

# Regulation Update

By Ruth Crowell, Deputy Chief Executive, LBMA

## Industry organisations announce cross-recognition of gold refiner audits

In September, the LBMA, EICC-GeSI and RJC announced their mutual cross-recognition of gold refiner due diligence audits. The cross-recognition means audit efficiency for gold refiners as well as the industry as a whole. All three organisations have developed audit and certification programmes that aim to increase conflict-related due diligence and responsible practices in the gold supply chain for their respective sectors.

All three programmes focus on independent third party audits of refiners' due diligence in compliance with the OECD Due Diligence Guidance, which recognises refiners as a key "choke point" in the gold supply chain. The SEC final rules for conflict minerals (Dodd-Frank Section 1502) also indicate that manufacturers can meet US requirements by relying on refiners who have been certified by "industry groups' 'conflict-free' designation programmes" such as those of the EICC-GeSI, LBMA and RJC. While all three programmes have common features, each of these programmes are tailored to serve their specific supply chains.

In practical terms, this recognition means if a refiner goes through any of the three auditing processes, all three organisations will recognise this audit as meeting the conflict-free audit requirements. For example, if a refiner passes an RJC or LBMA audit, this process will not have to be repeated for EICC to recognise them as conflict-free and vice versa. However fulfilling EICC-GeSI requirements only meets the LBMA & RJC conflict-free audit requirements to avoid duplication. There are additional requirements for refiners to achieve LBMA & RJC certification.

**The LBMA's Responsible Gold Guidance** is a mandatory due diligence policy for all Good Delivery gold refiners in order to maintain their LBMA accreditation. This programme is tailored for refiners delivering into the London Bullion Market and other financial gold markets around the world. The 63 LBMA Good Delivery gold refiners include the pre-eminent refiners of gold internationally, with an annual production making up between 85% and 90% of world gold production. Compliance with the guidance is reviewed annually by independent auditors and results are submitted to the LBMA, as well as being made available to the public.

The guidance formalises and extends the existing due diligence in the refining industry by incorporating a risk-based approach to avoid sourcing gold from areas subject to conflict. The guidance is based on the OECD Due Diligence Guidance, as well as existing practices in Good Delivery refiners aimed at combating money laundering and terrorist financing.

	LBMA	RJC	CFS
Common features: Third party audit, OECD DDG & SEC compliance			
Tailored focus	London Bullion Market	Jewellery supply chain – mine to retail	Manufacturers
Audit outcome	Continued Good Delivery accreditation	CoC certification	Validated smelter/refiner list
Mutual recognition	RJC CoC and CFS audits = Responsible Gold requirement	LBMA and CFS = conflict-sensitive sourcing only.	RJC and LBMA audits = CFS
Disclaimer: Fulfilling CFS requirements only meets the LBMA & RJC conflict-free audit requirements to avoid duplication. There are additional requirements for refiners to achieve LBMA & RJC certification.			

## The EICC-GeSI's Conflict Free Smelter (CFS) Program

The CFS Program is a voluntary initiative developed by the GeSI and EICC extractives group, in which an independent third party audits smelters' and refiners' procurement and tolling activities and determines whether the smelter or refiner has demonstrated that all the minerals they processed originated from conflict-free sources. The CFS Program publishes the list of smelters and refiners who have been found compliant to the CFS Program protocol, on the CFS Program website ([www.conflictreesmelter.org](http://www.conflictreesmelter.org)). The CFS programme is tailored specifically for the electronics industry supply chain.

## The RJC Chain-of-Custody (CoC) Standard

enables responsible sourcing of precious metals for businesses in the jewellery supply chain. RJC's CoC Standard was launched in March 2012 and is a voluntary standard applicable to gold and platinum group metals (platinum, palladium and rhodium) in addition to the mandatory RJC Code of Practices for RJC members.

