



# Conflict Minerals Policy

## FAQ's

Document Type

**FAQ's**

# Purpose

Even though our policies are there to help guide us, there may still be some questions about what really needs to be done to fully understand and meet the requirements of the Conflict Minerals Policy.

The Democratic Republic of the Congo, and the nine surrounding countries in central Africa, possess rich mineral resources. However, rebel groups have garnered hundreds of millions of dollars in annual profits by securing control of local mines and trading routes through the use of brutality and violence. In an effort to curb the violence and exploitation, the United States passed the Dodd-Frank Wall Street Reform and Consumer Protection Act (2012). Section 1502 addresses conflict minerals and states that all Securities & Exchange Commission (SEC) registered companies are obligated to conduct vigorous due diligence inquiries into their supply chains to determine if specific minerals used in their products have come from a mine associated with conflict in or surrounding the Democratic Republic of the Congo.

To help put questions and concerns in context and provide more information about MEI's approach to conflict minerals, we've put together a set of frequently asked questions.

This set of Frequently Asked Questions has been created to try to capture some of the questions that may arise. If you still have any questions, or even suggestions for topics to be included, please contact the FAQ Owner by using the details at the end of this document.

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## **GENERAL**

### **1. What are ‘Conflict Minerals’?**

The term ‘conflict minerals’ encompasses minerals which, when refined or extracted, become tantalum, tin, tungsten, or gold (commonly referred to as the ‘3TG’). In the Democratic Republic of the Congo (DRC) and surrounding countries, mining of 3TGs plays a major role in the economy. However, some mines are controlled by militant groups that exploit the trade of those minerals in order to finance conflict that is characterized by extreme levels of violence and human rights violations. The United States Dodd-Frank Act specifically relates to 3TG minerals originating in the Democratic Republic of the Congo (DRC) region or adjoining countries.

### **2. Are all of the ‘3TG’ sourced from the DRC region supporting armed groups?**

No. Not all mines in the DRC region are illegally controlled or exploited by armed groups. Mining activity plays an important role in the region’s economy. There remain legitimate mines in the DRC region whose profits do not support armed groups and regional conflict. Dodd-Frank legislation requires companies whose products contain 3TGs to conduct due diligence to determine and disclose the originating source.

### **3. What are cassiterite, coltan, and wolframite? Why do some articles talk about metals and not minerals?**

Before they are processed later down the supply chain into metals, the 3TG minerals are often referred to by their mineral ore form.

- Tin ore = cassiterite
- Tantalum ore = coltan or columbite-tantalite
- Tungsten ore = wolframite

The mineral ores become tin, tantalum, and tungsten once they are smelted and/or chemically processed by refining companies. To be consistent, we refer to "conflict minerals" because it is the mineral ores that fuel violence in the DRC region.

### **4. Are ‘conflict minerals’ used in MEI capital equipment?**

The ‘3TG’ minerals are used specifically by MEI as indicated below:

- Tungsten and tantalum are used in several electronic components and some ICs in our equipment.
- Tin is used in some of the equipment we use for customer purposes (i.e manufacturing and/or testing, etc.).
- Gold is found in electronics (in electrical contacts and components).

These metals each have specific electrical properties and are therefore widely used in the semiconductor and consumer electronics industries.

**5. Are there alternative sources of these minerals besides the DRC region?**

Yes. The percentages of the global supply of the 3TGs coming from the DRC is relatively small, ranging from one percent to twelve percent, depending on the specific mineral. Alternative sources of these minerals include:

- Tin: China, Indonesia, Peru, Bolivia, Brazil
- Tantalum: Australia, Brazil, Canada
- Tungsten: China, Russia, Canada
- Gold: South Africa, Australia, the United States, China

**6. What are ‘conflict-free minerals’?**

‘DRC conflict-free’ minerals are minerals (or their derivatives) that are determined to not be directly or indirectly financing or benefitting armed groups in the DRC or adjoining countries.

**7. What does MEI require explicitly from its 1st tier suppliers who are in scope of MEI’s Conflict Minerals Due diligence?**

- Confirm that you have received the CM engagement letter within a week and that you are the right person to receive it. If not, please provide contact details of the correct person in your company.
- Determine which of your products / components contain any amount of tin, tungsten, tantalum and/or gold.
- Adopt conflict minerals due diligence policies and management systems to reasonably assure the country of origin of tantalum, tin, tungsten and gold in your products and require your suppliers to adopt similar policies and systems
- Identify all the smelters in your supply chain that supply the tin, tantalum, tungsten and/or gold. If you don’t source directly from smelters, please pass on this request to your suppliers (and they may have to pass it on to their suppliers), work with them and ask them to inform you of the smelters in your supply chain. MEI encourages the use of CFSP certified conflict free smelters in your supply chain (compliant smelters).
- Report the information that you gather to us- in writing- using the attached CFSI Conflict Mineral Reporting Template (CMRT version 4). Provide the name of the smelter who provides the mineral or metal. If you received this from one of your (sub-) suppliers, you must ask them to provide the name and any other details of the actual smelter.
- Return the CMRT ultimately by Jan 31st, annually.

