

POLITICALLY EXPOSED PERSONS IN NIGERIA:
Who qualifies and what Companies need to know

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INTRODUCTION

The term "Politically Exposed Person" ('PEP') was formally defined by the Financial Action Task Force ("FATF") in its Forty Recommendations issued in 2003 as individuals who are or have been entrusted with prominent public functions, initially covering only foreign PEPs.¹ The scope was subsequently broadened in 2012 to include domestic PEPs and international organisation PEPs, in alignment with the United Nations Convention Against Corruption (the Merida Convention, 2003).² The development of this framework was significantly influenced by high-profile cases of public officials who misappropriated state funds and laundered the proceeds through the international financial system.

This article examines who qualifies as a PEP under Nigerian law, the legal and regulatory framework governing PEPs across different sectors, and the specific compliance obligations and consequences of non-compliance that companies and regulated institutions need to understand.

QUALIFICATION AS A PEP IN NIGERIA

The Money Laundering (Prevention and Prohibition) Act 2022 ('Money Laundering Act')³ defines PEPs to include three categories of individuals as follows:

- i. **Foreign PEPs:** Individuals who are or have been entrusted with prominent public functions by a foreign country, for example Heads of State or Government, senior politicians, senior government, judicial or military officials, senior executives of State-owned corporations, and important political party officials.⁴ The Special Control Unit Against Money Laundering ("SCUML") Guidance Note on Politically Exposed Person Due Diligence for Designated Non-Financial Businesses and Professions (the "SCUML Guidance Note"), clarifies that persons who hold prominent public functions in countries other than Nigeria, or who represent foreign countries within Nigeria, are Foreign PEPs. Such persons include senior members of the diplomatic corps such as Ambassadors and Chargés d'affaires.⁵
- ii. **Domestic PEPs:** individuals entrusted domestically with prominent public functions falling within the same categories as the foreign PEPs.⁶ In determining the prominence of the public function which a PEP holds, the SCUML Guidance Note provides that Designated Non-Financial Businesses and Professions ('DNFBPs') should consider the political importance of the office, the importance of the public office to the Nigerian economy and the agencies with judicial or prosecutorial powers particularly senior judicial officials whose decisions are not subject to further appeal, and anti-corruption agencies.⁷ Junior and middle-level positions are not considered "prominent public functions", but officers in such positions acting on behalf of a PEP attract the same enhanced measures applicable to PEPs.

¹ FATF, The Forty Recommendations, 2003, Recommendation 6

² FATF, Guidance on Politically Exposed Persons (Recommendations 12 and 22), June 2013

³ Section 30 of the Money Laundering Act

⁴ Ibid

⁵ Sections 2.1 and 2.2(b), SCUML Guidance Note on Politically Exposed Person Due Diligence for Designated Non-Financial Businesses and Professions, 16th November 2022 ("SCUML Guidance Note").

⁶ Section 30 of the Money Laundering Act.

⁷ Section 2.3, SCUML Guidance Note

- iii. **International Organisation PEPs:** Persons entrusted with a prominent function by an international organisation, including directors, deputy directors, and members of the board or equivalent senior management, and their family members and close associates.⁸ Such organisations include, but are not limited to, the United Nations and its agencies; international and regional development finance institutions such as the World Bank, the International Monetary Fund, and the African Development Bank; development agencies of foreign governments such as United States Agency for International Development ('USAID') and Department for International Development ('DFID'), and international humanitarian organisations with special status such as the International Committee of the Red Cross and the Red Crescent.⁹

The PEP framework has been extended to family members and close associates. Family members are individuals related to a PEP either directly or through marriage or similar civil forms of partnership, including adoption. Close associates are individuals closely connected to a PEP, either socially or professionally.¹⁰ A company that conducts rigorous due diligence on a PEP customer but fails to identify and extend the rigorous due diligence to the PEP's spouse will have satisfied the letter, but not the spirit, of the applicable obligations.

It is pertinent to note that the Money Laundering Act does not provide for the automatic cessation of PEP status upon a person leaving public office. The designation persists for as long as the risks associated with the person's prior position remain relevant, consistent with the FATF risk-based approach that underpins Nigeria's AML/CFT framework. In practice, a retired governor, a former military general, or a former head of a government agency may continue to attract PEP-related obligations even after vacating their position.