RJC CoC-certified entities, including gold refiners, are audited to ensure that CoC precious metals are conflict-free as a minimum, and to ensure systems are in place to assure provenance claims of mined, recycled and/or grandfathered gold. RJC CoC-certified entities must also meet a range of requirements for human rights, labour standards, environmental impact, and business ethics, as set out in the RJC Code of Practices. Certified gold refiners must implement conflict-sensitive sourcing practices in line with the OECD Due Diligence Guidance for all sources of gold to the refinery. RJC has recognised the LBMA and CFS audits

as fulfilling relevant requirements of Section 10 of the CoC Standard. As per the other programs, RJC's Certified Refiners are publicly listed at <http://www.responsiblejewellery.com/chain-of-custody-certification/chain-of-custody-certified-members/>

The industry programmes are aligned with the recently issued SEC final rules as well as the OECD Guidance and Gold Supplement. Industry programmes, such as those developed by the GeSI and EICC Extractives group, LBMA and the RJC, were implicitly recognised as compliant with the SEC rules.

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The CFS, LBMA and RJC audit programmes aim to ensure that the global gold market can continue to function smoothly supported by market participants' efforts to demonstrate that their gold-containing products are 'conflict-free'.

The LBMA, EICC-GeSI and RJC are committed to continuing to work together for industry efficiency and sharing of lessons learned as programmes are implemented.

### LBMA Responsible Gold Guidance enables gold industry to meet SEC final conflict minerals rules

In August the US Securities and Exchange Commission (SEC) adopted final rules that implements Section 1502 of the Dodd-Frank Act. These rules require companies to publicly disclose their use of conflict minerals that originated in the Democratic Republic of the Congo (DRC) or an adjoining country.

The LBMA has played a leading role in ensuring that once these rules are in place, the global gold market will be able to continue to function smoothly while at the same time allowing market participants to demonstrate that their gold-containing products are 'conflict-free' for the purposes of the SEC rules.

This has been achieved by the development of the LBMA's Responsible Gold Guidance, with which all Good Delivery gold refiners must comply in order to maintain their LBMA accreditation. Compliance with the guidance is reviewed annually by independent auditors and results are submitted to the LBMA, as well as being made available to the public.

The SEC final rules repeatedly endorse the OECD guidance as a "nationally or internationally recognised due diligence framework" for fulfilling Dodd-Frank requirements of conflict mineral due diligence. The SEC says that it "satisfies our criteria and may be used as a framework for purposes of satisfying the final rule's requirement that an issuer exercise due diligence in determining the source and chain of custody of its conflict minerals".

In addition, the SEC endorses the OECD Gold Supplement as such a framework for gold. The gold industry has worked diligently with the OECD to make the Gold Supplement a sound and workable guidance, with representation from the LBMA, the World Gold Council (WGC) and the Responsible Jewellery Council (RJC).

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Gold industry programmes for refiners, such as those developed by the LBMA and the RJC, were implicitly recognised as compliant with the SEC rules. "An issuer would have reason to believe representations were true if a processing facility received a 'conflict-free' designation by a recognised industry group that requires an independent private sector audit of the smelter, or an individual processing facility, while it may not be part of the industry group's 'conflict-free' designation process, obtained an independent private sector audit that is made publicly available."

The final SEC rules make a number of changes from the proposals they announced in December 2010 to improve its practical implementation, which are beneficial for gold supply chains. The LBMA Gold Guidance goes beyond the requirements of the SEC rule and is therefore already well positioned to more than fulfil the expectations of this rule and of comparable international standards.

At the 2011 LBMA Conference in Montreal LBMA Chairman, David Gornall announced that the issue of conflict gold was the LBMA's number one priority. Since then the LBMA has worked diligently with other bodies, particularly the WGC, the RJC, the Electronic Industry Citizenship Coalition-Global e-Sustainability Initiative (EICC-GeSI) and the OECD over the past two years, to prepare itself for these rules. The outcome reflects favourably on the effective work undertaken by the LBMA and these other industry bodies with which it has been working closely.



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