

LBMA Responsible Gold Guidance

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Introduction

LBMA has set up a *Responsible Gold Guidance* for Good Delivery Refiners in order to combat systematic or widespread abuses of human rights, to avoid contributing to conflict, to comply with high standards of anti-money laundering and combating terrorist financing practice. This Guidance formalises and consolidates existing high standards of due diligence amongst all LBMA Good Delivery Refiners.

This Guidance follows the five steps framework for risk-based due diligence of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas adopted on 15 December 2010 and follows the requirements detailed in the OECD Gold Supplement adopted on 17 July 2012.

Scope

All Refiners producing LBMA good delivery gold bars (“Refiners”) must comply with this *LBMA Responsible Gold Guidance* in order to remain on the LBMA Good Delivery List. Any Refiner applying to be a LBMA Good Delivery accredited Gold Refiner after 1 January 2012, must implement the *LBMA Responsible Gold Guidance* and pass an audit prior to becoming a member of the Good Delivery List.

Definition

AML-CFT: Anti-money laundering – combating the financing of terrorism.

Contribution to conflict: Contribution to armed aggression between two or more parties which leads to human rights abuses. The parties in the conflict may include government, militia, organised criminals or terrorist groups.

Gold origin: The origin of Mined Gold is where the mine is located. The origin of recyclable gold is considered to be the point in the gold supply chain where the gold is delivered to the Refiner.

Gold-supplying counterparty: A gold supplier that is directly engaged with a gold refinery.

Grandfathered Stocks: Gold investment products (ingots, bars, coins and grain in sealed containers) held in bullion bank vaults, central bank vaults, exchanges and refineries, with a verifiable date prior to 1 January 2012, which will not require a determination of origin. This includes stocks held by a third party on behalf of the listed entities.

Human rights: For the purpose of this *Guidance*, human rights are those defined in the International Bill of Human Rights. The Bill includes the Universal Declaration of Human Rights (1948), the International Covenant on Economic, Social and Cultural Rights (1966), the International Covenant on Civil and Political Rights (1966), as well as its two Optional Protocols.¹

ISAE 3000: International Standard on Assurance Engagements ISAE 3000 Assurance Engagements other than Audits or Reviews of Historical Financial Information.

ISO 19011:2011: International Standard for auditing management systems, including the principles of auditing, managing an audit programme and conducting management system audits, as well as guidance on the evaluation of competence of individuals involved in the audit process, including the person managing the audit programme, auditors and audit teams.

Mined Gold: Gold that originates from mines (large-scale, medium-scale or artisanal/small scales mines) and has never been previously refined. This term means any gold or gold-bearing material produced by or at a mine, in any form, shape and concentration, until it is fully refined (995 or greater), fabricated into a gold refinery product (e.g. bar, grain) and sold.

Money laundering: Money laundering is the practice of disguising the origins of illegally obtained money. Ultimately, it is the process by which the proceeds of crime are made to appear legitimate. The money involved can be generated by any number of criminal acts, including drug dealing, corruption and other types of fraud. The methods by which money may be laundered are varied and can range in sophistication from simple to complex.

Politically exposed persons (PEPs): *Foreign PEPs* are individuals who are or have been entrusted with prominent public functions by a foreign country, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state-owned corporations, important political party officials. *Domestic PEPs* are individuals who are or have been entrusted domestically with prominent public functions, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state-owned corporations, important political party officials. *Persons who are or have been entrusted with a prominent function by an international organisation* refers to members of senior management, i.e. directors, deputy directors and members of the board or equivalent functions. The definition of PEPs is not intended to cover middle-ranking or more junior individuals in the foregoing categories.

Recycled Gold: Gold that has been previously refined. This term traditionally encompasses anything that is gold-bearing and has not come directly from a mine in its first gold life cycle. In practical terms, recyclable material includes end-user, post-consumer products, scrap and waste metals, and materials arising during refining and product manufacturing, and investment gold and gold-bearing products. This category may also include fully refined gold that has been fabricated into grain, good delivery bars, medallions and coins that have previously been sold by a refinery to a manufacturer, bank or consumer market, and that may thereafter need to be returned to a refinery to reclaim their financial value.

Supplier: This term refers to any individual or organisation who is considered to be a participant in the supply chain for the supply of gold and gold-bearing materials.

¹ UN Office of the High Commissioner on Human Rights: <http://www2.ohchr.org/english/law/>

Terrorist financing: terrorist financing includes the financing of terrorist acts, of terrorists and of terrorist organisations.

Verifiable Date: A date which can be verified through inspection of physical date stamps on products and/or inventory lists. The requirements applicable to Refiner's Grandfathered Stocks with a subsequent date, or without a verifiable date, are the same as for other gold-bearing material; that is, a Refiner must provide the same level of source/mine documentation.

