

*Desayuno de
actualización*
Cámara Asomíneros
Mayo 2013

Agenda

1. Palabras de Bienvenida de PwC
2. Palabras de Bienvenida Cámara Asomíneros
3. [Transparency regulations and standards](#)
4. [Impacto de las directrices OECD](#)
5. Preguntas

Transparency regulations and standards

John Gravelle
Calum Semple

Asomineros Chamber
May 2013

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1. Conflict Minerals and transparency in mining supply chain

What are “Conflict minerals”?

- minerals vulnerable to cause conflict due to their value and potential use
- tin, tantalum, tungsten and gold referred to as “3TG”

Potential effects of conflict minerals include:

- Corruption
- unlawful armed conflict
- human rights abuses
- Illegal activities
- money laundering

Common uses of conflict minerals

| Metal | Industries using the Metal | Common Applications | Commercial Ores |
|--------------|---|--|---|
| Tin | <ul style="list-style-type: none"> ■ Electronics ■ Automotive ■ Industrial equipment ■ Construction | <ul style="list-style-type: none"> ■ Solders for joining pipes and circuits ■ Tin plating of steel ■ Alloys (bronze, brass, pewter) | Cassiterite |
| Tantalum | <ul style="list-style-type: none"> ■ Electronics ■ Medical equipment ■ Industrial tools and equipment ■ Aerospace | <ul style="list-style-type: none"> ■ Capacitors (in most electronics), ■ Carbide tools ■ Jet engine components | Coltan (columbite-tantalite) |
| Tungsten | <ul style="list-style-type: none"> ■ Electronics ■ Lighting ■ Industrial machinery | <ul style="list-style-type: none"> ■ Metal wires, electrodes, electrical contacts ■ Heating, and welding applications | Wolframite, Scheelite, Ferberite, hübnerite |
| Gold | <ul style="list-style-type: none"> ■ Jewelry ■ Electronics ■ Aerospace | <ul style="list-style-type: none"> ■ Jewelry ■ Electric plating and Integrated Circuit wiring | Various free and combined forms |

Cont'd...conflict minerals and transparency

Governments and industry organizations are driving efforts to **stop resource wealth funding conflict**



Global trend for **transparency in mining supply chain**

Cont'd...conflict minerals and transparency

Regulations and standards requiring to:









*track the **origin** of conflict minerals and **certify** whether they are **conflict-free***

***disclose payments** to governments made by extractive industries*



2. Regulations and standards

Some examples:

