

5. When was the policy that "gold and silver coins are not currency" first stated within CBSA. Include the document that first stated this policy and include complete references to legislation used to create the policy. Please include detailed accounts of how gold and silver coins were treated prior to this policy being created.

The CBSA does not have a specific policy in relation to the reporting of collector coins, gold and silver coins or precious metals as currency.

Commodities made of precious metals have to be reported upon importation pursuant to the *Customs Act*. The reporting requirement for precious metals under the *Customs Act* did not change following the creation of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA)* and its related regulations.

Canada's *Customs Tariff* is based on the World Customs Organization's Harmonized Commodity Description and Coding System (HS). The HS was developed and is maintained by the WCO, an independent intergovernmental organization with over 200 countries. The HS is the standard coding structure and related product descriptions used in international trade. HS compliance is the mandatory classification and declaration of goods coming into or leaving Canada. The importer or exporter is responsible for the correct use of HS when declaring goods. Canada has been a member of the WCO since 1971. Items made of precious metals, including coins, are listed in the HS.

There is no express reference in Part 2 of the *PCMLTFA* or the *Cross-border Currency and Monetary Instruments Reporting Regulations*. Part 1 of the *PCMLTFA* and the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations*, however, provide the following definitions:

"cash" means coins referred to in section 7 of the *Currency Act*, notes issued by the Bank of Canada pursuant to the *Bank of Canada Act* that are intended for circulation in Canada or coins or bank notes of countries other than Canada;

"funds" means either:

- (a) cash; or
- (b) currency, securities, negotiable instruments or other financial instruments, in any form, that indicate a person's or entity's title or right to, or interest in, them; and

"precious metal" means gold, silver, palladium or platinum in the form of coins, bars, ingots or granules or in any other similar form".

By relying on statutory interpretation, foreign coins intended for circulation are considered currency for reporting purposes under the *PCMLTFA*. Whereas, foreign coins not intended for circulation are to be reported as goods in accordance with the *Customs Act*.

6. When was the policy that "gold and silver coins are not currency" first enforced within the CBSA, was it challenged, and what was the outcome? Include documentation.

The CBSA does not have a specific policy in relation to collector coins, gold and silver coins or precious metals as currency, and to best of our knowledge, the CBSA's position that foreign coins (collector coins) are goods has not been challenged in a court of law.