

## STANDARD GUIDANCE

### (COP 12) Provenance Claims

#### A. Definitions and applicability

A **Provenance Claim** is a claim, made through the use of descriptions or symbols, relating to Diamonds, Synthetics, Gold and/or Platinum Group Metals that are offered for sale, whether as stand-alone materials or set in jewellery, and specifically relate to their:

- Origin - Geographical origin of material, for example country, region, mine or corporate ownership of the Mining Facility/ies ; and/ or
- Source - Type of source, for example recycled, mined, artisanally mined, Synthetic, or date of production; and/or
- Practices - Practices applied in the supply chain relevant to the Code of Practices, including but not limited to, conditions of extraction, processing or manufacturing, conflict-free status, or due diligence towards sources.

Provenance Claims may also relate to origin, sources or practices that are specifically excluded from the supply chain, such as through a 'negative warranty'.

Provenance Claims under the COP do not include claims that relate only to product quality, or that relate only to the place of manufacture, such as 'Made in (country)'. For example, a 'Swiss-made' watch claim is not deemed to be a Provenance Claim. However, claims about beneficiation would be considered a Provenance Claim relating to practices, in terms of conditions of extraction, processing or manufacturing.

The **Kimberley Process Certification Scheme and World Diamond Council System of Warranties** are covered under a separate COP provision and are not within scope for the Provenance Claims provision.

The **Provenance Claims** section of the COP is applicable to Members that make claims to other businesses or to consumers about the provenance of diamond and/or gold and/or platinum group metals used in a jewellery product, as per the definition above. Members are not required to make Provenance Claims and the provision is not applicable to Members that do not make Provenance Claims.

Note that all claims, irrespective of whether they constitute a Provenance Claim, must be made in conformance with the COP provision on **Product Disclosure** which requires that:

- Members shall not make any untruthful, misleading or deceptive representation, or make any material omission in the selling, advertising or marketing of any Diamond, Synthetic or Simulant, and/or any Gold, and/or any Platinum Group Metals Jewellery Products.

#### B. Issue background

Increasingly, businesses in the jewellery supply chain are being asked questions about the source of the diamonds, gold and platinum group metals in the products they sell. A range of stakeholders, including legislators, international institutions and civil society are focusing on issues such as conflict, child labour, human rights abuses, poor mining practices and other risks in the 'upstream' part of the jewellery supply chain. Provenance claims are increasingly being used by companies to provide assurance that these types of conditions are not found in the supply chain of the materials in their products.

Initiatives such as the *OECD Due Diligence Guidance for the Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas* and Section 1502 on Conflict Minerals of the US *Dodd Frank Act* have created specific business drivers for supply chain due diligence on these issues. This creates a more compliance-driven culture for provenance claims, where successive businesses in the supply chain rely on the representations of their suppliers. A number of industry programs have therefore been established to support supply chain due diligence in this context, including the RJC Chain-of-Custody Standard, the

London Bullion Market Association’s Responsible Gold Guidance, the electronics industry Conflict-Free Smelter program and the World Gold Council’s Conflict-Free Gold Standard.

For these and other reasons, Members may choose to make claims about the origin, history, provenance or other characteristic of the supply chain for gold, platinum group metals and diamond jewellery products to business customers and/or end consumers. If such claims are made, they must be truthful, and supported by verifiable evidence to support the claim. Misleading or deceptive claims about provenance and other product attributes pose a significant risk to the reputation of individual companies and the industry as a whole, and may raise legal compliance issues under laws that prohibit false and deceptive advertising or reporting.

