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NO. 61

EXTRAORDINARY

THE GOVERNMENT OF THE REPUBLIC OF LIBERIA ANNOUNCES THAT THE FINANCIAL INTELLIGENCE UNIT OF LIBERIA (FIU), PURSUANT TO THE FIU ACT OF 2012, SECTIONS: 67.3, 67.4, AND 67.5; HEREBY ISSUES AND PUBLISH THE BELOW REGULATION HEREIN UNDER:

REGULATION NO. FIU/OR3A-PEP/10/2019, TITLE: ENHANCED DUE DILIGENCE IN THE PROVISION OF FINANCIAL SERVICES TO POLITICALLY EXPOSED PERSONS.

BY ORDER OF THE PRESIDENT

**HENRY B. FAHNBULLEH
ACTING MINISTER OF FOREIGN AFFAIRS**

**MINISTRY OF FOREIGN AFFAIRS
MONROVIA, LIBERIA
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NOVEMBER 18, 2019**

The Financial Intelligence Unit of Liberia (FIU), pursuant to the authority vested in it by §67.3, §67.4 and §67.5 of the Financial Intelligence Unit Act (FIU Act); hereby prescribe, make, regulate and set forth as follows:

Regulation on Enhanced Due Diligence in the Provision of Financial Services for Politically Exposed Persons

SECTION 1 PRELIMINARY PROVISIONS

1.1 Reference and Citation

1.1.1 This Regulation shall be known and cited as: Regulation on Enhanced Due Diligence in the Provision of Financial Services for Politically Exposed Persons (PEPs) (*Reference No: FIU/OR3A-PEP/10/2019*). The short name of this regulation shall be: Regulation for PEPs.

1.2 Objective of the Regulation

1.2.1 The purpose of this regulation is to implement Liberian laws and its international obligations pertaining to Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT), specifically as it relates to establishing standards and procedures for identifying, verifying and applying enhanced due diligence in the provision of financial services by financial institutions (FIs), and designated non-financial businesses and professions (DNFBPs) to PEPs. FIs and DNFBPs should take all reasonable steps to ensure that they do not knowingly or unwittingly assist in hiding or moving the proceeds of corruption by politically exposed persons (whether as a customer or beneficial owner), their families, and their close associates. Because the risks presented by PEPs will vary by customer, product/service used/offered, country, and industry, identifying, monitoring, and designing controls for these accounts and transactions should be risk-based.

1.3 Definition of Terms

1.3.1 In this regulation, unless the context otherwise indicates –

- a) “Beneficial owner” means natural person who ultimately owns or controls a customer and/or on whose behalf a transaction is being conducted. It also incorporates those persons who exercise ultimate effective control over a legal person or arrangement.
- b) “Close associates” means individuals who are closely connected to PEP, either socially or professionally. Close associates include but not limited to: (i) any individual who has joint beneficial ownership of corporate entity (e.g. joint owners of a corporation, partnership, NGO or foundation) with a PEP; (ii) any individual who manages a corporation, enterprise, NGO or foundation set up by a PEP or who is a key manager, officer, agent or known operative of said entity or enterprise; (iii) any individual who has joint beneficial ownership, is a key manager, officer, agent or known operative of a Corporate vehicle; (iv) known partners outside the family unit, including but not limited to, boyfriends, girlfriends or mistresses, in which case a reporting entity should further consider the social, economic, and cultural context to determine how close the relationship generally is .

- c) “Corporate vehicle” means a corporation, trust, company service provider and other legal persons in whom PEP has significant or majority share and/or influence. Significant share means where the PEP’s shareholding falls short of majority but the PEP is a key decision maker. Majority share means where the PEP (or his/her close associates combined) owns more than 5% of the entity and as a consequence is a key decision maker. Influence means where the PEP is a member of the Board, a key decision maker or exercises any other form of influence in the decision making of the entity. Corporate vehicle must be accorded the same level of enhanced due diligence as a PEP.
- d) “Customer Due Diligence” refers to information about a customer that should enable an organization to assess the extent to which a customer exposes t to a range of risks, including AML/CFT risks
- e) “Enhanced Due Diligence” means additional examination and cautionary measures aimed at identifying customers and confirming that their activities and source of their assets/funds are legitimate.
- f) “Financial Institution” shall have the same meaning assigned to it in the AML/CFT Act.
- g) “Prominent public function” means any public function at levels of government and public service which allow the official to make decisions, give approvals or to exercise judgment, discretion and influence; and without limiting the foregoing those in any one or any combination of the following functions: (a) budget allocation and expenditure management; (b) project development, creation and/or approval and/or implementation; (c) allocation of public/state subsidies and grants; (d) advising on, and management of, procurement and logistics operations; (e) allocation or the granting of licenses; (f) involvement in regulatory approval or imposing of administrative or other sanctions; (g) provision of public goods and utilities; (h) prosecution and Judicial actions; (i) military activities; (j) diplomatic activities; (k) any other public function for which there is a potential for bribery, abuse of power, influence peddling and illicit enrichment.
- h) “Regulator” means the Central Bank of Liberia, National Lottery Authority, Ministry of Mines and Energy, Ministry of Transport, Liberia Institute of Certified Public Accountants, Liberia National Bar Association or any other institution that regulates or supervises the activities of a reporting entity generally.
- i) “Reporting entity” means a financial institution or a designated non-financial business and professional as defined in the AML/CFT Act.
- j) “Supervisor” means the Central Bank of Liberia, National Lottery Authority, Financial Intelligence Unit, Ministry of Mines and Energy, Ministry of Transport, Liberia Institute of Certified Public Accountants, Liberia National Bar Association or any other institution that supervises the activities of a reporting entity specifically for anti-money laundering and terrorist financing.

