

Audit Remedies for PEP Risk

Mitigating the risks of banking illicit politically exposed persons' (PEP) wealth by using anti-money laundering (AML) audit techniques.

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1.0 Introduction

It is a calm afternoon in the high-class London neighborhood of Kensington. A Russian man and his girlfriend are looking to buy an apartment. The value of the apartments they are in the market for varies in cost from \$4 million to \$26 million dollars. What separates this apartment seeker from many others is that he has openly told the real estate agent that he is using stolen money to make this purchase. He confesses that he is a government official in Russia who makes a small salary as the manager of the Russian health budget. It is understood that he will use his role as budget manager to misappropriate funds for a lovely new home far away from the community he is stealing from. As a result, the Russian buyer will need to make the purchase anonymously to not cause any problems with his fellow Russians. Surprisingly, the real estate agent did not terminate the meeting with the Russian buyer despite knowledge that the source of the funds were from ill-gotten gains. In fact, this same situation plays out on 5 different occasions. Each time the same Russian man and his girlfriend look at different homes with different realtors. Each time the confession of dirty money to buy real estate does not cause any outcry from the agents. In fact, one gets the impression they have heard this all before - this is a common business practice. Several of the estate agents were able to recommend law offices who could help disguise the identity of the purchaser.¹ This example was part of an undercover operation by Russian anti-corruption campaigner Raman Borisovich and a Ukrainian investigative reporter Natalia Sedletska. Borisovich and Sedletska worked together to expose real estate agents in London who happily facilitate the purchase of upmarket properties by government officials using money stolen from their constituents. The efforts of their work resulted in a documentary called "From Russia with Cash." The government official that Borisovich was pretending to be is known as a politically exposed person or PEP. Within the financial community, PEPs are assigned an increased risk category and require additional due diligence. First, we need to understand what is a PEP.

1.1 Definition

A politically exposed person (PEP) is defined by the Wolfsberg Group as a person holding a public function or a prominent position with substantial authority over policy, operation and use of government funds and the chance they may misuse their power and influence for personal gain or advantage.² In most cases, PEPs can be the head/leader of state or government, Member of Parliament, deputy minister, ambassador, high-ranking military officer, head of government agency, judge and close family members of the above examples. The Financial Action Task Force (FATF) has additional definitions of types of PEPs. They include Foreign PEPs, Domestic PEPs,

¹Chido Dunn. "From Russia with Cash - Global Witness in new documentary on suspect funds in London property" July 9, 2015. www.globalwitness.org.

² The Wolfsberg Group. "Wolfsberg Guidance on Politally Exposed Persons (PEPs)." May 2017. www.wolfsberg-principles.com.

International Organization PEPs, Family Members and Close Associates.³ A close associate is defined as any individual connected to a PEP either socially or professionally.⁴ The FATF recommendations 12 and 22 require countries to ensure that financial institutions have measures to prevent the misuse of the financial system by PEPs, and to detect abuse if and when it occurs.⁵ These preventive requirements are a necessary part of a financial firms due diligence on all of their clients and an essential part of their compliance risk program. The proper functioning of this program is ensured by vigorous audit methods of the anti-money laundering (AML) professional. The audit methods will be examined in section 3.0 Audit Method Enhancement.

1.2 Consequences of Corrupt PEP Activity

The loss of government funds due to the criminal behavior of PEPs impacts the countries where this behavior is taking place in multiple ways. First, funds that are stolen devastate the countries' budgets, causing harm and human suffering in countries that are often least able to afford it. According to The Organization for Economic Co-operation and Development (OECD), PEPs who engage in money laundering plunder resources that could be used for security, justice, health and education.⁶ Second, there is the destabilization of the developing countries where corruption most frequently occurs. The World Bank estimates \$20 billion to \$40 billion dollars lost per year through corruption⁷ - billions of missing dollars that could cause a third world country to slide into chaos. Third, the proceeds from criminal activity on the PEPs behalf are likely to be spent on luxury consumable items like homes, cars and art which will not benefit the economic welfare of the country. Fourth, the OECD goes on to say that "PEP money laundering is harmful to the financial sector: a functioning financial sector depends on a general reputation of integrity, which money laundering undermines. In this way, money laundering can impair long-term economic growth, harming the welfare of entire economies."⁸ It is easy to see why poor and disadvantaged countries are most vulnerable to the crimes committed by corrupt PEPs. The wealthy countries also suffer as PEP crimes can distort their exchange rates and asset prices.

