



Financial Action Task Force
Groupe d'action financière

**RBA GUIDANCE FOR DEALERS IN PRECIOUS
METAL AND STONES**

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GUIDANCE FOR DEALERS ON IMPLEMENTING A RISK-BASED APPROACH

Chapter One: Risk Categories

1. In order to implement a reasonable risk-based approach, dealers in precious metals/dealers in precious stones should identify the criteria to assess potential money laundering and terrorist financing risks. These risks will vary according to the activities undertaken by the dealers.
2. Identification of the money laundering and terrorist financing risks, to the extent that the terrorist financing risk can be identified, will allow dealers in precious metals/dealers in precious stones to determine and implement proportionate measures and controls to mitigate these risks.
3. Money laundering and terrorist financing risks may be measured using various categories. Application of risk categories provides a strategy for managing potential risks by enabling dealers in precious metals/dealers in precious stones to subject customers to proportionate controls and oversight. The most commonly used risk criteria are: country or geographic risk; customer risk; and product/services risk. The weight given to these risk categories (individually or in combination) in assessing the overall risk of potential money laundering may vary from one dealer to another, depending upon their respective circumstances. Consequently, dealers in precious metals/dealers in precious stones will have to make their own determination as to the risk weights. Parameters set by law or regulation may limit a dealer's discretion.
4. While there is no agreed upon set of risk categories for dealers in precious stones/dealers in precious metals, the examples provided herein are the most commonly identified risk categories. There is no single methodology for applying these risk categories. However, the application of these risk categories is intended to assist in designing an effective strategy for managing the potential risks.

Country/Geographic risk

5. There is no universally agreed definition by either designated competent authorities, SROs, or dealers that prescribes whether a particular country or geographic area (including the country within which the dealer operates) represents a higher risk. Country risk, in conjunction with other risk factors, provides useful information as to potential money laundering and terrorist financing risks. Factors that may result in the determination that a country poses a higher risk are set out below.
6. Some countries and geographic locations are of greater AML/CFT concern, and the risk level can rise or lower dependent upon the country of any of the elements of a transaction, including (1) where a product is mined; (2) where a product is refined or finished; (3) location of a seller; (4) location of a purchaser; (5) location of the delivery of a product and (6) location of funds being used in the transaction.

Background information box

Geographic risk – where a product is mined. Mining can be vulnerable to terrorist financing if it occurs in remote locations with minimal governmental presence or infrastructure. In some areas, for example, gold mining can be dominated by armed non-governmental groups.

Mining for jewels is also geographically widespread, and sometimes occurs in areas of significant turmoil. Unlike diamond mining, mining for jewels is largely small and informal, carried on by local prospectors and owners in alluvial sources, very few of which, if any, are publicly traded companies. Some mines are government owned, and mines often have licenses issued by government agencies involved with natural resources, but even such mines are often remote from strong governmental oversight, and often in areas of substantial conflict and crime, including terrorism. Buyers travel to the mines or to nearby communities and buy jewels, sometimes in a manner controlled by government, sometimes either directly from miners or from local intermediaries. Because many of these areas do not have reliable financial systems, payments are often in cash and informal, or are made through third party accounts, again increasing risk.

7. Factors that should be considered in a determination that a country may or may not pose a higher risk with regard to a proposed transaction in diamonds, jewels or precious metals include:

- For rough diamonds, whether a producing or trading country participates in the Kimberley Process.
- Whether there is known mining or substantial trading of the transaction product – diamonds, jewels or precious metals - in a transaction source country.
- Whether a country would be an anticipated source of large stocks of existing diamonds, jewels or precious metals, based upon national wealth, trading practices and culture (centres of stone or jewel trading, such as Antwerp, Belgium) or unanticipated (large amounts of old gold jewellery in poor developing countries). It should be recognized, however, that gold and silver have cultural and economic significance in a number of developing countries, and very poor people may have, buy and sell these metals.
- The level of government oversight of business and labour in mining and/or trading areas.
- The extent to which cash is used in a country.
- The level of regulation of the activity.
- Whether informal banking systems operate in a country, *e.g.* hawalas operate in many developing countries.
- Whether designated terrorist organisations or criminal organisations operate within a country, especially in small and artisan mining areas.
- Whether there is ready access from a country to nearby competitive markets or processing operations, *e.g.* gold mined in Africa is more frequently refined in South Africa, the Middle East or Europe rather than in the United States, and a proposal to refine African gold in the United States would be unusual and higher risk.
- Whether, based on credible sources³, appropriate AML/CFT laws, regulations and other measures are applied and enforced in a country.