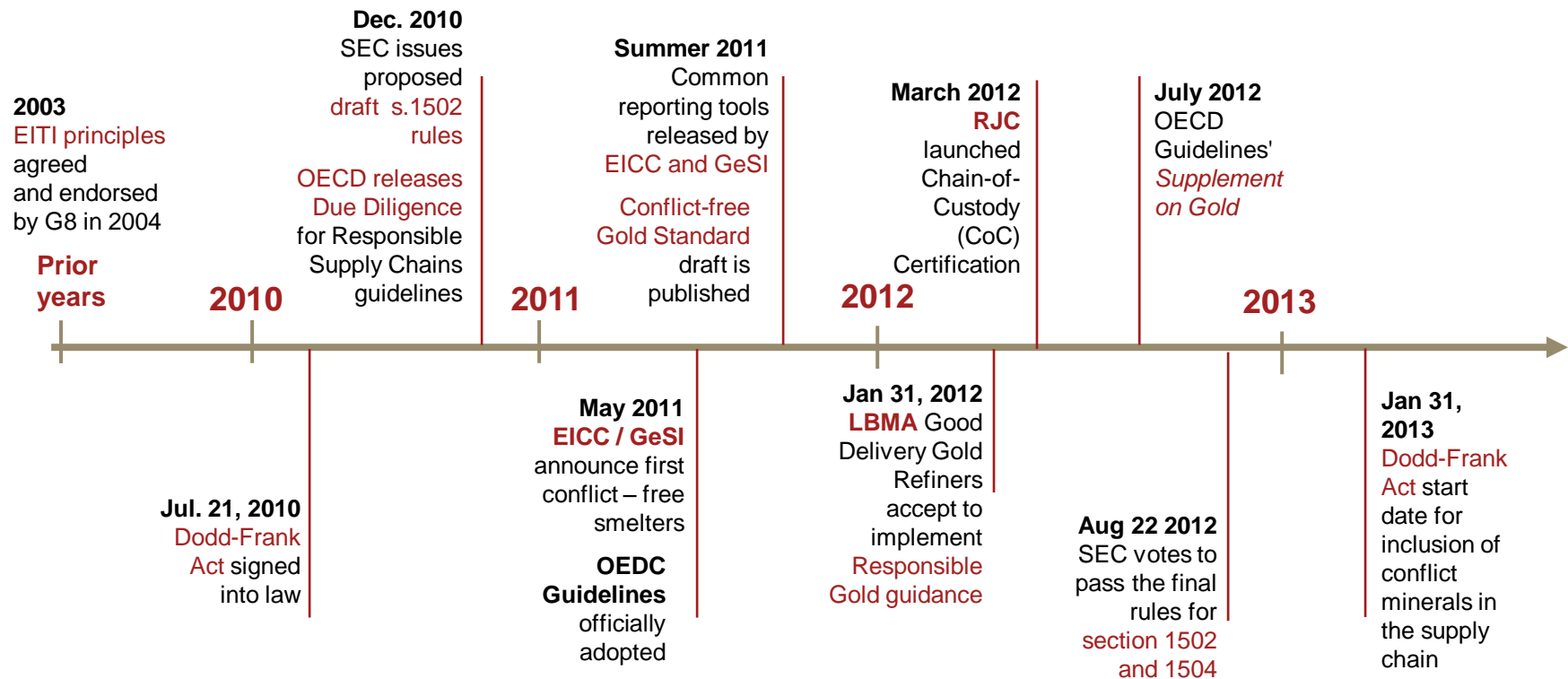
| | Global Focus | Focus on African Great Lakes |
|-----------------------------------|--|---|
| Regulatory & Normative |  Extractive Industries Transparency Initiative  OECD Due-Diligence Guidance and Supplement on 3Ts. |   US Dodd-Frank Act –section 1502 on Conflict Minerals - focused on 3TGs – section 1504 on Payments to governments |
| Industry-Led |  WORLD GOLD COUNCIL Conflict-free Gold Standard  LBMA Responsible Gold Programme  Responsible Jewellery Council Standard |  EICC® ELECTRONIC INDUSTRY CITIZENSHIP COALITION Conflict-free Smelter Programme |

So, what do these initiatives mean to mining companies?

Generally, it means companies will need to:

- Establish **systems and controls** in place to trace their production and maintain the integrity of their operations
- **Report** to other **supply chain players** e.g. refiners
- Report to **governments**
- Consider **potential risks** on their ability **to market their gold** if they comply and conform to these initiatives

Cont'd... Regulations and standards when were they implemented?



Conflict-free minerals

Regulations and standards

OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas and Gold Supplement

A framework of management recommendations for global **responsible supply chains** of minerals particularly *tin, tantalum, tungsten, and gold*.

Target companies

Any company that is potentially sourcing minerals or metals from conflict-affected and high-risk areas

Requirements

Perform a **risk based due diligence** in the mineral supply chain → address actual or potential risks to prevent or mitigate adverse impacts associated with their activities or sourcing decisions

