



Politically Exposed Persons

Helping define the PEP definition

A White Paper prepared by World-Check, the market pioneer and industry standard for PEP screening and customer due diligence — serving over 1,500 financial institutions and government agencies in more than 120 countries, including 18 of the 20 largest financial institutions.

Content

Section	Page
FOREWORD:	
PEP origins: The 'Steel Butterfly' and the Dictator	3
UNDERSTANDING THE ISSUE:	
The Risk, the Reason and Mitigation	5
UNDERSTANDING THE DEFINITION:	
The FATF definition dissected	7
REAL PEP DUE DILIGENCE:	12
WORLD-CHECK:	
Company position on PEPs	13
An overview	14

Foreword

By David Leppan, CEO and Founder of World-Check



PEP origins: The 'Steel Butterfly' and the Dictator.

The personas of Imelda and Ferdinand Marcos, the money they stashed in Switzerland and the resulting international headlines that severely dented so many bank reputations, can almost certainly be considered the event that gave 'birth' to what we today refer to as PEP due diligence.

After a 20 year reign, the Marcos Family and 55 associates fled the Philippines aboard U.S. Air Force helicopters in late February, 1986. Their suitcases, reported at the time, contained jewellery and gold bars. But this amounted to small change in comparison to the billions said to have been looted over 2 decades.

In late 1997, Switzerland's highest court finally ordered that over US\$500 million held in accounts by Marcos should be returned to the Philippines.

Almost 30 years after they left office, court cases, claims, counter-claims and general media speculation continues. Thankfully for the banks originally involved in this nightmare, their names are seldom mentioned today in relation to the 'Steel Butterfly' and the Dictator.

In late 2000, when several Swiss banks aired their requirements for a global PEP database to me, it was another dictator who had brought ill-repute to their institutions and their prized reputations. This time it was the turn of an African - General Abacha of Nigeria.

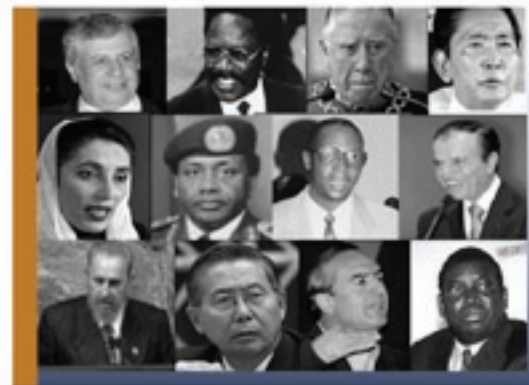
Although regulation that called for enhanced due diligence had been in place in Switzerland for many years, bankers were learning the hard and rather public way, that bad guys with dirty money, have lots to hide - namely not only their ill-gotten gains but their identity. And so the importance of those that are 'exposed' to the political office holder came to the forefront.

In most prominent cases, it has been non-family members including highly respected notaries and lawyers, accountants and diplomats who have assisted in camouflaging dirty money.

In February 2005, Switzerland's Federal Office of Justice ruled US\$ 458 million held in Abacha accounts should be returned to Nigeria.

Without any doubt there have also been bankers who have weighed the risk, considered the reward and decided to take a chance. We know on many occasion it was not simply that the 'bad guy' was so clever, but rather that his banker was either so greedy or under such pressure to meet targets that led to accounts being opened. A blind eye is a dangerous compliance tool.

Between Marcos and Abacha there have been many others like Salinas, Bhutto, Montesinos, Pinochet, Mobuto Sese Seko, Lazarenko and Taylor, to name but a few. Other less well known cases either affected fewer institutions or did not quite capture the media's attention in quite the same way a corrupt dictator or thieving strongman may.



What we need to ask ourselves is who will be the next frontpage spread? Whose hidden accounts will governments spend decades fighting over? Will it be Dos Santos of Angola or perhaps Fidel Castro? Which bank will find its name and reputation tarnished; see its shares plummet or indeed have to close up shop like Riggs?

The most important question however is:

Have you truly understood your PEP requirements, identified your PEP risk and have you set out to implement a PEP policy that will protect your institution, its reputation and indeed, your job?

