

Chandrawat
& Partners

DEALERS IN PRECIOUS METALS AND STONES



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INTRODUCTION

To enhance the regulatory regime for combating money laundering and terrorist financing ("ML/TF") in fulfilment of Hong Kong's obligations under the Financial Action Task Force ("FATF"), the Anti-Money Laundering and Counter-Terrorist Financing Ordinance ("AMLO") (Cap. 615) has been amended to introduce a registration regime for dealers in precious metals and stones for commencement on 1 April 2023. The Customs and Excise Department would be in charge of the regime to enforce the registration requirements and supervise the anti-money laundering and counter-terrorist financing ("AML/CTF") conduct of registrants.

Any person who is seeking to carry on a business of dealing in precious metals and stones in Hong Kong and engage in any transactions (whether making or receiving a payment) with total value at or above HKD120,000 in Hong Kong is required to register with the Commissioner of Customs and Excise.

There are two categories under the registration regime as follows

(a) Any dealer who intends to engage in non-cash transactions with total value at or above HKD120,000 in the course of business is required to register as a Category A registrant.

(b) Any dealer who is seeking to engage in cash transactions with total value at or above HKD120,000 and non-cash transaction(s) with total value at or above HKD120,000 in the course of business is required to register as a Category B registrant. A category B registrant is subject to AML/CTF supervision.



Regulated Activities and Articles

Dealing in precious metals and stones" would include, among others, the following activities by way of business: trading In, Importing, exporting, manufacturing, refining or carrying out any value-adding work on precious metals, precious stones or precious products; issuing redeeming or trading in precious-asset-backed instruments; and acting as an intermediary In respect of such activities. Exception is provided for any person who carries on a logistics service business which only imports and exports precious metals, precious stones or precious products in the ordinary course of that business.

Precious metals, precious stones, precious products and precious-asset-backed instruments are defined as follows:

(a) Precious metal:- gold, silver, platinum, iridium, osmium, palladium, rhodium or ruthenium, in a manufactured or manufactured state;





(b) Precious stone: diamond, sapphire, ruby, emerald, jade or pearl, whether natural or otherwise;

(c) Precious product; any jewelry and watch that is made up of, containing or having attached to it, any precious metal or precious stone, or both;

(d) Precious-asset-backed instrument: 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 does not include any securities, a futures contract, any interest in a collective investment scheme, a structured product or an OTC derivative product as defined by the Securities and Futures Ordinance (Cap 571); or a virtual asset



CATEGORIES OF REGISTRATION

Application for Category A Registration

Application for Category A registration is simple and straightforward. An applicant holding a valid business registration certificate or hawker's licence can file an application accompanied with details on all business premises, a correspondence address and a declaration that the applicant's precious metals and stones business is carried out for a lawful purpose. The Category A registration would remain valid as long as the registrant continues to stay in business and pay the annual fee.

Application for Category B Registration

Application for Category B registration, like other designated non-financial businesses and professions ("DNFBPs") regulated under the AMLO (Cap. 615), is subject to the meeting of a fit-and-proper test by the applicant. Besides, the applicant is required to demonstrate its capability in fulfilling the AML/CTF requirements stipulated in Schedule 2 of the AMLO (Cap. 615) and the "Guideline on AML/CTF for Category B Registrants dealing in precious metals and stones", in addition to the holding of a valid business registration certificate or hawker's licence and provision of all business premises addresses and a correspondence address. The Category B registration would normally be valid for three years and renewal application must be submitted at least 60 days before the registration is due to expire.

Application for Category A Registration

Transitional Period



Precious metals and stones dealers who have been in operation before commencement of the registration regime on 1 April 2023 are allowed to apply for registration within the nine-month transitional period (i.e. April to December 2023).

The transitional period is not applicable to any person who would start up a business of dealing in precious metals and stones on or after 1 April 2023. Registration is required before the carrying out of any transaction(s) with total value at or above HKD120,000 (cash or non-cash).



Certificate for Display

Certificate of registration and branch certificates for branches carrying out face-to-face transactions will be issued to a registrant upon granting of registration. Registrants must display the certificates in a conspicuous place at the related premises.