STEP 1 - Establish strong company management systems

1. Adopt a company policy regarding due diligence for supply chains of gold.

Refiners should adopt a gold supply chain policy which is consistent with the Model Policy set forth in Annex II of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.

The policy should cover at least the following topics:

- Scope;
- Organisation and responsibilities;
- Criteria for high-risk gold supply chain;
- Supply chain due diligence, inclusive of the Know Your Customer process;
- Monitoring of transactions;
- Maintaining records;
- Training.

2. Set up an internal management structure to support supply chain due diligence

Refiners' internal management system should collect and maintain documentation regarding the sources of Mined Gold, Recycled Gold, or any other feedstock, in order to ensure that they have not financed conflict, have not participated in abuse of human rights or money laundering, nor financed terrorism at any point in the supply chain. The general outline of a best practice for such a structure is as follows:

- Assign authority and responsibility to Senior Management with the necessary competence, knowledge and experience to oversee the supply chain due diligence process;
- Ensure availability of resources necessary to support the operation and monitoring of these processes;
- Put in place an organisational structure and communication processes that will ensure critical information, including the company policy, reaches relevant employees and gold-supplying counterparties;
- Ensure internal accountability with respect to the implementation of the supply chain due diligence process.

3. Establish a strong internal system of due diligence, controls and transparency over gold supply chains, including traceability and identification of other supply chain actors

Supply chain traceability system

Refiners should introduce a supply chain traceability system that collects and maintains supply chain information for each lot refined.

Maintaining records

Refiners should maintain adequate records of the supply chain documentation, as requested in Step 2, section 2 (assess risks in light of the standards of their supply chain due diligence system) in order to demonstrate that appropriate and ongoing due diligence has been followed. These records are required to be maintained for at least five years following the end of the Refiner's fiscal year. .

Training

Refiners should develop an ongoing gold supply chain training programme for all staff involved in the gold supply chain.

Compliance Officer

Refiners should nominate a Compliance Officer who reports to Senior Management.

The Compliance Officer is responsible for all matters regarding the gold supply chain. In particular, he reviews the gold supply chain due diligence and assesses if the due diligence is adequate and requests additional documentation or information if necessary. He ensures that appropriate measures are executed in case of high-risk supply chains or transactions. He is also responsible for the training of the employees with respect to the responsible supply chain, to prepare and update the gold supply chain policy, and to give proper information to the Senior Management in order for them to perform their duties.

4. Strengthen company engagement with gold-supplying counterparties and, where possible, assist gold-supplying counterparties in building due diligence capacities

Refiners should encourage that their gold-supplying counterparties commit to, and acknowledge in writing the compliance with, a supply chain policy consistent with Annex II of the OECD Due Diligence Guidance Model Policy for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas for all interactions with the Refiners.

5. Establish a company-wide communication mechanism to promote broad employee participation and risk identification to management

Refiners should develop a mechanism allowing any employee to voice concerns over the gold supply chain or any newly identified risk.

STEP 2 - Identify and assess risk in the supply chain

1. Identify risks in the gold supply chain

For both Mined Gold and Recycled Gold, Refiners should identify in accordance with Annex II of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, the following risks associated with the supply chain from the point of origin to the Refinery regarding:

- Systematic or widespread human rights abuses associated with the extraction, transport or trade of gold;
- Direct or indirect support to non-state armed groups or public or private security forces;¹
- Bribery and fraudulent misrepresentation of the origin of gold;
- Money laundering and terrorist financing;
- Contribution to conflict.

2. Assess risks in light of the standards of their supply chain due diligence system

Supply chain due diligence

In order to map the supply chain and assess the risks effectively, Refiners should perform supply chain due diligence following a risk-based approach before entering into business relationship with any gold-supplying counterparty. The assessment of risk in a supply chain begins with the origin of gold.

The supply chain due diligence measures should comprise the following:

- Identifying the counterparty and verifying its identity using reliable, independent source documents, data or information;
- Identifying the beneficial owner(s) of the counterparty;
- Checking that the counterparty and their beneficial owners are not named on any government lists for wanted money launderers, known fraudsters or terrorists;
- Obtaining business and financial details with regard to the counterparty and information on the purpose and intended nature of the business relationship;
- For Mined Gold:
 - Identifying the origin of the gold based on reasonable and good faith efforts;
 - Obtaining mining licence, if applicable;
 - Obtaining import/export gold licence, if applicable;
 - Collecting and assessing mining practice;
 - Obtaining data on mining capacity, if available.
- For Mined Gold from artisanal and small-scale mining (“ASM”):
 - Assessment whether the ASM can be considered involved in legitimate artisanal and small-scale mining;¹
 - Whenever ASM gold doesn’t come from legitimate artisanal and small-scale mining,¹ supporting measures to build secure, transparent and verifiable gold supply chains from mine to market, such as suggested measures on Appendix 1 of Supplement on Gold of

OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.

