



March 16, 2017

Mr. Michael S. Piwowar  
Acting Chairman  
U.S. Securities and Exchange Commission  
100 F Street, NE  
Washington, D.C. 20549  
Submitted via: <https://www.sec.gov/cgi-bin/ruling-comments>

Re: Reconsideration of Conflict Minerals Rule Implementation

Dear Mr. Piwowar:

The American Chemistry Council (ACC)<sup>1</sup> appreciates the opportunity to submit the following comments for consideration in response to the Acting Chairman's Public Statement on January 31, 2017 regarding the Reconsideration of the Implementation of the Securities and Exchange Commission's (SEC) Conflict Minerals Rule (CMR). ACC has been engaged on the SEC CMR throughout its development and ACC member companies are committed to complying with the applicable requirements. ACC supports the effective and efficient implementation of the CMR. However, we do have some concerns and requests for additional guidance on the scope and specific requirements for the final rule implementing Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Final Rule"). In addition, ACC supports the broader comments submitted by the National Association of Manufacturers (NAM).

As ACC has stated previously, we respectfully request that the SEC provide written confirmation that it does not consider the use of chemical compounds derived from tin, tantalum, tungsten, or gold ("3TGs") to be covered by the Final Rule. This request follows a June 5, 2014 letter sent to you by Keller and Heckman LLP ("K&H") that memorializes a May 30, 2014 telephone conversation with the law firm in which you confirmed that chemical compounds are not subject to the rule. ACC also submitted additional letters requesting clarification on the treatment of chemical compounds under the CMR on October 15, 2014 and February 4, 2015, to which we have not received a reply. It is our understanding that the SEC had informed K&H on several occasions that it would be issuing a written statement at some point, whether in the form of a FAQ or other guidance. However, nothing has been published.

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<sup>1</sup> ACC members apply the science of chemistry to make innovative products and services that make people's lives better, healthier and safer. ACC is committed to improved environmental, health and safety performance through Responsible Care®, common sense advocacy designed to address major public policy issues, and health and environmental research and product testing. The business of chemistry is a \$770 billion enterprise and a key element of the nation's economy. It is one of the nation's largest exporters, accounting for twelve percent of all U.S. exports. Chemistry companies are among the largest investors in research and development. Safety and security have always been primary concerns of ACC members, and they have intensified their efforts, working closely with government agencies to improve security and safety.



Given that less than four months remain until the next filing deadline on May 31, 2017, we now feel that time is of the essence and that written clarification should be issued by the SEC as soon as possible. Many companies are already well into their compliance activities for the current reporting year and the absence of a written interpretation is causing significant problems and costs for industry.

A written statement or interim confirmation that the discussions as described have in fact occurred, therefore, will help our members determine to what extent, if any, they are subject to the CMR, as well as respond to numerous inquiries submitted by downstream customers. Moreover, a FAQ or other guidance will help make clear to the SEC staff, as well as to investors and the general public, the agency's position on chemical compounds. Finally, it will aid in streamlining the SEC's review of reports and lead to more accurate reporting. This last point holds particularly true given that the SEC has carefully drawn a line by not covering the use of chemical compounds, while apparently still applying the CMR to manufacturers of products containing 3TG in its raw metal form to make a compound.

Furthermore, ACC recommends the SEC classify catalysts as "tools" and thus exclude them altogether from the Final Rule (except to the extent the company sells/leases catalysts to a third party, in which case the catalyst itself would be a "product"). In principle, catalysts should be excluded the same as hammers and piping, as they are not necessary to the functionality of the product produced, but a footnote in the SEC rule release brought catalysts in scope to the extent any traces could remain in the final product. There is no justification for this and therefore ACC recommends the SEC delete the footnote and clarify that catalysts used in manufacturing another product are no different than physical equipment used in the manufacturing process.

Clarification of the scope of the CMR is important to informing relevant supply chains how the chemical compounds are to be regarded. Based on the SEC's prior statements, it intended to limit the scope of the Final Rule to the defined conflict minerals and the 3TG metals derived from these minerals, and did not intend to include chemically distinct metallic compounds derived from these 3TG metals. Improved guidance for compliance will also facilitate the SEC's review process and lead to more accurate and consistent reporting.

Lastly, ACC recommends the SEC streamline the smelter verification process so that if a specific smelter used to process conflict minerals has been verified as compliant with the Conflict-Free Smelter Program (CFSP) assessment protocols of the Conflict-Free Sourcing Initiative that a reporting company's requirements regarding reasonable country of origin inquiry, due diligence, and Conflict Minerals Report be limited to identifying such smelter (not the country of origin of those conflict minerals nor the mine/location of origin of those conflict minerals). Information as to country of origin and mine/location of origin would be provided by a reporting company only with regard to any smelter in the supply chain that had NOT been verified as compliant with the CFSP.



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We greatly appreciate your consideration of this request and look forward to working with you to ensure the effective implementation of the CMR. Please do not hesitate to contact me ( [REDACTED] ) should you have any questions or comments, or require additional information.

Sincerely,



Alexa Burr

Director, Regulatory & Technical Affairs

