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January 31, 2011

Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

File No. S7-40-10

Dear Ms. Murphy:

AngloGold Ashanti Limited is pleased to provide comments to the Securities and Exchange Commission (the "Commission") on its proposed rules to implement Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act"), published in Release No. 34-63547, Conflict Minerals (December 15, 2010) (the "Release").

AngloGold Ashanti Limited, headquartered in Johannesburg, South Africa, is a global gold company with a portfolio of long-life, relatively low-cost assets and differing orebody types in key gold producing regions. The company's 20 mining operations are located in 10 countries (Argentina, Australia, Brazil, Ghana, Guinea, Mali, Namibia, South Africa, Tanzania and the United States of America) and are supported by extensive exploration activities in a number of countries around the world. The combined proved and probable ore reserves of the group amounted to 68.3 million ounces as at December 31, 2009.

AngloGold Ashanti's operations in the Democratic Republic of the Congo (the "DRC") comprise the development of the Kibali mine by a joint venture with Randgold Resources and the DRC state owned mining company and an active greenfields exploration programme, with the most promising prospect being the Mongbwalu concession. AngloGold Ashanti also has mining operations in Tanzania, an adjoining country to the DRC subject to Section 1502 of the Dodd-Frank Act, where the company operates its wholly owned Geita gold mine.

AngloGold Ashanti's American depositary shares are listed on the New York Stock Exchange under the symbol "AU". As a well-known seasoned issuer and a foreign private issuer, AngloGold Ashanti files annual reports with the Commission on Form 20-F and furnishes its home jurisdiction periodic reports with the Commission on Form 6-K.

AngloGold Ashanti fully supports the stated Congressional purpose of Section 1502 of the Dodd-Frank Act to seek to end the exploitation and trade of conflict minerals as a source of financing of conflict in the DRC. AngloGold Ashanti believes that encouraging socially responsible economic development in this region, which includes supporting the development of a sustainable and socially responsible mining sector, must be recognised as an important part of the strategy to end the conflict and bring about peace and stability in the DRC. As such, we urge the Commission to consider the effect that Section 1502 of the Dodd-Frank Act and the rules promulgated thereunder will have on responsible economic development in the DRC and adjoining countries. In particular, we are very concerned that Section 1502 of the Dodd-Frank Act and the rules promulgated thereunder have the potential to stigmatise gold that is responsibly mined in the DRC and adjoining countries and, as a result, to adversely impact the responsible development of the region's valuable gold resources, thereby undermining the worthy humanitarian goals that underlie Section 1502. We therefore urge the Commission to strive to minimise the potential adverse impact of its rules on responsible gold mining in the DRC and adjoining countries.

We submit that the Commission could minimise such unintended adverse consequences consistent with the Dodd-Frank Act by, *inter alia*, expressly incorporating, in the due diligence standard applicable to issuers that are required to prepare a Conflict Minerals Report, the Conflict Minerals Map published by the Secretary of State pursuant to Section 1502(c)(2) of the Dodd-Frank Act. Specifically, we believe that the Commission should provide in the rules for a presumption that the minerals an issuer uses are "DRC conflict free" if those minerals can be traced to mines not identified on the Conflict Minerals Map as Conflict Zone Mines. We submit that this would serve the underlying humanitarian policy of Section 1502 of the Dodd-Frank Act, while minimising the potential that responsible and sustainable economic development in the DRC region will be adversely impacted by the regulation.

We provide below our responses to the Commission's specific requests for comment. For ease of reference, we have reproduced the text of the Commission's requests for comments in bold-face type below, followed by AngloGold Ashanti's comments. All capitalized terms used but not defined herein have the respective meanings ascribed thereto in the Release.

COMMENTS IN RESPONSE TO
THE COMMISSION'S SPECIFIC REQUESTS FOR COMMENT

1. Should our reporting standards, as proposed, apply to all conflict minerals equally?

Response: We submit that the reporting standards, as they apply to gold, should recognise the distinct properties of gold, the unique dynamics of the world gold market and the role of gold in the world economy.

The key physical property that differentiates gold from many other commodities is that it generally is not consumable. Once gold is mined and processed and enters the world supply, it can remain in existence indefinitely. The quantity of gold production from mines each year accounts for only a very small percentage of aggregate supply, and recycled gold comprises a substantial portion of gold that enters the supply chain. As a result, it is exceedingly difficult – if not in most cases impossible – to determine the source of most gold supply. Accordingly, we submit that the reporting standard with respect to gold should be that a Conflict Minerals Report is required only if, after a reasonable country of origin inquiry, the gold used by an issuer subject to the rules is determined to have originated in the DRC or an adjoining country. We would propose that if, after a reasonable country of origin inquiry, the issuer either cannot determine the origin of the gold it uses or determines that the gold is from recycled or scrap sources, the issuer should have to disclose that determination but should not be required to furnish a Conflict Minerals Report with respect to the gold. Such an approach would be consistent with Section 13(p), which by its terms only requires a Conflict Minerals Report "in cases in which such conflict minerals did originate in [the DRC or an adjoining country]".[1] We submit that the Commission should not issue rules that extend the burdens on, and the costs to, issuers beyond the mandate expressed in the plain meaning of the statutory language, particularly where the resulting regulation would not be workable in practice, as we believe would be the case for gold.

