

MEMORANDUM

April 18, 2012

To: File No. S7-40-10

From: Scott H. Kimpel
Office of Commissioner Troy A. Paredes

Re: Conflict Minerals

On April 18, 2012, Scott H. Kimpel and Saurabh K. Shah, Counsel to Commissioner Troy A. Paredes, met with Stewart Murray, Chief Executive; Jeremy Charles, Board Member; and Ruth Crowell, Commercial Director, London Bullion Market Association. The participants discussed the Commission's proposed rules concerning conflict minerals. Ms. Crowell circulated the attached document.

Attachment

Introduction

The London Bullion Market Association

The LBMA is the international trade association that represents the market for gold and silver bullion, which is centred in London but has a global client base, including the majority of the central banks that hold gold, private sector investors, mining companies, producers, refiners and fabricators. The current membership includes 131 companies which are either actively involved in the local London bullion market or which provide services to the market, such as supervising and assaying.

The LBMA was formally incorporated in 1987 at the behest of the Bank of England, which was the bullion market's regulator at that time, to take over the roles previously played by two separate organisations, the London Gold Market and London Silver Market, whose origins go back to the mid-nineteenth century.

Since the passage of the Financial Services and Markets Act 2000, spot and forward trading in bullion in the UK have not been regulated activities. However, the LBMA maintains a close working relationship with the Financial Services Authority (FSA), which regulates most of the financial firms that are active in the London bullion market. Trading in spot, forwards and wholesale deposits in the bullion market is underpinned by the Non-Investment Products (NIPs) Code which has been drawn up by participants in the UK foreign exchange, money and bullion markets. The FSA's Handbook contains rules and guidance relevant to conduct in the wholesale markets in investment products. The products covered by the NIPs Code are not covered by the Handbook. The Code can be downloaded from the Bank of England's website at:

www.bankofengland.co.uk/markets/documents/forex/fixjsc/nipscode1111.pdf

The LBMA's membership encompasses banks, dealers, fabricators, refiners, shippers and brokers that are actively involved in the London bullion market. There are two categories of full membership: Market-Making and Ordinary. Although originally open only to UK-based companies, full membership can now be granted to companies in other countries as long as they have a branch or subsidiary in the UK. In January 2000, the Association widened its membership by introducing an Associate category, which allows companies that have strong ties to the London market to become part of the LBMA. The Association's 64 Full Members and 67 Associates are located in 21 countries.

The ongoing work of the Association encompasses many areas, among them refining standards, trading documentation and the fostering of good trading practices.

- In the refining industry, the LBMA Good Delivery List is now widely recognized as representing the de facto global standard for the quality of gold and silver bars, in large part thanks to the stringent criteria that an applicant must satisfy before being accredited. In 2004, the LBMA introduced a system of regular proactive monitoring of refiners on the List, an important initiative which further enhanced the reputation of the List and the refiners on it. The List is used by many precious metals exchanges around the world to define in whole or in part the refiners whose gold and silver bars are accepted in their own markets.
- The LBMA and the London Platinum and Palladium Market (LPPM) have produced a joint publication, *A Guide to the London Precious Metals Market* which describes the products that are available in the London precious metal markets and how these can be used by market participants. This can be downloaded from the LBMA website and printed copies can be obtained upon request from the LBMA Executive.

The LBMA's annual precious metals conference has since 2000 been the premier professional forum for the world's precious metals markets. Following the conference held in Montreal, Canada in September 2011, the next event in the series will take place in Hong Kong during the period 11-13 November 2012.

The *Alchemist*, the LBMA's quarterly journal, contains articles of general interest to all participants in, and observers of, the bullion market. It is available free of charge from the LBMA Executive.

The LBMA's website - www.lbma.org.uk - contains a range of statistics and other information about the bullion market.

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The LBMA Good Delivery List

In the refining industry, the LBMA Good Delivery List includes the world's pre-eminent refiners of gold and silver, located in 31 countries. The List is widely recognized as the de facto standard for the quality of gold and silver market bars and is used by precious metal exchanges around the world to define in whole or in part the refiners whose gold and silver bars are accepted in their own markets.

Since its foundation in 1987, the LBMA has maintained the Good Delivery List of gold and silver refiners which had previously been managed by the London Gold Market and the London Silver Market respectively. The List includes the refiners which have met the LBMA's requirements for assaying accuracy and bar quality and whose large bars are therefore acceptable in the London vaults operated by a number of LBMA members.

Maintenance of the Good Delivery List, including the accreditation of new refiners and the regular retesting of listed refiners, is one of the core activities of the LBMA. This activity is carried out by a full-time, professional Executive and is overseen by the LBMA Physical Committee, which consists of representatives of members of the Association involved in the vaulting and clearing of bullion.

In order to be listed, a refiner must first satisfy the Physical Committee as to its standing, ownership, net worth and operating history. In particular, it must have produced at least 10 tonnes of refined gold or 30 tonnes refined silver annually for a period of at least three years before it can be considered for technical assessment. Once an application is accepted for consideration, the first stage of technical testing involves an assessment of the refinery's assaying ability. This is done by the LBMA sending it a set of reference samples that the refiner's laboratory must assay within the exacting criteria laid down by the LBMA. If the assaying test is passed, the refiner is then required to submit bars for inspection by representatives of the London market and then technical testing by two of the LBMA's five Good Delivery referees (which are located in Japan, South Africa and Switzerland). The Good Delivery Rules, which describe how applications are processed, also contain full details of bar specifications, and the inspection, weighing and packing procedures practised in the London vaults. The current geographical make-up of the List is shown below.