The purpose of this paper is to assist you in getting to grips with the challenging task of defining PEPs and to ensure your policies cover the holes used historically by those that have caused so many other institutions such immense reputational damage.

"The fact in itself that significant funds from the entourage of the former Abacha regime were deposited in Swiss bank accounts is extremely regrettable and damaging to the reputation of Switzerland's financial sector."

Daniel Zuberbuehler, Director,
Swiss Federal Banking Commission, 2002.

Understanding the issue

World-Check provides its PEP Database to more than 1500 institutions in 120+ countries including almost 200 government, enforcement and regulatory agencies in over 90 countries. Not only was World-Check the pioneer in this industry, it is also accepted as the 'de facto standard'. For over 5 years we have been able to harness the experience and expertise of thousands of lawyers and bankers, compliance and AML officers, regulators and enforcement agents to piece together what the global understanding is of a PEP and what one needs to consider when trying to mitigate PEP risk. It is based on our unique experience in this field that we provide this insight.

Before we start to get to grips with the FATF PEP definition, we need to appreciate not only the importance of effective PEP intelligence but the very reason most institutions carry out PEP due diligence.

The importance of effective PEP intelligence:

PEP due diligence has far less to do with PEP identification than it has to do with risk reduction. A database that confirms the mere fact an individual is a PEP, is of little value to you. If you believe you are carrying out PEP due diligence so as to be able to confirm someone's existence and that they hold a certain influential position, you have missed the punch line. The sole reason you set out to identify a PEP, is to mitigate PEP risk. Using a database that does little more than identify someone as holding a public office leaves your institution entirely exposed.

What is PEP risk?

It's the risk that over breakfast tomorrow morning, you will read how your bank holds the accounts of one of the world's most corrupt leaders — and you had no idea, and you are responsible for knowing. It's the risk of the bank's shares dropping because of this news. It's the risk of a court case filed by the major shareholders against the bank's management for incompetence and failure to comply with legislation. It's the risk of losing clients, losing millions of dollars, paying crippling fines and having all your correspondent banking relationships closed. It's the risk of going out of business.

"I've never had a bank account in Switzerland since 1984. Why would the Swiss do this to me? Maybe the Swiss are trying to divert attention from the Holocaust gold scandal."

Benazir Bhutto, Former Prime Minister of Pakistan

'Helping define the PEP definition'

Therefore, in order to be able to mitigate PEP risk you require more than PEP identification data. You require information that is risk-relevant.

In simple terms, a database that confirms that Mr. A & Mr. B are both political office holders but fails to mention which of these two gentlemen is currently under-investigation for bribery and corruption, is useless to you. The relevance of PEP due diligence is to identify bribery and corruption, not that an individual exists.

A true PEP solution, unlike a 'Who's Who' directory, will tell you that Mr. A's brother-in-law is an arms dealer and Mr. B's wife is the arms-dealer's sister. It will tell you behind which company Mr. A's brother-in-law is hiding his activities and that Mr. C is not only a board member and trustee but is also a convicted trafficker of narcotics. This amounts to PEP due diligence. A copy of a passport and 10 ticked boxes won't suffice — and they certainly won't get you off the hook with the regulator when everything goes belly-up.

The 'real' reason to carry out effective PEP due diligence:

The answer is simple: REPUTATIONAL DAMAGE.

Of course regulations require compliance and fines cause no end of joy at the boardroom level, but what truly motivates most institutions is their reputation.

No bank we have ever dealt with looks forward to appearing on the front cover of the Financial Times or the Wall Street Journal in relation to an account that holds the ill-gotten gains of a corrupt, senior official. In fact, banks will and do go to great lengths to ensure they stay out of the mass media when the news is damaging to their reputation.

Millions of dollars are spent each year in ensuring society, your customers and peers perceive your institution in the light management and the shareholders would want. Free press that comes with doing business with the 'bad guys', is not what your Directors had in mind.



"If you know how rich you are, you are not rich. But me, I am not aware of the extent of my wealth. That's how rich we are."

Imelda Marcos, wife of Ferdinand Marcos, former President of the Philippines.

Understanding the definition

The FATF PEP definition dissected.