2. Should our rules, as proposed, apply to all issuers that file reports under Sections 13(a) and 15(d) of the Exchange Act? If not, to what issuers or other persons should our rules apply? Should we require an issuer that has a class of securities exempt from Exchange Act registration pursuant to Exchange Act Rule 12g3-2(b) to provide the disclosure and reporting requirements in its home country

[1] Exchange Act § 13(p)(1)(A) (emphasis added).

annual report or in a report on EDGAR? Would such an approach be consistent with the Act?

Response: We support the Commission's proposal that the rules should apply to all issuers that file reports under Sections 13(a) and 15(d) of the Exchange Act but that an issuer should not have to make any disclosures under the rules if it determines that conflict minerals are not necessary to the functionality or production of its products.

4. **Should our rules apply to foreign private issuers, as proposed? Should we exempt such issuers and, if so, why and on what basis? Should the rules otherwise be adjusted in some fashion for foreign private issuers?**

Response: We support the Commission's proposal that the rules should apply to foreign private issuers. However, as we discuss in our response to #22 below, we believe that it would be more appropriate to provide that foreign private issuers furnish the conflict minerals disclosure and Conflict Minerals Report, if applicable, on Form 6-K, and not as part of the annual report on Form 20-F or Form 40-F, as applicable.

6. **Should we require that all individuals and entities, regardless of whether they are reporting issuers, private companies, or individuals who manufacture products for which conflict minerals are necessary to the functionality or production of the products, provide the conflict minerals disclosure and, if necessary, a Conflict Minerals Report? If so, how would we oversee such a broad reporting system?**

Response: We support the Commission's proposal that only issuers that file reports with the Commission under Section 13(a) or Section 15(d) of the Exchange Act should be subject to the rules, as we believe that extending the applicability of the conflict minerals disclosure rules beyond reporting issuers would not be feasible in practice.

7. **Would requiring compliance with our proposed rules only by issuers filing reports under the Exchange Act unfairly burden those issuers and place them at a significant competitive disadvantage compared to companies that do not file reports with us? If so, how can we lessen that impact?**

Response: We believe that the rules will substantially increase costs to issuers. These costs will include costs to design and implement internal controls to determine and document the source of conflict minerals used in the issuer's manufacturing processes, as well as the cost – which we expect to be substantial – of the independent private sector audit. We believe that these costs are likely to be greater for gold than for the other conflict minerals because of the difficulties in tracing the origins of gold. Even if procedures could be established to track the sources of newly mined gold, newly mined gold accounts for only a very small percentage of the gold used by manufacturers. The design and implementation of procedures to track the source of gold is likely to increase costs to other industry participants that are not subject to the Commissions rules. We submit that the Commission could lessen this impact by requiring an issuer to furnish a Conflict Minerals Report only if the issuer has determined, after a reasonable country of origin inquiry, that its conflict minerals did originate in the DRC countries. As discussed in our response to #1 above, we believe that such an approach would be consistent with Section 1502.

9. Should we define the term "manufacture?" If so, how should we define the term?

Response: We submit that the rules should define the term "manufacture". Including a definition of "manufacture" in the rules would clarify the applicability of the disclosure requirements, which would help to ensure that the issuers to which the requirements are intended to apply provide the disclosure, as well as to ensure that issuers to which the requirements are not intended to apply avoid incurring additional costs unnecessarily.

We would propose that the rules should define the term "manufacture" consistent with widely recognised usage of that term, which, as we discuss in our response to #13 below, we believe excludes gold mining activities. For example, we submit that it would be appropriate to adopt the definition of "manufacturing" in the standards of the North American Industrial Classification System, under which it is treated as a distinct sector from "Mining, Quarrying, and Oil and Gas Extraction:

> "The **Manufacturing** sector comprises establishments engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products.... Establishments in the Manufacturing sector are often described as plants, factories, or mills and characteristically use power-driven machines and materials-handling equipment.... The materials, substances, or components transformed by manufacturing establishments are raw materials that are products of agriculture, forestry, fishing, mining, or quarrying as

well as products of other manufacturing establishments..."[2] (emphasis added)

11. Should we require a minimum level of influence, involvement, or control over the manufacturing process before an issuer must comply with our proposed rules? If so, how should we articulate the minimum amount? Should we require issuers to have nominal, minimal, substantial, total, or another level of control over the manufacturing process before those issuers become subject to our rules? How would those amounts be measured? Should we require that issuers must, at minimum, mandate that the product be manufactured according to particular specifications?

Response: See response to #13 below. We submit that an issuer should be deemed not to have influence, involvement, or control over the manufacturing process to the extent that the product is not manufactured to meet the issuer's custom specifications but rather is manufactured to meet industry-standard specifications common to the issuer's competitors generally. For example, a gold mining company issuer that contracts with a refinery to process doré into London "Good Delivery" gold bars, which meet international standards for weight and purity and are fungible in the world gold market, should be deemed not to have influence, involvement, or control over the manufacturing process.

13. Is it appropriate for our rules, as proposed, to consider reporting issuers that are mining companies as "persons described" under Section 1502? Does the extraction of conflict minerals from a mine constitute "manufacturing" or "contracting to manufacture" a "product" such that mining issuers should be subject to our rules?

Response: We submit that the extraction of conflict minerals from a mine does not constitute "manufacturing" or "contracting to manufacture" a "product" and that, therefore, mining issuers should be excluded from the application of Section 13(p) of the Exchange Act.

