

**To: House of Commons Standing Committee on Finance**

**From: Canadian Jewellers Association (CJA)**

Brian Land, General Manager

Phyllis Richard, Chair CJA Government Relations Committee

**Re: Follow up Brief Submission from the Canadian Jewellers Association (CJA) after witnesses' appearance for the Parliamentary review of the PCMLTFA, March 21<sup>st</sup>, 2018**

**Re: Dealers in Precious Metals and Stones (DPMS)**

April 5, 2018

On behalf of the Canadian Jewellers Association (CJA) we would like to thank the Committee for allowing us to appear as witnesses for the Parliamentary review of the PCMLTFA.

The purpose of this follow up brief is twofold. First, we would like to briefly summarize the information on Dealers in Precious Metals and Stones (DPMSs) we provided in our opening remarks. Secondly, we would like to highlight some additional information partially covered or not covered during our appearance.

### **Summary of Opening Remarks**

- The Canadian DPMS sector is mostly small businesses with the exception of Big Box retailers and a few jewellery retail chains.
- Precious metals, stones, and finished jewellery are not a common medium of exchange in Canada.
- It is estimated that in the resale of a piece of finished jewellery in the Canadian market, the loss of value would be between 75 and 95 percent of the retail price on average.

- Products that lose less value when resold are the most vulnerable – the same items that are targets by thieves in a robbery – brand name watches and high-end larger diamonds.
- Unlike other reporting entities, there are no licensing requirements specific to the part of the DPMS sector covered under the PCMLTFA.
- Other reporting entities such as financial institutions have a very structured and regulated environment whereas the DPMS sector is unregulated and entrepreneurial in spirit.
- The DPMS sector at the independent retail and wholesale level lacks technological sophistication with a limited communication channel.
- The DPMS sector encompasses various products that present various risks. These risks need to be understood in order to develop measures to mitigate these risks.
- As an example diamonds are much more “commodity-like” than coloured stones.
- Finished jewellery purchased at retail rates represents little money laundering or terrorist financing risk in the Canadian context.
- Retail jewellers are not likely to be the path of least resistance for criminals that wish to dispose of stolen property.
- Within the DPMS sector there is a segment of industry that is not covered but would seem to be vulnerable to money-laundering, namely auction houses.

## **Additional information**

Throughout history, jewellery has served at times a means to store and transport wealth in uncertain times. Currently gold can fill this role mostly in countries where the governments and banks do not share the confidence of the populace that they do in Canada.

In Canada, most jewellery is purchased primarily for romantic adornment purposes, like engagement rings. In other countries where gold is regularly traded by people on a dollars per gram basis, or is given as dowry gifts and used to store wealth – gold and diamonds are also treated by people as a secondary currency. We do not have that tradition in Canada.

Canada has a mature jewellery market that relatively speaking is not large.

While Canada is a significant diamond mining producer, it is not a significant diamond trading centre.

Diamond trading centres like India, Israel, Dubai and Belgium are also riskier simply because there is so much diamond trading volume.

## **Other jurisdictions and DPMSs**

It is worth noting that Canada has one of the more onerous AML/ATF compliance regimes for the DPMS sector compared to some other countries, one of which is our largest trading partner.

### **United States**

In the US, a DPMS must institute an AML program if they are a dealer, meaning, you purchased "covered goods" (precious metal, jewels and stones and/or finished goods) in an amount in excess of \$50,000 during the prior calendar or tax year AND received more than \$50,000 in gross proceeds from the sale of precious metal, jewels and stones during the same period. (Refiners, wholesalers, traders, importers, manufacturers, retailers, suppliers, and pawnbrokers and those who buy from the public). There are however IMPORTANT EXCEPTIONS FOR RETAILERS.

According to the final rules, retailers (those selling primarily to the public) may not need to implement an AML program if you qualify for one of the following exceptions:

1. If you are a retailer, and purchase only from other dealers (as defined above) who implement an U.S. AML program, you do not need to comply.
2. If you do purchase from non-dealers, such as members of the public and foreign sources of supply (to whom the US rules do not apply), and the value of the covered goods is less than \$50,000, you do not need to comply. If the value of the covered goods is more than \$50,000 in any one calendar or tax year, you must comply.

Financial Crimes Enforcement Network (FinCEN) excluded most retailers from the scope of the US regulation.

## **United Kingdom**

In the UK any “high value dealer” (any business not just DPMS) must register with government (HM Revenue and Customs) to be able to legally accept cash in the amount of €10,000 or more.

## **Australia**

Only bullion dealers are captured under the DPMS sector. It should be noted that like Canada, Australia is a diamond producing country.

For reporting entities there is a \$10,000 AUD threshold.

## **Belgium**

Only diamond dealers are captured under the DPMS sector. It should be noted that Antwerp is the largest (by value) diamond trading centre in the world.

As of 2014, cash transactions over 3000 euros or 10% of goods or services are prohibited although it has been indicated by government that the threshold may be raised to 7500 euros.

## **Cost of AML/ATF Compliance**

During our meeting with the Committee on March 21<sup>st</sup>, a Committee Member asked about the cost of AML/ATF compliance to Canadian jewellery businesses.

