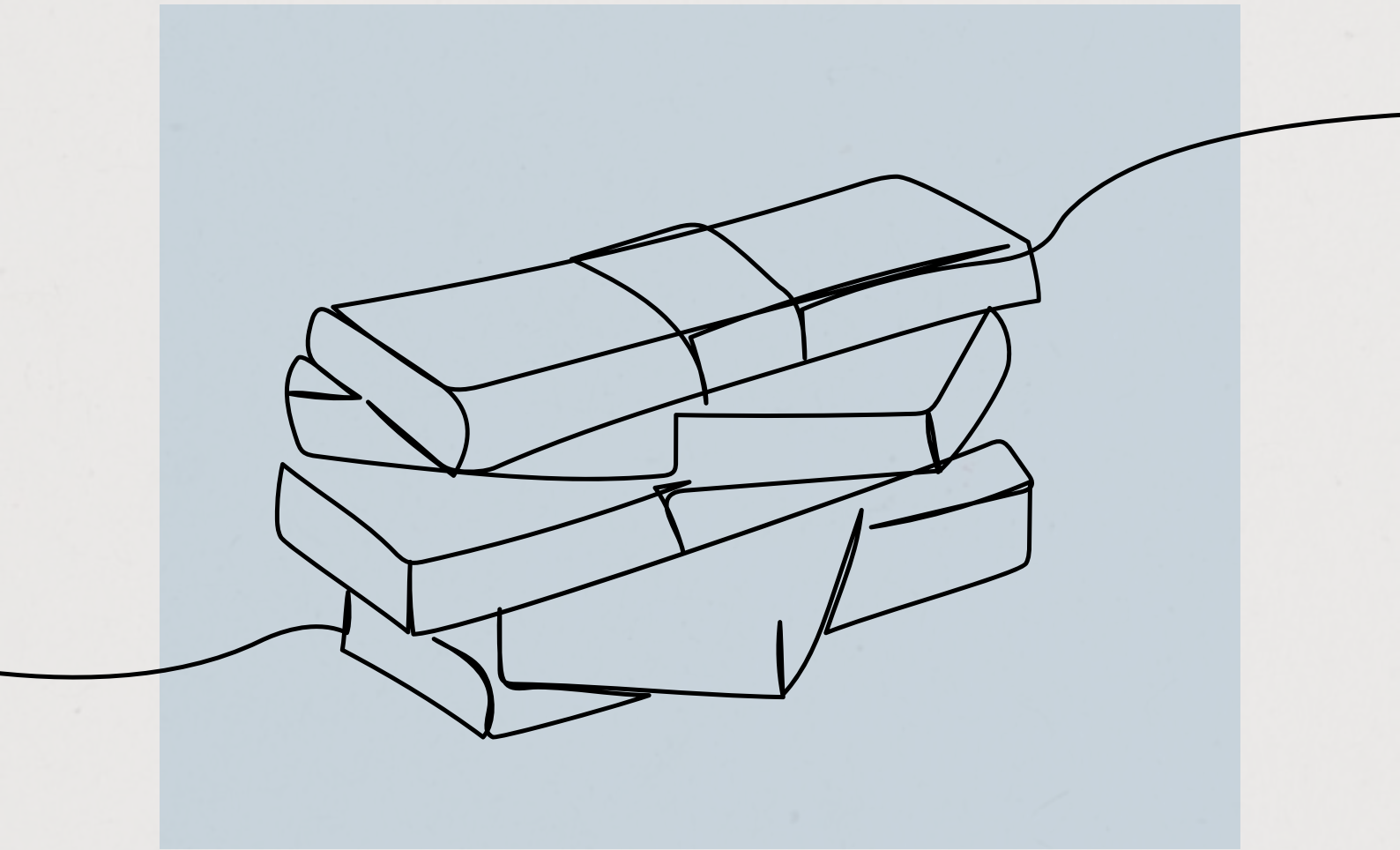
NAJ Code of Practice

ANTI-MONEY LAUNDERING SUPERVISION: UK HIGH VALUE DEALERS

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This guide contains:

- **Detailed procedural anti-money laundering requirements for High Value Dealers (HVD)**
- **How to register as an HVD business**
- **Reporting and monitoring suspicious behaviour**

Shaping professional excellence in jewellery businesses and their people

The National Association of Jewellers

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General Introduction

This Code of Practice is designed to help you comply with the UK Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (the Regulations). The Regulations apply to a number of different businesses which include (amongst others) those in the jewellery and watch sector and anyone dealing in high value goods.