It is imperative that the global community mitigate the risks of banking illicit PEP wealth by using AML audit techniques. The population of PEPs and the smaller percentage from the whole that are in fact using illicit funds gained from corruption and/or bribery is manageable for monitoring by AML methodologies. Continued revelations in the media and law enforcement of PEPs using

³ Financial Action Task Force. "FATF Guidance Politically Exposed Persons (Recommendations 12 and 22)." June 2013. www.fatf-gafi.org.

⁴ Ibid.

⁵ Ibid.

⁶ Kjetil Hansen. "Illicit Financial Flows from Developing Countries: Measuring OECD Responses." 2014. www.oecd.org.

⁷ Larissa Gray. "Fighting Corruption: The Politically Exposed Persons Factor." April 2, 2012. blogs.worldbank.org.

⁸ Kjetil Hansen. "Illicit Financial Flows from Developing Countries: Measuring OECD Responses." 2014. www.oecd.org.

unlawful funds to enrich their lives shows that enhancements to AML, specifically regarding the audit process, will go a long way to diminish this crime. It will also help reduce the trauma caused in the home country of the corrupt PEP (usually the poorest in the world) as well as the distorting economic impact in the country where ill-gotten PEP wealth is invested.

2.0 Case Examples

In order to appreciate the importance of proper audit techniques to stop the misuse of accounts for the proceeds of corruption, the following real life examples are used to show the gravity of the crimes and consequences on the country's population. It will also raise important questions about how AML and audit practices can reduce this criminal activity.

2.1 Residential asset

2.11 New York City

In an investigation conducted by the New York Times, PEPs from around the world were able to buy luxury real estate in New York City using illicit wealth with few questions asked due to United States laws that "foster the movement of largely untraceable money through shell companies."⁹ The report found that in New York City alone, about \$8 billion dollars is spent each year on homes that cost more than \$5 million dollars. Of that total, almost half are sold to shell companies.¹⁰

The methods used to conduct these secret purchases involve a mix of professionals, which includes real estate agents, accountants, condo boards and title brokers. Together, the collective efforts of these professionals are able to ensure the anonymity of the buyers of real estate. This anonymity is exactly what the PEPs desire in order to own a private residence in a foreign city without facing the scrutiny of their countrymen. If one steals money from the denizens of the country one was trusted to lead, democratically or otherwise, the last thing a corrupt PEP would want is their name on a luxury apartment in New York City. Not only will this cause a painful uproar by the compatriots, but it will also make the property a prime target for seizure by the authorities.

One specific example explored by the New York Times is the Time Warner building, located on 59th St. and Central Park West in Manhattan. The report found that on many of the deeds to the apartments in the building, the line for the buyer's signature is left blank or signed by a lawyer. Phone numbers, the owner's line on permits for renovation and tax statements – all were owned

⁹ Louise Story and Stephanie Saul. "Stream of Foreign Wealth Flows to Elite New York Real Estate." 2015. www.nytimes.com.

¹⁰ Ibid.

or signed by lawyers or staff members of the Time Warner building.¹¹ Since a mortgage is a public document, this would have allowed for some transparency identifying the owner. However, most of the sales in the Time Warner building are in cash. In general, PEPs are given a higher risk rating to ensure careful review of their accounts, yet cash made its way through the financial systems without extra scrutiny. The method of choice to evade AML scrutiny is the use of shell companies to disguise PEP identity.

The New York Times provided a strong example of a PEP purchasing an apartment in the Time Warner building anonymously – apartment 74B. This condo was purchased in 2010 for \$15.65 million dollars under the name “25CC ST74B.” Using the methods described above to obscure the true ownership of the property, there was little way of knowing if a PEP acquired the space using ill-gotten gains from their role in government.¹² By coincidence, a legal dispute with a contractor at the apartment revealed in court the name of the owner as Vitaly Malkin. Malkin is a Russian senator whose involvement in a restructuring of debt in Angola led to allegations of bribery and kickbacks. Canadian authorities have repeatedly refused to issue a visa to Malkin on grounds that he has extended associations with persons suspected of organized crime and money laundering. The authorities in Canada saw Malkin as a high-risk PEP, yet he was able to buy a deluxe apartment in Manhattan with cash.

