



*Bank Use Promotion and Suppression of Money Laundering Unit*

**GUIDELINES ON ANTI-MONEY LAUNDERING & COMBATING  
FINANCING OF TERRORISM FOR PRECIOUS STONE DEALERS  
AND PRECIOUS METALS DEALERS, 2015**

*[Issued in terms of the Money Laundering and Proceeds of Crime Act [Chapter 9:24]*

These guidelines amplify and explain obligations that precious stones and precious metals dealers (including jewelers) are required to comply with under the Money Laundering and Proceeds of Crime Act [Chapter 9.24] (hereinafter referred to as “the Act”), and other applicable legislation and regulatory requirements, in order to guard the dealers against the risks of money laundering and terrorist financing.

## **TABLE OF CONTENTS**

Terms and acronyms used.....	3
1. Introduction.....	4
2. Appointment of a Money Laundering Reporting Officer.....	7
3. Understanding Money Laundering and Terrorist Financing Risks.....	8
4. Customer identification for transactions of US\$15000 and above.....	9
5. Large Cash Transaction Reporting for transactions of US\$15000 and above...	10
6. Reporting suspicious transactions .....	11
7. Internal policies, procedures and controls.....	11
8. Obligation to identify and freeze assets of persons under un sanctions lists .....	12
9. Record-keeping.....	13
10. Sanctions for breach of AML/CFT obligations .....	13

## Terms and Acronyms Used

Terms	Definition
AML / CFT	Anti Money Laundering and Combating Financing of Terrorism
Beneficial owner	Means a natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes a natural person or persons who exercise(s) ultimate effective control over a legal person or arrangement.
Precious stones /precious metals dealers	For purposes of these guidelines, dealers include any person or entity specified under paragraph (c), (d) and (e) the definition of “designated non financial business or profession” in section 13 of the MLPC Act and includes persons or entities involved in the purchase and /or sale of precious stones, precious metals and /or jewellery
CTR	Means a Cash Transaction Report, also known as a large Cash Transaction Report. It is a report which a precious stones/ precious metals dealer is required to submit to the FIU for every cash transaction equal to or above US\$15000
Designated Institution	Means any institution designated in terms of the Bank Use Promotion Act [Chapter 24:24] for purposes of implementing statutory AML / CFT obligations prescribed therein, and includes an individual or entity carrying on the business of gambling and gaming.
FIU	Means the Financial Intelligence Unit of the Reserve Bank of Zimbabwe, otherwise also known as the Bank Use Promotion and Suppression of Money Laundering Unit.
Money Laundering (ML)	is defined as an activity, which has or likely has the effect of concealing or disguising the nature, source, location, disposition or movement of the proceeds of unlawful activities or any interest which anyone has in such proceeds.
MLPC Act	Money Laundering and Proceeds of Crime Act [Chapter 9:24]
STR	Suspicious Transaction Report

## 1. INTRODUCTION

### ***General***

1.1. These guidelines, apply to the following categories of persons or entities -

- a) Persons or entities involved in the purchase and /or sale of precious stones
- b) Persons or entities involved in the purchase and /or sale of precious metals;
- c) Persons or entities involved in the production or processing of precious stones and /or precious metals; and
- d) Jewelers.

1.2. The precious stones / precious metals sector is among the categories of businesses that are vulnerable and attractive to criminals for purposes of laundering (cleaning-up) proceeds of crime or financing of terrorism.

1.3. Precious stone/ precious metal dealers fall under “designated non financial businesses or professions” (DNFBPs) as defined in section 13 of the Money Laundering and Proceeds of Crime Act [Chapter 9:24], and are required to implement prescribed Anti Money Laundering and Counter Financing of Terrorism (AML/CFT) measures designed to prevent and detect cases of money laundering and / or financing of terrorism.

### ***What is Money Laundering?***

1.4. Money Laundering is any act or transaction that is designed to disguise the illicit nature or source of proceeds of crime and make the proceeds appear legitimate. Criminals or their accomplices engage in money laundering to “clean up” proceeds of crime so that the illicit proceeds are not easily traceable to their illicit source or illicit nature.

1.5. There are various methods of laundering proceeds of crime, a process which normally starts by introducing the illicit funds into the formal financial system. Funds

can be introduced into and cleaned-up in the financial system through financial institutions and DNFBPs.

***What is financing of terrorism (or terrorism financing)?***

1.6. The offence of terrorist financing usually involves one or both of the following:

- Mobilizing or providing funds or resources for purposes of financing terrorists, terrorist organizations or terrorist acts; or
- Dealing with funds or resources that one knows or has reasonable grounds to suspect may be used to fund terrorists, terrorist organizations or terrorists acts.

