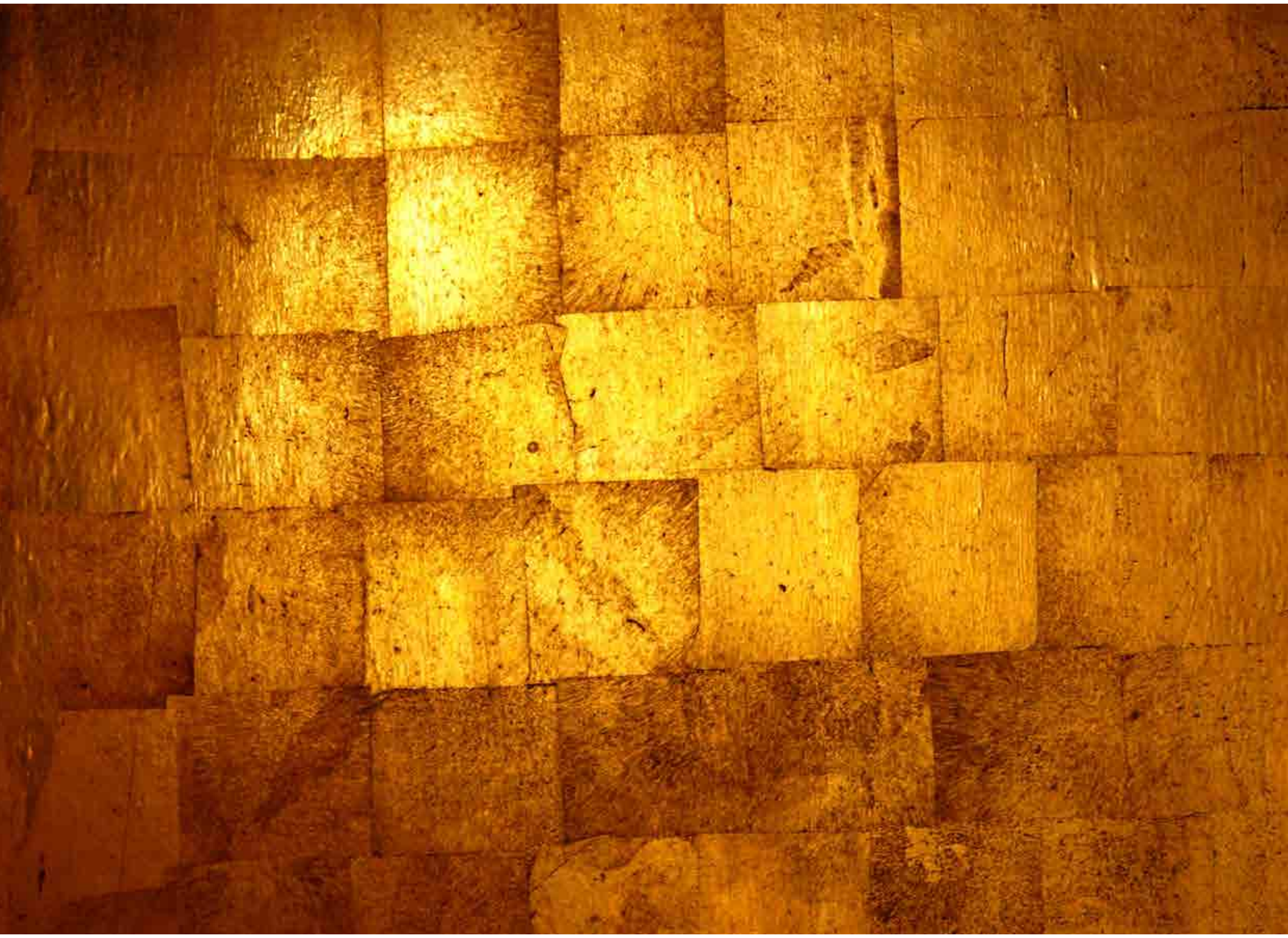
OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas

ALIGNMENT ASSESSMENT
OF INDUSTRY PROGRAMMES WITH THE OECD MINERALS GUIDANCE



OECD

2018

OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas

Alignment Assessment of Industry Programmes with the OECD Minerals Guidance

Co-funded by the European Union

Foreword

The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (OECD Guidance) provides detailed recommendations to help companies respect human rights and avoid contributing to conflict through their mineral purchasing decisions and practices. The OECD Guidance is for use by any company potentially sourcing minerals or metals from conflict-affected and high-risk areas.

