



RJC Code of Practices Review

Proposed Revisions

Responsible Jewellery Council

February 2013

Agenda

1. Overview of RJC and Code of Practices
2. Review process
3. Highlighted revisions
4. Summary of other revisions
5. Responses to issues raised by Indian companies

RJC and the Code of Practices

- The Responsible Jewellery Council is a standards-setting organisation for the gold, diamonds and platinum group metals jewellery supply chain from mine to retail.
- The RJC Code of Practices is a requirement for all RJC Members (except trade associations).
 - Covers business ethics, human rights, social and environmental performance.
 - Supported by Standards Guidance, Assessment Workbook and Assessment Manual.
 - Standard used to certify >240 RJC Member companies in every part of the supply chain.

RJC Code of Practices Review - Process

RJC uses a multi-stakeholder process for standards development.
This includes:

- Multi-stakeholder Standards Committee
 - Elected representatives from each part of the supply chain and
 - Board-appointed representatives from civil society, related initiatives and other experts.
- Opportunity for public comment with at least 3 stages of comment periods on successive drafts.
- Consultation workshops and webinars.
- Consensus-building process to develop final standard (and supporting guidance/tools) for RJC Board approval.

RJC Code of Practices Review – Drivers

- **Planned review:** After 3 years of implementation
- **Scope:** Formally include Platinum Group Metals in the Code of Practices and increase clarity of applicability to laboratory-grown diamonds.
- **Implementation experience:** Address questions/issues regarding interpretation of the Code of Practices that have arisen during the implementation of RJC Member Certification.
- **Key topics:** Continue multi-stakeholder engagement on key topics, including human rights, mining issues, laboratory-grown diamonds, and material provenance claims.
- **Standards harmonisation:** including SA8000, IFC Performance Standards, Fair Labour Alliance, Global Social Compliance Programme

COP Review Stages

Round 1 Comment - July-August 2012

- Proposed Review Scope

Round 2 Comment - December 2012 – 1 March 2013 - NOW

- Proposed COP Revisions – 1st draft (document for comment)

Round 3 Comment - May - June 2013

- 2nd draft of COP Revisions + 1st draft of Standards Guidance

Approvals - September - October 2013

- Legal review
- Standards Committee recommendation and Board approval
- Target publication of revised COP: October / November 2013.

RJC Code of Practices Review – Specific Topics



- Human Rights
- Conflict-affected areas
- Business Partners
- Child Labour
- Working hours
- Legal compliance
- Grading, Appraising and Assaying
- Provenance Claims
- India - summary
 - Biodiversity
 - Tailings management
 - Mercury
 - Free Prior Informed Consent and Indigenous Peoples
 - Mining-community engagement
 - Artisanal and small-scale mining (ASM)

Discussion of proposed COP changes

- Why make the change?
- What is being proposed?
- What it means

Aim to provide overview of major changes –
consultation document details all changes.

Welcome feedback or discussions on specific
issues and detail.

RJC COP Review – Assessment and Reporting

Assessment Workbook

- Update for consistency of terminology and emphasis

Assessment Manual

- Review ISEAL Assurance Code
- Require additional information in audit reports to support evaluation of impact of COP
- More information on re-certifications
- Incorporate FAQ from past 3 years.

1.2 Money Laundering and Finance of Terrorism – Why Change

- Strengthen support for anti-money laundering efforts, and address interpretation issues, by removing the requirement for financial accounts to be ‘independently certified’.
- Increase the focus on ‘Know Your Customer’ requirements and clarify what this means.
- More clearly address situations where there is no applicable law.

What do the changes mean?

- Audited financial accounts are required in all cases, irrespective of applicable law.
- Know Your Customer principles shall apply for Business Partners dealing in high value goods:
 - Establish the identity, beneficial ownership and principals;
 - Maintain an understanding of the nature of their business circumstances;
 - Monitor relevant transactions for unusual or suspicious activity and report suspicions of money laundering or finance of terrorism to the relevant authorities.
- Where no Applicable Law exists, records of all cash transactions equal to or above 15,000 Euro / US Dollars must be kept.

1.7 Grading and Appraising – why a new provision

- Diamond grading and jewellery appraisal are important services in the jewellery value chain, particularly for consumers.
- Issues raised with RJC include:
 - Role of diamond grading in identifying synthetic diamonds and treatments.
 - Use of appraisals and grading certificates with valuations as a deceptive selling tool.
 - Independence between grader/appraiser and merchant, if an opinion is represented to be independent.