1.4 Politically Exposed Persons

1.4.1 “Politically-exposed person” means any person who is or has been entrusted with a prominent public function in a foreign country or in Liberia, including but not limited to a Head of State or Head of Government, a senior politician, a senior Government, judicial or military official, or any person who is or has been an executive of a State-owned enterprise in a foreign country or in Liberia, or any person who is or has been a senior political party official in a foreign country or in Liberia or member of the legislature or senate or other parliamentary body of a foreign country or Liberia; or any person who is or has been entrusted with prominent functions by an international organization, which includes members of senior management,

including directors, deputy directors, and members of the board or other equivalent functions.

1.4.2 Reporting entities must classify a prospective (or new) and an existing customer as PEP whose identity fits the definition and requirements set out in this Regulation. PEPs should include, but are not limited to the persons listed in the following:

- a) A non-exhaustive list of domestic PEPs is in Appendix 1.
- b) A non-exhaustive list of foreign PEPs is in Appendix 2.
- c) Family Member of PEP includes but is not limited to the PEP's parents, siblings, spouse, children and in-laws.
- d) Close Associate of PEP is a person who is widely and publicly known to maintain an unusually close relationship with the PEP, and includes a person who is in a position to conduct substantial domestic and international financial transactions on behalf of the PEP.

1.5 Application of Regulations

1.5.1 This regulation applies to all categories of institutions as indicated in sub-section 67.4 of the FIU Act, 2012.

1.5.2 This regulation also applies to all PEPs, their family members and close associates.

SECTION 2 GENERAL PROVISIONS RELATING TO PEPs

2.1 Risk-Based Due Diligence

2.1.1 All reporting entities must, at all times, employ enhanced due diligence measures when dealing with PEPs. Such due diligence measure must, at a minimum, capture all measures as set out in this Regulation.

2.1.2 The definition of prominent political functions, senior official or executive must remain sufficiently flexible to capture the range of individuals who, by virtue of their office or position, potentially pose a risk that their funds may be the proceeds of illegal activities and, in particular, the proceeds of corruption. Titles alone may not provide sufficient information to determine if an individual is a PEP, because governments are organized differently from jurisdiction to jurisdiction.

2.1.3 Reporting entities should establish risk-based internal controls and procedures that include reasonable steps to ascertain the status of an individual, whether as the customer or beneficial owner, as a PEP and to conduct risk-based scrutiny of accounts held by these individuals. Risk will vary depending on other factors such as products, services, delivery channels, and geographic location of the customer or beneficial owner or the PEP, use and size or complexity of the account relationship.

2.1.4 Reporting entities should consider various factors when determining if an individual is a PEP including:

- a) Official responsibilities of the individual's office.
- b) Nature of the title (e.g., honorary or salaried).
- c) Level and nature of authority or influence over government activities or other officials.
- d) Access to significant government assets or funds.

2.1.5 In determining the acceptability of higher-risk accounts, reporting entities must obtain sufficient information to determine whether an individual is or is a PEP. This information should be obtained when establishing the business relationship and on an on-going basis in relation to existing clients.

2.1.6 When conducting due diligence on a higher-risk account, including those relating to PEPs, reporting entities must review a customer's income, sources of funds and wealth, financial information, and professional background. Reporting entities should review past and present employment as well as general references that may identify a customer's status as a PEP.

2.1.7 Reporting entities that have actual knowledge of a close association with a PEP should consider its customer a PEP, even if such association is not otherwise widely or publicly known. Reporting entities are expected to follow reasonable steps to ascertain whether a customer or the customer's beneficial owner is a PEP.

2.1.8 Reporting entities should exercise reasonable judgment in designing and implementing policies, procedures, and processes regarding PEPs. They should obtain risk-based due diligence information on PEPs and establish policies, procedures, and processes that provide for appropriate scrutiny and monitoring of transactions conducted.