1.7. The offence of financing terrorism is different from the offence of money laundering in that the funds are not necessarily linked to a predicate offence. Funds used to finance terrorism may come either from a legitimate or illegitimate source, and may involve amounts much smaller than those normally involving money laundering and which can, therefore, be moved easily without attracting much scrutiny.

1.8. Criminals can target the precious stones / precious metals dealers and other vulnerable institutions to launder proceeds of crime or to finance terrorism.

1.9. Precious stones / metals are particularly attractive to money launderers and financiers of terrorism because of their high value and low volume nature, making them convenient to store or transport.

1.10. It is in this context, that the law requires precious stones/ precious metals dealers and other designated institutions to implement AML/CFT measures, including submitting Suspicious Transaction Reports (STRs) and Cash Transaction Reports (CTRs) to the Financial Intelligence Unit (FIU) of the Reserve Bank of Zimbabwe.

1.11. It should be recognised, however, that the majority of transactions involving precious stones / precious metals are legitimate business transactions conducted by law abiding persons and entities. The challenge in the implementation of AML/CFT measures is to strike an appropriate balance between smooth facilitation of business transactions and, at the same time having sufficient controls and measures to identify the few transactions that may involve ML/TF.

## **The Role of the Financial Intelligence Unit (FIU)**

1.12. One of the key functions of the FIU is to oversee compliance with AML/CFT legislation and regulatory requirements by designated institutions.

1.13. More particularly, the FIU is responsible for –

- a) Receiving STRs and CTRs from designated institutions;
- b) Analyzing the received STRs and CTRs;
- c) Disseminating financial intelligence to law enforcement agencies and other relevant competent authorities, for further investigation and / or prosecution;
- d) Supervising and monitoring designated institutions to ensure compliance with the Act and the Guidelines.

1.14. The FIU's role should be distinguished from that of the primary regulatory authority in the precious stones / precious metals sector, i.e. the Ministry of Mines and Mining Development.

1.15. In addition to its broader regulatory function in terms of the Mines and Minerals Act and related legislation, the Ministry of Mines and Mining Development has powers and responsibilities in terms of section 3 of the MLPC Act, to cooperate with the FIU in ensuring that precious stones/ precious metals dealers comply with their AML/CFT obligations.

1.16. The Ministry may, therefore, from time to time, issue supplementary guidelines for AML/CFT purposes as well as carrying out on-site and off-site monitoring of dealers to ensure compliance with AML/CFT requirements.

1.17. The Ministry also has power to impose administrative penalties, including withdrawal of licence in appropriate instances of breach of AML/CFT obligations.

### **Obligations of precious stones / precious metal dealers in summary**

The AML/CFT obligations of precious stones / precious metal dealers may be summarized as follows –

- ***Appointing a money laundering compliance officer, referred to in the MLPC Act as a Money Laundering Reporting Officer (MLRO);***
- ***Undertaking money laundering and financing of terrorism risk assessment in order to identify, assess and understand the ML/TF risks of their businesses;***
- ***Identifying customers and undertaking customer due diligence for transactions of US\$15000 and above;***
- ***Submitting monthly returns to the FIU for cash transactions of \$15000 or above***
- ***Reporting suspicious transactions to the Financial Intelligence Unit;***
- ***Putting in place AML/CFT policies and procedures and AML/CFT internal controls;***
- ***Obligation to identify and freeze assets of persons under UN sanctions lists; and***
- ***Recording of transactions and maintaining records for at least 5 years.***

## **2. APPOINTING A MONEY LAUNDERING REPORTING OFFICER (MLRO)**

Every DNFBP is required to appoint a MLRO, who is responsible for overseeing the institution's compliance with all AML/CFT obligations as prescribed by law and summarized in these guidelines, including –

- a) Reporting to the FIU all suspicious transactions identified by the institution;
- b) Overseeing and ensuring overall compliance with regulatory guidelines on AML/CFT issues from time to time;
- c) Maintaining close liaison with the FIU on all relevant AML/CFT issues.

2.1. The MLRO must be an officer holding a senior managerial position in the designated entity and should have direct reporting access to the board or similar decision-making organ of the entity. For small entities, the MLRO may combine his duties as a MLRO with other duties in the entity.

2.2. The MLRO must be someone sufficiently knowledgeable in AML/CFT requirements as set out in the Money Laundering and Proceeds of Crime Act, AML/CFT guidelines issued by the FIU, the FATF Standards and other relevant literature.