**LEGISLATION**

**8. What is Section 1502 of the U.S. Dodd-Frank Act?**

Section 1502 of the United States Dodd-Frank Act requires companies regulated by the Securities and Exchange Commission (SEC) to determine the origin of any conflict minerals in their product supply chain and report on the due diligence or reasonable inquiries made to determine the source of those minerals. The form SD and a Conflict Minerals Report should be filed to the SEC by May 31<sup>st</sup> annually.

### **9. Why does the US ‘Conflict Minerals’ legislation Apply to MEI?**

MEI is a first tier supply for a Customer who is subject directly to the Dodd-Frank legislation enacted in the United States concerning conflict minerals because:

- MEI manufactures, or contracts to manufacture, products for which tantalum, tungsten, tin and gold are necessary to the functionality and/or production.

### **10. What does the legislation mean for MEI?**

MEI must conduct a reasonable investigation to determine whether its products that require tin, tantalum, tungsten, or gold (the ‘3TG’) originated in the DRC or a neighboring country. As MEI does not source these minerals directly, MEI will rely on information received from suppliers, who may need to rely on information from their suppliers, and so on. This means that MEI will conduct due diligence to find out where our suppliers source potential conflict minerals. In accordance with the US Dodd-Frank legislation, section 1502, MEI will need to submit annual filings to support our Customer(s) who is/are required to submit annual filings to the SEC and public reports concerning conflict minerals disclosures on or before May 31 of each year.

### **11. Why is this legislation needed? What is it meant to accomplish?**

Section 1502 of the Dodd-Frank Act is intended to make transparent the financial interests that support armed groups operating in the Democratic Republic of Congo (DRC), and its neighboring countries (Angola, Burundi, the Central African Republic, Congo Republic, Rwanda, Sudan, Tanzania, Uganda and Zambia). By requiring companies using conflict minerals in their products to disclose the source of such minerals, the act hopes to shed light on the direct and indirect funding of armed groups engaged in conflict and human rights abuses. The law is aimed at dissuading companies from continuing to engage in trade that supports regional conflicts.

### **12. Is it illegal to use conflict minerals?**

No. The law does not ban the use of potential conflict minerals. Legally, a company can purchase conflict minerals from the DRC or adjoining countries, from any mine. At present, there is no indication that it will be illegal to use conflict minerals. However, publically traded companies listed on a US stock exchange must disclose their practices, determined by using a Reasonable Country of Origin Inquiry (RCOI). It will then be the companies’ decision regarding whether they want to continue to purchase products which directly or indirectly support the associated conflict in the DRC.

### **13. What are the thresholds that one has to start reporting the presence of Conflict Minerals?**

The legislation states that there is no minimum amount of the minerals or ‘de minimus’ threshold for reporting. If the components involved contain ANY amount of the minerals, the company is expected to perform the due diligence.

**14. What are the expected fines and penalties for non-compliance?**

There is no ban or penalty on the use of conflict minerals imposed by Section 1502; the SEC fines only apply for failure to report or for false disclosures. Further risks of non-compliance include potential reputational damage or lost revenues. Companies who are required to file with the SEC have responded in a number of ways towards their suppliers, with some opting to remove non-respondent suppliers from their approved vendor/supplier list.

**15. At present it is almost impossible to declare a company as conflict-free, owing to the fact that there is a limited amount of certified smelters on the Conflict-Free Smelter Program's certified smelters list. Do you know when this will be resolved?**

No. The certification of smelters through the Conflict-Free Smelter Program is an on-going process, and the status of smelters may evolve over time. The SEC obligation is for reporting companies to identify the smelters that service their supply chain. The SEC recognizes the initial difficulty of determining if smelters are conflict-free and permits companies who are unable to determine the source of 3TGs with certainty to file as "DRC Conflict Undeterminable", but in that case require the filer to submit an appendix "Conflict minerals Report" which includes a plan to achieve this certainty.

**16. Are there any future plans to include more minerals/countries in the scope of the legislation?**

In Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, 'conflict mineral' is defined as:

- (A) columbite-tantalite (coltan), cassiterite, gold, wolframite, or their derivatives; or*
- (B) any other mineral or its derivatives determined by the Secretary of State to be financing conflict in the Democratic Republic of the Congo or an adjoining country.*

The wording of the US legislation does leave the door open for future additions of minerals and/or countries, but based on the challenges faced by the implementation of this law, it is unlikely any additions will be made in the near future.

