



DEALERS IN PRECIOUS METALS AND STONES AND PAWN BROKERS

INTRODUCTION

- ▶ In 2018, the Bahamas decided that new AML/CFT laws were necessary for Dealers in Precious Metals and Stones (DPMS) and Pawn Brokers as they were inherently exposed to money laundering and terrorism financing risks, and to bring the Bahamas' regime in line with international standards set by the Financial Action Task Force. No cases of ML or TF within this sector has been reported (information obtained from FIU), however, DPMS are significantly vulnerable to domestic ML risks and international ML/TF risks. In May 2018 the FTRA 2018 was enacted to include DPMS's which are considered Designated Non - Financial Businesses and Professions (DNFBP's) as defined in section four (4) of the act and subjected to all obligations of the Act.

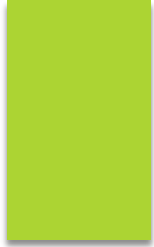
WHO IS A DEALER IN PRECIOUS METALS AND STONES

- ▶ For purposes of this presentation (as per the Financial Action Task Force), the term "**dealer**" encompasses a wide range of persons engaged in these businesses, from those who produce precious metals or precious stones at mining operations, to intermediate buyers and brokers, to precious stone cutters and polishers and precious metal refiners, to jewellery manufacturers who use precious metals and precious stones, to retail sellers to the public, to buyers and sellers in the secondary and scrap markets.

Source - *Financial Action Task Force Risk Based Approach Guidance for Dealers in Precious Metal and Stones*

WHEN IS A DEALER A FINANCIAL INSTITUTION

- ▶ Dealers in Precious Metals and Precious Stones (DPMS) & Pawn Brokers in The Bahamas are subject to the money laundering laws on two levels. On the first level, all DPMS's are subject to the provisions of the Proceed of Crime Act (POCA) 2018 in common with all citizens and others affected by this Act.
- ▶ On the second level, all DPMS who offer prescribed financial services under section 4 (c) of the FTRA, in addition to being subject to the POCA, also subject to the AML/CFT regime contained in the FTRA, the FIUA, all Regulations and Guidelines made pursuant to these Acts.



When providing prescribed financial services under section 4 (c) of the FTRA.

- ▶ Dealers in Precious Metals, Precious Stones & Pawn Brokers are financial institutions for AML/CFT purposes in any situation when he engages in, or carries out transactions for a client concerning:
 - ▶ (i) buying for the purpose of trade, sale, exchange, or otherwise dealing in any previously owned precious metals or precious stones, whether altering the same after acquisition or not; or
 - ▶ (ii) lending of cash on the security(pawn) of previously owned precious metals or precious stones of which the person takes possession, but not ownership, in expectation of profit, gain or reward.

WHAT ARE PRECIOUS METALS AND STONES



PRECIOUS METALS



PRECIOUS STONES



FINISHED JEWELRY

WHAT ARE PRECIOUS METALS AND STONES

- ▶ Precious metals are defined as any article made of or containing gold, silver or platinum and such other precious metal as may be prescribed and precious stones, includes diamonds, rubies, sapphires and emeralds as per part two (2) of the FTRA.
- ▶ Therefore, a person whose business or any part of whose business consist of providing services in the circumstances specified in section 4(c)(i) and (ii) of the FTRA, they are designated as a financial institution and are required to be registered with the Commission and meet the AML/CFT obligations defined in the FTRA.

WHAT ARE PRECIOUS METALS AND STONES

Precious Metals

- ▶ RHODIUM
- ▶ PLATIDIUNUM
- ▶ GOLD (ALL FORMS)
- ▶ SILVER
- ▶ IRIDIUM
- ▶ OSMIUM
- ▶ PALLADIUM
- ▶ INDIUM

Precious Stones

- ▶ DIAMONDS
- ▶ RUBIES
- ▶ EMERALDS
- ▶ SAPPHIRES
- ▶ TANZANITE
- ▶ OTHER LOOSE STONES

OBLIGATIONS OF DPMS

- ▶ Dealers in precious metals and stones (DPMS) must fulfill specific obligations under the FTRA 2018 and associated Laws to help combat money laundering, and terrorist financing in The Bahamas.
- ▶ Dealers in Precious Metals and Precious Stones/ Pawn Shops must meet the obligations of the FTRA including registering with the CC, implementing an AML/CFT compliance program, and are subject to risk- based examinations.