The Provenance Claim provision is therefore designed to reduce risks involving RJC Members’ representations about their supply chains, particularly in the context of regulatory requirements such as the Dodd Frank Act, and US/EU sanctions on certain entities that may be part of jewellery supply chains. The provision enables and requires those Members making various Provenance Claims about their supply chains to have the supporting systems audited under the Code of Practices. The Member’s Certification Information on the RJC website would identify whether the Provenance Claims provision was applicable to the Member, and if so, which type/s of Claims had been audited at the time of the Certification Audit. The following table provides three examples, for illustrative purposes:

<i>Provenance Claim Certification – (Member name)</i>			
	Diamonds	Gold	PGM
Origin	<i>Canadian mined</i>		
Source		<i>Recycled Gold</i>	
Practices			<i>SA 8000 certification</i>

**C. Key regulations**

**International standards**

The World Jewellery Confederation, CIBJO, hosts the Blue Book: a publication outlining terminology, classification and ethical guidelines for diamonds, as referenced under the [Product Disclosure](#) guidance. The Blue Book includes standards relating to misleading and deceptive statements involving, among other matters, origin, formation, or production. The Blue Book also stipulates that names of geographical areas shall only be used when they denote the areas where geographically mined or harvested (place of origin), and that names of cutting, processing or exporting centers shall not be used to imply geographical origin.

The RJC launched a Chain-of-Custody (CoC) Standard in 2012 for precious metals, which is voluntary for RJC Members. Conformance with the Provenance Claims provision of the Code of Practices is **not** equivalent to the conformance with the CoC Standard, because the Code of Practices applies only to the business practices of the Member of the RJC, whereas the CoC Standard applies a consistent standard to each successive business engaged throughout the supply chain of CoC material. RJC Members that implement and become certified under the RJC’s Chain-of-Custody Standard can, however, use this as objective evidence for conformance with the Provenance Claims provision for related claims. The CoC Standard is available for Members to use as general guidance on establishing internal procedures and carrying out due diligence.

A number of other relevant industry standards have been developed, including (but not limited to) those listed below. Systems and procedures that conform with such standards could be used to provide evidence for conformance with the Provenance Claims provision:

- London Bullion Market Association (LBMA), Responsible Gold Programme
- EICC – GeSI Conflict-Free Smelter Assessment Program
- World Gold Council, Conflict-Free Gold Standard
- Fairtrade-Fairmined Standard
- Voluntary Code of Conduct for Canadian Diamond Claims
- US Diamond Source Warranty Protocol

### **National law**

Provenance Claims are a form of representation and may be regulated by consumer protection laws that prohibit false and misleading advertising (See [Product Disclosure](#) and [Grading and Appraisal](#)). It is essential that Members are aware of and comply with Applicable Law in all jurisdictions in which they operate.

## **D. Suggested implementation approach**

**Determining Applicability:** As a first step, Members should confirm whether the Provenance Claims provision is applicable to their business and therefore part of their Certification Scope. If in doubt, due for example to the complexity of the business and its sales channels, Members should review all advertising, marketing and other sales-related documentation to determine whether any provenance claims are made. If the review determines the provision is not applicable, the results should be documented and approved by an appropriate senior manager.

The Provenance Claims provision in the RJC Code of Practices is not intended to limit the legitimate use of terminology and descriptions in consumer marketing materials or advertising, which may involve creative expressions that are not expected to be interpreted literally. Rather, a Provenance Claim should relate to information that is objective or factual in nature. Provenance Claims within scope are those that are specific to origin, source or practices applied in the supply chain of materials offered for sale. Marketing themes and imagery applied at the level of a company or Facility, and that do not relate to actual Jewellery Products offered for sale, would not generally be considered a Provenance Claim and therefore would not be within the Certification Scope. Provenance Claims may therefore be most commonly applied in business to business transactions, thereby allowing the information to be passed through a supply chain, however may also be made at the consumer level.

In some cases, judgement may need to be applied to determine whether a Provenance Claim is being made, such as through the use of suggestive imagery or written descriptions that are implied but not explicit. This should be determined on the basis of whether the claim would reasonably be interpreted by the purchaser as applying to origin, source or practices in the supply chain of the physical product being purchased. In this case, the requirements of the COP Provenance Claims provision would apply.

