



IPSA Analysis: Approaches and Praxis

*Chris N. Bayer, PhD
Development International
January 27, 2017*

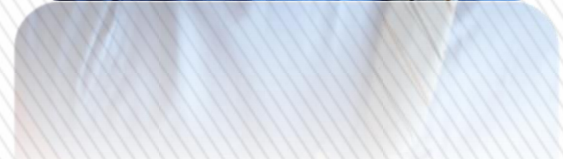


*with input from:
Lawrence Heim
Mike Loch*



Presenter:

Chris N. Bayer, PhD
Development International





Today's topics:

1. DI intro
2. Evaluation good practice
3. D-F Section 1502 law and rule architecture
4. IPSA-specific SEC operationalization of statutory law
5. Differences b/w SEC Rule & OECD DD Guidance
6. Lawsuit
7. RY 2014 IPSA assessment
8. RY 2015 IPSA assessment
9. Other possible IPSA analysis approaches
10. Q&A
11. Other notable findings



1. DI intro



- » Development International (DI) is a not-for-profit organization specialized in areas where law, business and development intersect:

Competencies

1. Survey research
2. Cost-benefit modeling and evaluation
3. Compliance assessment
4. Capacity building

Issues

Conflict commodities:

- conflict minerals

Labor issues:

- child labor (WFCL)
- slavery

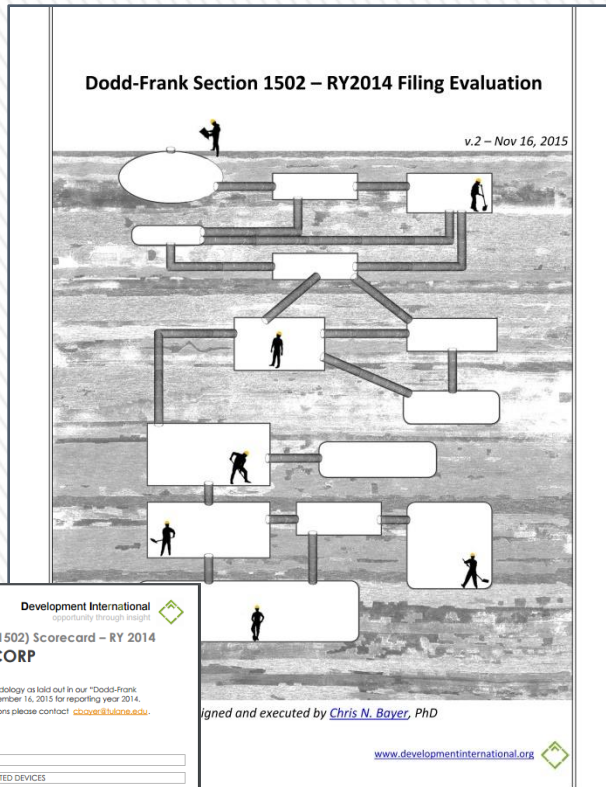


1. DI intro



» Conflict mineral compliance evaluations:

RY 2014:



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Conflict Mineral (Dodd-Frank 1502) Scorecard – RY 2014
INTEL CORP

Intro
This Conflict Mineral Scorecard is based on the methodology as laid out in our "Dodd-Frank Section 1502 – RY2014 Filing Evaluation" report of November 16, 2015 for reporting year 2014. To access this report, click [here](#). In case of any questions please contact info@di-intl.org.

Basic Information
CIK: 35963 (Link) to Report(s) [SD CMLR](#)
Primary SIC: 3674 SIC Division: **MANUFACTURING**
Division Code: 5 Industry: **SEMICONDUCTORS & RELATED DEVICES**
Filing Type: **SD - CMLR** Filing Date: 21.05.2015 RY 2013 Filer: Yes

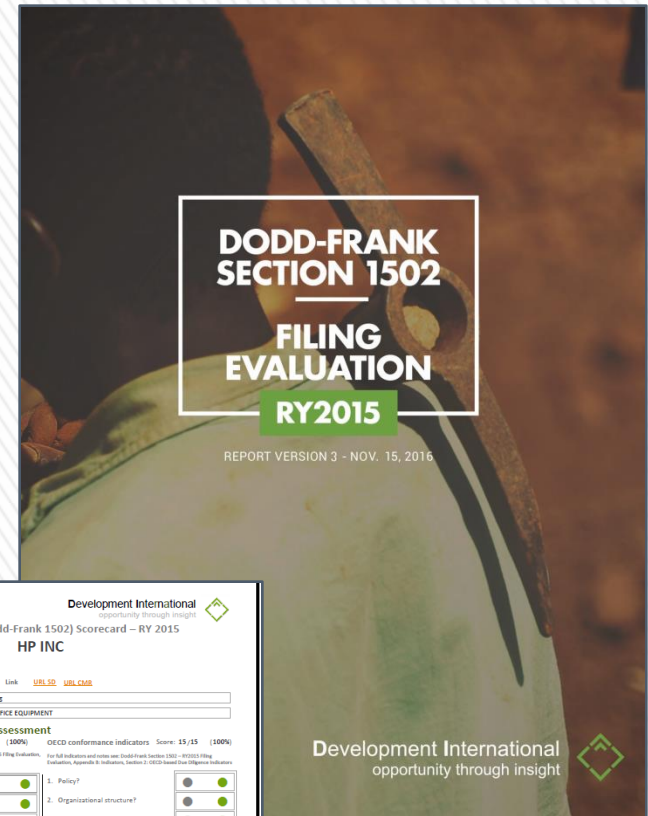
Conflict Mineral Disclosure Assessment

Tally: 15 of 15
Score: 100/100

Conclusion statement: ☒ Yes
RCOI steps described separately from DD? ☒ Yes
DD with description of measures described? ☒ Yes
Int. recognized DD framework name? ☒ Yes
Due Diligence defined as 5 steps? ☒ Yes
If "DRC conflict un-determinable", steps to improve due diligence mentioned? ☒ Yes
If "DRC conflict free", was IPSA filed as part of CMLR? ☒ Yes
If not "DRC conflict free", were products described? ☒ Yes
If not "DRC conflict free", were the facilities (SOR) used to process the necessary conflict minerals in those products listed? ☒ Yes
If not "DRC conflict free", was/were the Country/ies of Origin disclosed? ☒ Yes
If not "DRC conflict free", were the efforts to determine the mine or location of origin disclosed? ☒ Yes
URL to CMLR provided and working? ☒ Yes
Form SD signed by Executive Officer? ☒ Yes
NO deviation from SEC definitions? (only if explicitly stated) ☒ Yes
Filed on time? ☒ Yes

● No ● NA ● Yes

RY 2015:



Development International
opportunity through insight

Conflict Mineral (Dodd-Frank 1502) Scorecard – RY 2015
HP INC

Basic Information
CIK: 47237 Filing Date: 28.05.2016 Link: [URL SD](#) [URL CMLR](#)
Primary SIC: 3570 SIC Division: **MANUFACTURING**
Division Code: 5 Industry: **COMPUTER & OFFICE EQUIPMENT**