OBLIGATIONS OF DPMS

- ▶ Dealers in Precious Metals and Precious Stones/ Pawn Shops are subject to **Customer Due Diligence (CDD)** obligations, as specified in Section VII (codes), whenever the company engages in a single transaction, equal to or above or linked transactions in the amount of B\$15,000. (B\$15,000 threshold transaction amount for CDD).

- ▶ **The Financial Transaction Reporting Regulation (FTRR) Part II - Designated Amounts**

See **Section 3 (c)** Designated amounts for Due Diligence.

For the purpose of Part II of the Act, the designated amounts shall be in respect of -

(c) Financial transactions of jewelers and other dealers of precious stones and metals, whether such transaction is a single or are linked which is equal to or not exceeding fifteen thousand dollars (\$15,000).

OBLIGATIONS OF DPMS

- ▶ Dealers in Precious Metals and Precious Stones/Pawn Shops must conduct **simplified due diligence** on transactions below \$15,000. The simplified due diligence requirement is to identify the customers (i.e. name of customer & contact information e.g. phone number & address). There is no requirement to verify the customer's identity. However, the business relationship should be continually monitored for trigger events which may create a requirement for further due diligence in future.

OBLIGATIONS OF DPMS

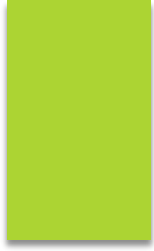
- ▶ Dealers must perform CDD where it suspects money laundering or terrorism financing, and where it has reason to doubt the veracity or adequacy of information obtained from earlier CDD.
- ▶ Dealers must also perform any prescribed measures relating to anti-terrorism sanctions, ministerial directives or to give effect to recommendations of the Financial Action Task Force.

A dealers' main obligations under the AML/CFT laws

- ❖ Register with the CC;
- ii. Submit STR reports to the FIU;
- iii. No “Tipping-off”;
- iv. Keep Records;
- v. Ascertain customer identity;
- vi. Ascertain whether the customer is acting for a Third Party;
- vii. Appoint a Compliance Officer and Money Laundering Reporting Officer;
- viii. Develop and implement an effective AML Compliance Programme

OBLIGATIONS UNDER THE AML/CFT LAWS

- ▶ Conduct and document a risk assessment of the company's inherent risks to determine the level of exposure to the risks of money laundering, terrorist financing, proliferation financing;
- ▶ Establish written risk-based policies and procedures that comply with the provisions of AML laws and guidelines;
- ▶ Identify and verify customers and their source of funds;
- ▶ Appoint a CO and a MLRO;



- ▶ Keep transaction, identification and verification records;
- ▶ Conduct on-going monitoring of customer transactions;
- ▶ Report suspicious transactions to the FIU;
- ▶ Ensure the management and appropriate staff receive AML/CFT training annually;
- ▶ Conduct internal AML compliance reviews of its operations at least once per year; and
- ▶ Submit to AML examination by the Commission and its appointed agents.

RISK-BASED EXAMINATION

- ▶ The Commission carries out its supervisory oversight by means of a risk assessment exercise, as well as an on-site and off-site examination programmes.
- ▶ The outcome of the risk assessment along with the latest on-site examination evaluation, will determine the frequency and intensity of the Commission's examination program of the company.
- ▶ For a complete overview of what is expected please read **"THE COMPLIANCE COMMISSION OF THE BAHAMAS CODES OF PRACTICE FOR DEALERS IN PRECIOUS METALS AND PRECIOUS STONES"** issued April 2019 which can be found on The CC's website

VULNERABILITIES OF DEALERS IN PRECIOUS METALS AND STONES

The key risks and vulnerabilities identified by The Bahamas ML/TF National Risk Assessment within the Dealers in Precious Metals and Precious Stones, for which dealers should observe and seek to mitigate the various operational risks of their businesses are noted below.

