

# Politically Exposed Persons in Iraq: Risks and Mitigating Measures

## الأشخاص المكشوفين سياسياً في العراق: المخاطر وإجراءات التخفيف

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### Abstract:

The purpose of this Article is to examine politically exposed persons according to Controls of Due Diligence towards Senior Public Officials with Risks for Financial Institutions and Designated Non-Financial Businesses and Professions No. (2) Of 2023 and shows risks posed by those persons. They are high-risk customers because of their influence and power, have the ability to access public funds, and may be more susceptible to corruption. Relations with those persons can pose reputational risks for both financial institutions and businesses. To counter corruption, money laundering activities and terrorist financing, it is necessary to identify and monitor those persons.

**Keywords:** Due Diligence; Corruption; Financial Institutions; Money Laundering; Financial Action Task Force.

### الملخص:

تهدف هذه المقالة إلى دراسة الشخصيات السياسية البارزة وفقاً لضوابط العناية الواجبة تجاه كبار المسؤولين العموميين المعرضين للمخاطر على المؤسسات المالية والشركات والمهن غير المالية المحددة رقم (٢) لسنة ٢٠٢٣، وبيان المخاطر التي يشكلها هؤلاء الأشخاص. فهم عملاء ذوو مخاطر عالية نظراً لنفوذهم وسلطتهم، وقدرتهم على الوصول إلى الأموال العامة، واحتمالية تعرضهم للفساد. ويمكن أن تشكل العلاقات مع هؤلاء الأشخاص مخاطر على سمعة كل من المؤسسات المالية والشركات. ولمكافحة الفساد وغسل الأموال وتمويل الإرهاب، من الضروري تحديد هؤلاء الأشخاص ومراقبتهم.

**الكلمات المفتاحية:** العناية الواجبة؛ الفساد؛ المؤسسات المالية؛ غسل الأموال؛ فرقة العمل المعنية

بالإجراءات المالية.

### Introduction

As part of the global effort to combat corruption and money laundering activities, financial institutions are required to conduct enhanced scrutiny on politically exposed persons (hereinafter known as the 'PEP') because of the participation of PEPs in the illegal money laundering schemes and corruption acts. PEPs can pose a higher risk because of their unique position of influence and their ability to access country accounts and funds. Indeed, PEPs are not all engaged in acts of corruption. Nevertheless, all the PEPs are probably abusing



their official position for personal benefit without any bifurcation of the place of origin, the type of business activities or the seniority of their position.<sup>1</sup>

It has been established that it is difficult to quantify the amount of money that has been stolen and laundered by corrupt PEPs. However, it has been estimated that approximately \$1 trillion dollars is lost yearly to bribe payments worldwide, while an estimated almost US\$2.6 trillion is stolen annually through corruption.<sup>2</sup> In response, the international community has formulated criteria to adequately identify, and control, as well as monitor PEPs. The Financial Action Task Force (hereinafter known as the 'FATF') standards and domestic anti-money laundering rules encouraging customer due diligence were publicised worldwide.

Therefore, the Iraqi regulators issued Controls of Due Diligence towards Senior Public Officials with Risks for Financial Institutions and Designated Non-Financial Businesses and Professions No. (2) Of 2023 to establish business relations with PEPs. Moreover, Iraq is also suffering from the misconduct of PEPs. According to the 2024 Corruption Perceptions Index reported by Transparency International, Iraq is the 140th least corrupt nations out of 180 countries.<sup>3</sup> In 2021, the former Iraqi president stated that at least \$150 billion had been stolen and smuggled out of the country since 2003.<sup>4</sup> There are several PEPs facing charges for corruption. According to a report issued by the Iraqi Integrity Commission of 2023, there are 55 ministers and those of their rank who have been charged with corruption.<sup>5</sup> Therefore, the purpose of this Article is to examine the above Controls of Due Diligence towards Senior Public Officials and to improve understanding of the potential risks of money laundering activities when engaging in financial transactions with PEPs, as well as to provide several solutions to mitigate the risks related to PEPs. The Article is organised as follows. Part One provides a definition of PEPs on both national and international levels. Part Two analyses risks posed by PEPs. Part Three shows how to mitigate the risks of PEPs. A brief conclusion follows.