Conflict Mineral Disclosure Assessment
SEC compliance indicators: Score: 14/14 (100%) OECD compliance indicators: Score: 15/15 (100%)
For full indicators and notes see Dodd-Frank Section 1502 – RY2015 Filing Evaluation, Appendix B: Indicators, Section 2: OECD-based Due Diligence Indicators

1. On time? ☒ Yes
2. Signed? ☒ Yes
3. URL? ☒ Yes
4. Conclusions statement? ☒ Yes
5. Followed definitions? ☒ Yes
6. RCOI separate? ☒ Yes
7. DD described? ☒ Yes
8. DD framework name? ☒ Yes
9. DD 5 steps? ☒ Yes
10. Steps to improve DD? ☒ Yes
11. Products described? ☒ Yes
12. SOR facility(ies) listed? ☒ Yes
13. Country/ies of Origin disclosed? ☒ Yes
14. Efforts to determine mine? ☒ Yes
15. If "DRC conflict free" explicit, IPSA? ☒ Yes

● No ● NA ● Yes

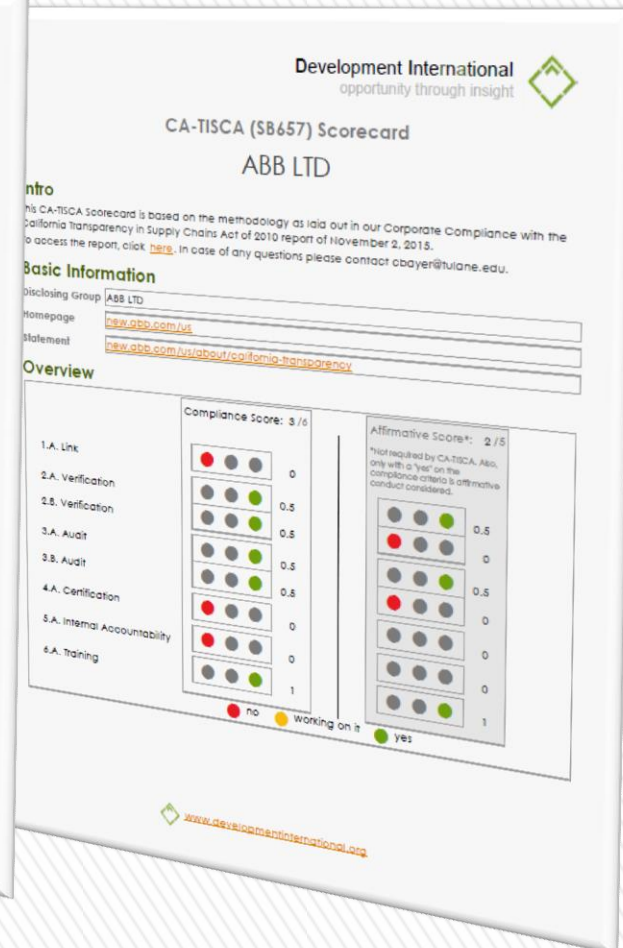
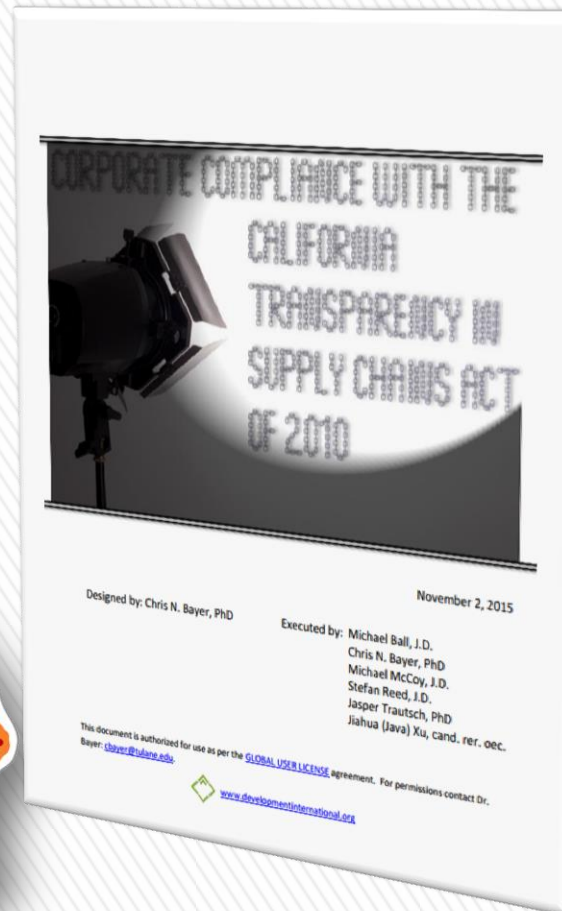
1. Policy? ☒ Yes
2. Organizational structure? ☒ Yes
3. Digital information-sharing system? ☒ Yes
4. Contracts? ☒ Yes
5. Grievance mechanism? ☒ Yes
6. Identified SOR(s) or upstream gaps? ☒ Yes
7. Engaged with SOR(s) to obtain information? ☒ Yes
8. Assessed SOR DD? ☒ Yes
9. Spot checks and/or audits of SOR(s)? ☒ Yes
10. Briefed senior management? ☒ Yes
11. Implemented risk management plan? ☒ Yes
12. Exercised leverage over upstream suppliers? ☒ Yes
13. Monitored SOR improvement? ☒ Yes
14. Supported SOR DD audits? ☒ Yes
15. Annually reported on DD? ☒ Yes
16. Conducted and published audit report(s) of SOR? ☒ Yes

<http://www.developmentinternational.org>

1. DI intro



Up next: 2nd benchmarking study of *Corporate Compliance with CA-TISCA (SB 657)*



2. Evaluation good practice



- 10-hour orientation:
 - lectures
 - mock evaluations
 - 2 speakers:
 - Mike Loch
 - Lawrence Heim
- weekly meetings:
 - mock evaluations
 - issues settled through consensus or vote
- private LinkedIn group (continuous Q&A)
- data verification was performed by a team member dedicated to this task
 - PI* was cced on all communication
 - PI* had the last word in case of issue

Evaluation Team 2016

Chris N. Bayer, PhD – PI*

Allison Johnson, Esq.

B. Frazier, Esq.

Caitlin Baroni, J.D.

David M. Franz, PhD

Jacob C. VanAusdall, J.D.

Jesse H. Hudson, J.D.

Joseph Schrempp, J.D. Candidate

Katherine D. Van Marter, J.D.

Michael J. Ball, Esq.

Stefan B. Reed, Esq.

* PI = Principal Investigator



2. Evaluation good practice



Independence of author / no competing interests

- PI designed the evaluation's format, approach and indicators.
- And, as last year, the data were collected and scores awarded solely by the evaluation team.
- Particular filings were randomly assigned to each indicator, and a system was in place that evaluators would report, when appropriate, any possible competing interest with respect to any particular issuer, in which case the specific filing was re-assigned.
- The author himself declares that he has no competing interests or a conflict of interest in duly carrying out this evaluation.
- He does not knowingly own stocks of any evaluated issuer, nor own stocks in the entities making up the study's Advisory Panel, nor the study's funder.
- In sum, he had no known vested interests vis-à-vis individual scores and findings of this study.



