

Good Due Diligence Practice for Downstream Companies

Five Step Framework for Due Diligence

- **Step 1: Establish robust company management systems**

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■ 1-A. Adopt and commit to a supply chain policy for a responsible global mineral supply chain.

- Adopt a policy commitment setting forth principles for common reference on mineral extraction, transport, handling, trading, processing, smelting, refining and alloying, and export, against which the company will assess itself and the activities and relationships of suppliers.
- Ensure that this policy is consistent with the standards set forth in the model supply chain policy in Annex II of the OECD Guidance.
- Establish clear and coherent management process to ensure risks are adequately managed.
- Commit to the due diligence steps and recommendations outlined in the OECD Guidance.

Examples

- ✓ Define a responsible mineral procurement policy
 - ✓ Example: Include 3TG + cobalt (etc.) in the policy as the target minerals
 - ✓ Example: Include required keywords (CAHRAs/OECD guidance/Annex II risks/company internal control process)
- ✓ Specify the policy application date
- ✓ Disseminate and publicize to internal & external parties and suppliers by posting on your website
- ✓ If human rights violations are discovered, consider risk mitigation measures including suspension of transactions

Step 1: Establish robust company management systems

■ 1-B. Structure internal management systems to support supply chain due diligence.

- Assign authority and responsibility to senior staff with the necessary competence, knowledge, and experience to oversee the supply chain due diligence process.
- Secure the resources necessary to support the operation and monitoring of these processes.
- Put in place an organizational structure and communication processes that ensure that critical information, including the company policy, reaches relevant employees and suppliers.
- Ensure internal accountability with respect to the implementation of supply chain due diligence process.

Examples

- ✓ Create an organizational chart/promotion system chart, etc. to clarify the roles of leaders and officers in charge.
- ✓ Build cooperative relationships with the relevant internal departments (procurement, legal, compliance, CSR, and technical departments, etc.).
- ✓ Share your supply chain policy with internal and external parties (via website, intranet, etc.).
- ✓ Educate internal personnel on due diligence implementation and monitoring.
- ✓ Conduct regular meetings and share necessary relevant information with team members.

Step 1: Establish robust company management systems

■ 1-C. Establish a system of controls and transparency over the conflict minerals supply chain.

- Introduce a supply chain transparency system that allows the identification of the smelters/refiners in the company's mineral supply chain through which the following information on the supply chain of minerals from "red flag locations of mineral origin and transit" should be obtained: identification of all countries of origin, transport and transit for the minerals in the supply chains of each smelter/refiner.
- Companies which find it difficult to identify actors upstream from their direct suppliers may engage and actively cooperate with industry members with whom they share suppliers or downstream companies with whom they have a business relationship to identify which smelters are in the supply chain.
- Maintain related records for a minimum of five years, preferably on a computerised database.
- Support extending digital information-sharing systems on suppliers to include smelters/refiners.
- Adapt systems to assess supplier due diligence in the supply chain of minerals from conflict-affected and high-risk areas utilizing the criteria and process recommended in this Guidance, with due regard to business confidentiality and other competitive concerns.

Examples

- ✓ Clarify survey methods, risk criteria, and schedule (survey frequency), etc.
- ✓ Retain CMRT/CRT (and supplier communication records) for at least 5 years.

Step 1: Establish robust company management systems

■ 1-D. Strengthen engagement with relevant suppliers.

- ✓ Establish, where practicable, long-term relationships with suppliers as opposed to short-term or one-off contracts in order to build leverage over suppliers.
- ✓ Communicate to suppliers your expectations on responsible supply chains of minerals from CAHRAs and incorporate the supply chain policy and due diligence processes set out in the OECD Guidance into commercial contracts and/or written agreements with suppliers which can be applied and monitored, including, if deemed necessary, the right to conduct unannounced spot-checks on suppliers and have access to their documentation.
- ✓ Consider ways to support and build capabilities of suppliers to improve performance and conform to company supply chain policy.
- ✓ Commit to designing measurable improvement plans with suppliers with the involvement, if relevant and where appropriate, of local and central governments, international organizations and civil society when pursuing risk mitigation.

Examples

- ✓ Request support for company policy when contracting with a supplier (better to include in contract).
- ✓ Communicate your expectations (RMAP Conformant, no human rights violations, etc.) when requesting a survey.
- ✓ Guide to lecture programs for suppliers (JEITA “Responsible Minerals Briefing”, etc.).

Step 1: Establish robust company management systems

■ 1-E. Establish a company level grievance mechanism.

