



Department of the Treasury Financial Crimes Enforcement Network

Ruling

FIN-2012-R002

Issued: May 25, 2011

Subject: Definition of Precious Metals in the Interim Final Rule Requiring Anti-Money Laundering Programs for Dealers in Precious Metals, Stones, or Jewels

Dear []:

I am responding to your request for an administrative ruling, dated May 9, 2010, on behalf of [] to the Financial Crimes Enforcement Network (“FinCEN”). You have requested a ruling regarding whether finished goods that contain less than 500 parts of gold, silver or platinum group metals per thousand, but derive 50 percent or more of their value from these precious metals, would be defined as “covered goods” under the Bank Secrecy Act (“BSA”), and therefore would require dealers in such goods to implement an anti-money laundering (“AML”) program.

According to 31 CFR § 1027.100(a),¹ “covered goods” are defined to include “precious metals (as defined in paragraph (d) of this section)” and “finished goods...that derive 50 percent or more of their value from jewels, precious metals, or precious stones contained in or attached to such finished goods.” According to 31 CFR § 1027.100(d),² “precious metal” means:

- “(1) Gold, iridium, osmium, palladium, platinum, rhodium, ruthenium, or silver, having a level of purity of 500 or more parts per thousand; and
- (2) An alloy containing 500 or more parts per thousand, in the aggregate, of two or more of the metals listed in paragraph (d)(1) of this section.”

In order to determine if a finished good meets the definition of “covered good,” a business must first determine if the finished good contains “precious metal” as defined in 31 CFR § 1027.100(d). Specifically, the gold or platinum group metals, or an alloy of these metals (collectively, “the metals”),³ contained in the finished good must have a level of purity of 500 or

¹ Formerly 31 CFR § 103.140(a)(1).

² Formerly 31 CFR § 103.140(a)(4).

³ FinCEN Ruling 2006-1 holds the requirements of 31 CFR § 1027.210 in abeyance with respect to dealers in silver. In the event that ruling is superseded, the discussion of “precious metal” in the present ruling could also include silver.

more parts per thousand to be considered a “precious metal” as defined by FinCEN. If the metals contained in a finished good do not have a level of purity of 500 or more parts per thousand, then they are not a “precious metal” as defined by the BSA implementing regulations. Consequently, a finished good containing metals that do not have a level of purity of 500 or more parts per thousand, even when the value of such metals constitutes more than 50 percent of the value of the finished good, is not a “covered good.” Accordingly, a business would not be required to include such finished goods in its determination of whether it met the criteria for being considered a “dealer,”⁴ and would not be required to consider such goods within the scope of its AML program, should such a program otherwise be required.

Alternatively, if the metals contained in a finished good meet the definition of “precious metal” under the BSA implementing regulations and the finished good derives 50 percent or more of its value from the precious metals, precious stones, or jewels contained in or attached to the finished good, the finished good would be considered a “covered good.” Accordingly, a business would be required to include such goods in its determination of whether it met the criteria for being considered a “dealer,” and would be required to consider such goods within the scope of its AML program should such a program be required.

This ruling is provided in accordance with the procedures set forth at 31 CFR § 1010.711.⁵ In arriving at the conclusions in this letter, we have relied upon the accuracy and completeness of the representations made in your letter. Nothing precludes us from reaching a different conclusion or taking further action if circumstances change or any of the information provided is inaccurate or incomplete. We reserve the right, after redacting your name, and your company’s name and address, to publish this letter as guidance to financial institutions in accordance with our regulations. You have fourteen days from the date of this letter to identify any other information you believe should be redacted and the legal basis for redaction.

If you have questions about this ruling, please contact FinCEN's regulatory helpline at (800) 949-2732.

Sincerely,

//signed//

Jamal El-Hindi
Associate Director
Regulatory Policy and Programs Division

⁴ See 31 CFR 1027.100(b) (formerly 31 CFR 103.140(a)(2)).

⁵ Formerly 31 CFR § 103.81.