Strengthening AML/CFT Controls in the Precious Stones and Precious Metals (PSPM) Sector

June 2021

MINISTRY OF LAW
SINGAPORE

Anti-Money Laundering/
Countering the Financing of
Terrorism Division

Strengthening AML/CFT Controls in the PSPM Sector

- As precious stones and metals are portable, valuable and easily convertible to cash, Precious Stones and Precious Metals Dealers (PSMDs) are inherently exposed to higher money laundering and terrorism financing (ML/TF) risks.

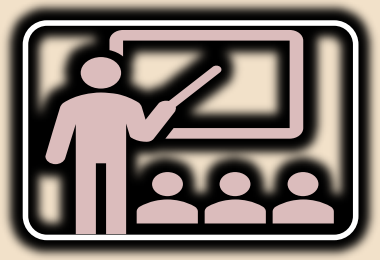
- PSMDs have to remain vigilant against ML/TF risks and ensure that anti-money laundering and countering of financing of terrorism (AML/CFT) measures are implemented to mitigate these risks.

- MinLaw conducted a series of onsite inspections and compliance reviews from June 2020 to March 2021 to assess PSMDs' level of compliance with the Precious Stones and Precious Metals (Prevention of Money Laundering and Terrorism Financing) Act 2019 (PSPM Act) and Precious Stones and Precious Metals (Prevention of Money Laundering and Terrorism Financing) Regulations 2020 (PMLTF Regulations) and provided guidance where needed.

- This paper summarises the key findings and feedback from MinLaw's inspections and compliance reviews, and elaborates on the sound practices observed. The paper also sets out MinLaw's supervisory expectations of effective AML/CFT controls in the PSMD sector.

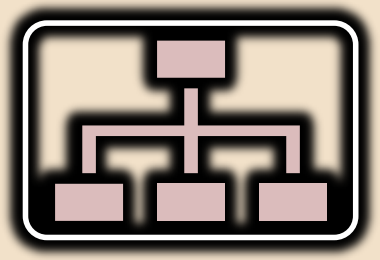
- While this paper does not impose new regulatory obligations, PSMDs should study the learning points and incorporate them in a manner proportionate to the risk profile of their business activities and customers.

Key Control Areas for Improvement



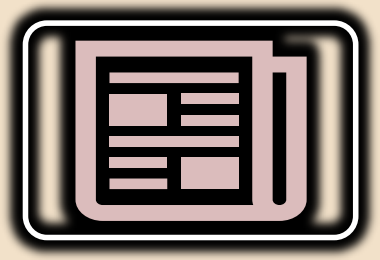
ML/TF Risk Awareness and Understanding of AML/CFT Requirements

- Lack of ML/TF risk awareness
- Inadequate understanding of AML/CFT requirements



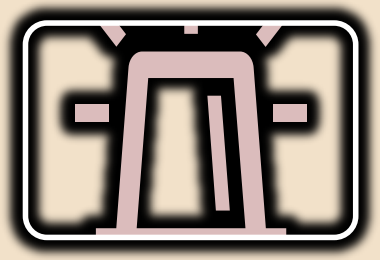
Risk Assessment and Internal Policies, Procedures and Controls (IPPC)

- Lack of or inadequate risk assessment
- Lack of or inadequate development of IPPC



Customer Due Diligence (CDD) and Cash Transaction Report (CTR)

- Required CDD not conducted or CDD documents not retained
- CTRs not filed or filed inaccurately



Enhanced Customer Due Diligence (ECDD)

- ECDD not conducted on politically-exposed persons (PEPs) and high risk customers or transactions
- Inappropriate reliance on customer's representation for income, source of wealth (SoW) and source of funds (SoF)

Inadequate ML/TF Risk Awareness and Understanding of AML/CFT Requirements

PSMDs, including their directors and senior management, should have a good understanding of the ML/TF risks of their business and their obligations as regulated dealers. They are expected to stay up-to-date on AML/CFT trends and developments, including:

- Revisions to the AML/CFT legislation and guidance issued by MinLaw
- Updates from the Financial Action Task Force (FATF)
- Updates to the MHA and United Nations (UN) Sanction lists
- Updates on Singapore's AML/CFT efforts such as National Risk Assessments
- Emerging or new ML/TF typologies or red flags

Please refer to the ACD website at https://acd.mlaw.gov.sg/ for detailed information.

