Subject: Re: Re: gold coins inquiry

From: Policy-Interpretation <Policy-Interpretation-Politique@fintrac-canafe.gc.ca>

Date: 16/08/2016 8:44 AM

To: "'RADU.FNT@OHMI.ORG'" <RADU.FNT@OHMI.ORG>

Dear Mr. Hociung,

Thank you for contacting the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), Canada's independent agency responsible for the collection, analysis, assessment and disclosure of information in order to assist in the detection, prevention and deterrence of money laundering and the financing of terrorist activities in Canada and abroad.

I am writing further to your e-mails of July 21, 2016 and July 29, 2016, where you have asked whether certain types of coins and forms of gold are considered currency under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA).

Subsection 1(2) of the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations (PCMLFTR) defines cash as "coins referred to in section 7 of the <u>Currency Act</u>, notes issued by the Bank of Canada pursuant to the <u>Bank of Canada Act</u> that are intended for circulation in Canada or coins or bank notes of countries other than Canada."

Paragraphs 7(1)(a) and (b) of the <u>Currency Act</u> state-that "a coin is current for the amount of its denomination in the currency of Canada if it was issued under the authority of

- (a) the Royal Canadian Mint Act; or
- (b) the Crown in any province of Canada before it became part of Canada and if the coin was, immediately before October 15, 1952, current and legal tender in Canada."

Furthermore, subsection 1(2) of the PCMLTFR defines precious metal as "gold, silver, palladium or platinum in the form of coins, bars, ingots or granules or in any other similar form."

According to section 39.1 of the PCMLTFR, "every dealer in precious metals and stones that engages in the purchase or sale of precious metals, precious stones or jewellery in an amount of \$10,000 or more in a single transaction, other than such a purchase or sale that is carried out in the course of, in connection with or for the purpose of manufacturing jewellery, extracting precious metals or precious stones from a mine or cutting or polishing precious stones, is subject to Part 1 of the Act". Therefore, an entity becomes a dealer in precious metals and stones (DPMS) under the PCMLTFA if it purchases or sells precious metals, stones, or jewellery in an amount of \$10,000 or more in a single transaction. This amount is not a cash value, but rather the value of \$10,000 in precious metals, stones, or jewellery.

Accordingly, for FINTRAC's purposes, anyone who engages in the purchase or sale of these coins, or gold bars, in an amount of \$10,000 or more would meet the triggering activity and would become a DPMS subject to the PCMLTFA and its associated Regulations.

I trust this information will be of assistance.

Lisa Zielinski, MA, CAMS

Compliance Officer | Agente de conformité

Regional Operations & Compliance | Opérations régionales et conformité

policy-interpretation-politique@fintrac-canafe.qc.ca

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The determination contained herein is provided to your organization on the understanding that it is based solely on the facts and information provided to FINTRAC and may be subject to change in the event additional information becomes available. | La détermination contenue dans la présente repose uniquement sur les faits et l'information fournis à CANAFE et pourrait être modifiée si des informations supplémentaires sont portées à notre connaissance.

From: Radu Hociung[SMTP:RADU.FNT@OHMI.ORG]
Sent: Friday, July 29, 2016 10:57:47 AM

To: guidelines-lignesdirectrices Subject: Re: gold coins inquiry

Auto forwarded by a Rule

Hello,

I have not received any kind of reply, and I wonder if I sent the email below to the correct address within fintrac that can deal with it, or if it was just lost.

Can I still expect a response?

Thanks

Radu Hociung.

On 21/07/2016 11:38 PM, Radu Hociung wrote:

Hello,

I'd like to inquire if Fintrac regards the following forms of gold as currency for the purposes of PCMLTFA:

- 1. \$50 Canadian Maple Leaf Gold coin [1]
- 2. \$5 Canadian Maple Leaf Silver coin [2]
- 3. \$50 United States "Buffalo" Gold coin [3]
- 4. \$1 United States "American Eagle" Silver coin [4]
- 5. Royal Canadian Mint 1oz 99.99% fine gold bar [5]

While items 1-4 are technically legal tender according to currency laws in Canada and US, the gold bars are not technically legal tender, but they are considered financial instruments by the CRA, as per memo 18.1 from 1999 (attached; maybe this is too old to still be considered valid?)

Items 1-2, while legal-tender in Canada, are not used in daily transactions as far as I know, though I did find a declaration by the finmin from 1999 that they are in fact valid currency (attached; perhaps 1999 is also too old to be considered valid?)

The two attachments on the topic of precious metals as financial instruments/currency have both been issued in April 1999, which seems to me like a curious coincidence; Do you know if they might be related? How?

Thank you,

Radu Hociung

[1]http://torontogoldbullion.com/gold/gold-coins/1-oz-gold-coins/1-oz-gold-canadian-maple-leaf-coin-2016.html

[2]http://torontogoldbullion.com/silver/silver-coins/1-oz-silver-coins/1-

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oz-silver-canadian-maple-leaf-coin-2016.html
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- [3] http://torontogoldbullion.com/gold/gold-coins/1-oz-gold-coins/1-oz-gold-us-buffalo-coin-2016.html
- [4] http://torontogoldbullion.com/silver/silver-coins/1-oz-silver-coins/1-oz-silver-american-eagle-coin-2016.html
- [5] http://torontogoldbullion.com/gold/gold-bars/1-oz-gold-bars/1-oz-gold-royal-canadian-mint-bar-new-design.html

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