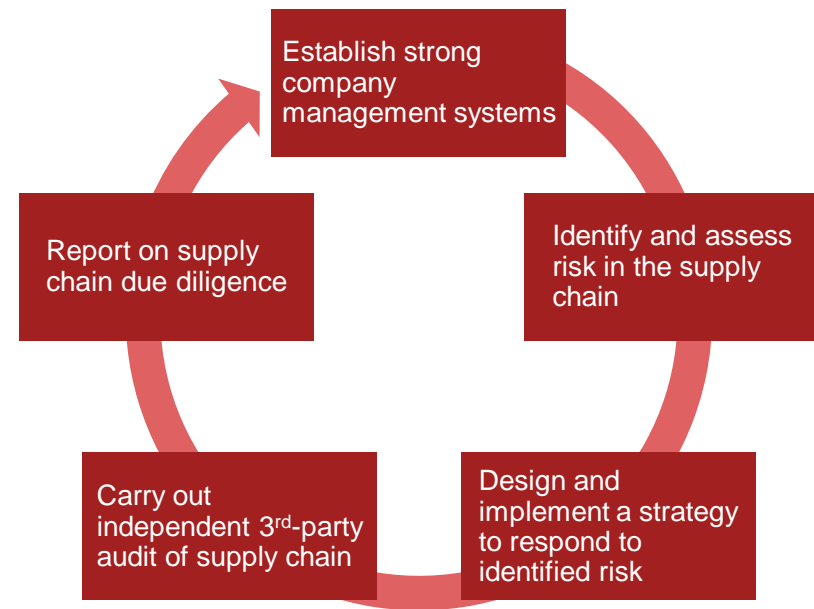
Impact on mining companies

Serves as the **foundation to other initiatives** which “operationalize” the guidance.

OECD countries are expected to implement it BUT companies are not really required to comply with it.

Desayuno actualización
PwC

OECD due diligence framework



Source: OECD Due Diligence Guidance, December 2010.
Mayo 2013

World Gold Council's Conflict-free Gold Standard

Common approach for gold producers to provide **assurance that their gold has been extracted without fueling** “unlawful” armed **conflict** or contributing to human right abuses.

Target companies

Any **gold producer** – particularly WGC’s 23 members (represent 60% of global corporate gold production)

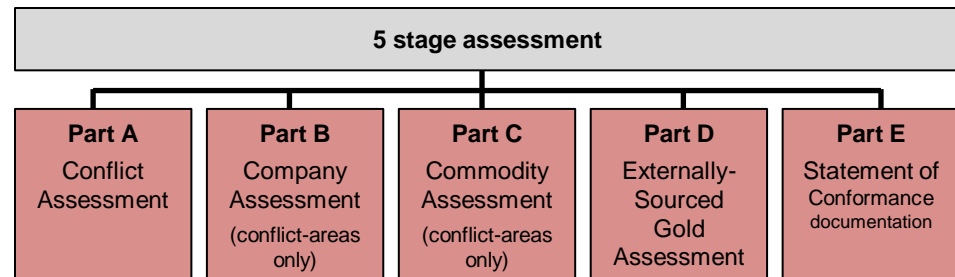
Requirements

Meet criteria related to **how to operate responsibly** if the company operating in a conflict-affected area; publish a public disclosure audited by a third party.

→ *First ‘Conflict Free Gold Reports’ to be published in early 2014*

Impact on mining companies

It’s being **adopted by all major global gold producers**, members of WGC → may become an industry best practice



Conflict-Free Gold Standard...

The Principles are:

Broadly: not support unlawful armed conflict or abuses of human rights

Locally: respect human rights and use our influence to prevent abuses

Security: ensure security providers are not involved with armed groups

Put controls in place to prevent bribes or illegal payments or equipment to armed groups

Publicly disclose payments made to governments, unless prohibited from doing so

Establish processes for stakeholders to raise concerns about mines' activities

Utilize transport services that are not involved with unlawful armed groups

Implement due diligence to ensure 3rd party miners that provide gold confirm to principles

London Bullion Market Association (LBMA) Responsible Gold Guidance

Program focused on **demonstrating that gold outputs** from LBMA-accredited refiners are **conflict-free**

Target companies

Gold refiners members of the LBMA Good Delivery list or applying for membership

Requirements

The Guidance **follows** the five steps framework for risk-based due diligence of the **OECD Due Diligence Guidance**. → *Need to file a report of their audited supply chain due diligence by December 31st, 2013 (in refiner's fiscal year goes from Jan to Dec)*

Impact on mining companies

Refiners require that **gold producers certify** that their product is **conflict-free**



Responsible Jewelry Council's Chain-of-Custody scheme

Voluntary program focused **on creating a Chain-of-Custody (CoC) for responsibly-sourced Precious Metals** (*gold, platinum, palladium and/or rhodium*) produced, processed and traded through jewelry supply chains.

Target companies

Jewelry supply chain players from metals producers, to refiners, traders, manufacturers, retailers and service industries.

Requirements and deliverables

Requires implementing companies to **segregate CoC material** from other material in its custody, and inform on provenance of CoC Materials when transferred or sold to other parties.