In trying to keep up with the flow of dirty capital from PEPs into American real estate, the Financial Crimes Enforcement Network (FinCEN) has renewed a geographic targeting order in February of 2017. According to FinCEN, “Geographic Targeting Orders (GTO) that temporarily require U.S. title insurance companies to identify the natural persons behind shell companies used to pay ‘all cash’ for high-end residential real estate in six major metropolitan areas. FinCEN has found that about 30 percent of the transactions covered by the GTOs involve a beneficial owner or purchaser representative that is also the subject of a previous suspicious activity report (SAR). This corroborates FinCEN’s concerns about the use of shell companies to buy luxury real estate in “all-cash” transactions.”¹³ The geographical areas now include the following:

1. All boroughs of New York City
2. Miami-Dade County and the two counties immediately north (Broward and Palm Beach)
3. Los Angeles County
4. Three counties comprising part of the San Francisco area (San Francisco, San Mateo and Santa Clara counties)
5. San Diego County
6. County that includes San Antonio, Texas (Bexar County)

¹¹ Louise Story and Stephanie Saul. "Stream of Foreign Wealth Flows to Elite New York Real Estate." 2015. www.nytimes.com.

¹² Ibid.

¹³ Steve Hudak. "FinCEN Expands Reach of Real Estate "Geographic Targeting Orders" Beyond Manhattan and Miami." July 27, 2016. www.fincen.gov.

This is a valuable tool for the AML audit professional in dealing with PEP risk as the PEP's ability to disguise themselves with shell companies is diminished. If a corrupt senator, for example, is under suspicion for wrongdoing, he or she will be exposed in all-cash real estate purchases in the regions listed above. With increased scrutiny of PEP accounts, the nexus between the PEP and the flow of illicit funds will be established. This may block the purchase if the source of cash is dirty. The PEP screening in section 3.2 will highlight how audits can identify the strength of the financial institution's PEP screening.

2.22 London

New York City is not the only place to hide illicit PEP wealth in posh real estate. London has proven to be a top destination for corrupt PEPs to buy luxurious homes. At Deutsche Bank, analysts Oliver Harvey and Robin Winkler estimate that 40 percent of the billion pounds of unrecorded capital inflows per month into the U.K. are probably from Russia.¹⁴ As oil prices decreased and sanctions were levied on Russia for their role in the Ukraine, more capital has poured out of Russia and into safe havens like London. These large flows of money that are secret or hidden are known as "dark money."¹⁵ While this dark money may or may not be tied to criminal activity, it causes many problems for the destination country. For example, the dark money flowing into the U.K. artificially drives their exchange rate. The dark money also contributes to the U.K.'s large account deficit.

The non-governmental organization (NGO) Transparency International has done research that reveals over 36,000 properties in London were bought in secrecy. While many of those were legitimate, they estimate that a sizable portion was purchased using stolen money, much of which was connected to PEPs. Robert Barrington of Transparency International said that this capital inundation to real estate with deceitful cash was "stolen from the poorest and going into mansions in Mayfair. Is that the sort of society we want?"¹⁶ Questions on the Source of Wealth (SOW) (such as inheritance, ownership of a business, employment or investments) and the Source of Funds (SOF) (origin and means of transfer for money in an account)¹⁷ for the capital used in purchasing the properties would mitigate the stolen cash being turned into luxury homes. Audit remedies for the item above are discussed in sections 3.1 and 3.2.

¹⁴ Jamie McGreever. "UK Draws Billions in Unrecorded Inflows, Much From Russia - Study." March 10, 2015. www.uk.reuters.com.

¹⁵ Ibid.

¹⁶ Randeep Ramesh. "London Estate Agents Caught on Camera Dealing With 'Corrupt' Russian Buyer." July 7, 2015. www.theguardian.com.

¹⁷ Jx Low. "Source of Wealth vs Source of Funds." March 13, 2017. www.aml-cft.net.