In 2016, as part of the implementation of the OECD Guidance, the OECD launched a project to develop and pilot test an assessment methodology for evaluating the extent to which industry programmes align with the detailed recommendations of the OECD Guidance. This report presents the findings of the pilot alignment assessment of five industry programmes against the recommendations of the OECD Guidance.

Acknowledgements

The OECD Secretariat would like to thank the five programmes that volunteered for this pilot assessment and acknowledge the significant time and effort spent by programme staff to participate in the assessment, facilitate assessment activities (including in mineral producing regions as well as at refiner and smelter facilities around the world) and encourage member companies or those participating in the programme's assurance programme to speak to the evaluators. The five programmes are the Dubai Multi Commodities Centre (DMCC), the International Tin Supply Chain Initiative (ITSCI), the London Bullion Market Association (LBMA), the Responsible Jewellery Council (RJC) and the Responsible Minerals Initiative (RMI).

Beyond the five programmes, the OECD Secretariat would like to thank the non-programme members of the informal Advisory Group, namely Global Witness and the European Commission (the funder for this project), for their extensive and constructive input and feedback in the development of the methodology as well as the review of this pilot assessment.

The OECD Secretariat would particularly like to thank the independent third party, Kumi Consulting, for the excellent work on this project and the important support to the OECD Secretariat in undertaking this assessment.

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Terminology

Definitions of key terms used within this document:

OECD	The Organisation for Economic Co-operation and Development
OECD Guidance	The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High Risk Areas, inclusive of its Annexes and Supplements.
Industry programme	An initiative that has been established to support responsible mineral sourcing, requiring companies operating within or sourcing from mineral supply chains to meet certain standards, including (but not necessarily exclusively) the due diligence standards set out in the OECD Guidance. The term 'programme' includes supply chain due diligence schemes or initiatives established by industry bodies, independent or multi-stakeholder certification mechanisms, government schemes or any other organisations established to support the responsible production and sourcing of minerals.
Company	The company subject to an audit under the requirements of the programme or that is otherwise associated to or participates in the programme in such a way that it is expected by the programme to meet its standards and policies.
Auditor	The firm or individual appointed to audit a company against the requirements of the programme.
Alignment	The extent to which a programme specifies and oversees implementation of measures that require companies to put into practice the recommendations contained within the OECD Guidance
Alignment Assessment	The process by which an evaluator assesses a programme's alignment with the OECD Guidance using the methodology described in this document.
Alignment Assessment Tool	The spreadsheet-based tool that provides the detailed criteria of an Alignment Assessment and is made available alongside this document.

Evaluator	An independent organisation that evaluates, or individual commissioned to evaluate on behalf of an initiating organisation, a programme's alignment to the OECD Guidance in accordance with the accompanying methodology.[1]
Initiating organisation	The organisation that initiates or commissions the Alignment Assessment. The initiating organisation may be the programme itself or it may be an organisation independent of the programme being evaluated.
Shadow audit	Observations by the evaluator of the activities of an auditor who is auditing a company against the requirements of the programme.

[1] The methodology is available at https://mneguidelines.oecd.org/industry-initiatives-alignment-assessment.htm.

Executive summary

Substantial progress has been made in recent years towards raising awareness of the potential risks in mineral supply chains and encouraging companies to implement supply chain due diligence practices based on the recommendations set out in the *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas* (OECD Guidance). Industry programmes have played a major role in driving this progress. At the same time, however, international organisations, monitoring groups and media outlets have reported on weaknesses in company sourcing practices, including amongst those participating in industry programmes.