2.2 Risk Management Systems

2.2.1 Reporting entities must have appropriate risk management systems in place to determine whether a prospective (or new) customer or the beneficial owner is PEP; or whether a current customer or beneficial owner has become PEP.

2.3 Account Opening Procedures, including Checks for Source of Funds and Source of Wealth

2.3.1 Reporting entities must have appropriate risk-based account opening procedures, which include procedures for the identification of PEPs. The opening of an account is the prime opportunity for a reporting entity to gather information for all customers, including PEPs.

2.3.2 Reporting entities shall take reasonable measures to determine whether a customer or beneficial owner is a PEP by reviewing, in accordance with the relevant risk factor, CDD data collected when:

- a) establishing a business relationship;
- b) carrying out occasional transactions above the threshold as enshrined in Section 2.2.1 of the Currency Transactions Reporting Regulations;
- c) carrying out occasional cross-border transactions above the threshold as enshrined in Section 2.2 of the Regulations Dealing with Cross-Border Transportation of Currency and Bearer Negotiable Instruments

and domestic wire transfer transactions above the designated threshold as enshrined in Section 3.10.1 of the AML/CFT Regulations for Financial Institutions.

- d) there is a suspicion of money laundering or terrorist financing; or
- e) a reporting entity has doubts about the accuracy or adequacy of previously obtained customer identification data.

2.3.3 With a view to identifying PEPs, reporting entities must comply with customer due diligence requirements set out in the relevant AML/CFT laws and regulations and in particular, must:

- a) identify the customer and take reasonable measures to verify the identity of the customer using reliable, independent source documents, data or information (CDD information). For legal persons and arrangements this should include reporting entities understanding the ownership and control structure of the customer or beneficial owner;
- b) identify the beneficial owner, including the nominal and beneficial owners of companies, trusts, partnerships, private investment companies, or other legal entities that are accountholders and take reasonable measures to verify the beneficial owner using CDD information such that the reporting entity is satisfied that it knows who the beneficial owner is;
- c) verify that any person purporting to act on behalf of the customer is so authorized and identify and verify the identity of that person;
- d) seek information directly from the customer and beneficial owner identified pursuant to (a) or (c) regarding their possible PEP status;
- e) take steps to know if the said person carries out a prominent public function, that is, any public function at levels of government and public service and officials with decision making authority or officials who can exercise judgment, discretion and influence.

2.3.4 Obtain senior management approval for establishing, or continuing, for existing customers, such business relationships with PEPs.

2.3.5 Reporting entities must ensure that family members or associates are known, that is, any individual known by the reporting entity to be a close family member or professional associate who is in a position to conduct substantial domestic and international financial transactions on behalf of the PEP. In particular, reporting entities must obtain information on immediate family members or close associates either having transaction authority over the account or benefiting from transactions conducted through the account.

2.3.6 When dealing with insurance policies, reporting entities should take reasonable measures to determine whether the beneficiaries of a life insurance policy and/or, where required, the beneficial owner of the beneficiary are politically exposed persons. This should occur at the latest at the time of the payout. Where there are higher risks identified, in addition to performing normal CDD measures, reporting entities should be required to:

- a) inform senior management before the payout of the policy proceeds; and
- b) conduct enhanced scrutiny on the whole business relationship with the policyholder, and consider making a suspicious transaction report.

2.3.7 Commensurate with the identified level of risk, due diligence procedures should include, but are not necessarily limited to, the following:

- a) identify the customer's and beneficial owner's country(ies) of residence and the level of risk for corruption and money laundering/terrorist financing associated with these jurisdictions;
- b) obtain information regarding employment, including industry and sector and the level of risk for corruption associated with the industries and sectors; and
- c) check references, as appropriate, to determine whether the customer and beneficial owner is or has been a PEP.

2.3.8 Identify the customer's and beneficial owner's source of wealth and funds.

2.3.9 Determine the purpose of the account, transaction and the expected volume and nature of account activity.

2.3.10 Make reasonable efforts to review public sources of information. These sources will vary depending upon each situation; however, reporting entities should check the customer and any beneficial owners of legal entities against reasonably accessible public sources of information (e.g., government databases, major news publications, commercial databases and other databases available on the Internet, as appropriate).

2.4 Establish Source of Wealth, Income or Funds

2.4.1 Pursuant to Sub-section 2.3.8, a reporting entity must have adequate measures in place to ensure that it knows the PEP's sources of wealth, income or funds. The reporting entity must assess and evaluate all declarations made by the PEP and must seek additional publicly available information when necessary.

2.4.2 The source of funds, for purposes of this regulation, shall refer to the origin of the particular funds or other assets which are the subject of the business relationship or an occasional transaction between a reporting entity and a PEP, amongst others: the amount being invested, deposited, or transferred as part of the business relationship.