³ “Credible sources” refers to information that is produced by well-known bodies that generally are regarded as reputable and that make such information publicly and widely available. In addition to the Financial Action Task Force and FATF-style regional bodies, such sources may include, but are not limited to, supra-national or international bodies such as the International Monetary Fund, and the Egmont Group of Financial Intelligence Units, as well as relevant national government bodies and non-governmental organisations. The information provided by

- The level of enforcement of laws addressing corruption or other significant organized criminal activity.
- Whether sanctions, embargoes or similar measures have been directed against a country.

Customer and counterparty risk

Retail Customer Risk

8. A retail customer of precious metals or precious stones will, in general, not have a business purpose for a purchase of an article of jewellery, a precious stone or a precious metal. A purchase is likely to be made for purely personal and emotional reasons that cannot be factored into an AML/CFT risk assessment. Higher risk can be seen, however, in certain retail customer transaction methods:

- Use of cash. It should be recognized, however, that many persons desire anonymity in jewellery purchases for purely personal reasons, or at least the absence of paper records, with no connection to money laundering or terrorist financing.

- Payment by or delivery to third parties. However, not all third party payments are indicative of AML/CFT. It is relatively common in jewellery purchases that a woman will select an article of jewellery, and a man will later make payment and direct delivery to the woman.
- Structuring.

Business Counterparty Risk

Background information box

There are many different stages and transactions and counterparties involved in the precious stones and precious metals businesses. As set forth above, miners range from international companies to individuals. Intermediaries may be well established local buyers from miners, or itinerant foreign buyers, or hawalas. Retail jewellers may buy articles of used jewellery, as may direct buyers and pawnshops. Each of these businesses may present a money laundering risk. Dealers may buy from or sell to other counterparties who also work in their precious metals or precious stones businesses, or sell to the public through retail sales (which may often be anonymous). Dealers will need to consider the risks associated with each stage at which they participate. A risk based approach should account for higher risk customers and counterparties at every stage.

Apart from the retail sector, trade in diamonds, jewels and precious metals is traditionally private, as a matter of commercial protection or security. Dealers have traditionally protected their counterparties, their materials, and their business practices from public knowledge, in the interest of protecting themselves from criminal activity, and from potential independent interaction by competitors with their customers and counterparties or suppliers. However, it is necessary for dealers themselves to know that they are dealing with legitimate counterparties.

In some sectors within precious metals and precious stones businesses, trust based on personal contact is an essential element of conducting business, and such trust and personal contact assist in lowering counterparty risk. In addition, each industry has trade resources, such as trade associations and directories, with which to establish some background and credit information and these should be consulted. Checks must be made upon any new counterparty that is unknown to a dealer, and particularly if also unknown within the dealer's industry. A counterparty, who proposes a transaction in diamonds, jewels or precious metals should have the knowledge, experience and capacity, financial and technical, to engage in that transaction.

these credible sources does not have the effect of law or regulation and should not be viewed as an automatic determination that something is of higher risk.

9. Higher risk counterparties include a person who:

- Does not understand the industry in which he proposes to deal, or does not have a place of business or equipment or finances necessary and appropriate for such engagement, or does not seem to know usual financial terms and conditions.
- Proposes a transaction that makes no sense, or that is excessive, given the circumstances, in amount, or quality, or potential profit.
- Has significant and unexplained geographic distance from the dealer in precious metals or dealer in precious stones.
- Uses banks that are not specialised in or do not regularly provide services in such areas, and are not associated in any way with the location of the counterparty and the products.
- Makes frequent and unexplained changes in bank accounts, especially among banks in other countries.
- Involves third parties in transactions, either as payers or recipients of payment or product, without apparent legitimate business purpose.
- Will not identify beneficial owners or controlling interests, where this would be commercially expected.

- Seeks anonymity by conducting ordinary business through accountants, lawyers, or other intermediaries, see the paragraph above.
- Uses cash in its transactions with the dealer in precious metals or dealer in precious stones, or with his own counterparties in a nonstandard manner.
- Uses money services businesses or other non-bank financial institutions for no apparent legitimate business purpose.
- Is a politically exposed person (PEP).

