



Canada: New Requirements for Dealers in Precious Metals and Stones

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Summary

The purpose of this document is to highlight the new legislative requirements under the Proceeds of Crime (Money Laundering) Terrorist Financing Act (PCMLTFA) which applies to Dealers in Precious Metals and Stones (DPMS) effective on December 30, 2008. A DPMS is defined as a person or an entity that, in the course of its business activities, buys or sells precious metals, precious stones or jewelry, generally for purposes other than manufacturing. A DPMS will have to comply with the Anti-money Laundering (AML) regulations and have a Compliance Regime in place by December 30, 2008.

CS Toronto contacted Mr. Ken Mulhall, President and CEO of the Canadian Jewellers Association, who stated that up to this date these were the only requirements pertaining to Dealers in Precious Metals and Stones under the Proceeds of Crime (Money Laundering Terrorist Financing ACT (PCMLTF). The Canadian Jewellers Association and the Financial Transactions and Reports Analysis Centre of Canada are working together on this issue.

Overview

As of December 30, 2008 a Dealer in Precious Metals and Stones (DPMS) is subject to the requirements listed below if they engage in the purchase or sale of precious metals, precious stones or jewelry in an amount of \$10,000 or more in a single transaction. In other words, you are not subject to these requirements if you engage only in purchases or sales less than \$10,000 per transaction.

The purchases or sales referred to above exclude those carried out for, connected with, or for the purpose of:

- manufacturing jewelry
- extracting precious metals or precious stones from a mine; or
- cutting or polishing precious stones.

In other words, if all your purchases and sales are related to these manufacturing, extracting, cutting or polishing activities, you are not subject to these requirements.

If you are an agent of the Crown (i.e. a government department or an agent of her Majesty in right of Canada or of a province), you are also considered a dealer in precious metals and stones and subject to the requirements listed below if you ever sell precious metals to the public in an amount of \$10,000 or more in a single transaction.

Precious metals include gold, silver, palladium, whether in coins, bars, ingots, granules or in any other similar form. Precious stones include diamonds, sapphires, emeralds, tanzanite, rubies or alexandrite. Jewelry means, precious stones or pearls intended for personal adornment.

If you are an employee of a reporting entity, these requirements are the responsibility of your employer except with respect to reporting suspicious transactions and terrorist property, which is applicable to both.

Reporting

Suspicious Transactions:

You must report where there are reasonable grounds to suspect that a transaction or an attempted transaction is related to the commission or attempted commission of a money laundering offence or a terrorist activity financing offence.

Terrorist Property:

You must report where you know that there is property in your possession or control that is owned or controlled by or on behalf of a terrorist or a terrorist group.

Large Cash Transactions:

You must report large cash transactions involving amounts of \$10,000 or more received in cash.

Record Keeping

You must keep the following records:

- Large cash transaction records
- Copies of suspicious transaction reports

Ascertaining Identity

You must take specific measures to identify the following individuals:

- Any individual who conducts a large cash transaction
- Any individual for whom you have to send a suspicious transaction report (reasonable measures and exceptions apply)

Third Party Determination

When a large cash transaction is required, you must take reasonable measures to determine whether the individual is acting on behalf of a third party.

In cases where a third party is involved, you must obtain specific information about the third party and their relationship with the individual providing the cash

Compliance Regime

The following five elements must be included in a compliance regime:

- The appointment of a compliance officer
- The development and application of written compliance policies and procedures
- The assessment and documentation of risks of money laundering and terrorist financing and measures to mitigate high risks
- Implementation and documentation of an ongoing compliance training program
- A documented review of the effectiveness of policies and procedures, training program and risk assessment

Information Sources

Financial Transactions and Reports Analysis Centre of Canada (Fintrac) – <http://www.fintrac-canafe.gc.ca>
Canadian Jewellers Association - <http://www.canadianjewellers.com/>

For More Information

The U.S. Commercial Service in Toronto, Canada can be contacted via e-mail at: Eli.Osores@mail.doc.gov ;
Phone: 1-416-5955412, ext. 221; Fax: 1-416-595-5419; or visit our website: www.buyusa.gov/canada/en/

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