The OECD launched a project in 2016 to develop and pilot test an assessment methodology for evaluating the extent to which industry programmes align with the detailed recommendations of the OECD Guidance. The Alignment Assessment methodology that has been developed and tested through this project covers two aspects of an industry programme: it evaluates the extent to which the recommendations from the OECD Guidance have been incorporated into a programme's policies and standards, including procedures and operating requirements set by the programme for companies. It also evaluates the extent to which the OECD Guidance recommendations are implemented by a programme. Implementation looks at steps taken by a programme to ensure that recommendations from the OECD Guidance are put into practice, either by holding participating companies to account (for example via an audit) or through implementation activities for which the programme itself takes responsibility. It is important to note that the alignment of a programme does not infer that the due diligence practices of all companies within that programme are similarly aligned to the recommendations of the OECD Guidance.

Five programmes volunteered to participate in the pilot assessment. Four of the programmes implement, among other activities, Step 4 audits[2] at the smelter or refiner 'control point' as defined in the OECD Guidance: the Dubai Multi Commodities Centre (DMCC), the London Bullion Market Association (LBMA), the Responsible Jewellery Council (RJC) and the Responsible Minerals Initiative (RMI). The fifth programme, the International Tin Supply Chain Initiative (ITSCI), is an upstream due diligence programme that carries out due diligence, traceability and audits of its members, such as local exporters in producing regions and international traders.

Taking the structure and function of the five participating programmes into account, this pilot Alignment Assessment project has primarily focused on the assurance mechanisms that the five programmes have established relating to participating companies' due diligence practices, though other due diligence support and monitoring activities have also been taken into account where applicable.

This report provides the results of the pilot Alignment Assessment project. The Alignment Assessment Tool and accompanying methodology are published separately.[3]

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[2] The OECD Guidance identifies the smelter and refiner as the 'control point' in the mineral supply chains for tin, tungsten, tantalum and gold and recommends an independent third party audit as Step 4 of the five-step due diligence framework.

[3] The full methodology is available at https://mneguidelines.oecd.org/industry-initiatives-alignment-assessment.htm.

Assessment results

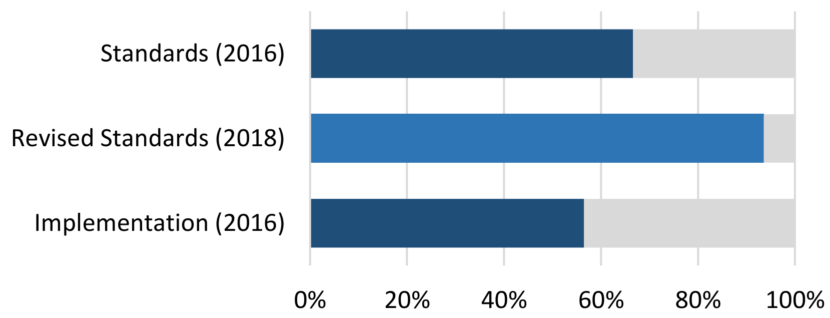
The initial assessment found significant gaps between industry programmes and the recommendations of the OECD Guidance. The 2016 assessment of standards and implementation found that of the five participating industry programmes, three were 'not aligned' (DMCC, RJC and RMI) and two were 'partially aligned' (ITSCI and LBMA).

In the year following the initial 2016 assessment, the participating programmes were given time to make changes to their standards to better align their requirements with the recommendations of the OECD Guidance. Programmes' standards were re-assessed in early 2018.

Following these changes, most of the programmes' standards now are in, or close to, full alignment with the recommendations of the OECD Guidance. For some of the programmes that implement Step 4 audits of smelters and refiners this has required fundamental reform and represents a significant achievement in a short space of time.

Due to the time needed for companies to implement and then be audited against the revised programme standards, implementation of the revised standards could not be re-assessed in this pilot project. A full re-assessment of implementation would be envisaged for 2019/2020. **Without the re-assessment of implementation it was impossible for any of the programmes to improve their rating to 'fully aligned' in this pilot assessment, given the shortfalls observed in programme implementation identified during the 2016 assessment activities.**

Figure 1: Average scores for overall alignment with the OECD five-step due diligence framework



Note. Calculations are averaged across programmes.