We believe that the plain meaning of the statutory text supports the view that the mining of conflict minerals does not constitute "manufacturing" of a "product". In

[2] North American Industry Classification System, description of Sector 31-33, http://www.naics.com/censusfiles/NDEF31.HTM#N31-33.

the Release, the Commission proposes to not define the term "manufacture" in its rules implementing Section 13(p) of the Exchange Act, believing that the meaning of this term is generally understood.[3] To illustrate the common understanding of the meaning of the term "manufacture", the Release cites the definition of "manufacture" from the Second Edition of the Random House Webster's Dictionary: "making goods or wares by hand or machinery, esp. on a large scale".[4] The "manufacture" of a "product", therefore, is generally taken to involve the application of value-added processes to transform raw materials into a commercially marketable good. The end product of a gold mining company's processes is a doré bar produced at the mine site, which is an impure alloy of gold, silver and other metals in widely varying proportions. Gold in doré form has no commercial uses and only becomes a marketable commodity once it has been refined to a higher purity by a refinery. It is the refiner, and not the mining company, that applies value-added processes to transform the raw materials (i.e., doré) into a commercially marketable good (i.e., gold bars meeting international standards for purity and other characteristics). Because a gold mining company's activities are limited to the extraction of minerals in doré form, which has no commercial uses in its unrefined state, we submit that gold mining does not constitute the "manufacture" of a "product" within the generally understood meaning of those terms.

In the Release, the Commission proposes that the disclosure requirements of Section 13(p) of the Exchange Act would apply only to "issuers that contract for the manufacturing of products *over which they have any influence regarding the manufacturing of those products*".[5] For example, the Release proposes that the rules would not apply to retail issuers that sell only the products of third parties if those retailers have no contract or other involvement regarding the manufacturing of those products, or if those retailers do not sell those products under their brand name or a separate brand they have established and do not have those products manufactured specifically for them. In the gold supply chain, a mining company's control ends when its doré is received by the refinery, at which point the mining company ceases to have custody of the gold or control over its refinement. A refinery typically receives doré from multiple mines, as well as scrap gold, and the gold content becomes fungible through the refining process, such that the refined gold bars sold by a refinery on behalf of a mining company may or may not actually contain gold from the doré produced from that mining company's mines. Therefore, while a gold mining company is able to certify as to the source of the doré delivered to a refinery,

[3] Release at II.B.2.

[4] Release at II.B.2.

[5] Release at II.B.2 (emphasis added).

it typically has no influence over the refining process and would only be able to provide assurances as to the source of the gold content in refined gold bars by relying on representations from the refinery based on the refinery's "know your customer" due diligence procedures. To the extent that a gold mining company has no influence or involvement in the "manufacturing" (i.e., refining) of the end "product" (i.e., refined gold bars), we submit that the disclosure requirements of Section 13(p) of the Exchange Act should not apply to mining companies.

To extend the terms "manufacture" of a "product" to include the mining of conflict minerals contorts the plain meaning of those terms. If Congress had intended Section 1502 of the Dodd-Frank Act to apply to mining company issuers, it seems unusual that they would not have expressed this intent more clearly in the statutory language. We note that the original version of Senate Bill No. 891, the precursor to Section 1502 of the Dodd-Frank Act, would have applied the conflict minerals disclosure requirements to any issuer engaged in, or that controls a person engaged in, the following activities:

> "(A) the commercial exploration, extraction, importation, exportation, or sale of columbite-tantalite, cassiterite, or wolframite; or
>
> "(B) the use of such minerals, derivatives of such minerals, components that include such minerals, or components that include derivatives of such minerals in the manufacture of a product for sale."[6]

We submit that the deletion of the language "the commercial exploration, extraction, importation, exportation, or sale" from the final statutory text of Section 1502 of the Dodd-Frank Act suggests that Congress recognized a distinction between those activities and the "manufacture" of a "product" and that the conflict minerals disclosure requirements are intended to apply only to issuers that manufacture products in which conflict minerals are used, and not to issuers engaged in the mining of conflict minerals.

[6] Congo Conflict Minerals Act of 2009, S. 891, 111th Cong. § 5 (2009).

14. Alternatively, should a mining issuer not be viewed as manufacturing a product under our rules unless it engages in additional processes to refine and concentrate the extracted minerals into salable commodities or otherwise changes the basic composition of the extracted minerals?

Response: See response to #13 above. In this regard we note that there are two principal types of arrangements between a gold mining company and a gold refinery. In some cases, a gold mining company sells doré to the refinery, typically at the spot price less a discount to account for refining costs, and the refinery sells the refined gold bars processed from the doré for its own account. In other cases, a gold mining company delivers doré to the refinery, pays the refinery a refining fee, and the refinery delivers refined gold bars to be sold for the account of the mining company. We submit that the rules should not distinguish between these two arrangements. In both cases, the mining company ceases to have custody of its gold when its doré is received at the refinery, and in both cases, the mining company typically does not have any influence or involvement in the "manufacturing", or refining, process. The economic effect of both arrangements is the same. Under both of these arrangements, the mining company does not "manufacture" a "product" and thus should not be subject to the disclosure requirements.