**Within the Certification Scope:** illustrative examples of Provenance Claims include:

- “Country of origin”
- “Not from a certain country or region”
- “Origin from certain mines only”
- “Recycled gold”
- “Refined before January 2012”
- “Synthetic”
- “Cyanide-free mining”
- “Conflict-free gold”
- “Responsibly sourced”
- “Sourced in accordance with certain policies”
- “Produced in accordance with beneficiation policies”

Note: Provenance Claims could apply only to a percentage of content of diamonds, gold or platinum group metals contained in the jewellery product. In this case, the fact that the claim applies only to a percentage of the materials must be clearly stated so as not to cause confusion.

**Not within the Certification Scope:** examples of representations that are **not** considered Provenance Claims under the Code of Practices include:

- Warranties and claims that relate to compliance with the Kimberley Process Certification Scheme and/or the World Diamond Council’s System of Warranties, which are addressed by the Kimberley Process and System of Warranties provision of the Code of Practices.

- A representation only about the place of assembly or manufacture of a Jewellery Product.
- Marketing themes and imagery applied at the level of a company or Facility that do not relate to actual jewellery products or component materials (diamonds, synthetics, gold, platinum group metals) offered for sale.

**Provision implementation:**

- **COP 12.1: Systems:** *Members that make a Provenance Claim(s) shall have systems in place to ensure that the Provenance Claims(s) is valid and supported by evidence.*

**Points to consider:**

- Some elements of the Member's systems may be implemented by external parties eg suppliers, external auditors, or third-party standards systems;
- The nature of the claim and the design of the systems are not prescribed by the Code of Practices;
- The claim must not state or imply information about provenance that is not supported through implementation of the systems.

- **COP 12.1.a: Documented criteria:** *Documented criteria or requirements that are compatible with the Provenance Claims(s).*

**The criteria must be:**

- Clearly compatible with the provenance claim itself;
- Documented and made available to the RJC auditor, but may otherwise be kept confidential;
- Verifiable or auditable, such that achievement of the criteria can be demonstrated through objective evidence.

- **COP 12.1.b: Procedures:** *Procedures for record keeping and verification that the criteria or requirements are met.*

**Points to consider:**

- Records must be available providing evidence that verifications have been conducted and that there is process for ensuring that any non-conformances against the criteria set in accordance with provision 12.1a are addressed;
- Verifications may be carried out in-house by the Member, by suppliers or by independent third parties.
  - If the verification is conducted by a supplier or other third party, the Member must be able to provide evidence of their determination that the verification was conducted in accordance with the requirements of this provision;
  - If the third party involves the use of a relevant industry standard, the necessary evidence can be demonstrated by publicly available records of compliance with the standard. For example, evidence of LBMA Good Delivery in accordance with the LBMA Responsible Gold Programme, should be sufficient evidence of verification being conducted.
  - Similarly, contractual measures to comply with relevant legal requirements, such as contracts and audits following the US Diamond Source Warranty Protocol, or 'flow-down' contract provisions that assist in implementation of the Conflict Minerals provision of the Dodd Frank Act, should also provide evidence of implementation of relevant procedures.
- Verifications are to be conducted by persons who are competent and free of any conflicts of interest that would be likely to adversely affect the assessment;
- The complexity of the criteria and the risk of non-conformances should be taken into account in determining the frequency and nature of verification.

- **COP 12.1.c: Internal Material Controls.** *Controls to maintain the integrity of the materials covered by the Provenance Claim(s).*

**Points to consider:**

- Document how the materials covered by the Provenance Claim(s) are accepted into and tracked while in inventory, and how they are kept segregated from other materials for which the Provenance Claim(s) do not apply, where relevant.
- Identify all points where the materials covered by the Provenance Claim(s) could be inadvertently mixed with materials not covered by the Claims(s), and establish mechanisms to prevent any such mixing.
- If external contractors are used to manage or process materials covered by the Provenance Claims(s), establish formal procedures for how they maintain segregation of the materials and test performance against these procedures.

