As SEC reporting companies finalize their conflict minerals disclosures each year, they typically review the Form SD requirement that calls for a description of any steps taken or to be taken to improve their conflict minerals due diligence. This required disclosure is typically provided in sections called “Actions Taken and to be Taken to Improve Due Diligence” and “Continuous Improvement” and the like. Since there is time for reporting companies to consider and implement improvement actions for calendar year 2022, now is a perfect time to review the most recent filings to survey improvement actions included in the reports for calendar year 2021.
This is especially true because, in this current regulatory climate, the conflict minerals disclosure requirements and their enforcement are not likely to be reduced.

We undertook a review of the filings by the 207 companies that were included in the Responsible Sourcing Network’s Mining the Disclosures report for 2019 ("2019 Report"), which is the most recent investor guide of SEC conflict minerals due diligence reporting. The preparers of the 2019 Report viewed them as “leading companies” in the various industries covered. The industries listed below were covered by the 2019 Report and they were included in our survey of actions being taken to improve conflict minerals due diligence. They are listed here in the order presented in the 2019 Report. The number indicated beside each industry is the number of the companies in such industry covered in the 2019 Report.

- Communications Equipment (8)
- Semiconductors (8)
- Auto Manufacturers (6)
- Medical Devices (7)
- Application Software (11)
- Computer Hardware (19)
- Industrial Products (20)
- Auto Parts (6)
- Farm & Construction Equipment (6)
- Manufacturing – Apparel & Furniture (9)
- Solar (4)
- Communication Services (7)
- Chemicals (6)
- Retail – Apparel & Specialty (11)
- Other Auto (5)
- Aerospace & Defense (9)
- Building Materials (6)
- Travel & Leisure (8)
- Packaging & Containers (7)
- Oil & Gas – Services (6)
Some of the surveyed companies did not file Form SDs for calendar year 2021, some did not file conflict minerals reports, and some did not include responses to this specific improvement actions requirement. But, those that did provided an array of actions. Some are actions that certain reporting companies have been taking since 2014. Some actions show ongoing development of systems and processes over time. Some actions are very far-reaching and indicate a significant investment relating to upstream suppliers and smelters and refiners.

Below is a summary of the types of actions and steps that the companies that were included in the 2019 Report listed in their filings for reporting year 2021. In some cases, we combined or revised certain of the actions. In some cases, we anonymized certain specifics in the actions to be more generally applicable.

- **Conflict Minerals Policy**
  - Review and update conflict minerals policy annually
  - Re-distribute conflict minerals policy to suppliers annually
- **Engage with and assist suppliers to increase and improve responses**
  - Engage in awareness raising
  - Engage in capability building
  - Conduct on-site visits to assess sourcing procedures of high-risk suppliers
  - Direct suppliers to Responsible Minerals Initiative (RMI) eLearning curriculum
  - Direct suppliers to information and training resources
  - Present training webinar for low quality responders or first time reporters
  - Have direct engagement meetings with top 10 suppliers
  - Host in-person or virtual training sessions for suppliers
  - Encourage suppliers to put a conflict minerals policy in place or improve their existing conflict minerals policies
- Encourage suppliers to communicate their conflict minerals policies
- Review suppliers’ conflict minerals policies annually
- Request improved quality of responses
- Make conflict minerals reporting a contract requirement
- Include conflict minerals compliance in purchase orders or terms and conditions
- Require product-level responses to conflict minerals reporting template
- Request suppliers report immediately upon determining that smelters and refiners (SORs) that are not conformant
- Determine root cause of changes or reductions in responses
- Provide FAQs to suppliers on conflict minerals compliance
- Work with suppliers that are found to be providing components or materials containing conflict minerals from sources that support conflict in the Covered Countries to establish alternative sources
- Encourage non-responsive suppliers or suppliers that source from non-conformant SORs to develop corrective action plans
- Continue to analyze spend data against supplier response data to identify inconsistencies and areas of potential enhanced focus for supplier outreach efforts
- Continue publishing regularly updated factory lists to company website
- Provide downloadable traceability disclosure on company website disclosing direct and indirect suppliers

- Strengthen Company Management Systems
  - Use third-party software for data gathering and document retention
  - Share diligence results with conflict minerals steering committee or working group
  - Use commodity managers to reach out to non-responsive suppliers
  - Review suppliers for “red flags” indicating that they are high-risk
  - Require that new suppliers agree to conflict minerals policy during on-boarding process
  - Improve supplier communication program by involving purchasing department
Monitor legislative developments regarding responsible conflict minerals sourcing

Make additional investments in conflict minerals due diligence tools

Monitor best practices of peer companies

Institutionalize conflict minerals compliance program by memorializing and improving standard operating procedures

