

EU Conflict Minerals Regulation – OECD Guidance Step 4:

Independent Third-Party Audits

February 25, 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 6

- Union importers of minerals or metals shall carry out audits via an independent third party:
 - Review management systems, risk management and disclosures
 - Determine conformity with regulation requirements
 - Make recommendations for improvement
 - Respect audit principles
 - Independence
 - Competence
 - Accountability
- Union importer of metals exempt from third-party audit requirement if substantive evidence that all its smelters/refiners are “global responsible smelters and refiners”

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OECD Step 4 – Third Party Audits

- OECD Guidance -- Step 4
 - Carry out independent third-party audit of supply chain due diligence at identified points in the supply chain
 - Audit process to be overseen/verified by institutionalized mechanism
 - Overall objective: contribute to the improvement of due diligence practices

OECD Step 4 – Third Party Audits

- OECD Guidance -- Step 4
 - **Carry out independent third-party audit of supply chain due diligence at identified points in the supply chain**
 - Plan the audit
 - Audit scope
 - Audit criteria
 - Audit principles
 - Independence
 - Competence
 - Accountability

OECD Step 4 – Third Party Audits

- OECD Guidance -- Step 4
 - **Carry out independent third-party audit of supply chain due diligence at identified points in the supply chain**
 - Audit activities
 - Preparation
 - Document review
 - On-site investigations
 - » Facilities and sites
 - » Sample supplier and supplier facilities
 - » Meeting with assessment team
 - » Consultations
 - Audit conclusions
 - Implement the audit

OECD Step 4 – Third Party Audits

- OECD Guidance -- Step 4
 - Carry out independent third-party audit of supply chain due diligence at identified points in the supply chain
 - **Audit process to be overseen/verified by institutionalized mechanism**
 - Institutionalised mechanism to oversee and support the audit process
 - Accreditation
 - Oversight
 - Verification
 - Publication
 - Capacity building
 - Grievance resolution

Result:

- Determine/state whether Union importer complies with requirements
- Provide recommendations for improvement

OECD Step 4 – Third Party Audits

- To facilitate the audit, companies will have to expect:
 - Give access to documents and company sites
 - Give access to suppliers
 - Provide examples of documents
 - Contribute financially to SOR audits
 - Because member of industry group to promote efforts

OECD Step 4 – Third Party Audits

- OECD Guidance -- Step 4 – Tips
 - Implement a risk-based approach
 - Take reasonable steps and make good faith efforts
 - Focus on improvement
 - Mitigate risks – no embargos

Thank you!

Presenters



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