

Apple, Intel Carry on as SEC Relaxes Conflict Minerals Scrutiny

By Andrea Vittorio
April 13, 2017

Relaxed regulatory scrutiny won't stop companies like Apple Inc. and Intel Corp. from reporting as usual next month about efforts to keep minerals that fund conflict in Africa from ending up in computer chips, jewelry and other products.



Companies still face supply chain pressure from consumers, investors and each other, even though those that only provide basic disclosures on where they think the minerals in their products come from [won't get in trouble](#) with the Securities and Exchange Commission. Detailed disclosures on “extensive and costly” due diligence are now essentially considered optional [in the eyes](#) of the commission's acting chair.

“It's like looking at the tag on your shirt or shoes,” Carly Oboth, a policy adviser on the conflict resources team at the nonprofit Global Witness, told Bloomberg BNA. “It tells you where it's made, but it doesn't give any details on how it was produced.”

The commission's rule requiring annual conflict minerals reporting, which until recently had spent years in court, has been an early target of the Trump administration's deregulatory agenda because it is seen as cumbersome and not relevant to securities regulation. [Federal research](#) shows the majority of companies doing due diligence are still unable to confirm the origin of tin, tantalum, tungsten or gold in their products or whether the minerals benefited or financed armed groups in the Democratic Republic of Congo and neighboring countries.

The SEC's April 7 comments will have [little impact](#) on this year's work to trace the minerals because it is likely to be complete or nearly complete by now at most companies. But they could affect what companies' disclosures, due at the end of May, will look like.

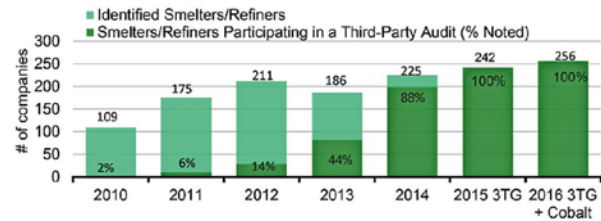
Eyes on Filings

The commission [isn't](#) the only audience for those disclosures. “We'll continue to call for transparency on this issue and call out companies who roll back their own reporting just because the SEC isn't asking for it,” said **Patricia Jurewicz**, director of the Responsible Sourcing Network, which [ranks](#) companies each year based on their reporting.

Some companies, including Apple and Intel, will file as planned. Intel's work to become a ‘[conflict-free](#)’ company started before the Dodd-Frank Act mandated reporting, and the company [says](#) it will carry on regardless of regulation. Apple, one of the first companies to [map](#) its mineral supply chain from manufacturing to the smelter level, made a similar pledge, as did [Tiffany & Co.](#)

Others may take the SEC's statements as “an excuse” for not filing or for filing less information, Lauren Compere, managing director at Boston Common Asset Management, told Bloomberg BNA. Boston Common is part of a group of investors managing close to \$5 trillion in assets that came to the rule's [defense](#) after the SEC and the White House first [made moves](#) toward rolling it back.

Apple Cut 22 Suppliers Over Conflict Minerals in 2016



Source: Apple Supplier Responsibility 2017 Progress Report **BloombergBriefs.com**

Note: 3TG refers to tin, tantalum, tungsten and gold. Apple added cobalt to its minerals auditing in 2016.

Apple Inc., which now audits 100 percent of its supply chain for four 'conflict minerals' and cobalt, said it cut 22 smelters or refiners last year for not meeting its standards, according to its latest Supplier Responsibility Report. The firm now has 256 affected smelters and refiners that process the minerals.

“If I were the CEO of a publicly traded company, I wouldn't take that chance,” said Jennifer Kraus, co-founder and chief scientific officer at supply chain data and analytics provider Source Intelligence. With the filing deadline around the corner, Kraus said the consensus among her customers is to stay the course.

More to Come?

The disclosure requirement has faced criticism—and a lawsuit—from the National Association of Manufacturers and other trade groups for making companies say if their products haven't been found to be 'conflict-free.' That part of the rule was struck down and, now that the lawsuit has officially ended, it was sent back to the SEC.

Acting Chairman Michael Piwowar, a Republican, has [told SEC staff](#) to prepare a recommendation on what to do next that takes into account [comments](#) he asked for earlier this year. His “de facto rulemaking” has been slammed by the commission's only other member, Democrat Kara Stein. “It represents a troubling attack not only on the commission process, but also on the restraints of government power,” she said in a statement.

The State Department is also [looking into](#) how best to support responsible sourcing of conflict minerals.

Some companies may hold off on making major adjustments to their due diligence programs for conflict minerals “until they gain more certainty on legal requirements going forward,” said Leah Butler, who directs the Conflict-Free Sourcing Initiative. The initiative helps companies and their suppliers with conflict minerals reporting and auditing of smelters and refiners.