

REGULATION UPDATE

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Ben is a trainee solicitor currently on secondment at LBMA from global law firm HFW. HFW is a sector-focused law firm specialising in aerospace, commodities, construction, energy and resources, insurance and reinsurance, and shipping. Ben read English & Philosophy at the University of Leeds and has a Masters' degree in Politics from King's College London. He is a qualified teacher, having participated in the Teach First programme before making the transition to law.

CONFLICT MINERALS REGULATION

The Conflict Minerals Regulation (CMR) was passed by the EU in 2017 and is intended to: (a) prevent conflict minerals and metals from being exported to the EU; (b) stop global and EU smelters and refiners from using conflict minerals; and (c) protect mine workers from abuse. The CMR will come into force on 1 January 2021, applying to all entities importing tin, tantalum, tungsten and gold into the EU from conflict-affected and high-risk (CAHR) areas. During 2019, the European Commission (EC) will release a non-exhaustive list of countries which ought to be identified as CAHR. Under the CMR, as drafted, all entities sourcing an annual import volume of 100kg or more of gold (refiners, mints, banks, traders, retailers, etc.) must identify and address actual and potential risks linked to CAHR areas when they carry out due diligence of their supply chain. CMR does not apply to recycled metals or stocks created before 1 February 2013.

CMR WILL COME INTO FORCE ON 1 JANUARY 2021, APPLYING TO ALL ENTITIES IMPORTING GOLD INTO THE EU FROM CONFLICT-AFFECTED AND HIGH-RISK (CAHR) AREAS.

The obligations under the CMR implement the five-step framework provided by the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (the OECD Guidance). Importers adhering to the recommendations of the OECD Guidance will thus be able to demonstrate compliance with the CMR. LBMA is already applying for its Responsible Sourcing

Programme (RSP), which is based on the OECD Guidance, to be formally recognised as an industry scheme equivalent to the five-step requirements set out in the CMR. If successful, compliance with LBMA's RSP will demonstrate compliance with CMR. In advance of 1 January 2021, importers should therefore prepare to formalise their management systems in line with LBMA's RSP and the OECD Guidance. Non-EU suppliers will also be affected as they will need to prove to EU importers that they source responsibly.

IF SUCCESSFUL, COMPLIANCE WITH LBMA'S RSP WILL DEMONSTRATE COMPLIANCE WITH CMR.

REPORTING OBLIGATION

Step 5 of the OECD Guidance and article 7 of the CMR focus on reporting, with the following objective: "To publicly report on due diligence for responsible supply chains of gold from conflict-affected and high-risk areas in order to generate public confidence in the measures companies are taking." LBMA has set up a Working Group, that will address Bullion Bank Reporting in order to prepare a declaration which will help banks to comply with this public reporting requirement.

An online transparency platform where downstream companies can voluntarily share information on their due diligence for metals and minerals will soon be released by the EC. Those interested in this process can contact TRADE-RESPONSIBLE-SOURCING@ec.europa.eu for more information.

MARKET MOVES



RHONA O'CONNELL JOINS INTL FCSTONE

INTL FCStone has appointed Rhona O'Connell to develop its non-American based Commodities market analysis, building a team supporting precious and non-precious metals, and also the Agricultural and Energy sectors. She has over 35 years' experience in the markets and was until recently the team leader at GFMS, where she had worked for 15 years. She returns to the heart of the City, working along-side teams that are actively involved in all aspects of the physical and derivatives markets and supporting clients across the value chain.

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