"Politically Exposed Persons"(PEPs) are individuals who are or have been entrusted with prominent public functions in a foreign country, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials. Business relationships with family members or close associates of PEPs involve reputational risks similar to those with PEPs themselves. The definition is not intended to cover middle ranking or more junior individuals in the foregoing categories."

The FATF definition is important because FATF is the key "policy-making body" in the area of anti-money laundering and anti-terrorist financing. Its 40+9 Recommendations are widely accepted as the blue print for most national legislation on these topics.

We need to understand the FATF PEP definition as it is key not only to meeting international standards, but it will assist you in defining and understanding your internal requirements with regards to PEP risk mitigation.

World-Check follows the FATF definition as its primary guideline in the area of PEPs. We believe that by so doing, we service our 1500 client institutions with what is considered the industry standard and what amounts to 'best effort'.

The Financial Action Task Force was established by the G7 Summit held in Paris in 1989. It was set up in recognition of the threat posed to financial institutions and the banking system. Its primary areas of concern are combating money laundering and since 2001, terrorist financing. It currently has thirty-one member countries and two regional organisations.

http://www.fatf-gafi.org/document/52/0,2340,en_32250379_32237295_34027188_1_1_1_1,00.html



Let us start to understand the definition provided by FATF:

1. Not just politicians!

You will note from the FATF definition that we are not just talking about politicians. We are in fact, when referring to PEPs, also talking about having to identify and monitor the financial activities of those who fulfil 'prominent public' functions including among others:

- Heads of State, including ruling Royals and Dictators
- Ministers and Deputy Ministers
- Members of National (federal) and Local (state) Parliament
- Government Officials i.e. the
- Head of Customs, Judges, Magistrates and State Prosecutors
- Military leadership
- Important Party Officials such as opposition party leadership
- Senior Executives of State Owned Corporations.



2. Notably only those considered 'senior' and 'important'!

And this is where the first issue arises, namely, where does 'senior' become 'middle ranking or more junior'? Where does 'important' become 'unimportant' and indeed important for whom?

The Wolfsberg Group, an association of 12 global banks , provides the following alternative definition:

'The term should be understood to include persons whose current or former position can attract publicity beyond the borders of the country concerned and whose financial circumstances may be the subject of additional public interest.'

This might be interpreted to mean that senior, prominent and/or important figures who do not 'attract publicity' outside of their own country should not be considered PEPs. World-Check however covers all prominent figures - whether they attract publicity outside of their countries or not.

1.Certain countries have provided a far wider local definition of PEPs perhaps due possibly to wide-spread corruption within their societies. World-Check undertakes to meet each countries PEP definitions and requirements.

2.10 of the 12 Wolfsberg Group member banks are World-Check clients.

3. Only 'foreign' PEPs?

The FATF definition refers to those that "are or have been entrusted with prominent public functions in a foreign country".

Although regulators in several jurisdictions have assumed this wording, we believe this to be an area of risk for financial institutions. To suggest that an Indonesian bank should not be required to carry out Enhanced Due Diligence on an Indonesian PEP or that a South African bank need not be concerned about the integrity of a South African parliamentary member would clearly open the bank up to greater risk. Many FIU's, regulators and World-Check are of the opinion that local PEPs require the same attention that should be paid to 'foreign' PEPs.

One must however also accept that a local or national PEP 'with something to hide' is more likely to look for a banking facility in a neighbouring or off-shore jurisdiction, where they are less well known and have a greater chance of concealing their identity and ill-gotten gains.

A FATF Consultation Paper from May 2002 outlines:

"Several high-profile investigations (e.g., Abacha, Montesinos, Marcos) have highlighted not only the enormous scale of illegal wealth acquired by some corrupt leaders and officials but also that the proceeds of corruption are typically transferred to a number of foreign jurisdictions and concealed through private companies, trusts or foundations, or under the names of relatives and close associates of the PEP."

4. How likely is it that a PEP 'with something to hide' will attempt to conceal their funds using their own name?

Most unlikely, is the correct answer. We know historically that this is a seldom occurrence. We have in point 3 already highlighted the likelihood of a PEP using a foreign jurisdiction (note not only foreign offshore jurisdictions!) when looking to hide assets. If in addition we accept it is unlikely to be the highly recognisable public figure that opens the account, who in fact should we be on the look-out for?