Product/Service Risk

10. An overall risk assessment should also include a determination of the potential risks presented by products and services offered by a dealer in precious metals or a dealer in precious stones. The determination of risks of products and services should include a consideration of the following factors:

(a) Products offered

11. All diamonds, jewels, and precious metals can potentially be used for money laundering and terrorist financing, but the utility and consequent level of risk are likely to vary depending on the value of the product. Unless transactions involve very large quantities, lower value products are likely to carry less risk than higher value products. However, dealers must be aware that values can be volatile dependent upon supply and demand. Relative values of some materials can vary dramatically between different countries, and over time.

12. Dependent upon the nature of the transaction, counterparties, and quantities, gold can be higher risk. Pure gold, or relatively pure gold, is the same substance worldwide, with a worldwide price standard published daily, and it can also be used as currency itself, *e.g.* by hawalas. Gold is available in a variety of forms, *e.g.* bars, coins, jewellery, or scrap, and trades internationally in all of these forms.

13. Although scrap gold alloys or other gold-bearing scrap may require substantial processing and refining to reach an end market, the costs will be discounted in advance, and the scrap may still trade for high value in multi-billion dollar worldwide markets. Values of many scrap materials are uncertain and not precisely knowable until they have been processed and assayed, which can present an AML risk if the parties undervalue or overvalue international shipments.

14. Alluvial gold and gold dust can be indicative of informal mining by individuals and small groups, often in areas that are characterized by informal banking and absence of regulation, and so may be higher risk.

15. The physical characteristics of the products offered are also a factor to consider. Products that are easily portable and which are unlikely to draw the attention of law enforcement are at greater risk of being used in cross border money laundering. For example, diamonds are small, light in weight, not detected by metal detectors, and a very large value can be easily concealed.

16. Finally, the risk of dealing in stolen or fraudulent products must be taken into account. As with all valuable objects, diamonds, jewels and precious metals are attractive to thieves, and dealers must be aware of the risks of trading in stolen products. For example, jewellery dealers, pawn shops and buyers of used gold jewellery should remain alert to the possibility of being offered stolen jewellery. In addition to stolen goods, dealers should be aware of the risks associated with fraudulent goods, such as synthetic diamonds represented as natural diamonds, or 14 karat gold represented as 18 karat.

(b) Services offered

17. Major gold dealers create metal accounts for their customers, for temporary secure storage or for investment, and they transfer counterparties' gold credits in these accounts among themselves, and among repositories and delivery destinations worldwide, with services comparable to those provided by banks with

money and financial credits. Such services, by banks as well as by major gold dealers, may be useful to money launderers and terrorist financiers to move high values through international commerce, under the guise of legitimate business, but are unlikely to be anonymous and irregular, and thus may be of lower risk.

(c) Market characteristics

18. It is helpful to bear in mind the following broad principles which may lower the risk levels of particular transactions:

- Limited resale opportunities – limited resale opportunities are likely to be unattractive to money launderers¹.
- Size of market – a small market is likely to make it more difficult for a money launderer to structure transactions, to layer multiple transactions (to create distance between the seller and the ultimate purchaser), and to conduct anonymous transactions, and will thus be less attractive to money launderers.
- Degree of expertise required – if specialized expertise is required for transactions, risk of use of such transactions by money launderers may be lower. For example, diamonds are unique objects, some with extremely high value, some with much less, all dependent upon size and physical characteristics, usually as judged by persons with expertise in diamond evaluation. As transaction values increase, either because of higher numbers of diamonds involved or higher quality of individual diamonds, so does the need for expertise and specialized markets increase. Money launderers may not have such expertise. Such expertise exists, however, in many places, and money launderers may be able to obtain it, or to employ it.
- Degree of market regulation – if a market is regulated, depending upon the degree of regulation, transactions in that market may be lower risk (see below the other variables to take into account for the determination of risks).
- Transaction costs – money laundering and terrorist financing can involve multiple transactions, with criminals first placing illegal assets within a legitimate product, as anonymously as possible, then layering those assets through intermediate transactions, and then removing them at a different time and place. Money launderers want to get as much as possible of their illegal assets out of these transactions. They may be prepared to accept losses in these layering transactions, but may prefer to keep them to a minimum. Therefore transactions involving high value product and low transaction costs may be particularly attractive to money launderers and terrorist financiers. For example, a purchase of pure gold coins, and subsequent sale of those coins at another location, will quickly return most of the original purchase price. On the other hand a purchase of a specialty gold alloy may have a resale value of only the gold content, losing any value added in manufacturing, and losing gold refining charges as well. Such a transaction will cause a money launderer to pay substantial transaction costs and may therefore be lower risk.

