

FINANCIAL INVESTIGATIONS DIVISION



FINANCIAL INTELLIGENCE UNIT

**High Risk Individuals & Businesses
(Politically Exposed Persons)**



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High Risk Individuals/Businesses

Regulation 7A of the Proceeds of Crime Act (Money Laundering Prevention Regulations) speaks to a business in the regulated sector being required to establish a risk profile with regard to its operations generally. This should take into account: its business products offered, its distribution channels, the national, regional and international environment in which the regulated business operates; and the size and nature of its operations and its business relationships and one-off transactions, with a view to determining the level of risk for each. A non-exhaustive list of “high-risk” individuals is mentioned in sections 6(a), (b) and (c) of the regulation, one such category is known as Politically Exposed Persons (PEP). These include:

- i. a head of State
- ii. a head of Government
- iii. a member of any House of Parliament
- iv. a Minister of Government
- v. a member of the Judiciary
- vi. a military official above the rank of Captain
- vii. a member of the police of or above the rank of Assistant Commissioner
- viii. a Permanent Secretary, Chief Technical director or Chief Officer in the charge of the operations of a Ministry, Department of Government, Executive Agency or Statutory Body, as the case may be
- ix. a Director or Chief Executive of any company in which the Government owns a controlling interest
- x. an official of any Political Party
- xi. an individual who holds or has held a senior management position in an international organization
- xii. an individual who is a *relative* or is known to be a *close associate* of a person described above

“Close associate” means an individual who is a business partner or associated in any other form in a common commercial enterprise with the person concerned.

“Relative” in relation to the person concerned means his spouse, his child (including his step-child or adopted child), the spouse of his child, his parents, his brother or his sister.

“Spouse” includes

- a) a single woman who has lived and cohabitated with a single man as if she were in law his wife for a period of not less than five years immediately preceding the date of application and
- b) a single man who has lived and cohabitated with a single woman as if he were in law her husband for a period of not less than five years immediately preceding the date of application

“Single woman” and “single man” used with reference to the definition of “spouse” include a widow or a widower as the case may be or a divorcee.

In addition to those mentioned above, any individual which meets any one of the descriptions listed below are also considered high risk:

- a) a person who is not ordinarily resident in Jamaica
- b) a person acting as a trustee for another in relation to the business relationship or one-off transaction concerned
- c) a company having nominee shareholders, or shares held in bearer form
- d) not the ultimate beneficial owner of the assets concerned in the business relationship or one-off transaction; or
- e) a member of such other class or category of persons as the supervisory authority (Bank of Jamaica (BOJ) and The Financial Services Commission (FSC)) may specify by notice published in the Gazette,

and where the applicant for business was, but is no longer, a person referred to in paragraph (b), shall determine whether the level of risk of money laundering involved nevertheless requires the application of enhanced due diligence procedures.

PEPs are exposed or have access to large amounts of public resources and are therefore potentially vulnerable to acts of abuse, such as corruption and fraud.

Enhanced Due Diligence (EDD)

Where a business relationship or one-off transaction is determined to be high-risk, a business in the regulated sector shall carry out enhanced due diligence procedures with respect thereto. EDD procedures require the following:

- a) obtaining senior management approval to commence or continue the business relationship or one-off transaction
- b) verification of the source of funds and wealth held by the applicant for business and all other persons concerned in the business relationship or one-off transactions
- c) enhanced monitoring throughout the course of the business relationship or one-off transaction, which shall include:
 - i. a requirement for more frequent updating of customer information
 - ii. a requirement for more detailed information as to the nature of the business relationship or one-off transaction
 - iii. a requirement for more detailed information about the applicant for business and other parties concerned in the transaction
 - iv. an increase in the number and timing of controls applied to the transaction
 - v. the selection of patterns of actions that require more detailed examinations, and
 - vi. a requirement that the first payment in the transaction be carried through an account in the name of the applicant for business with a financial institution and
- d) identification and verification standards equivalent to those required by the Proceeds of Crime Act and any regulations made under the Act.

A risk assessment may also determine that a customer is deemed to be low risk. In such an event, a different set of due diligence procedures may be applied.

Guide in Identifying a PEP (KYC Requirements)

Regulation 7 of the Proceeds of Crime Act (Money Laundering Prevention) Regulations speaks of:

- i. any applicant for business producing satisfactory evidence of his identity to the regulated business
- ii. the regulated business taking such measures as are specified in its identification procedures as will verify the applicants identity, and
- iii. where the regulated business is unable to verify the applicant's identity, the business relationship or one-off transaction in question shall not proceed any further, and the regulated business shall make an assessment as to whether any disclosure is required under section 94 of the Act (disclosure as to transactions which constitute or are related to money laundering [suspicious report])

Customer information as regard to Regulation 7 includes the applicant for business' full name, current address, taxpayer registration number or other reference number, date and place of birth (in the case of a natural person) and where applicable, the information in Regulation 13(1)(c) as detailed below:

(i) a settlement, trust or other legal arrangement, it:

(A) establishes the identity of (as the case may require) the settlor, legal owner or other person who exercises effective control of the legal arrangement, and each beneficiary under the legal arrangement (including the ultimate beneficial owners of the property concerned in the arrangement).

(B) discloses the legal status of the arrangement and the provisions regulating the power to bind the parties involved

(C) in the case of an insurance contract, it identifies and verifies the identity of, the beneficiary

(ii) a person other than an individual:

(A) it identifies and verifies the identity of the individuals who hold ten percent or more of the ownership of that person and the individuals who exercise ultimate effective control over that person; or

(B) in any case where an individual who exercises ultimate effective control over that person cannot be identified, or there is doubt about that individuals' identity, it identifies, and verifies the identity

of the senior manager who makes or implements decisions with respect to the activities of that person

(iii) a body corporate which is licensed or otherwise authorized under the laws of the jurisdiction in which the body corporate is registered, it:

(A) identifies, and verifies the identity of each director and shareholder (if any) holding ten percent or more of the voting rights, or ownership in the body corporate:

(B) discloses the address of the body corporate and the provisions regulating the power to bind the body corporate; and

(C) provides evidence of incorporation; and

(D) in the case of a legal arrangement involving life insurance

(i) it identifies, and verifies the identity of the beneficiary at the time of pay-out; and

(ii) in any case where the beneficiary is designated other than by name (for example, by reference to characteristics or a class), it obtains sufficient information to enable it to identify, and verify the identity of, the beneficiary at the time of pay-out, and the regulated business shall take the identity of the beneficiary into account in determining whether enhanced due diligence measures should be applied under regulation 7A(4)

Nothing in the above paragraph shall be construed as exempting a body corporate, or a director or shareholder of a body corporate from the identification procedures required by the Regulations in any case where any person handling a transaction involving any of those entities suspects that the transaction amounts to money laundering.

In determining for the purposes of Regulation 7, the period within which satisfactory evidence of the identity of the applicant for business has to be obtained in relation to any particular business relationship or one-off transaction, all the circumstances shall be taken into account, including in particular:

a) the nature of the business relationship of the one-off transaction concerned

b) the geographical locations of the parties, and

c) whether it is practical to obtain the evidence before commitments are entered into between the parties or before any money is transferred.

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