2.23 Pakistan

In July 2017, Nawaz Sharif stepped down from his role as the Prime Minister of Pakistan. The Supreme Court of Pakistan ruled that Sharif was disqualified from government due to corruption allegations. The Panama Papers leak of 2016 show Mr. Sharif's three children owning expensive residential property in London. The properties were acquired through offshore companies (secretly, of course). The New York Times reports that the court said the members of Sharif's family were living beyond their means and requested a paper trail of the money used to purchase the London properties.¹⁸ The Panama Papers leak exposed the identity of 200,000 companies and 14,000 clients of the Panamanian law firm Mossack Fonseca.¹⁹ The law firm was used to open offshore companies that would hide the identity of the owner. While offshore accounts are often used for legitimate business purposes, they are also convenient tools for conducting crimes including money laundering, tax evasion and the financing of terrorism. A business or individual may have good reasons for using offshore accounts, but a public official or PEP would not. A PEP using an offshore account without disclosing it will be accused of hiding assets. The transparency and disclosure of the PEPs financial dealings are vital to the health of the country they lead.

2.3 Currency Asset

2.33 Ukraine

Expensive property is not the only asset that PEPs are accumulating using proceeds of crime derived from stolen state assets or corruption. The Ukraine saw over \$70 billion dollars moved to offshore bank accounts between 2011 and 2014.²⁰ The former President Viktor Yanukovich held several low-level jobs in the government and made about \$2,000 dollars per month. However, once he entered politics, between 2009 and 2014, his fortune ballooned to be worth \$12 billion dollars.²¹ Obviously, anti-money laundering laws were blatantly ignored as it would clearly cause a risk flag to be raised at any financial institution when Yanukovich's income went from \$2,000 to over \$200 million per month. Yanukovich's son, Oleksandr, is also suspected of misappropriating public funds. A dentist by trade, Oleksandr is reported to have acquired \$500 million dollars during the time his father was president of the Ukraine.²² Stolen funds by PEPs caused pain and harm to Ukrainians – according to the New York Times, the corruption added more instability to the Ukraine economy, causing it to decrease 17.6 percent in the first quarter

¹⁸ Salman Masood. "Nawaz Sharif, Pakistan's Prime Minister, Is Toppled by Corruption Case " July 28, 2017. www.nytimes.com.

¹⁹ International Desk. "The Panama papers - A torrential leak." April 9, 2016. www.economist.com.

²⁰ Christine Duhaime. "\$70B Missing From Ukraine: a Whopping Failure of Global Anti-Money Laundering & Corruption Laws." February 28, 2014. www.Antimoneylaunderinglaw.com.

²¹ Ibid.

²² Ibid.

of 2015.²³ The economic decrease causes every member of the Ukrainian society increased suffering.

2.34 Angola

At the end of Angola's civil war in 2002, the country was ready to rebuild. It was a very happy coincidence that Angola's rebuilding efforts fell at a time when oil had a high market value and Angola has plenty of oil. However, being flush with cash and an agenda full of designs for reconstruction still left many Angolans disappointed. According to the New York Times, "billions spent on rebuilding — guided by politically connected Angolans and carried out by foreign contractors — vanished into individuals' pockets, according to politicians, businessmen and academics. Little was done to ensure the money spent on reconstruction would yield lasting benefits to Angola's economy."²⁴ Angolan PEPs that took advantage of the maneuvering and misallocation of the rebuilding money was President Jose Eduardo dos Santos' inner circle of allies and family members. In fact, Isabel dos Santos, the president's eldest daughter, became the first female billionaire in Africa. Forbes magazine estimates her wealth at \$3.4 billion dollars.²⁵ Among Isabel's assets are multiple investments in Portugal. According to Forbes her wealth did not go unnoticed. Four members of the European Parliament publicly called for an investigation into her ventures in Portugal in October 2015, questioning their legality. A spokesperson for dos Santos told Forbes that "Isabel dos Santos is an independent business woman and a private investor representing solely her own interests. Her investments in Angolan and/or in Portuguese companies are transparent and have been conducted through arms length's transactions involving external entities such as reputed banks and law firms."²⁶ The president of a high-risk country for corruption like Angola would likely find their daughter as a prime candidate for PEP designation. Therefore, dos Santos' financial dealings at any financial institution should have been flagged. Audit methods described in section 3.2 "Screening for PEPs" will highlight how missing these risk flags can be diminished.

