REGULATION UPDATE

BY RACHEL HART, LAWYER, LBMA

Following a relocation from London to Brisbane last year, in this Regulation Update, Rachel Hart considers components of the 2020 regulatory framework governing the precious metals industry throughout Asia and Australia.

IN JANUARY 2020 QUEENSLAND'S HUMAN RIGHTS ACT WILL ENTER INTO FORCE

Human Rights In Australia

In January 2020, Queensland's Human Rights Act entered into force. Amongst 23 rights enshrined from international human rights law, the Act covers:

- the right to life
- the right to protection from torture and cruel, inhuman or degrading treatment
- the right to freedom from forced work.

The Act provides an accountability mechanism for the government and its delegated authorities. For example, all proposed legislation must demonstrate its compliance with the Act through a statement of compatibility. In addition, the Act requires the state's public sector – government departments and organisations providing services on behalf of the state government – to consider human rights in their decision-making processes and have processes in place to address human rights complaints as they arise.

While private organisations are not required to comply with the Act by law, adoption of its principles is encouraged. As the largest contributor to the Queensland economy, the mining sector can use this opportunity to further strengthen its human rights practices.

Examples can include providing human rights training to staff, undertaking a human rights impact assessment on local communities or integrating human rights into environmental, social and health reports.

Taxation In Singapore

In late 2019, the Inland Revenue Authority of Singapore (IRAS) published the 12th edition of GST: Guide on Exemption of Investment Precious Metals (IPMs). IPMs have been exempt from GST in Singapore since 2012; however, it is worth a brief reminder of the IRAS's reasoning and definition.

In 2012, IPMs were granted financial asset status, given their similarity to other financial instruments in the way they are traded, therefore exempting transactions involving IPMs from GST. The IRAS also hoped the exemption would develop IPM refining and trading within Singapore.

To meet the definition of IPM, the product must be:

- of 99.5% purity for gold and of 99.9% purity for white metals
- produced by an LBMA or LPPM Good Delivery Refiner
- stamped in a way that is internationally accepted as guaranteeing its quality, and
- a financial asset, not a decorative or collector's item.

Sales within and imports into Singapore of IPMs are GST-exempt, whereas exports are zero-rated.

e-Waste In China

In 2018, China implemented its 'National Sword' policy, restricting the import of 24 types of scrap for recycling. Alongside a ban on plastics, paper and other solid waste, the policy limited the import of scrap metals for recycling to those with a 99.5% purity.

A large proportion of the world's e-waste, including mobile phones, laptops and televisions, was therefore no longer accepted for recycling.

By 2019, China had seen a 46.5% decrease in waste imports following the restrictions. In draft revisions to its environmental legislation published under the National Sword policy, China aims to realise zero waste imports in 2020. High-purity, non-hazardous materials will still be accepted.

Even with limited imports, as the world's biggest producer, exporter and consumer of electronics, China's national volume of e-waste is set to reach 27.22 million tonnes by 2030, according to recent research. The value of the precious metals within this e-waste will total $23.8 billion.

China is now conducting research into viable methods to recoup the value stored within its e-waste. One method involves 'urban mining', where metals are extracted from electronic gadgets. Calculations show that urban mining a kilo of gold can cost between $12,400 to $28,500 (depending on the product). By comparison, extracting a kilo of gold through large-scale mining methods can cost up to $35,000. Research has also shown that a mix of both base and precious metals can be recovered through urban mining, while traditional mining extracts only one or two types of metals in its process.

27.22 million tonnes

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To assist in its effort to promote e-waste recycling and urban mining, the Chinese government has launched subsidies to promote the collection and extraction of precious metals from e-waste.

Rachel Hart, Lawyer, LBMA. Deals with legal and compliance matters affecting the precious metals market, including financial regulation and the Responsible Sourcing Programme. She has taken responsibility on a number of initiatives and helps to manage any relevant legal work on behalf of LPMCL, as well as support the market on the application of REACH and the Global Precious Metals Code.

Before joining LBMA, Rachel worked as a Finance Knowledge Assistant at Freshfields Bruckhaus Deringer, specialising in structured finance and debt capital markets. She read law at University of York and University of Law, London.

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LBMA, 1-2 Royal Exchange Buildings, Royal Exchange, London EC3V 3LF
Telephone: 020 7796 3067 Email: **aelred.connelly@lbma.org.uk**
www.lbma.org.uk