(From *Supplement on Tin, Tantalum and Tungsten*)

- ✓ Develop a mechanism allowing any interested party (affected persons or whistle-blowers) to voice concerns regarding the circumstances of mineral extraction, trade, handling and export in a conflict-affected and high-risk area. This will allow a company to be alerted of risks in its supply chain as to the problems in addition to the company fact and risk assessments.
- ✓ Provide such a mechanism directly, or through collaborative arrangements with other companies or organizations, or by facilitating recourse to an external expert or body (ie, ombudsman).

Examples

- ✓ Clearly indicate on the relevant pages on your company website where interested parties can contact you with concerns.
- ✓ If you have an internal grievance mechanism, ensure that it can be used to voice concerns related to conflict mineral sourcing and surveys.

- **Step 2: Identify and assess risks in the supply chain**

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■ 2-A. Identify, to the best of your efforts, the smelters/refiners in your supply chain.

(From *Supplement on Tin, Tantalum and Tungsten*)

Downstream companies should aim to identify the mineral smelters/refiners that produce the refined metals used in their supply chain. This may be carried out:

- ✓ through confidential discussions with the companies' immediate suppliers,
- ✓ through the incorporation of confidential supplier disclosure requirements into supplier contracts,
- ✓ by specifying to direct suppliers the smelters/refiners that meet the requirements of this Guidance,
- ✓ by using confidential information-sharing systems on suppliers and/or
- ✓ through industry wide schemes to disclose upstream actors in the supply chain.

Examples

- ✓ Use the CMRT and CRT to identify upstream smelters/refiners to the greatest extent possible:
 - Check "Smelter Not Listed" and "Smelter Not Yet Identified" on the Smelter List.
 - Follow up on your suppliers by checking your CMRT supplier response rate (Q5) and smelter identification status (Q6).

Step 2: Identify and assess risks in the supply chain

■ 2-B. Identify the scope of the risk assessment of the mineral supply chain.

(From *Supplement on Tin, Tantalum and Tungsten*)

- Downstream companies should engage with ... smelters/refiners in their supply chains and obtain from them initial information on country of mineral origin, transit and transportation routes used between mine and smelters/refiners.
- Downstream companies should review this information and any information generated in Step 1 in order to target risk assessments on those minerals and suppliers triggered by the “red flag locations of mineral origin and transit” and “supplier red flags.”

Examples

- ✓ Use RMAP audit results to assess supply chain risk upstream from your smelters/refiners.
- ✓ Decide what risks your company should address **given your mode of business and the characteristics of your supply chain** with reference to OECD Guidance Annex II and lay out the grounds for selecting those risks.

Step 2: Identify and assess of risks in the supply chain

■ 2-C. Assess whether the smelters/refiners have carried out all elements of due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas.

(From *Supplement on Tin, Tantalum and Tungsten*)

- ✓ Obtain evidence on due diligence practices of the smelter/refiner.
- ✓ Review the information generated by the assessment team. Cross-check evidence of due diligence practices of the smelter/refiner against the supply chain policy and due diligence processes contained in the OECD Guidance.
- ✓ Work with the smelter/refiner and contribute to finding ways to build capacity, mitigate risk and improve due diligence performance, including through industry-wide initiatives.

Examples

- ✓ Cross-check the CMRTs and CRTs you have received from suppliers against the Conformant, Active, and SSN Lists on the RMI website.
- ✓ Where necessary, check the audit reports on the RMI website.

Step 2: Identify and assess risks in the supply chain

■ 2-D. Where necessary, carry out, including through participation in industry-driven programs, joint spot checks at the mineral smelter/refiner's own facilities.

- ✓ Obtain evidence of smelter due diligence practices, including information gathered from on-site assessments and review guidance for due diligence processes (which can be done through industry mechanisms such as RMI).
- ✓ Spot check at smelter/refiner if necessary.
- ✓ Assess the risk to your company's supply chain policy (according to Annex II), relevant guidance supplements, national laws and other relevant legislative requirements.

Examples

- ✓ Check smelter/refiner audit status reports on the RMI website.
- ✓ Detect and identify OFAC rule infringement risk through your own due diligence activities.
- ✓ Check smelter information.

- **Step 3 : Design and implement a strategy to respond to identified risks**

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■ 3-A. Report findings to designated senior management.

- ✓ Outline the information gathered and the actual and potential risks identified in the supply chain risk assessment.

Examples

- ✓ Add "responsible mineral sourcing" to existing regular internal reports.
- ✓ Report KPI results (recovery rate, etc.) and next year's targets at meetings such as CSR and procurement.

Step 3: Design and implement a strategy to respond to identified risks

■ 3-B. Devise and adopt a risk management plan.