Register of Registrants

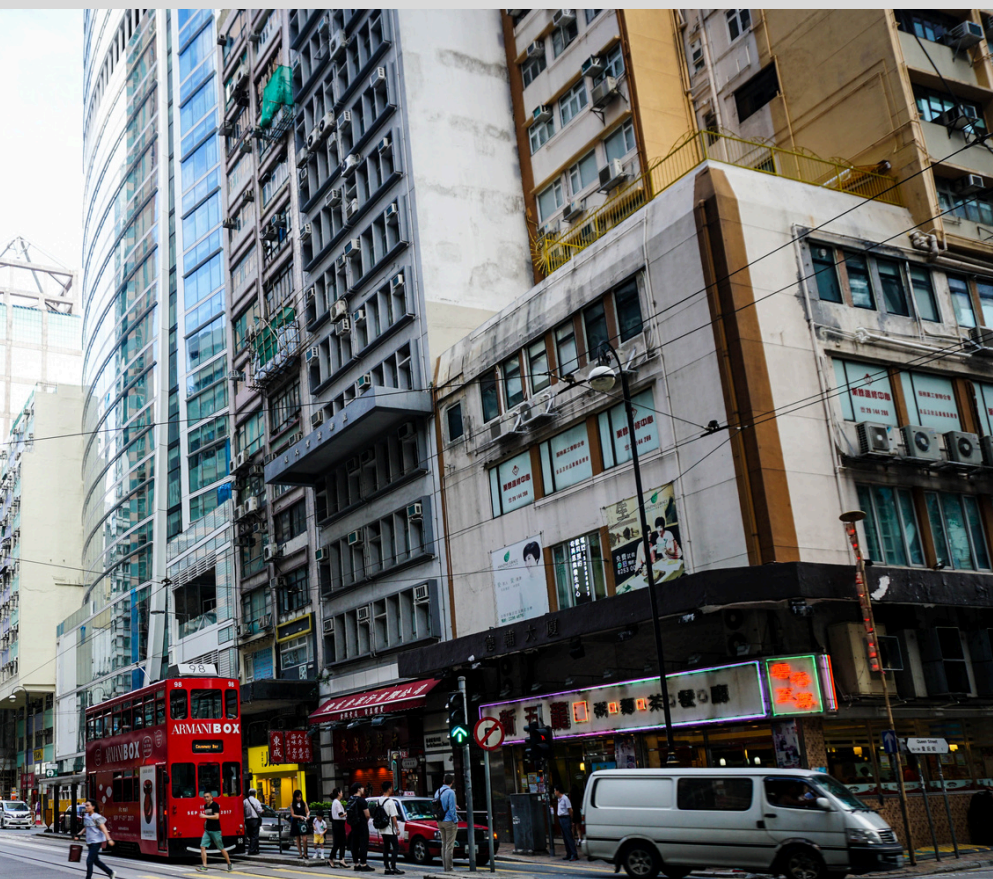
A register of registrants is available for public inspection at the registration office during normal office hours or at the website <https://www.drs.customs.gov.hk> to be available upon commencement of the registration regime.



Penalty

Any dealer, other than a registrant, claims to be a registrant, claims to be authorized to carry out, or carries out any cash or non-cash transaction(s) with total value at or above HKD120,000 is liable on conviction to a maximum fine of HKD100,000 and imprisonment for six months.

Apart from criminal penalties, any registrant not in compliance with the requirements stipulated in the AMLO (Cap. 615) or any registration condition may be subject to disciplinary actions or suspension/cancellation of registration.



AML/CTF Obligations of Category B Registrant



Category B registrant, when engages in any cash transaction(s) with total value at or above HKD120,000, is subject to the requirements of Schedule 2 of the AMLO (Cap.615), such as customer due diligence and record keeping. The objective is to help the registrant to determine the ML/TF risks and take appropriate AML/CTF measures to address them.

Customer due diligence is an approving process of obtaining customers' identifying information (e.g. Hong Kong Identity Card, passport or other travel document), recording the information and verifying who they are before transacting with them.

The respective records shall be kept for at least five years after the transaction completed or the business relationship with a customer ended.

FEES FOR THE REGISTRATION

Fees in relation to application for registration

Category A

Application Fee: HKD 260

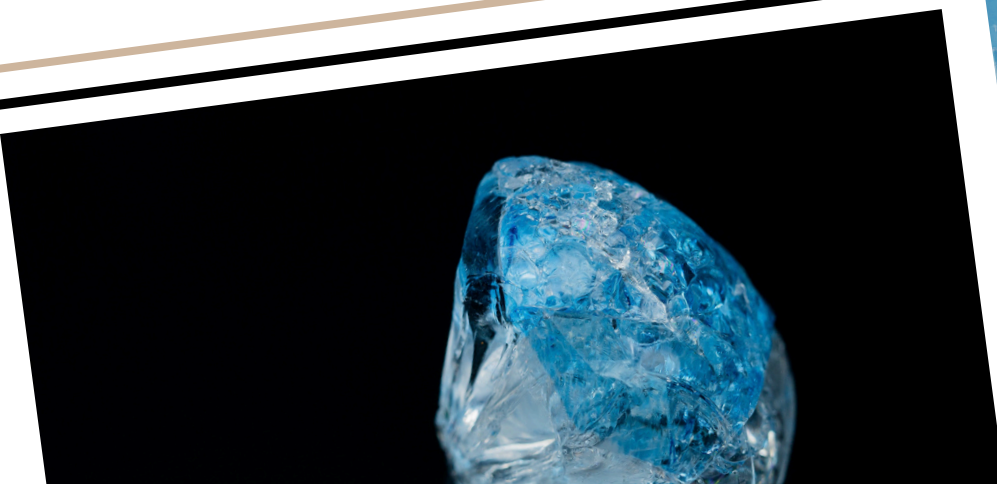
Annual Fee: HKD195

Category B

Application Fee: HKD 1,970 + HKD 650 (for each person who is subject to the fit and proper test) (Valid for 3 years)

Renewal Fee: HKD 1,060 + HKD 650 (for each person who is subject to the fit and proper test) (Valid for 3 years)

Existing dealers can make an application to C&ED within the 9-month transitional period commencing from 1 April 2023 and their registration and related fee will be waived.