Those businesses in the British Crown dependencies of The Channel Islands and the Isle of Man will have their own AML legislation and regulations.

The Regulations contain detailed procedural anti-money laundering requirements for those in scope businesses. His Majesty's Revenue and Customs (HMRC) have been given the responsibility for supervising High Value Dealers.

The main requirements of the Regulations and the registration process are outlined below.

Which businesses are affected?

Businesses that meet the definition of a High Value Dealer (HVD) are affected by the Regulations. A business is defined as an HVD where it deals in goods and accepts or makes cash payments equivalent to EUR 10,000 or more in any currency, including where a customer deposits cash directly into the HVD's bank account or when they pay cash to a third party for the benefit of the HVD.

The common misconception is that it applies to singular transaction of EUR 10,000 only. When in actual fact it applies to a singular transaction of EUR 10,000 or more OR if a series of transactions are likely to cumulatively exceed EUR 10,000 with a specific customer. This is the key point, because no business knows at the point of the first transaction how much money a customer will eventually spend with them, which is why it is best practice to verify the identity of ALL customers if you are an HVD.

As the amount stipulated is in EUR rather than our own currency, it is best practice to be mindful of the ever-fluctuating exchange rates. Businesses can opt to work out the limit in GBP daily or, alternatively, as many banks do, set a conservative fixed figure (subject to regular, for example, quarterly review). Many banks currently have their HVD limit set at GBP 7,000.

Businesses that only occasionally accept or make such transactions are included. Businesses that do not accept large amounts of cash or deal in services are not in scope. Generally, the businesses most affected will be those that deal in high value or luxury goods. However, the regime applies to everyone who accepts sufficiently large amounts of cash for goods and any business could potentially be registerable. If an HVD does not intend to accept high value payments it should have a written policy to this effect and ensure that employees and customers are aware of this policy. Find out more about who needs to register for money laundering supervision with HMRC.

How is my business affected?

If your business does deal in goods and does accept or make large cash payments (e.g. over GPB 7,000), then you are required to:

- put anti money laundering systems in place so that you can identify and prevent money laundering and report any suspicious transactions (see below);
- register with HMRC. Registration is at the legal entity level unless a sole trader;
- pay an annual fee based on the number of premises through which you trade. There is also an application charge for new registrations;
- report any changes through the registration year. If you are unsure whether you will sell goods for this amount and do not register, you will be obliged to refuse any payments or refunds in cash equivalent to EUR 10,000 (or more) or insist upon payment by another means, such as cheque, credit or debit card.

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Background to the requirements

Why was this regime introduced?

The aim of the regime is to help protect society and to combat money laundering and the criminal activity which underlies it, including the financing of terrorism. As money launderers have resorted to more sophisticated ways of disguising the source of their funds, new legislation and regulation aimed at catching those involved have become necessary.

What is money laundering?

Money laundering is the process by which criminally obtained money or other assets (criminal property) are exchanged through layering for 'clean' money or other assets with no obvious link to their criminal origins.

The term "money laundering" is somewhat misleading, a better term would be "criminal property laundering". In the case of High Value Dealers, gold, silver, platinum and gemstones can be bought with criminal money and then later re-sold in attempt to clean the money. Further, the same gold, silver, platinum and gemstones are now regarded as criminal property and any attempt re-sell would be money laundering. So, the HVD needs to be aware that they must monitor both sales and purchases.

Criminal property

Criminal property represents the proceeds of criminal conduct. This includes any conduct wherever it takes place, which would constitute a criminal offence if committed in the UK. It not only includes, for example, drug trafficking, human trafficking, tax evasion, fraud, forgery and theft but also any other criminal offence committed for profit or any acquisitive crime that is a crime where the criminal obtains money or some other property.

