

Are you aware of the Money laundering risks behind the allure of gem and Jewellery?

A quick glance on the AML/CFT compliance obligations of gem and jewellery dealers in Sri Lanka

Money laundering is no more solely a concern of the financial sector. With the advancement of technology and cross border markets, the techniques of money laundering have increasingly become sophisticated. Thereby, it has ushered new threats and new stakeholders to play a part in it. It is in this context the vulnerability of designated non-finance businesses and professions (DNFBP Sector) in relation to money laundering and countering terrorist financing is recognized. The Dealers of precious metals and precious and semi-precious stones (DPMS Sector) falls within the ambit of DNFBP sector considering the inherent risks and vulnerabilities of the product, delivery channels and cash intensive nature of the transactions itself.

As per the recent National Risk Assessment on Money Laundering, Terrorist Financing and Proliferation Financing of 2024/2025 conducted by the Financial Intelligence Unit, Sri Lanka the money laundering risk in the DPMS Sector has been elevated to Medium-high from the previous assessment of 2021/2022. Money launderers tend to hide behind the allure of gem and jewellery to conceal the origin of ill-gotten money as the banking and financial channels are stringently regulated and vigilant on money laundering risks. The gem and jewellery trade stands out as an unorganized sector which is distinguished from other businesses as it is completely based on 'mutual trust between the buyer and the seller'. As the word itself suggests the transaction is conducted without a written contract and the reputation of the seller suffers, in the event of breach of trust, ending his business career. Similarly, the actual payments for such deals are done after a notable time period and the ownership of stones may have already changed.

A particular gem and jewellery dealer may not be a money launderer but may be a victim who he gets to know only when he was summoned for a money laundering related investigation by a law enforcement institution. Hence, this article intends to provide a quick glance at the AML/CFT Compliance Obligations applicable to Gem and Jewellery Dealers in Sri Lanka which the author believes a timely need.

The primary legislation governing the gem and jewellery sector in Sri Lanka is the National Gem and Jewellery Authority Act No. 50 of 1993 (NGJA Act 1993) that established the regulatory body of National Gem and Jewellery Authority to develop, regulate and promote gem and jewellery industry. Section 55 of the said Act categorically defines gem industry including ***mining, importing, exporting, trading, selling, purchasing, valuing, certification of gems and assaying of precious metal***. Similarly, as per section 15 of the Act, **no person is permitted to carry on gem industry without a license issued by the Authority**. Accordingly, any person who engages in any of the above fields, must hold a valid license issued by the Authority. Every such license shall be subject to prescribed terms and conditions and unless cancelled earlier it shall be in force for a period of twelve months from the date of issuance.

As per regulation no. 26 of the Extraordinary Gazette of Ceylon Government No. 14989/8 dated 23.12.1971 read with section 54(1) (h) of the NGJA Act of 1993, the Authority after considering all such matters deemed necessary may make an award determining whether the applicant should be granted the license applied for and the terms and conditions if any upon which the license will be granted. Accordingly, the dealer license holder should follow the following conditions along with any other special conditions that have been determined by the Authority.

- ✓ The license shall be framed and prominently displayed in a conspicuous place in the licensee's business premises.
- ✓ Free access to inspect stocks, records, books, and premises of the licensee at reasonable hours by the Authority.
- ✓ Licensee shall not own, possess, or trade imitation or synthetic gems.
- ✓ Licensee shall issue receipts legibly written, clearly and accurately describing the gems sold and the price guaranteeing the genuineness of the gems.
- ✓ Licensee shall maintain records of purchases, sales or other transactions related to his trade or business.
- ✓ Licensee shall maintain stock books recording the price, weight and related description of gems and gem parcels in his possession.
- ✓ Licensee shall maintain register of transactions paid in foreign currency and shall issue receipts of payments for the purchaser with a copy to the Authority.

It is clearly evident that long before the threat and the need of prevention of money laundering and terrorist financing risks are present, the regulatory body of Sri Lanka has identified the said need.

Failure to comply with license conditions may lead to take regulatory measures including penalties, naming and shaming or revocation of license. Further, every person who commits an offence under the Act shall be liable to a fine not exceeding one million rupees or to imprisonment for a period not exceeding five years or to both such fine and imprisonment.

Similarly, the 'Repatriation of Export Proceeds into Sri Lanka Rules No. 01 of 2024' gazetted in the Extraordinary Gazette No. 2391/02 dated 01.07.2024, requires the licensees who engages in exporting gems and jewellery to mandatorily receive the export proceeds in Sri Lanka, within one hundred and eighty (180) days from the date of shipment or provisioning of services and to submit related documentary evidence on each receipt of export proceeds.

Further section 55 of NGJA Act 1993 describes 'jewellery industry' as any trade or business relating to assaying of precious metals or manufacture of ornaments from precious metals or precious stones or export of such ornaments.

