

Chandrawat
& Partners

DEALERS IN PRECIOUS METALS AND STONES



TABLE OF CONTENTS

	PAGE NO.
01 Introduction	02
02 Precious metals and stones business	03
03 Categories of registration	05
04 Registration regime for DPMS	06
05 Fees for the registration	10
06 Exemptions	11
07 Non-Honk Kong DPMS	12
08 Transitional Agreement	14
09 How we can help?	15

INTRODUCTION

On April 1, 2023, the provisions outlined in the Anti-Money Laundering and Counter-Terrorist Financing (Amendment) Bill 2022, known as the ("AMLO Bill") came into effect, ushering in a new registration system for dealers in precious metals and stones ("DPMSs").

The AMLO Bill brought forth changes to the Anti-Money Laundering and Counter-Terrorist Financing Ordinance AMLO to strengthen Hong Kong's regulatory framework against money laundering and terrorist financing. Beyond the DPMS registration system, the AMLO Bill's amendments also introduced a licensing system for virtual asset exchanges in Hong Kong, which became operational on June 1, 2023.

For pre-existing DPMSs that were conducting business in Hong Kong before April 1, 2023, and possess a valid business registration certificate, they are allowed to continue their operations without obtaining DPMS registration for a transitional period of nine months, concluding on December 31, 2023, under a deemed Category B registration.

However, it's crucial to note that this nine-month transitional arrangement does not extend to non-Hong Kong DPMSs. Non-Hong Kong DPMSs must adhere to the notification requirements for specific cash transactions, commencing on April 1, 2023.



PRECIOUS METAL AND STONES BUSINESS

Articles that fall within the purview of the registration regime are-

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

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

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

(d) Precious-asset-backed instrument : means any certificate or instrument backed by one or more precious metals, precious stones or precious products that entitle the holder to such assets (in entirety or in part); but does not include –

(i) 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 ;or

(ii) a virtual asset





What is a precious metals and stones business?

Any person carries on any of the following activities by way of business:

(a) trading in, exporting, or importing precious metals, precious stones or precious products

(b) manufacturing, refining, or carrying out any value-adding work on precious metals, precious stones, or precious products

(c) issuing, redeeming, or trading in precious-asset-backed instruments

or

(d) acting as an intermediary in respect of any of the activities (a), (b), or (c).

The exception is provided for any person who carries on a logistics service business, which only imports or exports precious metals, precious stones, or precious products in the ordinary course of that business.



CATEGORIES OF REGISTRATION

With effect from 1 April 2023, any person who is seeking to carry on a business of dealing in precious metals and stones in HK and engage in any transaction(s) (whether making or receiving a payment) with total value at or above HKD120,000 in HK is required to register with the Commissioner of Customs & Excise

Category A registrant: Specified Transaction

- Any dealer who intends to engage in non-cash transaction(s) with total value at or above HKD120,000
- Simple and straightforward

Category B registrant: Specified Cash Transaction

- Any dealer who intends to engage in cash transaction(s) with total value at or above HKD120,000
- Subject to Anti-Money Laundering and Counter-Terrorist Financing supervision

REGISTRATION REGIME FOR DPMS



The regulatory authority dealing with registration process of DPMS is Commissioner of Customs & Excise ("CC&E").

Requirements for Cat. A Registration

- Applicant must be a holder of a valid business registration certificate or a hawker license and the application must be accompanied by a copy.
- Address of each premise that the applicant intends to use as a business. premises (and branch, if any)
- Correspondence address
- Accompanied by a declaration that the business in precious metals and stones will be carried on for a lawful purpose.

Category A Registration Application

1. Application

- Submit the application through the Dealers in Precious Metals and Stones Registration System (DRS) and upload the supporting documents.
- Submit the application form and supporting documents for Category A Registration in person or by post.

2. Payment for application

- Payment through General Demand Note
- Online Payment (by credit card) through the DRS

3. Document Verification

4. Notification of Application Result

5. Successful registrants can download the Certificate of Registration (and Branch Certificate, if any, from the DRS)



Requirements for Category B Registration

1. Applicant must be a holder of a valid business registration certificate or a hawker licence and the application must be accompanied by its copy
2. Address of each premises that the applicant intends to be used as business premises (including branch)
3. Correspondence address
4. Each individual (sole proprietor company), partner(s) (for partnership company), director(s) (for Corporation) or the ultimate owner(s) shall pass the Fit & Proper Test on whether:
 - convicted of money laundering or other relevant criminal convictions
 - failed to comply with the conditions imposed by the Anti-Money Laundering (“AML”) and Counter-Terrorist Financing (“CTF”) Ordinance (“AMLO”)
 - an undischarged bankruptcy, in liquidation or winding-up, etc.
5. Information on business and AML/CTF measures



