

Regulations No. (5) of 2021 on the Anti-Money Laundering/Counter Terrorism Financing Supervision of Jewelers and Dealers in Precious Metals and Stones

The Cabinet,

After examining the Amended Basic Law of 2003, especially Article (70);
The Precious Metals Stamping and Control Law No. (5) of 1998 and its amendments, especially Article (29);
Decree Law No. (20) of 2015 on AML/CFT and its amendments;
Cabinet Resolution No. (17) of 2018 on the Executive Regulations Organizing the Mandate and Powers of the Financial Follow-up Unit;
Based on the recommendation of the Minister of National Economy;
And the recommendation of the Council of Ministers on 15/02/2021,
And the powers granted to us,
In the interest of the public,

We have issued the following Regulations:

Article (1) Definitions

1. The words and phrases in these Regulations shall have the meaning assigned thereto, unless the context indicates otherwise:

The Decree-Law: Decree-Law No. (20) of 2015 on AML/CFT and its amendments.

The Minister: The Minister of National Economy.

The Directorate: The Directorate of Control and Stamping of Precious Metals in the Ministry of National Economy.

FFU: The Financial Follow-up Unit established in accordance with Decree Law No. (20) of 2015 on AML/CFT and its amendments.

The AML/CFT Committee: The National Committee for Combating Money Laundering and Terrorist Financing established pursuant to Decree Law No. (20) of 2015 on AML/CFT and its amendments.

Dealer: A person licensed to buy and sell jewelry.

Jeweler: A person licensed to manufacture, make, and trade in jewelry.

Person: A natural or legal person.

Approved form: Form No. (1) issued by the Cabinet on the declaration of licensing information and its annexes.

2. The definitions contained in the Decree Law and its amendments and the Precious Metals Stamping and Control Law No. (5) of 1998 and its amendments shall apply whenever mentioned in these Regulations.

Article (2)
Scope of Application

These Regulations shall apply to all persons trading and manufacturing precious metals and stones in the State of Palestine.

Article (3)
Prohibition

It is prohibited for any person to engage in the trade or manufacture of precious metals and stones before obtaining a license from the Directorate.

Article (4)
Supervisory Authority

The Directorate shall supervise all persons trading and manufacturing precious metals and stones in Palestine, with the aim of combating money laundering and terrorism financing crimes.

Article (5)
Practice

1. Any dealer or jeweler shall fill out the approved form and submit it to the Directorate when requesting or renewing a license or before amending any of the following data:
 - a. Information of any person who owns 25% or more of the shares, stocks, or voting rights in the dealer or jeweler.
 - b. Information on the beneficial owner of the shares, stocks, or voting rights set out in clause (a) of this paragraph, in accordance with Article (6) of these Regulations.
 - c. Information on the executive director of the legal person or any person who holds a senior management position or is a member in its board of directors.
2. No merchant or jeweler may amend the information set out in Paragraph (1) of this Article before obtaining a written approval from the Directorate.
3. The Directorate shall verify the accuracy of the information set out in Paragraphs (1, 2) of this Article before issuing a license or written approval.
4. The applicant for the license or license renewal or the person requesting a written approval to amend information may:
 - a. File a grievance with the Minister if their application is rejected within (7) days from the date they are notified of the rejection decision.

- b. Appeal before the Administrative Court if the specified period has elapsed and they did not receive a response or rejection of their grievance.

Article (6) **Beneficial Owner**

The beneficial owner is determined based on the following:

1. If the dealer or jeweler is a natural person, information shall be obtained on the natural person trading in or manufacturing precious metals and stones on behalf of the dealer or jeweler.
2. If the dealer or jeweler is a legal person, information shall be obtained on any natural person who directly or indirectly owns (25%) or more of the shares in the legal person or who exercises effective control over the legal person through ownership of shares.
3. Any natural person exercising control over the legal person through means other than ownership, such as those specified in the approved form, shall be considered a beneficial owner if the beneficial owner is not determined based on Paragraph (2) of this Article or cannot be determined due to the inaccuracy or insufficiency of the data provided.
4. Any natural person holding a senior management position, as identified in the controls established by the Directorate, in a legal person shall be considered a beneficial owner if the beneficial owner is not determined based on Paragraph (3) of this Article.

Article (7) **Fit & Proper Criteria**

Any person covered by Article (6) Paragraph (2) of these Regulations shall meet the following fit and proper criteria in order to obtain or renew a license or obtain a written approval from the Directorate:

1. They have not been convicted by a final court ruling of theft, fraud, embezzlement, forgery, bribery, bad credit, a crime against honor or public morals, or any ML crime, unless officially rehabilitated.
2. They have not defaulted on their debts.
3. They have not declared bankruptcy.

Article (8) **Supervision**

1. The Directorate shall monitor the compliance of the dealer / jeweler with the AML/CFT requirements contained in the relevant legislation, and may for this purpose:

- a. Adopt the necessary onsite and offsite supervision tools to verify compliance with the Decree-Law, instructions and regulations issued pursuant thereto, the regulations specified in the approved form, and the AML/CFT rules and measures issued by it or by the AML/CFT Committee.
- b. Take the measures agreed upon in case of a violation of Paragraph (1) of this Article, in accordance with AML/CFT legislation, on its own initiative or at the request of the FFU.
- c. Sanctions stipulated in the Decree-Law do not preclude the imposition of the administrative sanctions stipulated in the legislation on jewelers and dealers in precious metals and stones.