### **3. UNDERSTANDING MONEY LAUNDERING AND TERRORISM FINANCING RISKS**

3.1. For a precious stones / precious metals dealer to be able to effectively implement measures to prevent and detect possible cases of money laundering and terrorist financing, the starting point is for the dealer to have a full and documented understanding of its money laundering (ML) and terrorism financing (TF) risks.

3.2. Having identified the risks, the dealer is required to use a Risk-Based Approach (RBA) to implement prescribed AML/CFT measures. Adequate measures commensurate with the assessed level of risk should then be put in place to address or mitigate the risks.

3.3. The precious stone / precious metal dealer business is expected to understand –

- The ML risks facing the country (Zimbabwe concluded a ML/TF risk assessment in May 2015).
- The ML/TF risks facing the precious stone / precious metal sector in general; and
- The ML/TF risks facing the particular precious stone / precious metal dealer.

3.4. Each precious stone / precious metal dealer's specific ML/TF risks largely depend on –

- The volume and size of transactions it handles;
- Client profile, e.g. whether clients are predominantly local or foreign and also whether foreign clients are largely from countries that present particular ML/TF risks
- Geographical location of dealer;
- The range of services offered by the dealer;
- type of payment and payment methods accepted from customers;

3.5. In cases where the dealer identifies high risk, enhanced measures should be applied and where low risk is identified the dealer may put in place less reduced or simplified AML/CFT measures.



3.6. A risk assessment exercise should be an ongoing process, requiring continuous review, as risk factors continuously evolve.

### **Examples of high risk customers and counterparties**

3.7. High risk customers / counterparties include a customer / counterparty who -

- Proposes a transaction that makes no sense, or that is excessive, given the circumstances, in amount, or quality, or potential profit.
- Has significant and unexplained geographic distance from the dealer in precious metals or dealer in precious stones.
- Uses banks that are not specialised in or do not regularly provide services in such areas, and are not associated in any way with the location of the counterparty and the products.
- Makes frequent and unexplained changes in bank accounts, especially among banks in other countries.
- Involves third parties in transactions, either as payers or recipients of payment or product, without apparent legitimate business purpose.
- Will not identify beneficial owners or controlling interests, where this would be commercially expected.
- Seeks anonymity by conducting ordinary business through accountants, lawyers, or other intermediaries, see the paragraph above.
- Uses cash in its transactions with the dealer in precious metals or dealer in precious stones, or with his own counterparties in a nonstandard manner.
- Uses money services businesses or other non-bank financial institutions for no apparent legitimate business purpose.
- Is a politically exposed person (PEP).

## **4. CUSTOMER IDENTIFICATION FOR TRANSACTIONS OF US\$15000 AND ABOVE**

4.1. Precious stone/ precious metal dealers are required to identify their customers and verify the identity by means of a reliable form of identification in the following circumstances –

- (a) When opening an account or establishing an ongoing business relationship with a customer; or
- (b) When a customer who is not an account-holder carries out or wishes to carry out a once-off transaction equal to, or exceeding US\$15000 (either as one transaction or as several transactions that appear to be linked).

4.2. For customers who are natural persons, identification and identity verification involves, at a minimum, requiring the customer to produce a copy of his / her passport, national ID document or driver's licence and retaining a copy on record, as well as recording details of the transaction.

4.3. For customers that are companies, the level of documentation required should depend on the ML/TF risk as assessed by the dealer in respect of the customer or the transaction and will normally include the following –

- Certificate of incorporation;
- List and details of the directors (Form CR14);
- Company address (Form CR6);
- Identification of any person acting on behalf of the company and proof of authority to act (e.g. company resolution);
- Identification of the natural persons who are the ultimate beneficial owners (shareholders) of the company (Form CR2);
- Information about the customer's nature of business and source of income.

4.4. Where the dealer suspects that a transaction involves proceeds of crime or funds intended for use in financing of terrorism, the dealer shall identify the customer and verify his or her identity regardless of the amount involved and shall submit a suspicious transaction report to the FIU.

4.5. Where it appears to the dealer that a client who is subject to identification requirements is acting on behalf of somebody else, the dealer is required to take reasonable steps to identify and verify the identity of the beneficial owner, over and above identifying and verifying the identity of the agent.

## **5. REPORTING CASH TRANSACTIONS OF US\$15000 AND ABOVE**

5.1. A precious stones / precious metals dealer is required to report every cash transaction by a customer, equaling or exceeding US\$15000.

