



Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington
DC 20549-1090

2nd March 2011

Re: Proposed Rule Release No. 34-63547; File No. S7-40-10

Dear Ms. Murphy

LBMA Comments Relating To Dodd-Frank Section 1502 Conflict Mineral Legislation

The London Bullion Market Association submits this letter in response to the Securities and Exchange Commission's ("SEC" or "Commission") publication of Proposed Rules to implement Section 1502 ("Section 1502") of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act"). The LBMA would also like to submit its broad support for the response submitted by the International Precious Metals Institute on 19th January as well as the response submitted by the World Gold Council on 28th February.

About the London Bullion Market Association

The LBMA is the international trade association that represents the wholesale over-the-counter market for gold and silver bullion, physically based in London. London is the focus of the international over-the-counter (OTC) market for gold and silver with a client base including the majority of the central banks that hold gold, plus producers, refiners, fabricators and other traders throughout the world. The LBMA was formally incorporated in 1987 in close consultation with the Bank of England.

In the refining industry, the LBMA Good Delivery List is widely recognized as the de facto standard for the quality of gold and silver bars. This is thanks to the stringent criteria that an applicant must satisfy before being listed, as well as ongoing proactive monitoring while they remain on the Good Delivery List. For a refiner's large bullion bars to be accepted in the London OTC market, they must first satisfy the LBMA's stringent criteria for accreditation on the LBMA Good Delivery List.

Support for Humanitarian Goals

The LBMA unequivocally supports the US Congress's and the SEC's humanitarian goal of curbing the violence in Democratic Republic of the Congo. The LBMA opposes all activities which deny basic human rights and is firmly opposed to all activities which finance or benefit armed conflict and the extreme levels of violence which contribute to abuses of human rights. We are actively involved with the work led by the OECD and the UN Panel of Experts on the DRC to develop responsible supply chain standards for gold.

Unintended Consequences – DRC Embargo

The LBMA believes that a literal interpretation of Section 1502 may lead to an embargo on gold from legitimate miners in the DRC and other African countries. Large electronics companies are already moving away from reliance on supplies from the DRC and Africa to minimise the risk that their supply chain management cannot meet the requirements of the new regime on conflict minerals. African miners and communities which are not financing armed conflict will be the most directly affected by such moves. Tanzania stands to lose the most, as the largest gold producer in the region. The LBMA urges the Commission to ensure that any regulation imposed encourages legitimate and responsible mining investment in the region to avoid damaging existing trading relationships and making legitimate business uneconomic. As recognised by the international community, growth and prosperity of legitimate industry is vital to creating stability in the DRC and surrounding countries.

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Responses To Specific Requests For Comment

Existing Stockpiles, Question 61

The LBMA believes that gold that has been fully refined before the effective date of the rules should be exempt from the rules' requirements. If these existing stocks are not exempt, there would be significant negative effects on all international bullion markets located within the US and abroad. Due to the unique nature and high value of gold, large existing stocks are held in the US, London, Switzerland and other financial centres worldwide. The US government alone holds 8,133 tonnes (valued at \$373.7 billion USD).

The London vaults also hold a large quantity of gold – well in excess of the annual output of the world's gold mines – on behalf of private and official sector investors. The latter include central banks, governments and multilateral agencies. Although the gold in these stocks could be used for manufacture, in practice the majority of these stocks is likely to remain in vaults as investments. Only a very small part of the existing stocks of gold are used by manufacturers (mainly in the jewellery sector). Such use does not and cannot finance conflict in the DRC. Because of this, the LBMA believes that existing stocks should be exempt from the rules' requirements.

Recycled & Scrap Minerals, Questions 63-68

While the Commission would classify recycled gold as DRC conflict free, the disclosure procedure is more complex and expensive for scrap than for new mined production. Users of mined gold are only obligated to make a "reasonable inquiry" into the gold's origin, and file a simple report that such gold does not come from the DRC or adjoining countries. While recycled and scrap gold are significantly more environmentally friendly, and interest in recycled and sustainably sourced precious metal is at an all time high, the proposed reporting procedure is much more onerous. Manufacturers using mixtures of gold from primary (mined) and secondary (recycled) sources are required to take part in a significantly more complex and expensive reporting procedure. The SEC proposal gives incentives to use gold from mines, and to segregate the refining of gold into separate processes for primary and secondary feedstocks. The LBMA believes that there should be no difference in procedure between mined gold and recycled gold, and that a "reasonable inquiry" into sources of recycled gold is appropriate and conforms to the words and purpose of the law as enacted by Congress.

