

Global Investors Urge European Parliament to Adopt Stronger EU Conflict Minerals Legislation

As a group of global sustainable and responsible investors and investment organizations, the undersigned are very disappointed by the recent regulation proposed by the European Parliament's International Trade Committee (INTA) related to the responsible sourcing of minerals. We call on the European Parliament to strengthen this position during the upcoming final vote on 20 May by requiring conflict mineral due diligence for all companies placing conflict minerals on the European market, in raw form or embedded in products.

Specifically, the undersigned regret the Committee's decision to reject mandatory disclosure requirements from all users of conflict minerals and instead, mandate transparency from only European smelters and refiners of tin, tantalum, tungsten, and gold (3TG). As proposed, this legislation, in our view would have minimal impact since European smelters and refiners only account for 5% of globally processed 3TG. It would also create an uneven playing field between European smelters and refiners and global competitors unaffected by the law. Therefore, without mandating public reporting from downstream companies, the majority of global smelters and refiners—the critical choke point in minerals supply chains—will be unaffected.

Limiting the mandatory due diligence and disclosure requirement to smelters and refiners while opting for voluntary self-declaration for importers of 3TG established in the EU, as well as, a vague voluntary European certification of responsibility for “downstream companies” (which are not defined), will not have adequate impact on the relevant trade in 3TG minerals. By focusing solely on smelters and refiners, the proposed mandatory regime does not capture the majority of European companies importing 3TG minerals, in raw form or contained within products.

We strongly urge the European Parliament to strengthen its proposal in the upcoming vote by expanding the scope of the legislation to ensure that all companies placing minerals on the market, in raw form or contained in semi-finished or finished goods, are legally required to source responsibly.

Adopting legislation that covers downstream users of 3TG would better align Europe with existing international standards on responsible sourcing. Those standards include the UN Guiding Principles on Business and Human Rights and the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas. The latter, OECD Due Diligence Guidance, drafted in collaboration with industry and companies, provides a practical tool to help companies source responsibly from conflict-affected and high-risk areas and has been available to companies as a framework since 2010. The OECD Due Diligence Guidance was endorsed by EU Member States (in 2011), and incorporated into mandatory requirements in the US and twelve African ICGLR countries.

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The undersigned global sustainable and responsible investors and investment organizations have greatly benefited from the information provided thus far in the disclosures mandated by Dodd-Frank Act's Section 1502 on Conflict Minerals. These disclosures have proven fundamental to investors' evaluation of corporate risk management and to the investment decision-making process in relevant sectors. The 2014 disclosure filings by 1,315 companies accounts for a combined market capitalization of over 14.5 trillion USD, or approximately 56% of U.S (and 22% of world) market capitalization. This improved awareness and resulting capacity to mitigate a material risk benefits both companies and their shareholders, in addition to heightening companies' accountability to stakeholders.

Through a mandatory reporting requirement applicable to companies that manufacture and contract to manufacture products containing 3TG, Section 1502 has operationalized the concept of supply chain due diligence in line with the OECD Due Diligence Guidance. This has stimulated over thirteen hundred companies to map their supply chains, partner with their suppliers to identify and address social risks, and communicate to investors and consumers the implications of their mineral sourcing decisions. It has also spurred collaboration across industries and within industries to collect supplier information and establish a verification system with smelters and refiners. The European Parliament could use these current disclosures to meet its regulations so as to avoid unnecessary duplication of companies' ongoing efforts to meet the OECD Due Diligence Guidance standards, thereby minimizing the reporting burden on companies.

The US legislation has inspired supply chain transparency that has transformed the previously opaque mining sector originating in the Democratic Republic of the Congo (DRC) and Great Lakes Region (GLR). While there is much progress yet to be made, numerous companies have begun directly engaging with upstream actors in the region. Participation by downstream companies is occurring through responsible sourcing initiatives focused on the mine to smelter component of the supply chain including Solutions for Hope, the International Tin Research Institute's Tin Supply Chain Initiative (iTSCI), the Conflict-Free Tin Initiative, and the audit committee of the International Conference of the Great Lakes Region (ICGLR). These schemes demonstrate that it is possible to responsibly source from the DRC through the direct export of conflict-free minerals from the region.

This type of impact is unlikely to be replicated by a voluntary disclosure scheme limited in applicability to a small fraction of the supply chain. For instance, the OECD Due Diligence Guidance framework has been available to companies for years and has been implemented voluntarily by very few European companies since its creation.

On the other hand, a mandatory and inclusive approach will stimulate a level of robust supply chain due diligence and reporting that a narrow, voluntary opt-in scheme simply cannot inspire. A mandatory scheme applicable to companies throughout the entire supply chain can effectively generate adequate company reaction that will tangibly limit investor risk and increase legitimate extractive sector revenue streams in conflict-affected and high-risk areas, and help bring an end to resource-tied conflicts around the world.

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Supply chain due diligence works best when all actors along the supply chain are involved. Downstream companies can work together to identify and manage risks they find, share information to improve its accuracy, and develop cost-efficient collaborative initiatives. This has been demonstrated by the responsible sourcing initiatives developed in the DRC as well as the creation of the Conflict-Free Sourcing Initiative (CFSI). An inclusive approach encourages key actors throughout the supply chain—both dealers in raw materials and relevant manufacturers—to undertake substantive risk-based due diligence activities in coordination.

The disclosures filed in compliance with Section 1502 have begun to provide investors with critical information of how companies address social risk in their supply chains and now play a role in investors' evaluation of corporate risk management. The disclosures have also filled in the gaps in general understanding of 3TG supply chains from the mines to smelters to products we use everyday.

The European Parliament can build on this progress by expanding the scope of the proposed legislation to ensure that all companies placing minerals on the market, in raw form or embedded in products, are legally required to disclose how they source their riskiest raw materials.

Statement Signatories:

ACTIAM	Mercy Investment Services, Inc.
ASN Bank	Midwest Coalition for Responsible
Boston Common Asset Management	Investment
BNP Paribas Investment Partners	Northwest Coalition for Responsible
Calvert Investments	Investment
Candriam Investors Group	Responsible Sourcing Network
Conscious Capital Wealth Management	Scarab Funds
Etica SGR SpA	Sisters of St. Francis of Philadelphia
EUROSIF- The European Sustainable	Sonen Capital
Investment Forum	Tri-State Coalition for Responsible
Hermes Equity Ownership Services	Investment
Interfaith Center on Corporate	Trillium Asset Management LLC
Responsibility	Triodos Investment Management
KLP Kapitalforvaltning AS	Zevin Asset Management, LLC
Maryknoll Sisters	

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*European Parliament report on the proposal for a regulation of the European Parliament and of the Council setting up a Union system for supply chain due diligence self-certification of responsible importers of tin, tantalum and tungsten, their ores, and gold originating in conflict-affected and high-risk areas (COM(2014)0111 – C7-0092/2014 – 2014/0059(COD))

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