Funded
by the European Union

EUROPEAN UNION

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Implemented
by the Council of Europe

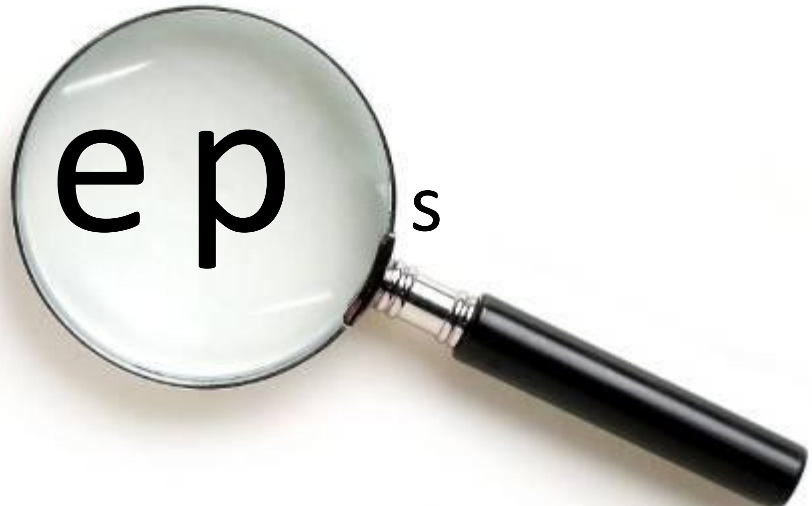
# Minsk 27 November 2013

## CoE/EaP Facility Project

## 'Good Governance and the Fight against Corruption'

# Addressing risks from Politically Exposed persons (PEPs)

Cedric Woodhall
Senior Partner O22G LLP



p ep s

**“….the cross-border flow of the global proceeds from criminal activities, corruption, and tax evasion is estimated at between $1 trillion and $1.6 trillion per year…..”**

**“bribes received by public officials from developing and transition countries is conservatively estimated at $20 billion to $40 billion per year”**

**“25 percent of the GDP of African states lost to corruption every year, amounting to $148 billion…..”**

# What and who is a PEP?






# PEP main legal instruments

- UNCAC
- CoE Convention On Corruption
- FATF (new) Rec. 12
- 3rd EU MLD
- National AML Regulations

# FATF Rec. 12 changes

- Removed 12 month limit since last entrusted with high office
- Brought domestic PEPs into the requirements to conduct EDD
- Emphasises the RBA


EXPRESSIONS

# PEPs Identification

- Commercial databases
  - Worldcheck
  - Complinet
  - KYC360
- Open Source
  - Google
  - Other web/news reporting

And then there's the obvious method that no-one uses……….

# Ask them!!

# Get a Strategy!

- Intelligence – what’s the threat?
- Regulation – Is it sufficient?
- Compliance – Is it working?
- FIU – awareness/typologies
- Does the FIU scrutinise STR for PEPs?
- Internal co-operation leading to recovery of the proceeds of crime?

# Example Strategy (1)

- **Strategic vision: Make your country a hostile environment for PEPs money laundering.**

- **Establish a PEPs AML programme objectives:**
  - Establish an effective deterrent against PEPs ML through enhanced knowledge derived from divers intelligence sources.
  - Optimise regulated sectors reporting of suspicious activity by PEPs.
  - Maximise recovery of stolen assets and the disruption of those who facilitate PEPs money laundering
  - Develop and sustain a legal and regulatory environment that effectively combats PEPs money laundering.

# Example Strategy (2)

- **Communications:**
  - Communicate with key stakeholders i.e. Regulated financial sector, service industries used by PEPs, supervisory bodies for professional services, trust and company service providers. Communication between Government Departments and Agencies.
- **Deliverables:**
  - Create meaningful measurements of achievement

# To establish an effective deterrent against PEPs money laundering through enhanced knowledge derived from diverse intelligence sources