There is a differentiation between large retail chains that have sophisticated systems that manage compliance [i.e. if there is a transaction over \$10,000, a form pops up and the POS (Point of Sale) does not permit the transaction to proceed unless the form is completed in full] versus the independent jeweller for which such transactions are manual in nature. Given that the majority of jewellers in Canada are small businesses the cost of developing, implementing and maintaining an AML/ATF compliance regime can indeed be onerous. For a small business the responsibility usually falls entirely on the owner/operator. First, there is the “learning curve” of what a regime needs to include. Although FINTRAC is making an effort to better define compliance

requirements according to reporting entities, jewellers have been captured since 2008. There was little understanding of the sector back then. The requirements that applied to other reporting entities, mostly financial institutions, were altered very little for a small business jeweller who, in the case of retailers, is trying to run the business, sell and provide services to consumers as well as maintain staff, and understand crime prevention so that they are less vulnerable to robberies. In other words a compliance was a little like trying to fit a square peg into a round hole.

Anecdotally, after our meeting with the Committee, a jeweller contacted the CJA wanting some help and guidance regarding a FINTRAC evaluation. This jeweller had an hour and a half evaluation in 2013 by phone with FINTRAC where the only compliance deficiency cited at that time was a lack of a two year “Effectiveness Review”. FINTRAC now wanted to do another evaluation on site and wanted the jeweller to set aside 1 day for the review to take place. This business has 1 employee besides the owner who is a jewellery designer working directly with customers. Aside from the preparation for the visit this meant that no business could be conducted for that day as the Compliance Officer is the owner who would need to be available for the evaluation.

## **De-risking**

Part of what one could call “collateral damage” is the circumstance where financial institutions de-risk members of a sector. Anecdotally jewellers have faced this challenge with some large Canadian banks. In some cases the financial institution has required far more than what FINTRAC has detailed as necessary compliance. The DPMS sector in particular has varying risks according to the size, type of business, location of the business and the types of products the business buys/sells. Not all jewellers are inherently in an ML/TF high-risk business. The DPMS sector is very diverse and encompasses a variety of business models.

## **Transparency- A growing trend**

In our opening remarks we touched briefly on measures that have been taken by the sector to ensure transparency in the supply chain. There is a tangible growing trend towards responsible sourcing and transparency in the products jewellers sell to each other and to the consuming public. This is an important emerging trend as it will bring more transparency to the sector and make it more difficult for bad actors to use these

products for criminal activity. Although at this time it is being spearheaded by large worldwide companies we believe it will eventually make its way to the small business jeweller.

Looking to some of the world jewellery retail leaders such as Tiffany, Chopard, Cartier, Birks and Signet (in Canada Signet is represented by Peoples Jewellers and Mappins Jewellers), these retailers are leading the way to ensure that the products they sell are responsibly sourced and can be traced back to the origin of the diamond, gemstone and/or precious metals.

On the supply side we are seeing blockchain technology emerging as a supply chain management tool. Companies like DeBeers are beginning to use this technology to track diamonds from the mine to consumers. There are also both coloured stone dealers and gold companies beginning to use blockchain as well.

The following are further examples of industry's efforts to bring responsible sourcing and transparency to the products jewellers sell.

In 2002 with the guidance of the Competition Bureau, the Canadian diamond industry developed and implemented the *Voluntary Code of Conduct for Authenticating Canadian Diamond Claims* (Code). The Code continues to exist to this day to help ensure that diamonds sold as Canadian are indeed from a Canadian diamond mine. [www.canadiandiamondcodeofconduct.ca](http://www.canadiandiamondcodeofconduct.ca).

Over a decade ago the *Responsible Jewellery Council* (RJC) was established as a not-for-profit standards setting and certification organisation. *“RJC Members commit to and are independently audited against the RJC Code of Practices – an international standard on responsible business practices for diamonds, gold and platinum group metals. The Code of Practices addresses human rights, labour rights, environmental impact, mining practices, product disclosure and many more important topics in the jewellery supply chain.”*

[https://www.responsiblejewellery.com/reports/annual\\_reports/2017/#page/22](https://www.responsiblejewellery.com/reports/annual_reports/2017/#page/22)

In 2004 the Mining Association of Canada developed and implemented a performance system that assist that industry in meeting environmental and social responsibilities. Known as TSM (Towards Sustainable Mining), it has been adopted and/or adapted by

three countries (Finland, Argentina and Botswana). There are a number of other countries also interested. Apple has adapted MAC $\phi$  TSM for their own.

These are just a few examples of this growing trend. Over the long term these ways of tracking and tracing products should help deter the criminal element from the DPMS sector.

## Recommendations

- To level the playing field all luxury product dealers (i.e. cars, boats, art) should be required to report large cash transactions to FINTRAC.
- At the very least DPMS that fall into a lower risk category should be allowed to have a simplified Compliance Regime.
- Exempt DPMSs from a compliance regime if they do not engage in cash transactions above the reporting threshold (as in the UK) thus eliminate an unnecessary compliance burden on a low risk sector.
- Auction houses should be captured under the regulations.

**Canadian Jewellers Association (CJA)** - *The CJA* is the national trade association representing over 1200-member locations consisting of jewellery retailers, suppliers, manufacturers as well as goods and service providers in Canada. Founded by jewellers in 1918, the CJA is the voice of the Canadian jewellery and watch industry, providing leadership in ethics, education and communication and through Jewellers Vigilance Canada (JVC) provides crime prevention education for industry and training for law enforcement. CJA's mandate is to ensure a fair and equitable marketplace assisting members to follow best practices while promoting consumer trust and confidence.