

Diverse Stakeholders Support SEC Regulation of Conflict Minerals

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by Robert Kropp

Both investors and a multi-stakeholder group of companies, nongovernmental organizations, and investors contribute to rules that will require companies to disclose whether they use conflict minerals originating in the Democratic Republic of the Congo.

SocialFunds.com -- Even before the Dodd-Frank Wall Street Reform and Consumer Protection Act passed by Congress last summer directed the Securities and Exchange Commission (SEC) to require companies to disclose whether they use conflict minerals originating in the Democratic Republic of the Congo (DRC) or an adjoining country, a coalition of investors had requested that companies in the electronics and other industries ensure that minerals from there did not enter their supply chains and the consumer products they manufacture.

Since 1998, more than 5 million people have died due to the ongoing armed conflict in the DRC, where both rebel groups and the national army illegally profit from mining activities.

As the SEC developed the draft rules that were published in December, the investors, led by [Boston Common Asset Management](#), [Calvert](#), and [Trillium Asset Management](#), and representing nearly \$271 billion in assets under management, met with SEC staff and submitted a letter detailing what they thought were necessary for protecting investors while addressing the ongoing humanitarian crisis in the DRC as well.

The investors called for corporate policies and procedures, documentation, and public reporting, "To ensure companies are being responsible and addressing potential hidden risks in their supply chains." They also called for government engagement and diplomacy to end the human rights abuses in the DRC, and economic development and capacity building to support ethical and environmentally sustainable mining.

Lauren Compere, Senior Vice President and Director of Shareholder Advocacy at Boston Common, told SocialFunds.com, "When you're looking at something as difficult as transparency in the supply chain of conflict minerals, you need collaboration across sectors. The investors wanted to make sure there were no opt-outs, and focused on the due diligence process and disclosure."

Addressing some of the corporate submissions to the SEC that objected to the regulations, Compere said, "Retailers like Wal-mart and Target have come out publicly and said they don't think the rules should apply to private label products, but we believe they should."

"We wanted to address specific aspects of the rule, and thought the SEC was very receptive to our recommendation letter," Compere continued. "A lot of the definitions and recommendations in the proposed rules issued in December incorporated a lot of the input of both the multi-stakeholder and investor groups."

The multi-stakeholder group to which Compere referred includes [Responsible Sourcing Network \(RSN\)](#), a project of the nongovernmental organization (NGO) [As You Sow](#). Speaking to SocialFunds.com, Patricia Jurewicz, the Director of RSN, described the multi-stakeholder group as including 24 signatories to its March letter to the SEC: eight corporations, seven NGOs, and nine investors.

The companies that signed the letter include Advanced Micro Devices, Dell, EMC, Ford, GE, HP, Microsoft, and Unity Minerals, a mining company with operations in the DRC. Jurewicz said of the corporate signatories, "One reason why these companies worked with us in drafting these consensus positions is because they don't want their products indirectly enslaving people and causing rape and violence in other countries. But if they're the only ones doing it and a bunch of other companies aren't, then they're footing the bill. So they also welcome the legislation because it levels

the playing field by making all companies abide by these standards."

"Just having this regulated voluntarily is not going to cut it, because you'd always have leaders and laggards," Jurewicz continued.

The multi-stakeholder group called for regulation that would "support meaningful reporting and transparency that drives ethical behavior for the sourcing of minerals from the DRC," and coordination to address financing of the conflict in the DRC.

Both Jurewicz and Compere commended the efforts to develop responsible supply chains made by such industry associations as the [Electronic Industry Citizenship Coalition \(EICC\)](#), formed in 2004 to improve social, economic, and environmental conditions in the global electronics supply chain, and the [Global e-Sustainability Initiative \(GeSI\)](#), a consortium of companies in the Information and Communications Technology Sector (ICT).

The two associations recently collaborated in the development of the [Conflict-Free Smelter \(CFS\) Assessment Program](#), a program which seeks to enable companies to source conflict-free minerals.

The associations also collaborate in the [Extractives Work Group](#), which calls for a verifiable traceability scheme for the DRC and neighboring countries for conflict-free minerals. The Extractives Work Group also publicly supports the requirements of the SEC on disclosure and due diligence.

The final rules were originally scheduled to be released by the SEC on April 15, but have been delayed. Both Jurewicz and Compere expressed concerns over adequate funding of the SEC. Compere said, "If the SEC is going to have non-financial disclosure requirements that focus on ESG (environmental, social, and corporate governance) risks, there needs to be someone on staff who understands the issues."

Jurewicz added, "The budgets of the agencies we need to regulate corporate activity are being cut back, and unfortunately we've seen that when there isn't regulation, companies try to get away with whatever they can."

Referring to a bill currently before the California legislature that would prevent companies not in compliance with federal law relating to conflict minerals in the DRC from obtaining contracts with the state, Jurewicz continued, "The California procurement bill gives teeth to the federal legislation, but looks to the federal legislation as well. So the SEC needs adequate staff to provide the information."

In a [letter](#) sent this week to California State Senator Ellen Corbett, a group of investors stated, "This bill could incentivize compliance with federal regulations on conflict minerals. By passing it, California has the opportunity to show, once again, that it is a leader in protecting the rights of the most vulnerable in the world by ensuring companies are responsible with their product sourcing."

Signatories to the letter include members of the [Social Investment Forum \(SIF\)](#) and the [Interfaith Center on Corporate Responsibility \(ICCR\)](#).

"We're committed to doing what we can to ensure there is peace and security on the ground in the Congo," Jurewicz said. "Addressing the revenue flows that allow armed groups to purchase more weapons and perform egregious human rights violations can ensure that our products are not contributing to that."