(d) Financing methods

19. The method of payment used affects the risk of money laundering and terrorist financing taking place. The risks are likely to be reduced if transactions take place through the mainstream banking system. Conversely, the risk may increase in the following situations:

¹ For example, spent industrial catalysts that contain platinum group metals generally have resale opportunities limited to platinum refiners, and thus are of lower risk in money laundering. Silver used in imaging and electronics, which are specialized applications from which value is not easily removed, is similarly of lower risk. Platinum and silver jewellery and coins could, of course, be used by money launderers. Silver has been used for centuries as money, as has special prominence in some geographical areas and cultures, *e.g.* India.

- Cash, especially in large amounts, can be a warning sign, especially if the use of cash is anonymous or intentionally hides an identity, *e.g.* the true purchaser funds the transaction by giving cash to a third party, who then becomes the nominal and identified purchaser.
- Payments or delivery of product to or from third party accounts, *e.g.* accounts in the names of persons other than approved counterparties.
- Payments to or from accounts at financial institutions that are unrelated to a transaction or approved counterparties, such as banks located in countries other than the location of the counterparty or transaction.
- Non-bank financial mechanisms such as currency exchange businesses or money remitters.

Variables that may change risk determination

20. To design a risk-based approach methodology, there may be a need to look at a series of other variables that may increase or decrease the perceived risk posed by a particular customer or transaction:

- The level of effective AML/CFT regulation or other oversight or governance regime to which a counterparty is subject. A counterparty that is a dealer in precious metals or a dealer in precious stones operating in a country under a robust AML/CFT regime, or a system such as the Kimberley Process, poses less risk from a money laundering perspective than a counterparty that is unregulated or subject only to minimal AML regulation. To be given such

a lower risk consideration, a counterparty should have a compliance program and certify to compliance with its applicable regulatory system.

Background information box

The type and level of regulation varies greatly among the different types of precious metals and precious stones. For example, in some countries, dealers are required to have a government issued license for their particular businesses, in others they are not. There may be no or limited regulation when a product is mined and sold for the first time, but the level of regulation may increase as the product continues to be traded.

Some governments are also involved in transactions through export and import regulatory systems, often for the purpose of collecting taxes or duties, which require traders to describe their materials and declare values and counterparties of export or import. Such government involvements may lower risk, but may vary from country to country, and impacts upon risk must be evaluated directly by a dealer in precious metals or a dealer in precious stones.

There is some government regulation of precious metals trading, but most transactions are not conducted in regulated markets. Gold is traded worldwide in very large amounts in direct physical transactions and through financial derivatives, i.e. forwards and futures, which can be used to acquire and sell rights in physical gold stocks. Such paper gold transactions, of any size, are highly unlikely to be anonymous or conducted in cash, certainly in regulated markets and probably in unregulated markets, but should not be ignored for anti money laundering purposes.

A large proportion of rough diamond sales are made through Belgium, which strictly regulates dealers and transactions (including the physical inspection and value assessment of all imported and exported diamonds, hence for instance excluding valuation and synthetic diamonds related risks), and through bourses with stringent membership rules of practice. Some countries participate in the Kimberley Process. The Kimberley Process applies to dealers in rough diamonds, including importers and exporters of rough diamonds, when they operate in participant countries. When it applies the Kimberly Process significantly lessens the ML/TF risk level. Systems of dealer warranties and transactions through bourses further reduce risk in the trade of polished diamonds and jewellery containing diamonds, as do dealings with only bank transfer payments among regulated and government supervised dealers.

- The size of the transaction, with larger transactions presenting higher risk, always bearing in mind the possibility of deliberate structuring of smaller transactions.

