



March 17, 2017

The Honorable Michael S. Piwowar
Acting Chairman
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549

Dear Mr. Piwowar,

The Aerospace Industries Association (AIA) appreciates the opportunity to comment on the Securities and Exchange Commission (SEC) Conflict Minerals Rule reconsideration. Founded in 1919, AIA is the premier trade association representing over 330 major aerospace and defense manufacturers and suppliers, and over one million aerospace and defense workers. Our members represent the United States of America's leading manufacturers and suppliers of civil, military, and business aircraft, helicopters, unmanned aerial systems, missiles, space systems, aircraft engines, material, and related components, equipment services, and information technology.

The AIA is dedicated to support the intent of Section 1502 of the Dodd-Frank Act Legislation that controls Conflict Minerals and the subsequent release of the SEC Final Rule (the Rule). AIA members agree with the objective of preventing armed groups, responsible for humanitarian harm, from benefitting from the sourcing of Conflict Minerals.

One of the primary methods of supporting Conflict Minerals control is through responsible sourcing of the products that may contain Conflict Minerals. Responsible sourcing is an important principle of the AIA Supplier Management Council (SMC).

As part of the SMC, the AIA Conflict Minerals Working Group (CMWG) was formed and tasked with providing educational information, best practices, and business system guidance to AIA members. The development of the AIA CMWG aligns with the Organization for Economic Co-operation and Development (OECD) guidance for downstream companies to actively participate with industry members to engage upstream suppliers.

Many AIA member companies have extensive programs to comply annually with the Rule. We recognize the opportunity to provide comments regarding how these activities have been executed to date. The group believes this will provide relevant insight to the SEC as the reconsideration of this compliance demand is reviewed and discussed. These comments are broken down into the following sections:

1. Participation Experiences To Date
2. Compliance Cost
3. Recommendations Summary



1. PARTICIPATION EXPERIENCES TO DATE

As with any process, it is important to review progress to ensure that activities are achieving the desired results in the most effective way. The following is a summary of participation experiences from some of our member companies which should be reviewed as this reconsideration process continues:

A. Shifting the Mandatory Compliance from Downstream to Upstream:

A significant control point for the supply chain compliance effort is the point at which the Conflict Minerals are imported into the USA. The Importers/Smelters/Refiners (ISRs) are closer to the source than any AIA member company and they would have the most accurate data available relating to the source and chain of custody of the Conflict Minerals. Most AIA member companies that have compliance requirements are many supply chain tiers away from the ISR which creates very important contractual gaps.

Having no direct contractual relationship with the ISRs severely limits the effectiveness for AIA member companies to influence and engage with ISRs. In turn, the efforts are indirectly influenced by the many layers of each supply chain making the effort more burdensome and less effective.

Shifting the "mandatory" compliance demand from downstream companies to the ISR level provides the greatest opportunity to meet the intent and is the most effective focus level. If any downstream effort is required, it would then be voluntary. The rationale is that once the ISR level is addressed, then material flowing downstream after that will also be addressed. Revising this will align the Rule closer to the EU regulation which has made compliance mandatory for only the ISR level and has made it voluntary for downstream companies.

B. SEC Registered Versus Private Companies:

The Rule is required to be followed by SEC registered companies. Most AIA member companies have supply chains that are made up of SEC registered companies and private companies. Despite repeated attempts over the past four years to engage participation from private companies, it remains an important limiting factor. This is not only a challenge for the manufacturer and the first tier of its supply chain, but through subsequent levels, there are increased numbers of private companies that make up the total supply chain for each company. Some private companies simply do not respond at all, or they respond in such a way that does not satisfy the original inquiry. This is a key place where the process breaks down consistently. By shifting the focus to the ISR level, this challenge could also be managed more successfully.

C. Conflict Minerals Definition:

Change the terminology for "Conflict Minerals" to Tin, Tantalum, Tungsten and Gold (3TG) that is funding armed conflict.