3. D-F Section 1502 law and rule architecture



- Under the law, an issuer would need to jump through a set of hoops in order to demonstrate its “innocence” in this matter
- The IPSA represents that last “hoop”



3. D-F Section 1502 law and rule architecture



- With Dodd-Frank Section 1502, lawmakers charged issuers with the burden of proof.
- The Act, operationalized in the SEC Rule, held all companies with “necessary” conflict minerals were effectively guilty until proven innocent and would need to perform a number of tasks to progressively demonstrate their “innocence:”
 1. A blanket term “conflict minerals” was applied to 3TG (defined as “columbite-tantalite (coltan), cassiterite, gold, wolframite, or their derivatives” in the Act) regardless of their provenance,
 - and issuers with such minerals necessary for products they manufactured or contracted to manufacture automatically fall within the scope of regulatory applicability;
 2. As per the SEC’s corresponding Rule, companies are to perform a “Reasonable Country of Origin Inquiry” to establish whether they have reason to believe that the 3TG they used did originate or may have originated from the DRC and/or adjoining countries;



3. D-F Section 1502 law and rule architecture



3. If so, they are to perform Due Diligence (DD) in accordance with a “nationally or internationally recognized due diligence framework;”
4. Upon having conducted Due Diligence, including having identified the Smelter or Refiner (SOR) and Country of Origin (COO), the issuer would also publicly report the conflict status determination of its necessary 3TG;
5. All issuers that are covered by the rule – regardless of their product characterization – then file an SD Form with the SEC (SD standing for “Special Disclosure”), and if they had reason to believe that their necessary 3TG originated from the Covered Countries, they would also submit a Conflict Mineral Report in the form of an exhibit on the due diligence inquiry they undertook, making their findings public;
6. If the issuer then wished to report that it had any products that were “DRC conflict free”, it would need to procure an Independent Private Sector Audit (IPSA) of its Conflict Minerals Report.



4. IPISA-specific SEC operationalization of statutory law

DFS 1502 statutory law [pages 2214 and 2215]:

- (A) ... person ... “to submit to the Commission a report that includes, with respect to the period covered by the report-- `(i) a description of the measures taken by the person to exercise due diligence on the source and chain of custody of such minerals, which **measures shall include an independent private sector audit of such report** submitted through the Commission that is conducted in accordance with standards established by the Comptroller General of the United States, in accordance with rules promulgated by the Commission, in consultation with the Secretary of State; and
- (B) Certification.--The person submitting a report under subparagraph (A) shall **certify the audit** described in clause (i) of such subparagraph that is included in such report. Such a certified audit shall constitute a critical component of due diligence in establishing the source and chain of custody of such minerals.
- (C) Unreliable determination.--If a report required to be submitted by a person under subparagraph (A) relies on a determination of **an independent private sector audit**, as described under subparagraph (A)(i), or other due diligence processes previously **determined by the Commission to be unreliable**, the report shall not satisfy the requirements of the regulations promulgated under subparagraph (A)(i).

4. IPSA-specific SEC operationalization of statutory law

DFS 1502 statutory law [Page 2218]:

(3) Report on private sector auditing.—

Not later than 30 months after the date of the enactment of this Act, and annually thereafter, the Secretary of Commerce shall submit to the appropriate congressional committees a report that includes the following:

- (A) An assessment of the accuracy of the independent private sector audits and other due diligence processes described under section 13(p) of the Securities Exchange Act of 1934.
- (B) Recommendations for the processes used to carry out such audits, including ways to—
 - (i) improve the accuracy of such audits; and
 - (ii) establish standards of best practices.
- (C) A listing of all known conflict mineral processing facilities worldwide.



4. IPSA-specific SEC operationalization of statutory law

IPSA objectives, according to the SEC Rule:

1. DD framework as described in CMR <-> conformity with, in all material respects, the criteria in OECD DD framework
2. DD measures performed (as described in CMR) <-> is consistent with the DD process that the registrant undertook



5. Differences b/w SEC Rule & OECD DD Guidance



Why OECD DD Guidance?

Page 206 of the SEC Rule (emphasis added):

The OECD’s “Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas” satisfies our criteria and may be used as a framework for purposes of satisfying the final rule’s requirement that an issuer exercise due diligence in determining the source and chain of custody of its conflict minerals.

The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (“the Guidance”) was developed to “help companies respect human rights and avoid contributing to conflict through their mineral sourcing practices.”



5. Differences b/w SEC Rule & OECD DD Guidance



A. Definition of due diligence

- The very definition of “due diligence” differs significantly between the Rule and the Guidance:

SEC Rule	OECD DD Guidance
<p>The SEC Rule has an extremely focused scope for due diligence:</p> <p>(“a description of the measures the registrant has taken to exercise due diligence on the source and chain of custody of those conflict minerals,” page 348).</p>	<p>In the OECD Guidance the definition is much broader:</p> <p>(“an on-going, proactive and reactive process through which companies can identify, prevent, mitigate and account for how they address their actual and potential adverse impacts as an integral part of business decision-making and risk management systems,” page 66).</p>



5. Differences b/w SEC Rule & OECD DD Guidance



B. Geographic scope

SEC Rule	OECD DD Guidance
The SEC Rule's Geographic scope is specifically limited to the DRC and the nine countries with which it shares a border.	Just as the name implies – “The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas” – concerns responsible supply chain management of minerals from conflict-affected areas globally, not just 3TG sourced from the DRC. Additionally, the Guidance is for all minerals, not just 3TG. With that said, the OECD Guidance does provide specific guidance to 3TG via the Supplement on Tin, Tantalum and Tungsten and the Supplement on Gold.



5. Differences b/w SEC Rule & OECD DD Guidance



C. Reasonableness vs. certainty standard for RCOI and DD

SEC Rule	OECD DD Guidance
<p>The Rule prescribes, on page 346, that: “... the registrant must conduct in good faith a reasonable country of origin inquiry regarding those conflict minerals that is reasonably designed to determine whether any of the conflict minerals originated in the Democratic Republic of the Congo or an adjoining country...”</p> <p>Also with regard to the due diligence inquiry, the SEC does not require 100% certainty. “As discussed below, certainty also is not required for the due diligence inquiry” (page 151, footnote # 451).</p> <p>Yet when an issuer makes a conflict status determination, use of the “DRC conflict free” determination is unequivocally reserved for those due diligence findings that do not leave doubt.</p>	<p>The OECD guidance embraces the reasonableness standard. It stipulates that:</p> <p>“...companies should take reasonable steps and make good faith efforts to conduct due diligence...” (page 14).</p> <p>The Guidance also states that “Companies may use this Guidance to make reasonable determinations as to the responsible conflict-sensitive nature of their products” (pages 64 and 65).</p>

For more detail, see pages 12 and 13 of our [RY 2015 benchmarking study](#)

5. Differences b/w SEC Rule & OECD DD Guidance



D. Point of assurance (audits)

Dodd-Frank Section 1502 foresaw issuers completing an IPSA on their actual Conflict Minerals Report, whereas the OECD Due Diligence Guide Step 4 requires an SOR's due diligence program be audited.