- The level of government regulation of counterparty's business and accounting practices. Companies and their wholly owned subsidiaries that are publicly owned and traded on a regulated exchange, or that have publicly issued financial instruments, generally pose minimal money laundering risks. Note however that this is not always so, and publicly traded companies may be established by money launderers².
- Government trade flow inspection mechanisms that involve physical inspections, trade flow follow up and/or valuation verifications. In general, if a government has developed a gate keeper role that monitors incoming and/or outgoing trade flows, including physical inspection of goods and value assessments, the money laundering risk may be considerably reduced, as well as risks related to the use of synthetic diamonds.
- The nature and extent of banking involvement. In general, a lower risk level is present where a transaction is entirely financially settled, both at the side of the dealer and the counterparty, through a banking institution that is situated in an FATF member country and that is known to be actively involved in payment flows and financing arrangements in the particular trade, provided the transaction is generally routine (including payment that closely follows routine trade flows) and that the documentation contains adequate identification of all parties concerned (see also the risk attached to financing methods above).
- The regularity or duration of the business relationship, or of general knowledge of the counterparty's role in the industry. Longstanding relationships involving frequent contact provide an understanding of a counterparty's legitimacy within the dealer's industry, and information by which a proposed transaction can be evaluated for consistency with industry norms.
- The familiarity of a dealer in precious metals or a dealer in precious stones with a counterparty's country, including knowledge of applicable local laws, regulations and rules, as well as the structure and extent of regulatory oversight.

Controls for higher risk situations

21. Dealers should implement appropriate measures and controls to mitigate the potential money laundering and terrorist financing risk of those customers that are determined to be a higher risk as a result of the dealers' risks assessment. The same measures and controls may often address more than one of the risk criteria identified and it is not necessarily expected that dealers establish specific controls that target each criteria. Appropriate measures and controls may include:

- General training for appropriate personnel on money laundering and terrorist financing methods and risks relevant to dealers.
- Targeted training for appropriate personnel to increase awareness of higher risk customers or transactions.
- Increased levels of know your customer/counterparty (KYC) or enhanced due diligence.
- Escalation within dealer management required for approval.
- Increased monitoring of transactions.
- Increased controls and frequency of review of relationships.

Chapter Two: Application of a Risk Based Approach

22. A risk-based approach should be applied across the full breadth of an enterprise, including a multinational enterprise. Policies, standards and procedures should be similar, if not identical across an

² See FATF Report on Money Laundering Typologies, 2002-2003, paragraph 37; Example 10: Listed legal entity created specifically for laundering illegal funds; Example 12: Narcotics trafficker takes control of a publicly traded company.

enterprise or business, and separate parts of an enterprise or a business should communicate with each other regarding the implementation of their AML/CFT program. If a person or transaction is classified in a high risk category in one part of an enterprise, the other parts of that enterprise that might encounter such person or transaction need to be advised at the same time.

23. Legal standards and enforcement cultures vary, and persons engaged in business in a country must be aware of and respond to that country's laws and competent authorities. There should be similarity along the following common implementation steps:

Customer due diligence/Know your counterparty/Customer

24. The Identify Your Counterparty/Customer activity within a dealer's AML/CFT program is intended to enable the dealer in precious metals or the dealer in precious stones to form a reasonable belief that it knows the true identity of each counterparty/customer and the types of transactions the counterparty proposes. A dealer's program should include procedures to:

- Identify and verify counterparties/customers before establishing a business relationship, such as entering into contractual commitments. This identified natural or legal person or authorized and fully identified agents should then be the only person or persons to whom payment is authorized to be made, or product delivered, unless legitimate and documented business reasons exist, and any third party is appropriately identified and its identity verified.
- Identify beneficial owners and take reasonable measures to verify the identities, such that the dealer is reasonably satisfied that it knows who the beneficial owners are. The measures which have to be taken to verify the identity of the beneficial owner will vary depending on the risk. For legal persons and arrangements this should include taking reasonable measures to understand the ownership and control structure of the counterparty/customer.
- Obtain information to understand the counterparty's/customer's circumstances and business, including the expected nature and level of proposed transactions.

25. In the circumstances where the FATF Recommendations are applicable (*i.e.* for transactions involving cash equal to or above USD/EUR 15 000), the general rule is that counterparties/customers must be subject to the full range of CDD measures. Furthermore, additional Identify Your Counterparty/Customer activity and procedures should be applied to higher risk determinations (such as PEPs or transactions involving higher risk countries). In these cases, for instance, a dealer in precious metals or a dealer in precious stones should implement additional measures and controls to mitigate that risk. Such measures may include increased levels of know your counterparty or enhanced due diligence and greater direct contact with a counterparty (for example, observing its operations, personnel and equipment, would provide additional verification of its legitimacy). It will also require increased monitoring of transactions.

