for providing guidance to banks and enforcing compliance, as well as the FIU, which has a role in the context of suspicious transaction reports (STRs) on PEPs. Finally, Part 4 considers some of the cross-cutting issues—national cooperation, training, and resources—that must be addressed by all stakeholders.

General problem is:

* Low level of compliance with international standards due to lack of enforcable legal or regulatory framework

Paper identifies three key actions necessary:

* Strong and sustained political will and mobilization
* Clarification and harmonization of the international requirements for PEPs
* Stock-taking of the emerging typologies, with a focus on lifting what impedes the  
  identification of beneficial owners who are PEPs, such as using close associates, legal entities and other methods to hide beneficial ownership

It also gives five principal recommendations:

* Apply enhanced due dilligence to all PEPs, foreign and domestic
* Require a declaration of beneficial ownership
* Request asset and income disclosure forms
* Do a periodic review of PEP customers
* Avoid setting limits on the time PEP remains a PEP

Key recommendations from the paper:

* Laws and regulations should make no distinction between domestic and foreign PEPs. The standards adopted by FATF and regional and national standard setters should require similar enhanced due diligence for both foreign and domestic PEPs.
* At account opening and as needed thereafter, banks should require customers to complete a written declaration of the identity and details of the natural person(s) who are the ultimate beneficial owner(s) of the business relationship or transaction as a first step in meeting their beneficial ownership customer due diligence requirements.
* A public official should be asked to provide a copy of any asset and income declaration forms filed with their authorities, as well as subsequent updates. If a customer refuses, the bank should assess the reasons and determine, using a riskbased approach, whether to proceed with the business relationship.
* PEP customers should be reviewed by senior management or a committee including at least one senior manager using a risk-based approach, at least yearly, and the results of the review should be documented.
* Where a person has ceased to be entrusted with a prominent public function,countries should not introduce time limits on the length of time the person, family member, or close associate needs to be treated as a PEP
* Countries should carefully consider whether a risk-based approach will produce the best results. In doing so, they should consider the extent to which qualitative information that could inform risk assessments is readily available, the ability of the regulator to supervise and guide the sector, and the extent to which banks are equipped with sufficient resources and expertise to identify and mitigate any money laundering and PEP risks they face.
* Where a risk-based approach is applied, regulatory authorities need to make efforts to ensure that the entire sector understands the approach and is applying it correctly, including in the context of PEP systems and controls.
* FATF and UNCAC should align the definition of PEPs. This definition should be adopted by national standard setters and other key stakeholders FATF should clarify the definition of PEPs to ensure that it includes family members and close associates along with holders of “prominent public functions.”
* Jurisdictions should clarify the definition of PEPs to ensure that it includes family members and close associates along with holders of “prominent public functions.”
* Law or regulation should include a requirement to determine whether a beneficial owner is a PEP in accordance with the Methodology for FATF Recommendation 6
* As part of their ongoing business processes, banks should ensure that they hold up-to-date information on their customers; and having appropriate risk management systems to check for PEP status must form part of this process
* PEPs present a multi-dimensional or asymmetric risk to banks; therefore, banks should use a variety of risk factors and identification tools to ensure they have an effective approach to detect PEPs.
* Regulatory authorities or FIUs or both should develop “red flags” to guide banks in identifying close associates
* Where applicable, the regulatory authority should include, as part of the onsite inspection, a review of the database used to identify PEPs. The review should include an examination of the commercial database parameters, sample transaction testing, and a review of the bank’s overall database management pract
* To assist banks in meeting the source of wealth and source of funds requirement in the FATF 40+9 Recommendations in a consistent and meaningful manner, regulatory authorities should take steps to provide guidance to ensure both provisions are being addressed and suggest ways in which a bank may go about applying them.
* In higher risk cases, the group AML/CFT compliance officer (where existing), in addition to senior management, should be involved in the decision to accept or continue a relationship with a customer who has been identified as a PEP
* An updated list of PEP accounts should be maintained by the AML/CFT compliance officer and be available to senior management
* PEP customers should be reviewed annually by the audit committee, board, or equivalent corporate governance body as part of their risk-management responsibilities.
* As part of its routine onsite assessments, the regulatory authority should include a focused PEP component and incorporate specific PEP questions, at least in those sectors or banks that are particularly exposed to PEPs. Such onsite assessments should be scheduled using a risk-based approach to effectively review changes in the current control environmen
* Regulatory authorities should conduct a PEP check on beneficial owners when assessing the “fit and proper” component at licensing
* Regulatory authorities should issue specific instructions that clearly outline the legal and regulatory obligations of banks in relation to PEPs, as well as typologies on “red flags” that could indicate corruption
* FIUs should provide guidance to banks on completing PEP STRs along with a glossary of key-words to be used in STR narrative
* FIUs should maintain accurate, comprehensive, and public statistics on PEP STRs.
* FIUs should use asset and income declarations as a tool in their analysis of STRs.
* The Egmont Group should emphasize the importance of accurate and comprehensive statistics on PEP STRs as a means to assess risks and carry out strategic analysis within a given financial system
* Countries should build partnerships between public entities and representatives from the private sector to focus on the implementation of PEP policies and challenges and possibly discuss suspicious indicators, typologies, and trends

The report also has other useful appendixes, such as Summary of Good Practices, Field Mission Survey (Questions for Banks, Regulators and Financial Intelligence Units), Recommendations from FATF (Financial Action Task Force on Money Laundering). While the report may not be useful to us in the early stages of our work, it has a lot of useful advice on what the banking sector can do to imrpve transparency.