According to the New York Times, between 2002 and 2015, \$28 billion dollars of Angola's government budget is unaccounted for. To appreciate what a fantastic sum this is for Angola, their entire budget for 2017 is set USD \$44 billion dollars.²⁷ It is estimated that 35 percent of the funds earmarked for road construction alone disappeared.²⁸ The New York Times went on to

²³ David M .Herszenhorn. "In Ukraine, Corruption Concerns Linger a Year After a Revolution." May 17, 2015. www.nytimes.com.

²⁴ Norimitsu Onishi. "Angola's Corrupt Building Boom: 'Like Opening a Window and Throwing Out Money'." June 24, 2017. www.nytimes.com.

²⁵ Forbes Profile "Forbes Real Time Net Worth." September 17, 2017. www.forbes.com.

²⁶ Ibid.

²⁷ Reuters Staff. "Angola unveils \$44 bln 2017 budget, sees economic growth of 2.1 percent." October 21, 2016. www.af.reuters.com

²⁸ Norimitsu Onishi. "Angola's Corrupt Building Boom: 'Like Opening a Window and Throwing Out Money'." June 24, 2017. www.nytimes.com.

give an example of how the government's budget money was creeping out of Angola. Exposed in New York federal court, a Brazilian construction company called Odebrecht admitted to bribing Angolan government officials for building contracts between 2006 and 2013. One Odebrecht employee gave \$8 million dollars to an Angolan official in exchange for a building contract. Odebrecht added this amount to the total cost of the project and both parties benefited at the expense of Angolan society. The Angolan government did not investigate this admitted corruption nor did they pay any attention to Odebrecht admission of culpability, despite loud criticism and pressure to do so. Where did the Angolan PEP with the \$8 million dollar bribe put his/her money? Who did the due diligence on the financial account(s)? These are questions we would like to answer and mitigate using AML audit techniques. Section 3.0 on audit method enhancement will address how these AML audit techniques can be employed.

3.0 Audit Method Enhancement

3.1 Audit Review - Training

The best place to start in an effort to mitigate the risk of crimes by PEPs is with the training of the financial professionals on AML and anti-terrorist financing laws. As stated in the introduction, the FATF "Recommendations 12 and 22 require countries to ensure that financial institutions and designated non-financial businesses and professions (DNFBPs) implement measures to prevent the misuse of the financial system and non-financial businesses and professions by PEPs, and to detect such potential abuse if and when it occurs."²⁹ This makes clear the professional responsibility required. The audit team plays a vital role in ensuring that timely and appropriate training took place. The auditor will review the framework within the financial institution that outlines the training for every member of the staff. Training programs will vary in depth and intensity depending on where the employee works in the financial institution. The training framework will need to identify who to train and what to train and the auditor will have access to this information via the training record (Training and testing materials, dates of training sessions and attendance records should be maintained by the firm and be available to the auditor).³⁰ Since there is a higher-risk role that pertains to PEPs, those employees tasked with interfacing with PEPs will require training appropriate for their role. For example, employees tasked with opening accounts with customers will need training on the importance of accuracy when recording the account holder's name and personal details. Relevant staff will need training

²⁹ Financial Action Task Force. "FATF Guidance Politically Exposed Persons (Recommendations 12 and 22)." June 2013. www.fatf-gafi.org.

³⁰ Federal Financial Institutions Examination Council. "Bank Secrecy Act / Anti-Money Laundering Examination Manual." 2014. www.ffeic.gov.

on procedures for required documents for account opening (passport, driver's license, social security card, etc.) and the recording of those documents into the approved systems. The correct details on an account are important for verifying the new client as a potential PEP and the increased know your customer (KYC) process that will then follow (see section 3.2 Screening Process).