SEC Rule	OECD DD Guidance
<p>The Rule prescribes two objectives for the IPSA:</p> <ol style="list-style-type: none">1. “whether the design of the registrant’s due diligence measures as set forth in, and with respect to the period covered by, the registrant’s Conflict Minerals Report, is in conformity with, in all material respects, the criteria set forth in the nationally or internationally recognized due diligence framework used by the registrant,” and2. “whether the registrant’s description of the due diligence measures it performed as set forth in the Conflict Minerals Report, with respect to the period covered by the report, is consistent with the due diligence process that the registrant undertook.”	<p>In contrast, the OECD’s assurance scope is focused on the SOR level, but in return the SOR audit scope is broader, notably covering: “All activities, processes and systems used by the smelter/refiner to conduct supply chain due diligence of minerals from conflict-affected and high-risk areas.”</p> <p>The scope furthermore includes SOR “controls over the mineral supply chain, the information disclosed to downstream companies on suppliers, chain of custody and other mineral information, smelter/refiner risk assessments including the on-the-ground research, and smelter/refiner strategies for risk management.”</p>

5. Differences b/w SEC Rule & OECD DD Guidance



E. RCOI vs. OECD DD Guidance Step 2

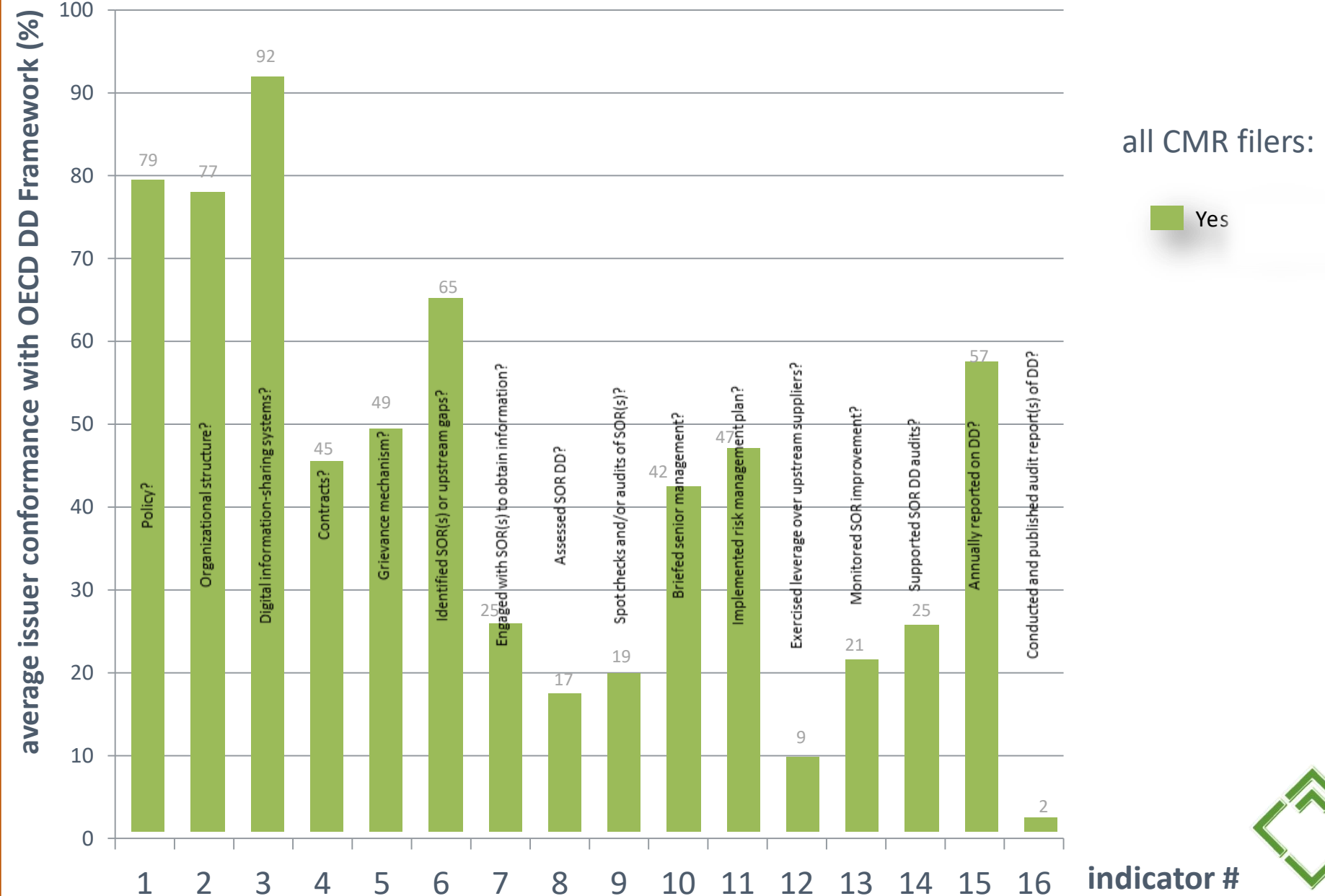
OECD STEP 2 – identifying and assessing risks in the supply chain – is similar to, but more involved than, the RCOI in scope and practice.

SEC Rule	OECD DD Guidance
The reason and purpose of the RCOI exercise – as prescribed in the SEC Rule – is to determine whether or not the issuer's necessary conflict minerals did originate or may have originated from the covered countries. In practice, the main methods employed to that end in RY2014 and RY2015 was the deployment of CMRT-based surveys among the issuer's Tier 1 suppliers, and the review of the CMRT responses for completeness and consistency with the issuer's requirements.	Yet the OECD guidance involves more engagement and verification to identify the scope of the risk assessment of the mineral supply chain. OECD Guidance, Step 2, sub-step B, for example, requires that the company engage with the SOR(s) in its supply chain(s) and obtain from them initial information on country of mineral origin, transit and transportation routes used between mine and smelters/refiners. The issuer would not simply take their suppliers' word for it regarding mineral origin, etc., but once SORs were identified, the SOR would be directly engaged to verify any preliminary data and get just that much closer to the mine. As this extra step of verification may very well end up uncovering surprises, this step is advised as per the OECD. Therefore, while the issuer may have conducted a bona fide RCOI according to the SEC rule, the issuer might still not be in full conformance with the OECD guidance with respect to its Step 2.