2.4.3 A reporting entity shall take reasonable measures to establish the source of wealth of a PEP.

2.4.4 The source of wealth, for purposes of this Regulation, shall refer to the origin of a PEP's source of wealth or total assets which shall include information on how much wealth a PEP would be expected to have accumulated, and how the PEP acquired such wealth.

2.4.5 A reporting entity shall conduct ongoing CDD measures on the business relationship with a PEP to ensure that the level and type of transactions are consistent with the reporting entity's knowledge of the PEP's sources of funds and sources of wealth.

2.4.6 When conducting ongoing CDD, a reporting entity shall take the following factors into account to ensure that the business relationship commensurate with what could be reasonably expected from a PEP in particular circumstances:

- a) the current income of a PEP;
- b) sources of funds;
- c) sources of wealth;
- d) business undertaking; and
- e) family businesses.

2.4.7 Where the level or type of activity in the business relationship is different from what can be reasonably explained, given the knowledge of a PEP's sources of funds and sources of wealth, a reporting entity shall undertake a further assessment on the business relationship to establish whether to:

- a) continue with or terminate the business relationship; or
- b) file a suspicious transaction report to the FIA.

2.4.8 A reporting entity may use different sources of information for verifying the accuracy of a PEP's sources of funds and sources of wealth, which may include but not limited to; public property registers, land registers, asset disclosure registers, past transactions, or information about legal and beneficial ownership where available.

2.5 Senior Management Approval

2.5.1 Pursuant to Sub-section 2.3.4, a reporting entity must have provisions for senior management or executive level approval for commencing business relationship or transaction with a prospective (or new) customer who is a PEP or for continuing business relationship or transaction with a current customer who has become PEP.

2.5.2 A reporting entity shall ensure that senior management is aware of relationships with PEPs and in no circumstances shall the reporting entity undertake or continue business relationships with PEPs in the absence of adequate controls implemented by senior management.

2.5.3 In assessing whether a reporting entity should undertake a business relationship with a PEP, senior management involved shall:

- a) have full knowledge and understanding of the reporting entity's AML or CFT internal control programs;
- b) have a strong understanding of the potential or existing client's or customer's ML or TF risk profile; and
- c) have active involvement in the approval process of the reporting entity's AML or CFT policies and procedures.

2.5.4 Without limiting the determination or otherwise of a reporting entity assessing what constitutes senior management, a reporting entity may establish monitoring committees, or comparable decision-making structures that:

- a) review the establishment of business relationships with PEPs at the acceptance stage and on an on-going basis;
- b) ensure that all relevant internal information is carefully considered in specific cases;
- c) manage the termination of a business relationship with a PEP in appropriate circumstances; and

- d) ensure that appropriate information, which include internal policies, procedures, and controls regarding PEPS, is available within the reporting entity when and where necessary

2.6 Ongoing Enhanced Due Diligence Monitoring and Measures

2.6.1 A reporting entity must have procedures for regular and rigorous monitoring and inspection of business relationships, accounts or transactions with a PEP to ensure that at no time is the institution being used, directly or indirectly, as a conduit for financial or economic crime, money laundering or terrorist financing activities.

2.6.2 A reporting entity must also undertake the following enhanced due diligence measures:

- a) obtaining additional information on the customer (e.g. occupation, volume of assets, information available through public databases, internet, etc.), and updating more regularly the identification data of customer and beneficial owner;
- b) obtaining additional information on the intended nature of the business relationship;
- c) obtaining information on the source of funds or source of wealth of the customer;
- d) obtaining information on the reasons for intended or performed transactions;
- e) conducting enhanced monitoring of the business relationship, by increasing the number and timing of controls applied, and selecting patterns of transactions that need further examination;
- f) requiring the first payment to be carried out through an account in the customer's name with a bank subject to similar CDD standards; and
- g) flag PEPs customers and beneficial owners in the reporting entities' internal systems to facilitate monitoring.

2.7 Change in PEP status

2.7.1 A reporting entity shall monitor non-PEP customers, accounts and relationships for a change in a PEP status, and shall monitor client or customer profiles or transaction activity to determine if existing clients or customers have become PEPs after establishing a business relationship with the reporting entity.

2.7.2 A reporting entity shall update client or customer information regularly and ensure that such ongoing monitoring is based on assessment of risk.

2.8 Information Sharing

2.8.1 Reporting entities that are part of financial groups may share information amongst themselves on PEPs for AML/CFT purposes, provided there are adequate safeguards on the confidentiality and use of information exchanged.

2.9 Filing Suspicious Transaction Reports

2.9.1 Pursuant to §67.5, Section 2 of the FIU Act, a reporting entity must file an STR to the FIU in accordance with provisions of the Regulation on Suspicious Transaction Reporting [2013] where there exist any reasonable grounds, including facts and circumstances that indicates a PEP is using, directly or indirectly,

knowingly or unknowingly, the reporting entity as a conduit for financial or economic crime, money laundering or terrorist financing activities. A non-exhaustive list of indicators to detect misuse of a reporting entity by PEPs is in Appendix 3.