Category B Registration Application

1. Application

- Submit the application through the DRS and upload the supporting documents.
- Submit the application form and supporting documents for Category B Registration in person or by post

2. Payment for application

- Through General Demand Note
- Online Payment (by credit card) through DRS

3. Verification of documents collection of original Authorization Letters for Fit and Proper Test and interview (Interviewee must be the sole proprietor, a partner, a director, an ultimate owner, or a representative authorized by the Board of Directors)

4. Notification of assessment result

5. Successful applicants can download the Certificate of Registration and Branch Certificate from DRS



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

According to section 53ZUA of the AMLO, the DPMS registration requirement does not apply to:

- The Government.
- An authorized institution.
- A pawnbroker licensed under the Pawnbrokers Ordinance.
- A licensed corporation that carries on a precious metals and stones business that is ancillary to any regulated activity (as defined by section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance) carried out by the corporation for which the corporation is licensed under that Ordinance.
- An authorized insurer that carries on a precious metals and stones business that is ancillary to the insurer's principal business.
- A licensed insurance broker company that carries on a precious metals and stones business that is ancillary to the company's principal business.
- A licensed individual insurance agent or a licensed insurance agency that carries on a precious metals and stones business that is ancillary to the agent's or agency's principal business.
- An SVF licensee that carries on a precious metals and stones business that is ancillary to the SVF licensee's principal business.
- A system operator or settlement institution of a designated retail payment system that carries on a precious metals and stones business that is ancillary to its business as a system operator or settlement institution.

NON-HONG KONG DPMS

A non-HK Precious Metals and Stones Dealer refers to any person who fulfils all the following conditions:

(a) the person—

either—

(i) is an individual who does not ordinarily reside in Hong Kong and does not have a place of business in Hong Kong.

or

(ii) is a legal person, 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 and does not have a place of business in Hong Kong.

and

(b) The total number of days on which the person's PMS business is carried on in Hong Kong does not exceed 60 days in a calendar year



Non-Hong Kong Precious Metals and Stones Dealers - Obligations

A non-HK DPMS must give a Cash Transaction Report (CTR) (which is a standardized form) to Customs, in respect of any cash transaction with a total value at or above HKD 120,000 carried out in Hong Kong, before the expiry of 1 day after the transaction or the earliest time when a specified individual leaves Hong Kong, whichever is earlier.

- If the dealer is an individual, the report must be submitted by the dealer.
- If the dealer is a legal person (e.g., a company or corporation), the report must be submitted by the dealer's representative.

Penalty on Non-HK Precious Metals and Stones Dealers

- Failing to file cash transaction report within the specified period.
(Maximum penalty: HKD50,000 fine and 3 months imprisonment)
- Providing a statement that is false or misleading in a material particular/omits a material.
(Maximum penalty: HKD50,000 fine and 6 months' imprisonment)

TRANSITIONAL ARRANGEMENT



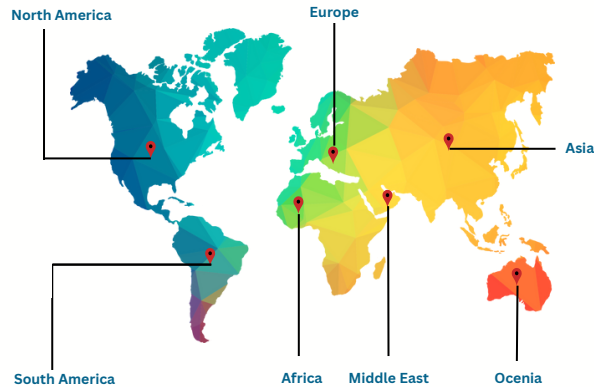
- The 9-month transitional period aims to provide the trade with sufficient time to undergo registration in accordance with the regulatory regimes.
- During the period, existing dealers will be regarded as “deemed registrants” and can continue to carry out transaction with total value at or above HKD 120,000.
- If the existing dealers apply for registration during the 9-month transitional period, the application and related fee will be waived.
- For those non-existing dealers who have not been dealing in precious metals and stones before 1 April 2023, they must apply for registration if they wish to start the precious metals and stones business and engage in any transaction(s) with total value at or above HKD120,000 on or after 1 April 2023, or otherwise they may commit an offense.
- Penalty for HK Precious Metals and Stones Dealers
- Any person, who is not a registrant, carries out transaction(s) with a total value at or above HKD120,000 in Hong Kong
(Maximum penalty: HKD100,000 fine and 6 months imprisonment)
- A registrant fails to display the certificate or to report change of particulars.
(Maximum penalty: HKD50,000)



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



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