SEC Compliance – all CMR filers

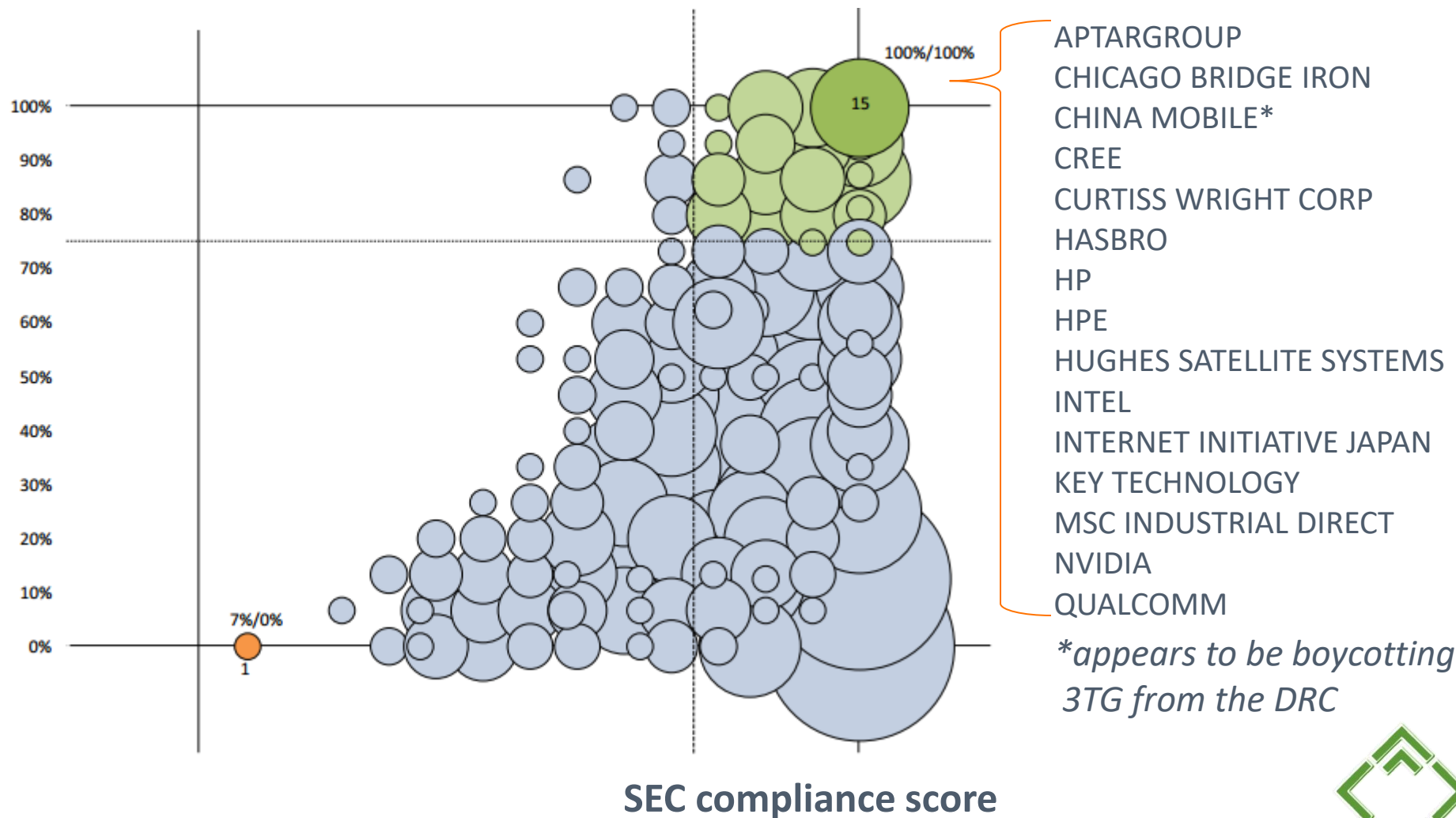


OECD Conformance – all CMR filers



15 issuers with a perfect 100-100 score

OECD conformance score



6. Lawsuit



IPSA scope pre- and post-NAM v. SEC lawsuit

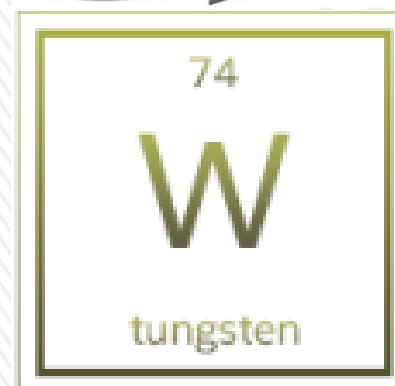
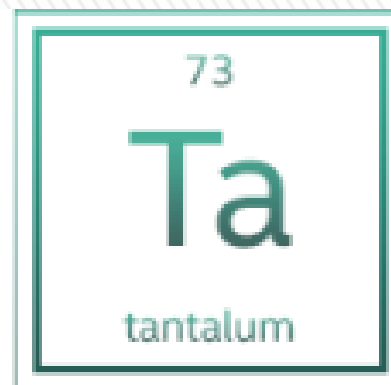
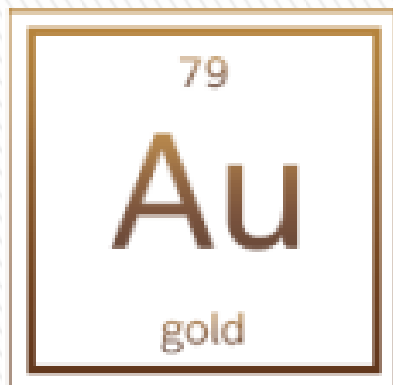
- While it was originally envisioned per the original SEC final Rule that all CMR filers were to have an IPSA performed (after the expiration of the 2-year / 4- year “DRC Undeterminable” categorization) to provide assurance regarding the issuer’s design of due diligence measures and the due diligence measures taken, this requirement was however modified by the SEC in response to the NAM v. SEC decision.
- Now, as per the SEC Statement of April 29, 2014, only issuers who voluntarily elect to describe a product as “DRC conflict free” in its Conflict Minerals Report must have an IPSA performed.



6. Lawsuit



Conflicted minerals:





7. RY 2014 IPSA assessment

- 6 IPSAs that were completed for reporting year 2014
- We selected nine points as “criteria,” derived from the GAGAS, which all 6 IPSAs referenced as a standard
- These 9 points comprise 7 which are non-contingent: an IPSA should state the:
 - 1) standards that were used
 - 2) audit objectives
 - 3) matters IN scope
 - 4) matters OUT of scope
 - 5) audit methodology
 - 6) level of assurance
 - 7) auditor conclusion or opinion
- And two points applicable only in certain circumstances:
 - 8) summary of views of responsible officials if the company provided comments on the audit report, and
 - 9) the nature of confidential or sensitive information that may have been used by the auditor but omitted from the report.