The challenge now will be to ensure that the revised due diligence requirements are effectively implemented across the industries covered by the programmes. As Figure 1 shows, the extent to which the due diligence recommendations from the OECD Guidance were implemented by programmes in 2016 closely relates to the extent to which a programme's standards were aligned to the OECD Guidance in the original assessment. Gaps at a standards level before the 2018 re-assessment therefore significantly impacted the practical implementation of due diligence measures for many of the participating programmes.

Priorities for strengthening supply chain due diligence practices

The fieldwork for this project has provided unprecedented insights into the current status of industry due diligence practices in the tin, tantalum, tungsten and gold supply chains. Several key priorities for strengthening supply chain due diligence in mineral supply chains have emerged:

- **Ensuring an adequate scope of due diligence:** Programmes and their companies' due diligence activities should cover the full scope of risks that are set out in Annex II of the OECD Guidance and risk assessment should be applied to supply chains globally, not limited to specific geographies. For some programmes the initial assessment identified substantial limitations in due diligence scope.
- **Ensuring an adequate depth of due diligence:** There is a need for programmes to ensure that participating companies apply due diligence to the whole supply chain, not just to tier 1 (direct) suppliers. Similarly, across many programmes implementing Step 4 audits of smelters and refiners there is a lack of effective on the ground due diligence by participating companies on their higher risk supply chains, as well as insufficient focus by these programmes in ensuring that on the ground due diligence assessments are undertaken, where necessary.
- **Building supplier capacity for due diligence:** Mineral supply chains are often complex, with many stages between the point of mineral extraction and the end use of minerals. Insufficient focus on building the capacity of suppliers to undertake adequate due diligence means that many companies in industry programmes may not have appropriate visibility or control over risks in their supply chain. Measures taken by programmes to strengthen supplier capacity to implement due diligence varied significantly and often had significant scope for improvement.
- **Implementation of risk mitigation measures:** Across many programmes participant companies – mainly smelters and refiners – that were interviewed or where audits were observed tended to disengage from suppliers if risks were identified, rather than seek to mitigate the risks through responsible sourcing practices. During most of the audits that were observed the auditors did not discuss risk mitigation. Programme engagement with participating companies on risk mitigation also varied significantly and, particularly amongst some smelter and refiner-focused programmes, was often lacking
- **Strengthening of independent audits:** Across programmes implementing refiner and smelter audits, significant gaps in auditors' knowledge on mineral supply chains and the OECD Guidance recommendations were identified. Gaps were also observed in relation to professional competencies of auditors, in particular, amongst some auditors, a lack of critical analysis. Many audits were overly focused on documentation checks rather than robustly challenging companies' management practices and due diligence decision-making.
- **Reliance by programmes on audits:** Many programmes rely on audits as the primary assessment and enforcement mechanism for ensuring that companies implement the programme's requirements. There is a need for ongoing monitoring of risks in supply chains and of the due diligence activities of companies beyond the 'point in time' assessment provided by an audit.
- **Transparent reporting on due diligence activities:** Across all programmes there is a need for improved reporting by companies. While some programmes ensure that most participating companies publish due diligence reports, the reports were often basic and generic, lacking descriptions of risks or measurable indicators of risk management performance. Some programmes needed to adjust their standards to clarify that there is a clear requirement for annual public reporting.

Programme governance

It is important to note that the assessment of programme governance does not form part of the formal alignment assessment of programmes as governance matters are not explicitly addressed in the OECD Guidance. However, programme governance is key to a programme's effectiveness, so this remains an important aspect of the assessment. There were some common areas of strength across programmes:

- The vetting procedures for companies wishing to participate in the programme and the formalisation of internal procedures to respond to grievances relating to the programme or participating companies.
- The governance of the audit process (i.e. co-ordination of audit activities) was an area of strength across most of the programmes and included aspects such as the independence of auditors and the necessary processes for corrective action plans following an audit.

The delivery of audits (i.e. the technical content of the audits themselves) was a particular area of programme governance identified as needing improvement. Key priorities include:

- Specifying that auditors design audit testing activities that are focused on those areas that represent the greatest risk.
- Ensuring that auditors obtain a sufficient understanding of the nature of the auditees' business and supply chain when undertaking their audits.
- Ensuring that programme auditor accreditation is focused on the skills and competencies of individual auditors and are not limited to generic firm-level accreditations.