Grading and Appraising – proposed COP provisions

- Diamond grading reports to identify whether detection of synthetics/treatments is part of the assessment
- Independent appraisal reports for consumers to include the name of the consumer and the purpose of the appraisal
- ‘Independent’ grading or appraisal reports to consumers must disclose any relevant vested interests in the sale
- Discounting against ‘independent’ valuations as a sales strategy not allowed

What does the change mean?

- Additional disclosure measures on synthetic / treatments assessments
- Additional disclosure requirements for consumer valuations, where independence is claimed
- An attempt to manage the issue of deceptive selling practices and support consumer confidence, however interpretation / auditability in practice may be complex
- May impact retailers as well as service providers (graders, appraisers), welcome review of unintended consequences

1.8 Provenance claims – why a new provision

- Background: increasing focus on material provenance issues to satisfy supply chain due diligence / inquiries, regulatory requirements etc.
- RJC Chain-of-Custody Standard is a separate, voluntary standard. Provides ‘full package’ option.
- Recommendation to RJC to address provenance claims in the Code of Practices.
- Proposed approach:
 - A more basic requirement than Chain-of-Custody.
 - Related more to avoiding false or misleading claims under consumer protection laws, but in the context of emerging practices.

Provenance claims – proposed COP provision

- Applies to documented provenance claims about Diamonds, Gold or Platinum Group Metals that an RJC Member offers for sale, that are related to:
 - Origin e.g. geographical original/place of manufacturing
 - Source e.g. recycled, date of production
 - Practices in the supply chain e.g. conflict-free due diligence, mining practices, applicable standards
- Members required to have the following:
 - Credible documented information to support their claim
 - Internal controls and record-keeping to maintain integrity
- Audit is of the Member only, not of the supplier (i.e. not a chain-of-custody)

Provenance claims – further guidance

- What kind of information would be considered credible when the information comes from third party suppliers who are not part of the certification scope?
 - In writing from supplier
 - Consistent with the provenance claim being made
 - Undertaken due diligence to understand supplier's business, internal systems and business relationships
 - Documented the reasons why the representation is believed to be truthful and accurate.
 - Information deemed reliable for compliance with relevant laws (eg Dodd-Frank).
 - Evidence of conformance with credible industry initiatives that address provenance / chain-of-custody claims.

Provenance Claims - Member's Certification Scope

- If Provenance Claims provision is Applicable, then the Member must identify relevant provenance representations in the Self Assessment and have these audited.
- Raises issue of disclosing when provision has been audited for Member's certification.
- 'Special recognition' for Provenance Claims under the COP could cause confusion about the meaning of conformance (= a Member having some documented information, not an audit of a supply chain).
- Propose to:
 - Disclose all "Applicable" provisions for each Certified RJC Member, on the Certification Information PDF. This will identify whether Provenance Claims was part of the assessment.

What does the change mean?

- New provisions that aim to address the increasing importance of reliable representations about material provenance.
- An RJC Chain-of-Custody standard is still a relevant option, among others. The new COP provision would set a minimum expectation about provenance claims aligned with legal requirements re misrepresentation.
- More detail on application and interpretation still needs to be developed for the Standards Guidance.

2.1 Human Rights – why change the COP

- 2011 UN Guiding Principles on Business and Human Rights – “Ruggie Principles”
 - State duty to protect rights
 - Corporate responsibility to respect rights
 - Access to remedy (judicial and non-judicial)
- Corporate responsibility to:
 - Not infringe on the human rights of others
 - Avoid causing or contributing to adverse impacts through own activities; and
 - Seek to prevent or mitigate adverse impacts directly linked to company through business relationships

Human rights – proposed COP change

- Require Members to have policies & processes appropriate to their size and circumstances:
 - Policy Commitment
 - Human Rights Due Diligence process
 - Remediation where adverse impacts identified
- Key challenge is to assist SME's with this process. RJC will include in Standards Guidance:
 - Policy template
 - Human rights due diligence for SMEs
 - Q&A section regarding specific issues/risks such as conflict, child labour etc

Conflict-affected areas – proposed COP change

- Conflict –related risks in some gold, diamond and platinum supply chains
- OECD Due Diligence Guidance on Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas – 5 step framework for due diligence
- Proposed COP change to require Members to:
 - Review risks of adverse human rights impacts
 - Take steps to avoid contributing to conflict, if operating in or sourcing directly from a conflict-affected area.

