

# Dodd-Frank Quick Hits – Conflict Minerals Newsletter | Volume 6

October 2012

This newsletter, published by Americas' FS Regulatory Center of Excellence (CoE), is intended to provide an overview of key aspects concerning the Conflict Minerals provision (Section 1502) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Act or Dodd-Frank).

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## Brussels workshop update

The EICC-GeSI Conflict-Free Minerals Supply Chain Workshop X<sup>1</sup> took place in Brussels, Belgium on September 17–18. Over 140 people gathered for the two-day conference to discuss the challenges facing supply chain traceability for conflict minerals. KPMG was pleased to be a sponsor for the event and to co-facilitate the downstream breakout session. Jim Low and Bala Lakshman from KPMG together with John Plyler from Research in Motion (RIM) led a discussion with at least 60 people from affected downstream organizations.

The discussion was centered on the newly released conflict minerals rule from the Securities and Exchange Commission (SEC). Companies asked questions and shared ideas to get a better understanding of what compliance with the SEC's newly released final rule may look like.

In summary, many questions remain unanswered because compliance approaches will be driven by industry type and by the size of the supply chain. Companies will have to determine at the industry and enterprise levels how to define uncertain terms like "reasonable" and "contract to manufacture" and how to meet the SEC's requirements vs. customer requirements.

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Links

[Visit KPMG's Conflict Minerals Webpage](#)

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Among the group, there was a clear desire for efficiency, companies should make efforts to:

- Leverage existing systems, processes, and policies that have been set up by industry groups (e.g., EICC-GeSI Dashboard Template<sup>2</sup>)
- Encourage collaboration and data sharing (i.e., across departments, organizations, and industries)
- Support the conflict-free smelter program<sup>2</sup>

Sources: 1) EICC-GeSI Conflict-Free Minerals Supply Chain Workshop X Materials: <http://www.resolve.org/site-scworkshop2012/workshop-x-materials/>;  
2) <http://www.conflictreesmelter.org/index.htm>

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## Gains made in DRC but skeptics remain

Section 1502 has been under criticism since the passing of Dodd-Frank in 2010. With the SEC's final rule on conflict minerals, criticism continues as confusion still looms around "ambiguous" terms in the rule; likewise, skepticism abounds as companies wonder if compliance with the law will have the intended effect on the ground in Democratic Republic of the Congo (DRC).

The conflict minerals provision was designed to address the exploitation and trade of conflict minerals originating in DRC, which is helping to finance conflict characterized by extreme levels of violence in the eastern DRC.

A report from London-based Chatham House<sup>1</sup> think tank argues that the purpose of the law is not achievable because the standards of the rule are not practicable and that the costs will cause companies to direct sourcing away from the region. The report further argues that the current infrastructure in Central Africa is poor and implementing an enforceable governance structure in the region will be challenging.

It will likely take years for companies to fully implement Section 1502 in order to determine the law's measureable results. However, with certain traceability schemes and initiatives in place, an Enough Project<sup>2</sup> report states that the number of armed groups who profit from conflict minerals has dropped 65 percent on account of conflict minerals regulation in Dodd-Frank and new technology industry sourcing polices.

Sources: 1) Reuters, "U.S. Congo Minerals Law Could Cut Investment, Livelihood – Study," September 21, 2012; 2) Enough Project Report: [http://www.enoughproject.org/files/ConflictMinerals\\_CongoFINAL.pdf](http://www.enoughproject.org/files/ConflictMinerals_CongoFINAL.pdf)

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## Survey says – Where are

[Beyond Part One: Developing a global compliance strategy](#)

[Public Policy Alert – Implications of the Conflict Minerals Rule – Lessons Learned](#)

[Conflict minerals – Does compliance really matter?](#)

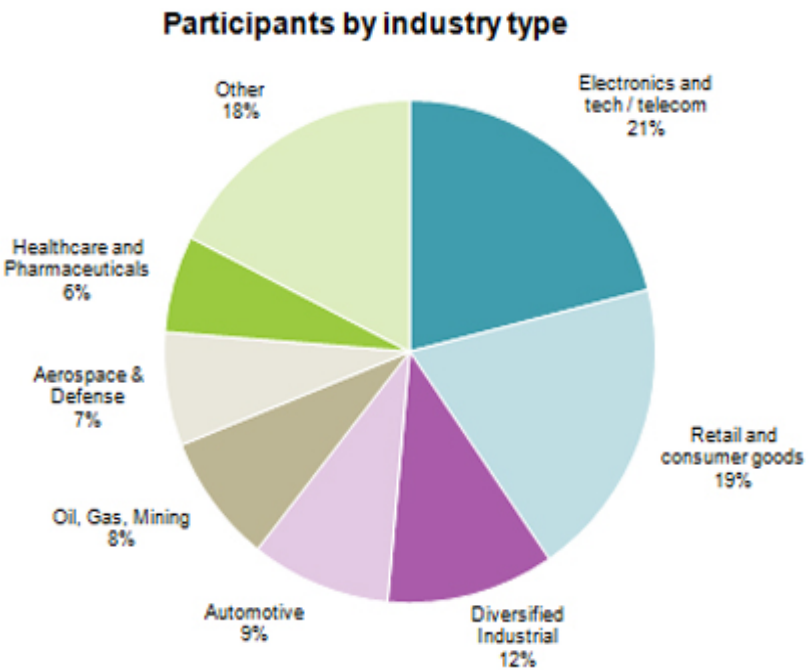
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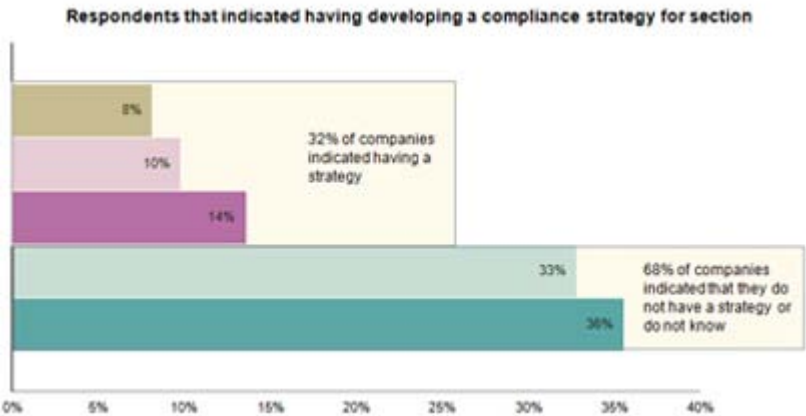
# companies on the road to compliance?