LEGAL AND REGULATORY FRAMEWORK GOVERNING PEP IN NIGERIA

Nigeria's PEP compliance framework is built on an interlocking set of primary legislation and sector-specific regulations and supervisory guidance. Each law, regulation and guidance note identifies the supervisory body responsible, the entities it governs, and the specific obligations it imposes. The major laws and regulations are as follows:

1. The Money Laundering Act serves as the primary statute governing AML/CFT obligations in Nigeria and applies to all financial institutions and DNFBPs. It sets out the core PEP obligations, requiring financial institutions and DNFBPs to identify PEPs, obtain senior management approval before establishing or continuing PEP relationships, establish source of wealth and funds, and conduct enhanced ongoing monitoring¹¹.
2. The Special Control Unit Against Money Laundering ("SCUML"), established under the Money Laundering Act¹² is a department of the EFCC which is responsible for the administration of the Economic and Financial Crimes Commission (Anti-Money Laundering, Combating the Financing of

⁸ Section 30, Money Laundering Act

⁹ Section 2.2(a), SCUML Guidance Note

¹⁰Section 2.2(b) and (c), SCUML Guidance Note.

¹¹ Sections 4(7) to (9), Money Laundering Act

¹² Section 17, Money Laundering Act

Terrorism and Countering Proliferation, Financing of Weapons of Mass Destruction for Designated Non-Financial Businesses and Professions, and Other Related Matters) Regulations, 2024 ('EFCC AML/CFT'). SCUML also administers the Guidance Note on Politically Exposed Person Due Diligence for DNFBPs, 2022, which provides direction to DNFBPs on PEP identification, risk assessment, and the appropriate level of customer due diligence applicable to each PEP category.

3. The Central Bank of Nigeria ('CBN') administers the CBN (Anti-Money Laundering, Combating the Financing of Terrorism and Countering Proliferation of Weapons of Mass Destruction in Financial Institutions) Regulations, 2022 ('CBN AML/CFT/CPF Regulations') which governs banks and other financial institutions under CBN's supervision.¹³
4. The Securities and Exchange Commission ('SEC') administers the SEC (Capital Market Operators Anti-Money Laundering, Combating Terrorism Financing and Proliferation Financing) Regulations, 2022 ('SEC CMO AML Regulations') which govern Capital Market Operators ('CMOs') including stockbrokers, issuing houses, fund managers, investment advisers, custodians, and registrars, licensed by the SEC.
5. The National Insurance Commission administers the National Insurance Commission (Anti-Money Laundering and Countering the Financing of Terrorism) Regulations, 2013, which applies to insurance institutions including their agents and insurance brokers and all insurance transactions.
6. The Corporate Affairs Commission ("CAC") administers the Companies and Allied Matters Act, 2020 ("CAMA") and the Persons with Significant Control Regulations, 2022 ("PSC Regulations"), made pursuant to the CAMA.¹⁴ The CAMA and PSC Regulations¹⁵ require all companies and limited liability partnerships to identify and disclose their Persons with Significant Control, being individuals who directly or indirectly hold at least 5% of shares or voting rights, or who otherwise exercise significant influence or control over a company or limited liability partnership, to the CAC. Part of the information required to be disclosed is whether the PSC is a PEP, directly linking the corporate transparency framework under CAMA to the AML/CFT obligations under the Money Laundering Act.

WHAT COMPANIES MUST KNOW: COMPLIANCE OBLIGATIONS AND CONSEQUENCES OF NON-COMPLIANCE

The specific compliance obligations applicable under Nigeria's PEP framework differ by sector and by the category of PEP involved. The following sets out the obligations applicable to each of the major categories of regulated entities, drawing from the relevant statutes and regulations discussed above.

1. Banks and other financial institutions regulated by the CBN, including Payment Service Providers (jointly referred to as financial institutions), are subject to PEP obligations under both the Money Laundering Act a. By virtue of Section 4(7) of the Money Laundering Act and Section 29(3) of the CBN AML/CFT/CPF Regulations, financial institutions must establish and maintain risk

¹³Section 3, CBN AML/CFT/CPF Regulations.