<table>
<tr><td>OVERVIEW</td><td colspan="4">This objective is central: it ensures that activity in the other priority areas can be targeted to best effect by building the collective understanding of the underlying PEPs money laundering threat. A State needs to develop a dynamic process of learning to inform policing, policy making and private sector reporting. Better results will feed back into the quality of intelligence and strengthen the impact on the threat.</td></tr>
<tr><td>OVERALL STATUS</td><td>AMBER/ GREEN</td><td colspan="3">Describe here the ongoing activity and its progress</td></tr>
<tr><td>KEY BENEFITS</td><td colspan="4">▪ Intelligence and prevention activity prioritised according to the understanding of the threat<br>▪ Greater understanding of PEPs money laundering and identification of assets informs intelligence-led policing<br>▪ Risks posed by PEPs better understood to enable evidence-based policy making and better communication with the regulated sector</td></tr>
<tr><td>LEAD BODY</td><td colspan="2">KEY DELIVERABLE</td><td>Due date</td><td>Current status</td></tr>
<tr><td>FIU</td><td>1.0</td><td>Identify potential stolen assets through analysis of SARs and other intelligence.</td><td></td><td>R/A/G</td></tr>
<tr><td>FIU</td><td>1.1</td><td>Flag financial sectors vulnerable to PEPs money laundering - identified by analysis of STRs and other intelligence.</td><td></td><td></td></tr>
<tr><td>Police</td><td>1.2</td><td>Broaden range of jurisdictions with which operational links have been developed.</td><td></td><td></td></tr>
<tr><td>FIU/ Supervisor</td><td>1.3</td><td>Scope the indicative level of the PEP economic footprint in regulated sectors (Numbers, value of funds under management, preferred investment areas, PEPs geographical origins.)</td><td></td><td></td></tr>
</table>

# To optimise the regulated sector's reporting of suspicious activity by PEPs

| | | | | |
|---|---|---|---|---|
| **OVERVIEW** | SARs reporting is the backbone of intelligence gathering for all forms of financial crime.. The regulated sector is keen for better guidance and feedback on the reports that it makes. With improved feedback on PEPs STRs, it is expected that the PEPs STRs will become still more effective. | | | |
| **OVERALL STATUS** | **AMBER / GREEN** Implementation of a PEPs communication plan and targeted activities to achieve deliverables is dependent on completion of the strategic intelligence assessment under objective 1. | | | |
| **KEY BENEFITS** | ■ Vulnerable sectors and critical gatekeepers undertake STRs reporting<br>■ PEPs STRs reporting by the regulated sector detects assets for investigation<br>■ Regulated sectors recognise the importance of their contribution and implement a robust risk-based approach to detect PEPs money laundering | | | |
| **LEAD BODY** | **KEY DELIVERABLE** | | **Due date** | **Current status** |
| Government | 2.0 | Identification and coordination of engagement with critical gatekeepers including supervisory bodies (plans defined, shared, and implemented to raise awareness of reporting requirements and appropriate levels of due diligence for PEPs money laundering). | | |
| FIU | 2.1 | Give trusted private sector partners access to knowledge that helps intelligence gathering and that financial institutions find relevant and actionable. | | |
| FIU | 2.2 | Provide structured feedback on quantity and quality of PEPs STRs to those reporting (examine private sector information needs, including sector specific requirements). | | |
| Regulator | 2.3 | Ensure that firms have appropriate systems and controls to detect and report suspicious transactions, including on PEPs. | | |

# To maximise the recovery of stolen assets and the disruption of those who facilitate PEPs money laundering

| | | | | |
|---|---|---|---|---|
| **OVERVIEW** | Increased law enforcement capacity to investigate money laundering by PEPs. | | | |
| **OVERALL STATUS** | **GREEN** *E.g.Most key deliverables on track.* | | | |
| **KEY BENEFITS** | ▪ PEPs deprived of their stolen assets & assets repatriated as a result of criminal or civil recovery<br>▪ Ability of PEPs to enjoy the proceeds of corruption is disrupted<br>▪ Facilitators of PEPs money laundering disrupted and, where possible, prosecuted | | | |
| **LEAD BODY** | **KEY DELIVERABLE** | | **Due Date** | **Current status** |
| Police | 3.0 | Investigation of PEPs and the facilitators of PEPs money laundering (identify the methods used by facilitators of PEPs money laundering, review known cases for involvement of facilitators and their methods, contribute to pool of knowledge on PEPs facilitators). | | |
| Prosecutors | 3.1 | Criminal powers deployed to prosecute PEPs and the facilitators of PEPs money laundering; recovery of stolen assets through criminal or civil procedures. | | |
| Government | 3.2 | Initiate alternative sanctions against PEPs and the facilitators of PEPs money laundering. Ensure effective coordination of measures (use visa restrictions, deportation as appropriate; professional sanctions initiated against facilitators where appropriate). | | |
| Government | 3.4 | Assess capacity and willingness of states to work with domestic authorities to address the threat of money laundering by PEPs. Provide advice and support to domestic authorities seeking cooperation from abroad. | | |

