



## Domestic Politically Influential Persons and Foreign Prominent Public Officials Policy

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<b>Signed on behalf of the Board by</b>	<b>Board Chairman</b>
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## ABBREVIATIONS, ACRONYMS AND DEFINITIONS

ITEM	DEFINITION
<b>Accountable Institution</b>	A public or private entity referred to in Schedule 1 of the Financial Intelligence Act, No. 38 of 2001 ("FIC Act) that carries on the business as listed in Schedule 1 of the Act.
<b>Anti-Money Laundering Control</b>	A set of procedures and controls aimed at ensuring that a financial institution is not aiding in a money laundering scheme and does not get abused by money launderers in their money laundering schemes.
<b>Anti-Money Laundering Legislation</b>	The legislation and regulations that govern Anti-Money Laundering Control. South African Legislation comprises the FIC Act of 2001, the regulations to the FIC Act, PRECCA and POCA.
<b>Beneficial Owner</b>	Refers to a person who ultimately owns, controls and benefits from a company or Trust and the income it generates and in respect of a legal person, means a natural person, who, independently or together with another person, directly or indirectly:- <ul style="list-style-type: none"> <li>• Owns the legal entity;</li> <li>• Exercises Effective Control of the legal entity.</li> </ul>
<b>Business Relationship</b>	An arrangement between TCTA and a counterparty or service provider for the purposes of concluding financial transactions regularly.
<b>Board</b>	Board of Directors of TCTA
<b>Close Associates</b>	Individuals who are intricately connected to a DPIP or FPPO, either socially or professionally. The category of closely associated persons should include close business associates or partners. This is especially the case where they share beneficial ownership of legal entities with the DPIP or FPPO, or are otherwise connected (for example, through joint membership on a company board). It should also include personal or financial advisors or consultants, and any person acting in a fiduciary capacity to the DPIP or FPPO. In addition, it includes any other person who benefits significantly from being close to such a person.
<b>Counterparty</b>	The other party to a financial transaction with TCTA.
<b>Corruption</b>	For the purpose of this Policy, the term shall have a similar meaning as defined in section 3 of PRECCA. It means giving or receiving an advantage or benefit that is used in an improper or unauthorised way to influence a person to do or not do something. Corruption, in its wider sense, includes any conduct or behaviour where a person accepts,

	agrees to, or offers any benefit for themselves or another person, with the aim of acting dishonestly or unlawfully. Such behaviour also includes the misuse of materials or information, the abuse of authority, breaches of trust, or violations of duty.
<b>Due Diligence</b>	A process of establishing and verifying the identity of a counterparty or a service provider. If applicable, it also involves verifying the identity of the person representing them and any other person on whose behalf they are acting and confirming their authority.
<b>Domestic Prominent Influential Person</b>	An individual who holds (including in an acting position for a period exceeding six months or has held at any time in the preceding 12 months) a prominent public function in the Republic.
<b>EXCO</b>	Executive Committee of TCTA
<b>Foreign Prominent Public Official</b>	An individual who holds (or has held at any time in the preceding 12 months) a prominent public function in any foreign country.
<b>FATF</b>	The Financial Action Task Force is an intergovernmental organisation founded in 1989 on the initiative of the G7 (the intergovernmental political and economic forum comprising Canada, France, Germany, Italy, Japan, the United Kingdom and the United States, plus the European Union) to develop policies to combat Money Laundering. In 2001, the purpose expanded to act on Terrorism Financing.
<b>FATF Recommendations</b>	A set of comprehensive and consistent framework of measures which countries should implement to combat Money Laundering and Terrorist Financing, as well as the financing of proliferation of weapons of mass destruction.
<b>Politically Influential Persons (PIPs)</b>	A politically influential person is an individual who holds or has held a prominent or public function. In this position, the person has a level of influence and control over public funds, benefits, and decision-making. The abuse of such a position in office could lead to corruption and bribery that may serve as predicate offences to money laundering.
<b>Risk-Based Approach</b>	In the context of Money Laundering and Terrorist Financing, a Risk-Based Approach (RBA) is a process that encompasses the following: <ul style="list-style-type: none"> <li>• The risk assessment of your business activities using certain factors;</li> <li>• The risk mitigation to implement controls to handle identified risks;</li> <li>• Keeping the service provider, counterparty and investor, or other service provider, with beneficial owner's identification and beneficial ownership information up to date; and</li> </ul>