## **1. The Concept of PEPs**

Customer identification for PEPs is an essential part of anti-money laundering controls in banks. Therefore, it is necessary to introduce a specific definition of these customers. This section explains the concept of PEPs at both international and national frameworks.

### **1.1. Conception of PEPs at International Framework**

Looking at the concept of PEPs, it shows that there is no universally accepted definition for them. Thus, it can be considered a difficult and politically sensitive issue to know who those 'customers' are, and to what range the definition should extend to them. However, it finds that the Basel Committee on Banking Supervision expressed its definition of PEPs as persons whom are and/or have been entrusted with prominent public functions, including Heads of State or of Government, high-ranking politicians, high-ranking government,

judicial or military officials, key executives of publicly owned firms and major party members.<sup>6</sup> It observes that this definition includes both domestic and foreign PEPs. Furthermore, although the definition does not use the terms 'close family' or 'close associates', however it generally includes close individuals or firms that are obviously associated with PEPs.

Some improvement in making the definition of PEPs more specific can be found in the (EU) Fourth Directive on Money Laundering of 2015. It defines those persons as a natural person who is or has been entrusted with prominent public functions.<sup>7</sup> It observes that this definition also includes domestic and foreign PEPs. Further, this definition includes family members; however, it only gives attention to immediate family members, for instance, spouses, children and their spouses, and parents of PEPs. Furthermore, the definition includes close associates, however only individuals identified to be close associates that means physical individuals. Moreover, the definition extends to include deputy or assistant ministers; members of governing bodies of political parties; ambassadors; senior officers of the armed forces; members of administrative, management and supervisory bodies of state-owned enterprises; international organisation PEPs; as well as members of courts of auditors or of the boards of central banks.

In addition to the above, the FATF in its 40 Recommendations defines PEP as an individual who is or has been entrusted with a prominent public function.<sup>8</sup> This definition also includes domestic and foreign PEPs. Additionally, this definition includes close family; however, restrictions on the degree of relationship do not exist, for example, immediate or extended family. Furthermore, the definition includes close associates, which means persons who are closely associated with PEP. Moreover, the definition extends to international organisations' PEPs. However, the definition clearly states that it is not meant to cover individuals of middle ranking or more junior in the previous categories. In the same context, the United Nations Convention against Corruption of 2005 deals in Article 52 (1) with PEPs, as individuals who are, or have been, entrusted with prominent public functions and their family members and close associates. This definition also includes domestic and foreign PEPs. Furthermore, this definition extends to family members; nevertheless, restrictions on the level of relationship, for instance, immediate or extended family do not exist.

It is obvious that the provisions relating to PEP are not regularity within the range of international regulators; thus, this could lead to many inconsistencies regarding the concept of PEPs in the anti-money laundering systems of diverse countries. However, it becomes manifest from the preceding definitions that, even though there are differences in the scope of the PEP definition, all regulators have encompassed in the scope of the definition domestic and foreign PEPs. This requires States to make sure that their financial institutions are



obligated to consider these individuals as suspicious clients and, therefore, adopt measures to identify them, with enhanced due diligence measures when opening an account, continuous monitoring and reporting any suspicious activities.

## 1.2. Conception of PEPs in the Iraqi Regime

Looking at Controls of Due Diligence towards Senior Public Officials with Risks for Financial Institutions and Designated Non-Financial Businesses and Professions shows that Article 1 (3) defines PEPs as any natural person who represents the following categories:

1. Foreign PEPs are individuals who are or have been entrusted with prominent public functions in a foreign State, for instance Heads of State, Government, high-level politicians, high-ranking government officials, high-ranking judges, high-ranking military personnel, major executives of state-owned corporations, and key political party members.
2. National PEPs are persons who are or have been entrusted with prominent public functions locally as Heads of State, Government, high-ranking politicians, high-ranking government officials, senior judges, high-ranking military personnel, key executives of state-owned corporations, and key political party members.
3. Officials of international organisations are individuals who are or have been entrusted with prominent functions by the international organisation who are members of senior management, namely, managers and their deputies, board members or their equivalents, and this definition does not apply to individuals whom hold intermediate or lower positions in the aforementioned categories.