Strategic considerations across programmes

Beyond the programme specific findings and cross-cutting observations, some more strategic considerations emerged as part of this assessment.

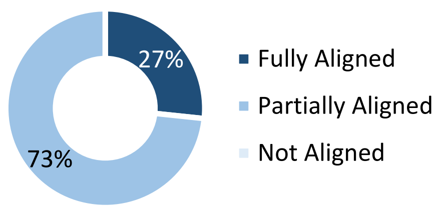
- **Cross-recognition between programmes:** Many programmes have taken steps to cross-recognise other programmes. At the same time, significant differences in the design and implementation between programmes exist which can create challenges for mutual recognition. Where programmes rely on other initiatives to support certain aspects of their due diligence requirements (for example, when relying on upstream due diligence programmes, or on mutual recognition between various smelter and refiner audit programmes), a robust and regular assessment of these initiatives, including their standards and implementation, will be important. Even if effective cross-recognition assessments between programmes are in place, individual companies should undertake appropriate due diligence on their suppliers as a programme's alignment with the OECD Guidance does not mean that all companies within that programme are implementing due diligence practices that are aligned with the OECD Guidance. Therefore companies cannot simply rely on a supplier's participation in an industry programme as evidence of effective due diligence by that supplier.
- **Sourcing from artisanal and small-scale miners (ASM) and higher risk areas:** Refiner and smelter-level programmes should strive to do more in terms of encouraging the responsible sourcing from ASM and discouraging a currently common default position of smelters and refiners to disengage from ASM or higher risk areas. The OECD Guidance is explicitly intended to support responsible sourcing from higher risk areas and industry disengagement can have significant adverse impacts on mineral producing communities and regions.

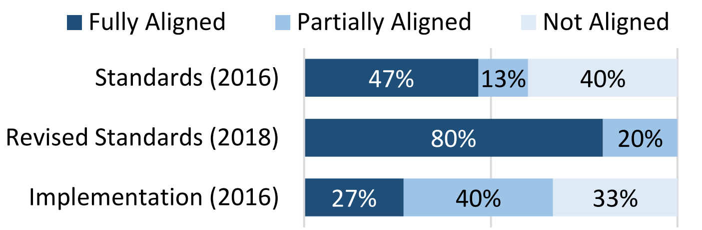
Assessment results for individual programmes

Dubai Multi Commodities Centre (DMCC)

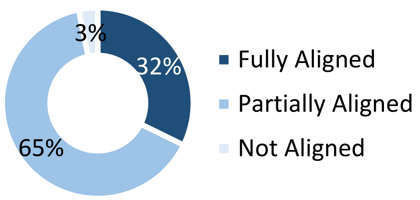
Overall rating 2018: Partially Aligned

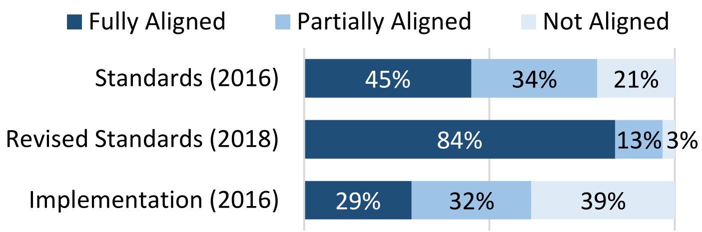
Overarching due diligence principles



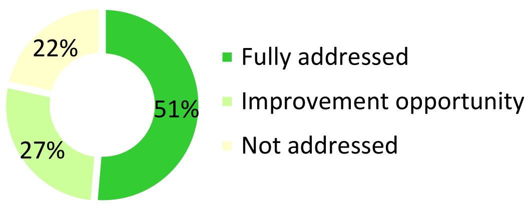


Overall alignment with the five-step framework





Programme governance review



Key strengths of the DMCC programme

- DMCC staff oversight of the detailed findings that result from the audit programme.
- Engagement on responsible sourcing with gold traders and government authorities in the UAE and with producers and exporters in higher risk countries.
- An Independent Governance Committee provides a mechanism for external oversight of the programme.