	<ul style="list-style-type: none"> <li>• The ongoing monitoring of financial transactions that pose higher risks.</li> </ul>
<b>Risk Management and Compliance Program (RMCP)</b>	A formal document required under section 42 of the FIC Act, detailing how TCTA conducts and implements risk-based Anti-Money Laundering and Counter Terrorist Financing measures.
<b>Sanctions</b>	An economic or military coercive measure adopted, usually by several nations in concert, to force a nation violating international law to desist or submit to adjudication. An action is taken, or an order is issued to compel a country to comply with international law, typically by limiting or halting trade with that country or withholding economic aid.
<b>Service Provider or third party.</b>	For the purposes of this Policy, service provider means any person or entity that is doing business with TCTA or intending to do business by submitting a tender to TCTA, or is registered on TCTA's suppliers database, such as consultants, contractors, sub-contractors and providers of goods and services.
<b>Terrorism</b>	In its broadest sense, any act designed to cause terror, using violence and threats to intimidate or coerce a country or state, especially for political purposes.
<b>Terrorist Financing</b>	An activity that provides financial support to designated terrorist groups.
<b>Transaction</b>	Any activity of a financial nature (or the use of other non-financial instruments, such as property) concluded between an accountable institution and any party in accordance with the type of business carried on by that institution.
<b>TCTA</b>	Trans-Caledon Tunnel Authority
<b>Unlawful activity</b>	It is a conduct which constitutes a crime or which contravenes any law, whether such conduct occurred before or after the commencement of POCA, and whether such conduct occurred in the Republic or elsewhere.
<b>Undue Influence</b>	Personal power that induces another person to give consideration or to act on any basis other than the merits of the matter.

## **1. POLICY CONTEXT**

- 1.1** As a state-owned entity charged with financing and implementing bulk raw water infrastructure projects and an agency of the Department of Water and Sanitation (DWS), which is responsible for the country's water resources in respect of usage, equitable allocation, and distribution. TCTA enters into business relationships with service providers, counterparties, investors, and/or other suppliers who are or whose beneficial ownership includes individuals who may be considered to be Domestic Prominent Influential Persons (DPIPs) or Foreign Prominent Public Officials (FPPOs) and related individuals.
- 1.2** Trans-Caledon Tunnel Authority (TCTA) is required in terms of section 21F - 21H of the FIC Act to determine whether the prospective service providers, counterparties, investors and/or other suppliers who are or whose beneficial ownership include individuals who may be considered to be Domestic Prominent Influential Person (DPIP) or a Foreign Prominent Public Official (FPPO), Immediate family member or close associate of a domestic or foreign prominent influential person and ensure the following;
- 1.2.1 Obtain Executive Committee (EXCO) approval for establishing the business relationship; and
  - 1.2.2 Conduct enhanced ongoing monitoring of the business relationship.
- 1.3** TCTA employs a risk-based approach to manage its compliance obligations. The same approach is used to classify all service providers, counterparties, investors and other suppliers as High, Medium or Low risk. As a result, TCTA will identify DPIPs and FPPOs and track them by maintaining a register. This includes existing and new DPIPs and FPPOs, as well as those who may have a vested interest in establishing a business relationship with TCTA. The process will also include briefing the Audit and Risk Committee on all identified DPIPs and FPPOs. This must occur before forming a business relationship or when new material information arises that may impact an existing one.
- 1.4** In October 2017, the new FIC Amendment Act came into effect, which includes sections relating to dealings with DPIPs and FPPOs. TCTA is required to consider all known information regarding a DPIP or FPPO before establishing or maintaining a business relationship. This includes the person's full identification background, known close business associates, and any adverse media reports. It includes the extent of DPIPs' or FPPOs' involvement in or interest in the transaction or target entity.

