



Conflict Minerals: Never Heard of Them? Public Companies Better Listen Up

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by Wayne Pinnell

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Chances are, you had never heard of conflict minerals less than a year ago. In July, the Securities and Exchange Commission thrust this esoteric phrase into the national conversation when it finalized a controversial piece of the Dodd-Frank Act requiring public companies to disclose if their products contain minerals from the war-torn Democratic Republic of Congo (DRC).

The provision is intended to combat the myriad human rights abuses propagated by militias throughout the region by holding firms accountable for buying minerals that help fund these activities. While certain aspects of the provision are still being finalized, companies that rely on the specified conflict minerals of gold, tin, tungsten and tantalum are encouraged to immediately put measures in place to identify the original source of these materials. The widespread impact of conflict minerals has led to many questions. Here are a few key issues currently under discussion:

What types of firms will be affected?

Gold, tin, tungsten and tantalum are used in a broad variety of products, with the most common including jewelry, mobile phones, video game consoles, digital cameras, industrial products and virtually any additional item that employs electronic circuits and components. The SEC estimates that roughly 6,000 public companies will be impacted, encompassing half of all registrants. The impact will also trickle down to the thousands of private companies and vendors throughout the supply chain. The total cost of compliance is estimated at \$3 – \$4 billion.

How soon will I have to report?

Mark your calendar for May 31, 2014, when public companies will report for the calendar year ended December 31, 2013. As such, affected companies should be preparing their due diligence process and investigating their supply chain now to ensure they are prepared to gather data during 2013 for reporting in 2014.

Will this information be disclosed in my financial statements?

No. Public-reporting companies will have to file a Form SD that includes a Conflict Minerals Report identifying the Reasonable Country of Origin (RCOI), a description of the due diligence process undertaken to identify the source of minerals, results of the inquiry and a link on the company website where the information can be viewed publicly.

I have a large, diverse supply chain. How do I accurately source materials this far upstream?

Many companies are beginning by looking to the smelters and auditing where the materials come from prior to refinement. In fact, some smelters are actually designated “conflict free.” That said, it is important for companies to be in contact with suppliers as they may need downstream assistance from suppliers and sub-suppliers to identify the original source of materials and gather the information necessary for reporting. Also, look for guidance from your industry associations, many of which are leading initiatives to ensure sustainable and humane practices across the supply chain. Companies must use the international guidelines established by the Economic Cooperation and Development Organization (OECD) to govern the sourcing of conflict minerals. These guidelines were put in place to help companies respect human rights and avoid contributing to conflict through their mineral or metal purchasing decisions and practices.

How will the SEC determine if my due diligence is thorough and accurate?

An Independent Private Sector Audit (IPSA) must be performed by a CPA to determine if the due diligence is performed in accordance with national standards and to ensure that the company completed all of required the measures. A public company’s financial statement auditor is permitted to serve as the IPSA for the Conflict Minerals Report.

What if the due diligence process finds the RCOI undeterminable?

The Conflict Minerals Report must include a description of the due diligence process, describe the products with the indeterminable RCOI, describe the facilities used to process the minerals and the steps the company will take to mitigate the risk of employing conflict minerals as well as steps to improve due diligence.

If the process does not find the minerals to be DRC conflict free, will I be penalized?

No. This measure is strictly intended to promote greater knowledge and accountability among public companies. The hope is that importance of positive public sentiment will play a role in reducing companies' reliance on minerals that contribute to human rights abuses in the DRC.

About the Author Wayne R. Pinnell, CPA is the Managing Partner of Haskell & White, LLP, one of the largest independently owned accounting, auditing and tax consulting firms in Southern California, servicing public and private middle-market companies. Haskell & White works with companies in a broad range of industries including real estate, manufacturing, distribution, life science, technology, and retail. The firm provides solid expertise and services to its clients in the tax and audit disciplines, including advising SEC registrants and consulting on mergers and acquisitions.