- For Recycled Gold, collecting and assessing the Recycled Gold-supplying counterparty's AML-CFT policy and practices, if applicable;
- Conducting ongoing due diligence on the gold supply chain.

Refiners should apply each of the supply chain due diligence measures described above but may determine the extent of such measures on a risk-sensitivity basis depending on the type of company, business relationship, transaction type, location of the company or transit zone. For higher-risk categories, an enhanced due diligence should be performed and the following additional steps are required:

- On-site investigation/visit for high-risk supply chains, aimed at substantiating the documentary supply chain due diligence findings;
- For gold from Large Scale Mining: The verification of the identity using reliable, independent source documents, data or information, the identification of the beneficial owners and the checking of government watchlist information should be done for each company involved in the chain from the mine to the refinery (including gold producers, intermediaries, gold traders and exporters, and transporters);
- For ASM gold: The verification of the identity using reliable, independent source documents, data or information, the identification of the beneficial owners and the checking of government watchlist information should be done for each company involved in the chain from the gold exporter to the refinery (including international gold traders and transporters);
- For Recycled Gold: The verification of the identity using reliable, independent source documents, data or information, the identification of the beneficial owners and the checking of government watchlist information should be done for each company involved in the chain from the gold-supplying counterparty to the refinery (including transporters).

Refiners should determine their own criteria for high-risk supply chain. However, the following minimum criteria should be considered for high-risk categories:

- The Mined Gold or Recycled Gold originates from, has transited or has been transported via a conflict-affected or human rights abuse high-risk area;
- The Mined Gold is claimed to be originated from a country that has limited known reserves, likely resources or expected production levels of gold;
- The Recycled Gold comes from a country where gold from conflict-affected and human rights abuse high-risk areas are known, or reasonably suspected, to transit;
- Gold-supplying counterparty or other known upstream companies are located in a country representing high-risk for money laundering, crime or corruption;
- Gold-supplying counterparty or other known upstream companies or their beneficial owners are politically exposed persons;
- Gold-supplying counterparty or other known upstream companies are active in a higher-risk business activity such as arms, gaming and casino industry, antiques and art, diamond merchants, sects and their leaders.

Monitoring of transactions

The Refinery should conduct appropriate scrutiny and monitoring of transactions undertaken through the course of the relationship so as to ensure that the transactions are consistent with the Refiner's knowledge of the supply chain and risk profile. Monitoring of transactions should be undertaken by applying a risk-based approach.

In this context, the Refinery should receive and document the following information for each lot received:

- For Mined Gold:
 - Estimated weights and assay results (from counterparty);
 - Shipping/transportation documents (waybill/airway bill, pro-forma invoice, if applicable);
 - Export and import form for high-risk transaction, if applicable.

- For Recycled Gold:
 - Estimated weight (from counterparty);
 - Shipping/transportation documents (waybill/airway bill, pro-forma invoice, if applicable);
 - Export and import form for high-risk transaction, if applicable.

Refiners should verify that the documents are consistent with each other and with its knowledge of the supply chain. The background of transactions which are not consistent should be examined and the findings established in writing.

3. Report risk assessment to designated Senior Management

Senior Management retains the ultimate control and responsibility for the gold supply chain. Senior Management will carefully select and supervise the Compliance Officer and give him the necessary means to perform his duty.

Senior Management should approve each new supply chain assessed as high risk and should revisit each year the decision whether to continue with these business relationships or not.

STEP 3 - Design and implement a management strategy to respond to identified risks

1. Devise a strategy for risk management of an identified risk by either (i) mitigation of the risk while continuing trade, (ii) mitigation of the risk while suspending trade or (iii) disengagement from the risk

If the result of the gold supply chain due diligence concludes that there is money laundering, terrorist financing, contribution to conflict, human rights abuses, or if the possibility of the same is deemed too high, the Refinery should stop immediately to refine gold from this provenance.

If the result of the gold supply chain due diligence concludes that it is possible that there is money laundering, terrorist financing, contribution to conflict or human rights abuse, the Refinery should suspend refining gold from this provenance until it can obtain additional information/data confirming or refuting the preliminary assessment.

Where the result of the due diligence is not fully satisfactory, but the assessed company in the supply chain is using reasonable and good faith effort, Refiners can continue to refine gold coming from this source provided that it adopts an improvement strategy stating clear performance objectives within a reasonable timeframe.