Case Examples: Good Practices Observed	Case Examples: Lack of Awareness and Understanding
✓ Compliance officers of PSMDs attended the training sessions organised by MinLaw to understand ML/TF risks and regulatory requirements. The compliance officers went on to conduct training for the senior management and sales staff.	X Some PSMDs were not aware of ML/TF risk typologies and their obligations as regulated dealers.
✓ PSMD A put in place a structured AML/CFT training programme for its sales staff. The sales staff were also required to attend refresher trainings. Posters were put up in the retail outlets to remind sales staff of the CDD and CTR requirements.	X A number of PSMDs were aware of the AML/CFT requirements but felt that they did not apply to customers whom they had been dealing for a long time or they did not deal in cash. X Another group of PSMDs were aware of the AML/CFT requirements but did not know how to comply with them. X A few PSMDs misunderstood the AML/CFT requirements which resulted in non-compliance with the requirements.

Inadequate ML/TF Risk Awareness and Understanding of AML/CFT Requirements

Case Examples: Good Practices Observed	Case Examples: Lack of Awareness and Understanding
✓ PSMD B diligently updated the list of high-risk jurisdictions whenever there are updates from the Registrar. ✓ PSMD C engaged an external training provider to train staff on ML/TF risks and AML/CFT requirements.	X Some PSMDs did not pay attention to the broadcasts from MinLaw and STRO and failed to stay updated on AML/CFT developments and emerging ML/TF risks. X Sales staff of PSMD D were unaware of common ML/TF red flags and basic AML/CFT requirements.

Key Learning Points

- **Directors and senior management are ultimately responsible and accountable for ensuring AML/CFT compliance. They should stay up-to-date with emerging or new ML/TF risks and implement processes to keep the organisation aware of the risks.**

- **The directors and senior management of the regulated dealer should understand the ML/TF risks the regulated dealer is exposed to and how the regulated dealer's AML/CFT control framework operates to mitigate those risks.**

- **Dealers should put in place processes and regular training to ensure staff performing AML/CFT controls are kept aware of developments and are properly trained.**

Inadequate Risk Assessment and IPPC

To manage and effectively mitigate ML/TF risks, PSMDs need to:

- Identify, understand and assess the ML/TF risks posed by their customers, products, services, transactions and delivery channels
- Document and keep the risk assessment up-to-date
- Develop and implement IPPC to:
  - address ML/TF risks identified by it or as notified by the Registrar
  - ensure compliance with the AML/CFT regulations

Case Examples: Good Practices Observed for Risk Assessment

✓ When assessing the level of ML/TF risks posed by customers, PSMD E took into consideration whether they were new/ regular, walk-in/ referred, the value of their transactions, the payment mode and the countries they were from. Dealer documented the AML/CFT measures which were needed to mitigate the identified ML/TF risks.

✓ Some PSMDs conducted separate risk assessments for:

- different business activities (e.g. retail sales vs second-hand purchase of precious stones and precious metals (PSPM))
- different channels used (e.g. face-to-face vs online)
- different outlets due to different customer risk profiles

✓ A number of PSMDs analysed past transactional data to ensure that they addressed ML/TF risks from past transactions.

Case Examples: Risk Assessment was not conducted or inadequately conducted

X A number of PSMDs did not conduct any ML/TF risk assessment for their business because they were unaware of the requirement, did not see a need or did not know how to conduct risk assessment.

X The risk assessments conducted by some PSMDs were also assessed to be inadequate as they:

- did not consider all required risk factors
- did not differentiate the level of ML/TF risk among the identified risk factors. All the risk factors were assessed as low ML/TF risk
- the AML/CFT measures to mitigate the ML/TF risk posed by high risk customers/transactions did not include ECDD measures
- assessed customers from countries in FATF's increased monitoring list as low risk and did not subject them to ECDD measures

Inadequate Risk Assessment and IPPC

Case Examples: Good Practices Observed for IPPC Developed

✓ Some PSMDs included additional guidance to their staff in IPPCs, e.g.:
- guidance on what constitutes high risk customers or transactions and elaborated on the AML/CFT measures for such customers or transactions
- explaining the rationale and providing guidance on when to conduct CDD and file STRs
- the measures to take when CDD could not be completed or when specific red flags were detected

✓ Some PSMDs ensured that their IPPC was aligned with CDD and ECDD measures required by regulations.

✓ A few PSMDs translated the IPPC for staff who were not proficient in English and set out the AML/CFT procedures in flowcharts for easier understanding.

Case Examples: IPPC not developed or inadequately developed

X Some IPPCs did not address basic AML/CFT requirements, specifically:
- CDD measures for customers who are corporates and their beneficial owners
- ECDD measures for high risk customers/transactions
- Screening procedures
- CTR and STR filing procedures

X Certain PSMDs adopted their IPPCs from the sample IPPC provided in the Guidelines for Regulated Dealers without ensuring that it suited their business and risk profiles.