## **2. PURPOSE**

The purpose of this policy is to establish and provide a framework within which acceptable maintenance and monitoring of service providers, counterparties, investors and/or other suppliers with DPIP/ FPPOs, how implications are managed through adequate procedures to reduce potential reputational, operational and legal risks to the organization, thereby satisfying international and local standards, whilst simultaneously meeting regulatory compliance standards recommended by FATF and imposed by the Financial Intelligent Centre Act (FICA) on both member states and Accountable institutions respectively.

Furthermore, the purpose of the policy is to ensure that any DPIP or FPPO does not unduly influence the TCTA, its staff and the Executive Management.

## **3. SCOPE**

This Policy applies to all TCTA employees at all levels, including contractors and the TCTA Board and its subcommittees.

## **4. POLICY STATEMENT**

Politically Influential Persons (PIPs) are considered high risk as they hold positions of power and influence that may be abused for private gain or to benefit friends, family members and/or close associates. Therefore, in establishing or maintaining business relationships with them, TCTA must identify whether the individual is a PIP.

This Policy sets out a risk-based approach to control for the identification and management of PIPs in relation to directors and/or prescribed officers. The policy will serve as a framework for addressing specific risks arising from DPIP and FPPOs. The policy is overarching and should be read with other TCTA-related policies (as referred to in clause 4) for the purpose of implementation. Where necessary, other related policies should be revised to ensure alignment with the requirements set out in this Policy.

## **5. POLICY PRINCIPLE**

Measures imposed by this Policy on DPIP or FPPO's (including their close family members and known close associates) should not be interpreted to stigmatise them as being involved in any criminal activity. Thus, the policy does not advocate rejecting a business relationship with a person solely based on their DPIP or FPPO status.

## **6. PROBLEM STATEMENT**

- 6.1** As an Accountable Institution, TCTA will establish relevant controls for the identification of DPIPs and FPPOs and the continuous monitoring of ongoing business relationships involving such persons or officials.
- 6.2** Subject to laws applicable to public entities, TCTA, as a Schedule 2 Public Entity in terms of the Public Finance Management Act and a state-owned entity responsible for the funding and implementation of bulk raw water projects, is free to provide its services to or procure the services of any person within or outside the Republic of South Africa.
- 6.3** Although TCTA is not prohibited from doing business with a DPIP, FPPO or an entity of which such person or official is the beneficial owner, TCTA shall not conduct or conclude business transactions with any counterparty without having:
- 6.3.1 Considered all relevant legislation governing its business processes;
  - 6.3.2 The terms and conditions of the existing loan covenants;
  - 6.3.3 Determined the DPIP or FPPO status of the service provider, counterparty, investors and other service providers with beneficial owners; and
  - 6.3.4 Conducted a risk assessment and due diligence to assess the potential risks that the business relationship may pose.
- 6.4** Turning down a business relationship with a DPIP or FPPO solely because they are classified as such goes against the FATF Recommendations in both their literal wording and their intended purpose.
- 6.5** The decision to decline or terminate the transaction should be taken based on the client due diligence process, the risk appetite of TCTA and with an understanding of the particular characteristics of the public functions that the DPIP or FPPO has been entrusted with.
- 6.6** Where the risks of doing business with a DPIP or FPPO are higher than the TCTA's risk tolerance, TCTA reserves the right not to enter into a business relationship with a person, official or entity, or to continue doing or maintaining business relationships with that individual or entity under strict monitoring.
- 6.7** The decision to establish or continue with a business relationship with a DPIP or FPPO should be guided primarily by the basic business qualifying criteria, followed by an assessment of
- 6.8** ML/TF risks and other considerations, such as regulatory risk, reputational risk or TCTA interests, that are taken into account.
- 6.9** All contracts entered into by TCTA will provide for the consent of the counterparty to disclose

- 6.10** any involvement of a DPIIP or FPPO in the commercial relationship. Once such consent is secured, TCTA will annually publish on its website a list of all business contracts entered into with DPIIP or FPPO.
- 6.11** secured, TCTA will annually publish on its website a list of all business contracts entered into with DPIIP or FPPO.