15. If so, what transformative processes, if any, should mining issuers be permitted to perform on conflict minerals before our proposed rules should consider them to be manufacturing products to which conflict minerals are necessary?

Response: As discussed in our response to #13 above, we submit that gold does not become a commercially marketable "product" until after it has been processed in the smelting and refining process. Therefore, we submit that mining, beneficiating (e.g., crushing, screening, washing, flotation, etc.), transformation of the gold into doré at the mine site, and the production of copper concentrate containing gold should be considered transformative processes that do not qualify as "manufacturing".

22. Should we require issuers to provide the conflict minerals disclosure and reporting requirements mandated under Section 13(p) in its Exchange Act annual report, as proposed? Should we require, or permit, the conflict minerals disclosure to be included in a new, separate form furnished annually on EDGAR, rather than adding it to Form 10-K, Form 20-F, and Form 40-F? Would requiring issuers to disclose the information in a separate annual report be consistent with Section 13(p)? Should we develop a separate annual report to be filed on EDGAR that includes all of the specialized disclosures mandated by the

Dodd-Frank Act? What would be the benefits or burdens of such a form for investors or issuers with necessary conflict minerals?

Response: We submit that it would be unduly burdensome to require an issuer to undertake the reasonable country of origin inquiry and, if required, due diligence on the source and chain of custody of its conflict minerals and provide the conflict minerals disclosure within the timeframe for filing its Exchange Act annual report. During the period between an issuer's fiscal year end and the date the issuer is required to file its audited annual financial statements, the issuer's accounting and financial reporting teams focus their resources on preparing the issuer's annual report. Requiring the conflict minerals disclosure to be furnished at the same time as the issuer's Exchange Act annual report would put further strain on these resources at a time when they are likely already to be operating near full capacity. We propose that it would be reasonable to require that an issuer must furnish the conflict minerals disclosure (including, if required, the issuer's Conflict Minerals Report) within 150 calendar days after the issuer's fiscal year-end.

We further propose that it would be appropriate to permit an issuer to furnish the conflict minerals disclosure and Conflict Minerals Report (if required) on a current report on Form 8-K (for a domestic issuer) or Form 6-K (for a foreign private issuer) and include a statement in the issuer's Exchange Act annual report, under the heading "Section 13(p) Disclosure", informing investors that the conflict minerals disclosure and Conflict Minerals Report (if required) will be furnished on Form 8-K or Form 6-K, as applicable, on or before the 150-day deadline. Consistent with the Commission's proposal, the Form 8-K or Form 6-K, as applicable, containing the conflict minerals disclosure and Conflict Minerals Report (if required) should not be "filed" for purposes of Section 18 of the Exchange Act and should not be deemed to be incorporated by reference in the issuer's registration statements or its Exchange Act annual report. We believe that this approach is preferable to providing the conflict minerals disclosure and Conflict Minerals Report in an amendment to the issuer's Exchange Act annual report because filing amendments to an annual report can confuse investors. We believe that investors would be more likely to expect disclosures that are subject to a reporting deadline different from the Exchange Act annual report, and that otherwise are not directly relevant to the issuer's annual reporting, to be furnished on a current report on Form 8-K or Form 6-K, as applicable. This approach would facilitate access to the conflict minerals information by placing it outside the issuer's Exchange Act annual report, while utilizing existing Commission forms. Even if the Commission does not adopt a due date for the conflict minerals disclosure that is later than the timeframe in which an issuer must file its Exchange Act annual report, we believe that furnishing the disclosure on Form 8-K or Form 6-K, as applicable, is the appropriate approach.

Given that Section 13(p) of the Exchange Act requires only that the conflict minerals disclosure be provided annually, and does not specify that it must be included in an issuer's Exchange Act annual report, we submit that the approach we propose above is consistent with Section 13(p) of the Exchange Act. In this regard, we note the distinction between the language in Section 1502 ("disclose annually") and the requirement in Section 1503 of the Dodd-Frank Act that the mandated mine safety disclosure be included "in each periodic report filed with the Commission under the securities laws".

23. Should we require some brief disclosure in the body of the annual report, as proposed?

Response: See response to #22 above. We do not object to requiring issuers to include brief disclosure in the body of the annual report informing investors that the conflict minerals disclosure and Conflict Minerals Report (if required) will be furnished on Form 8-K or Form 6-K, as applicable, on or before the prescribed deadline.

24. Should our rules provide that, rather than be included in the body of the annual report, all required information would be set forth in the Conflict Minerals Report that would be furnished as an exhibit to the annual report?

Response: See response to #22 above.

25. Instead, should all required information, including the Conflict Minerals Report, be included in the body of the annual report?

Response: No. See response to #22 above.

26. Should issuers with necessary conflict minerals that did not originate in the DRC countries be required to disclose any information other than as proposed? For example, should we require such an issuer to disclose the countries from which its conflict minerals originated?

Response: No. We believe that such disclosure would not further the policies underlying Section 1502, viz., to promote consumer awareness regarding whether conflict minerals originating in the DRC countries are necessary to the functionality or production of the products a consumer purchases. The identification of the source of conflict minerals that did not originate in the DRC countries is irrelevant to this policy. Additionally, we believe that the adoption of such an approach, in the case of gold, would not be prudent, in light of the difficulties in tracing the source of gold – see response to #1 above.