Impact on mining companies

Mining companies get **asked by downstream** players like jewelry manufacturers and retailers **to certify that they are responsible producers.**

Electronic Industry Citizenship Coalition (EICC) and the Global e-Sustainability Initiative (GeSI)

Conflict-Free Smelter Program

Voluntary program to **evaluate smelter/refiner procurement activities** and determine if they **demonstrate** that all the materials they processed originated from **conflict-free sources**

Target companies

Smelter and refiners of 3TGs; those sourcing from DRC and surrounding countries need to comply with additional requirements to be eligible for this program.

Requirements and deliverables

Undergo **an assessment of established conflict minerals policies** and analysis to demonstrate that the minerals they process are conflict-free. All this audited by a third-party.

Impact on mining companies

Need to certify that their minerals are conflict-free

Conflict-free Gold Standard 30 –second risk assessment

- ☐ Are you a member of the World Gold Council?
- ☐ Are you currently operating in high risk regions?
- ☐ Do you have a publicly accessible conflict-free gold policy?
- ☐ Do you employ or outsource security or transportation services?
- ☐ Do you have a anti-bribery/anti-corruption systems in place?
- ☐ Do you publicly disclose your payments to governments?
- ☐ Do you have a stakeholder concern and engagement program?
- ☐ Do you accept gold from artisanal or small-scale miners?
- ☐ Is your refiner on the LBMA Good Delivery List or following the EICC Conflict-Free Smelter Program?

3. Implications for mining companies in Colombia

Companies will need to **respond to queries** on the origin of their minerals!

but also,

Get ready to certify that they are **conflict-free**

Heidelberg Conflict Barometer - conflict areas

Regions within these countries are considered to be at the highest levels (Level 4 or Level 5) in the Heidelberg conflict barometer in 2012

| | | |
|-----------------|------------|----------|
| Afghanistan | Iraq | Somalia |
| Algeria | Israel | Sudan |
| Burma | Libya | Syria |
| Colombia | Mali | Thailand |
| Côte d'Ivoire | Mauritania | Tunisia |
| DR Congo | Mexico | Turkey |
| Egypt | Nigeria | Uganda |
| India | Pakistan | Yemen |
| Iran | Russia | |

Conflict Barometer , Heidelberg Institute for International Conflict Research

Cont'd Implications

Artisanal and small scale miner (ASM) may be increasingly excluded from formal supply chains because they are unable to meet certain standards and regulations

“It is not the intent of the Conflict-free Gold Standard to exclude gold from the market that is produced by responsible, legitimate ASM and we support formalisation of ASM as a means of addressing poverty, improving social and environmental performance and reducing vulnerability to criminal networks and armed groups”

Terry Heymann
Director, Responsible Gold

Disclosure of payments

Regulations and standards

Extractive Industries Transparency Initiative (EITI) Standard

Global voluntary standard for companies to **publish what they pay** and for **governments to disclose what they receive**

Target companies

Companies in **mining, oil & gas in countries** that have become EITI compliant countries and EITI candidates.

Requirements

Companies report payments to government and the government reports what it has received. Figures are reconciled by an independent reconciler and **published in the EITI Report**

Impact on mining companies

Companies comprehensively need to **disclose all material payments in accordance with EITI agreed reporting templates**. Compliant countries need to ensure the required disclosure in order to retain Compliant status.

Dodd-Frank Act - Section 1504, Disclosure of Payments by Resource Extraction Issuers

Law requiring SEC registrants to **publicly report payments** made during the fiscal year **to any government** for the purpose of the commercial **development minerals**

Target companies

SEC registered **companies in the extractive industries**, including mining oil & gas

Requirements

File report disclosing all payments made by the company **using Form SD** *within 150 days of an issuer's first fiscal year ending after September 30, 2013*

Impact on mining companies

SEC mining companies need to **collect information on payments** and **present audited report** telling a compelling story of payments made in order to manage reputational risks and protect social license to operate

Conflict-free Gold Standard

It also requires disclosure of payments to governments and benefits-in-kind!

