

**Joint Committee on Finance, Public Expenditure and Reform**  
**Politically Exposed Persons**  
**Department of Justice Opening Statement**

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I thank the Committee for their invitation and I am joined by colleagues from the Department of Finance.

International standards in respect of anti-money laundering are set and monitored by the Financial Action Taskforce (FATF). FATF is an inter-governmental body with 39 members, including Ireland, and a large number of observers and associate members. Over 200 countries commit to implementing their standards.

EU standards generally reflect those of FATF and are currently set out in the Fourth Anti-Money Laundering Directive from 2015, as updated by the Fifth AML Directive in 2018. Ireland is bound by these Directives and implements them through the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010. This Act has been amended several times, most recently in 2021.

A politically exposed person (PEP) is defined by FATF as an individual who is or has been entrusted with a prominent public function. FATF states:

Due to their position and influence, it is recognised that many PEPs are in positions that potentially can be abused for the purpose of committing money laundering offences and related predicate offences, including corruption and bribery, as well as conducting activity related to terrorist financing.

FATF emphasises that PEP status is intended to apply higher vigilance, rather than suggesting that individuals are involved in suspicious activity.

FATF first issued requirements covering foreign PEPs, their family members and close associates in 2003. In 2012, FATF expanded these requirements to domestic PEPs in line with United Nations Convention against Corruption.

EU requirements for PEPs are now set out in Articles 20-23 of the Fourth Directive, which broadened the application of the EU regime to include domestic PEPs. It came into force in Ireland in 2018.

The definition of ‘politically exposed person’ in the Directive specifies several categories of PEP – including, for example, heads of state, members of parliament, members of the governing bodies of political parties, supreme court judges, ambassadors and others. This definition is open: while the categories stated must be included, other persons may be considered a PEP on the basis of them holding a prominent public function.

Relevant entities (e.g. financial institutions) are obliged to:

- (a) have in place appropriate procedures to determine whether the customer or the beneficial owner of the customer is a PEP;
- (b) apply enhanced due diligence to business relationships with PEPs, including:
  - (i) obtaining senior management approval for establishing or continuing business relationships;
  - (ii) taking adequate measures to establish the source of wealth and source of funds that are involved in business relationships or transactions;
  - (iii) conducting enhanced ongoing monitoring of those business relationships.

These measures also apply to family members or persons known to be close associates of politically exposed persons.

The Central Bank of Ireland publishes guidance for financial institutions in respect of PEPs. This guidance is available on the CBI’s website. Notably, it provides:

Firms should take adequate measures to establish the source of wealth and source of funds, which are to be used in the business relationship in order to satisfy themselves that they do not handle the proceeds of corruption or other criminal activity.

The measures, which Firms should take to establish a PEP’s source of wealth and source of funds will depend on the degree of risk associated with the business relationship. Firms should verify the source of wealth and the source of funds based on reliable and independent data, documents or information.

When determining the source of wealth and source of funds, Firms should, at least consider:

- The activities that have generated the total net worth of the customer (that is, the activities that produced the customer's funds and property); and
- The origin and the means of transfer for funds that are involved in the transaction (for example, their occupation, business activities, proceeds of sale, corporate dividends).

In July 2021, the European Commission published a detailed legislative proposal to replace the Fourth Directive. This proposal includes replacing the existing Directive-based system with a combination of Directives and Regulations – with a 'single rulebook' implemented via a Regulation which would be directly applicable across the EU. This rulebook would largely supersede the national provisions mentioned above, which are likely to be repealed as part of the transposition.

A new EU authority (AMLA) would lead AML regulation across the bloc.

The package remains under negotiation, and is handled at ECOFIN. Colleagues in the Department of Finance lead on those negotiations and can address questions the Committee has on the broader package.

While the package itself is very substantial, and will significantly affect how AML regulation is implemented, the specific requirements set out on PEPs in Articles 32-36 of the proposed Regulation are broadly similar to those currently in place. AMLA is tasked with issuing guidelines on assessing the level of risks associated with a particular category of PEPs, their family members or persons known to be close associates.

The Regulation also reaffirms that the requirements relating to PEPs, their family members and close associates, are of a preventative and not criminal nature, and should not be interpreted as stigmatising PEPs as being involved in criminal activity. Refusing a business relationship with a person simply on the basis of them being a PEP is clearly contrary to the spirit of the regime.

I am conscious that given the time available I have only scratched the surface of some of these issues, and I am of course happy to address members' queries in more detail.