- ▶ This sector which is highly cash intensive can attract criminals to launder money due to the high value items sold which can provide a way for criminals to place large amounts of illicit funds into the financial system. Criminals can also have an avenue to disguise the origin of funds.
- ▶ The risk increases when the transaction is conducted in cash where it is more difficult to trace the origin of the funds.

VULNERABILITIES OF DEALERS IN PRECIOUS METALS AND STONES CONT'D

- ▶ Liquidity of products in precious metals and stones, particularly gold and diamonds, offer the advantage of having a high intrinsic value in a relatively compact form. They can be “cashed” easily in most areas of the world. Hence, they are vulnerable to be used in money laundering for their ease to be hidden and transported.
- ▶ Precious stones and metals are portable, highly valuable, and can be easily bought and sold.
- ▶ These characteristics make it easier for criminals (including terrorists) to exploit them to launder their illicit funds.

VULNERABILITIES OF DEALERS IN PRECIOUS METALS AND STONES CONT'D

- ▶ Criminals are also known to use funds obtained from their illegal activity to buy precious metals and stones, and subsequently convert them back to cash. Such precious commodities could also be used directly to support criminal activities.
- ▶ Precious metals and precious stones are easily transportable, highly liquid and a highly concentrated bearer form of wealth. They serve as international mediums of exchange and can be converted into cash anywhere in the world. In addition, precious metals, especially gold, silver and platinum, have a readily and actively traded market, and can be melted into various forms, thereby obliterating refinery marks and leaving them virtually untraceable.

VULNERABILITIES OF DEALERS IN PRECIOUS METALS AND STONES CONT'D

- ▶ The regulatory characteristics of the gold market makes it attractive for organized crime groups to own cash-for-gold businesses in order to place and integrate illicit proceeds. Given the limited level of industry oversight and licensing requirements, cash-for-gold businesses have the potential to provide criminal groups with a continuous supply of untraceable gold commodities from various sources. Furthermore, this supply is purchased at below market cost, directly from the general public—who do not have to prove that they own the second-hand gold presented for sale. The high-volume, low value transactions conducted through these cash-intensive businesses can be easily falsified or co-mingled with the proceeds of crime, while the purchased gold can be used to make untraceable gold-based payments for illicit goods and services.

VULNERABILITIES OF DEALERS IN PRECIOUS METALS AND STONES CONT'D

- ▶ Because much of the recycled material is purchased in cash, large numbers of transactions are undertaken anonymously. Individuals who have a need to launder cash, especially those involved in organized crime, are very willing to participate in the cash-for-gold business because there is a high propensity to make a profit and in most jurisdictions, there is little governance or oversight of this type of activity. People with no criminal history are also prepared to undertake this activity even if they suspect that the purpose of the activity is ML. Trade in recycled gold, both legal and illegal, requires little start-up capital and therefore operations can be very itinerant (easily moveable), opening and closing with little difficulty. This adds to the difficulty for regulators to monitor these activities.

CENTRAL BANK REPORT BY: GOV. JOHN ROLLE

- ▶ “First, many segments which the international community and standards setting bodies flag as susceptible are simply too small in The Bahamas to constitute a material money laundering risk in the domestic economy. Examples include diplomatic establishments, pawnshops, and wholesale jewellery stores. Second, nearly all segments are dominated by non-cash deposits. When looking at retail jewellery stores, for example, very low cash flows were evident, with electronic payments such as credit and debit cards, and other traceable instruments settled through the wholesale and retail clearing houses more notable.”

CENTRAL BANK SURVEY

- ▶ The Central Bank of The Bahamas (CBOB) had conducted a special survey of domestic bank deposit cash inflows for the 2018 calendar year. The survey applied to all the material domestic banks and was intended to better identify industry segments that are, and are not, potential sources of material money laundering risk.

TOTAL DEPOSITS, ALL CURRENCIES

Industry Segments	Total Deposits Received	Notes & Coins	Other Deposits
Jewelry Stores	\$116m	\$16m	\$100m
Wholesale jewelers, precious metals, and loose stone dealers	\$3m	\$2m	\$1m
Pawnshops	-	-	-



BSD denominated deposit inflows


Jewelry stores receive about 85 per cent of deposits flowing from non-cash sources. It is unlikely that Bahamian jewelry stores are a source of material money laundering.