- **unless** prohibited by law or contract
- **aligned to existing initiatives** and instruments that address transparency of payments, such as the EITI, existing local legislations, OECD Supplement of Gold, etc.
- **policy to demonstrate their commitment** not make payments or provide benefits in kind to non-government entities that cause conflict, unlawful armed conflict or serious human rights abuses.
- **risk-based due diligence** to mitigate against making payments or providing benefits in kind that cause conflict

Extractive Resource Revenue Transparency in Canada

Aims to **develop a framework for the mandatory disclosure** of extractive company payments to governments where Canadian companies operate

→ The Working Group intends to **make a recommendation** to government on the implementation of the framework **in June, 2013**.

Requirements

- Mandatory **reporting mechanism** to establish greater transparency of payments
- Requiring **country-by-country and project reporting** of certain payments above a minimum threshold
- Payments made to **national and sub-national authorities**
- Payments made along **all stages of the project life cycle** and along the value chain (e.g. from mine site to export)

Other related initiatives

Mandatory Disclosure Rules in Place or Proposed

- EU Transparency and Accounting Directives
- **London AIM** and **HKEx** listing requirements
- **Canada:** Bill C-474

Bank/IFI Lending Standards

- **World Bank/International Finance Corporation (IFC)** and **European for Reconstruction and Development (EBRD)** require Extractive Industry clients to publicly disclose payments to governments

→ 2013 G8 agenda focused on extractive sector transparency

- It is expected that Canada will be pressured to come out with a law demanding mandatory reporting.

Implications of disclosing of payments

Companies will be exposed to **scrutiny by NGOs and the general public who will review the disclosure and decide if the payments were “too much” or “too little”**

→ Make sure to **not only capture the data about payments required** by regulations but also **other contributions** and related actions

and

→ create a narrative that explains why the amounts paid were not too little.

→ **This protects you from potential risks**, including **reputational risks that jeopardize your company’s social license to operate.**

3. Considerations...

- **Engage early!**
- **Stay informed** of this type of initiatives and regulations, particularly those with which your clients are complying and conforming
- **Establish systems and controls** that enable you to know if your product may be contributing to conflict, unlawful armed activities or serious human right abuses
- **Set up processes** to effectively capture payments to governments
- **Report** comprehensive information making sure you tell a compelling story

¡Gracias!

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El impacto de las directrices de la OECD para multinacionales y la debida diligencia a proveedores de la minería en la cadena de abastecimiento

Andrés Romero

Cámara Asomíneros
Mayo 2013

Iniciativas y marcos de referencia

Global

OECD

WRI

ICMM

WGC

AA 1000
APS

TLC

Convención
de Nagoya

DJSI

Pacto
Mundial

ISO
26000

Derechos
humanos

Principios
Voluntarios

Carácter y temas que tratan las Directrices de la OECD para multinacionales

“... principios y estándares **voluntarios** para una responsable conducta empresarial consistente con las leyes aplicables y los estándares internacionales reconocidos. Sin embargo, los países adherentes ... adquieren un **compromiso vinculante** para implementarlos según la decisión del Consejo de la OECD ...”

Derechos Humanos

Empleo y relaciones industriales

Ambiente

Corrupción, soborno y extorsión

Intereses de los consumidores

Ciencia y tecnología

Competencia

Impuestos

Lo que buscan las Directrices de la OECD por parte de las Multinacionales

“Las Multinacionales tienen la oportunidad de implementar las mejores prácticas en políticas de desarrollo sostenible que busquen asegurar la coherencia entre los objetivos económicos, ambientales y sociales” (reporte, auditoria, control, gestión del riesgo, y cumplimiento)

