

## STANDARD GUIDANCE

### (COP 5) Business Partners

#### A. Definition and applicability

A **business partner** is an organisation or business Entity with which an Entity has direct business relations and that buys and/or sells a product or service that directly contributes to the extraction, manufacture or sale of Diamond, Gold and/or Platinum Group Metals Jewellery products. For the avoidance of doubt, this includes Contractors, agents, customers, Suppliers and joint venture Partners. This includes Entities that provide services related to sections of the Code of Practices, such as security providers and recruitment agencies, or that through a Risk Assessment or under Applicable Law are subject to due diligence. It does not include end consumers, or Entities that provide general support products and services, for example, office equipment and supplies and utilities.

Source:

- Summarised from RJC Code of Practices (2013)

The **Business Partners** section of the COP is applicable to all Members.

#### B. Issue background

Companies operating in a global economy are increasingly called upon to assume greater responsibility for business ethics, human rights, and social and environmental performance in their supply chains. Transnational corporations in particular are being held more accountable by consumers and civil society for promoting and protecting the rights of workers who make their products in sub-contracting and outsourcing arrangements, even when they are not the direct employer. As a result, many larger companies have developed policies, codes of conduct, contractual obligations and/or monitoring to govern the behaviour of their business partners throughout the world.

All RJC Members aspire to demonstrate responsible business practices and should expect high standards of their business partners, such as associate companies, contractors, suppliers and customers. The Code of Practices requires Members to use their best endeavours, commensurate with their ability to influence, to promote responsible business practices among their significant business partners.

For the avoidance of doubt, the RJC does not require that Member's business partners adhere to the Code of Practices, except if they are contractors working on the Member's premises. The specific approach to performance of business partners is a matter for each Member to determine. There are legal constraints on the extent to which the RJC Code of Practices can require compliance with the Code of Practices by Members' business partners who are not RJC Members, except where they are operating on the premises of Members.

##### **Significant Business Partners**

Judgement must be used to determine whether a business partner is significant, taking into account the nature of the relationship and its impact on the Member's business. Significant business partners could include those that:

- Major customers or suppliers, for example those with materially important business relationships;
- Business partners whose actions could impact on your reputation or performance, for example through poor business practices;
- Business partners whose activities pose risks of significant adverse impacts on workers, communities and/or environments.

##### **Promoting responsible business practices**

The level of effort to promote responsible business practices should take into consideration the nature of the business partner's practices, and the significance of its impacts on workers, communities and the environment.

Evidence that the business partner already engages in responsible business practices, such as having certifications under recognised international standards (including the RJC), or having operations that are already low-risk and/or highly regulated, may be sufficient for the purposes of the provision, and active promotion is not necessary. Promotion of responsible business practices should be commensurate with the opportunity to effect positive change.

### ***Best endeavours***

Best endeavours means acting honestly, reasonably and making a positive effort to perform the relevant obligation, in this case to promote responsible business practices amongst Members' business partners. However, a Member's ability to do so must be balanced against countervailing commercial and other considerations. These include (but are not limited to):

- *Commercial and financial interests*  
If promotion of responsible business practices amongst business partners could lead to financial ruin or undermine commercial standing it might not be considered reasonable.
- *Existing duties or obligations*  
Pre-existing obligations owed to third parties could legitimately compromise a Member's ability to promote responsible business practices amongst business partners and override an obligation to use best endeavours.
- *Timing*  
The reasonableness of any actions will be considered with reference to the circumstances and facts at the time of a Member's Self Assessment or Verification Assessment.

### ***Ability to influence***

Members' influence over business partners will vary, depending on the nature of the relationship, the size of each organisation, and the economic and social context of the business. For example, small businesses which represent only a minority of a supplier's customer base will have less influence over that supplier than a larger customer. Auditors will take a Member's ability to influence into account when assessing best endeavours.

### ***Business partners on premises***

Contractors who are working on the premises of Members are generally considered to be under the legal responsibility of the Member business. For this reason, the Code of Practices requires these business partners to comply with the Member's management and operating systems established to meet RJC obligations.

## **C. Key regulations**

### ***International Standards***

International standards such as SA8000 Social Accountability, ISO14001 Environmental Management Systems and OHSAS 18001 Occupational Health & Safety Management Systems all contain elements which require a systematic approach to the management of business partners so that the risks to business partners, employees and other stakeholders are minimised. Organisations are required to extend to those business partners operating on-site the same level of management as would be afforded to directly employed personnel. Under such standards:

- Business partners must be aware of the hazards and controls that are in place in the same way as employees.
- Regular management communication and relevant training needs to be provided to business partners based on the nature, scope and complexity of their work.
- Organisations should establish processes to evaluate and select Business Partners based on their ability to work and supply goods within the organisation's stipulated practices, policies and procedures.

The UN Guiding Principles on Business and Human Rights promotes human rights due diligence processes that include business partners that are directly linked to the business' operations, products or services. For more information see [Human Rights](#).

### **National law**

Most countries have legislation that ensures the wellbeing of business partners whilst working on a facility. Because of the nature of the activity, it is essential that Members are aware of the specific legislative and regulatory requirements in the operating jurisdiction. However, most regulations mandate the need to have controls and a reasonable level of supervision for activities conducted by business partners.