**17. What are other governments and international organizations doing about this issue?**

Many different governments and multilateral organizations have made statements or committed resources to breaking the link between natural resources and conflict in the DRC:

- The European Union is in the process of formulating similar legislation that is speculated to place even further requirements on companies using potential conflict minerals.
- The Organization for Economic Cooperation and Development (OECD) has developed due diligence guidelines for managing the supply chain of key minerals from conflict-affected and high-risk areas, with particular regard to the Democratic Republic of Congo.
- The Electronic Industry Citizenship Coalition (EICC) and the Global e-Sustainability Initiative (GeSI) are jointly committed to improving conditions in the electronics supply chain and aim to enable companies to source conflict-free minerals. To this end, the EICC and GeSI have implemented Conflict-Free Smelter and Due Diligence programs to verify minerals as conflict-free.

## **APPLICABILITY & RESPONSIBILITIES**

### **18. Why does this affect my business and why does MEI ask its suppliers for this information?**

The conflict minerals requirements apply to companies listed on a US stock exchange, which includes several of our Customers. Per the requirements, those companies must trace their mineral supply chains. Accordingly, if your company sells to a company traded on a US stock exchange, you will be required to identify the source of 3TGs in your products. MEI requests that its suppliers provide this information by completing the EICC/GeSI Conflict Minerals disclosure form: CMRT.

### **19. How do I complete the EICCGeSIDD CMRT Template?**

Successful completion of the EICCGeSIDD CMRT Template excel file includes:

- Completion of the “Declaration” tab
- Completion of the “Smelter List” tab
- Completion of all yellow highlighted areas on both tabs
- Responses in English

For reference, we recommend the following instructional video, available on YouTube.com: [http://www.youtube.com/watch?v=Enyu\\_V5Kd1k](http://www.youtube.com/watch?v=Enyu_V5Kd1k)

Instructions on completing the EICCGeSIDD Template begin 1:18 minutes into the video.

### **20. Does the policy apply to tier-one suppliers only?**

No, MEI is required to conduct a reasonable investigation to determine whether conflict minerals sourced from the DRC or adjoining countries are used in its products, regardless of whether the source is a supplier or sub-supplier to MEI. In order to properly perform our conflict mineral review and name the source and associated smelter, it may become necessary to go several tiers deeper into the supply chain. We have to rely on our tier-one suppliers to provide this information.

### **21. What if the supplier does not know the origins of the minerals?**

All suppliers in scope of MEI’s due diligence are required to perform their own due diligence to determine the origins of any 3TG minerals in their supply chain. If, despite attempts to gather the sourcing information, a supplier is still unable to determine the source of the minerals, the supplier or sub-supplier may be temporarily classified as ‘DRC conflict undeterminable’ for a period of up to 2 years.

### **22. What if I find, as a supplier, that minerals in my products indeed originate from the DRC?**

If a company finds that its minerals do originate in the DRC or a neighboring country, additional investigation and reporting is required. The company must then report on the measures they have taken to exercise due diligence on the source and chain of custody of the minerals. Additionally, listed companies need to provide verification of the steps in their reporting through an independent private sector audit.

**23. Are conflict minerals too difficult for companies to identify?**

No, there are already requirements within the industry for a company to know what goes into its products, for quality control and health and safety reasons. Standards exist to eliminate lead paint, prison labor, and carcinogens in manufacturing. This is no different. Chains of custody are easy to understand and reporting is relatively simple. There are a few dozen processors of conflict minerals worldwide and the vast majority of mines and mineral processors are legitimate.

**24. For companies that collect data from their first tier suppliers using the EICC/GeSI Conflict Minerals template and find that all smelters are listed as compliant ‘conflict-free’ smelters on the [www.conflictreesmelter.org](http://www.conflictreesmelter.org) website, are there other due diligence steps required under the law or that you would suggest as part of good faith efforts?**

Collecting supplier data and verifying smelters is a good first step for due diligence. We would also recommend validating the disclosed statements against publically available Conflict Minerals Reports on disclosing company's websites, as available. We further recommend using reasonable assessments of supplier responses to assess the risk of the associated disclosures.

**25. What reasonable supply chain due diligence steps would you recommend if there are some smelters that you find are not listed on the website, given that the company may be 5 or 6 tiers away from the mine?**

See previous response regarding recommended due diligence steps.

**26. We are a private company. What are my obligations under this law?**

Private companies are not subject to the SEC filing requirements and the associated expense of an independent third party audit. Although the disclosure requirements are only aimed at companies who file with the SEC, those filing companies will need information from their suppliers in order to make the required disclosures. Thus, even if your company is private and does not report to the SEC, as long as you supply directly or indirectly to a company that does, you will need to help gather information as a requirement for doing business with public traded companies and those that sell to public traded companies. Helping to meet these requirements is important to maintain business relations with your customers.

