

## EU Conflict Minerals Regulation – OECD Guidance Step 3:

# Identify and Assess Risks in Supply Chains

February 18, 2021



- ***Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas***
- Took full effect January 1, 2021
- Requires supply chain due diligence and disclosure about sourcing of 3TG
- “Union importers”
  - Any natural or legal person importing minimum levels of certain minerals or metals listed on Annex I into the EU
- Focus of regulation is source of metals and minerals

# Due Diligence Requirements

- Design and implement supply chain due diligence processes in accordance with the “***OECD Due Diligence Guidance on Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas***”
- OECD Guidance – 5 step framework
  - Strong company management systems
  - Identify and assess risks
  - **Address and mitigate risks**
  - Independent third-party audits
  - Annual disclosure

- **EU Conflict Minerals Regulation – Article 5**

- “Union importers of minerals shall implement a strategy to respond to the identified risks designed so as to prevent or mitigate adverse impacts” by:
  - Reporting findings on risk assessment to senior management
  - Adopting risk management measures
  - Implementing risk management plan
  - Monitoring and tracking and reporting back to senior management

## December 2020 List of Conflict-Affected and High-Risk Areas

- In the Americas: Mexico, Colombia and Venezuela.
- In Europe: Ukraine.
- In the Middle East: Yemen.
- In Africa: Burkina Faso, Burundi\*, Cameroon, Central African Republic\*, Chad, Democratic Republic of Congo\*, Egypt, Eritrea, Libya, Mali, Mozambique, Niger, Nigeria, Somalia, South Sudan\*, Sudan, and Zimbabwe.
- In Asia: Afghanistan, India, Myanmar, Pakistan and The Philippines.

# Due Diligence Requirements

- Design and implement supply chain due diligence processes in accordance with the “***OECD Due Diligence Guidance on Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas***”
- OECD Guidance – 5 step framework
  - Strong company management systems
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  - **Address and mitigate risks**
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# Step 3 – Address and Mitigate Risks in the Supply Chain

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- OECD Guidance – Step 3
  - Design and Implement Strategy to Respond to Identified Risks (Objective: to evaluate and respond to identified risks to prevent or mitigate adverse impacts)
    1. Reporting findings on risk assessment to senior management
    2. Devising and adopting risk management plan
    3. Implementing risk management plan
    4. Undertaking additional fact and risk assessments

# Step 3 – Address and Mitigate Risks in the Supply Chain

- OECD Guidance – Step 3
  - Design and Implement Strategy to Respond to Identified Risks:
    1. **Reporting findings on risk assessment to senior management**
    2. Devising and adopting risk management measures
    3. Implementing risk management plan
      - a. Monitoring and tracking
      - b. reporting back to management
      - c. considering suspending or discontinuing supply engagement if risk mitigation unsuccessful
    4. Undertaking additional fact and risk assessments



# Step 3 – Address and Mitigate Risks in the Supply Chain

- OECD Guidance – Step 3
  - Design and Implement Strategy to Respond to Identified Risks:
    1. Reporting findings on risk assessment to senior management
    2. **Devising and adopting risk management measures**
    3. Implementing risk management plan
      - a. Monitoring and tracking
      - b. reporting back to management
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## Step 3 – Address and Mitigate Risks in the Supply Chain

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- Develop Risk Mitigation Measures
  - Review your policy against your risks
  - Consider measures that include termination or suspension of supplier relationship
  - Set specific actions, deadlines, ways to measure
  - Consult with suppliers and stakeholders
- Develop Means to Accomplish the Measures
  - Build leverage over suppliers
  - Focus on training and capacity building
  - Participate in industry group efforts

# Step 3 – Address and Mitigate Risks in the Supply Chain

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  - Design and Implement Strategy to Respond to Identified Risks:
    1. Reporting findings on risk assessment to senior management
    2. Devising and adopting risk management measures
    3. **Implementing risk management plan**
      - a. Monitoring and tracking
      - b. reporting back to management
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- OECD Guidance – Step 3
  - Design and Implement Strategy to Respond to Identified Risks:
    1. Reporting findings on risk assessment to senior management
    2. Devising and adopting risk management measures
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      - a. Monitoring and tracking
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      - c. considering suspending or discontinuing supply engagement if risk mitigation unsuccessful
    4. **Undertaking additional fact and risk assessments**

## Next Week

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- Step 4 of the OECD Guidance
  - Independent third-party audits

# Presenters

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■ Office locations

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