The importance of the regime

The law imposes very severe penalties on anyone involved in money laundering. The Regulations require HVDs to adopt anti money laundering procedures to protect themselves against abuse by money launderers and the risk of prosecution.

Should your bank have even the slightest reason to perceive that you pose a risk of facilitating money laundering, they can close down all of your accounts with immediate effect should they wish to do so. By following this CoP you will greatly reduce this risk.

The registration process

HVDs register with HMRC using their online service. If you already have a Government Gateway account you will use this User ID and password to sign in, but otherwise you can register for an account as part of this process. HMRC will review your application, but this can take up to 45 days. Remember that you cannot accept or make any cash payments over EUR 10,000 until you are registered. You will receive an email when a decision has been made on your application, but you will need to sign into your account to see that decision.

Registration is required where a business:

- accepts or makes payments equivalent of EUR 10,000 or more in cash for a single transaction or in instalments which are linked or;
- takes a policy decision to carry out such transactions. Every legal entity through which an HVD business is run must be registered.

What anti money laundering policies and procedures are required?

Your business should establish, review and maintain policies and procedures relating to:

- Customer due diligence (CDD) also known as KYC- Know Your Customer
- Risk assessment and management
- The monitoring and management of compliance
- Reporting
- Record keeping

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- Internal control
- The internal communication of these policies and procedures

All the above are subject to inspection by regulators and or law enforcement.

Customer Due Diligence (CDD)

HVDs must establish the identity of any customer who makes or is refunded a total cash payment equivalent to EUR 10,000 or more for a single transaction or linked transactions. The practice of making many smaller transactions in order to avoid detection is known as "smurfing", all staff should be sufficiently trained and made aware of this tactic.

Establishing identity requires you to be satisfied that your customer is who they claim to be by obtaining evidence of their name, address and date of birth.

Risk assessment

The HVD must carry out a risk assessment to identify and assess the risks of money laundering and terrorist financing to which the business is subject. You must write this down and be documented and available for authorities to view, together with any underlying information that you used to make that assessment (for instance the countries in which you operate, the goods you sell, the nature of your customers etc.) www.gov.uk/government/publications/money-laundering-understanding-risks-and-taking-action-for-high-value-dealers

Appoint an individual as the officer responsible for compliance

The Regulations require, where it is appropriate to the size and nature of your business, a member of the board (or equivalent), or senior management, to be the officer responsible for compliance with the Regulations. HMRC, as your supervisory body, must be informed of the identity of this individual when first appointed and any subsequent changes.

Appoint a Money Laundering Nominated Officer (MLNO)

This is a very important role within an HVD business and should be performed by a suitably senior person. This person can also be the person who is the officer responsible for compliance with the Regulations and again HMRC must be informed of their identity. The main roles of the MLNO should be to:

- establish the necessary procedures to implement the requirements of the Regulations;
- receive and review reports of possible money laundering from others involved in the business;
- decide whether to report to the National Crime Agency (NCA).

Establish an independent audit function to assess compliance

HVDs should ensure they check that their policies are appropriate and are being properly implemented. Where necessary, changes should be made to ensure everything is working properly. Larger organisations will be expected to achieve this by establishing an independent audit function, but smaller businesses might do this with perhaps an annual internal or external check of their procedures.

Screen relevant employees

When hiring new staff who will be involved in any aspect of compliance with the Regulations (e.g. taking large cash payments), the HVD must screen them to ensure they have the appropriate knowledge and skills for the job and to assess their conduct and integrity.

National Crime Agency (NCA)

The NCA is the government body to which all suspicions of money laundering should be reported via the NCA website. There will be times when an internal report of suspected money laundering is received by the MLNO, where the transaction is not yet complete. Under these circumstances there are specific NCA procedures to

follow and you must wait until the NCA gives consent for the transaction to go ahead.

Training your staff

All customer facing staff in the business must be trained to be aware of:

- the law regarding money laundering offences and terrorist financing;
- how to recognise and deal with suspicious transactions.

Staff should be trained regularly on this subject, attendance documented and training should be repeated to ensure that staff knowledge is maintained and is current with latest requirements, and they are competent to apply customer due diligence procedures. The ongoing training should ensure that staff are aware of changing money laundering practices.