7. RY 2014 IPSA assessment

RY 2014 IPSAs - profile

	Indicator	Advanced Semiconductor	AVX	Intel	Kemet Corporation	Koninklijke Philips NV	Signet Jewelers
IPSA profile	Audit Firm	KPMG	Elm Sustainability Partners	Ernst & Young	Douglas Hileman Cons. LLC	KPMG Accountants N.V.	SGS
	CPA or Non-CPA	CPA	Non-CPA	CPA	Non-CPA	CPA	Non-CPA
	Audit firm also the client's financial auditors?	No	NA	Yes	NA	Yes	NA
	Audit firm country base	China	U.S.	U.S.	U.S.	Netherlands	UK
	Type of IPSA: Attestation Engagement (AE) or Performance Audit (PA)	AE	PA	AE	PA	AE	PA

7. RY 2014 IPSA assessment



contents, additional info

	Indicator	AS	AVX	Intel	KC	KP NV	SJ
Report contents	Statement what standards were used?	Yes	Yes	Yes	Yes	Yes	Yes
	Statement regarding audit objectives?	Yes	Yes	Yes	Yes	Yes	Yes
	Statement what is IN scope?	Yes	Yes	Yes	Yes	Yes	Yes
	Statement what is OUT of scope?	Yes	Yes	Yes	Yes	Yes	Yes
	Description of audit methodology?	Yes	Yes	Yes	Yes	Yes	Yes
	Level of assurance designated by the auditor: Reasonable (R), Limited (L)?	Yes: R	Yes: R	Yes: R	Yes: R	Yes: R	Yes: R
	Description of audit results?	Yes	Yes	Yes	Yes	Yes	Yes
	Summary of views of responsible officials (if applicable)	NC	NC	NC	NC	NC	NC
	Nature of confidential or sensitive information omitted (if applicable)	NA	NA	NA	NA	NA	NA
Additional information	Statement regarding management's responsibilities vis-à-vis its conflict minerals program?	Yes	Yes	Yes	Yes	Yes	Yes
	Name of lead auditor stated?	No	No	No	Yes	No	Yes
	Auditor's credentials indicated?	NA	Yes	NA	Yes	NA	Yes

7. RY 2014 IPSA assessment

explanation underpinning determination



Filer	Determination	Explanation
Advanced Semiconductors	DRC CF-E and CU-E	All packaging and material services products had a completely 3 rd party verified supply chain, thus they are CF-E. However, electronics division products had suppliers with SORs that were not verified yet or even in process to be verified, so also CU-E.
AVX	DRC CF-E	In its conclusion, AVX states that it trust its 143 suppliers, all of whom have reported that they source only Conflict Free 3TG. Thus, they claim CF-E.
Intel	DRC CF and CU-E	Per CFSP or similar 3 rd party verification organizations, all of Intel's supply lines for its Chipsets and Microprocessor business is verified conflict free. However, all other products have supply lines that lead to SORs that haven't even begun verification procedures. More specifically, of 229 SORs, 42 are in process of conflict free verification and 18 have yet to start the process.
Kemet Corporation	DRC CF-E and CU-E	4 of Kemet's products were CU-E because the Suppliers for those product lines contained unverified SORs. The rest of its products were completely sourced from 3 rd party verified SORs and thus, CF.
Koninklijke Philips NV	DRC CF and CU-E	Philips claims that it is unable to verify all its products' conflict status as it has not received word back from all 10,000 of their suppliers, must less what SORs those suppliers source from. The conflict-free status of some products is based on the CFSI RCOI report which the CFSI provides to its members.
Signet Jewelers	DRC CF-E	Claims that due to its use of Signet Responsible Sourcing Protocols (SRSPs), it has thoroughly checked its whole supply chain, and all the Covered Countries' SORs are verified Conflict Free by the CFSP or similar 3 rd party group.

8. RY 2015 IPSA assessment



IPSA types:

12 Attestations :

- KPMG – 6
- Ernst & Young – 2
- Crowe Horwath – 2
- Sikich LLP – 1
- Fiorella, Melone & LaSaracina – 1

7 Performance Audits:

- RCS Global – 3
- Elm Sustainability Partners – 2
- Doug Hileman Consulting – 1
- SGS – 1