27. Should we, as proposed, require issuers to describe the reasonable country of origin inquiry they used in making their determination that their conflict minerals did not originate in the DRC countries? Is a separately captioned section in the body of the annual report the appropriate place for this disclosure?

Response: We do not believe it is necessary to require companies that have determined that their conflict minerals did not originate in the DRC countries to describe their reasonable country of origin inquiry. Companies making this determination will have the records that support their determinations available in the event the Commission needs to review them.

28. Should we require, as proposed, that an issuer maintain reviewable business records if it determines that its conflict minerals did not originate in the DRC countries? Are there other means of verifying an issuer's determination that its minerals did not originate in the DRC countries? Should we specify for how long issuers would be required to maintain these records? For example, should we require issuers to maintain records for one year, five years, 10 years, or another period of time?

Response: We submit that the rules should not require a foreign private issuer to maintain records for a longer period than it is required to maintain its books and records under the rules of its home jurisdiction. In this regard, we recommend that the Commission's rules specify that the time period applicable to a foreign private issuer is the shorter of the time period specified in the rules under Section 13(p) and

the time period, if any, that the issuer is required to maintain its books and records under the rules of its home jurisdiction.

29. Should we require the disclosure in an issuer's annual report to be provided in an interactive data format? Why or why not? Would investors find interactive data to be a useful tool to easily find the information provided? If so, what format would be most appropriate for providing standardized data disclosure? For example, should the format be eXtensible Business Reporting Language (XBRL), as one letter recommended, or should the format be eXtensible Markup Language (XML)?

Response: We submit that it would not be appropriate to require the disclosure to be provided in an interactive data format. The Commission's existing rules requiring issuers to furnish information in an interactive data format pertain to financial information, and the purpose of those rules is to facilitate financial analysis by investors. The information required to be disclosed pursuant to Section 13(p) is not financial in nature and is less likely to be relevant to investors' financial analysis of the issuer. Therefore, providing the Section 13(p) disclosure in an interactive data format would not provide any significant benefit.

30. Should we require issuers to briefly disclose in the body of their annual reports the contents of the Conflict Minerals Report? If so, how much of the information in the Conflict Minerals Report should we require issuers to disclose?

Response: No. See response to #22 above.

31. Should we require an issuer to post its audit report on its Internet website, as proposed?

Response: We submit that the rules should not require an issuer to post its audit report on its Internet web site. As discussed further in our response to #43 below, we believe that requiring the audit report to be made public will likely increase the cost and availability of audit services without commensurate added benefits. In addition, the audit report may contain information that should be kept non-public because disclosure may cause competitive harm or adversely affect the physical safety and security of the issuer's operations or personnel.

We also note that at this time, there is no clarity regarding the auditing standards that will be applicable to the Conflict Minerals Report. We believe that auditing standards specific to Section 1502 must be published before the Commission's rules are implemented. We cannot fully respond to this question without knowing the auditing standards, *i.e.*, without knowing the types of information that will be required in the audit report.

32. Should we require, as proposed, that an issuer post its Conflict Minerals Report and its audit report on its Internet website at least until it files its subsequent annual report? If not, how long should an issuer keep this information posted on its Internet website?

Response: See response to #31 above.

33. Is a reasonable country of origin inquiry standard an appropriate standard for determining whether an issuer's conflict minerals originated in the DRC countries for purposes of our rules implementing the Conflict Minerals Provision? If not, what other standard would be appropriate? Rather than requiring a reasonable country of origin inquiry as proposed, should our rules mandate that the standard for making the supply chain determinations, as set forth in Exchange Act Sections 13(p)(1)(A)(i) and (ii) (and described below), also applies to the determination as to whether an issuer's conflict minerals originated in the DRC countries? Should we provide additional guidance about what would constitute a reasonable country of origin inquiry in determining whether conflict minerals originated in the DRC countries?

Response: We generally support the Commission's proposal that a reasonable country of origin inquiry is an appropriate standard for determining whether an issuer's conflict minerals originated in the DRC countries for purposes of the rules implementing the Conflict Minerals Provision. We do not believe that it is necessary to provide additional guidance regarding what would constitute a reasonable country of origin inquiry. We submit that a "one size fits all" approach would not be appropriate, as what is "reasonable" necessarily will depend on a particular issuer's specific facts and circumstances.

35. Should issuers be able to rely on reasonably reliable representations from their processing facilities, either directly or indirectly through their suppliers, to

satisfy the reasonable country of origin inquiry standard? If so, should we provide additional guidance regarding what would constitute reasonably reliable representations and what type of guidance should we provide? If not, what would be a more appropriate requirement?

Response: We agree that issuers should be able to rely on reasonably reliable representations from the facilities that processed the issuer's conflict minerals, either directly or indirectly through their suppliers, to satisfy the reasonable country of origin inquiry standard.

36. **Should any qualifying or explanatory language be allowed in addition to or instead of the reasonable country of origin inquiry standard, as proposed, regarding whether issuers' conflict minerals originated in the DRC countries? For example, should issuers be able to state that none of their conflict minerals originated in the DRC countries "to the best of their knowledge" or that "they are not aware" that any conflict minerals originated in the DRC countries?**

Response: We submit that it is appropriate to allow issuers to qualify the statement regarding the reasonable country of origin inquiry with language such as "to the best of the issuer's knowledge" or "the issuer is not aware" because, at least with respect to gold, it will be impossible in most cases to trace the origin with any degree of certainty.