Last month, KPMG and King & Spalding law firm hosted a webcast to review the SEC's final rule on conflict minerals to an audience of over 1000 professionals. During the program, a number of questions were asked of participants to gauge where companies are in the process of compliance and how organizations will respond to the final rule.



Notes: 1) "Other" includes construction, jewelry, financial services, universities and NGOs; 2) Consultancies and other client services firms are not included in the "other" category

Respondents represented a broad industry set, with the majority from the Electronics and Retail sectors. Thirty-two percent of respondents indicated that they have developed a compliance strategy and that their company has begun to implement it — some at different stages of the reasonable country of origin search and due diligence processes.

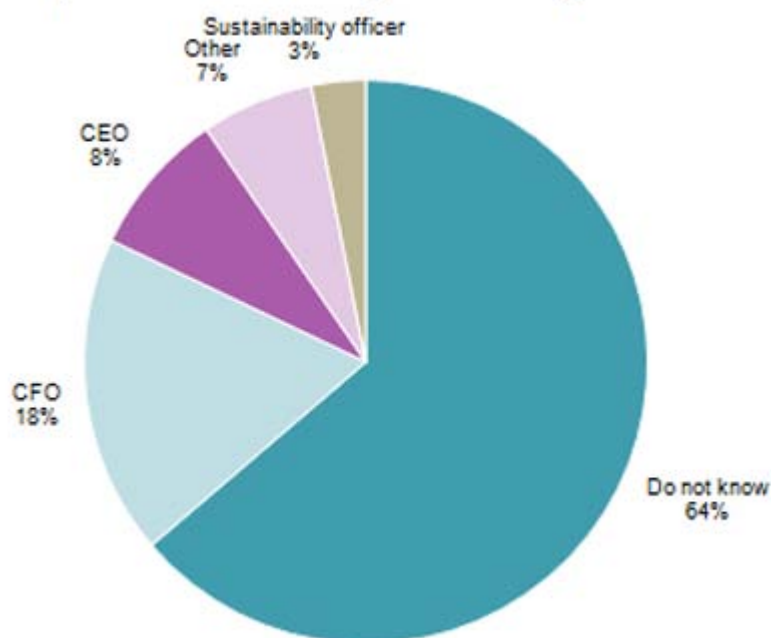


- ☐ Yes, we have a policy but have not started the country of origin inquiry
- ☐ Yes, we are finalizing our process and will begin due diligence in the next 3 months
- ☐ Do not know
- ☐ No, we do not have a strategy

Note: Numbers do not add up due to rounding.

While various groups across an organization will be involved in the implementation of a conflict minerals program, the SEC left it up to companies to determine who will be the ultimate owner of the “conflict minerals” disclosure, Form SD. Our survey indicated that over 64 percent of companies still do not know who will sign Form SD, while 18 percent of respondents indicated that the CFO will sign Form SD.

## Respondents indicating who will sign form SD



Notes: 1) “Other” includes construction, jewelry, financial services, universities, and NGOs; 2) Consultancies and other client services firms are not included in the “other” category

A replay of the webcast is available. [Click here](#) to watch the webcast recorded on September 5, 2012. To review the webcast highlights, [Click here](#).

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## Financial Executive Magazine: ***Conflict Minerals: Time to Develop a Compliance Strategy***

The latest issue of Financial Executive Magazine includes an article on conflict minerals by Jim Low, Partner, KPMG LLP. The article discusses how companies are currently developing a conflict minerals framework. The process is being lead by C-level executives

as the ultimate responsibility for reporting information to the SEC sits primarily with the CFO and conflict minerals reports (subject to audit) would be furnished as an exhibit to a company's public filings with the SEC.

The article also highlights the benefits of going beyond the compliance exercise; companies with effective conflict minerals strategies may reap long-term benefits of a more transparent supply chain that yields bottom-line results.

[Click here for view full article.](#)

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## Latest KPMG thought leadership

Conflict minerals and beyond – Part one: developing a global compliance strategy

In September, the CoE released a new report that examines the effect that Section 1502 will have on companies, globally. It highlights that compliance with these regulations is not just a box-ticking exercise, but also a matter of strategy. This publication also provides a broad view of the impact that the regulation will have on the enterprise; developing a strategy of compliance; and reaping long-term benefits in the form of supply chains that are more efficient, less risky, and more transparent.

Download the report here: [Conflict minerals and beyond – Part one: developing a global compliance strategy](#)

Implications of the Conflict Minerals Rule – Lessons Learned

Compliance with the newly adopted conflict minerals rule will be required of affected issuers beginning with the calendar year ending December 2013. KPMG has been working with many early adopters and we are pleased to share the latest publication in our public policy series that discusses the lessons learned in establishing conflict minerals compliance frameworks as well as leveraging the compliance process to develop better and more efficient business practices.

Download the Public Policy Alert here: [Implications of the Conflict Minerals Rule – Lessons Learned](#)

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