## **7. WHO ARE DOMESTIC PROMINENT INFLUENTIAL PERSONS (DPIPS) AND FOREIGN PROMINENT PUBLIC OFFICIALS (FPPOs)?**

### **7.1 Domestic Prominent Influential Person (DPIIP)**

A Domestic Prominent Influential Person is an individual who holds a prominent public function in the Republic of South Africa. This includes a person in an acting position for a period exceeding six months or someone who has held such a role at any time in the preceding 12 months, including that of:

- 7.1.1 The President or Deputy President;
- 7.1.2 A government minister or deputy minister;
- 7.1.3 The Premier of a province;
- 7.1.4 A member of the Executive Council of a province;
- 7.1.5 An executive mayor of a municipality;
- 7.1.6 A leader of a registered political party;
- 7.1.7 A member of a royal family or senior traditional leader;
- 7.1.8 The head, accounting officer, or chief financial officer of a national or provincial department or government component as defined in section 1 of the Public Service Act, 1994 (Proclamation No. 103 of 1994);
- 7.1.9 The municipal manager or a chief financial officer of a municipality;
- 7.1.10 The chairperson of the controlling body, the chief executive officer, or a natural person who is the accounting authority, the chief financial officer or the chief investment officer of a public entity listed in Schedule 2 or 3 to the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- 7.1.11 The chairperson of the controlling body, chief executive officer, chief financial officer, or chief investment officer of a municipal entity;
- 7.1.12 A constitutional court judge or any other judge as defined in section 1 of the Judges' Remuneration and Conditions of Employment Act, 2001 (Act No. 47 of 2001);
- 7.1.13 An ambassador, high commissioner or other senior representative of a foreign government based in the Republic; or
- 7.1.14 An officer of the South African National Defence Force above the rank of major-general;
- 7.1.15 Chairperson of the board of directors, chairperson of the audit committee, executive officer or chief financial officer, of a company if the company provides goods or services

to an organ of state and the annual transactional value of the goods or services or both exceeds an amount determined by the Minister by notice in the Gazette; or

- 7.1.16 The position of head, or other executive directly accountable to that head of an international organisation based in the Republic.

## **7.2 Foreign Prominent Public Official (FPPO)**

A foreign prominent public official is an individual who holds, or has held (at any time in the preceding 12 months), a prominent public function in any foreign country, including that of a:

- 7.2.1 Head of State or head of a country or government;
- 7.2.2 Member of a foreign royal family;
- 7.2.3 Government minister or equivalent senior politician or leader of a political party;
- 7.2.4 Senior judicial official;
- 7.2.5 Senior executive of a state-owned corporation; or
- 7.2.6 High-ranking member of the military.

## **7.3 Close Associates**

Close associates are individuals who are intricately connected to a DPIIP or FPPO, either socially or professionally. This category includes close business associates or partners. This is especially the case where they share beneficial ownership of legal entities with the DPIIP or FPPO, or are otherwise connected (for example, through joint membership on a company board). It also includes personal or financial advisors, consultants, and persons acting in a fiduciary capacity to the politically exposed person. In addition, it includes any other person who benefits significantly because of being close to such a person, including:

- 7.3.1 Known sexual partners outside the family unit.
- 7.3.2 Prominent members of the same political party, civil organisations, labour, or employee union as the prominent person.
- 7.3.3 Business partner, associates, especially those who share beneficial owners of legal entities with the prominent person, or those who are otherwise connected.
- 7.3.4 Any person who has sole beneficial ownership of a legal entity or legal arrangement which was set up for the actual benefit of the prominent person.