5. The real risk – the EPs!



It's the 'EPs' who open the account. The less well known or indeed totally unknown 'exposed person' (rather than the more easily recognised public figure) is likely to be an instrument in the process. We should not rule out the very real possibility of the 'P' having signing rights and credit cards on the account, however the initial contact and indeed often the account holder will not be the 'P' but most certainly an 'EP'!

World-Check clearly understands where your PEP risk is most likely to lie. For this reason we place great value on researching and uncovering the 'exposed persons' part of the relationship network. World-Check concentrates not only on the actual office holders and prominent, well known figures within our society, but very much on their less well known family, friends and business associates. We know from experience gathered from thousands of users that historically this is where the 'crash and burn' risk is most likely hidden.

6. And what about companies, corporations and other structures? Are they PEPs?

The answer is categorical "yes," however let us not underestimate for a moment the difficulty of finding information that others are trying desperately to conceal. There are no magical directories for companies or trusts owned by PEPs or lists of nominee directors concealing their wealth. The requirement however is clear and you need to be doing PEP due diligence on all corporations that hold and are looking to hold accounts with you.

The FATF consultation paper quoted in point 3 clearly indicates that a PEP with 'something to hide' may well choose to conceal his or her identity by using some form of corporate structure. This is with the greatest certainty where financial institutions are most likely to find the skeletons in their closets.

The latest EU working paper on the Third Money Laundering Directive also tries to cast more light on this matter by outlining the PEP definition as including, among other things, any legal entity where the beneficial owner is a family member.

World-Check has always profiled entities as well as individuals. This has historically been a key differentiator between our database and others. By not covering corporations, trusts and other entities, not only do alternative providers show how little they understand of the requirements or of historic cases, but they leave your institution wide open to PEP risk.

7. How long does one remain a PEP?

The Wolfsberg Group provides the following insight into its interpretation of the 'expiration date' on a PEP:

"Rule of thumb": 1 year after giving up any political function.

This would appear to be directed at those that hold office, but what about those simply 'exposed to' the office holder?

The latest EU working paper on the Third Money Laundering Directive also states that consideration should be given to the timeframe within which a person having held a public function should be considered a PEP, but makes no mention of how or even if the same is true for family, friends and business associates.

World-Check is of the opinion that PEPs in most countries maintain a position of influence long after leaving office and certainly longer than 1 year. Corruption or the benefits of a corrupt past will become more apparent with time. There should be no time limit on our scrutiny of the finances of former dictators, presidents or strongmen. It is perhaps for this reason that few definitions provide any PEP 'expiration date'.

This is however an evolving issue and one that needs to be addressed certainly to be 'fair and just' to family members and business associates who are only exposed and not office holders.

World-Check is forever committed to tracking developments in this area.

8. Can I do business with a PEP?

Of course you can, but with enhanced due diligence and heightened scrutiny. No legislation we have seen in any of the 120 countries where we have clients, says financial institutions are not to open accounts for PEPs. You do however have to be very aware of the (PEP) risk involved and be certain to have a dedicated team of private bankers dealing with such clients. Most Swiss institutions have what they refer to as a PEP Desk – entire departments of private bankers who have been highly trained not only in compliance and risk, but also in the finesse required to question such influential and power-wielding individuals about their assets, transactions and source of funds.

It is imperative that you and your institution are able to distinguish between good and bad PEPs.

Real PEP Due Diligence

What must be clear is that the FATF definition is the internationally accepted guideline. Different countries may add to or take away from this, but in principle it is this definition that you need to have firmly embedded in your PEP policy as the minimum standard.

It should also be clear that historic PEP cases, which caused such tremendous damage to so many institutions, clearly show that PEP risk cannot be simply addressed by identifying politicians. Great importance should be placed on identifying those that are 'exposed' and who we know, from so many cases, are the ones who will reach out to your institution.

Of equal importance is the PEP due diligence that must be carried out on companies, trusts and other corporate entities including charities. The reason to enhance your scrutiny of these groups is logical: Someone who is well-known and who has something to hide will go out of their way to hide it by using friends, family, associates and entities.