Under the Act, any person carrying on jewellery business in any premises must register such premises with the Authority.

Apart from the said obligations, the Financial Transactions Reporting Act No. 06 of 2006 (FTRA of 2006) introduces new form of statutory obligations upon the gem and jewellery dealers when they engage in any cash transaction with a customer, equal to or above the prescribed threshold. The Rule No. 9(2)(b) of the Designated Non-Finance Business (Customer Due Diligence) Rules, No. 1 of 2018 (CDD Rules for DNFBPs) published in the Extraordinary Gazette No. 2053/20 dated 10.01.2018 prescribes the threshold as equivalent to or above United States Dollars 15,000 in Sri Lankan Rupees or in any foreign currency.

The FTRA of 2006 identifies the dealers of precious metals and dealers of precious and semi-precious stones as 'institutions'. Accordingly, the obligations of such institutions are as follows.

- Appointment of a senior management level officer as a compliance officer overseeing the AML/CFT compliance in the institution.
- Undertaking an institutional ML/TF risk assessment and based on the findings of the assessment adopting an institutional AML/CFT policy.
- Conducting Customer Due Diligence (CDD) in engaging cash transactions with customers above the threshold levels and Conducting Enhanced Customer Due Diligence (ECDD) concerning customers identified under risk categories. Such as Politically Exposed Persons (PEPs), customers from high-risk jurisdictions and non-face -to-face customers.
- Screening customers against the persons and entities designated by the United Nations Security Council related lists on terrorism, terrorist financing and proliferation financing of weapons of mass destruction.
- Reporting any transaction or attempted transaction to the Financial Intelligence Unit of Sri Lanka, which has reasonable grounds to suspect that it may be related to the commission of any unlawful activity or any other criminal offence.
- Taking appropriate steps to maintain records regarding the transactions, CDD, ECDD measures or any other correspondence relating to the communications regarding AML/CFT investigations for a minimum period of 06 years.
- Training on AML/CFT Compliance for the employees of the institution and screening employees at the time of hiring.
- Adopting independent audit mechanism to verify the level of compliance within the institution.

Non-compliance with the said statutory obligations may result in imposing a penalty not exceeding a sum of rupees one million and in repeated non-compliance, an additional penalty doubled the amount imposed as a penalty on the first occasion shall be levied.

A closer look at the legal frameworks under both NGJA Act of 1993 and the FTRA of 2006 depicts similarities in statutory obligations though the intended purposes may differ. A gem and jewellery dealer who complies with the license conditions invariably complying with the statutory obligations of FTRA of 2006 in substantial form.

Further, the National Gem and Jewellery Authority has been identified as a supervisory authority under section 23 of FTRA of 2006 which is mandated with verification of the compliance level of the dealers through regular examinations. Apart from the independent monitoring, the Authority engages in joint onsite supervisions with the Financial Intelligence Unit, Sri Lanka. Further, the Authority has initiated a series of awareness programmes in collaboration with the FIU, Sri Lanka to enhance knowledge among the regulated gem and jewellery dealers regarding the compliance obligations.

While the role of the gem and jewellery dealers in implementing a robust AML/CFT compliance framework is decisive in mitigating the money laundering and terrorist financing risks within the industry, their scrutiny equally enhances the level of compliance as a country. Sri Lanka is anticipating its third mutual evaluation on money laundering in March 2026 which is a critical catalyst as a nation in establishing trust and reputation on its financial integrity within the globe. The evaluation rates the level of financial resilience and effectiveness of the legal framework of Sri Lanka in combating financial crimes. This in turn persuades foreign investments and positions Sri Lanka advantageous in foreign markets.

On the other hand, poor performance or significant non-compliance may lead the country to be placed in FATF black/ grey listing which carries severe economic and financial consequences. Being publicly identified as high-risk jurisdictions (Blacklisted countries) or jurisdictions under increased monitoring (Grey listed countries) causes less confidence in the financial system and may negatively affects capital flows of the country. Simultaneously, it creates a domino effect in accessing foreign markets to increasing the cost of services and goods within local markets. For instance, Sri Lanka was in the grey list in the years 2015 and 2017 and was listed as a high risk third country by the European Union as well in the year 2018. At the end the country has to bear a higher cost of compliance for de-listing.

Hence, repeated poor performance may create the risk of being grey listed which the Sri Lanka at the moment is not ready to afford. Given that, the gem and jewellery dealers are encouraged to comply with both legal frameworks under NGJA Act of 1993 and FTRA of 2006. While the legal framework is already in place, effective implementation is decisive. The regulatory institutions including the National Gem and Jewellery Authority alone is unable to achieve the intended purposes behind such legislation. It is in the context, a single step of commitment by the gem and jewellery dealers is much needed to place the compliance index of the country at the highest level for the betterment of both the country and the industry.

A message from the National Gem and Jewellery Authority, Sri Lanka