2.10 Transactional Threshold

2.10.1 There is no minimal or maximum value for transaction with PEP before which the provisions of this Regulation shall apply.

2.11 Record Keeping

2.11.1 A reporting entity must keep records in line with record keeping requirements in the relevant AML/CFT laws and regulations. Such records shall include dealings with PEPs and senior management's decisions and related documentation during the entire course of the business relationship and for a period of five (5) years after the end of the business relationship or the date of a transaction in the case of one-off transaction.

2.12 Removal of Status as PEP

2.12.1 The handling of a customer who is no longer entrusted with a prominent public function should be based on an assessment of risk and not on prescribed time limits. The risk-based approach requires that the reporting entity assesses the financial or economic crime, money laundering and terrorist financing risk of a PEP who is no longer entrusted with a prominent public function, and take effective action to mitigate this risk. Possible risk factors include:

- a) the level of informal influence that the individual still exercises;
- b) the seniority of the position that the individual held as PEP; or whether
- c) the individual's previous and current functions are linked in any way (*e.g.*, formally by appointment of the PEP's successor, or informally by the fact that the PEP continues to deal with the same substantive matters).

SECTION 3 NON-COMPLIANCE AND SANCTIONS

3.1 Non-Compliance

3.1.1 A reporting entity shall be in violation of this Regulation if it does not comply with the requirements of this Regulation.

3.1.2 Without limiting the generality of subsection (a), a reporting entity shall be deemed to be in violation of this regulation if it does not comply with or fails to put in place any one of the below safeguards:

- a) appropriate risk-management systems as indicated in this regulation;
- b) provisions for senior management or executive-level approval as indicated in this regulation;
- c) adequate measures in place to ensure that it knows the PEP's sources of wealth, income or funds as indicated in this regulation;
- d) procedures for regular and rigorous monitoring and inspection of business relationship, account or transaction with a PEP as required by the regulation; or
- e) identify PEPs or conduct enhanced due diligence.

3.2 Sanctions

3.2.1 Where there is failure on the part of a reporting entity to comply with a requirement of this Regulation, the FIU and/or the relevant regulator or supervisor may take one or a combination of the following actions:

- a) Issuing written warning;
- b) Imposing a fine in an amount as set out in Sub-section 3.2.2
- c) Issuing an order to comply with specific instructions including taking corrective action to remedy any deficiencies under this regulation;
- d) Issuing an order to provide regular reports on the measures taken to address the identified violation;
- e) Barring individuals from employment within the relevant sector;
- f) Ordering the reporting entity to cease engaging in certain actions or practices;
- g) Restricting the powers of, or removing managers, directors or controlling owners, including the appointing of ad hoc administrator;
- h) Impose a fine in an amount as set out in Sub-section 3.2.3 on managers, directors or controlling owners responsible for the failure to comply with the requirements of this Regulation;
- i) Suspending or revoking a business license. Where the reporting entity is a financial institution, it shall be the Central Bank of Liberia that will suspend or revoke a license.
- j) Other appropriate measures as deemed appropriate by the FIU.

3.2.2 In relation to Sub-section 3.2.1 (b), the FIU shall impose a fine on a reporting entity not in compliance with its AML/CFT reporting obligations under this Regulation. The fine shall be not less than US\$30,000.00 or its equivalent in Liberian dollars but not more than US\$60,000.00 or its equivalent in Liberian dollars. The fine shall be imposed after the Reporting Entity involved has been cited to a hearing and it is proven by a preponderance of evidence that the said Reporting Entity is in violation of this Regulation. The fine shall be imposed on each instance or occasion of non-compliance as stated below;

- i. Failure to establish risk-based internal controls to ascertain and monitor the activities of PEPs-a fine of US\$40,000.00(Forty Thousand United States Dollars) to be imposed after the after the reporting entity had been notified previously by a warning letter;
- ii. Failure to maintain an updated PEP List by reporting entities-a fine of US\$30,000.00(Thirty Thousand United States Dollars) to be imposed after the after the reporting entity had been notified previously by a warning letter;
- iii. Failure to maintain records of transactions with PEPs-a fine of US\$40,000.00(Forty Thousand United States Dollars) to be imposed after the after the reporting entity had been notified previously by a warning letter;

3.2.3 In relation to Sub-section 3.2.1 (h), the FIU shall impose a fine of not less than US\$10,000.00 or its equivalent in Liberian dollars but not more than US\$15,000.00 or its equivalent in Liberian dollars on managers, directors or controlling owners responsible for the failure to comply with the AML/CFT reporting requirements of this Regulation.

