

## LEGAL + REGULATORY

## Growing Regulation Around Conflict Minerals

Regulations around the world targeting the use of conflict minerals are becoming more prevalent. Compliance shops should think through how to track evolving regulations in various countries and think ahead on how to incorporate elements from new regulations into existing compliance programs.

According to **RANE expert Michael Littenberg of Ropes and Gray**, the US Conflict Minerals Rule in Dodd-Frank will continue to be the primary driver of global compliance programs for the time being. The SEC has not been vigorously enforcing the Rule, but efforts to completely get rid of the Rule have thus far been unsuccessful. **Littenberg** warns that it would be premature for companies to “go pens down on their compliance.”

- **Littenberg** notes that even if the Rule were to go away, it would not make much of a difference for many compliance programs since many large companies have indicated they would continue to do much of the same work and require supply chains to responsibly source tin, tantalum, tungsten and gold (“3TG”).
- He also shares that there has been a dramatic increase in mandatory CSR compliance and disclosure requirements, which shows both regulatory and external stakeholder pressures at play to hold companies accountable.
- Beyond the Conflict Minerals Rule, **Littenberg** calls out other CSR-driven compliance regimes, including the Federal Acquisition Regulation anti-human trafficking provisions, resource extraction disclosure requirements in Canada and Europe, and the US Trade Facilitation and Trade Enforcement Act.

The EU Conflict Minerals Regulation will come into force in 2021. **Littenberg** explains that the Regulation will require importers of 3TG into the EU to “establish management systems to support due diligence, conduct due diligence, and make certain disclosures concerning the 3TG that they import into the EU.”

- The Regulation applies to importers into the EU ores or unrefined minerals to be processed by EU smelters of 3TG or of metals processed outside the EU. It does not cover manufacturers of components of finished products.
- The Regulation covers 3TG sourced from conflict-affected and high-risk areas worldwide, but does not call out countries by name. The European Commission is expected to release non-binding guidelines to help companies identify conflict-affected and high-risk areas by the end of 2017.
- **Littenberg** says that the EU has left the door open for downstream regulation – on manufacturers, importers, and sellers of finished components and products – if the current regulatory scheme is not effective.
- The Commission plans to write its requirements on risk management and due diligence in a way that aligns with the existing OECD Guidance framework for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.

**RELATED READING:**

[Five Practical Steps for Conflict Minerals Due Diligence and SEC Disclosure](#)

[The EU Conflict Minerals Regulation – Frequently Asked Questions and Take-Aways for Downstream Companies \(or Why Should I Care About Yet Another New Supply Chain Regulation?\)](#)