8. RY 2015

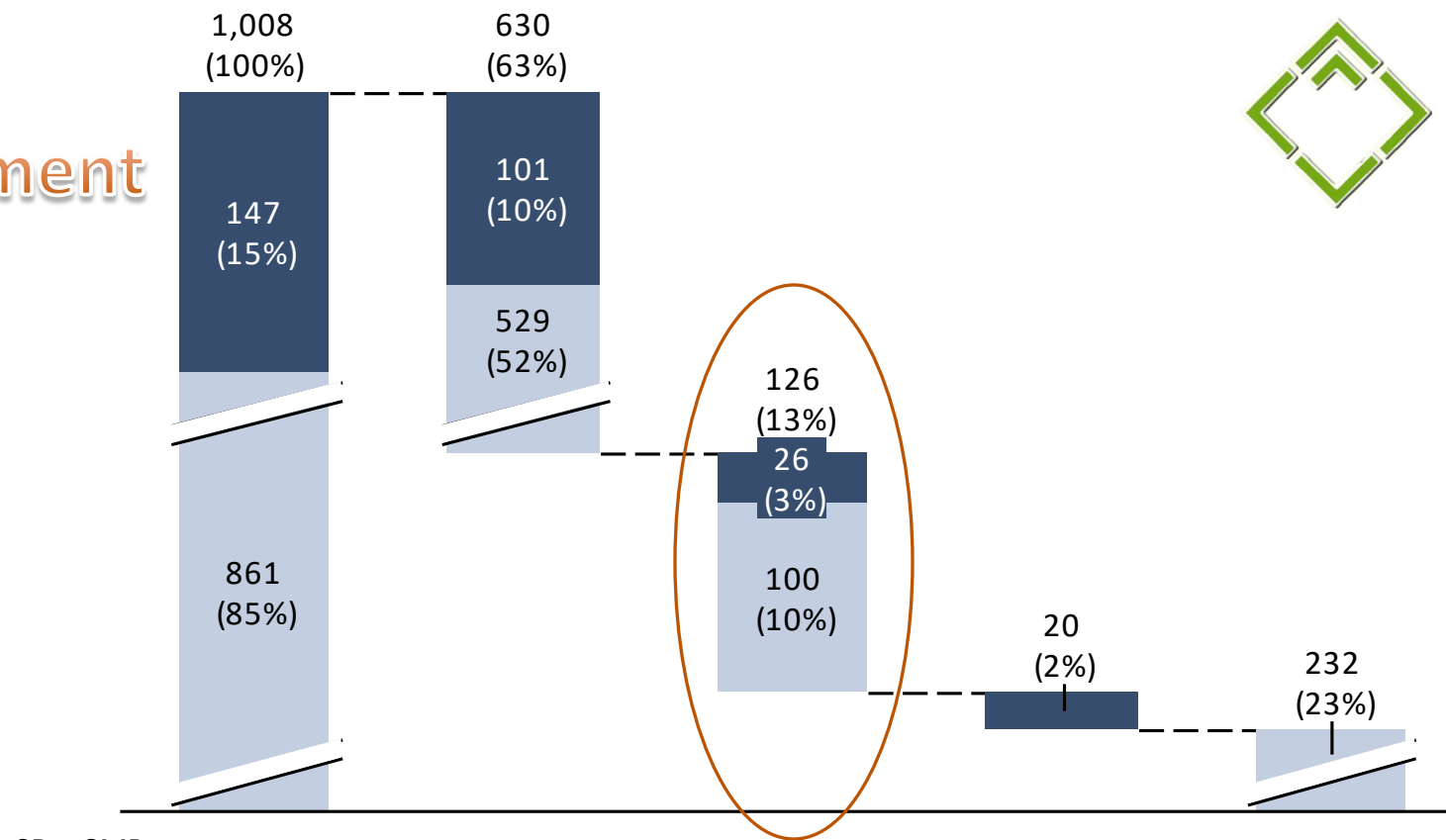
IPSA assessment

IPSAs vs.
explicit “DRC
Conflict Free”
determination

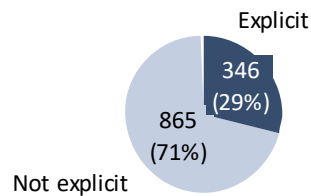
#	IPSAs	Issuer name	If “DRC conflict free” explicit, was IPSA filed as part of CMR?
1	yes	ADVANCED SEMICONDUCTOR ENGINEERING INC	Yes
2		ALPHATEC HOLDINGS INC	No
3		ARRHYTHMIA RESEARCH TECHNOLOGY INC DE	No
4	yes	ARROW ELECTRONICS INC	Yes
5	yes	AVX CORP	Yes
6	yes	CANON	NA
7	yes	CHINA MOBILE	Yes
8		ETHAN ALLEN INTERIORS INC	No
9		FRANKLIN WIRELESS CORP	No
10	yes	HALLIBURTON	NA
11		HICKOK INC	No
12	yes	HIMAX TECHNOLOGIES INC	Yes
13	yes	INTEL CORP	Yes
14	yes	KEMET CORP	Yes
15	yes	KONINKLIJKE PHILIPS N.V.	NA
16		LIFELOC TECHNOLOGIES INC	No
17	yes	M/A-COM TECHNOLOGY SOLUTIONS HOLDINGS	NA
18		MICRONET ENERTEC TECHNOLOGIES INC	No
19		ORION ENERGY SYSTEMS INC	No
20	yes	SIGNET JEWELERS LTD	Yes
21	yes	SILICONWARE PRECISION INDUSTRIES CO LTD	Yes
22	yes	SKYWORKS SOLUTIONS INC	Yes
23	yes	SMART TECHNOLOGIES INC	Yes
24	yes	SMITH NEPHEW PLC	Yes
25		STEEL DYNAMICS INC	No
26	yes	STRATTEC SECURITY CORP	Yes
27		SYNALLOY CORP	No
28	yes	TEXAS INSTRUMENTS	YES
29	yes	THE EASTERN COMPANY	NA
31		WSI INDUSTRIES INC	No
32		ZOOM TELEPHONICS INC	No
total			NA = 5 Yes = 14 No = 12

8. RY 2015

IPSA assessment



Due diligence conclusions



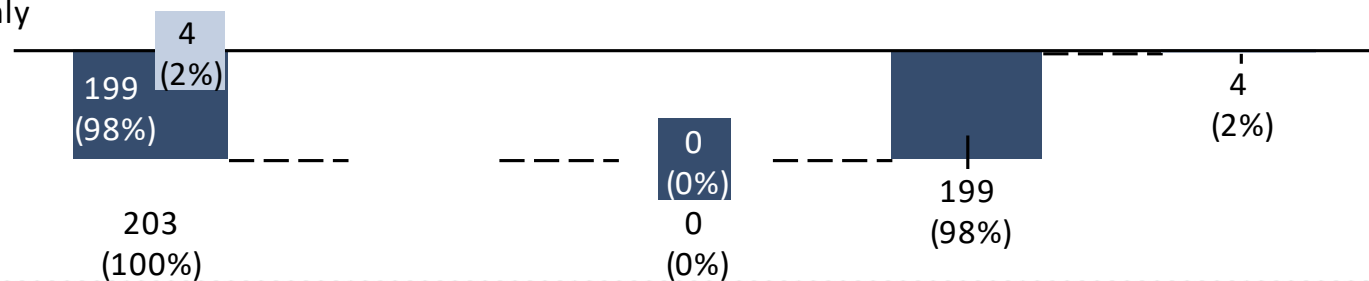
DRC conflict undeterminable

DRC conflict free*

Based on RCOI Only:
products do not contain 3TG
originating from CC

Not specified

SD only



8. RY 2015 IPSA assessment



IPSA objectives, according to the SEC Rule:

1. DD framework as described in CMR <-> conformity with, in all material respects, the criteria in OECD's DD framework
2. DD measures performed (as described in CMR) <-> is consistent with the DD process that the registrant undertook



8. RY 2015 IPSA assessment



Implausible COO and SOR countries

- An *implausible SOR country* is the DRC
 - **24** companies list the DRC as an SOR country in their supply chains!
- 9 *implausible COO countries* are: Hong Kong, Taiwan, UAE, Switzerland, Netherlands, Belgium, Singapore, Israel, Luxemburg
 - Of the 555 companies that listed their 3TG COOs, **303** submitted one or more implausible COOs!
 - Among them are:
 - 4 companies that claimed they were "*DRC conflict free*" and underwent an IPSA
 - 1 company that reported that 100% of its SORs had been audited