Key Learning Points

➢ **To demonstrate their understanding of the ML/TF risks and how they manage the identified risk, PSMDs should conduct a risk assessment and develop IPPC in accordance with the relevant AML/CFT requirements.**

➢ **PSMDs should document their risk assessment and the AML/CFT measures to provide guidance to their staff on how to address the ML/TF risks and comply with the regulatory requirements.**

Required CDD Measures not Conducted or CDD Documents not Retained

- PSMDs are required to perform CDD for all designated transactions and where PSMDs have reason to suspect ML/TF.
- If a PSMD is unable to perform CDD due to resistance from the customer, the PSMD must decline to enter / terminate the transaction and consider whether to file a suspicious transaction report.

Case Examples: Good Practices Observed for CDD Process

✓ When conducting designated transactions, PSMD F requested customers to provide their government issued identification, took a copy of the document and screened their names and ID numbers.

✓ For corporate customers whom they had dealt with for a long time, including those from outside of Singapore, PSMD G collected their incorporation documents and the CDD documents of the identified beneficial owners.

✓ Some PSMDs opened an account for each customer and conducted CDD during account opening. This allowed customers' transactions to be tracked and better monitored.

Case Examples: CDD Measures not Conducted or CDD Documents not Retained

X Certain PSMDs did not conduct CDD on designated transactions.

X A few other PSMDs conducted CDD on the individuals who represented the corporate customers but did not extend the CDD measures to the corporate customers and their beneficial owners.

X PSMD H relied on copies of the passport but did not check the original passports when conducting CDD on the beneficial owners of a foreign corporate customer.

X A few PSMDs collected identification or incorporation documents in foreign language but did not understand them.

X PSMD I did not collect a copy of the ID documents used to verify the identifying information of customers.

Required CDD Measures not Conducted or CDD Documents not Retained

Case Examples: Good Practices Observed for CDD Process	Case Examples: CDD Measures not Conducted or CDD Documents not Retained
✓ PSMDs used the services of commercial screening service providers to enhance the customer screening process.	X PSMD J lost copies of the ID documents after passing them to its head office.
✓ A few PSMDs indicated the date and the person who sighted the original document on the copy of the identification document.	X The ID documents retained by PSMD K were unclear and illegible.
	X PSMD L's foreign customer instructed a money-changer in Singapore to deposit cash into PSMD L's Singapore bank account. PSMD L did not conduct CDD on the individual who deposited the cash (i.e. the cash payor).

FOR ATTENTION

Gold bars:

✓ Gold bars are high value and allow anonymity. Payment using gold bars present higher ML/TF risks.

✓ PSMDs are strongly encouraged to conduct CDD on such payers.

Required CDD Measures not Conducted or CDD Documents not Retained

What are Designated Transactions?

- Designated transaction refers to any transaction conducted wholly or partly in Singapore, including 2 or more sales of PSPM in a single day to the same customer, for which cash or cash equivalent exceeding S$20,000 is received as payment. This is regardless of whether the cash payments received for the transaction were less than S$20,000 if paid over a few instalments.

Key Learning Points

➢ **Before entering into a designated transaction, PSMDs should ensure that CDD measures are conducted on the individual customer, the company he represents and the beneficial owners of the company.**

➢ **When verifying the identifying information, the PSMDs should obtain reliable and independent documents, including a translation if the identification or incorporation document in foreign language is provided.**

➢ **A copy of the CDD documents used for identity verification purpose should be maintained. PSMDs should record the date and person who sighted the original documents.**

➢ **Cash deposited directly into the PSMDs' Singapore bank account are considered cash payments received in Singapore.**

CTRs not Filed or Filed Inaccurately

PSMDs are required to:

- File CTRs on designated transactions
- The CTRs have to be filed within 15 business days of the designated transactions
- Report information on the cash payers and cash owners in the CTRs

Case Examples: Good Practices Observed for CTRs

✓ Some PSMDs were observed to have filed the CTRs diligently and on a timely basis. The CTRs were also supported by the necessary CDD documents.

✓ PSMD M conducted weekly checks on transactions and detected instances of CTRs not filed for designated transactions. PSMD M filed the missing CTRs upon detection.

✓ Most PSMDs have set up their SONAR account with STRO and commenced filing the CTRs through SONAR.

Case Examples: CTRs not Filed or Filed Inaccurately

X PSMD N did not file CTRs on designated transactions as cash payments received over a few instalments were individually less than S$20K.

X Some PSMDs did not file CTRs on designated transactions because they did not conduct CDD measures on their customers.