Article 3 of Controls of Due Diligence enumerates a list of PEPs, who have positions or public functions, whether locals or foreigners, and their family members, and who related to them, including;

The President of the Republic, his deputies, his advisors and those of their rank  
The Prime Minister, his advisors, members of the Council of Ministers and those of their rank

Heads of political parties

Speaker and members of parliament

President and members of the Supreme Judicial Council

Heads of independent bodies and those of their rank

Deputies of ministries, consultants, and those of their rank

Ambassadors, plenipotentiary ministers and diplomatic advisors

General Managers and those of their rank

Court judges of all levels

Leaders of the highest ranks in the security services and those of their rank

Chiefs, deputies, and managers of institutions, charities and Non-Governmental organisations and members of their board and those of their rank.

From the above definition, it can be said that Controls of Due Diligence may have widened the matter of defining the scope of the concept of PEPs. This is plainly clear when it uses the term ‘such as,’ within the definition that is a

wide-ranging expression. This widening may create certainty and clarity in the scope of the definition of PEPs and thus not hinder the efficient progress and application of Regulations. Moreover, Controls of Due Diligence do not give banks the discretionary power to decide whether or not to apply enhanced due diligence procedures to the family members of PEPs and related parties. This is clearly shown by the use of the Article 3 of Controls of Due Diligence expression 'Regulations apply to ... the family members of PEPs and who related to them.' This is, therefore, completely consistent with the revised FATF Recommendations, which require financial institutions to apply similar enhanced due diligence measures to PEPs, their family members and close associates.

## 2. Risks Posed by PEPs

PEPs pose a high degree of risk to financial institutions. The reason is attributed to the position and power granted to these persons, as well as the ability of their access public funds. It is known that many of these persons are in positions, which are probably misused for the purpose of committing money laundering activities and related predicate offences including corruption, bribery and embezzlement.

From the FATF's perspective, the risks of money laundering related to PEPs were made clear in its annual report of 2003-2004. It stated that the sources for the funds that PEP may attempt to launder are not limited to bribes, illicit kickbacks or other directly corruption-related proceeds. However, such funds may also stem from the embezzlement or outright theft of State assets or from funds belonging to political parties and unions, as well as tax fraud. Certainly, in some instances, PEP may be directly involved in other forms of criminal conduct, for example, organised crime or drug trafficking. PEPs originating from States or areas in which corruption is pervasive, systematised and profoundly entrenched appear to present the highest risk. Nonetheless, it should be acknowledged that corrupt or immoral PEPs can be found in nearly any country.<sup>9</sup> Four case studies were included in the FATF report, which explained the relationship between corruption and money laundering. The finding shows that the methods utilised by PEPs to launder illicit proceeds are mostly congruent with the mechanisms usually used by other criminal money launderers. PEPs may utilise specialised banking arrangements to support them in establishing an intricate or sophisticated network of transactions aimed at protecting illegally acquired funds.<sup>10</sup> The Bank for International Settlements (BIS) has emphasised on the risks that PEPs pose to the global banking regime. The BIS's Basel Committee on Banking Supervision pronounced its concerns regarding the reputational results of large-scale corruption and money laundering. It states that the acceptance and management of funds from corrupt PEPs can result in considerable reputational harm to the bank and can weaken public confidence in the moral criteria of an entire financial center, since such





cases typically draw intense media coverage and strong political response, even when the illegal origin of the assets is often challenging to prove. Furthermore, the bank may face costly information requests and seizure orders issued by law enforcement or judicial authorities (including international mutual assistance procedures in criminal matters) and could be held accountable for damages by the relevant State or by individuals harmed by the regime. In particular circumstances, the bank and its officers or employees may incur responsibility for money laundering when they know or ought to have known that the funds were derived from corruption or other serious criminal activity.<sup>11</sup>

In fact, PEPs pose major lawful and reputational risks to the individual bank, as well as reputational risks to the financial sector of a jurisdiction as a whole. Scandals involving PEPs over the past two decades have obviously shown that the reputation of a bank will be severely impacted and that public trust in moral criteria and even the stability of the financial regime as a whole may be undermined.<sup>12</sup> As prudential supervision is one of the main objectives of banking regulation, the Basel Committee mainly focuses on the effect of PEP money laundering cases on the safety and soundness of banks, as well as on the integrity of the banking regime. In cases where a multinational bank is implicated in a corruption-related money laundering scandal, the outcome often extends beyond a single jurisdiction. There is the possible of contagion risk that might weaken confidence in the international banking regime and have an increased impact on business confidence and the real sector of the economy.<sup>13</sup>