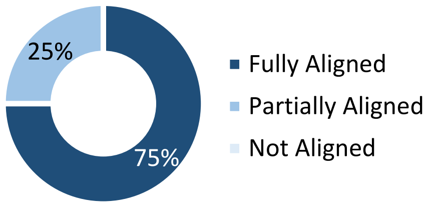
Key areas for improvement

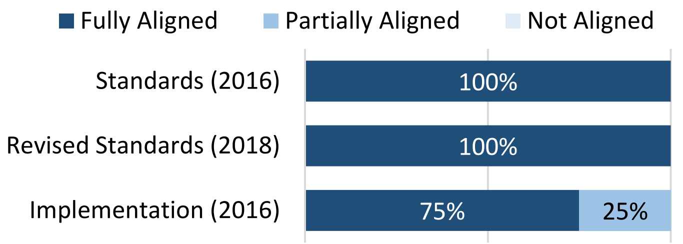
- Enhance the vetting and capacity building of auditors to strengthen audit consistency and rigour.
- More explicit clarification to DMCC refiners and auditors that all Annex II risk areas should be considered during risk assessment and risk mitigation activities.
- Clarification to DMCC refiners and auditors that on the ground risk assessments should always be undertaken on red-flagged supply chains.

International Tin Supply Chain Initiative (ITSCI)

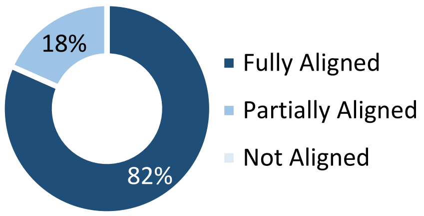
Overall rating 2018: Partially Aligned

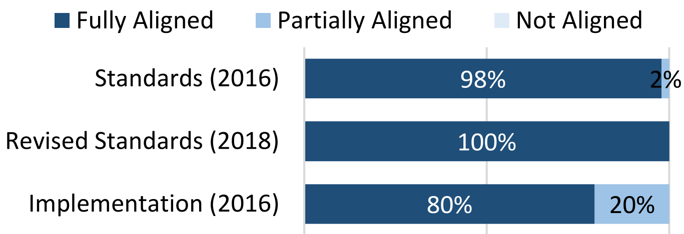
Overarching due diligence principles



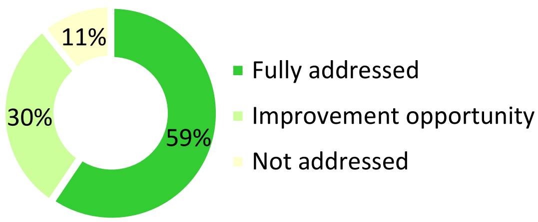


Overall alignment with the five-step framework





Programme governance review



Key strengths of the ITSCI programme

- Detailed focus on the practical application of the OECD Guidance in high risk areas, reflected in 100% alignment on standards across all assessment criteria.
- Extensive on the ground activities including involvement of local stakeholders on risk assessment and monitoring.
- Effective audit programme (note: ITSCI audits are not Step 4 audits at the smelter or refiner level but cover upstream entities such as mining cooperatives and companies, local exporters and some international traders).

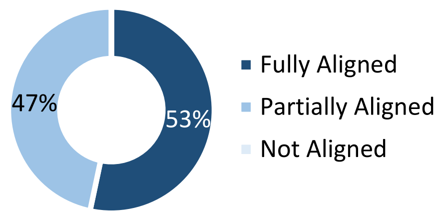
Key areas for improvement

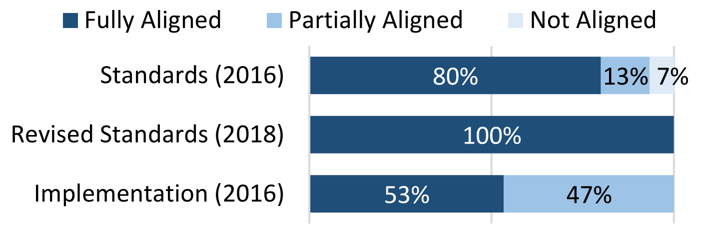
- Build the capacity of member companies to undertake risk assessment and risk mitigation.
- Improve the timeliness and accessibility of programme communications (recognising that communications for financially contributing programme members may be prioritised).
- Strengthen organisational governance.