39. **Should our rules, as proposed, require issuers to disclose the facilities, countries of origin, and efforts to find the mine or location of origin only for its conflict minerals that do not qualify as DRC conflict free, and not for all of its conflict minerals? Alternatively, should we require issuers to disclose the facilities, countries of origin, and efforts to find the mine or location of origin for all of its conflict minerals regardless of whether those conflict minerals do not qualify as DRC conflict free?**

Response: We support the Commission's proposal to require disclosure in the Conflict Minerals Report of the facilities, countries of origin, and efforts to find the mine or location of origin only for its conflict minerals that do not qualify as DRC conflict free, and not for all of its conflict minerals.

40. Should our rules require issuers to disclose the mine or location of origin of their conflict minerals with the greatest possible specificity in addition to requiring issuers, as proposed, to describe the efforts to determine the mine or location of origin with the greatest possible specificity? If so, how should we prescribe how the location is described?

Response: We believe that, consistent with Section 1502, the rules should require disclosure only of the *efforts* to determine the mine or location of origin with the greatest possible specificity, and should not require disclosure of the mine or location of origin.

41. As suggested in a submission, should our rules require issuers to include information on the capacity of each mine they source from along with the weights and dates of individual mineral shipments?

Response: No. We submit that it would not be appropriate to require such disclosure. We believe that the Commission should not issue rules that extend the burdens on, and the costs to, issuers beyond the mandate expressed in the plain meaning of the statutory language.

42. We are proposing that an issuer "certify the audit" by certifying that it obtained such an audit. Should we further specify the nature of the certification? We are not proposing that anyone sign this certification. Should our rules require issuers to have the audit's certification signed? If so, who should be required to sign the certification? Also, if we revise our proposal to require an individual to sign, should the individual who signs the certification sign it in his or her capacity within the company or on behalf of the company? What liability should our rules assign to the individual who signs the certification?

Response: We support the Commission's proposal that the rules should not require the certification to be signed, that the certification should be made by the issuer, and not by any officer, director or other individual, and that it is not necessary to specify the nature of the certification in the rules. If the Commission determines that the certification should be required to be signed, we submit that the individual who signs the certification should be permitted to sign for and on behalf of the issuer, as opposed to in his or her capacity as an officer or director, and the signing individual should not be subject to any liability under the Exchange Act or the Securities Act.

43. Should our rules, as proposed, require an issuer to furnish its independent private sector audit report as part of its Conflict Minerals Report? Are there other ways to give effect to the Conflict Minerals Provision's requirement of Section 13(p)(1)(B) that the issuer "certify the audit...that is included in" [emphasis added] the Conflict Minerals Report? Would investors find the audit report useful? How would the potential liability for a furnished audit report affect the cost and availability of such audit services?

Response: We recommend that the rules implementing Section 13(p) should not require that the independent private sector audit report be included in the Conflict Minerals Report. Particularly until definitive auditing standards are established, we believe that requiring the audit report to be made public would adversely affect the cost and availability of audit services without commensurate added benefits. We submit that it would be appropriate, as an alternative, to require issuers to maintain the audit report for a Commission-prescribed period of time and, upon request by the Commission, to submit the audit report to the Commission on a confidential basis.

44. Should our rules provide that, as proposed, the independent private sector audit report furnished as an exhibit to an issuer's annual report not be deemed to be incorporated by reference into any filing under the Securities Act or the Exchange Act, except to the extent that the issuer specifically incorporates it by reference? Is this audit report qualitatively different from other expert's reports for which consent is required under our rules?

Response: We believe that the audit report should not be required to be furnished as part of the Conflict Minerals Report. If the audit report is required to be furnished, we agree that it should not be deemed to be incorporated by reference into any filing under the Securities Act or the Exchange Act.

45. Are there other ways we should treat the audit report under our rules to balance the interests of receiving a high quality audit and not unnecessarily increasing potential liability and costs?

Response: See response to #43 above.

46. Should we, as proposed, require the Conflict Minerals Report to be furnished as an exhibit to the issuer's annual report? If not, how should it be provided?

Response: See response to #22 above.

47. Should we require the Conflict Minerals Report to be filed as an exhibit, rather than furnished, which would affect issuers' liability under the Exchange Act or under the Securities Act (if any such issuer incorporates by reference its annual report into a Securities Act registration statement)?

Response: See response to #22 above. We support the Commission's proposal that the conflict minerals disclosure and Conflict Minerals Report (if required) should not be "filed" for purposes of Section 18 of the Exchange Act and should not be deemed to be incorporated by reference in the issuer's registration statements.

48. Under Exchange Act Section 18, "Any person who shall make or cause to be made any statement in any application, report, or document filed pursuant to [the Exchange Act] or any rule or regulation thereunder or any undertaking contained in a registration statement as provided in subsection (d) of section 15, which statement was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, shall be liable to any person (not knowing that such statement was false or misleading) who, in reliance upon such statement, shall have purchased or sold a security at a price which was affected by such statement, for damages caused by such reliance, unless the person sued shall prove that he acted in good faith and had no knowledge that such statement was false or misleading." Is it appropriate not to have the Conflict Minerals Report subject to the Section 18 liability even if the elements of Section 18 liability can be established? Should we require the Conflict Minerals Report to be filed for purposes of Exchange Act Section 18, but permit an issuer to elect not to incorporate it into Securities Act filings?