Sometimes, PEPs may use family members and close associates to facilitate their illegal actions. It seems that these corrupt individuals are increasingly using schemes to hide their ownership of corruptly obtained assets, including utilising family members and associates to launder their illicitly acquired funds. In several instances, family members or associates of the PEP carry out transactions and make applications for goods and services on behalf of the PEP. Therefore, it is significant that the definition of PEP includes close associates and family members as well as a prominent public official.<sup>14</sup> Insofar as business relationships with family members or close associates of PEPs have risks of reputational harm alike to those associated with PEPs themselves, family members are persons who linked to a PEP either directly (consanguinity) or through marriage or the like (civil) forms of partnership, and close associates (persons who are closely associated with a PEP, either socially or professionally) are also considered as PEPs.<sup>15</sup> The FATF recognises that even though family members and close associates of PEPs are not PEPs *per se*, they should always be treated as such, because of the risk that they may abuse through their association with PEPs for the purposes of committing illegal actions.<sup>16</sup> Sometimes, it has been found that members of PEPs and close

associates benefit from the corruption themselves. PEPs may seek to use their power and influence to obtain representation and/or access to or control of legal entities for similar purposes.<sup>17</sup>

PEPs may resort to close associates and business associates to facilitate their criminal activities. Practically, business associates can perform dual tasks in the facilitating of corruption. Firstly, they may operate as fronts for PEPs in concealing and laundering proceeds acquired through acts of corruption. In this respect, the FATF observes that PEPs very frequently utilise brokers or other mediators to carry out financial dealings on their behalf, due to the prominent visibility of their offices, both domestically and internationally. Hence, it is not uncommon for close associates, friends and family of a PEP to carry out single dealings or else hold or transfer assets in their own name on behalf of the PEP. It is not necessary that this use of brokers be a sign by itself of illicit action, because such mediators are often utilised when the financial matters or proceeds attributable to the PEP are completely legal. In any event, nevertheless, the employ of brokers to protect or isolate the PEP from undesired attention may also operate as a hindrance to customer due diligence, which is required in respect of every customer. A further hindrance may arise when the person acting on behalf of the PEP or the PEP him-or herself enjoys a special status, for instance, diplomatic immunity.<sup>18</sup>

Secondly, the political connections may be used by business associates of PEPs to gain favourable business opportunities, for instance, permits or monopolies. Business associates may acquire corrupt gains through 'crony capitalism' and as such are considered lawful subjects of investigations under anti-money laundering and anti-corruption frameworks. Examples of this phenomenon are the Philippines during the Marcos administration and Indonesia under the Suharto regime.<sup>19</sup>

In addition to the above, PEPs may use, like money launderers, legal entities such as corporations as intermediaries in the illegal money transfer process. PEPs often use shell corporations, foreign lawful entities, ambiguous lawful arrangements, and offshore banks situated outside their home country. The objective of these arrangements is to conceal the true beneficial owner and/or the person exercising control over the illegitimate funds. In the vast majority of cases involving grand corruption, PEPs, including Heads of State and Heads of Government have utilised legal entities to hide their illicitly acquired funds, as exemplified by former Philippine President Ferdinand Marcos.<sup>20</sup>

### 3. How to Mitigate the Risks of PEPs?

The potential risks connected to PEPs allow for complementary preventive measures to be applied to mitigate the risks. Therefore, these measures will be addressed in two points; the first point explains account opening: enhancing



customer due diligence and the second point deals with anti-corruption initiatives.

### **3.1. Account Opening: Enhanced Customer Due Diligence**

Looking at the Controls of Due Diligence, it shows that it has established particular provisions that must be followed when forming business relations with PEPs. Pursuant to its Article 5, in addition to taking the normal customer due diligence measures, financial institutions should be required with respect to PEPs:

1. Establishing a risk management system allows concluding whether the customer or the real beneficiary is a PEP.
2. Require senior management approval before establishing a business relationship with such customers
3. Taking reasonable measures to establish the source of wealth and the source of funds of customers and the real beneficiaries as PEPs.
4. Conduct enhanced ongoing monitoring of the transactions of the business relationship.
5. In the case that the real beneficiary is one of the holders of high-risk positions, additional measures must be taken to identify and verify these persons and consider identifying the real beneficiary in the case of a legal person and taking the necessary measures on the ownership structure and management controlling the legal person, and this includes relying on the information and data that is provided from official documents and other means that enable the financial institution to know the real beneficiary.
6. These provisions must be applied to PEPs by virtue of their positions and relatives until the second degree.
7. Must make sure that customers are not included in the banned lists internationally and locally.

