

FAQ - Conflict Minerals

Responses to questions submitted by industry

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Agenda - Conflict Minerals FAQ Webinar

- Introduction
- Questions - Industry submitted questions
 - Missing supplier information
 - No 3TGs statements
 - Contamination
 - Compounds
 - Completeness
 - End of Life / Old stock
 - Privately held companies
 - Distributors
 - EU Conflict Minerals
 - North Korea
 - Myanmar
 - Is DRC Conflict Free achievable?
- Summary
- Q&A



Webinar is 50 minutes with 10
minutes of Q&A
(hopefully)

Claigan Conflict Minerals Services

- Conflict Minerals
 - Conflict minerals compliance
 - RCOI (Reasonable Country of Origin Inquiry)
 - Supplier RCOI
 - Amalgamated smelter list
 - Smelter RCOI
 - Due Diligence
 - Conflict Minerals Report
- Experience
 - Claigan's work is quoted in the SEC Final Rule 18 times
 - Claigan has testified to Congress on Conflict Minerals



Question - Missing Supplier Information

- What happens if one supplier slips through the cracks, are we still liable?



Answer - Missing Supplier Data

- Response
 - The RCOI requirement is to be ‘reasonable’ not ‘absolute’
 - *the reasonable country of origin inquiry requirement was not meant to suggest that issuers would have to determine with absolute certainty whether their conflict minerals originated in the Covered Countries as we have often stated that a reasonableness standard is not the same as an absolute standard*
 - The key metric in the RCOI is to identify *reasonably* all of your sources of 3TGs (i.e. smelters) not supplier completeness
 - Conflict minerals reports are not required to report supplier response rate. The key metric is to identify smelters sourcing from the covered countries
 - A company’s program is recommended to be structured to leverage your best suppliers and not be held back by your worst.

Question - No 3TGs Statement

- Can I accept at face value a supplier's statement of 'no' to all 3TGs for the following two CMRT questions?
 - 1) Is the conflict metal intentionally added to your product? (*)
 - 2) Is the conflict metal necessary to the production of your company's products and contained in the finished product that your company manufactures or contracts to manufacture? (*)

1) Is the conflict metal intentionally added to your product? (*)		Answer
	Tantalum (*)	No
	Tin (*)	No
	Gold (*)	No
	Tungsten (*)	No

2) Is the conflict metal necessary to the production of your company's products and contained in the finished product that your company manufactures or contracts to manufacture? (*)		Answer
	Tantalum (*)	No
	Tin (*)	No

Answer - No 3TGs Statement

- Response
 - Yes and no.
 - Key metric
 - *Is their statement reasonable to you as a downstream user?*
- Your assessment should be reasonable and does not require ‘absolute’ knowledge
- Based on the information and infrastructure available at the time
- Example of ‘unreasonable’
 - Product contains electrical or electronic components

Question - Conflict Minerals Statements

- My question concerns the value of Conflict Minerals Statements.
- My company prepares one as it answers questions regarding our level of commitment and the actions we are taking. I see the value of that as it minimizes customer calls to us.
- Some organizations and companies provide a webpage with links to their supplier CM Statements. Since statements don't help companies prepare their conflict minerals templates or reports, what value is a webpage with links to nothing but supplier statements? Do you recommend companies prepare a supplier statement reference webpage?

Answer - Conflict Minerals Statements

- Response
 - SEC Final Rule has no use for general corporate statements
 - Key data is RCOI data (smelters in CMRT form)
 - Policy statements are a requirement of
 - OECD Due Diligence Guidance
 - CMRT form
- Summary
 - Policy statements are a 'de-facto' requirement of conflict minerals compliance
 - No other value for SEC compliance
 - CMRTs with smelter information are the required data
 - Exception - accurate statements of 'No 3TGs'

Question - Contamination

- Do we (or in our questions towards suppliers of the raw materials) have to consider “cross-contamination” as a serious potential danger for entrance of 3TG substances (and filling in the CFSI Excel file), or is that not needed as these kind of contaminations fall under the category of “not intentionally added substances”?



Answer - Contamination

- Response
 - Contamination is not 'necessary to the functionality or production of the product'
 - For the purposes of conflict minerals, unintentional or unnecessary contamination is not an issue and can be excluded from conflict minerals reporting.

Question - Compounds

- Are compounds of 3TGs out of scope of conflict minerals reporting?
- In particular, does that include gold salts?