4.3 Business Partners – proposed COP change

- Current COP provision directed at impacts of business partners on the Member's practices / reputation.
- The proposed revision aligns with UN Guiding Principles. Requires Members to:
 - Assess risks of significant adverse impacts by Business Partners,
 - Seek to prevent or mitigate significant adverse impacts, commensurate with their ability to influence
- Risks - Human rights + business ethics, environment, and other social performance issues.

What do the changes mean?

- All RJC Members will be taking practical steps to implement the UN Guiding Principles in the jewellery supply chain – in their own business and with business partners.
- RJC will provide support and guidance, including for SMEs starting this process formally for the first time.

2.2 Child Labour – why change the COP

- Stakeholder submissions recommended that RJC:
 - Define a Child in accordance with the Convention on the Rights of the Child = under 18 years.
 - Give more attention to worst forms of child labour (ILO C182) in provision and guidance.
 - Go beyond lowest common denominator approach of lower ages in developing countries that is allowed for under ILO C138.

Child Labour – proposed COP change

- Re-define key terms:
 - Child – under 18 years
 - Child Labour – work by a Child that is prohibited under ILO C138 (minimum age) or C182 (worst forms)
 - Remove reference to Young Person
- Re-structure provision:
 - 1 – Minimum ages for work and hazardous labour (15 years), no worst forms of child labour
 - 2 – Remediation processes for where child labour is found

What does the change mean?

- Definitional and structural changes aim to improve clarity
 - What constitutes child labour and how to avoid it;
 - What to do if child labour is found.
- Prevalence of child labour among RJC Members appears very low – 2% of certification audits identified minor non-conformances relating to record-keeping, but not evidence of child labour.
- Creates broader normative effect for sector, including for remediation approaches.

2.8 Hours of Work – Overtime – why change the COP

- Working hours and overtime standards draw on ILO Conventions and aim to address the issue of excessive working hours in some production environments.
- Current COP set limit of 12 hours overtime per week.
- Feedback / questions included whether this allowed:
 - Voluntary collective agreements with workers, or licenses approved by government, to negotiate additional seasonal working hours when required.
 - Shorter normal work week eg 42 hours with additional overtime paid at premium rate up to 60 hours per week.
 - ‘Regularly requesting’ overtime - could this impact a regular but not excessive overtime eg 2 hours per week every week.

Hours of Work – Overtime – proposed COP change

- Key principles in many labour standards, including COP:
 - A limit on overtime hours / the total work week
 - Voluntary / consensual approach to overtime
 - Overtime hours not being regular / excessive
- Proposed change sets a limit for the normal work week of 48 hours and total limit of working hours of 60 hours – simpler to interpret.
- Any overtime beyond the limits set in special circumstances must be allowed under Applicable Law or a collective bargaining agreement.

What does the change mean?

- A simpler maximum limit for working hours, which takes account of shorter 'normal work week'.
- Re-focused standard on excessive overtime rather than 'regular' overtime.
- Sets clearer conditions (Applicable Law, collective agreements) on any special circumstances.
- Aimed at workers rather than management level staff as the latter tend to have more control over their hours.

4.1 Legal Compliance scope – why change

- Legal compliance is an expectation of business.
- However RJC certification does not aim to be a comprehensive legal compliance framework.
- Implementation issues raised:
 - Is this a legal compliance audit?
 - Consistency of audits across different Members in same jurisdiction and across jurisdictions
 - Governance of detailed legal compliance matters that are beyond the scope of RJC's expertise
 - All legal non-compliances were Major Non-Conformances by definition, even if minor.

Legal compliance scope – proposed changes

- Require Members to have systems in place to maintain awareness of and compliance with Applicable Law. The audit focuses on the system.
- For those provisions that make reference to Applicable Law, Auditors will look for evidence of compliance. Definition of Minor Non-Conformance updated to include situations where:
 - There is a known non-compliance which the Member is attempting to rectify, and
 - There is no imminent risk to workers, community or environment.

What do the changes mean?

- Focus of provision is on having a system in place for legal compliance.
- Makes it clearer for auditors what should be reviewed.
- Allows Minor Non-conformance findings for minor legal non-compliances.
- Additional guidance will be developed on specific questions, for example re some Indian labour regulations.

