

**Bills Committee on
Anti-Money Laundering and Counter-Terrorist Financing
(Financial Institutions) Bill**

**Hong Kong Monetary Authority's
Guidelines on "Politically Exposed Persons"**

Purpose

This note summarizes the Guidelines issued by the Hong Kong Monetary Authority ("HKMA") on "politically exposed persons" ("PEPs") in relation to prevention of money laundering and terrorist financing and explains the difference between the guidelines and the relevant provisions in the Anti-Money Laundering and Counter Terrorist Financing (Financial Institutions) Bill ("the Bill").

Relevant Guidelines issued by HKMA

Scope of Persons to be Covered

2. The existing Guidelines on Prevention of Money Laundering issued by HKMA provides that business relationships with PEPs as well as persons or companies clearly related to them (i.e. families, close associates etc) are subject to enhanced due diligence measures. PEPs are "individuals being, or who have been, entrusted with prominent public functions, such as heads of state or of government, senior politicians, senior government, judicial or military officials, senior executives of public organizations and senior political party officials".

Enhanced Due Diligence Measures

3. The enhanced due diligence measures mentioned in paragraph 2 are summarized as follows:

- (a) putting appropriate systems and controls in place to determine, as far as practicable, whether a customer is a PEP;
- (b) taking reasonable measures to ascertain the source of wealth and

funds of a PEP;

- (c) obtaining senior management approval before establishing a business relationship with a PEP or for continuing the relationship after an existing customer is identified as a PEP; and
- (d) undertaking enhanced ongoing monitoring of the customer and his business with the bank throughout the relationship.

Comparison with the Relevant Provisions in the Bill

4. The definition of PEPs provided under Clause 1 of Schedule 2 of the Bill is crafted having regard to the prevailing international standards promulgated by the Financial Action Task Force which highlights that PEPs means individuals who are or have been entrusted with prominent public functions in a foreign country. It further mentions that business relationship with family members or close associates of PEPs involved reputational risks similar to those with PEPs themselves. Under the Bill, PEP refers to:

- (a) an individual who is or has been entrusted with a prominent public function in a place outside the People's Republic of China and-
 - (i) includes a head of state, head of government, senior politician, senior government, judicial or military official, senior executive of a state-owned corporation and an important political party official; but
 - (ii) does not include a middle-ranking or more junior official of any of the categories mentioned in subparagraph (i);
- (b) a spouse, a partner, a child or a parent of an individual falling within paragraph (a), or a spouse or a partner of a child of such an individual; or
- (c) a close associate of an individual falling within paragraph (a).

HKMA's Guidelines applies to AIs' dealing with PEPs from all

jurisdictions whereas the Bill restricts the application to PEPs outside People's Republic of China.

5. The enhanced due diligence measures applicable to PEPs under the Bill are essentially the same as those mentioned in paragraph 3 above. Clauses 5, 10 and 19 of Schedule 2 are relevant provisions in relation to PEPs.

Financial Services and the Treasury Bureau
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