Question - Compounds - History

- Basis
 - June 6 2014 letter by Keller and Heckman LLP to the SEC
 - re-iterating to the SEC as a follow up to a teleconference call with the SEC
 - stating that they believe the SEC agreed with them, on the conference call, that compounds are out of scope of conflict minerals requirements
 - Other consultants indicated that they heard the same thing on the call
- Key notes
 - SEC Final Rule and Section 1502 of Dodd-Frank
 - Neither indicate any exclusion for compounds
 - SEC FAQ on Conflict Minerals
 - Does not indicate an exclusion for compounds

Answer - Compounds - History

- SEC Final Rule
 - Compounds are referenced in the SEC Final Rule
 - *One commentator recommended that the definition of “conflict mineral” not include organic metal compounds formed from a conflict mineral metal derivative, such as tin and tungsten, because these substances are no longer metals or alloys and “use of these chemical compounds is too attenuated from the original source of the mineral.” According to the commentator, these organometallic compounds, which include catalysts, stabilizers, and polymerization aids, are commodity chemicals used in the production of raw materials such as silicones, polyurethanes, vinyls, and polyesters.*
 - Always references ‘organic metallic compounds’ or similar

Answer - Compounds - More Details

- Critical 3TG compounds include
 - Gold salts (gold plating)
 - Ammonium paratungstate (APT)
 - the main output of a tungsten smelter
 - Tantalum oxide
 - the main out of a tantalum smelter
- Inorganic compounds
- If these were out of scope,
 - W, Ta, and Au would functionally be out of scope of conflict minerals
 - Only Sn solder (alloy) would be left



Answer - Compounds - Summary

- Summary
 - Supporting documentation for exclusion of compounds from conflict minerals is tenuous
 - Written statements by consultants concerning an oral conversation with the SEC
 - No exclusion in SEC Final Rule or Section 1502 of Dodd-Frank
 - Even if SEC grants an exclusion for compound
 - only intended for organo-metallic compounds
 - not gold salts, apt, or TaO
- Recommendation
 - Normally easier just to ask the supplier than to make the decision to exclude

Question - Completeness

- Can a goal be set for the top X % of material or suppliers – or do you have to attempt 100%?
- (If you have a good number of very small, unsophisticated suppliers, but they constitute a small part of your supply base,... and getting CM data has been unsuccessful.....)

Answer - Completeness

- Response
 - The requirements for determining all of your sources of 3TGs are based on a 'reasonable' country of origin inquiry process
 - You need to create a reasonable and justifiable process for
 - Non-responsive suppliers
 - End of life / old stock
 - Suppliers that have folded or no longer do business with you
- Recommendation
 - Design your process to leverage your best suppliers
 - Focus on identifying 'materially all' of your smelters
 - Key metric
 - *If you receive more supplier data, in terms of quantity and depth, would it change your ultimate list of smelters?*

Question - End of Life / Old Stock

- We usually base our investigation on the parts we assembled and shipped to customers during 2014 calendar year, which may actually have been made using bought in parts and components already in stock.
- In some cases we could have had the stock for some years prior to 2014 for raw material that is stable with a long shelf life, such as last time buy of large quantities of stock in the past, if a company was discontinuing supply, etc. we bought enough to see out the life of our part.
- Is there any official guidance on the time scope for product reporting and old stock related data - which may have supported conflict?

Answer - End of Life / Old Stock

- Response
 - Any 3TGs out of the ground before Jan 31 2013 are out of scope from Section 1502 of Dodd-Frank
 - The requirements for determining all of your sources of 3TGs are based on a 'reasonable' country of origin inquiry process
 - You need to create a reasonable and justifiable process for
 - Non-responsive suppliers
 - End of life / old stock
 - Suppliers that have folded or no longer do business with you
- Recommendation
 - It is usually easier to ask the supplier for RCOI data than to make the determination whether the stock is in scope
 - Design your process to leverage your best suppliers

Question - Privately Held Company

- Is a privately held company required to complete CMRT forms for their customers?



Answer - Privately Held Company

- Response
 - Only issuers to the SEC are under scope of the Section 1502 of Dodd-Frank
 - Privately held companies or companies owned by public companies not traded in the US are not directly under scope
 - However, their affected customers will need them to provide RCOI data so that they can meet their requirements
 - Not unlike EU RoHS in a lot of ways
- Recommendations
 - Develop a CMRT for customers
 - Focus on accurate, efficient, and useful
 - Key data is smelters used

Question - Distributors

- Can you please address guidance for filling out the CMRT if you are a distributor? Possibly their liability to do so. Or pros and cons to distributors filling out the CMRT?
- As we go through our data collection process, we receive a lot of push back from distributors. Our stance has been that although they are not required to report to the SEC, we are, and they are in our supply chain, so we need to collect data.