9. Other possible IPSA analysis approaches

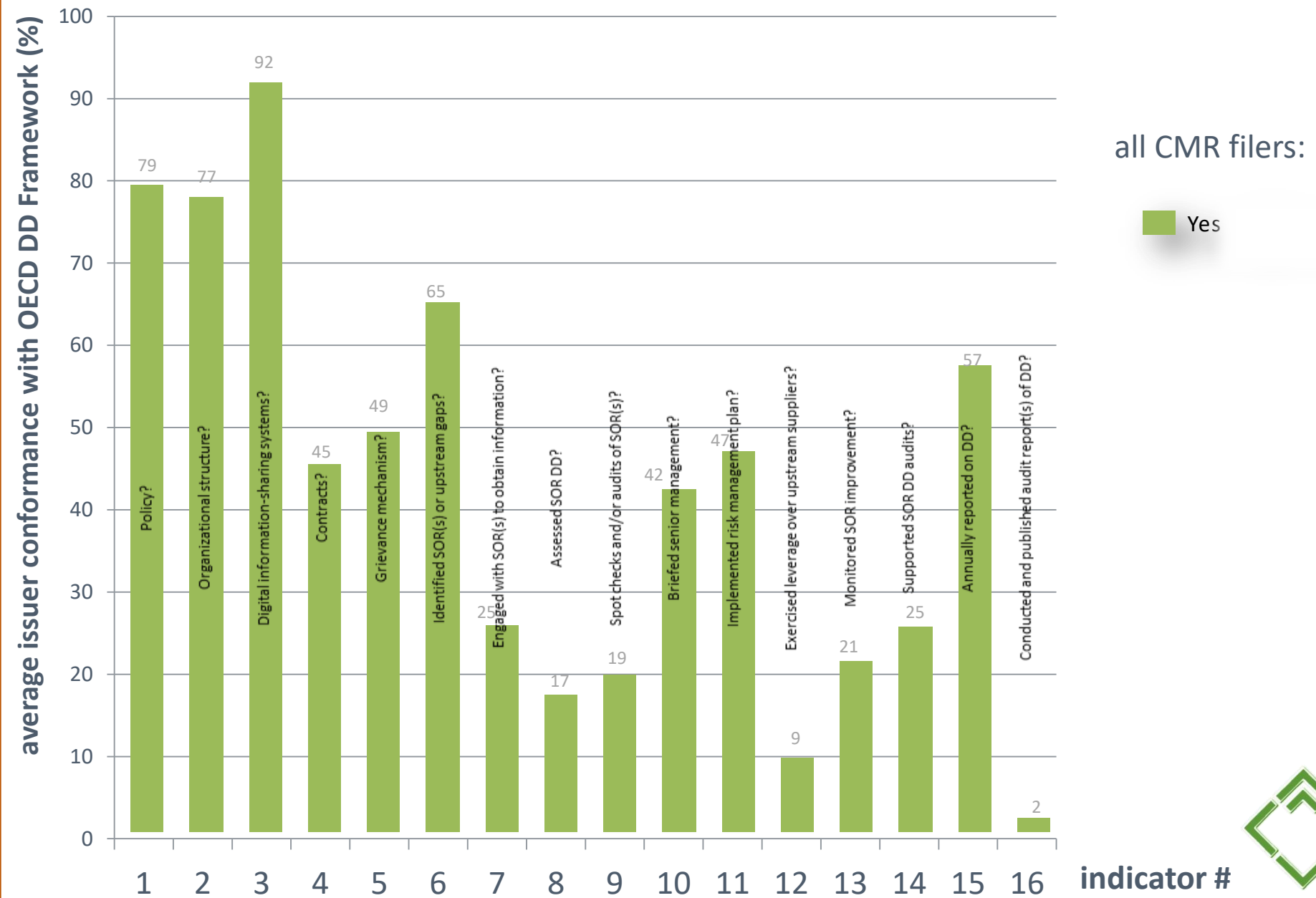


IPSA objectives, according to the SEC Rule:

1. DD framework as described in CMR <-> conformity with, in all material respects, the criteria in OECD DD Guidance
2. DD measures performed (as described in CMR) <-> is consistent with the DD process that the registrant undertook



OECD Conformance – CFSI members vs. all CMR filers



9. Other possible IPSA analysis approaches

DFS 1502 statutory law [Page 2218]:

(3) Report on private sector auditing.—

Not later than 30 months after the date of the enactment of this Act, and annually thereafter, the Secretary of Commerce shall submit to the appropriate congressional committees a report that includes the following:

- (A) An assessment of the accuracy of the independent private sector audits and other due diligence processes described under section 13(p) of the Securities Exchange Act of 1934.
- (B) Recommendations for the processes used to carry out such audits, including ways to—
 - (i) improve the accuracy of such audits; and
 - (ii) establish standards of best practices.
- (C) A listing of all known conflict mineral processing facilities worldwide.**




9. Other possible IPSA analysis approaches



	Tantalum TA ⁷³	Tin SN ⁵⁰	Tungsten W ⁷⁴	Gold AU ⁷⁹
Active	0	10	0	12
Compliant	46	68	40	93
Eligible	46	88	45	147

Source: [CFSI](#), as of January 23, 2017

List of these eligible SORs is found in CFSI's CMRT:

 www.conflictreesourcing.org/conflict-minerals-reporting-template/

being utilized. The template also facilitates the identification of new smelters and refiners to potentially undergo an audit via the CFSI Conflict-Free Smelter Program.

[Home](#) | [About](#) | [Conflict-Free Smelter Program](#) | [CMRT](#) | [Additional Training & Resources](#) | [Public Consultation](#) | [Training & Resources](#) | [Export - Smelter](#)

Download the Template

Download the latest version of the CMRT (version 4.20) below. Click [here](#) for a downloadable version of the most up-to-date Smelter Reference List.

[Download CMRT](#)





[DI's RY 2014 Benchmarking Report](#)

[DI's RY 2015 Benchmarking Report](#)

[DI's RY 2015 Scorecards \(1,220 issuers\)](#)





Q&A



11. Other notable findings



OFAC's sanctions programs

» The U.S. Treasury Department's Office of Foreign Assets Control administers sanctions programs involving:

- > the Balkans,
- > Belarus,
- > Burma,
- > the Central African Republic,
- > Cuba,
- > Democratic Republic of the Congo,
- > Iran,
- > Iraq,
- > Lebanon,
- > Liberia,
- > Libya,
- > Russia,
- > North Korea,
- > Somalia,
- > Sudan,
- > Syria,
- > Ukraine,
- > Yemen, and
- > Zimbabwe.

» The unprecedented transparency in the 3TG-based industries required by Dodd-Frank Section 1502 has revealed the exposure of US firms, primarily indirectly through their supply chains, to countries or individuals against which the U.S. has issued sanctions.



11. Other notable findings

Possible trade law violations (1)

U.S. comprehensive sanctions:

- **1** company listed North Korea as a possible Country of Origin of Gold contained in its products
 - Magal Security Systems Ltd. & North Korea:
https://www.sec.gov/Archives/edgar/data/896494/000117891316005589/exhibit_1-01.htm
- **180** CMR filers listed a North Sudan refinery as an SOR in their supply chain
 - Both Electro Scientific Industries Inc. and Polaris Industries Inc. list the Sudan Gold Refinery (CID002567) – located in the Sudan (North) – as an SOR in their supply chain



11. Other notable findings

North Korea, etc.

» Unless this issuer obtained a license from the U.S. Customs and Border Protection in order for the importation from North Korea to be allowed into the United States, such importation possibly constitutes a trade violation, in spite of the fact that the company is likely many tiers removed from North Korea.

- > “Pursuant to E.O. 13570, goods, services, and technology from North Korea may not be imported into the United States, **directly or indirectly**, without a license from OFAC or applicable exemption. This broad prohibition applies to goods, services, and technology from North Korea that are used as **components** of finished products of, or substantially transformed in, a third country.”

<https://www.treasury.gov/resource-center/sanctions/Programs/Documents/nkorea.pdf>



11. Other notable findings

Possible trade law violations (2)

SDN list:

- **244** filers disclosed that they had – or likely had – gold in their necessary products that was refined by *Fidelity Printers Ltd.* in Zimbabwe
 - linked to the sanctioned Sino Zimbabwe Development (Pvt) Ltd



11. Other notable findings

SND List

- » How are filers are ensuring that none of their business interests intersect with the Specially Designated Nationals and Blocked Persons List (SND List)?
 - > The principle problem in the eyes of the U.S. government is if a SDN is profiting from such transactions.
 - + According to the Office of Foreign Assets Control (OFAC): “Unless otherwise authorized or exempt, transactions by U.S. persons, or in or involving the United States, are prohibited if they involve transferring, paying, exporting, withdrawing, or otherwise dealing in the property or interests in property of an entity or individual listed on the SDN List.”





Thank you!

