Response by TISA to FCA's Consultation on the treatment of politically exposed persons (GP 24/4)

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About TISA

The Investing and Saving Alliance (TISA) is a unique, rapidly growing membership organisation for UK financial services.

Our ambition is to improve the financial wellbeing of all UK consumers. We do this by convening the power of our broad industry membership base around the key issues to deliver practical solutions and devise innovative, evidence-based strategic proposals for government, policy makers and regulators that address major consumer issues.

TISA membership is representative of **all sectors of the financial services industry.** We have **over 200-member firms involved in the supply and distribution of savings, investment products and associated services**, including the UK's major investment managers, retail banks, online platforms, insurance companies, pension providers, distributors, building societies, wealth managers, third party administrators, Fintech businesses, financial consultants, financial advisers, industry infrastructure providers and stockbrokers.

As consumers, the financial services industry and the economy react to and recover from the effects of the pandemic, the importance of the three key pillars of work that TISA prioritises has never been more apparent:

- **Strategic policy initiatives that influence policymakers** regarding the financial wellbeing of UK consumers & thereby enhancing the environment within which the industry operates in the key areas of **financial inclusion, consumer guidance, retirement planning, later lifetime lending, vulnerable customers, financial education, savings and investments**.
- TISA is recognised for the **expert technical support provided to members** on a range of operational and regulatory issues targeted at improving infrastructure and processes, establishing standards of good practice and the interpretation and implementation of new rules and regulations covering **Governance, Conduct and Culture, Consumer Duty**, **MiFID II, CASS, ESG/RSI, Operational Resilience, Financial Crime Prevention,** and a range of other areas.
- **Digital transformation initiatives** that are driving ground-breaking innovation and the development of industry infrastructure for greater operational effectiveness and revenue promoting opportunity for firms. TISA has become a major industry delivery organisation for consumer focused, digital industry infrastructure initiatives – **TISAtech** (a digital marketplace that brings together financial institutions and FinTechs for greater collaboration and innovation) and **TURN** (TISA Universal Reporting Network – a digital platform providing a secure data exchange for financial services using blockchain technology) – alongside projects **Digital ID** and **Open Savings, Investments & Pensions**. This reflects TISA's commitment to open standards and independent governance.

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Question 1 Do you agree with our proposal and wording in Paragraph 2.16 to clarify that NEBMs of UK civil service departments are not PEPs? If you disagree please provide reasons for this.

Yes.

Question 2 Do you agree with our proposal and the wording in Paragraph 2.15 to allow more flexibility in signing off PEP relationships? Are there other approaches to senior management signing off PEP relationships that we haven't included?

In relation to the first bullet, we have concerns that the proposed wording does not provide sufficient flexibility in signing off PEP relationships. The current drafting includes the phrase 'equivalent seniority' which is confusing. Instead, it would be more helpful to provide tangible examples of alternative options for signing off PEP relationships, such as 'an executive committee', ' a committee that has delegated authority to sign off PEP relationships' or 'a relevant 1st line senior manager'. We also note that paragraph 2.15 is inconsistent with paragraph 2.35, as the former refers to the SMR prescribed responsibility for financial crime as the higher standard, making no reference to the board of directors within this paragraph, whereas 2.35 indicates that board of director approval is the expected higher standard. We recommend that a consistent approach is adopted across 2.15 and 2.35, with coherent, practical examples being used in both paragraphs. This approach would further the aim to provide more flexibility and provide greater certainty to firms.

We do not think it is suitable for a full board of directors to sign off PEP relationships, where the board contains NEDs. From a practical perspective, obtaining timely approval from the board may be challenging, ultimately increasing delays for PEPs.

We also note that the reference in paragraph 2.15 in 2.35 appears to be an error, and instead, should refer to paragraph 2.15.

Question 3 Do you think our proposed wording in paragraphs 2.12, 2.15, 2.27, 2.29 and 2.35 is sufficient to reflect the changes to the MLRs in January 2024? If not, what additional wording is needed?

The additional wording is useful, but 2.12 and 2.27/8 could be further improved by clarifying that whilst domestic PEPs may be inherently lower risk, this does not mean that they are low risk. It would be helpful for the FCA to explicitly state that all PEPs remain high risk and therefore subject to EDD, but that there is a starting assumption that domestic PEPs are subject to a lower level of EDD.

It is understood that the underlying policy rationale for stating in 2.29 that the starting point is that domestic PEPs, as well as their family members and known close associates, pose a lower risk is because the UK is has a low bribery and corruption rating (when measured against the bullets listed under 'lower risk indicators – geographical'. Unless there are further policy justifications for providing the UK with this status, it follows that any foreign jurisdictions that meets the same criteria should have the same starting point as domestic PEPs. The same policy rationale applies, so the outcome should also be the same. For these reasons, we think 2.29 should be expanded so that the policy rationale is consistent, so for example, paragraph 2.35 should be aligned with 2.29. This approach would further facilitate the FCA's strategy to help firm balance their financial crime resources more effectively by acting proportionately, the Consumer Duty and the FCA's secondary objective.