It is clear from the above that financial institutions have a duty to have sufficient risk management systems in place to identify both present and prospective customers who can be categorised as PEPs. This could include enquiring about the essential questions, carrying out database verification, and referring to information that is publicly accessible.<sup>21</sup> Clearly, it is unlikely that a PEP who is conscious about the irregularly obtained funds to volunteer information that they are a PEP. There are notwithstanding some jurisdictions demanding the potential PEP to complete a written declaration of identity, which contains a statement that it is a criminal act to submit misleading information.<sup>22</sup> The written declaration remains a valuable tool which appears to be effective in certain jurisdictions, and is a vital deterrent and source of information or document trail.<sup>23</sup> Furthermore, the making of lists of domestic PEPs is another measure that could help both financial and non-financial institutions in simply identifying PEPs. It believes that a list would introduce a uniform and



conclusive foundation against which to apply enhanced due diligence measures, would be easier for governments to acquire, and would decrease costs of compliance for banks. However, such lists have limited worth, as they only encompass certain prominent public officials, not family members or close associates, and are speedily out-dated. They might also be simply manipulated by corrupt officials in order to target their opponents. Moreover, banks may rely completely on the list and then fail to consider whether other clients constitute an amplified risk of laundering the proceeds stemming from corruption. If such a method is adopted, a set list of PEPs would also render PEP checks easy to circumvent by launderers.<sup>24</sup>

In addition to the above, Controls of Due Diligence for PEPs require financial institutions to acquire the approval of senior management at the time of forming a business relationship with PEP and an ongoing business relationship with a client who is later found to be a PEP or becomes PEP. Due to the substantial reputational and lawful risks related to PEP, it is essential for the senior management in financial institutions to assume accountability for the decision to take on PEP as a customer and to approve the nature and the scope of the business relationship between both the PEP and the bank. The condition that senior management approves the acceptance of PEP as a client ensures that the management of PEP risk is not just a back-office function or the sole responsibility of the wealth management advisers. PEP risks are a concern for senior management, who are obligated to ensure that risk management systems are implemented to identify, quantify, control, monitor and report actions related to anti-money laundering.<sup>25</sup> Furthermore, Controls of Due Diligence for PEPs require financial institutions to take sufficient measures to identify the source of funds deposited in or transferred through the account of PEPs. This process offers main information that is able to assist a bank in determining whether PEP is a legal client. Moreover, it contributes considerably to the client profile that the bank will employ as a baseline at the time of carrying out enhanced continuing monitoring of the business relationship with PEP.<sup>26</sup>

During the process of opening a PEP account, financial institutions should directly gather information from the customer, as this is considered a good practice. This will contain information, for instance, on the transaction authority of family members and close associates over the PEP bank account, the objective, and the anticipated size as well as the nature of the PEP accounts activity. An agreement ought to be reached between both the financial institution and the PEP in relation to the expected volume of deposits in the account. The PEP ought to justify the level of banking activity together with the sources of income and capital in the respective account.<sup>27</sup> Moreover, Controls of Due Diligence for PEPs require financial institutions to conduct enhanced continuous monitoring of the business relationship once it is established with the PEP. This



basically means that some monitoring must be done to detect whether the customer has become a PEP. Continuous monitoring contains procedures to monitor PEP transactions and assess whether the operation is consistent with the client profile, along with constant bring up-to-date of the client information. Enhanced ongoing monitoring is too anticipated to require a comprehensive examination of individual PEP customers by senior management.<sup>28</sup> The US Bank Secrecy Act Manual focuses on the importance of monitoring bank account activity for all high-risk customers, including PEPs. This enables the bank to monitor expected transactions in order to highlight inconsistencies that can lead to a suspicious transaction report.<sup>29</sup> The requirement of ongoing monitoring of the business relationship is also relied upon for the termination of the PEP status. How long should one continue to be monitored by financial institutions? Leppan observes that this remains unclear, and more requires to be done to come up with parameters on the ending of PEP status. He observes that keeping someone as PEP 'forever' simply is illogical.<sup>30</sup> Choo claims that the duration PEP remains monitored ought to be significant and prolonged.<sup>31</sup> Article 22 of the European Community Directive on the Prevention of Money Laundering requires that control must be exercised over the relevant individuals for duration of 12 months after their tenure in office has ended.<sup>32</sup> It observes that Controls of Due Diligence for PEPs do not tackle this issue by giving any probable standards on the ending of PEP status.