3.2.4 All regulators or supervisors shall immediately inform the FIU where it finds any reporting entity non-compliant with any of the requirements of this Regulation.

3.3 Levying of Fines

3.3.1 All fines levied by the FIU in respect of this Regulation shall be remitted into a Transitory Account held with the CBL for this specific purpose.

3.3.2 After the imposition of a fine, and within 72 hours of a forfeiture decision on judicial review by a court of competent jurisdiction or the failure to exercise the right of judicial review, as indicated in this regulation, the FIU shall authorize the CBL to effect transfer of the specific fine(s) from the Transitory Account to the General Revenue Account. The FIU shall immediately cause to be issued a receipt to the violator upon the transfer.

3.3.3 If a petition for a judicial review is not filed within the prescribed period, the FIU shall, within sixteen working hours after the deadline, authorize the CBL to transfer the specific fine(s) from the Transitory Account to the General Revenue Account. The FIU shall immediately cause to be issued a receipt to the violator upon the transfer.

3.3.4 All transfers of forfeited fines from the Transitory Account to the General Revenue Account net of 25% compensation for informers and whistleblowers as provided for under §1623 of the Liberia Revenue Code. Such funds shall be remitted to a separate account of the FIU to institutionalize its informer and whistleblower compensation scheme.

3.4 Judicial Review

3.4.1 All persons or institutions, who have been subjected to fines as contained in this regulation, may file a petition for a judicial review to the Civil Law Court or other judicial authority as the evidence may warrant in accordance with the laws of Liberia. Said petition must be filed within 10 calendar days as of the date of the imposition of the fine. Any failure to file for judicial review, as provided for herein, shall amount to a forfeiture of said right.

PART FOUR MISCELLANEOUS PROVISIONS

4.1 Amendment

4.1.1 The FIU may revise this regulation in its entirety or amend sections thereof as the circumstances necessitate.

4.2 Updating the List

Reporting entities shall periodically, at the minimum annually, update their PEP List to ensure that the list is current.

4.3 Immunity

4.2.1 No reporting entity or individual, acting pursuant to this regulation, may be held civilly, criminally or administratively liable for complying with this regulation or for any logical future consequence for applying this regulation.

4.4 Repealer

4.3.1 This regulation replaces Section 3.8 and Sub-section 1.3.4 of Regulation No: CBL/RSD/002/2017 (Concerning AML/CFT Regulations for Financial Institutions in Liberia).

4.5 Effective Date

4.4.1 This Regulation shall come into effect as of the date of its official publication.

A non-exhaustive list of persons performing prominent public function for which domestic PEP designation is a must:

- I. Legislature
 - a. Members of the House of Representatives
 - b. Members of the Senate
 - c. Secretary of the Senate
 - d. Chief Clerk and Deputy Clerk of the House of Representatives
 - e. Comptrollers, Procurement Officers, Departmental Directors, Project Managers.

- II. Judiciary
 - a. Chief Justice and Associate Justices of the Supreme Court
 - b. Judges of Courts of Records and Courts of Non-Records
 - c. Court Administrator

 - d. Comptrollers, Procurement Officers, Departmental Directors, Project Managers.
 - e. Clerks of Courts
 - f. Marshall and Deputy Marshall

- III. Executive
 - a. President of Liberia
 - b. Vice President of Liberia
 - c. Cabinet Ministers, Deputy Ministers and Assistant Ministers, Comptrollers, Procurement Officers, Departmental Directors, Project Managers
 - d. Advisors and Consultants to the Presidency and Vice Presidency
 - e. Members of the Board of Directors, Head, Deputy Head, and Department Head of Autonomous Agency
 - f. Head, Deputy Head, and Department Head of State-Owned Enterprises
 - g. Chairpersons, Commissioners, Deputy Heads, and Department Heads of Independent Commissions
 - h. Ambassador-At-Large, Ambassadors, Consul General, Consular Officer; Head, Deputy Head, Department Head of foreign mission, institution and organization
 - i. Head, Deputy, Department Head and Top-ranking officers (from the rank of Captain where applicable) of Law Enforcement and Investigation Agencies including but not limited to Liberia National Police, Liberia Immigration Service, Liberia Drug Enforcement Agency, National Security Agency, etc.
 - j. Chief of Staff, Deputy Chief of Staff and Officers of the Armed Forces of Liberia (AFL)
 - k. Custom Officers of the Liberia Revenue Authority

APENDIX 2 A Non-Exhaustive List of Foreign PEP

A non-exhaustive list of persons performing prominent public function for which foreign PEP designation is a must:

- I. Ambassador-At-Large, Ambassador, Consul General, Consular Officer, Economic Officer of foreign mission
- II. Head, Deputy Head, Department Head of multi-national, bilateral and regional institution and organization
- III. Head, Deputy Head, Department Head of United Nations, United Nations Agencies, United Nations Missions, international relief agencies, international non-profit or non- governmental organizations

Below is a non-exhaustive list of indicators that can be used to assist in the detection of misuse of the financial systems by PEPs during a customer relationship. This list of indicators is relevant to detect those PEPs that abuse the financial system, and does not intend to stigmatize all PEPs. These indicators are not an exhaustive list and are complementary to the usual money laundering indicators that a reporting entity may be using. The methods of PEPs who engage in illicit activity change and therefore indicators of their activities may change as well.