There are many private sector companies offering training including formal professional qualifications for the role of MLNO.

Sanctioned Individuals

Members should also be aware of two different problem groups.

Sanctioned individuals - these are convicted criminals, terrorists and other sanctioned individuals etc. over whom international sanctions apply. You must not do any business with these people. In the UK, a live list of such individuals is maintained by H.M.Treasury and available online to view and check at any time, in a number of formats (https://www.gov.uk/government/publications/the-uk-sanctions-list). While jewellers may not often have cause to worry, if for example you have an international client previously unknown to you, and perhaps especially if considering high value business (no matter how it is paid for), then it is recommended that the HMT Sanctions List is checked, and this check recorded.

PEPS -Politically Exposed Persons (PEPs) are individuals who are or have been entrusted with prominent public functions in a foreign or domestic country, such as, MPs, local councillors, senior military or police figures etc, AND their families. Doing business with these people can present a slight additional risk because they and their families can be subject to bribery, blackmail etc. There is NO list of PEPs available to check, which makes this a hard one to deal with, but if your MP wants to buy or sell a GBP 20,000 diamond ring it might be worth doing some extra checks and again, keep an AML record of your findings.

Managing the risk

HVDs should:

- have a system in place to record all cash transactions of EUR 10,000 or more on their accounting system and make them identifiable;
- have policies and procedures in place concerning the acceptance of these large transactions.

Record keeping

The records that must be kept are:

- a copy of, or the references to, the evidence of the customer's identity
- the supporting evidence and records in respect of the business relationships and occasional transactions which are the subject of ongoing monitoring.

In relation to the evidence of a customer's identity, businesses must keep either of the following records:

- A copy of the identification documents accepted and verification evidence obtained
- References to the evidence of a customer's identity.

How long must the records be retained for?

- Evidence of a customer's identity must be kept for 5 years beginning on the date on which the occasional transaction is completed or the business relationship ends.
- Records of transactions must be kept for 5 years beginning on the date on which the transaction is completed.

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- All other records must be kept for 5 years beginning on the date on which the business relationship ends. You must be able to rapidly respond to a query from the police or other appropriate investigator regarding a customer or past customer.

Failure to comply

Businesses may be liable to a civil penalty for failing to comply with a registration requirement. There is no upper limit on the amount of the penalty. Penalties will be for an amount that is considered appropriate for the purposes of being effective, proportionate and dissuasive. Failing to comply with responsibilities under the Regulations could lead to either prosecution or a civil penalty. Conviction under the Regulations can incur up to two years imprisonment and / or an unlimited fine.

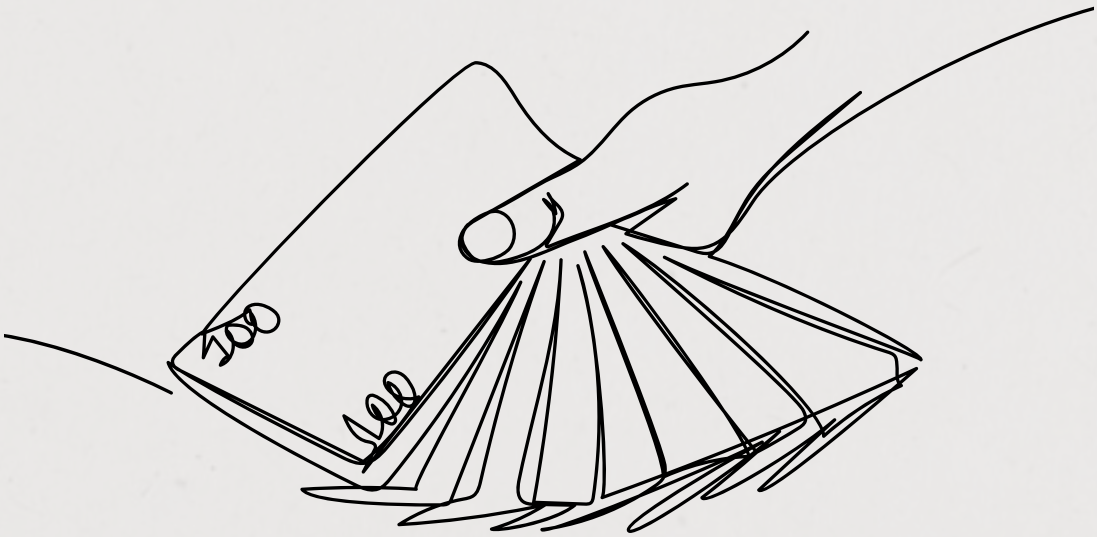
How to Register as an HVD

Anti-money laundering registration - GOV.UK (www.gov.uk)