Response: We support the Commission's proposal that the Conflict Minerals Report would not be "filed" for purposes of Section 18 of the Exchange Act unless the issuer states explicitly otherwise. We submit that it is appropriate not to subject the Conflict Minerals Report to Section 18 liability even if the elements of Section 18 liability can be established because, as the Commission notes in the Release, the nature and purpose of the conflict minerals disclosure requirements, as set forth in Section 1502(a) of the Dodd-Frank Act, is not for the protection of investors. If any of the information subject to disclosure pursuant to Section 13(p) of the Exchange Act is

material to a reasonable investor's decision to invest in the issuer's securities, disclosure would otherwise be required in the issuer's registration statements filed under the Securities Act and, in many cases, in its periodic reports filed under the Exchange Act.

49. Should the Conflict Minerals Report be furnished annually on Form 8-K. Would that approach be consistent with Exchange Act Section 13(p)(1)(A)? If so, should foreign private issuers, which do not file Forms 8-K, be permitted to submit the Conflict Minerals Report either in their Form 20-F or 40-F as applicable, or annually on Form 6-K, at their election?

Response: We support this approach. See response to #22 above.

50. Should our rules, as proposed, require an issuer to use due diligence in its supply chain determinations and the other information required in a Conflict Minerals Report? If so, should those rules prescribe the type of due diligence required and, if so, what due diligence measures should our rules prescribe? Alternatively, should we require only that persons describe whatever due diligence they used, if any, in making their supply chain determinations and their other conclusions in their Conflict Minerals Report?

Response: We support the Commission's proposal. We submit that each issuer must determine what due diligence is appropriate given the issuer's particular circumstances and that, therefore, the rules should not to prescribe specific due diligence procedures.

51. Should different due diligence measures be prescribed for gold because of any unique characteristics of the gold supply chain? If so, what should those measures entail?

Response: We believe that the due diligence required with respect to gold should recognise the practical difficulties in determining the source of gold, as discussed further in our response to #1 above. Further, with respect to the disclosure in the Conflict Minerals Report of the due diligence undertaken by an issuer, we urge the Commission to permit the issuer to redact specific information, such as information about gold transportation schedules and routes, the disclosure of which could

potentially be harmful to the safety and security of the issuer's personnel and operations.

52. Should our rules state that an issuer is permitted to rely on the reasonable representations of its smelters or any other actor in the supply chain, provided there is a reasonable basis to believe the representations of the smelters or other parties?

Response: We believe that this is appropriate and is necessary to making the chain-of-custody inquiry process practicable.

53. Is our approach to issuers that are unable to determine that their products did not originate in the DRC countries appropriate?

Response: At least in the case of gold, we believe that if an issuer is unable to determine, after a reasonable country of origin inquiry, that the gold did not originate in the DRC countries, it should not be required to furnish a Conflict Minerals Report. We submit that this approach is consistent with Section 13(p), which by its terms only requires a Conflict Minerals Report "in cases in which such conflict minerals did originate in [the DRC or an adjoining country]".[7] Given that it is impossible to trace the origin of most gold with any significant degree of certainty, we think that additional due diligence is unlikely to yield meaningful information.

54. Should our rules prescribe any particular due diligence standards or guidance?

Response: We recommend that the rules should allow each issuer to determine what due diligence is appropriate given the issuer's particular circumstances and that, therefore, the rules should not to prescribe specific due diligence procedures.

[7] Exchange Act § 13(p)(1)(A) (emphasis added).

56. Should our rules, as proposed, require that a complete fiscal year begin and end before issuers are required to provide their initial disclosure or Conflict Minerals Report regarding their conflict minerals?

Response: We support the Commission's proposal.

57. If we require issuers to provide their disclosure or reporting requirements in their Exchange Act annual reports, should we permit them to file an amendment to the annual report within a specified period of time subsequent to the due date of the annual report, similar to Article 12 schedules or financial statements provided in accordance with Regulation S-X Rule 3-09, to provide the conflict minerals information? If so, why and for which issuers should our rules permit such a delay? For example, should we allow this delay only for smaller reporting companies?

Response: See response to #22 above.

58. Should we phase in our rules and permit certain issuers, such as smaller reporting companies, to delay compliance with the Conflict Minerals Provision's disclosure and reporting obligations until a period after that which is provided in the Exchange Act Section 13(p)(1)(A)?

Response: We would propose that the Commission should delay the effective date of the final rules. We submit that it would be appropriate to require large accelerated filers to comply for fiscal years ending on or after January 1, 2013 and to permit all other issuers to delay compliance for an additional one-year grace period. The Commission's proposed effective date would not give an issuer with a fiscal year-end of April 15 any time to put in place a reporting system before the commencement of the first fiscal year for which it must provide the required disclosure. We believe that a phased implementation would reduce costs for smaller issuers, as it would enable those issuers to observe how larger issuers with greater resources comply with the new rules.

59. Is "possession" the proper determining factor as to when issuers should provide the required disclosure or a Conflict Minerals Report regarding a necessary conflict mineral? If not, what would be a more appropriate test and why?

Response: We submit that the rules should provide that the disclosure requirement is triggered with respect to an issuer's conflict minerals at the time that the issuer acquires ownership and possession of those conflict minerals. This approach would align with accounting principles for revenue recognition.