(From *Supplement on Tin, Tantalum and Tungsten*)

- ✓ Companies should adopt a supply chain risk management plan that outlines the company responses to risks identified in Step 2. Companies may manage risk by either
 - i) continuing trade throughout the course of measurable risk mitigation efforts;
 - ii) temporarily suspending trade while pursuing ongoing measurable risk mitigation; or
 - iii) disengaging with a supplier in cases where mitigation appears not feasible or unacceptable.
- ✓ Consult with suppliers and affected stakeholders and agree on the strategy for measurable risk mitigation in the risk management plan. Measurable risk mitigation should be adjusted to the company's specific suppliers and the contexts of their operations, state clear performance objectives within a reasonable timeframe and include qualitative and/or quantitative indicators to measure improvement.

Examples

- ✓ Pre-determine checkpoints in CMRTs collected from suppliers.
- ✓ Pre-determine the company policy for dealing with smelters/refiners when risk is detected.
- ✓ Share that policy with the relevant smelters/refiners.

Step 3: Design and implement a strategy to respond to identified risks

- **3-C. Implement the risk management plan, monitor and track performance of risk mitigation, report back to designated senior management and consider suspending or discontinuing engagement with a supplier after failed attempts at mitigation.**

(From *RMI Downstream Assessment Program Assessment Tool*)

- Implement the risk management plan, monitor risk mitigation and report performance to designated senior management, and consider suspending or discontinuing engagement with a supplier after failed attempts at mitigation.
- If there is no [significant and measurable improvement towards eliminating the identified risks within six months, companies should suspend or discontinue engagement with the supplier for a minimum of three months.

Example

- ✓ Decide what you will do if the deadline for risk mitigation is not met or no improvement is foreseen (suspend or discontinue engagement).

Step 3: Design and implement a strategy to respond to identified risks

■ 3-D. Undertake additional fact and risk assessments for risks requiring mitigation, or after a change of circumstances.

(From *Supplement on Tin, Tantalum and Tungsten*)

- Supply chain due diligence is a dynamic process and requires on-going risk monitoring. After implementing a risk mitigation strategy, companies should repeat Step 2 to ensure effective management of risk. Additionally, any change in the company's supply chain may require some steps to be repeated in order to prevent or mitigate adverse impacts.

Examples

- ✓ Continue to undertake regular CMRT surveys and monitor risks in line with your company policy and/or customer requests.
- ✓ When any changes occur in the specifications of sourced products or in the supply chain, conduct additional risk assessments (surveys) as necessary.

- **Step 4: Carry out independent third-party audit of smelter/refiner's due diligence practices**

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- **4-A. Plan an independent third-party audit of the smelter/refiner's due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas.**
- **4-B. Implement the audit in accordance with the audit scope, criteria, principles and activities set out above.**

(From *Supplement on Tin, Tantalum and Tungsten*)

- ✓ It is recommended that all downstream companies participate and contribute through industry organizations or other suitable means to appoint auditors and define the terms of the audit in line with the standards and processes set out in this Guidance. Small and medium enterprises are encouraged to join or build partnerships with such industry organisations.

Examples

- ✓ Include RMAP utilization in smelter/refiner assessments in your company policy.
- ✓ Where necessary, try direct communication such as visiting smelters/refiners.
- ✓ If limited resources mean that you struggle with outreach to smelters/refiners, try working in conjunction with multiple other companies or through an industry association.

- **Step 5: Report annually on supply chain due diligence**

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- **5-A. Annually report or integrate, where practicable, into annual sustainability or corporate responsibility reports, additional information on due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas.**

(From *Supplement on Tin, Tantalum and Tungsten*)

- ✓ **Company management systems:** Set out the company's supply chain due diligence policy; explain the management structure responsible for the company's due diligence and who in the company is directly responsible.
- ✓ **Risk assessment and management:** Describe the steps taken to identify smelters/refiners in the supply chain and assess their due diligence practices, including the published list of qualified smelters/refiners through industry validation schemes conforming to the due diligence processes recommended in this Guidance. Describe the steps taken to manage risks
- ✓ **Audits:** Publish the audit reports of their due diligence practices, with due regard taken of business confidentiality and other competitive concerns and responses to identified risks.

Examples

- ✓ Disclose your company's due diligence status in sustainability reports, etc., including your **due diligence management structure and survey results**.
- ✓ Use the Responsible Mineral Reporting Toolkit issued by GRI and RMI
<http://www.responsiblemineralsinitiative.org/news/rmi-and-gri-launch-responsible-mineral-reporting-toolkit>
- ✓ Disclose the smelter list identified in the previous year's survey (unlisted US companies).