Where to report Suspicious Activity

ANY transaction, no matter what its size or how it is to be paid, may give grounds for suspicion and must then be considered as requiring a potential Suspicious Activity Report (SAR) to NCA. Members should make every effort to submit Suspicious Activity Reports to the NCA whenever the opportunity arises. While it may seem that nothing comes of them, they are on record therefore regulators and banks will use their submission as an indicator of a business's propriety. If a jeweller never submits a SAR, it could be considered that the jeweller is not doing their AML duty.

If you suspect a business is not registered when it should be, you can report them here; report a business that is not registered for money laundering supervision, also The National Crime Agency has published guidance on making suspicious activity reports on their website regarding suspicious activity.



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Frequently Asked Questions

Q. What if connected parties such as a husband and wife both make transactions?

A. The EUR 10,000 threshold may be crossed not only by the cumulative total of connected transactions, but also by the cumulative total of connected party transactions. So, if a husband and then his wife both spend cash then the single EUR 10,000 limit applies.

"How could I know that Mr X and Mr Y were connected?" Of course, you cannot reasonably know who is connected to whom... but husband and wife, neighbours, people who come in shopping together etc. flag up their own connections. Just make every reasonable effort to identify connections you should.

Q. Do I have to accept cash payments?

A. One option, which makes things somewhat simpler, is to have a strict policy in place of NOT ACCEPTING cash over a certain limit. E.g. - GBP 7,000 and if you sell more expensive items it is worth displaying a warning on your website or in store such as : "We cannot accept cash for items of such high value, please ask (or "click here" if on a web advert) for information regarding suitable secure payment methods."

This serves as way of demonstrating your practice to regulators and your bank. This doesn't address the matter of related transactions, so it is best to keep a Cash Log of those customers who have spent any amount of cash over GBP 2,000, for example, so that you can see if anyone is trying to bypass the threshold by using smaller amounts.

Q. Are there any other Codes of Practice that will help my business comply?

A. If members do any BUYING IN of gold, jewellery or watches from the public, they are strongly encouraged to sign up for and follow the GOLD STANDARD that was agreed by the National Association of Jewellers, National Pawnbrokers Association, National Police Chief's Council, Trading Standards Institute, and National Measurement Office. Gold-Standard-Implementation-Guidance-v3.pdf.aspx (thenpa.com)

Q. I have not registered as an HVD because I follow a strict policy, is there anything else I need to do?

A. If NOT registered as an HVD, perhaps because you have a strictly-followed policy of not accepting large cash amounts, there is not a requirement to take identification from customers, although it may be worth considering this if keeping a log of smaller payments to address the connected transaction problem.

Q. Can I take a payment of GBP 10,000 or over in a bank transfer or debit or credit card?

A. CASH payments are the main focus of this regulation. Payments by other methods may usually and reasonably be thought to involve funds that have already been confirmed as legitimate by the bank etc. through which they pass.

Useful Links and Further Reading

- www.gov.uk/guidance/help-and-support-for-anti-money-laundering
- High value dealer guidance for money laundering supervision - GOV.UK (www.gov.uk)
- www.gov.uk/government/publications/money-laundering-understanding-risks-and-taking-action-for-high-value-dealers

The Joint Money Laundering Steering Group publishes more information about businesses' obligations and the level of risk in other jurisdictions in Part 1 at Annex 4-1 on the Joint Money Laundering Steering Group website.

Information on Financial Sanctions can be found in:

- HM Treasury Sanctions Notices, guidance and news releases
- UK sanctions guidance

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NAJ Disciplinary Procedure Tree