26. These steps should be recorded and maintained in a file regarding each counterparty/customer. In circumstances defined by the public authorities where there are lower money laundering or terrorist financing risks, dealers may be allowed to apply reduced or simplified CDD measures when identifying and verifying the identity of the counterparty/customer and the beneficial owner having regard to the type of counterparty/customer, product or transaction.

27. In other circumstances (*i.e.* for transactions not involving cash equal to or above USD/EUR 15 000) and where national law does not require otherwise, counterparty/customer identification can, however, be accomplished through broader industry practices and associations that already maintain comparable data to which the authorities have ready access, or by reference to government held databases (registered dealer database, VAT related database, etc.). This will reduce transaction burdens, particularly upon small and mid-size dealers who already rely upon such industry resources to maintain security and high standards in their business practices. For example, in the diamond industry, transactions for rough diamonds are conducted within the scope of the Kimberley Process. Trading in rough diamonds and polished diamonds can occur through bourses that are members of the World Federation of Diamond Bourses. Dealers might transparently

reference these sources of counterparty/customer identification rather than recreate all identification data in multiple dealer and transaction files.

28. In similar circumstances, other regulatory programs and/or industry associations may provide similar counterparty information and assurances. Transactions with well-known, longstanding counterparties might also be identified by transparent reference to existing information of a dealer, rather than be recreated. Such streamlined counterparty identification practices should, of course, be limited to transactions with standard trading and bank payment practices that do not give rise to suspicion and concern, and do not in any case fully eliminate the need to apply risk based analysis to transactions, customers, or counterparties.

Monitoring of counterparties/Customers and transactions

29. The degree and nature of monitoring by a dealer in precious metals or a dealer in precious stones will depend upon the size of the business and the risk assessment that the dealer has made. Based on such risk assessment and in accordance with any legislative or regulatory requirements, not all transactions or counterparties/customers will be monitored in the same way and to the same degree. A risk may only become evident once a counterparty has begun transactions, particularly if such transactions differ from those originally anticipated, and changes in transactions should be noted and evaluated. A monitoring program and results of monitoring should always be documented, and a dealer in precious metals or a dealer in precious stones should periodically assess its monitoring program for adequacy.

Suspicious transaction reporting

30. The circumstances that will trigger a requirement to report a suspicious transaction or activity to a dealer's competent authority are usually rules-based and set forth in national law, and a risk-based approach for such reports is not applicable. An AML/CFT program that is founded on the risk-based approach will, however, direct attention and resources toward higher risk activities, will more readily identify suspicious activity, and should encourage reporting of suspicious activity.

31. The adequacy of a dealer's AML/CFT program to identify and properly report suspicious activity should be periodically reviewed.

Counter financing of terrorism

32. Dealers should make reference to paragraphs 42 to 46 in relation to terrorist financing.

Training and awareness

33. The success of a dealer's AML/CFT program will depend upon its application throughout the full range of the dealer's business activities, and thus upon appropriate training of employees. A dealer should inform all employees that it has an AML/CFT program designed and intended to detect and deter money laundering and terrorist finance, and that their awareness and participation are important. All employees should be encouraged and trained to contact management regarding suspicious activity that they observe or of which they become aware.

34. Training of specific employees will vary according to their roles, *e.g.* counterparty/customer contact, receiving and inspection, trading, banking, accounting, IT, and according to the levels of risk associated with counterparties/customers and transactions with which they have a business association. This training should be periodically reviewed for adequacy and repeated as appropriate. Each AML/CFT incident or inquiry arising in the course of business should also be used as an opportunity to reinforce the awareness and understanding of employees regarding a dealer's AML/CFT program and their roles in implementation of that program. If circumstances of suspicion, concern or higher risk are revealed in monitoring, additional training should be specifically directed to those circumstances with appropriate employees.

Chapter Three: Internal Controls

35. Many DNFBPs differ significantly from financial institutions in terms of size. By contrast to most financial institutions, a significant number of DNFBPs have only a few staff. This limits the resources that small businesses and professions can dedicate to the fight against money laundering and terrorist financing. For a number of DNFBPs, a single person may be responsible for the functions of front office, back office, money laundering reporting, and senior management. This particularity of DNFBPs, including dealers, should be taken into account in designing a risk-based framework for internal controls systems. The Interpretative Note to Recommendation 15, dealing with internal controls, specifies that the type and extent of measures to be taken for each of its requirements should be appropriate having regard to the size of the business.