## **7.4 Family Members**

Family members are people who are related to the DPIIP or FPPO, either directly (consanguinity) or through marriage or similar civil partnerships. Business relationships with close family members of DPIIPs or FPPOs pose risks similar to those with DPIIPs or FPPOs

themselves. Organisations must, therefore, ensure that proper systems and procedures are in place to aptly identify and monitor the activities of family members.

The following assist in identifying family members:

- 7.4.1 Spouses and life partners;
- 7.4.2 Children and siblings;
- 7.4.3 Parents and grandparents;
- 7.4.4 Uncles and aunts;
- 7.4.5 Nephews and nieces; and
- 7.4.6 Relatives by marriage.

## **8. POLICY PROVISIONS**

### **IDENTIFICATION OF A DOMESTIC PROMINENT INFLUENTIAL PERSONS (DPIP) AND FOREIGN PROMINENT PUBLIC OFFICIALS (FPPO)**

Identification of a DPIP or FPPO must take place before forming a business relationship or concluding a transaction with prospective service providers, counterparties, investors, and/or other suppliers, including their beneficial owners. Identification must also be conducted periodically by screening all service providers, counterparties, investors and/or other suppliers (including beneficial owners) against publicly available information sources. The DPIP or FPPO Annexure to this Policy outlines the process for identifying and managing DPIP or FPPO business relationships.

## **9. LEGISLATIVE FRAMEWORK**

This Policy should be read *inter alia* in conjunction with the following:

### **9.1 Internal Documents**

- 9.1.1 Delegation of Authority Framework
- 9.1.2 Code of Ethics;
- 9.1.3 Code of Conduct
- 9.1.4 Combined Assurance Policy;
- 9.1.5 The Conflict of Interest Policy;
- 9.1.6 Fraud and Corruption Policy;
- 9.1.7 Whistleblower Policy;
- 9.1.8 FICA Policy;
- 9.1.9 Non-Executive Directorship and Trusteeship Policy;
- 9.1.10 Credit and Fleet Card Policy;
- 9.1.11 Petty Cash Policy;

- 9.1.12 Debt Management Policy;
- 9.1.13 Trade Payables Policy;
- 9.1.14 Procurement Policy for Goods and Services;
- 9.1.15 Procurement Policy for Infrastructure Goods and Services;
- 9.1.16 Policy for Sourcing of Funding;
- 9.1.17 Board Conflict of Interest Policy;
- 9.1.18 Declaration of Interest and Related Party Disclosures Policy for Employees; and
- 9.1.19 Other relevant policies and procedures.

## **9.2 Regulatory Requirements and External Documents:**

- 9.2.1 JSE Debt Listing Requirements;
- 9.2.2 Protection of Personal Information Act, 2013 (Act No. 4 of 2013);
- 9.2.3 Promotion of Access to Information Act;
- 9.2.4 Financial Intelligence Centre Act, 2001 as amended (Act No. 38 of 2001);
- 9.2.5 Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004);
- 9.2.6 Prevention of Organised Crime Act, 1998 (Act No. 121 of 2009);
- 9.2.7 Public Finance Management Act, 1999 (Act No. 1 of 1999);
- 9.2.8 Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004); and
- 9.2.9 Financial Action Task Force (FATF) Guidance on Politically Influential Persons, June 2013.

## **10. MONITORING AND REPORTING**

- 10.1** Once TCTA has established a business relationship with a DPIIP or FPPO, the Compliance Department will conduct regular monitoring on the PIPs and advise the business on any material changes that may be uncovered.
- 10.2** The Compliance Department will then provide EXCO and the Audit and Risk Committee with quarterly reports on all approved transactions with DPIIPs/ FPPOs or an urgent report when there is any known and verified adverse report about a DPIIP or FPPO or any other client classified as high risk.