60. Should our rules allow individual issuers to establish their own criteria for determining which reporting period to include any required conflict minerals disclosure or Conflict Minerals Report, provided that the issuers are consistent and clear with their criteria from year-to-year?

Response: We believe that the rules should provide that the reporting period for purposes of the conflict minerals disclosure and Conflict Minerals Report (if required) is the same as the issuer's fiscal year.

61. We note it is possible issuers may have stockpiles of existing conflict minerals that they previously obtained. Do we adequately address issuers' disclosure and reporting obligations regarding their existing stockpiles of conflict minerals? If not, how can we address existing stockpiles of conflict minerals? Should our rules permit a transition period so that issuers would not have to provide any conflict minerals disclosure or report regarding any conflict mineral extracted before the date on which our rules are adopted? Alternatively, would the reasonable country of origin inquiry standard for determining the origin of the conflict minerals and the due diligence standard or guidance for determining the source and chain of custody of the conflict minerals that originated in the DRC countries accomplish the same goal? For example, should issuers be required to inquire about the origin of their conflict minerals extracted before the date on which our rules are adopted? As another example, should issuers file a Conflict Minerals Report regarding conflict minerals that originated in the DRC countries before the date on which our rules are adopted?

Response: At least insofar as the rules apply to gold, given the difficulties inherent in tracing the source of gold, we submit that the rules should not apply to gold in the possession of the issuer as of the effective date of the rules or to gold extracted before the effective date of the rules.

62. Should there be a de minimis threshold in our rules based on the amount of conflict minerals used by issuers in a particular product or in their overall enterprise? If so, what would be a proper threshold amount? Would this be consistent with the Conflict Minerals Provision?

Response: At least as the rules apply to gold, we submit that a *de minimis* exception is appropriate. We believe that such an exception is warranted with respect to gold considering its wide application in commercial and industrial uses, taken together with the difficulties in tracing the source of gold. If the Commission's rules do not provide for a *de minimis* exception, the disclosure requirements will capture a very broad set of issuers and will impose substantial additional costs on issuers even if the use of gold accounts for an insignificant proportion of the total production cost of the products they manufacture. Further, without a *de minimis* exception, virtually all issuers may have to incur costs to determine whether they are even subject to the disclosure requirements in the first place. We would propose that if the cost of gold in the products manufactured by an issuer makes up less than 1% of the issuer's consolidated total production costs, the disclosure requirements should not be triggered. We believe that such a *de minimis* threshold for gold would strike an appropriate balance between the intended benefits of the disclosure requirements and their costs to issuers.

63. Should our rules, as proposed, include an alternative approach for conflict minerals from recycled or scrap sources as proposed? If so, should that approach permit issuers with necessary conflict minerals to classify those minerals as DRC conflict free, as proposed? Should we require, as proposed, issuers using conflict minerals from recycled or scrap sources to furnish a Conflict Minerals Report, including a certified independent private sector audit, disclosing that their conflict minerals are from these sources? If not, why not?

Response: We support the Commission's proposal to adopt an alternative approach for conflict minerals from recycled or scrap sources. However, we believe that an issuer's obligations should be limited to undertaking reasonable inquiry to determine that the issuer's conflict minerals are from these sources, and that a Conflict Minerals Report and certified independent private sector audit are not warranted. We also believe that issuers should be able to describe minerals as scrap, and therefore deemed to be conflict free, in cases where the issuer reasonably believes that the majority of the minerals used in the product are from recycled or scrap sources or a combination of recycled, scrap sources and newly mined gold. We believe this clarification is

necessary because it is likely to be impossible to be certain that the gold used in a product is exclusively from recycled or scrap sources.

In order to ensure that the alternative treatment of recycled and scrap conflict minerals is not exploited improperly, we recommend that the Commission include in its final rules a definition of "recycled" and "scrap" conflict minerals. We believe that the definition should expressly include conflict minerals from reclaimed end-user or post-consumer products, such as gold from jewellery and minted gold coins, and exclude gold that is reclaimed as part of the normal process of refining doré into bar form.

64. **Instead, should our rules require issuers with recycled or scrapped conflict minerals to undertake reasonable inquiry to determine they are recycled or scrapped and to disclose the basis for their belief that their minerals are, in fact, from these sources?**

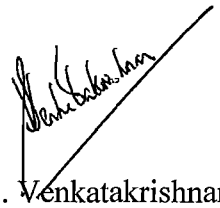
Response: We support this approach. See response to #63 above.

65. **Should our rules, as proposed, require that issuers use due diligence in determining whether their conflict minerals are from recycled or scrap sources as proposed and file a Conflict Minerals Report including an independent private sector audit of that report? If so, should our rules prescribe the due diligence required? If our rules should not require due diligence, should our rules require any alternative standard or guidance? If so, what standard or guidance? Should our rules define what constitutes recycled or scrap conflict minerals? If so, what would be an appropriate definition?**

Response: See response to #63 above.

AngloGold Ashanti appreciates the opportunity to comment on the Release and would be pleased to discuss any questions the Commission may have in respect of our comments. Should the Commission wish to discuss our comments, please contact the undersigned at +27 11 637 6000.

Yours faithfully,



S. Venkatakrishnan
Chief Financial Officer