Improve reporting process by documenting responsibilities and timeline for due diligence and reporting

Enhance the ability to identify conflict minerals in raw materials that are new to the business

Analyze new products to determine content of conflict minerals

Work with a third-party consultant to review key in-scope suppliers and consider possible additional due diligence procedures

Expand scope of engagement with consultants

Use specialist outside counsel to assist with reasonable country of origin inquiry (RCOI) and due diligence

Assure that documentation is centrally collected, maintained and retained

Continue supplier consolidation efforts to reduce the number of suppliers to streamline due diligence

Supplier assessments

Monitor suppliers’ compliance with conflict minerals requirements

Include conflict minerals response as performance indicator

Use supplier scorecard with conflict minerals elements

Work with suppliers to avoid de facto boycott of legitimate minerals from Covered Countries and conflict-affected and high-risk areas (CAHRAs)

Grievance mechanism

Use RMI’s Mineral Grievance Platform

Update grievance mechanism procedures

Escalation process/Corrective actions

Monitor progress of suppliers with high-risk SORs

Require suppliers to remove high-risk SORs within 2 reporting cycles or
face termination of supplier relationship

- Refine and improve escalation process to ensure timely remediation
- Cancel a non-responsive or non-cooperative supplier’s contract or implement a phased-in termination of the business relationship by stopping new orders
- Accelerate escalation of identified “SORs of Interest” that are not Responsible Minerals Assurance Process (RMAP) conformant
- Adopt corrective actions that vary based on factors such as supplier size, risk level, supplier capabilities and the company’s ability to meet quality control requirements associated with customer specifications
- Annually assess the effectiveness of risk mitigation plan

- Actions relating to Smelters and Refiners
  - Direct all suppliers’ SORs to participate in RMI, London Bullion Market Association (LBMA), or Responsible Jewellery Council (RJC) third-party audit program
  - Provide SORs direct assistance with their RMPA process
  - Encourage new SORs to become conformant
  - Actively monitor “active” status SORs and take action if conformant status not obtained timely
  - Contact SORs directly if status changes from conformant
  - Eliminate non-conformant SORs before products introduced into market
  - Make direct inquiries to SORs not identified in RMI RCOI data
  - Increase focus on activities upstream of SORs to gain better visibility as to the location and the conditions at the location where conflict minerals are sourced
  - Provide internal training to help improve engagement with suppliers that report high-risk smelters (especially to address the high-risk smelters subject to Ukraine related sanctions action)
  - Further analyze and monitor the impact that the conflict in Ukraine may have on the company’s SORs
  - Scan for credible media on each SOR to flag risk issues
  - Compare the list of SORs against government watch and denied parties lists
  - Continue to work with our in-scope suppliers to remove SORs from supply
chain that experience a change in their RMAP status

- As travel restrictions are lifted, continue visiting SORs and mine sites to better understand issues SORs face in the compliance process

- Industry initiatives

  - Actively participate in and lead various RMI programs and working groups
  
  - Continue membership and participation in RMI through monthly membership and semi-monthly workgroup meetings and collaborate with other industry groups and peer companies
  
  - Continue to participate in RMI’s plenary and due diligence practices team calls
  
  - Contribute to RMI’s Audit Fund
  
  - Participate in RMI Smelter Engagement Team
  
  - Participate in Organization for Economic Cooperation and Development (OECD) partner forums
  
  - Continue membership in Responsible Business Alliance (RBA)
  
  - Utilize the RBAs Validated Audit Process for third party on-site supplier audits
  
  - Participate in industry group smelter engagement team
  
  - Work with relevant industry groups
  
  - Become a member of European Partnership for Responsible Minerals (EPRM)
  
  - Fund a mine monitoring program
  
  - Develop traceability tools to obtain and share mine-level data
  
  - Partner with organizations to support mining communities
  
  - Contribute to chain of custody tools that have been developed
  
  - Collaborate with industry to create blockchain tool to enable transparency and responsible sourcing performance
  
  - Build on prior blockchain project in certain countries
  
  - Maintain ongoing participation in the International Conference on the Great Lakes Region (ICGLR) Audit Committee
  
  - Fund women empowerment programs in target countries
○ Fund programs on artisanal mining programs

○ Engage with other companies in same industry and evaluate opportunities to enhance the conflict minerals program

○ Implement industry-tailored model supplier code of conduct

• Conflict-Affected and High-Risk Areas (CAHRAs)
  ○ Expand program to expect responsible conflict minerals sourcing from all CAHRAs
  ○ Identify CAHRAs in company supply chains

• New Minerals
  ○ Expand programs to undertake due diligence on additional minerals (cobalt, mica and others)
  ○ Support development of RMI’s Minerals Agnostic Standard and Pilot Reporting Template (PRT) to collect data on all minerals

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