Laws are generally based on the premise that responsibility for the lawful conduct of business partners performing duties on site rests with the Member organisation. Members need to ensure that business partners are aware of the activities conducted on site and ensure that materials brought onto site and disposed of comply with the business' management practices and Applicable Law.

## **D. Suggested implementation approach**

- **COP 5.1: Promote Responsible Business Practices:** *Members shall use their best endeavours, commensurate with their ability to influence, to promote responsible business practices among their significant Business Partners.*

### **An approach to this process could include the following steps:**

- First, review all important business relationships and determine those that are significant. Significant business partners could include those that:
    - Major customers or suppliers, for example those with materially important business relationships;
    - Business partners whose actions could impact on your reputation or performance, for example through poor business practices;
    - Business partners whose activities pose risks of significant adverse impacts on workers, communities and/or environments.
  - Second, conduct an assessment to establish the level and nature of risks attributed to significant business relationships. Assessments can be carried out prior to commercial arrangements being established or for existing commercial arrangements where risks are identified.
    - See the RJC Risk Assessment Toolkit for a general risk assessment template that can be used, particularly for small to medium enterprises. Alternatively Members may use their own risk assessment process.
    - Specific human rights and labour-related risks to assess may include, where relevant: **Human Rights, Sourcing from Artisanal and Small-Scale Mining, Conflict-Affected Areas, Security, Child Labour, Forced Labour and Health and Safety**. If separate due diligence has been carried out for the above, it could be drawn on for this assessment, or an integrated approach can be taken.
    - Identify those business partners which have already made a commitment to responsible business practices, for example through RJC Membership, or commitment to other initiatives such as the UN Global Compact, SA8000, OHSAS, ISO 14001, De Beers Best Practice Principles, and other relevant programs.
    - Identify those business partners where the Member has a reasonable ability to influence, using best endeavours.
  - Third, engage with the identified significant business partners and raise awareness about responsible business practices. Promotion of responsible business practices should be commensurate with the opportunity to effect positive change.
    - Promotion could include providing business partners with copies of the Member's policy commitment to responsible business practices (see **Policy and Implementation**). Consider appending the policy/ies to company contracts, where relevant.
    - Keep records of communications that promote responsible business practices with business partners.
  - *Note: In assessing this provision, Members and Auditors should review the actions of Members to promote responsible practices, not the practices of non-Members.*
- **COP 5.2: Contractors:** *Contractors working on Members' Facilities and Visitors to these Facilities shall be required to comply with the Member's policies, systems and procedures relevant to the Code of Practices.*

**Points to consider:**

- Establish and document clear reporting relationships, accountabilities and lines of communications with on-site contractors. Consider incorporating policies and obligations into contract documentation.
- Provide all visitors and contractors with orientation explaining relevant policies, systems and procedures.
- Monitor the contractor to ensure that specified business systems and risk control measures are implemented.

**Box X: Small business**

Small to medium enterprises (SMEs) are collectively significant in the jewellery supply chain, with family-owned retail and design/manufacturing businesses a tradition in many countries. At the mining end of the supply chain, small-scale producers are common and eventually link into complex downstream supply chains. Many RJC Members are SMEs who take their commitment to responsible practices seriously. While small businesses may think they don't have much ability to influence larger business partners, they can still undertake simple steps to assess risks, identify significant partners, and communicate the importance of responsible practices and their own commitments. Nevertheless, it is still possible for a small company to deliver a strong message to a larger company.

The RJC Risk Assessment Toolkit provides a general risk assessment template that has been designed particularly for small to medium enterprises. Alternatively Members may use their own risk assessment process.

**Check:**

- ✓ Have you identified your significant business partners?
- ✓ Do you need to prioritize your communications with these business partners? A risk assessment process can help assess the level and nature of risks with significant business partners – see the Appendix for an example template.
- ✓ Can you show the auditor how you have promoted responsible business practices to the identified / prioritized business partners?
- ✓ Can you show the auditor how business partners working on your premises are required by you to comply with your requirements, relevant to the Code of Practices?

**E. Further information**

The following websites have further information on the standards and initiatives referenced in Sections C and D:

- De Beers Best Practice Principles  
[www.debeersgroup.com/sustainability/ethics/best-practice-principles/](http://www.debeersgroup.com/sustainability/ethics/best-practice-principles/)
- ISO 14000/ISO 14001 Environmental Management Systems Standard (2007)  
[www.iso14000-iso14001-environmental-management.com/](http://www.iso14000-iso14001-environmental-management.com/)
- OHSAS 18001 Occupational Health and Safety Standard (2007)  
[www.ohsas-18001-occupational-health-and-safety.com](http://www.ohsas-18001-occupational-health-and-safety.com)
- Social Accountability International (SAI) – Social Accountability SA 8000 International Standard (2008)  
[www.sa-intl.org/ data/n\\_0001/resources/live/2008StdEnglishFinal.pdf](http://www.sa-intl.org/data/n_0001/resources/live/2008StdEnglishFinal.pdf)
- UN Guiding Principles on Business and Human Rights  
[www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)