¹⁴ Section 2, PSC Regulations, 2022

¹⁵ Section 119, Companies and Allied Matters Act, 2020 and Section 4, PSC Regulations, 2022.

management systems to determine whether a customer or the beneficial owner of a customer is a PEP.

Where a customer is identified as a foreign PEP, financial institutions must obtain senior management approval before establishing or continuing the business relationship, take reasonable measures to establish the source of wealth and funds of the PEP, conduct enhanced ongoing monitoring of all transactions throughout the relationship, and render monthly returns on all transactions with PEPs to the CBN and the Nigerian Financial Intelligence Unit ('NFIU').¹⁶ The same enhanced measures apply to domestic and international organisation PEPs where the relationship is assessed as presenting a higher risk.¹⁷

The obligation to identify PEPs does not arise only at the point of onboarding. Where an existing customer subsequently becomes or is found to be a PEP, the institution must obtain senior management approval to continue the relationship,¹⁸ update the customer's risk profile, apply enhanced due diligence to reflect the changed status, and adjust its transaction monitoring accordingly. The CBN AML/CFT/CPF Regulations¹⁹ require financial institutions to render monthly returns on all PEP transactions to the CBN and the NFIU and to flag and immediately report any abnormal transaction in a PEP relationship to the NFIU as a suspicious transaction.²⁰ All records relating to a PEP must be preserved for a minimum of five years from the completion of the transaction or the termination of the relationship.²¹

2. DNFBPs are supervised by SCUML and must comply with the Money Laundering Act and the EFCC AML/CFT. The SCUML Guidance Note provides additional direction on identifying and managing PEP relationships.

DNFBPs must put in place risk management systems to determine whether a prospective or existing customer or beneficial owner is a PEP before or during the course of a business relationship.²² The SCUML Guidance Note prescribes specific identification measures including making enquiries about the PEP status of prospective customers before establishing the relationship; screening customers against internal or external PEP databases (noting that commercial databases should not replace, but may supplement, standard Customer Due Diligence); searching reputable public sources; and obtaining customer self-declarations that must always be independently verified. DNFBPs are not required to notify a customer that the purpose of these enquiries is to determine whether they are a PEP.²³ The level of due diligence required depends on the PEP's category and risk classification. For foreign PEPs, enhanced customer due diligence ('ECDD') must apply to all transactions and business relationships, without exception, including where the PEP controls a legal person or arrangement, given the

¹⁶ Section 4(8) of the Money Laundering Act and Section 29(4) of the CBN AML/CFT/CPF Regulations

¹⁷ Section 4(9), Money Laundering Act

¹⁸ Section 29(5) of the CBN AML/CFT/CPF Regulations

¹⁹ Section 29(4)

²⁰ Section 29(7) of the CBN AML/CFT/CPF Regulations

²¹ Section 8, Money Laundering Act

²² Section 4(7), Money Laundering Act, Paragraph 3.0, SCUML Guidance Note

²³ Sections 3.2 and 3.3, SCUML Guidance Note.

difficulty of independently verifying the prominence of their public function, their appropriate income level, or country-specific red flags.²⁴

For domestic and international organisation PEPs, a risk assessment must classify these PEPs into high, medium, or low risk categories, based on four risk criteria: customer risk (the public function held, the sector's exposure to corruption, particularly oil and gas, mining, construction, defence, and regulatory agencies, whether the PEP holds judicial or investigative powers, and whether they are from a jurisdiction identified as high risk by the NFIU); product and service risk (high-value goods, cross-border transactions, fiduciary services such as express trusts and nominee arrangements, investment advisory, and construction services); geography and location risk (high-risk jurisdictions listed by the NFIU, federal and state capitals with significant government presence, and countries with high corruption risk), and delivery channel risk (international transfers where the PEP is both ordering and beneficiary party, large and frequent cash transactions, use of professional intermediaries, and use of legal persons and arrangements). Where a domestic or international organisation PEP is assessed as low or medium risk, ECDD need not be applied, although standard identification and verification procedures must still be followed. ECDD must be applied where a domestic or international organization PEP status is assessed as high risk.

