

# International Regulation

## *Conflict Gold*

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The LBMA has been approached by and met with several groups regarding forthcoming US legislation and international regulations concerning conflict minerals including gold. These groups include the UN Working Group of Experts on the Democratic Republic of Congo (DRC), the OECD, ITRI (International Tin Research Institute) and the World Gold

Council. The various types of pending legislation are described below with the most important being the US Congo Conflict Minerals Act.

On July 15, 2010, after being passed in the House of Representatives, the US Senate passed the Dodd-Frank Wall Street Reform and Consumer Protection Act (also known as

the Financial Reform Act). A key provision that was added to the Bill will require US-listed companies to disclose whether they use minerals from the DRC or neighbouring countries. Companies will have to detail the measures they have taken to avoid sourcing tin, tungsten, tantalum and gold from armed groups in the DRC.

Assuming the Act is now signed by the President, it is expected that the SEC will set out guidelines in the next year regarding the required due diligence on mineral supply chains. These requirements would affect many participants in the gold supply chain including miners and refiners, commodities traders and banks, and even jewellers, fabricators and other users of gold.

### **US - Congo Conflict Minerals Act (Sen. Brownback)**

This Act finds that armed groups that are abusing human rights and destabilising the Congo region are fighting over and profiting from the production and sale of certain minerals, termed ‘conflict minerals’. The Bill was supported in its passage through Congress by Republicans and Democrats, and although initially aimed at tin, tantalum and tungsten, was amended to include gold. The Act will require US-listed companies to provide information on how they have carried out a due diligence on their supply chains. It also gives the SEC powers to require companies to report on this aspect. The Act will apply to companies for which gold is a necessary part of the products they make and sell. The Secretary of State will determine after five years whether the armed groups in the Congo continue to benefit from these minerals.

### **OECD due diligence guidance for responsible supply chain management of minerals from conflict-affected and high-risk areas.**

This draft due diligence guidance puts forward a framework for companies to manage risks in the supply chain structured around the procedural steps that companies should take to:

identify the factual circumstances that companies should consider while trading, handling, refining, manufacturing or selling minerals originating from conflict-affected and high-risk areas;

1. detect actual, potential or perceived risks by assessing the factual circumstances against applicable standards;
2. devise sound risk management and mitigation strategies as appropriate, including the categorisation of such factual circumstances and related risks as acceptable, unacceptable or susceptible of improvement.

The draft guidance is based on the supply chain of cassiterite, tantalum and wolframite as a case study. It is expected that the principles, standards and procedural steps will be applicable to other minerals as well (e.g. gold) and to supply chain aspects of minerals from both artisanal and industrial origin as appropriate. This draft guidance is

also intended to pave the way for the development and implementation of comprehensive certification schemes of mineral resources, the implementation of which requires the performance of due diligence.

### **Responsible Jewellery Council**

In April, the RJC announced that it is investigating the feasibility of developing a standard and process for independent, third party certification of chain-of-custody systems in the jewellery supply chain for both gold and diamonds. The stated aim is to assist RJC Members and other stakeholders who may wish to seek voluntary certification of chain-of-custody systems as a complementary element to the RJC certification of responsible business practices.

### **UN Group of Experts on the Democratic Republic of Congo**

The Group is currently drawing up recommendations for the UN Security Council on due diligence guidelines for companies importing, processing or using minerals from the DRC. The primary aim of this due diligence is intended to enable companies to avoid providing indirect support to Congolese armed groups that are collecting rents from mineral supply chains in the country. ■