



Ask the 3Expert

April 2015

“What were the findings of the most recent NGO report on conflict minerals?”

An April 2015 report concluded that only 21% of companies filing Conflict Minerals Reports met the "minimum requirements" of the law. The report, called "Digging for Transparency: How U.S. companies are only scratching the surface of conflict minerals reporting," was issued by two non-governmental organizations (NGOs) and is likely to influence the ongoing development of conflict minerals programs and reporting.

The study conducted by Amnesty International and Global Witness found that only 21 of the 100 companies analyzed met the "minimum requirements" of the U.S. conflict minerals law. A big point of weakness in the remaining 79 companies was that they had not made efforts to contact the facilities that process the minerals in their products and instead limited their due diligence efforts to their direct suppliers, according to the report. Smelters and refiners are the "choke point" in the mineral supply chain.

Companies should also improve their supplier response rate by, among other things, adopting a policy to follow up with uncooperative suppliers, and where appropriate amending contracts, according to the report. Other major points of weakness identified include the failure to demonstrate a company policy to identify risks in the supply chain, and failure to report on senior management involvement in the process. Generally, the report also sought more transparency in the identification of specific risks in each company's supply chain.

The 100 companies evaluated in the report were selected for study by choosing the top five companies by market capitalization across the ten "most relevant" industry sectors, which gave an initial list of fifty companies. They then randomly added an additional fifty companies (using a computer-based randomizing program). The conclusions reached were based on twelve criteria which are outlined in the report.

This report is significant because it marks the first effort to hold companies publicly accountable for the quality of their Form SD and/or Conflict Minerals Reports filed with the SEC. It can provide a helpful guideline for companies to improve their processes as well as their reports that are due in May 2015.

Along with the "[Indicators Shortlist](#)" published by the Responsible Sourcing Network (RSN) in April 2015, it is clear that NGOs are raising the bar and preparing to bring down the hammer on companies that don't meet expectations. However, in addition to the increased transparency, management, and risk response demanded by these organizations, the "Digging for Transparency" report reminds issuers that the risk-based due diligence in the OECD guidance is designed to be flexible so that each company can adapt the guidance to its own needs and situation, and is based on a process of on-going improvement over time. Thus, demonstrating improvement over time is a good strategy for Conflict Minerals Reports as well.

You can download the "[Digging for Transparency](#)" report [PDF] from this page:
<https://www.globalwitness.org/campaigns/democratic-republic-congo/digging-transparency/>

3E Supply Chain (3ESC) offers a comprehensive solution to help our customers meet the obligations of

conflict minerals compliance. Learn more here: <http://3ecompany.com/products-services/supply-chain-compliance>

- ***Kirsten Wallerstedt is a regulatory analyst with 3E Company***