Answer - Distributors

- Response
 - Like a large percentage of your direct suppliers, distributors are not directly in scope of Section 1502
 - However, you need their support / data to meet your compliance requirements
- Recommendation
 - Design your process to be able to handle non-responsive suppliers
 - Put a data requirement in T&Cs and contracts
 - Requesting data from the part manufacturer is far more effective than requesting data for the same part from a distributor
 - Still not an excuse. Distributors, if they wish to be part of the supply chain, need to find a way to address data requests
 - Distributors are also not directly under scope of RoHS

Suggestion - Distributors

- Suggestion for distributors
 - Two options
 - Provide access to supplier conflict minerals statements
 - Similar to RoHS
 - Create their own corporate level CMRTs
- Corporate CMRT
 - Acquiring CM data from most electronic component manufacturers is not terribly difficult
 - No more difficult than RoHS
 - Distributors could save themselves a lot of headache by creating a single corporate level CMRT
 - Distributors are going to have to re-write their website / databases for the RoHS amendment (phthalates) anyways
 - *RoHS compliant including amendment 2015/XX/EU*

Question - EU Conflict Minerals

- What are your thoughts on the amendment by the European Parliament that would implement a mandatory certification scheme as oppose to the voluntary scheme.
- Do you think it would make it easier for all, or would these limit the suppliers and smelters available, and how many countries adhere to the EU



Answer - EU Conflict Minerals

- Response
 - The proposed EU conflict minerals legislation
 - only affects importers of specific ores and metals
 - is voluntary
 - Consultation ongoing to make it mandatory
- If the requirement becomes mandatory
 - It will only affect first tier users of metals and ores
 - Limited impact on downstream users (manufacturers)
 - It will bring into scope a number of refineries that have been outside of the electronics supply chain

Question - North Korea

- Any updates on the North Korean gold issue?
Specifically, if it is determined that a company might be sourcing gold from a North Korean mine or smelter, would that company be required to notify OFAC?



Answer - North Korea

- Response
 - If a company is sourcing gold from North Korea even though it is processed in a third country they are required to inform OFAC
 - *This broad prohibition applies to goods, services, and technology from North Korea that are used as components of finished products of, or substantially transformed in, a third country.*
 - However,
 - The reporting of the Central Bank of North Korea by suppliers looks to be historical
 - The link from Chinese gold smelters to North Korea is circumstantial and no additional data has been published in 2014 or 2015.

Question - Myanmar

- What impact will the Myanmar border conflict have on tin CSR issues?
- War in Kokang between Myanmar and ethnic Han population
- On the border of the Yunnan province of China
- Includes refugees crisis and bombing inside of China



Answer - Myanmar

- US / Myanmar sanctions
 - Only apply to jade and rubies, and not to tin.
- Tin imports into China
 - 97% of tin imported into China in 2014 was from Myanmar
- Effects
 - It is quite possible that some of the Chinese smelters in Yunnan / Gejiu are funding one or both sides of the conflict

Tin Conc by country Imp Jan 2015 China
2015-03-27 09:51:55 [【Print】](#)

BEIJING (Asian Metal) 27-Mar-2015

Amount Unit: USD

Code	Unit	State	Jan Quantity	Amount
			22,251,470	38,690,696
26090000	Kg	106 Myanmar	21,327,440	35,686,259
	Kg	344 Russia	459,575	675,149
	Kg	408 Bolivia	185,833	773,376
	Kg	247 Tanzania	90,791	592,640
	Kg	119 Lao	71,940	438,834
	Kg	122 Malaysia	68,962	138,338
	Kg	252 Congo,DR	25,500	293,250
	Kg	236 Nigeria	21,429	92,850

Question - Is Conflict Free Achievable?

- We are manufacturer of complex industrial products. Is it actually possible to meet the SEC requirements and become DRC Conflict Free?

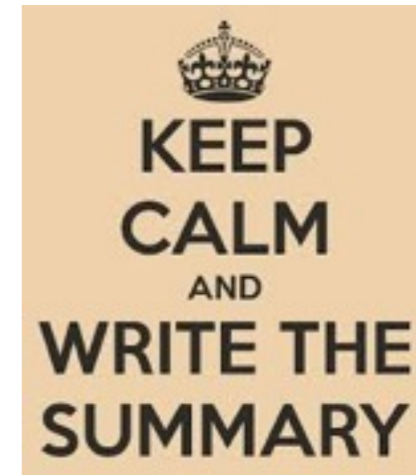


Answer - Is Conflict Free Achievable?

- Response
 - Based on the most recent due diligence data, most issuers should be, at face value, conflict free
 - if they have done the proper smelter due diligence work
 - However, a lot of the key smelters sourcing from the covered countries only became conflict free certified in the past week
 - Leaving not enough time for issuers to be audited this year
- Next year
 - Unless a negative actor appears, companies who conduct the proper due diligence, should be in the position to choose to declare themselves DRC Conflict Free

Summary

- Conflict Minerals is complex
- Recommendation
 - Do not work in a microcosm
 - Work with someone who really knows that they are doing
 - Effective, practical, efficient
 - Conduct proper due diligence at the smelter level
 - Design your program to leverage your best suppliers and not be held back by your worst
- Feedback
 - We appreciated any feedback on this type of webinar



Program Check - High Level

- Claigan service
 - High level review of program
 - At face value
 - *Do you have the fundamentals items in place necessary to pass an IPSA audit?*
- Focused
 - Offsite review
 - Efficient (*i.e.* low cost)
 - Not resource intensive
- Excellent first pass for companies readying for a potential audit in 2016

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