# To sustain and develop a legal and regulatory environment that effectively combats PEPs money laundering

| | | | | |
|---|---|---|---|---|
| **OVERVIEW** | National Law must provide a strong framework to combat money laundering and undertake the recovery of assets. Anti-money laundering and asset recovery tools must be kept under review in light of an enhanced understanding of the methods and trends related to PEPs money laundering. | | | |
| **OVERALL STATUS** | **GREEN** *E.g. Most key deliverables on track.* | | | |
| **KEY BENEFITS** | ▪ Key gaps in AML and asset recovery powers addressed where these appear<br>▪ Supervisory bodies and regulators have clear framework in which to work<br>▪ PEPs work integrated with broader national efforts on combating financial crime and recovering the proceeds of crime | | | |
| **LEAD BODY** | **KEY DELIVERABLE** | | **Due date** | **Current status** |
| Government | 4.0 | Keep AML tools under review as understanding of methods and trends of PEPs money laundering develops further. Fill key gaps in financial capabilities where these appear. Engage with international bodies to continually improve national understanding and approach to PEPs money laundering. | | |
| Government & FIU | 4.1 | Keep Asset Recovery tools under review as understanding of methods and trends of PEPs money laundering develops further. Identify and fill key legal gaps in asset recovery capabilities where these appear, and where Parliamentary time and priority allows as necessary. | | |
| Government | 4.4 | Coordination of policy response to large and immediate cases posing a threat to national interests. | | |
| Regulator | 4.2 | Ensure the effective implementation of a risk-based and proportionate framework for financially regulated firms to combat PEPs money laundering. | | |

| PEPs Communications (1) |
| --- |
| **A communications framework and plan should be drawn up to provide a clear basis for PEPs communications work**. |
| Co-ordinate: ensure that cross Government Agencies work together and communicate consistent messages externally. |
| Produce  a PEPs core narrative, presentation and communications grid for ongoing updating. |
| Justify: put PEPs anti-money laundering higher up the agenda and keep it there |

## PEPs Communications (2)

| |
|---|
| Proactive use of core narrative across government and increased engagement with AML supervisors as the key channel for reaching and influencing MLROs and senior management teams. |
| Facilitate: make it easier to identify PEPs and submit a useful STR. |
| Undertake a strategic intelligence assessment, disseminate existing intelligence and findings of future assessments through communications targeted at identified high-risk sectors, increase feedback on STRs packages received, developing communications tools and trial intelligence update in co-operation with key AML supervisors. |
| Motivate: raise awareness of motivating factors, beyond compliance. Use existing communications channels to highlight the risks of non-compliance from the perspective of reputation and damage to the financial sector. |

## PEPs Communications (3)

Collaborate: reinforce engagement through collaborative effort. Identify opportunities for collaborative effort, including the development of training materials and intelligence development, establishment of a PEPs intelligence and communications hub.

**Key audiences include**:
Key policy and operational stakeholders.
AML supervisors, with a prioritisation of the highest risk sectors (based on evidence).
Broader government stakeholders with an interest in tackling financial crime.
International stakeholders with an interest in PEPs AML e.g. FATF, World Bank/UNODC, International FIUs.

## International Collaboration (1)

Successful international collaboration requires:

- Effective bilateral cooperation for the recovery of stolen assets
- Effective multilateral cooperation for the recovery of stolen assets
- Effective cooperation with low capacity countries to strengthen implementation of international anti-money laundering standards
- Effective cooperation with other financial centres to combat PEPs money laundering and trace stolen assets

## International Collaboration (2)

The key fields of international collaboration are:

- To share knowledge and exchange intelligence
- To build investigation and enforcement links
- To work in partnership on mutual legal assistance for asset recovery
- To have a harmonised approach to capacity development, and
- To engage on international policy setting in the anti-money laundering and asset recovery areas

## Corporate Governance

Key objective – form a cross government body to :

- monitor the strategy
- assess performance
- manage risks
- ensure roles and responsibilities are clear, resourcing issues are addressed and that the programme is consistent and coherent with national efforts to combat financial crime and recover the proceeds of crime
- report and communicate results and benefits

# The 'ideal' journey to sector engagement will require acknowledgement of risks, facilitated action and evidence of success


**Put PEPs AML higher up the agenda**
- Provide narrative to clarify PEPs AML 'fit' with other Government priorities
- Provide evidence of overall PEPs footprint and sector specific risks

**Make it easier to identify PEPs and submit a useful STR**
- Provide more feedback on the quality and quantity of PEPs STRs
- Promote tools for identifying PEPs; typologies, indicators, trends, data. Lists of PEPs are not necessarily helpful
- Highlight risky jurisdictions
- Provide bespoke training in high risk sectors

**Raise awareness of motivating factors, beyond compliance**
- Illustrate costs of corrupt PEPs to developing countries
- Raise awareness of those penalised for non-compliance
- Provide regular updates on outcomes of STR reporting

**Reinforce engagement through collaborative effort**
- Report on international progress and government action
- Provide opportunities for stakeholders to influence the agenda


EXIT



*cedric@october22group.co.uk*