2. Where a management strategy of risk mitigation is undertaken, it should include measurable steps to be taken and achieved, monitoring of performance, periodic reassessment of risk and regular reporting to designated senior management

The improvement strategy described in section 1 above should state clear performance objectives, including qualitative and/or quantitative indicators in order to measure improvement. A reasonable deadline should be communicated.

The advancement of the plan should be reviewed regularly and the results communicated to Senior Management.

On the deadline, an assessment should be performed in order to determine if the measures have been properly taken. Senior Management should be informed of the results and decide whether to continue dealing with this supply chain.

STEP 4 - Arrange for an independent third-party audit of the supply chain due diligence

Auditor Requirements

Refiners should have their gold supply chain management systems and practices audited by independent and competent third parties, who may include governments.

The LBMA also publishes a list of Recommended Auditors, which can be viewed on its website (www.lbma.org.uk).

Audit Standards

The LBMA recognises there are different types of audit engagements with which Refiners are familiar. For this reason, the LBMA will accept either an audit engagement performed in accordance with ISAE 3000, or the certification standard ISO 19011:2011. The LBMA has prepared detailed Third-Party Audit Guidance with respect to these two types of engagements.

Audit Procedures

For third-party audits based in ISO 19011:2002, auditors should perform their assessment based on the LBMA Third-Party Audit Guidance, specifically those sections that are drawn from ISO 19011:2011.

For assurance engagements, auditors should apply ISAE 3000 and refer to the LBMA Third-Party Audit Guidance, specifically those sections that provide further guidance on the application of ISAE 3000 Standard. Auditors will provide assurance on the Refiner's Compliance Report (refer to Step 5).

Audit Report

The audit report should include:

- Confirmation of the auditor's professional qualification;
- Confirmation of the auditor's independence;
- The audit standards applied;
- The auditor's assessment on the Refiner's compliance with the LBMA responsible gold guidelines.

In addition, auditors should make recommendations to the Refiner to improve their gold supply chain practice. Such recommendations may be done in a separate report. Any non-compliance must be reported to the LBMA.

Audit Periodicity

An audit of the Refiner's compliance with the *LBMA Responsible Gold Guidance* is required on a yearly basis, which will cover activities over a 12-month reporting period. A full audit (reasonable assurance/full assessment) will be carried out to ensure Refiners are meeting the requirements of the Guidance. After



successfully passing a full audit without instances of non-compliance, Refiners may be subject to a lower level of audit or “audit review” (limited assurance/assessment review) for the next two years. A full audit will be required every three years; however, some Refiners may choose to conduct a full audit every year. The required audit frequency will increase if instances of non-compliance are identified or if there is a significant change of circumstance in the Refiner’s supply chain.

Submission of Audit Report to LBMA

Copies of both full audit reports and review reports should be submitted to the LBMA Chief Executive via email or hard copy on an annual basis.

STEP 5 - Report on supply chain due diligence

Refiners should publicly report on their gold supply chain due diligence policies and practices, with appropriate regard for security, proprietary information and the legal rights of the other supply chain actors. Refiners should publicly report on their compliance with the *LBMA Responsible Gold Guidance* on an annual basis, which will cover activities over a 12-month reporting period.

For third-party audits based on ISO 19011:2002, Refiners are not required to issue a Refiner Compliance Report.

Refiners should therefore make available to the public their company policy regarding gold supply chain and the LBMA Summary Report.

For assurance engagements, Refiners are required to compile a Refiner Compliance Report, including the following information:

- Name of refinery;
- Time period of compliance;
- Summary of activities undertaken during the period to demonstrate compliance;
- Refiner's level of compliance with each step of the *LBMA Responsible Gold Guidance*;
- Management conclusion statement on compliance with the *LBMA Responsible Gold Guidance*.

Refiners should make available to the public their company policy regarding gold supply chain, the Refiner's Compliance Report with these guidelines together with the Assurance Report.

Regardless of the third-party audit approach chosen, Refiners should also submit a corrective action plan to the LBMA Physical Committee when there is a deviation from compliance and/or the Refiner fails to satisfy one or more of the requirements as set out in Steps 1 to 5 of the *LBMA Responsible Gold Guidance*.

The Refiner's Corrective Action Plan should include (for each non-compliance identified):

- A description of the issue;
- Reference to the relevant section in the *LBMA Responsible Gold Guidance*;
- Assigned risk rating of the non-compliance;
- Corrective actions to be taken for each non-compliance identified;
- The timeframe for completion of corrective actions for each non-compliance identified; and
- The person responsible for the implementation of each corrective action.

EFFECTIVE DATE

Refiners producing good delivery gold bars should start implementing the *LBMA Responsible Gold Guidance* on 1 January 2012 and have the full 2012 year in order to implement the Guidance.