EXEMPTIONS



Entities exempted from the registration requirements include:

banks,

certain financial institutions that are already regulated under the AMLO (Cap.615) and whose precious metals and stones business is ancillary to their principal business;

pawnbrokers which are already subject to the regulation of the Pawnbrokers Ordinance (Cap166) and

as non-Hong Kong precious metals and stones dealers



NON-HONG KONG PRECIOUS METALS AND STONES DEALERS

Starting from 1 April 2023, non-Hong Kong precious metals and stones dealers must file a cash transaction report to the Customs and Excise Department in respect of any cash transaction(s) with total value at or above HKD120,000.

Background

To enhance the regulatory regime for combating money laundering and terrorist financing ("ML/TF") in fulfilment of Hong Kong's obligations under the Financial Action Task Force ("FATF"), the Anti-Money Laundering and Counter-Terrorist Financing Ordinance ("AMLO") (Cap. 615) has been amended to introduce a registration regime for dealers in precious metals and stones for commencement with effect from 1 April 2023. The Customs and Excise Department would take charge of the regime to enforce the registration requirements and supervise the anti-money laundering and counter-terrorist financing ("AML/CTF") conduct of registrants.





Registration of Dealers in Precious Metals and Stones

Any person who is seeking to carry on a business of dealing in precious metals and stones in Hong Kong and engage in any transaction(s) (whether making or receiving a payment) with total value at or above HKD120,000 in Hong Kong is required to register with the Commissioner of Customs and Excise.

Remark: In this pamphlet, the HKD120,000 threshold includes an equivalent amount in another currency



Definition of a Non-Hong Kong Precious Metals and Stones Dealer

A non-Hong Kong precious metals and stones dealer who is exempted from registration refers to any person who deals in precious metals and stones in Hong Kong if -

(a) the person is either an individual who does not ordinarily reside in Hong Kong; or a legal person, other than an individual that is incorporated or established outside Hong Kong and is not a registered non-Hong Kong company as defined by section 2(1) of the Companies Ordinance (Cap. 622);

(b) the person does not have a place of business in Hong Kong; and

(c) the total number of days on which the person's precious metals and stones business is carried on in Hong Kong does not exceed 60 days in a calendar year.



OBLIGATIONS OF A NON-HONG KONG PRECIOUS METALS AND STONES DEALER

A non-Hong Kong precious metals and stones dealer must file a cash transaction report ("the report") to the Customs and Excise Department in respect of any cash transaction(s) (whether making or receiving a payment) with total value at or above HKD120,000 carried out by the dealer in Hong Kong.

Information to be provided in the report includes travel information and particulars of the dealer, particulars of the counterparty, and relevant transaction details.

The report must be given to the Customs & Excise Department before the expiry of one

day after the transaction or the earliest time the dealer or the person acting on behalf of

the dealer leaves Hong Kong, whichever is earlier.

Starting from 1 April 2023, a non-Hong Kong precious metals and stones dealer has to submit the report online at <https://www.drs.customs.gov.hk>, or download a report form at the same website or <https://www.customs.gov.hk> for submission of the completed report in person or by fax.

Penalty



Any non-Hong Kong precious metals and stones dealer fails to report any cash transaction(s) with total value at or above HKD120,000 is liable on conviction to a maximum fine of HKD50,000 and imprisonment for three months.

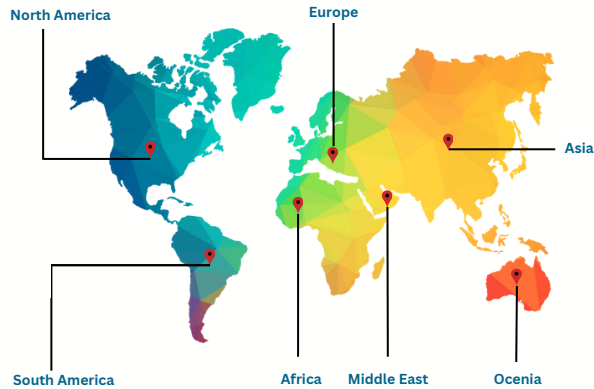




HOW WE CAN HELP?

- Our firm aids individuals in getting licences of DPMS in Hong Kong and many other parts of world.
- Our experts offer global resources, deep product knowledge, and personalized attention to effectively address the complex challenges associated with managing substantial wealth.
- Our team collaborates across various fields, working alongside wealth advisors, financial planners, portfolio managers, bankers, and others.
- Our team also provides bank account opening services for and obtaining licenses regarding trading and manufacturing of Precious metals and stones.
- Our team of professionals has put in place established processes and quality assurance measures to ensure that the nominee directors supplied meet the expected standards.

SERVING CLIENTS WORLDWIDE



The information contained herein is of a general nature. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. The information is not offered as an advice on any matter, and no one should act or fail to act based on such information without appropriate legal advice after a thorough examination of the particular situation. The information does not make us responsible or liable for any errors and/or omissions, whether it is now or in the future. We do not assume any responsibility and/or liability for any consequences.

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