5.2. The reporting requirement arises whether the threshold is reached by a single transaction or as an aggregate of two or more transactions undertaken by the same customer within a period of 24 hours.

- 5.3. A cash transaction is one where a customer makes a payment in cash (as opposed to other forms of payment such as debit card, credit card or inter-account transfer). A cash deposit into the dealer's account by or on behalf of a customer is a cash transaction for purposes of this requirement.
- 5.4. Precious stones/ precious metal dealers are required to submit Cash Transaction Reports (CTRs) on a monthly basis using the attached CTR reporting form.
- 5.5. All cash transactions shall be submitted by the 7<sup>th</sup> day of the month following the month in which the transactions occurred.

## **6. REPORTING SUSPICIOUS TRANSACTIONS**

- 6.1. Precious stones/ precious metal dealers are required to report any suspicious or unusual transaction by a client(s).
- 6.2. Suspicious transactions shall be reported to the Financial Intelligence Unit, **immediately**, but in any case, not later than 72 hours after the suspicious transaction was detected.
- 6.3. Suspicious transactions shall be reported in the prescribed form for STR reporting, attached to these guidelines.

## **7. INTERNAL AML/CFT POLICIES, PROCEDURES and CONTROLS**

### **General**

- 7.1. A precious stones/ precious metals dealer shall formulate and implement AML/CFT policies and procedures which shall be in written form and approved and signed off by the board of directors (or by any highest decision-making authority, in the case of a dealer who may not have a board of directors).
- 7.2. The dealer shall also put in place adequate internal controls commensurate with the structure and size of the dealer's business, to ensure compliance with AML/CFT statutory or regulatory requirements.
- 7.3. The ultimate responsibility for AML/CFT compliance is placed upon the board and senior management of the precious stones/ precious metal dealer.

- 7.4. The policies procedures and internal controls framework shall cover implementation of all AML/CFT requirements as well as proper management oversight systems and controls, segregation of duties, training of staff and other related matters, taking due cognizance of the size of the dealer's business.
- 7.5. A precious stones/ precious metals dealer's internal audit and compliance functions have an important role in evaluating and ensuring adherence to the AML/CFT policies and procedures.
- 7.6. As a general rule, the audit function should provide an independent evaluation of the dealer's own policies and procedures, including legal and regulatory requirements.
- 7.7. A precious stones/ precious metals dealer shall ensure that its audit function is staffed adequately with individuals who are well-versed with AML/CFT policies and procedures.

### **Employee Training**

- 7.8. Precious stones/ precious metal dealers are required to provide adequate training to employees to make sure they are fully aware of the business's AML/CFT obligations.
- 7.9. Employees must be sufficiently trained so as to be are aware of the dealer's AML/CFT policies and procedures, including customer due diligence requirements and identification and reporting of suspicious transactions.

## **8. OBLIGATION TO IDENTIFY AND FREEZE ASSETS OF PERSONS UNDER UN SANCTIONS LISTS**

- 8.1. Precious stones/ precious metals dealers are required to put in place measures to enable them to identify and freeze transactions of any person whose name appears on the Taliban and Al Qaida sanctions lists that are maintained and updated from time to time by relevant sanctions committees of the United Nations Security Council.
- 8.2. Updated lists are circulated by the FIU from time to time and appear on the relevant UN website.
- 8.3. Before processing a transaction, the dealer shall verify that the customer is not listed under either of the sanctions lists referred to above. If a customer's names and other

identifying particulars match any name on the sanctions lists, the dealer shall freeze the transaction and immediately notify the FIU.

## **9. RECORD KEEPING**

9.1. All designated institutions are required to keep customer and transaction records for a minimum period of 5 years. At a minimum records for the following transactions should be maintained for the prescribed period –

- transactions meeting the threshold for customer identification;
- CTR reports; and
- STR reports.

9.2. The recorded information should include -

- identity of the customer;
- the type and nature of the transaction;
- the amount of the transaction and the currency in which it was denominated;
- date of transaction.

## **10. SANCTIONS FOR BREACH OF AML/CFT OBLIGATIONS**

10.1. Section 5 of the Money Laundering and Proceeds of Crime Act empowers the FIU to impose penalties of up to US\$250 000 on any person or entity for breach of any of the obligations set out in the Act or set out in any guidelines or directive issued by the FIU.

10.2. The penalties may be imposed on the entity itself and/or on any employee, director or agent of the entity.

10.3. These civil / administrative penalties apply over and above sanctions that may be imposed by the courts upon criminal prosecution.

### **ANNEXURES**

- i.) CTR reporting form
- ii.) STR reporting form