

REGULATION UPDATE

BY RACHEL HART, LAWYER, LBMA



Rachel Hart, Lawyer, LBMA. Deals with legal and compliance matters affecting the precious metals market, including financial regulation and

the Responsible Sourcing Programme. She has taken responsibility on a number of initiatives and helps to manage any relevant legal work on behalf of LPMCL, as well as support the market on the application of REACH and the Global Precious Metals Code.

Before joining LBMA, Rachel worked as a Finance Knowledge Assistant at Freshfields Bruckhaus Deringer, specialising in structured finance and debt capital markets. She read law at University of York and University of Law, London.

Net Stable Funding Ratio

Under the Capital Requirements Regulation (CRR) II framework to be implemented on 28 June 2021, the Net Stable Funding Ratio (NSFR) seeks to ensure banks maintain a stable funding structure. The purpose of NSFR is to ensure that banks hold stable long-term money to finance long-term assets and as such, it aims to avoid funding shocks creating distress amongst Europe's financial institutions. The NSFR provisions prescribe the amount of Required Stable Funding (RSF) that banks need to hold in respect of various categories of assets. The level of applicable RSF is closely linked with the liquidity status of an asset, as decided for the purpose of CRR Liquidity Coverage Ratio (LCR) requirements.

Currently, gold and other precious metals are considered not liquid for the purpose of LCR. Consequently, in respect of gold and other precious metals, CRR II prescribes an 85% RSF factor to physical holdings of unallocated balances of such metals, including metals held for the purpose of financing transactions or for clearing and settlement. Thanks to LBMA's active lobbying, European legislators mandated the European Banking Authority (EBA) to assess whether it would be justified to reduce the RSF factor for assets used for providing clearing and settlement services for precious metals or assets used for providing financial transactions of precious metals of a term of 180 days or less. The EBA has until 28 June 2021 to deliver its report with potential recommendations and its assessment work has already begun.

In September 2019, LBMA met with the EBA's Head of Economic Analysis as part of LBMA's NSFR lobbying activities.

LBMA used this opportunity to present to the EBA's team results of its initial analysis of liquidity status of gold and other precious metals and to explore possibility of re-classifying liquidity status thereof. Using the LBMA-i data, LBMA was able to demonstrate the case for precious metals being a highly liquid asset, based on the trade reporting figures submitted by LBMA Members since November 2018.

**USING THE
LBMA-i
DATA LBMA
WAS ABLE TO
DEMONSTRATE
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BEING A HIGHLY
LIQUID ASSET**

Also during the meeting, the EBA's team presented their initial assessment of the impact of NSFR at banks holding physical gold. The EBA based their initial analysis on data received from banks in the course of its voluntary data collection exercise. In LBMA's view, this data was not complete and not representative for the sector. LBMA pledged to help the EBA gather more representative data sets for further analysis.

LBMA continues to advocate a 0% RSF factor for transactions involving precious metals and will further engage with the EBA on this matter.

Global Precious Metals Code

All market participants involved in the global wholesale precious metals market are invited to demonstrate their compliance with the Code. Alongside all LBMA members and Associates, other participants in the industry, including the Bank of England, have published a Statement of Commitment to attest to their adherence with the Code's principles.



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LBMA will reconstitute its Global Precious Metals Code Working Group to ensure alignment with similar review processes for the FX Code and Money Markets Code. The Group will assist in drafting a survey to poll members on how the Code has shaped decisions or behaviours since its launch, whether the Code remains fit for purpose and which amendments could be made to ensure that best practice is achieved in the market. Following the review of results, the Group will draft and finalise amendments before a revised version of the Code is launched in 2020.

Conflict Minerals Regulation

From 1 January 2021, the Conflict Minerals Regulation will require all companies importing over 100kg (including refiners, mints, banks, traders and retailers) to formalise their management systems in line with LBMA's Responsible Gold Guidance and the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.

LBMA and its Financial Crime Working Group are finalising a declaration which will help bullion banks to comply with the Regulation's public reporting requirements. Establishing a template that the banks can use as a minimum for reporting will assist in ensuring a uniform reporting style across the market. This template can then be tailored to each bank's internal responsible sourcing practices.

LBMA and the Working Group will continue to adapt the template to ensure each banks' regulatory obligations are met, following its preliminary launch in Q1 2020 – a year ahead of the Regulation's implementation.

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Telephone: 020 7796 3067 Email: aelred.connelly@lbma.org.uk
www.lbma.org.uk

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