Implications for Bahamian AML Strategies

The exercise has concentrated on identifying industry segments that are, as a practical matter, unlikely to present material money laundering risks. We feel reasonably confident in asserting that the wholesale jewelry and pawnshop are simply too small to pose a material financial crime threat to the Bahamian domestic banking industry. Jewelry stores, receive only a small proportion of their deposits from cash, which suggests they are unlikely to provide material scope for money laundering.

CC's Analysis

- ▶ The CC has obtained twenty three (23) risk assessment questionnaires from companies in which they were issued for completion. Based on the information received thus far, compliance is practiced at a low to nonexistent rate; there also seems to be a lack or limited understanding by executives on what a compliance regime is and how to fully implement a compliance programme. In the Bahamas, the customer base is mainly determined by the location of the business and the products being sold; there are DPMS (smaller companies, lower quality products) that have a local client base of almost 90% because of it's location in the inner city limits. The Down Town, Paradise Island and Cable Beach area has the larger companies with high valued products. They would have a different client base because of the proximity to the cruise ports and the major hotels in which they would have a greater percentage of foreign customers.



The lack of a compliance programme is evident with regard to KYC and customer CDD; the majority (95%) of companies stated that KYC is not a requirement for a transaction to be approved (despite the amount of the sale). All of the assessments stated that their companies do not do business with PEP's which cannot be determined because there is no KYC requirement in place providing information on each customer (domestic or foreign).

All (whole sale purchases) transactions are conducted between companies which are in non- sanctioned countries, companies with an extensive history of doing good business and companies where DPMPS's are currently under regulation. All business transactions are done face to face between the whole sale company (foreign entity) and the retailer (Bahamian DPMPS); funds are also paid directly to the wholesaler.

DEALERS IN PRECIOUS METALS AND PRECIOUS STONES - TYPOLOGIES

- ▶ **Source: APG Typologies Report 2018 - Japan**
- ▶ Money launderers purchased precious metals by cash derived from theft. They have conducted anonymous transactions and gave false information on customer identification (pretending to be another person or providing falsified identification documents when concluding sales contracts).



Source: APG Typologies Report 2013 - THAILAND

Thai baht currency exchanged for foreign currencies used to buy gold

The case involved the proceeds of drug trafficking in Thai baht being exchanged for foreign currency with money changers who also conducted a currency distribution business.


Steps in the laundering process included:

- 1) The money derived from drug trafficking was exchanged for foreign currency before being smuggled out of Thailand. (Foreign currency can be taken out of Thailand, but must be declared at customs.)
- 2) 2) The foreign currency originating from the drug trade deals was later used to buy gold.
- 3) 3) When the gold was sold, the proceeds from the sale were treated as business income 'in good faith'.

Brazil - 2018

How a governor, a banker and a jewelry store banded together to create an international money laundering scheme that diverted money from the public coffers.

It looked like the perfect crime. Contractors hired by the State Government of Rio de Janeiro paid bribes in cash to politicians, who bought expensive jewelry from H. Stern without an invoice. Then, the jewelry shop executives took the money into a banker's office who acted as a money changer. The money went through successive accounts of front companies in tax havens until it arrived, converted into dollars, to the holding company of the jewelry store abroad. To provide legality to the transactions, loans with retroactive dates were forged between the TAG Bank, based in Panama, and the fake companies and the holding company. On average, this circuit would take two days to complete and moved, according to Federal Police estimates, R \$ 90 million between 2009 and 2015.



All was well until clues gathered in the Lava Jato investigation triggered the Hashtag operation, which arrested banker Eduardo Plass on Friday the 3rd. Released on a bail of \$ 90 million on Wednesday (8), he was the manager of this international money laundering operation that used TAG Bank, of which he is a majority shareholder, and his resource managing company in Rio, Opus. One of his main clients was former governor of Rio de Janeiro Sérgio Cabral (PMDB), who was sentenced to 15 years in prison for corruption crimes. He would have spent at least \$ 6.5 million of taxpayer money on diamonds and other high-end items in this scam. Convicted to 30 years for paying R \$ 52 million in bribes - R \$ 16.5 million in Cabral's case -, mega-businessman Eike Batista was also benefited.