In addition, the reference to '[2.13] in 2.29, under the 'lower risk indicators – geographical' heading is incorrect. The reference should instead be to 2.12.

Question 4 Do you agree with the minor amendments we propose to the Guidance? Are there other changes we should consider?

We spotted that the FCA has removed reference to ESA Guidelines at 2.24, but that reference to the same guidelines has not been removed from 2.38. We presume that this remaining reference should also be removed.

Question 5 Based on our PEPs Review and the MLRs, is there additional Guidance that you think should be reflected in the update to the Guidance? If so, what specific Guidance should we consider and how do you think it would support firms' risk-based approach to EDD?

The FCA's Review found that 'some firms did not have effective arrangements in place to review PEPs and RCAs to ensure the PEP classification remained appropriate after the PEP had left public office'. Given this finding, TISA thinks it would be helpful for the FCA to provide additional guidance on this matter. In particular, if the FCA has a baseline expectation for how firms should treat this scenario, it would be very useful for the FCA to specify this expectation. We are aware of a variety of approaches being taken by members, so if the FCA would like to drive a consistent approach to this, further guidance would be very helpful. We also think it would be helpful for the FCA to provide guidance on the factors that could influence a firm's approach to removing a PEP classification when they have left office, such as the potential for a lag on pertinent news coming to light in relation to the PEP, the firm's risk appetite and the PEP's role(s) after leaving public office. This guidance would help inform the design and timeliness of ongoing EDD.

2.40 of the Guidance states that '[o]nce a firm is satisfied that a PEP is a beneficial owner then, in line with the risk-based approach, they should assess the risks posed by the involvement of that PEP'. It would also be helpful for the FCA to give further guidance on how a firm should assess this, so that firms know the extent of time, effort and resource to expend on doing this. It would be very helpful for the FCA to outline some of the steps they expect firm to take when making this assessment when conducting risk-based EDD.

As mentioned in response to question 3, it would be consistent, from a policy perspective, if the FCA were to hold that non-domestic PEPs (and their family members and close associates) from jurisdictions that have low bribery and corruption ratings should be treated the same as domestic PEPs (and their family members and close associates). Introductory paragraph 1.4 is helpful, but it would be useful for this to be reflected within the substance of the guidance. This requires the FCA to make further changes to its Guidance, for example to paragraph 2.35, and equivalent statements as those made at paragraph 2.12 and paragraph 2.27 bullet three. We recommend that the FCA extends this principle, that is articulated at paragraph 1.4, for all the reasons given for making the changes proposed in GC 24/4 and the reasons that underpin the changes the Government made in January 2024.

We also note that the FATF Guidance on PEPs allows for countries to adopt an approach whereby the starting position in respect of domestic PEPs is that they are not subject to EDD. The Guidance holds that where a risk assessment establishes that the domestic PEP presents a normal or low risk, the financial institution is not required to apply enhanced due diligence. Noting the underlying rationale for the FCA's Review and the FCA's secondary objective, we wondered whether the FCA had considered adopting this approach that is contained in the FATF Guidance. We accept that such a change would require changes to the AML Regulation, and HMT's ongoing policy work in respect of the AMLR may present a vehicle for making this change. Consequently, we also wondered whether this was something the FCA intends to pursue as a part of HMT's review?

We also note that the FCA conducted its Review into controls and processes associated with PEPs because it believes that it is important to have a system that is proportionate so that public servants are not unfairly

denied access to the financial products and services necessary for everyday life, or to disproportionate delays and requests for information. Noting the FCA's primary objective, we assume that this wish extends to all UK consumers, not just domestic PEPs. Furthermore, we also note that the FCA continues to believe that AML controls must be balanced with the need for good customer treatment starting at account opening and throughout the relationship.

Given the FCA's stance and objectives, we recommend that the FCA reviews the ways in which AML Regulation is being applied to non-profit organisations and specifically, UK-registered charities. In respect of PEPs, the FCA undertook its Review because it had concerns about the level of information needed to be provided and the potential for exclusion from products and services because of a PEP status or connection. TISA believes that the non-profit or UK-registered charity status may be another area where AML controls are not well balanced with the need for good customer treatment. We have received anecdotal evidence that some firms have taken an active decision not to market products to charities because of the burdensome onboarding and ongoing compliance checks that are being disproportionately and inappropriately applied to charities. This raises serious financial inclusion concerns and points to a clear area where a FCA intervention could improve consumer outcomes and lead to firm resources being better deployed. For these reasons, we urge the FCA to review this matter urgently in order to ensure that AML checks and balances are applied in a proportionate and targeted fashion and that charities are able to access the banking facilities and other financial services needed to further their causes.