The LBMA would also like to have the origin of recycled gold declared to be the point at which it arises as scrap, either at a manufacturing site that uses gold, or at a collector of used and/or discarded items, rather than its original mine. There is a precedent for this in the actual practice of gold refiners who vet their supply chains, and in U.S. customs law, where the country of origin of manufacturing scrap is the place of its generation in a production process, and the country of origin of used products is the place of their collection.¹ Refiners which process scrap gold should carry out "reasonable inquiries" as part of their KYC checks on scrap suppliers.

Public Disclosure - Security Issues, Questions 26-28, 39-41

Due to gold's many uses and its role in the global economy, unique issues apply to its mining, transportation and storage. The inherent value of gold is such that moving it from one place to another requires significant security and measures to ensure the safety of those involved in any such transport activity. The disclosure and audit requirements of the Proposed Rule should not compromise the

1 19 U.S.C. Part 102 Rules of Origin, §102.1(g): "A good 'wholly obtained or produced' in a country means:(9) Waste and scrap derived from:(i) Production in a country, or (ii) Used goods collected in that country provided such goods are fit only for the recovery of raw materials." See also NAFTA, Chapter 4, Article 415; NAFTA Implementation Act, section 202; 19 U.S.C. §3332. The condition that used goods must be suitable only for recovery of raw materials is applicable here, because that is in fact the outcome of the recycled gold supply chain.

security of the gold or the safety of those involved. To our knowledge, these security issues are unique to gold among the minerals identified in Section 1502.

Conclusion

The LBMA strongly encourages the Commission to exempt existing gold stocks in order to avoid unintended consequences to the world's commodity markets. Such stocks predate the DRC conflict and manufacturers' use of these for feedstock cannot benefit or finance armed groups. Recycled gold and scrap should not have more onerous reporting procedures than new mine production.

The LBMA also urges the Commission to exempt gold previously refined by LBMA accredited refiners from the requirement for a conflict minerals report. The rules should focus on the risk of gold mined in the DRC being refined by refiners not accredited by the LBMA.

The LBMA suggests that to have gold only be classified as a "conflict mineral" when it is shown to have been mined in the DRC and has directly or indirectly financed or benefited conflict in that country. Where gold is legitimately mined in countries such as Tanzania it should not be stigmatised with the phrase "conflict mineral".

The LBMA urges the Commission to follow UN's due diligence guidelines as outlined in the 2010 report and Security Council Resolution 1952 as well as the forthcoming OECD guidance on supply chain due diligence, which aims to curb armed violence without unintended negative consequences to the industry, particularly legitimate operations in the DRC and other countries in the region.

Please let us know if you have any questions or if you require any further information on the LBMA or the views stated above.

Yours sincerely



Stewart Murray
Chief Executive

Encl – LBMA Membership List

MEMBERSHIP LIST

As at 7TH February, 2011

1 MARKET MAKING MEMBERS

Company		Telephone	Address
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Goldman Sachs International	GF SF	(0)20 7774 2010	Peterborough Court 133 Fleet Street London EC4A 2BB
HSBC Bank USA National Association, London Branch	C GF SF	(0)20 7991 8888	Level 3 8 Canada Square London E14 5HQ
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Mitsui & Co Precious Metals Inc, London Branch	S	(0)20 7489 6761	4 th Floor, St Martins Court 10 Paternoster Row London EC4M 7BB
Société Générale	GF	(0)20 7676 8000	Exchange House Primrose Street London EC2A 2HT
UBS AG	C	(0)20 7567 8000	100 Liverpool Street London EC2M 2RH

C	=	Member offering clearing services
GF	=	Member of London Gold Fix
SF	=	Member of London Silver Fix

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Baird & Co Limited	(0) 20 7474 1000	20-21 Gemini Business Park Hornet Way London E6 7FF
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G4S International Logistics (UK) Ltd	(0)20 7776 1300	4 th Floor 1-3 College Hill London EC4R 2RA
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