Gobernanza

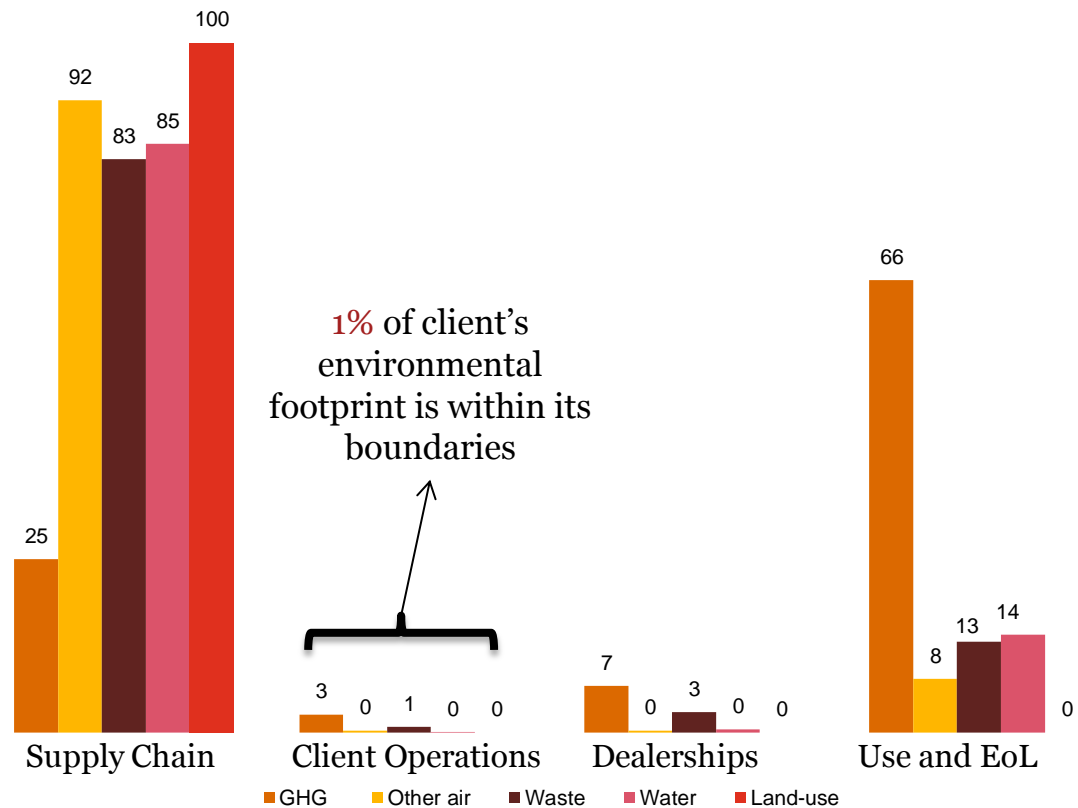
La debida diligencia según las Directrices de la OECD

“... es entendida como el proceso a través del cual las empresas pueden **identificar, prevenir, mitigar y dar cuenta** de la forma en que enfrentan sus impactos adversos, actuales y potenciales, como **parte integral de los sistemas de gestión del riesgo y de toma de decisiones de negocio.**”

“Los impactos potenciales serán manejados por medio de la prevención o de la mitigación, mientras que los impactos actuales serán manejados por medio de la remediación. Las Directrices se refieren a los impactos adversos que son **causados por** o a los cuales **contribuye** la empresa, o están **directamente vinculados** a sus operaciones, productos y servicios a través de una relación comercial...”

PwC Environmental baseline assessment approach

99% de la huella ambiental en la cadena de valor de las empresas se encuentra por fuera de sus instalaciones



Y en la cadena de abastecimiento...

“Cuando tienen un gran número de proveedores, se les anima a la identificación de áreas generales donde el **riesgo de los impactos adversos es más importante** y, con base en esta evaluación de riesgo, priorizar a los proveedores para una **debida diligencia**”

Al identificar un riesgo donde se

- es la causa del impacto, se toman los pasos para prevenir o cesarlo.
- contribuye al impacto, además se espera que inflencie la mitigación de los impactos restantes en la mayor medida posible

Respuestas apropiadas en cuanto a la relación comercial

- Continuación mientras se esfuerza por mitigar
- Suspensión temporal mientras está en curso la mitigación
- Desvinculación completa como recurso final *

