

The Jewelers Guide to Anti Money Laundering Laws



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The persistence of world-wide terrorist actions since the attacks of September 11th, 2001 continues to present an ongoing threat to American society that has resulted in a network of counter-measures affecting nearly every aspect of social and business activity being conducted within the United States. Jewelry manufacturers and retailers are among a host of other professions that have seen a number of quite specific measures applied to their business practices as part of the government's efforts to eliminate concealed sources of funding for such activity.

The principal thrust of these measures has been to dramatically decrease the possibility that transactions within the jewelry industry can, in any way, be part of a process aimed at masking the source of large amounts of money aimed at financing terrorist, and other types of criminal activity.

Since funds of this type have been identified as part of seemingly legitimate commercial operations within a number of investment professions, a series of anti money laundering (AML) provisions have been put into place which everyone within the jewelry industry needs to understand.

Understanding the Problem

Money laundering is any activity aimed at disguising illegally obtained and directed financial resources so that they appear to be part of legitimate investment transactions. Law enforcement investigations have revealed that many criminal enterprises often target legitimate investment activity as their primary means for commingling illicit funds with otherwise legal transactions in an effort to make these resources appear *clean*. This is the origin of the term *money laundering*.

For many years the *Bank Secrecy Act* of 1970 served as the principle means of aiding US governmental agencies in their fight against money laundering. Also known as the *Currency and Foreign Transactions Reporting Act*, it required financial institutions to adopt monitoring practices that would maximize the likelihood of their uncovering such activity during the course of normal business operations.

The passage of the *Patriot Act* in 2001 amended this earlier law to expand the range of businesses required to put in-place AML compliance programs, with the goal of making it even more difficult for terrorist and criminal organizations to operate within the United States. And since jewelry manufacturers and retailers regularly work with large amounts money used for investment purposes, their operations were included within the act's provisions.



Designing A Response

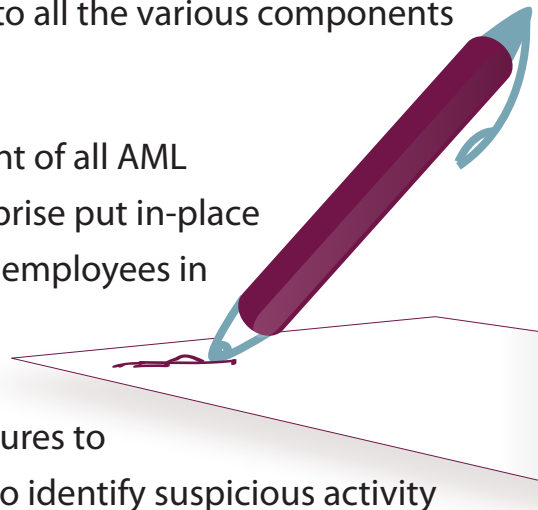
The task of administering and enforcing these guidelines is the US Treasury's, which in-turn has delegated the *Internal Revenue Service*(IRS) to publish a number of provisions establishing what an AML compliance program, for any industry required to implement one, should look like.

The primary element of these provisions dictates that, first of all, any covered entity is required to put their program in writing. In other words, the IRS requires all industries obligated to implement an AML compliance program to have documented internal procedures that can be reviewed by the IRS as part of their oversight functions.

In addition, the Securities and Exchange Commission issued supplemental guidance standards in 2010 that established the most recent core requirements governing the development and implementation of internal controls, as well as policies and procedures for the typical AML compliance program. The primary elements of such a program should include the following:

- *Must be in writing* – each covered enterprise is required to have a systematic compliance program that is detailed in writing and thus available for review by representatives of the Treasury. This enables the representative to determine if the appropriate measures for conducting effective AML monitoring have been addressed when an enterprise's program was initially established.

- *Compliance officer designation* – a crucial element of all AML compliance programs is the appointment of a specific person who will be responsible for ensuring that each element of the written procedures is actually being implemented. This officer will be responsible for assuring that all applicable reports have been filed, that program provisions are updated when called for, and for meeting with *Treasury* representatives to report on adherence to all the various components their organization has put in place.
- *Employee training* – another important component of all AML compliance programs is that each covered enterprise put in-place a systematic and ongoing training process for all employees in how to conduct appropriate AML procedures. This program ensures that each enterprise has explained all applicable AML policies and procedures to company personnel. It should also address how to identify suspicious activity so that employees can bring such occurrences to the attention of appropriate company officers.
- *Record keeping protocols* – each company must establish rigorous procedures for maintaining documentation of all activity conducted under their AML compliance programs. This includes copies of all reports filed with government agencies regarding the program: responses to any government or banking inquiries: details of testing programs put in place: any other activity directly related to AML activity conducted by the company.
- *Periodic Review* – each program should conduct regular evaluations of the effectiveness of internal AML procedures as they apply to the specifics of each enterprise. This review must be conducted by someone other than the compliance officer in-order to maximize the identification of structural or procedural weaknesses in each program.