## **11. POLICY GOVERNANCE**

### **11.1 Policy Review**

This Policy will be reviewed on a three-year cycle, in line with TCTA's Board-approved framework, by the Policy owner to ensure it is up to date and aligned with TCTA's risk

appetite. In addition, this Policy will be reviewed following any substantive changes to DPIIP or FPPO legislation, or in response to internal or external factors, including regulatory feedback, if such changes occur earlier than the policy review cycle.

### **11.2 Consequences of Non-Compliance**

Non-Compliance with this Policy could have serious consequences for TCTA, including civil/criminal penalties, injunctions, loss of clients and reputational damage. All employees are responsible for understanding how this Policy applies to their role. Non-Compliance with the a DPIIP or FPPO policy will be taken seriously. In cases of non-compliance, a remedial action will be taken in line with TCTA's disciplinary processes and procedures.

### **11.3 Policy Breaches**

All Policy incidents and breaches must be reported to the Compliance Officer. The TCTA employees may also report by completing the Suspicious Transaction Report (STR) where applicable. TCTA will take appropriate action after considering all relevant details. The Compliance will involve the Financial Intelligence Centre as required for any violations. A breach of this Policy may, in some circumstances, result in disciplinary action up to and including dismissal.

### **11.4 Policy Implementation**

The Compliance Officer is responsible for developing a suitable communication plan to publicise the Policy and its key features to all employees.

### **11.5 Exclusions**

There are no exclusions to this policy.

## **12 MONEY LAUNDERING REPORTING OFFICER DETAILS**

### **12.1** The details of the MLRO are:

Email: [AOlukunle@tcta.co.za](mailto:AOlukunle@tcta.co.za)

**Tel:** (012) 683 1317

Alternative contact in the absence of FICA Compliance Officer, please forward queries to the Compliance Officer @ [smabaso@tcta.co.za](mailto:smabaso@tcta.co.za) or contact (012) 683 1276.

13 ROLES AND RESPONSIBILITIES

ROLE	RESPONSIBILITY
<b>Board</b>	The Board is ultimately responsible for establishing Money Laundering and Terror Financing control measures within TCTA. This responsibility has been delegated but not abdicated to the Chief Executive Officer (CEO).
<b>CEO</b>	The CEO's responsibility is to effectively manage TCTA's anti-money laundering regime/programme across the organisation, to assign/delegate responsibilities to ensure the effective management of money laundering risks within TCTA.
<b>CRO</b>	THE CRO is responsible for the implementation of this Policy; ensure that there are controls in place to monitor the implementation of the Policy; ensure that the requirement of this Policy is incorporated into all other relevant processes across TCTA; and review the Policy in accordance with the relevant regulations, policies, and procedures.
<b>Compliance</b>	Conduct DPIIP or FPPO periodic review and provide guidance to inform decision making; Conduct Due Diligence and complete and sign the DPIIP or FPPO Reporting Form; Conduct ongoing monitoring of DPIIP or FPPO as part of compliance monitoring process and/or as part of trigger events; Keep records of all approved DPIIP or FPPO due diligence reports as required by the Act; ensure that there is an ongoing training and awareness on the Policy and the Act.
<b>Executive Committee (EXCO)</b>	Exco is responsible for considering and approving the establishment of business relationships involving DPIIPs and FPPOs, and for reviewing existing business relationships in which a DPIIP or FPPO is introduced after initial approval of the relationship.
<b>FICA Compliance Officer (Currently, there is no appointed FICA Compliance officer in terms of the act; the Assistant Compliance Officer performs this</b>	Provide the necessary resources required to implement the Policy across TCTA; <del>Ensure reporting in accordance with relevant</del>

<i>function).</i>	regulatory requirements and other governance protocols / instruments of control.
<b>Senior Managers</b>	Ensure that all activities as prescribed by the Act are carried out in their divisions in line with the provisions of this Policy for compliance purposes; Ensure that their subordinates across TCTA comply with this Policy and relevant legislation.
<b>Employees</b>	Comply with the provisions of this Policy; and disclose their status as and when necessary, as per the Declaration of Private Interest Policy.