Article (9)
Risk-based Supervision

The Directorate shall carry out risk-based supervision on dealers and jewelers by:

1. Determining the supervision mechanism based on the ML/TF risk understanding by jewelers and dealers and the level of risks associated with them, in accordance with the relevant criteria issued in that regard, while taking into account the characteristics of the sector, including its diversity, size and number of service providers.
2. Assessing the adequacy of internal AML/CFT controls, policies and procedures of the dealer / jeweler, taking into account the following:
 - a. The ML/TF risk structure in the sector.
 - b. The extent of discretion given to dealers and jewelers when implementing the risk-based approach.

Article (10)
Obligations of the Directorate

Without prejudice to any obligations stipulated in the applicable Precious Metals Stamping and Control Law, the Decree-Law, the Regulations and Instructions issued pursuant thereto, the Directorate shall undertake the following:

1. Develop principles and guidelines to assist dealers / jewelers in complying with the obligations stipulated in the Decree Law and its Instructions, including detecting and reporting suspicious transactions.
2. Allocate the necessary human, financial and technical resources in line with the ML/TF risk in and the size of the DPMS sector.
3. Provide ongoing AML/CFT training for human resources.
4. Implement the decisions of the UN Security Council Resolutions Implementation Committee on dealers and jewelers and ensure the necessary electronic systems for their effective implementation.

5. Provide the FFU with the following:
 - a. A periodic report, at least once a year, on its AML/CFT work, including the outcomes and statistics of the onsite and offsite supervision and any other statistics.
 - b. AML/CFT plans and policies prepared by the Directorate.
 - c. Administrative measures and sanctions taken by the Directorate in accordance with its powers set out in the applicable laws and regulations.
6. Prepare the necessary controls and measures to implement these regulations in cooperation with the AML/CFT Committee, and submit them to the Minister for adoption.

Article (11)
Domestic Cooperation

The Directorate shall cooperate with the FFU and other competent or supervisory authorities on AML/CFT in the following areas:

1. Exchange the information it obtains spontaneously or at the request of such authorities.
2. Protect the information exchanged and maintain its confidentiality.

Article (12)
Rectification

Jewelers and dealers in precious metals and stones working in Palestine shall rectify their situation in accordance with the present Regulations within two months of their entry into force.

Article (13)
Resolutions and Instructions

The Minister shall issue the necessary resolutions and instructions to implement the present Regulations.

Article (14)
Repeal

Any provision that contradicts the present Regulations shall be repealed.

Article (15)
Entry into force

All competent authorities, each within its own purview, must implement the provisions of the present Regulations. They shall come into effect on the date of their publication in the Official Gazette.

Issued in Ramallah on 02/15/2021 AD
Corresponding to: 03/Rajab/1442 AH

Mohammad Shtayyeh
Prime Minister

Notice

For technical reasons, an error was reported by the competent authority in Regulations No. (5) of 2021 on the AML/CFT Supervision of Jewelers and Dealers of Precious Metals and Stones, published in Issue (177) of the Official Gazette, issued on 03/18/2021 AD, as follows:

1. Article (5) Paragraph (3) on Practice.
Delete paragraph (2) and keep paragraph (1) only, so it reads as follows:
“3. The Directorate shall verify the accuracy of the information set out in Paragraph (1) of this Article before issuing a license or written approval.”

2. The preamble of Article (7) on Fit and Proper Criteria.
Amend the number of the Article and Paragraph referred to in Article (7), to become Paragraph (1) of Article (5) instead of Paragraph (2) of Article (6). The text shall read as follows:
Any person covered by Article (5) Paragraph (1) of these Regulations shall meet the following fit and proper criteria in order to obtain or renew a license or obtain a written approval from the Directorate:”

Therefore, it is necessary to correct this error.

Cabinet Resolution No. (1) of 2021
Adopting Form No. (1) on the declaration of licensing information and its annexes

The Cabinet,

After examining the Amended Basic Law of 2003 and its amendments;
Regulations No. (5) of 2021 on the AML/CFT Supervision of Jewelers and Dealers of Precious Metals and Stones
And based on the powers granted to us,
In the interest of the public,

Decided, in its session held on 04/05/2021, the following:

Article (1)

Form No. (1) on the declaration of licensing information and its annexes relating to Regulations No. (5) of 2021 on the AML/CFT Supervision of Jewelers and Dealers of Precious Metals and Stones shall be adopted.

Article (2)

Any provision that contradicts the present Resolution shall be repealed.

Article (3)

All competent authorities, each within its jurisdiction, must implement the provisions of the present Resolution. It shall come into effect on the date of its adoption and shall be published in the Official Gazette.

Issued in Ramallah on 04/05/2021 AD
Corresponding to: 23/Shaban/1442 AH

Dr. Mohammad Shtayyeh
Prime Minister