- **COP 12.1.d: Complaints Mechanism:** *A complaints or grievance mechanism appropriate to the nature, scale and impact of the business, to allow interested parties to voice concerns about the veracity of the Provenance Claim(s).*

**Points to consider:**

- The mechanism should be documented and information about it should be available to interested parties, including customers;
- The document should describe the types of complaints that are admissible and are not admissible, and the procedures followed in investigating and addressing complaints;
- Members, particularly smaller businesses, may wish to use the Example Complaints Mechanism in Appendix 2 of the RJC Chain-of-Custody Standard Guidance.
- Further Guidance on supply chain policies and complaints mechanisms can be found in the OECD's *Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas and Supplement on Gold*.

**Check:**

- ✓ Have you confirmed whether you make any provenance claims? If in doubt, review all advertising, marketing and other sales-related documentation.
- ✓ If you do not make any provenance claims, can you provide documentation of the results of your review?
- ✓ If you make Provenance Claims, do you have systems in place to ensure they are valid and supported by evidence?
- ✓ Have you established documented criteria or requirements that are consistent with the claim and can be met through objective evidence?
- ✓ Do you have procedures in place for conducting verifications that the criteria are met?
- ✓ Do you have internal controls to protect the integrity of materials covered by any Provenance Claims?
- ✓ Do you have a complaints mechanism in place?

## E. Further information

The following websites have further information:

- Canadian Diamond Code of Conduct  
[www.canadiandiamondcodeofconduct.ca/index.html](http://www.canadiandiamondcodeofconduct.ca/index.html)
- Electronic Industry Citizenship Coalition (EICC)/ Global e-Sustainability Initiative (GeSI) - Conflict-Free Smelter Program (2011)  
[www.conflictreesmelter.org/](http://www.conflictreesmelter.org/)
- Fairtrade/Fairmined Standard  
[www.fairgold.org/](http://www.fairgold.org/)  
[www.communitymining.org/index.php/en/fairtrade-and-fairmined-standard](http://www.communitymining.org/index.php/en/fairtrade-and-fairmined-standard)
- London Bullion Market Association (LBMA) - Responsible Gold Programme (2012)  
[www.lbma.org.uk/pages/index.cfm?page\\_id=137](http://www.lbma.org.uk/pages/index.cfm?page_id=137)
- OECD Due Diligence Guidance on the Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas – Supplement on Gold (2012)  
[www.oecd.org/corporate/guidelinesformultinationalenterprises/goldsupplementtotheduediligenceguidance.htm](http://www.oecd.org/corporate/guidelinesformultinationalenterprises/goldsupplementtotheduediligenceguidance.htm)

- Responsible Jewellery Council (RJC) - Chain of Custody Certification (2012)  
[www.responsiblejewellery.com/chain-of-custody-certification/#RJCChain-of-CustodyCertification](http://www.responsiblejewellery.com/chain-of-custody-certification/#RJCChain-of-CustodyCertification)
- The World Jewellery Confederation (CIBJO) – The Blue Books  
[www.cibjo.org/index.php?option=com\\_content&view=article&id=270&Itemid=261](http://www.cibjo.org/index.php?option=com_content&view=article&id=270&Itemid=261)
- U.S. Diamond Source Warranty Protocol (2012)  
<http://www.jewelers.org/files/diamond-source-warranty-protocol.pdf>
- U.S. Securities and Exchange Commission (SEC) Rule for Disclosing Use of Conflict Minerals - Dodd-Frank Wall Street Reform and Consumer Protection Act (2012)  
[www.sec.gov/news/press/2012/2012-163.htm](http://www.sec.gov/news/press/2012/2012-163.htm)
- World Gold Council (WGC) - Conflict-Free Gold Standard (2012)  
[www.gold.org/about\\_gold/sustainability/conflict\\_free\\_standard/](http://www.gold.org/about_gold/sustainability/conflict_free_standard/)