Implementation Questions - India

Issues raised to date

Implementation in India

- India is an important manufacturing centre and consumer market for gold and diamonds.
- Currently 58 Indian facilities under RJC Certification
- The RJC, along with many stakeholders, want to see Indian participation continue to grow
- Implementation questions have focused on:
 - legal compliance, especially with India Factories Act and Provident Fund, mainly related to labour issues
 - difficulty of dealing with corruption
 - time needed to implement corrective actions.
- RJC is working with regional stakeholders to clarify the major issues, take these into account in the revisions to the CoP, and develop additional guidance for the Indian sector.

COP Review – Engagement in India

- A group of Indian companies are collaborating to provide input into the comment period on the scope – identify key issues from their perspective. Includes the Gem and Jewellery Export Promotion Council (GJEPC) which is a quasi-governmental body.
- Other discussions were held with Indian companies about the CoP in 2010-11, prior to the CoP Review Process
- RJC also engaging with SAI in India, and aims to reach out to their networks of key regional stakeholders.

RJC goal is to balance the objectives of:

- Defining responsible standards for the jewellery supply chain that meet stakeholder expectations
- Ensuring that emerging economies are engaged with, and can implement, voluntary standards like RJC's.

Responses to Issues Relating to Implementation in India

Responses are being addressed through:

- Proposed changes to the CoP;
- Additional guidance aimed at companies operating in India:
 - Provided in ‘break-out boxes’ within the full Standards Guidance document
 - The current ‘India FAQ’ will also be updated to include all the India-specific references in the Standards Guidance in a separate quick reference document.

Summary of key issues

Feedback from industry stakeholders has raised issues about the following:

- Bribery and Facilitation Payments
- Anti-Money Laundering
- Working hours
- Overtime remuneration
- Payment for piece rate work
- Remuneration for trainees
- Legal compliance
- Provident Fund
- Emergency Exits

Bribery and Facilitation Payments

Issue: *It can be difficult to obtain necessary permits and authorizations in India without paying bribes to government officials.*

Proposed revisions in the CoP: Minor revisions to the provision on Bribery and Facilitation Payments to improve structure and clarity and align with the UK Bribery Act.

Guidance: Reinforce distinction between Bribery, which is prohibited, and Facilitation Payments, which are permitted under certain conditions. Examples relevant to India will be provided. Guidance will also be provided about establishment of a gift register, use of agents, and establishment of policies and procedures.

Anti-Money Laundering

Issue: *India's Prevention of Money Laundering Act (PMLA) does not apply to gemstone dealers, so do Members in India have to follow the FATF?"*

Proposed revisions in the CoP: Major change to clarify that if no Applicable Law exists, Members shall monitor and maintain records of all cash transactions equal to or above 15,000 Euro / US Dollars.

Working Hours

Issue: *Accommodation for overtime that is required during certain periods.*

Proposed revisions in the CoP: Total hours worked beyond 60 hours per week are permitted to meet short-term business demand, if allowed under Applicable Law or collective bargaining agreements. However excessive overtime hours that create negative impacts on Employee health and safety shall be avoided.

Guidance: Guidance will note that required overtime in excess of 60 hours/ week must be supported by Applicable Law. It will also note that these provisions are not applicable to management-level employees who usually set their own working hours.

Overtime Remuneration

Issue: *Allow for the general practice to pay overtime based on the applicable minimum wage*

Proposed revisions in the CoP: New provision clarifying that Members shall reimburse overtime work at a premium rate as defined by Applicable Law or a collective bargaining agreement, or, where unregulated by either, at a premium rate at least equal to the prevailing industry standards.

Guidance: India-specific guidance will confirm that the Applicable Law in India requires a premium rate be paid for overtime.

Payment for Piece Rate Work

Issue: *How is remuneration applied to the piece rate system?*

Proposed revisions in the CoP: New requirement confirming that wages calculated on a performance-related basis shall not be less than the legal minimum wage for normal daily working hours.

Guidance: Discussion on piece rate calculations will be included in the Standards Guidance.

Remuneration for trainees

Issue: *Make allowance for compensation less than the minimum wage for trainees.*

Proposed revisions in the CoP: None applicable. Trainees are employees and entitled to the minimum wage under the Applicable Law, unless otherwise approved under a recognized apprenticeship scheme.

Guidance: Additional guidance will be included on remuneration for trainees.

Legal compliance

Issue: *Insignificant legal non-compliances are classified as Major Non Conformances. Several of these apply to The Factories Act 1948.*

Proposed revisions in the CoP: Major changes to the legal compliance provision to focus on having systems in place to maintain awareness of and ensure compliance with Applicable Law. Legal non-compliances can also be classified as Minor Non-conformances, including situations where the non-compliance does not result in an imminent risk to Workers, the Community or the Environment.