The current term “Conflict Minerals” is defined as Tin, Tantalum, Tungsten, and Gold and its derivatives. It does not currently describe the minerals conflict status. This has led to confusion with the terminology. Tin, Tantalum, Tungsten, and Gold should be identified as 3TG and Conflict Minerals should only be used to describe any of the 3TG that is actually funding armed conflict. If a company were to state “we don’t use Conflict Minerals” it could be interpreted to mean that: (a) they do not use Tin, Tantalum, Tungsten, or Gold or (b) their Tin, Tantalum, Tungsten or Gold have been sourced from compliant smelters. Revising the definition of Conflict Minerals will clarify “conflict” status versus the presence of the minerals.

D. Annual Disclosure Due Date:

The due date for the SD and applicable CMR is annually May 31. This timing conflicts with many other company disclosure activities near the same time frame. AIA recommends September 30 of each year as a filing date in order to better accumulate annual data and prepare reports.

E. Department of Commerce Consideration:

The ability to identify facilities and mines that are actually funding the conflict in the Democratic Republic of Congo and adjoining countries has proven to be extremely difficult. In 2014 the U.S. Department of Commerce (DOC) published a list of all known smelters and refiners known to process Tin, Tantalum, Tungsten or Gold. However, even the DOC admits in [its report](#) that it does “not have the ability to distinguish” which facilities are actually funding the conflict in the Democratic Republic of Congo and adjoining countries.

This struggle is also felt by the downstream companies required by the SEC to carry out the requirements of the Rule.

2. COMPLIANCE COST:

AIA member companies have invested a significant amount of money on an annual basis to meet the current compliance demand. The compliance costs are detailed below:

A. Recurring - Actual:

A survey was conducted within the CMWG on the average annual expenses for Conflict Minerals compliance. A wide range of companies were surveyed and the results show the average annual compliance cost to be \$500,000 USD per company.

B. Non-Recurring - Actual:

In addition to the annual costs for compliance, the same member companies made large initial investments to create and implement a compliance program that meets all of the current requirements. The average Non-Recurring cost for this development is \$2,500,000 USD.



C. Independent Private Sector Audit (IPSA) - *Estimated*:

If an IPSA were ever required, the projected cost to reach agreements with the audit firms to conduct the audit is estimated as follows: Non-Recurring = \$375,000 USD and Recurring = \$250,000 USD annually, based on a four to six week audit time frame. However, based on the law of diminishing returns, we recommend to permanently suspend the IPSA requirement

It is important to note that since significant investments are taking place, AIA member companies want to ensure these expenses are carried out based on the most effective and efficient process.

3. RECOMMENDATIONS SUMMARY:

- A. Shift the “mandatory” compliance demand from downstream companies to the ISR level.
- B. Uphold the current First Amendment consideration for this effort which now does not require a company to reference its conflict free status in any filings or on its website.
- C. Permanently suspend the third party audit requirement.
- D. Change the terminology for Conflict Minerals to 3TG. The definition for 3TG would then become Tin, Tantalum, Tungsten, and Gold. The definition for Conflict Minerals would then become 3TG that is funding armed conflict.
- E. Change the SD and CMR annual disclosure due date to September 30.
- F. Formalizing the non-metallic 3TG exemption and establishing a reasonable de Minimis threshold level for downstream companies.

Participating AIA members believe that implementation of the recommended changes to the Conflict Minerals regulation will provide greater efficiencies while applying primary focus to the very area that can more effectively influence and control the core of this challenge at the Importer/Smelter/Refiner level.

We remain strongly committed to promoting responsible sourcing and compliance for Conflict Minerals and we appreciate the opportunity to provide constructive improvement feedback.

Sincerely,

A handwritten signature in black ink, appearing to read 'James R. Rentsch', is written over a large, stylized blue scribble that partially obscures the signature.

James R. Rentsch
Vice President
Technical Operations and Workforce
Aerospace Industries Association