



Licensing Regime for Dealers in Precious Metals and Stones in Hong Kong

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Introduction

Since June 2003, dealers in precious metals and stones (“DPMS”) have been classified by the Financial Action Task Force (“FATF”) as one of the designated non-financial businesses and professions (“DNFBPs”) which are subject to the same anti-money laundering (“AML”) / counter-terrorist financing (“CFT”) requirements measures as other DNFBPs (e.g. accounting professionals, estate agents, legal professionals, and trust or company service providers).

While there are AML/CFT requirements imposed on other types of DNFBPs in Hong Kong, DPMS are currently not subject to any of those. As a member jurisdiction, the absence of AML/CFT requirements for DPMS was highlighted as a deficiency by the FATF in a Mutual Evaluation on Hong Kong conducted in 2018-19.

To address this deficiency, the Hong Kong Government gazetted the Anti-Money Laundering and Counter-Terrorist Financing (Amendment) Bill 2022 on 24 June 2022 to introduce a registration regime for DPMS so that they will also be subject to similar AML/CFT requirements as other types of DNFBPs.

This publication outlines the key elements of the DPMS registration regime and how our advisory service offerings can assist you in preparing for the new regime.

Licensing Regime for DPMS

1. Coverage

Under the proposed registration regime for DPMS, any person seeking to carry on a business of dealing in precious metals and precious stones in Hong Kong will be required to register with the Commissioner of Customs and Excise (C of C&E). Dealing in precious metals and stones is defined in the amended AML Ordinance (“**AMLO**”) to mean the carrying on of any of the following activities by way of business:

- A. Trading in (including selling, offering for sale, purchasing or possessing for sale/resale), importing, or exporting precious metals, precious stones or precious products;
- B. Manufacturing, refining, or carrying out any value-adding work (e.g. cutting, polishing, etc.) on precious metals, precious stones or precious products;
- C. Issuing, redeeming, or trading in precious-asset-backed instruments;
- D. Acting as an intermediary for A, B or C above.

Interpretations

The interpretations of precious metals, precious stones, precious products and precious-asset-backed instruments are set out below.

I. Precious Stones (Whether natural or otherwise)

- A. Diamond
- B. Sapphire
- C. Ruby
- D. Emerald
- E. Jade
- F. Pearl

II. Precious Metals (In a manufactured or unmanufactured state)

- A. Gold
- B. Silver
- C. Platinum
- D. Iridium
- E. Osmium
- F. Palladium
- G. Rhodium
- H. Ruthenium

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III. Precious Products

- A. Means any jewellery, watch apparel accessory, ornament or other finished product-
 - That is made up of, containing or having attached to it, any precious metal or precious stone, or both; and
 - At least 50% of the transaction price of which attributable to the precious metal or precious stone, or both but
- B. Does not include any finished product that forms part of any medical device or industrial equipment

IV. Precious-asset-backed instruments

- A. Means 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
- B. Does not include-
 - Any securities, future contracts, structured product or OTC derivative products as defined by section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance;
 - A virtual asset

Exemptions

Exemptions will be given to the following parties:

- I. Financial institutions which are already regulated under the AMLO and their respective governing ordinances where they carry on a precious metals and stones business as an ancillary to their principal business.
- II. Pawnbrokers who are already subject to the regulation of the Pawnbrokers Ordinance where they carry on a precious metals and stones business as an ancillary to their principal business.
- III. Non-Hong Kong precious metals and stones dealers who does not:
 - A. Ordinarily reside in Hong Kong; or
 - B. Register under Hong Kong Companies Ordinance; and
 - C. Have a place of business in Hong Kong; and
 - D. Carry on precious metals or stones business in Hong Kong for more than 60 days in a calendar year

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2. Regulatory Requirements

The FATF requires that DPMS which engage in cash transactions exceeding USD/EUR 15,000 with customers should be subject to the same AML obligations as are other DNFBPs. Hong Kong will also implement locally a two-tier registration regime for DPMS with **HKD\$120,000** as the dividing line, namely Category A and Category B. The respective regulatory requirements of each category are set out below.

I. Category A Registrants

- i. Must not engage in any cash transaction with customers at or above HK\$120,000.
- ii. File an application with:
 - a copy of valid business registration certificate;
 - address of each place of business in Hong Kong and correspondence address;
 - a declaration that the precious metals and stones business which the applicant proposes to carry on will be carried on for a lawful purpose.
- iii. Display certificate of registration and branch certificate in a conspicuous place at the principal place of business of the registrant.
- iv. Notify C of C&E of changes in particulars and of cessation of business.





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II. Category B Registrants

- i. May engage in any cash transactions with customers at or above **HK\$120,000**.
- ii. File an application with:
 - a copy of valid business registration certificate;
 - address of each place of business in Hong Kong and correspondence address;
- iii. Fit and proper test on individual applicants, partners, directors, and ultimate owners whichever applicable.
- iv. The AML/CTF requirements stipulated in Schedule 2 to the AMLO
- v. Display certificate of registration and branch certificate in a conspicuous place at the principal place of business of the registrant.
- vi. Notify C of C&E of changes in particulars and of cessation of business.
- vii. Registration as Category B registrant is required to be renewed every 3 years.

3. Implementation Timeline

The registration regime will come into effect on 1 January 2023. A pre-existing DPMS who has been carrying on a precious metals and stones business and held a valid business registration certificate for that purpose immediately before the commencement of the registration regime will be allowed nine months to apply for registration.

How can Mazars help?

At Mazars, we have extensive experience working with the diversity of financial services players. We assist major financial institutions including brokerage houses, asset managers, investment and corporate banks, retail and private banks, central banks, insurance companies and regulators in dealing with business and regulatory issues with impacts, domestic and international.

Mazars is here to assist you in complying with the regulatory standards and requirements in establishing an effective compliance function. Depending on the scope, coverage and specifics of your needs, our services would typically involve one or more of the following:

A. Assistance/advice on VASP licensing requirements

- I. Initiate a preliminary consultation on DPMS registration:
 - Provide advice to management on the regulatory approval process
 - Assist in identifying and capturing regulatory issues / hurdles that may arise during the application process
 - Advise on the key areas considered by the C&E in the registration (e.g. AML/CFT control requirements, fitness and propriety of owners/directors, etc.)
 - Advise on practical questions during the application process
- II. Review / provide compilation advice for submission to the C&E:
 - Review and provide advice on AML/CFT control systems against planned business operation and industry good practice
 - Review and provide advice on the overall consistency of the application documents and drafting of cover letter
- III. Perform project management during the application process:
 - Ensure timely delivery of pre-determined targets
 - Tracking of application status with regulators

B. Design and implementation of policies and procedures

- I. Review documentation and records with a focus on the in-scope activities to ensure compliance, and
- II. Provide advice in designing and implementing enhancements to the AML/CFT policies and procedures.

C. Training and insights

- I. Provide training and education for staff, the board and senior management on the legal and regulatory framework (in particular the AML/CFT requirements) on the new DPMS regulatory regime.

We also take on special projects and ad-hoc mandates. We are flexible in our approach and offerings. Please feel free to contact us with any enquiries.

Contacts

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