**27. How can suppliers possibly find the mine of origin if they are buying raw materials through several layers of distribution?**

We recommend requesting that each of your suppliers for products containing the 3TGs perform their own due diligence to provide information from their lower tier level suppliers. Using information from your suppliers, you can determine whether their products or components contain 3TGs and determine the smelter of origin.

**28. Do we have to declare tools and machines containing 3TGs that are used in the production of goods? (For example, tool bits that may contain tungsten to machine parts we sell)**

No. The rule only concerns products that contain tin, tantalum, tungsten or gold, and where the 3TG is required for the *production* (e.g. etching or smelting of an alloy to make the product) or *functionality* (contained within a component within the product) of the product. Current guidance provides that conflict minerals are considered “necessary to the production of a product” if they are:

- Intentionally included in the product’s production process, but not in the form of a tool, machine, or production equipment
- Contained in the final product
- Necessary to produce the product

**29. Am I responsible for getting responses from suppliers 2, 3, 4 tiers removed from my company?**

Yes. The OECD guidelines state that "downstream companies should establish internal controls over their immediate suppliers and may coordinate efforts through industry-wide initiatives to build leverage over sub-suppliers".

**30. We manufacture products that are outsourced for plating (gold, tin). Is it the plater's responsibility to supply us with the conflict minerals information?**

The plater should be asked to disclose the content of the plating material. We recommend that this information should be captured in the supplier’s EICC/GeSI template.

**31. How many tiers or levels do you have to dig down to reasonably believe that you do not have any 3TGs or only supply 3TGs that are conflict-free?**

This question is extremely dependent on your company, products, and supply chain – your “particular facts and circumstances.” The Dodd-Frank standards are focused on reasonable design and good faith effort, the specifics of which are up to each company to determine. Guidelines for reasonable design include a country of origin inquiry that includes an understanding of the supplier and sub-supplier population, a process for evaluating responses from suppliers, and sufficient knowledge of the supply chain in order to identify potential red flags in suppliers’ responses. Section 1502 states that a company should “obtain reasonably reliable representations indicating the facility at which its conflict minerals were processed” and demonstrate that those conflict minerals “did not originate in the Covered Countries or come from recycled or scrap sources.”

**32. Should we send the EICC Template to all suppliers, or just suppliers of the 3TG?**

You can absolutely send the EICC-GeSI template to all of your suppliers, especially if there are elements of uncertainty regarding the presence (or lack thereof) of the 3TGs. However, the EICC-GeSI template is more efficiently used after a scope determination where you know for sure exactly which suppliers provide products/parts/components that contain one or more of the 3TGs.

**33. Will a certificate from the supplier that states that they do not purchase from the conflict areas suffice, or do we (the manufacturers) have to verify, similar to an ISO or QS Audit?**

Under the Conflict Minerals rules, you must meet the factor of reasonableness and good faith in the design of your Reasonable Country of Origin Inquiry (RCOI). A review of supplier declarations would seem to be reasonable. As a quick reference on standards, the declarations should reply to all the questions in the standard EICC-GeSI (Rev. 4) Template.

**34. What are the penalties if our suppliers do not cooperate with the requirements? Who enforces compliance for the raw material suppliers if they do not want to provide information?**

Issuing companies are responsible for their own conflict minerals compliance. If the raw material supplier is NOT an SEC issuer, then they may face “enforcement” through lost orders and corrective actions from their customers. Some companies have chosen to add clauses to supplier contracts, requiring disclosures or for products to be conflict-free. Other companies have opted to change suppliers. If the suppliers are also SEC issuers, then they can expect to fail audits.

**CONSEQUENCES**

**35. Will this legislation help reduce violence in the DRC and its surrounding countries?** This legislation puts pressure on the smelters to seek legitimate mineral sources. Mines that are controlled by militias should receive less and less income as mineral traders and smelters will likely turn to other responsible and traceable sources. This will encourage the smelters and mines to become certified through the Conflict- Free Smelter Program and exclude the armed groups.

**36. Will this legislation lead to de facto boycotts on minerals sourced in the region?**

The legislation does not ban the use of minerals sourced from the DRC. The idea is to create more transparency in the central-African mineral supply chain. Some companies may find the legislation too burdensome and believe that it is easier to just find another source outside the conflict region for their 3TG mineral needs. The rationale of such companies is that if the minerals are not sourced in the DRC or surrounding areas, then the problem of the country of origin goes away. However, this approach will most likely only hurt the local people even more by creating more job losses and instability.

**37. What happens if the regions of conflict minerals solve their issues and the government changes? Will the SEC requirement go away, or can Congress add additional countries to the form?**

The SEC can change portions of the regulation, such as adding or removing countries or minerals, in response to global events. However, such changes are not likely to occur in the near future.