Well known local 'black sheep' politicians will seek anonymity by looking elsewhere for banking facilities. Any foreign PEP seeking an account in your country must therefore require you to raise your entry barrier to its highest levels.

Naturally we must not be lulled into a false sense of security believing 'our guys' are clean. Bribery and corruption is rife and it is international. If it is not one of our PEPs receiving a bribe, it could just as easily be one of our companies bribing officials in another country.

Over 100 elections have taken place in 2005. There is a real risk that an existing customer of your institution will be elected without you knowing it. Regular PEP reviews of your entire customer-base will uncover 'sleeper PEPs'. Regular reviews will reduce PEP risk.

Do not forget that the very reason we are required to carry out PEP due diligence is to crack down on bribery and corruption. From the banks perspective you should be motivated less by your legal requirement to do so and more by the desire to mitigate PEP risk and keep your name off of the front pages. You will however only be able to do so if you are aware of the risk each PEP carries. Risk relevant intelligence on PEPs, is therefore key.

"History will be kind to me. I have accepted this role as the sacrificial lamb."

Charles G. Taylor, Former President of Liberia



World-Check's position

Correlating intelligence on PEPs is a complex task that requires dedicated teams of multilingual researchers, crawling over millions of pieces of data, day-in and day-out, for years on end. We have spent tens of thousands of man-hours hunting for key PEP risk information and it may take years to finally be able to join several dots. There is no magical software and there are no short-cuts.

By understanding how much your chosen PEP vendor has invested in staff and technology – not just in the creation of a database, but in its ongoing management and maintenance – is by far the best test for measuring the quality of the names in the database. No PEP risk intelligence, of any real value, comes quickly or easily or can be uncovered by part time, outsourced or untrained labour. This is not about building the biggest database; it's about uncovering risk & maintaining the best PEP intelligence.

Finding the hidden relationships and gathering the pieces of this truly global PEP puzzle takes resource, commitment and dedication that borders on addiction. For five years our teams have been 'watching and waiting', slowly tracking hundreds of thousands of individuals as well as their companies. We know from so many success stories that the intelligence we offer is of real value. As much as our sources are public, our content is not.

World-Check will continue to follow those that represent a heightened risk to your institution. We will continue to follow the FATF definition and will monitor all improvements on the definition that may take place. Clearly it is a definition that lacks definition in some areas and it is very much open to interpretation in others. We recognise that certain jurisdictions have introduced legislation that defines PEPs to a greater degree and in some cases includes a far wider group of people. In such instances World-Check, for that jurisdiction, will follow the local definition.

We continue to believe that the greater risk in dealing with PEPs lies not so much with politicians who readily identify themselves but more so with those that choose to use intermediaries (the EPs!) and corporate structures to conceal their ill-gotten gains. Not only is this industry in constant evolution but the content we correlate and the people and entities we track are 'moving targets'.

Of extreme importance is a PEP database that identifies risk related to PEPs. The very reason for PEP due diligence is to mitigate risk. If your PEP content provider does not offer this, it is in fact not a PEP solution but rather a 'Who's Who' list.



"Our major problem as a nation is not politics itself.... Without sound social situation in this country which guarantees security of lives and property, without sound economic base, the type of democracy we have been looking forward to will continue to elude us a nation"

Sani Abacha, General, Head of Nigeria.

Company Overview

World-Check was founded in late 2000 to meet the specific requirements of the Swiss financial industry.

Today, 5 years on, World-Check intelligence is relied upon by 1500 institutions in more than 120 countries including almost 200 government, enforcement and regulatory agencies in over 90 countries.

18 of the world's 20 largest financial institutions choose to use World-Check. We serve more institutions than all other PEP vendors put together.

World-Check's coverage includes PEPs, money launderers, fraudsters, terrorists and sanctioned entities — plus individuals and businesses from over a dozen other categories. World-Check offers a downloadable database for the automated screening of an entire customer base, as well as a simple online service for quick customer screening.

Please visit www.world-check.com for further information or contact World-Check at contact@world-check.com.

World-Check, the market pioneer and industry standard for PEP screening and customer due diligence.





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