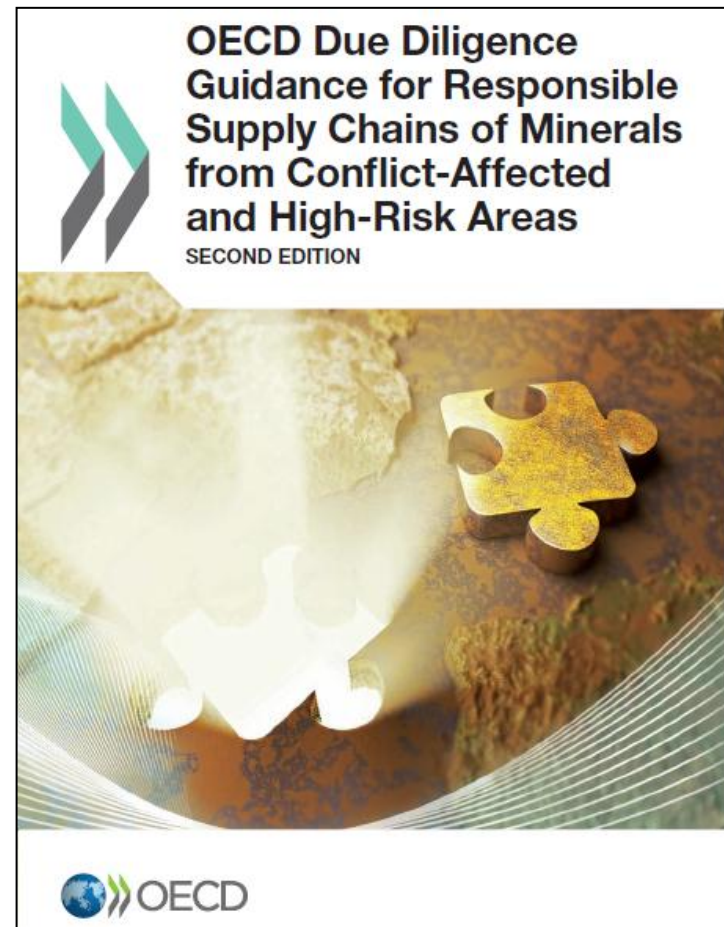
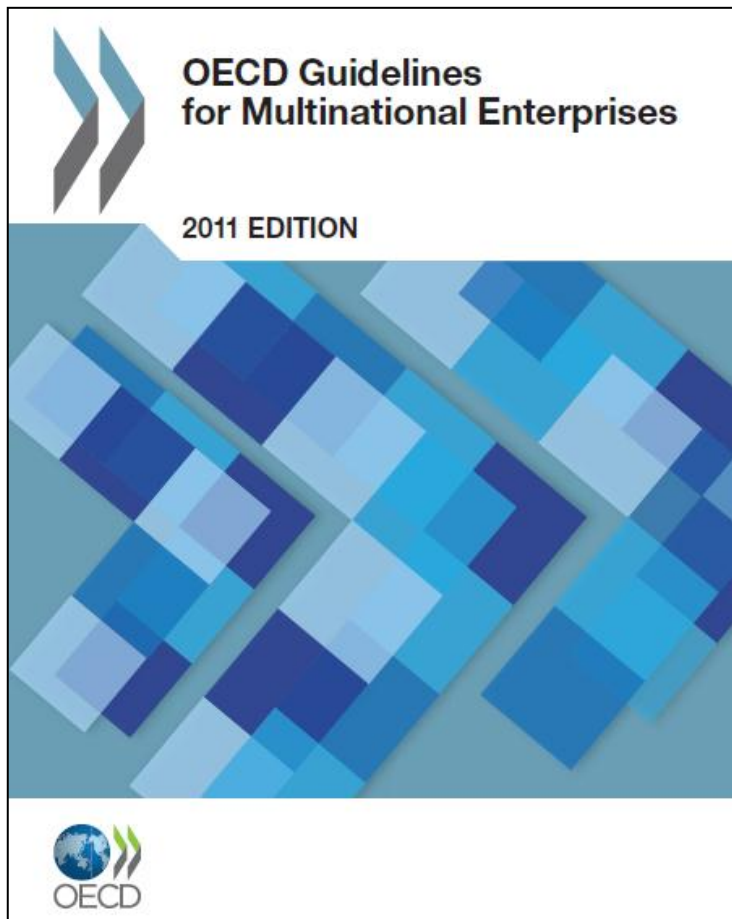
Y en la cadena de abastecimiento...

“La Empresa también deberá tener en cuenta los potenciales impactos adversos económicos y sociales relacionados con la decisión de desvinculación.”