Guidance: Guidance will continue to focus on systems for legal compliance, rather than evidence of compliance with all legal requirements.

Calculations for Basic Wage and Provident Fund

Issue: There are legal disputes about how the Provident Fund contributions are to be calculated in relation to the 'basic wage.' Similar issues also apply to the overtime premium. This requires guidance.

Proposed revisions in the CoP: No directly applicable changes. Relates to Remuneration, General Employment Terms, and Legal Compliance.

Guidance: Guidance would reinforce the requirement for systems to be in place to ensure legal compliance. Evidence to support conformance would include following guidance or directives provided by the relevant authorities, to recent court judgments, or to written legal opinions.

Emergency Exits

Issue: *How to provide proper emergency exits for leased facilities with limited flexibility, or when the factory plan has already been approved by the factory inspector.*

Proposed revisions in the CoP: Specific requirement for clearly marked, unlocked and unblocked emergency exits and escape routes.

Guidance: Clarification that Corrective Action Plans can accommodate situations where additional time is needed to implement changes to facilities, and that approvals by authorised inspectors will provide evidence of conformance.

However, certification can be refused by the RJC in the case of successive Major Non-Conformances against provisions that involve health and safety.



Responsible
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Questions and comments?

India – 2014 RJC Impacts focus

Looking ahead:

- **Dialogue will continue** with India committee and other Members / stakeholders through each consultation period for the COP Review process
- Plan for 2014 RJC ‘Impacts’ project as part of the RJC Monitoring and Evaluation program. Areas of possible focus for **field project in India**:
 - Auditing consistency – shadow audit program that can feed back into auditor training / refreshers
 - Interpretation/implementation in India – awareness raising for revised COP and Complaints Mechanism
 - Evaluate impact of implementation of standards in Certified Members’ facilities – what have been the benefits and challenges.

Certification Scope – Members

- Concerns raised as to whether enterprises involved in jewellery supply chain do / should include all of the relevant parts of their business under RJC.
- Members join the RJC as a voluntary initiative. Any size or scale business may join, as long as they are a participant in the gold, diamond and platinum group metals jewellery supply chain. Examples:
 - Retail chains
 - Small individual retailers
 - Multi-national mining companies
 - Individual mines
 - Luxury groups
 - Retail brands
 - Vertically integrated companies
 - Diamond trading offices (excluding manufacturing)

Certification Scope – current situation

- Do Members include all their Facilities in the Certification Scope?
 - Yes – everything that is owned or controlled by the Member
 - This is a rule for all Members and is confirmed by auditors and checked by RJC.
 - Interested parties may raise concerns with RJC through the Complaints Mechanism.
- Should businesses have to include all relevant entities in a group, for example parent companies, or other entities in a group of companies?
 - Stricter joining requirements have pros and cons, but would raise barriers to entry
 - This is beyond the COP review and under discussion in RJC

Certification scope – proposed change

- The COP Review can make changes to enhance transparency of Certification Scope– which facilities/parts of a business are covered by the audit.
- Proposed change in reporting:
 - Requiring auditors to identify in their summary reports to RJC whether a Member represents all relevant parts of a business, rather than a subsidiary of a larger parent group.
 - Where a Member represents all relevant parts of a business, this will be specifically noted on the RJC website.

Certification Scope – what the change means

- Under current Membership rules, subsidiary companies can legitimately join the RJC and become Certified.
- A formal designation of ‘all in’ helps communicate greater commitment of those Members to stakeholders.
- Disclosure of Facilities covered by a Member’s Certification continues to provide necessary detail on Scope.

Transition between COP versions

- A new section on 'Effective Date' will be added.
 - For 1 year from publication of the Board-approved revision of the COP, RJC Members may be certified or re-certified against either the 2009 or 2013 standard.
 - After the 1 year period, the 2009 version will be superseded and only the 2013 version will be in effect.
- The COP version used for each Member's certification will be identified on the RJC website.

COP Transition – what it means for Members

- For existing RJC Members, current certifications against the 2009 Code of Practices will still be effective for the remainder of the certification period and re-certification will not be required until the expiry of the period.
- New RJC Members that join on or after the date of publication of the revised COP may only use the revised COP.

Questions and comments?
Thank you for your input.