### **3.2. Anti-Corruption Initiatives**

Corruption activities can impact political activities as well as economic growth by weakening the efficiency of public policy. Therefore, there are several strategies that can be used to combat corruption activities, which will be analysed below.

#### **3.2.1. Anti-Corruption Legislation**

Indisputably, the phenomenon of corruption exists in any country, at any time, and under any form of regime. Given the inability to eliminate corruption by individuals, it has been demonstrated vital to institute global coalitions to combat corruption, and this has been powerfully embodied and evolved to an advanced level to develop an international agreement aimed at combating corruption across the globe, particularly in undeveloped States, and to provide backing for these States by strengthening governance and supervision institutions.

From this standpoint, the United Nations Convention against Corruption referred in its preamble to the gravity of problems and threats presented by corruption to the steadiness and safety of societies... States Parties to the Convention have also articulated concern in respect of the relationship between corruption and other criminal activities, especially organised crime and economic crime, including money laundering... States Parties are convinced that

corruption is no longer a national issue, however it is an international matter that impacts all societies and economies, making global collaboration to combat and control it necessary. More importantly, the Convention requires States Parties to apply pertinent lawful mechanisms and take legislative procedures in order to encompass a comprehensive scope of corruption activities if they are not previously forbidden according to national legislation. By looking at the Iraqi Penal Act, No. (111) of 1969, it finds that it criminalises various forms of corruption activities, for instance, bribery in the public sector in Articles (307-314), embezzlement in Articles (315-321), and employees who overstep the bounds of their duty in Articles (322-341).

Additionally, Iraqi law criminalises money laundering in accordance with the Money Laundering and Terrorist Financing Law No. (39) of 2015. Furthermore, Iraqi legislation criminalises obstruction of justice in Article (254) of the Iraqi Penal Act and includes provisions for granting rewards to whistleblowers in accordance with the Witnesses and Experts Protection Law and Whistleblowers and Victims No. (58) Of 2017. Moreover, the Amendment of the Integrity Commission and Illicit Enrichment Law of 2011 criminalise bribery in the private national and foreign sector in businesses connected to the public sector and bribery offences of the foreign employee. This means that bribery crimes committed in the purely private sector are not criminalised.

### **3.2.2. Presumption Statutory Obligation**

The Iraqi Anti-Corruption Legislations have a presumption statutory obligation to clarify unjustified assets for public civil servants – illicit enrichment. Looking at Article 1 (7) of the Amendment of the Integrity Commission and the Illicit Enrichment Law (Illicit Enrichment Law), it observes that it is considered illicit enrichment any rise exceeding 20% per annum in the individual in charge's funds or the funds of his/ her spouse or children, which is not appropriate with their usual resources, and the individual in charge did not demonstrate a lawful justification for this rise, and the funds that are demonstrated to be obtained by a natural individual by contributing with the individual in charge shall be considered illegal by a conclusive judicial ruling. Article 20 of the United Nations Convention against Corruption shows the most widespread definition of illicit gain as the significant increase in the assets of a public official that he cannot reasonably explain in relation to his legal income. To refute the graft assumption, the defendant will need to convince the court that the assets in question were derived from legal sources as well as provide supporting evidence in order to refute that assumption. If the defendant provides evidence proving the legal source of the assets, the burden shifts to the concerned party to prove that the assets were obtained illicitly, and if the defendant fails to provide sufficient evidence, the investigator must find that the defendant obtained the assets illicitly. The criminalisation of illicit enrichment can constitute an effective mechanism to combat the money laundering risks attributable to PEPs as well as money laundering crimes in general.