Referencias generales

OECD – Multinacionales, Minería, Minerales de conflicto



Referencias generales

OECD & The U. S. Dodd Frank Act



OECD WORK ON CONFLICT-FREE MINERAL SUPPLY CHAINS & THE U.S. DODD FRANK ACT

This leaflet responds to questions being received on how the OECD Due Diligence Guidance assists companies to comply with Section 1502 of the U.S. Dodd Frank Act.

To what extent do Section 1502 of U.S. Dodd Frank Act and the OECD Guidance intersect?

Section 1502 of U.S. Dodd Frank Act requires U.S. listed companies to disclose whether they use "conflict minerals" (tin, tungsten, tantalum and gold) and whether these minerals originate in the Democratic Republic of the Congo or an adjoining country. In such a case, issuers must submit a "Conflict Minerals Report" describing the measures taken to exercise due diligence, the description of the products that are not DRC conflict free, the facilities used to process the conflict minerals, the country of origin of the conflict minerals, and the efforts to determine the mine or location of origin with the greatest possible specificity. The OECD Guidance clarifies how issuers and other companies in the supply chain operating beyond U.S. borders should proceed to put in place a due diligence process which will enable them to generate the information issuers must disclose under section 1502 of U.S. Dodd Frank Act.

Do Section 1502 of U.S. Dodd Frank Act and the OECD Guidance share the same objectives?

Yes, the OECD Guidance and Section 1502 both seek to break the link between conflict and trade in minerals. Under the Dodd Frank Act, the ways that minerals are described as directly or indirectly financing or benefiting armed groups equates to the detailed modalities described under the OECD Guidance through which direct or indirect support to non-state armed groups and public or private security forces can be provided. Section 1502 of Dodd Frank Act and the OECD Guidance are complementary and mutually supportive. They can be implemented in a workable manner consistent with their common objectives to ensure that they result in a coherent framework.

Why should issuers use the OECD Guidance to generate the information required under Section 1502 of U.S. Dodd Frank Act?

The OECD Guidance is supported by the international community, the U.S. Department of State, U.S. Congressmen, and a multitude of other stakeholders, including industry and civil society. The OECD Guidance allows issuers to communicate a set of clear inter-governmentally backed expectations throughout the entire supply chain, avoiding the risk of exposing suppliers operating in different jurisdictions to multiple and potentially conflicting requirements. This enables issuers to constructively engage with their minerals suppliers outside U.S. borders to generate the information they need to meet their disclosure obligations under Section 1502 of U.S. Dodd Frank Act. While the legislation applies to U.S. listed companies, it indirectly impacts any company beyond U.S. borders which has directly or indirectly U.S. listed customers, including upstream companies (e.g. mining companies, mineral exporters, international traders, mineral refiners and smelters that are not listed but that deal with or have clients doing business with U.S. listed companies). Implementation of the OECD Guidance will therefore help information to flow from upstream suppliers in the mineral supply chain to end users subject to Dodd Frank disclosure requirements. ►



Helping companies source minerals responsibly

The OECD Guidance provides management recommendations for global responsible supply chains of minerals to help companies to respect human rights and avoid contributing to conflict through their mineral or metal purchasing decisions and practices. The Guidance is for use by any company potentially sourcing minerals or metals from conflict-affected and high-risk areas.

The OECD Council adopted a Recommendation of the Council on Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas at the May 2011 Ministerial Meeting.

OECD – October 2011

Debida diligencia en la cadena de abastecimiento del emisor

Generación de información confiable para el reporte

Entrega de la información y la descripción de los productos libres de MC, auditada

Referencias específicas

PwC - WGC CFGS & DD OECD + GS



GS

Deberes para otras partes de la cadena frente al aseguramiento

Requerimientos más prescriptivos para los sistemas de gestión

Mayor nivel de detalle esperado en los reportes

En común

Resultado final esperado

Definiciones de conceptos clave

Identificación del conflicto

Sistemas de gestión

Requerimientos de información

Practicas de transporte

Rendición de cuentas

CFGS

Evaluación del conflicto

Procedimientos corporativos

Requerimientos en seguridad minera

Relacionamiento con Grupos de Interés y Denuncia

Requerimientos de aseguramiento

Referencias específicas

WGC - Oro



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El valor que estás buscando

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