Area	Gold	Silver	Total
Africa	1	1	1
Americas	8	9	11
Asia	39	42	54
Europe	14	18	20
Oceania	1	2	2
Refineries	63	72	88
Countries	26	24	31

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Total refined gold production by the refiners on the List was more than 4,000 tonnes in 2009, well above world mine production of 2,611 tonnes. For silver, refined production by listed refiners of 22,800 tonnes was marginally greater than the 22,342 tonnes of mine production in the same year.

When a refiner ceases to produce the minimum quantities of refined metal required by the LBMA or if it fails to satisfy the Good Delivery criteria in any other ways, it will be transferred to the Former List.

In addition, the Former List includes:

- The names of companies that formerly operated Good Delivery refiners but which no longer exist, e.g. as a result of merger, takeover or closure.
- Description of the acceptable bars which were formerly produced but which have been replaced by new bars with different markings or dimensions.

In all these cases, Good Delivery bars produced before the transfer to the Former List are still considered Good Delivery in London.

In 2004, the LBMA introduced a system of regular proactive monitoring of refiners on the List, an important initiative which further enhanced the reputation of the List and the refiners on it. A description of how the proactive monitoring system works is described in the Good Delivery Rules.

THE LBMA

Responsible Gold Guidance

The Responsible Gold Guidance is a formal requirement of Good Delivery for all LBMA accredited gold refiners. Since January 2012, all sixty-three of the world's leading refiners listed by the LBMA have accepted the Guidance in principle and begun implementation. An auditor report certifying that a refiner is complying with the guidance is mandatory for a refiner to remain on the London Good Delivery List. Maintaining Good Delivery status is vital for any refiner to operate in the professional markets in London and around the world.

The LBMA has developed the Responsible Gold Guidance in order to combat serious abuses of human rights, to avoid contributing to conflict, to comply with high standards of anti-money laundering and to combat terrorist financing practices. The LBMA Guidance consolidates and formalises already existing high standards of refiners' due diligence. It also provides a framework that is feasible for the refiners and credible for the outside world. This framework is intended to assure investors and consumers that all London gold stocks are conflict-free due to compliance with an audited, conflict-free process.

Structure & Development

The Guidance is based on the OECD Due Diligence Guidance issued in December 2010 as well as Swiss and US KYC, Anti-Money Laundering and Combating Terrorist Financing regulations. The structure of the Guidance combines and expands leading refiners existing AML, KYC and security policies, processes and audits to include risk-based due diligence to avoid contribution to conflict.

The LBMA Responsible Gold Guidance mirrors the OECD five-step framework for risk-based due diligence in the mineral supply chain. The definitions are based on the OECD's definitions as well as the Financial Action Task Force on Money Laundering's definitions (FATF). International auditing standards that independent and competent third parties auditors must use include ISAE 3000 and ISO 19011:2002, to incorporate both US and EU auditing systems for AML and KYC.

The LBMA Guidance goes beyond the requirements of the OECD Guidance in both its auditing requirements and its definition of conflict. Auditing is required for all refiners' production regardless of the source of their feedstock. This ensures that all metal going through the refinery is conflict-free.

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Harmonisation of Gold Supply Chain initiatives

In addition to the LBMA, the organisations listed below are all working together to avoid duplication of costs, particularly with regard to audits.

- Responsible Jewellery Council (RJC): Chain-of-Custody certification available for responsibly-produced and conflict-free gold, and conflict-sensitive sourcing practices.
- World Gold Council (WGC): Conflict-Free Standard for gold mining companies operating in conflict-affected areas. Supports LBMA refiner due diligence.
- Electronics Industry Citizenship Coalition (EICC): audit protocol for gold refiners to assist the electronics sector with Dodd Frank reporting.

The Responsible Jewellery Council has developed standards to ensure that minerals that are used in products are responsibly sourced. This includes ensuring it is conflict-free. The LBMA's audit process satisfies the Responsible Jewellery Council's Chain of Custody requirements for conflict. This ensures there is no duplication of audits if an RJC refiner is also listed by the LBMA. Also if gold produced by a large scale mining company is assured as conflict-free, using the World Gold Council Standard, the refiner can go some way towards satisfying the supply-chain due-diligence requirements laid out in the LBMA Guidance.

	LBMA	RJC	WGC	EICC
Applies to	Refiners	All supply chain	Mining companies	Refiners
Focus	OECD Due diligence, KYC and AML	Code of Practices; OECD Due Diligence	Conflict-free; OECD Due Diligence	Country of origin; Dodd Frank Act
Audit outcome	Good Delivery Accreditation	CoC Certification	3rd party assurance of due diligence	Validated Smelter/ Refiner list diligence
Harmonisation	Opportunity for harmonisation with RJC and EICC	RJC CoC will recognise LBMA and EICC re conflict-sensitive sourcing. WGC supports mined gold due diligence for CoC	Supports refiner due diligence for mined gold under LBMA, RJC and EICC	Opportunity for harmonisation with LBMA and RJC

OECD Due Diligence Guidance & Implementation

The OECD Due Diligence Guidance is seeking to establish a global framework to help companies to manage their mineral supply chains. The objective is to enable companies, through due diligence, to put in risk-based processes that will enable continued sourcing of minerals from so-called "red-flag locations" if the appropriate processes and controls are in place. LBMA Members as well as refiners have contributed to this work. Ruth Crowell, the LBMA's Commercial

Director also acted as the co-facilitator of the OECD Gold Guidance Drafting Committee and the LBMA's main contact for Responsible Gold. All of the organisations listed above have also supported and been involved in the work of the OECD Due Diligence Guidance – Gold Supplement. This is in order to ensure that all these emerging initiatives work in concert towards a common goal of reducing the violence and human rights abuses funded by conflict minerals.