These are the minimum requirements deemed essential by the *Treasury* for the establishment of a viable program aimed at deterring illegal investment activities. All jewelry manufacturers and retailers required to have an AML compliance program in-place are also subject to an examination by an IRS official to determine if they are indeed implementing both the letter, and the spirit of these important protective provisions.

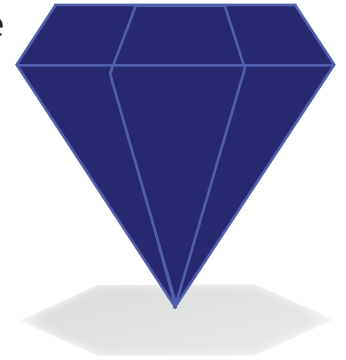
To prepare for such an eventuality, Jewelry industry professionals must be prepared to provide IRS officials with detailed documentation that demonstrates their organization has put in-place a number of concrete measures aimed at detecting and preventing illicit funds from being used in transactions in which they are involved.

Along with these AML compliance program guidelines instituted by the *Treasury*, a number of addition stipulations must be adhered to for each enterprise's overall surveillance activities aimed at revealing illegal investment activities. These include:

- *Verifying the identity of customers* – this calls for establishing detailed procedures enabling each company to determine that it is reasonably certain of the true identity of each of its customers. A specific set of customer identification elements must be set, and followed for all applicable transactions.
- *Reporting of suspicious activity* – each company should file reports with the *Treasury* on any suspicious transactions that their AML compliance programs reveal. These reports enable monetary officials to identify investment patterns that can reveal illicit activity.
- *Due diligence for certain transactions* – this requires enhanced procedures for revealing possible laundering activity involving foreign private banking and correspondent accounts. This is designed to prevent ill-legal activity conducted through financial institutions not subject to direct *Treasury* review – often used as a means of circumventing investment channels controlled by US laws.

Which Jewelers Must Comply?

The jewelry industry is a natural place to find investors possessing large amounts of money and looking to make purchases with an eye toward future returns. As such, both jewelry manufacturers and retailers have frequently been targeted by those engaged in illicit activities when looking to disguise unlawfully obtained funds from the surveillance of monetary officials. This is a principle reason why the Patriot Act has included the jewelry industry in its listing of enterprises subject to provisions under the AML compliance program.



In attempting to determine where your company sits in relation to the AML compliance provisions, it is essential to be clear on who exactly is included, and subject to its provisions. The basic standard of inclusion applies to any jewelry manufacturer, or retailer, that either buys more than \$50,000 in precious metals, jewels, or stones – or – *receives* more than \$50,000 from the sale of such items.

This also applies to retailers who both purchase and sell more than \$50,000 in covered goods from *non-US* sources, or members of the general public. Jewelers that fit this definition are considered “dealers” within the framework established by the *Patriot Act*, and are required to implement an anti money laundering compliance program. This program would also need to address transactions involving their non-US sales and purchases, as well as those to the general public domestically.

The essential point is that everyone in the jewelry industry is expected to pay close attention to the specific aspects of their business transactions that may be susceptible to attracting those interested in disguising illegally obtained funds so as to avoid the attention of government officials tasked with the responsibility of protecting the nation from future terrorist attacks, or criminal activity.

However, there are a number of areas within the jewelry industry that are not obligated to comply with the AML compliance provisions. Jewelry professionals who fit the following criteria have been exempted from the AML compliance guidelines:

- Retailers who buy their covered goods from dealers who are based in the United States and are already operating under the *Patriot Act's* provisions, or purchased their goods from covered entities, are not required to implement their own AML program.
- Retailers who have purchased less than \$50,000 worth of covered material from dealers outside of the US, or from members of the general population, are exempted from initiating their own AML program.
- Retailers who are properly licensed and registered under the category of *pawnbroker* by state or municipal law are separated out from the definition of “dealer”, and as such are excluded from covered entities under the provisions of the USA Patriot Act.

It is also important to note that the \$50,000 threshold frequently mentioned in the context of the *Patriot Act*, is calculated solely on the jewels, precious metals, and precious stones included in the actual finished items entering the marketplace – not on any value resulting from other considerations.

In other words, if a particular sale item costing over \$50,000 is a composite product containing some covered materials in addition to other items, then only the value of the jewels, precious metal, or precious stones need be counted in determining the threshold amount.

A Network of Vigilance

In the final analysis, each of these new security initiatives is designed to bring increased integrity to the operations of everyone within the jewelry industry, as well as to the consuming public. By instituting the applicable provisions of a systematic AML compliance program, Jewelry businesses and investors alike are now able to enjoy the added assurance that their actions are much less likely to be, in any way, part of any illicit or criminal activity.

With such protections in-place, those seeking to exploit legitimate enterprises within the jewelry industry in an attempt to facilitate terrorist, and other illegal activities, will encounter a fabric of business practices making their chances of success in this regard, much less probable. Additionally, with such a rigorous system of protections in-place, businesses are increasingly able to conduct their activities with the confidence essential to a healthy and vibrant commercial sector.

About Mordfin Group

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