36. In order for dealers to have effective risk-based approaches, the risk-based process must be imbedded within the internal controls of the firm. The success of internal policies and procedures will be dependent largely on internal control systems. Two key elements that will assist in achieving this objective follow.

Culture of compliance

37. This should encompass:

- Developing, delivering, and maintaining a training program for all dealers.
- Monitoring for any government regulatory changes.
- Undertaking a regularly scheduled review of applicable compliance policies and procedures within industry practices, which will help constitute a culture of compliance in the industry.

Senior management ownership and support

38. A risk-based AML/CFT program requires commitment, participation and authority of owners and controlling persons. It should be part of a culture of legal and ethical compliance that these senior management officials should inculcate to all employees, and to counterparties, and to other persons associated with the business.

39. The nature and extent of AML/CFT controls will depend upon a number of factors including:

- a. The nature, scale and complexity of a dealer's business.
- b. The diversity of a dealer's operations, including geographical diversity.
- c. The dealer's customer, product and services profile.
- d. The volume and size of the transactions.
- e. The degree of risk associated with each area of the dealer's operation.
- f. The extent to which the dealer is involved directly with the customer or through third parties or non face-to-face access.
- g. The frequency of customer contact (either in person or by other means of communication).

40. A risk-based AML/CFT program should be established and implemented in coordination with other business compliance and security programs. Verification of employees, for example, through background and security screening can be cross-checked with AML/CFT verification of customers and counterparties. Daily checks of inventories by independent groups within a company to dissuade and minimize theft losses can also inform an AML/CFT program of suspicious activity.

41. A risk-based AML/CFT program requires specialized expertise about a dealer's industry, about a dealer's particular business within that industry, and about particular counterparties. It also requires knowledge of money laundering techniques, and how they might be used within particular industry transactions and areas of operation. Within many small, privately held and family businesses in these

industries, all of these skills and authorities are available primarily, or only, at the level of ownership/senior management. Within larger enterprises, a person with these skills will need to be designated and authorized as a Compliance Officer.

42. A designated Compliance Officer should have a reputation within the dealer's enterprise for integrity and sound judgment, should be authorized and willing to contradict persons with more limited interests in proposed transactions and counterparties, including the owners, and should be known within a dealer's enterprise as such a person.

43. Having regard to the ML/TF risks and the size of the dealer, a dealer's AML/CFT internal control programme should include procedures that:

- a. Ensure that regulatory record keeping and reporting requirements are met, and that changes in regulatory requirements are incorporated⁶.
- b. Implement risk-based counterparty due diligence procedures.
- c. Provide for adequate controls for higher risk counterparties, transactions and products.
- d. Enable the timely identification of reportable transactions and ensure accurate filing of required reports.
- e. Provide for adequate monitoring.
- f. Provide for adequate supervision of employees.
- g. Provide for appropriate and updated training.

44. An AML/CFT program should be a living document, changing as new circumstances arise, adapting to increased understanding of its elements, such as information derived from periodic review, monitoring and suspicious activity, and responding to recommendations. Dealers should also take account of relevant material published by designated competent authorities and SROs.

45. Senior management and its designated Compliance Officer should also arrange for regular periodic review of the AML/CFT program and its operation, for implementation of recommendations arising from such review, and for ongoing improvement of the program. Such review need not be by persons outside of a dealer's business, but should be by a qualified person who, if practicable, is independent of the Compliance Officer. A person who is not directly involved in the day-to-day operation of the AML/CFT program will bring a fresh view to program activities. In small and mid size companies where ownership/senior management is directly involved in the AML/CFT program, periodic review need not be as formal an undertaking. If a dealer reports transactions to designated competent authorities or SROs, and receives appropriate feedback from such authorities, written reports of this regulatory activity may serve as such review or as a database for it.

46. Senior management not directly associated with the AML/CFT program should be briefed upon its operations and lessons learned from experience, and should be asked for questions and comments. This cross-fertilization will both strengthen the program, and further inculcate its principles within the enterprise or business.

⁶ Application of an AML/CFT Program is not complete without documentation of such application. Documentation requires systematic analysis, which is the foundation of a risk-based approach. It also provides an institutional memory of that analysis, and its determinations and actions. It facilitates information sharing within a dealer's enterprise, and, when appropriate, with competent authorities. And it provides a basis upon which an AML/CFT program and practices can be measured and improved.