London Bullion Market Association (LBMA)

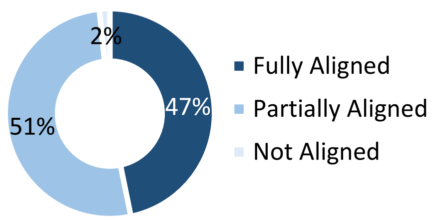
Overall rating 2018: Partially Aligned

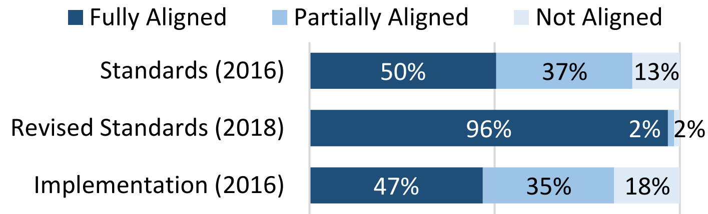
Overarching due diligence principles



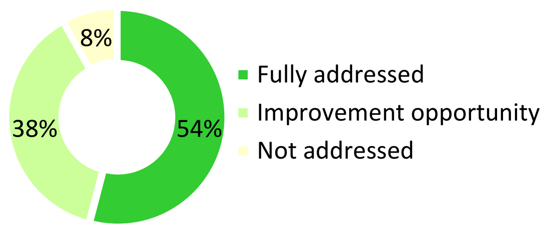


Overall alignment with the five-step framework





Programme governance review



Key strengths of the LBMA programme

- Programme requirements closely follow the structure and content of the OECD Guidance.
- Principles of company responsibility and accountability are clearly understood by refiners interviewed or visited during the assessment.
- Strong internal governance and structured management processes.

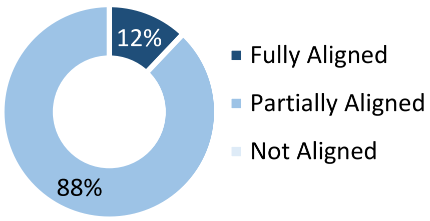
Key areas for improvement

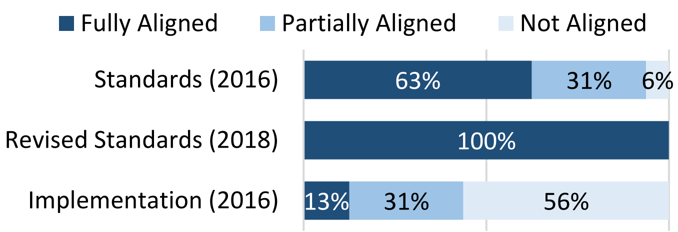
- Strengthen requirements so that refiners ensure due diligence is undertaken throughout the supply chain, beyond tier 1 (direct) suppliers, where appropriate.
- Enhance the vetting and oversight of auditors to strengthen audit consistency and rigour.
- Provide transparency on refiner de-listing decisions and non-conformance findings from the audit programme.

Responsible Jewellery Council (RJC)