### 3.2.3. Asset and Interest Disclosure

As a component of preventive measures against corruption in detecting unjustified assets held by public officials, the Illicit Enrichment Law obligates specific individuals, such as the President and his or her deputies, the Prime Minister, and his or her deputies and cabinet ministers and their rank, as well as the Speaker of Parliament, the two deputies of the Speaker, and members of Parliament to disclose his or her financial disclosure. The Federal Commission of Integrity has the power to assign any employee or individual occupying a public function, which it considers required to disclose his/ her financial disclosure relying on notice related to reliable proof that illicit enrichment has taken place in his/ her funds or his/ her spouse's funds or his/ her children's funds that is not appropriate with their usual resources. The Commission also has the power to assign this duty to everyone under suspicion of acquiring assets in addition to the person in charge as prescribed in Article 1(7) above.

From the Federal Commission of Integrity website, it is clear that the Financial Disclosure Form of 2024 requires the specific individuals to submit information about their and their family members' income, assets, employment, real estate, valuable collectibles and other interests. According to Article 17(4) of the Illicit Enrichment Law, the Federal Commission of Integrity shall review the Form and validate the data set forth therein.

Article 17(1) of the Illicit Enrichment Law states that the responsible person has a duty to present the Financial Disclosure Form on the dates listed below:

- a. Within 90 days from the date of beginning of the job or position or from the date of termination of the person's association with the entity.
- b. Per annum, during the month of January.

The payment of the responsible person's salary and allowances would be postponed if he or she does not provide the form within the period outlined in the above (Article 18(1)) of the Law.

Any individual who fails to provide the form without a lawful justification shall be subject to imprisonment for a period not exceeding one year (Article 19(1)) of the Law. Further, any responsible person who intentionally hides information sought in the Financial Disclosure Form or provides misleading information demonstrated to be connected to the accomplishment of illicit gain shall be subject to imprisonment for duration of no less than one (1) year (Article 19(5)) of the Law.

### 3.2.4. Asset Recovery

When criminals are incarcerated, they should not find their illicitly obtained funds waiting for them when they are released. Even worse, criminal prisoners can work through their friends in order to support extra criminal enterprises and therefore collect a greater wealth in *absentia*. As a result, stripping criminals of their ill-gotten gains has to remain a necessary approach.<sup>33</sup> Therefore, it can be said that the forfeiture of corruptly obtained funds is a more effective measure to combat corruption crimes and stop the laundering of

corruption proceeds. Because of the effectiveness of the forfeiture regime, several countries have taken procedures to fortify their institutional and statutory frameworks and instituted instruments to recover proceeds stemming from corrupt practices by criminalising such conduct and designating it as a predicate offence for money laundering.

When the defendant is convicted of the crime of bribery, he must, according to Article 307 of the Iraqi Penal Act, pay a fine that is no less than what he asked, was given, or promised... Furthermore, he is sentenced, according to Article 314 of the Act, to forfeit the gift he accepted or that was offered to him. There may be difficulties in forfeiture and repatriating the proceeds of corruption in the event of bribery of foreign officials and misappropriation of public funds in developing countries. Normally, the corruptors hide their proceeds overseas or often use the opportunities provided by financial professionals to conceal and enjoy the funds obtained through corruption, leading to complex efforts by law enforcement agencies to locate and trace these funds. To determine which funds have disappeared as a result of corruption activities, an investigation will be necessary. In order to begin the investigation, intelligence information is also needed.<sup>34</sup> This process includes requests for mutual legal assistance from other countries. This can be exorbitant and protracted. International cooperation among jurisdictions is significant in facilitating the effective return of proceeds stemmed from corruption and misappropriated public funds to the jurisdictions from which they were illegally obtained.

### Conclusions

Finding an internationally accepted definition of PEPs is one of the challenges faced by international forces and local regulators. The FATF provides a broad definition of PEPs. Therefore, it can be used to include individuals holding preeminent public office and representatives of global bodies, along with family members and close associates. This makes it challenging to obviously identify persons who are considered part of this category. This Article focused on the concept of PEPs with international and local levels. Because of the absence of a universally accepted and clear definition of these persons, there may be an ongoing need to address the issue. As a result, the regulated entities were bogged down with their relative deficiency of not having the proficiency in operating in a challenging global environment. By virtue of the power, influence and control granted to those persons, with their ability to access state funds, they always have a high tendency to abuse their power and authority to embezzle public funds using family members or close partners and other means in order to conceal their identity and the source of their illegal funds. Thus, they pose a high risk of possible involvement in the commission of financial criminal activities and in particular corruption and money laundering activities. Therefore, it is essential to adopt robust procedures in order to mitigate the risks posed by high-risk stakeholders.





## Footnotes:

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