A. PEPs Attempting to Shield their Identity:

PEPs are aware that their status as a PEP may facilitate the detection of their illicit behavior. This means that PEPs may attempt to shield their identity, to prevent detection. Examples of ways in which this is done are:

- Use of corporate vehicles (legal entities and legal arrangements) to obscure the beneficial owner.
- Use of corporate vehicles without valid business reason.
- Use of intermediaries when this does not match with normal business practices or when this seems to be used to shield identity of PEP.
- Use of family members or close associates as legal owner.

B. Indicators Relating to the PEP and Behavior:

Specific behavior and individual characteristics of PEPs may raise red flags / risk levels or cause a suspicion:

- Use of corporate vehicles (legal entities and legal arrangements) to obscure i) ownership, ii) involved industries or iii) countries.
- PEP makes inquiries about the institution’s AML policy or PEP policy.
- PEP seems generally uncomfortable to provide information about source of wealth, income or funds.
- The information that is provided by PEP is inconsistent with other (publicly available) information, such as asset declarations and published official salaries.
- PEP is unable or reluctant to explain the reason for doing business in the country of the Financial Institution.
- PEP provides inaccurate or incomplete information.
- PEP seeks to make use of the services of a Financial Institution that would normally not cater to foreign or high value clients.
- Funds are repeatedly moved to and from countries to which PEP does not seem to have ties.
- PEP is or has been denied entry to the country (visa denial).
- PEP is from a country that prohibits or restricts its/certain citizens to hold accounts or own certain property in a foreign country.

C. PEP Position or Involvement in Businesses:

The position that a PEP holds and the manner in which PEP presents his/her position are important factors to be taken into account. Possible red flags are:

- PEP has a substantial authority over or access to state assets and funds, policies and operations.
- PEP has control over regulatory approvals, including awarding licenses and concessions.
- PEP has the formal or informal ability to control mechanisms established to prevent and detect ML/TF.
- PEP (actively) downplays importance of his/her public function, or the public function s/he is relates to associated with.
- PEP does not reveal all positions (including those that are *ex officio*).
- PEP has access to, control or influence over, government or corporate accounts.
- PEP (partially) owns or controls Financial Institution either privately, or *ex officio*.
- PEP (partially) owns or controls the Financial Institution (either privately or *ex officio*) that is a counter part or a correspondent in a transaction.
- PEP is a director or beneficial owner of a legal entity that is a client of a Financial Institution.

D. Indicators relating to the Industry/Sector with which the PEP is involved:

A connection with a high-risk industry may raise the risk of doing business with PEP. Examples of higher risk industries are:

- Arms trade and defense industry.
- Banking and finance.
- Businesses active in government procurement, *i.e.*, those whose business is selling to government or state agencies.
- Construction and (large) infrastructure.
- Development and other types of assistance.
- Human health activities.
- Mining and extraction.
- Privatization.
- Provision of public goods, utilities.

E. Business Relationship / Transaction, Purpose of Business Relationship:

Indicators can also relate to the specific business relationship or transaction:

- Multiple STRs have been submitted on PEP.
- Consistent use of rounded amounts, where this cannot be explained by the expected business.
- Deposit or withdrawal of large amounts of cash from an account, use of bank check or other bearer instruments to make large payments. Use of large amounts of cash in the business relationship.
- Other Financial Institution has terminated the business relationship with PEP.
- Other Financial Institution has been subject to regulatory actions over doing business with PEP.
- Personal and business-related money flows are difficult to distinguish from each other.
- Financial activity is inconsistent with legitimate or expected activity, funds are moved to or from an account or between financial institutions without a business rationale.
- The account shows substantial activity after a dormant period; or over a relatively short time; or shortly after commencing the business relationship.
- The account shows substantial flow of cash or wire transfers into or out of the account.

- Transactions between non-client corporate vehicles and the PEP's accounts.
- PEP is unable or reluctant to provide details or credible explanations for establishing a business relationship, opening an account or conducting transactions.
- PEP receives large international funds transfers to a gaming account. The PEP withdraws a small amount for gaming purposes and withdraws the balance by way of check.
- PEP uses third parties to exchange gaming chips for cash and vice versa with little or minimal gaming activity.
- PEP uses multiple bank accounts for no apparent commercial or other reason.