Employees that are in the front lines such as sales and marketing staff may potentially be exposed to bribery and will require additional training. According to Transparency International, "one of the highest risk areas of bribery for a company lies in sales and marketing."³¹ The sales and marketing staff may be bribed by PEPs or have to give a bribe to a PEP in order to secure contracts. The supplementary training for the staff must make it clear that employees will not be penalized if they decline to pay bribes to win contracts.³²

The real estate agents in London who were duped into potentially selling properties to an undercover reporter pretending to be a Russian PEP in "From Russia With Cash" may have broken the law. Those real estate agents should have extensive training on those laws. Laws that are over a decade old in the U.K require estate agents to file a SAR to their National Crime Agency if suspicions are raised that cash used to buy a property has been obtained through criminal activity. If the agents do not do this, it is a criminal offence.³³ One cannot say the agents did not know the money was coming from criminal sources, as the undercover investigator took great care to explain to the estate agent that he worked for the Russian government and his small salary would not be the source of funds for the multi-million pound property. Once approached on the matter, the real estate firms claimed that they did not have to do any due diligence on the purchaser until there was a serious or formal offer to buy the property. They claimed they were in compliance with all AML regulations since no transaction took place with dirty money. However, a robust audit of the real estate firms training on AML compliance would reveal if the agents were trained on the letter of the law. It seems unlikely that an agent would be complicit with a transaction (real or fake) if they knew laws were being broken and their own legal responsibility. No matter how lucrative the commission on the sale of a luxury residence - it cannot compete with possible prison time. A strong training program would have prompted the agents to immediately end the meeting with the Russian client as soon as there was mention of felonious funds. Proper training is imperative as it not only protects the interests and well-being of the employees and the firm, but also the interests and well-being of society. The training of the real estate agents in the example above on AML laws and techniques would have given them

³¹ Wilkinson, Peter. "Adequate Procedures – Guidance to the UK Bribery Act 2010." July 2010. www.transparency.org.uk.

³² Ibid.

³³ Randeep Ramesh. "London Estate Agents Caught on Camera Dealing With 'Corrupt' Russian Buyer." July 7, 2015. www.theguardian.com.

the tools to identify when the law is being broken and where to escalate the issues within the firm.

3.2 Screening for PEPs

Another excellent way to use AML audit techniques to stop criminal activity instigated by a PEP is by reviewing the best practices for screening and KYC. It will be important to review and to test the PEP screening that is taking place, including the governance framework, processes and controls. Obviously no financial institution will have any success stopping a PEP from moving laundered money without an effective screening process on their customers. Because PEPs are a central-risk category, the KYC process needs to check each client for a possible PEP designation. Some of the items that an effective audit will cover include a review of vendors used by a firm for PEP screening. Questions such as: Who is the vendor? What is the methodology used to compile the database? Is the software matching program sophisticated enough for the firm's stated risk tolerance? Checking the answers to these questions will give the audit team confidence in the KYC process and will help reduce a potential crime by a PEP from slipping through the cracks and escaping the financial firm's attention. The audit will need to test the watch list of PEPs (either internally generated or from external sources) using vendors such as LexisNexis or Thomson Reuters' World-Check. The audit team will need to sample their own population to verify the effectiveness of the vendor in flagging PEPs. The audit team will also have to make independent reviews of how and when the firm is refreshing the KYC information on PEPs. Additionally, the audit will test the KYC process for PEPs based on the nature of the products geography and the entity itself. PEPs from Africa may need more scrutiny than PEPs from Europe.

The increased audit efforts will also ensure compliance with Part 504 Banking Division Transaction Monitoring and Filtering Program Requirements and Certifications. The politically exposed persons list is clearly marked as part of the Watch List Filtering Program.³⁴ The Watch List Filtering Program also requires compliance with the Office of Foreign Assets Control (OFAC) where requirements are mandated for implementing federal economic and trade sanctions. The audit will want to sample the bank's clearly defined criteria for comparing names on the OFAC sanctions list with the names in the files of the financial institution. The audit will also want to investigate instances of when an OFAC hit is a false hit or a valid match.³⁵ The audit will test that the validation of search results and the dismissal of false positives are following procedures of

³⁴ Department of Financial Services New York. "Part 504 Banking Division Transaction Monitoring and Filtering Requirements and Certifications." April 2017. www.dfs.ny.gov.

³⁵ Federal Financial Institutions Examination Council. "Bank Secrecy Act / Anti-Money Laundering Examination Manual." 2014. www.ffeic.gov.

the compliance office. A sample of transactions with true name matches will allow the audit to review the search and escalation process.