Additionally, DNFBPs are mandated to file monthly reports with SCUML on transactions above ₦5,000,000 (Five Million Naira) for individuals, ₦10,000,000 (Ten Million Naira) for corporate bodies, and ₦100,000,000 (One Hundred Million Naira) for PEPs.²⁵ DNFBPs are required to file reports on domestic transfers involving foreign currencies exceeding USD10,000 or its equivalent to SCUML within 7 days from the date of the transaction.

3. Capital Market Operators (CMO) licensed by the SEC must under the SEC CMO AML Regulations put in place risk management systems to determine whether a potential or existing client or beneficial owner is a PEP.²⁶ Senior management approval must be obtained before establishing a business relationship with a PEP, and CMOs must render monthly returns on all PEP transactions to SEC and the NFIU. Where a client subsequently becomes or is discovered to be a PEP, senior management approval must be obtained to continue that relationship. CMOs must also take reasonable measures to establish the source of wealth and funds of PEP clients, conduct enhanced ongoing monitoring of PEP relationships and flag all abnormal and suspicious transactions, to the NFIU.²⁷
4. Insurance companies must put in place risk management systems to determine whether a potential or existing policyholder or beneficial owner of a policyholder is a PEP, with PEPs expressly classified as high-risk customers requiring enhanced customer due diligence²⁸. The board of directors must establish a client acceptance policy for PEPs and senior management approval is required before establishing or continuing a PEP relationship including where a

²⁴Section 3.6, SCUML Guidance Note.

²⁵Section 36 of the EFCC AML/CFT/CPF Regulations 2024, Section 3.4, SCUML Guidance Note.

²⁶Section 17, SEC CMO AML Regulations.

²⁷ Section 18, SEC CMO AML Regulations

²⁸ Section 9, NAICOM AML/CFT Regulations, 2013

policyholder or beneficial owner subsequently becomes a PEP.²⁹ Insurance institutions must also file monthly returns on PEP transactions to both the National Insurance Commission ('NAICOM') and the NFIU³⁰. Insurance companies must take reasonable measures to establish source of wealth and funds, conduct enhanced ongoing due diligence throughout the relationship, and file monthly returns on PEP transactions to both NAICOM and the NFIU.³¹

5. Companies generally must, under CAMA and the PSC Regulations, identify and disclose their Persons with Significant Control to the CAC, including whether the PSC is a PEP.³²

The penalties for non-compliance are significant across all categories of regulated entities. Under Section 10(2) of the Money Laundering Act, entities that fail to maintain adequate internal AML/CFT procedures and controls are liable to administrative fines of up to ₦1,000,000 for DNFBPs, not less than ₦1,000,000 for CMOs and non-bank financial institutions, and ₦5,000,000 for banks. Failure to file a suspicious transaction report attracts a fine of ₦10,000,000 or imprisonment for at least three years, or both, for individuals, and ₦25,000,000 for a body corporate.³³ For insurance institutions, contravention of the NAICOM AML/CFT Regulations attracts a fine of not less than ₦1,000,000 and an additional ₦10,000 for every day the offence subsists, and may result in suspension or withdrawal of the operating license with personal sanctions against responsible directors and officers.³⁴

CONCLUSION

Nigeria's PEP compliance framework is broad, detailed, and actively enforced. It applies across a wide spectrum of regulated entities ranging from banks, capital market operators, insurance companies, to a range of designated non-financial businesses and professions. The three categories of PEPs defined under the Money Laundering Act, foreign, domestic, and international organisation combined with the extension of the framework to family members and close associates, means that the pool of persons attracting heightened compliance obligations is significantly wider than is commonly assumed. The compliance obligations that flow from PEP identification are not optional. They are statutory requirements, backed by administrative fines, and the threat of license revocation.

²⁹ Section 9(8) and (9), NAICOM AML/CFT Regulations, 2013

³⁰ Section 9(10), NAICOM AML/CFT Regulations, 2013

³¹ Section 9 (11) – (13), NAICOM AML/CFT Regulations, 2013

³² Section 119, CAMA 2020; Section 4, PSC Regulations, 2022.

³³ Section 19(2)(b), Money Laundering Act

³⁴ Section 28(1) and (2), NAICOM AML/CFT Regulations, 2013

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