

**Business Facilitation Advisory Committee
Wholesale and Retail Task Force**

***Regulatory Regime for
Dealers in Precious Metals and Stones under the
Anti-Money Laundering and Counter-Terrorist Financing Ordinance
(Cap. 615)***

Purpose

This paper is to provide information to Members on:

- (i) The scope of registration for dealers in precious metals and stones (“DPMS”) in Hong Kong; and
- (ii) The DPMS Registration System (“DRS”).

Background

2. To enhance the regulatory regime for combating money laundering and terrorist financing (“ML/TF”) in fulfilment of Hong Kong’s obligations under the Financial Action Task Force (“FATF”), the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (“AMLO”) (Cap. 615) has been amended to introduce the registration requirements of DPMS on 1 April 2023. The Customs and Excise Department (C&ED) is responsible for the administration of the regime which includes processing relevant applications, taking enforcement actions and supervising the anti-money laundering and counter-terrorist financing (“AML/CTF”) conduct of registrants.

Scope of the DPMS Regulatory Regime

3. A dealer in precious metals and stone is any person carries on any of the following activities by way of business:

- (a) trading in (including purchasing and selling), exporting or importing precious metals, precious stones or precious products;
- (b) manufacturing, refining or carrying out any value adding work on precious metals, precious stones or precious products;
- (c) issuing, redeeming or trading in precious-asset-backed instruments; or
- (d) acting as an intermediary in respect of any of the activities in paragraph (a), (b) or (c).

4. The four types of articles covered under the regime are as follows:

- (a) Precious metal: gold, silver, platinum, iridium, osmium, palladium, rhodium or ruthenium, in a manufactured or unmanufactured state;
- (b) Precious stone: diamond, sapphire, ruby, emerald, jade or pearl, whether natural or otherwise;
- (c) Precious product: any jewellery or watch that is made up of, containing or having attached to it, any precious metal or precious stone, or both;
- (d) Precious-asset-backed instrument: any certificate or instrument backed by one or more precious metals, precious stones or precious products that entitles the holder to such assets (in entirety or in part); but does not include -
 - (i) any securities, a futures contract, any interest in a collective investment scheme, a structured product or an OTC derivative product as defined by the Securities and Futures Ordinance (Cap. 571); or
 - (ii) a virtual asset.

Two Categories of Registration

5. Any person who is seeking to carry on a business of dealing in precious metals and stones in Hong Kong and engage in any transaction(s) (whether making or receiving a payment) with total value at or above

HKD120,000¹ in Hong Kong is required to register with the Commissioner of Customs and Excise.

6. There are two categories under the registration regime:
 - (a) Any dealer who intends to engage in non-cash transaction(s) with total value at or above HKD120,000 in the course of business is required to register as a Category A registrant.
 - (b) Any dealer who is seeking to engage in cash transactions with total value at or above HKD120,000 and non-cash transactions with total value at or above HKD120,000 in the course of business is required to register as a Category B registrant. A Category B registrant is subject to AML/CTF supervision.
7. For dealers who carry out cash or non-cash transaction(s) with total value below HKD120,000, no registration is required.

Exemptions

8. Entities exempted from the registration requirements include:
 - (a) banks;
 - (b) certain financial institutions that are already regulated under the AMLO (Cap. 615) and whose precious metals and stones business is ancillary to their principal business;
 - (c) pawnbrokers which are already subject to the regulation of the Pawnbrokers Ordinance (Cap. 166); and
 - (d) non-Hong Kong precious metals and stones dealers².

¹ The HKD120,000 threshold includes an equivalent amount in another currency.

² Non-Hong Kong precious metals and stones dealers must file a cash transaction report to the Customs and Excise Department in respect of any cash transaction(s) (whether making or receiving a payment) with total value at or above HKD120,000.

Application for Category A registration

9. Application for Category A registration is simple and straightforward. An applicant holding a valid business registration certificate or hawker's licence can file an application accompanied with details on all business premises, a correspondence address and a declaration that the applicant's precious metals and stones business is carried out for a lawful purpose. The Category A registration would remain valid as long as the registrant continues to stay in business and pay the annual fee.

Application for Category B registration

10. Application for Category B registration, like other designated non-financial businesses and professions ("DNFBPs") regulated under the AMLO (Cap. 615), is subject to the meeting of a fit-and-proper test by the applicant. Besides, the applicant is required to demonstrate its capability in fulfilling the AML/CTF requirements³ stipulated in Schedule 2 of the AMLO (Cap. 615) and the "Guideline on AML/CTF for Category B Registrants dealing in precious metals and stones", in addition to the holding of a valid business registration certificate or hawker's licence and provision of all business premises addresses and a correspondence address. The Category B registration would normally be valid for three years and renewal application must be submitted at least 60 days before the registration is due to expire.

Penalty

11. Any dealer, other than a registrant, claims to be a registrant, claims to be authorized to carry out, or carries out any cash or non-cash transaction(s) with total value at or above HKD120,000 is liable on conviction to a maximum fine of HKD100,000 and imprisonment for six months.

12. Apart from criminal penalties, any registrant not in compliance with the requirements stipulated in the AMLO (Cap. 615) or any registration condition may be subject to disciplinary actions or suspension/cancellation of registration.

³ Category B registrant, when engages in any cash transaction(s) with total value at or above HKD120,000, is subject to the requirements of Schedule 2 of the AMLO (Cap. 615), such as customer due diligence and record keeping. The objective is to help the registrant to determine the ML/TF risks and take appropriate AML/CTF measures to address them.

DPMS Registration System

13. To advocate the Government's vision to develop Hong Kong into a smart city, the DRS was rolled out on 31 March 2023. The DRS website can be accessed through the C&ED Homepage (<https://www.customs.gov.hk/>) or its dedicated website (<https://www.drs.customs.gov.hk>).

14. The DRS is an online system developed by the C&ED to support 7x24 submission of registration applications and progress checking by trade. At the same time, the Dynamic QR code authentication technology has been adopted on the DRS. It is the first time for a Government registration system to apply this technology and enable the industry and consumers to instantly validate the authenticity of a dealer's registration, thus benefiting both law enforcement and trade facilitation.

15. A register of registrants is also available for public inspection at the website <https://www.drs.customs.gov.hk>.

Advice Sought

16. Members are invited to note the content of this paper for information.

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