F. Products, Service, Transaction or Delivery Channels:

Examples of products, industries, service, transaction or delivery channels, which are of a higher risk, irrespective of the type of customer. These examples are:

- Private banking.
- Anonymous transactions (including cash).
- Non-face-to-face business relationships or transactions.
- Payments received from unknown or un-associated third parties.
- Businesses that cater mainly to (high value) foreign clients.
- Trust and company service providers.
- Wire transfers, to and from a PEP account that cannot be economically explained, or that lack relevant originator or beneficiary information.
- Correspondent and concentration accounts.
- Dealers in precious metals and precious stones, or other luxurious goods.
- Dealers in luxurious transport vehicles (such as cars, sports cars, ships, helicopters and planes).
- High end real estate dealers.

G. Specific Indicators for High Risks Countries

Examples of higher risk country or geographic risk factors, irrespective of the type of customer. Additionally, the following indicators relating to countries can be taken into account when doing business with PEP:

- PEP is from a higher risk country
- Additional risks occur if PEP from a higher risk Country would in his/her position has control or influence over decisions that would effectively address identified shortcomings in the AML/CFT system.
- PEPs from countries identified by credible sources as having a high risk of financial or economic crime.
- PEPs from countries that have not signed or ratified or have not or insufficiently implemented relevant anti-financial or economic crime conventions, such as the UNCAC, and the OECD Anti-Bribery Convention.
- PEPs from countries with a mono economy (economic dependency on one or a few export products), especially if export control or licensing measures have been put in place.
- PEPs from countries that are dependent on the export of illicit goods, such as drugs.
- PEPs from countries (including political subdivisions) with political systems that are based on personal rule, autocratic regimes, or countries where a major objective is to enrich those in power, and countries with high level of patronage appointments.

- PEPs from countries with poor and/or opaque governance and accountability.
- PEPs from countries identified by credible sources as having high levels of (organized) crime.

**BOARD RESOLUTION NO. FIU/BOD/RES/08/16/07 OF THE BOARD OF DIRECTORS
OF THE FINANCIAL INTELLIGENCE UNIT OF LIBERIA (FIU) CONCERNING
ENHANCED DUE DILIGENCE IN THE PROVISION OF FINANCIAL SERVICES
TO POLITICALLY EXPOSED PERSONS**

Whereas, the Financial Intelligence Unit of Liberia was established as the central, national agency responsible for receiving, requesting, and conducting preliminary investigations, analyzing, and disseminating information concerning suspected proceeds of crime and terrorist property;

Whereas, the FIU, consistent with section 67.3(k) of the FIU Act of 2012 is authorized to issue regulations in collaboration with supervisory authorities to implement the anti-money laundering and countering the financing of terrorism (AML/CFT) laws of Liberia;

Whereas, the Board of Directors of the FIU shall review and approve reports and documents, including regulations prepared by the FIU;

Whereas, the Board of Directors have reviewed the above Regulation and finds it appropriate, just, and legal; and

Now therefore, it is resolved that:

1. Regulation No. FIU/OR3A-PEP/10/2019, Title: **ENHANCED DUE DILIGENCE IN THE PROVISION OF FINANCIAL SERVICES TO POLITICALLY EXPOSED PERSONS** is hereby approved.
2. "The Management Team of the FIU is hereby authorized to carry out the remaining procedural steps to give full force and effect to the regulations".

ADOPTED by the Board of Directors of the Financial Intelligence Unit of Liberia, in the City of Monrovia, County of Montserrado, Republic of Liberia on the ____ day of October, A.D. 2019.

Signed:

James P. W. W. W. W. W.

Hon. Samuel D. Tweah, Jr
Minister
Ministry of Finance and Development Planning (MFDP)
Member

[Signature]

Hon. Henrique Pearson
Director, National Security Agency (NSA)
Member

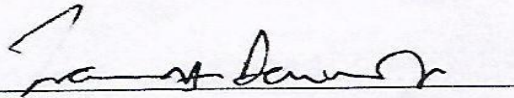
[Signature]

Hon. Abraham K. Korvah, Sr.
Ministry of Foreign Affairs
Member

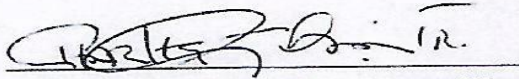
[Signature]

Hon. Frank Musa Dean
Minister
Ministry of Justice

[Handwritten initials]

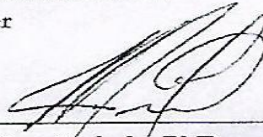


Francis A. Dennis
Representative/Liberia Chamber of Commerce
Member



Commissioner Charles J. L. Gibson, III
OIC/Liberia Anti-Corruption Commission
Member

Mr. Samuel Kpanbayezee Duworko
Representative
Liberia Media Center
Member



8/11/2019

Hon. Musa Dukuly, PhD
Deputy Governor/OIC, Central Bank of Liberia
Chairperson