3.3 Review of Exiting PEP Relationship

A study of the accounts that the firm closed due to suspicious PEP activity can provide the auditor insight to the level of competence of PEP risk management. If there are no accounts closed by compliance related to suspicious PEPs, this could be a risk flag for screening weakness. An audit will need to take this into consideration when determining the sample size to use in their investigation. It will also be important to review the list of PEP accounts that were closed to determine how the firm is assessing and reducing PEP risk. In 2014, JP Morgan chose to de-risk³⁶ by closing 3,500 foreign bank and credit card accounts.³⁷ The auditor in this case could sample the 3,500 accounts and review the case that was taken in the assessment of PEP risk.

The auditor will want to review a sample of the SARs that may have been raised on those PEP accounts that were closed. Reviewing SAR quality will provide an added level of certainty that the monitoring systems are working as designed. The auditor will want to review SARs for timeliness, accuracy, completeness and effectiveness of the bank's policy.³⁸ The audit review should also evaluate the research behind the SAR and the referral process of unusual activity³⁹ (For additional reports to audit to review the effectiveness of the suspicious activity monitoring system, please see Appendix A). The audit will investigate the enterprise-wide risk within the financial institution by cross-referencing business and personal banking relationships of PEPs. Samples from lists of clients where they are black/gray listed can be tested for the correct following of firm-wide compliance procedures.

The audit will validate the exit process for clients deemed a high-risk PEP as they will want to know if the controls put in place by compliance are being followed correctly and consistently. Client exit and the exit management process issues are often missed or sampled incorrectly and therefore will need extra audit attention. The audit will also test the escalation of negative media for PEPs and the subsequent actions taken. The audit will review whether a SAR is filed by the firm when a decision is made to exit a relationship with a PEP. If a client is determined to be a PEP and the risk level is such that the relationship is terminated, will the relationship with a

³⁶ De-risk is defined as the steps taken to make less risky or less likely to involve a financial loss.

³⁷ Christine Duhaime. "JP Morgan Closing Accounts of Foreign Government Officials in the US Over Compliance Costs." May 7, 2014. www.Antimoneylaunderinglaw.com.

³⁸ Federal Financial Institutions Examination Council. "Bank Secrecy Act / Anti-Money Laundering Examination Manual." 2014. www.ffeic.gov.

³⁹ Ibid.

charity or business where that same PEP is a trustee or on the board of directors be ended as well? A carefully planned and executed audit will be able to answer this question.

4.0 Conclusion

The significance of PEP illicit money and asset crimes cannot be stated strongly enough. The worldwide impact on the reduction of PEP criminal funds will tremendously help citizens in both home and destination countries. From the introduction, where we learned of the Russian anti-corruption campaigner Raman Borisovich and the Ukrainian investigative reporter Natalia Sedletska, it is clear that the citizens of crooked leaders are demanding change. The public outcry is shared by the enforcement agencies who are working tirelessly to stop PEP misconduct. In just the past few years the U.S. has moved from no restraints on anonymous shell companies purchasing deluxe properties to now having six metropolitan areas prohibited from this activity (part of FinCEN's Geographic Targeting Orders) It is refreshing to see change happening. Every exposure of PEP crimes in the media brings us that much more relief.

The increased and careful use of audit techniques will go a long way to ensure the world's financial community does everything in its power to mitigate the risk of PEP crimes going unnoticed and unpunished. As the majority of these crimes happen in the developing world there is a disproportionate effect on the world's poorest people, those who are least able to defend themselves against the crimes perpetuated by their corrupt leaders and their associates. The world may not be a fair place, but the global financial community can work to make sure it is more just for everyone.

Appendix A

An audit review of the effectiveness of the suspicious activity reports (SARs) may be enhanced by additional review of other related reports. Related reports may include:⁴⁰

1) Suspicious activity monitoring reports

2) Large currency aggregation reports

3) Monetary instrument records

4) Funds transfer records

5) Nonsufficient funds (NSF) reports

6) Large balance fluctuation reports

7) Account relationship reports.

⁴⁰ Federal Financial Institutions Examination Council. "Bank Secrecy Act / Anti-Money Laundering Examination Manual." 2014. www.ffiec.gov.

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<<http://www.antimoneylaunderinglaw.com/2014/02/the-ukrainian-crisis-means-for-banks-funds-and-bitcoin.html>>.

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