X Although PSMD O collected the CDD information on its corporate customers, it filed CTRs inaccurately by indicating the representatives of the corporate customers as the cash owners and omitted the information of the real cash owners.

X PSMD P reported the cash payer to be the foreign customer even though the cash was received from a representative.

Key Learning Points

➢ **After entering into a designated transaction involving one or multiple sales transactions within the same day with the same customer, a CTR has to be filed once the sum of the cash or cash equivalent received exceeds the S$20,000 threshold.**

➢ **PSMDs should ensure that the information in the CTR is complete and accurate. PSMDs should ensure that the cash payer(s) and cash owner(s) are correctly identified and reported in the CTR.**

ECDD Measures not Conducted on PEPs and High Risk Customers or Transactions

PSMDs are required to conduct ECDD measures on politically exposed persons (PEPs) and high risk customers or transactions. When determining whether a customer has higher ML/TF risk, PSMDs should take into consideration if they are from high risk countries and whether the transactions are in line with the customers' known profile.

ECDD measures include taking reasonable measures to establish the income level, source of wealth (SoW) and source of funds (SoF) of the customer and beneficial owner(s) of the corporate customer. The extent of the ECDD measures to be applied may vary according to the size of the customer relationship or the cumulative value of transactions with the customer.

Case Examples: Good Practices Observed for ECDD

- ✓ PSMD Q detected that the country which its regular customer was from was placed on the FATF list of jurisdictions which are under increased monitoring. PSMD Q proceeded immediately to conduct ECDD measures on the customer.
- ✓ The sales person discreetly collected information on SoW and SoF of higher risk customers through small talk and from the conversations between the customer and her companion.
- ✓ Some PSMDs collected information on their customers' income, SoW and SoF when customers enrolled the PSMDs' customer VIP/ loyalty programmes.

Case Examples: ECDD not Conducted on PEP and High Risk Customers and Relying Solely on Customer's Representation

- X A few PSMDs did not conduct ECDD measures on customers from countries placed on the FATF's list of jurisdictions which require increased monitoring.
- X PSMD R identified a customer to be the daughter of a foreign PEP alleged of corruption. However, ECDD measures were only performed on the customer 4 months after conducting a S$89K cash transaction with her.
- X When customers represented that their income were derived from their business, several PSMDs accepted the representation without obtaining any documentation or objective information to substantiate the representation.

ECDD Measures not Conducted on PEPs and High Risk Customers or Transactions

Case Examples: ECDD not conducted on customers exhibiting ML/TF red flags

X PSMD S entered into a S$26K cash transaction with an individual whose work permit showed that he was a foreigner working in the construction sector. PSMD S did not make further inquiry into the customer's SoF even though the transaction was inconsistent with the customer's income profile.

X PSMD T conducted a S$2.8 million cash transaction with a foreign customer and 2 cash transactions amounting to S$4.8 million with another foreign customer. However, the dealer did not consider the transactions to be of higher risk even though they were significantly larger than the average cash transactions. PSMD T also relied solely on the money-changer receipt to corroborate the customers' SoF and SoW.

X PSMD T also conducted S$26 million and S$16 million worth of transactions over a 12-month period with two individuals who paid using a mixed of fund transfers and cash payments. Although the transaction volume was unusually large, PSMD T accepted the customers' representation that they were in the bullion trading business without obtaining any objective supporting information.

Key Learning Points

- **PSMDs should put in place effective procedures to ensure that ECDD is performed on PEPs and high risk customers or transactions.**
- **PSMDs should pay closer attention to transactions or customers which exhibited ML/TF red flags, such as inconsistencies with known profile, unusually large transactions or unusual transaction patterns.**
- **PSMDs should obtain objective supporting information when establishing SoW, SoF and income level and not rely solely on customers' representations. Further due diligence should be conducted where the customers' representations are inconsistent with the information collected.**

Conclusion

- MinLaw's inspections and compliance reviews showed that PSMDs need to improve on their ML/TF risk awareness, as well as understanding and compliance with the AML/CFT regulations.

- PSMDs should maintain effective AML/CFT controls and continued vigilance to avoid being exploited by criminals for illicit purposes. Adequate focus must be accorded by regulated dealers on setting up a sound AML/CFT risk management framework and ensuring that their staff are well-trained to implement the established AML/CFT controls and to identify ML/TF red flags.

- MinLaw expects the PSMDs' directors and senior management to provide sufficient oversight and maintain good risk management standards in their organisation.

- PSMDs should evaluate the effectiveness of their AML/CFT measures against the findings and good practices highlighted in this guidance paper and take appropriate steps to address any gaps.

- MinLaw will continue to engage the PSMDs in improving their AML/CFT controls, as part of the ongoing supervision process.