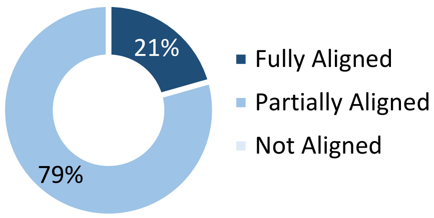
Overall rating 2018: Partially Aligned

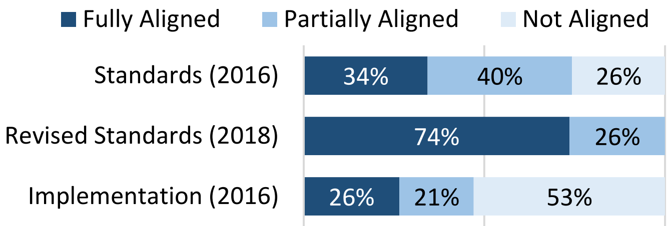
Overarching due diligence principles



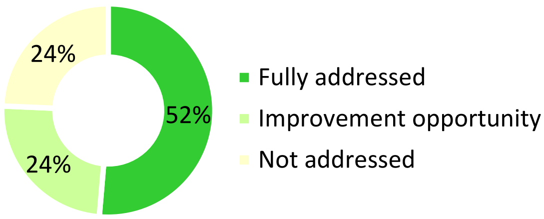


Overall alignment with the five-step framework





Programme governance review



Key strengths of the RJC programme

- Programme's significant leverage and reach across the jewellery sector through both the Code of Practices (CoP) and Chain of Custody (CoC) standards.
- Extensive communications and guidance to members and external stakeholders.
- Transparency on programme impacts and performance, including reporting against a publicly available Theory of Change.

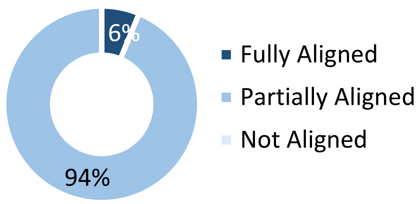
Key areas for improvement

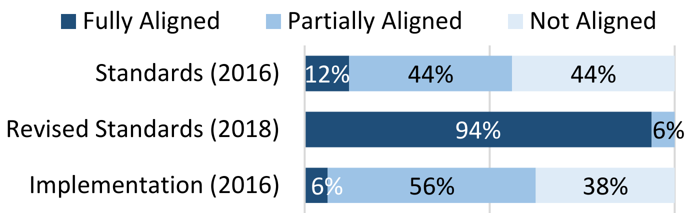
- Responsible sourcing requirements are mainly contained in the RJC's Chain of Custody standard which, at the time of writing, was adopted by only 6% of RJC's member companies. Inclusion of more robust responsible sourcing requirements in the Code of Practices would significantly boost responsible sourcing throughout the jewellery industry.
- Ensure that responsible sourcing requirements are implemented across all gold sourced by refiners seeking CoC certification.
- Strengthen the audit programme requirements and the competencies of auditors.

Responsible Minerals Initiative (RMI)

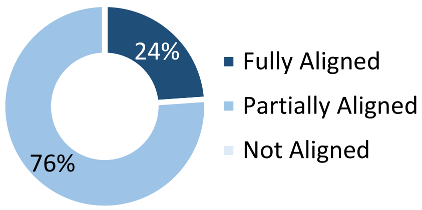
Overall rating 2018: Partially Aligned

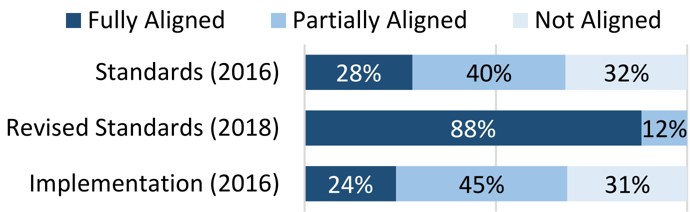
Overarching due diligence principles



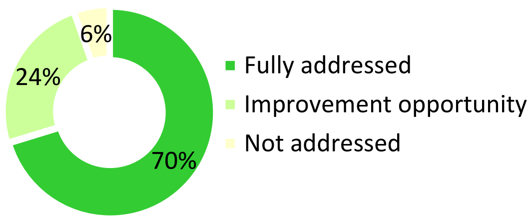


Overall alignment with the five-step framework





Programme governance review



Key strengths of the RMI programme

- Effective programme management that includes extensive and proactive engagement with external stakeholders.
- Use of leverage to facilitate due diligence and risk mitigation activities both upstream and downstream.
- High levels of transparency with extensive information made available to members and non-RMI members.

Key areas for improvement

- Develop a robust assessment mechanism to enable the RMI to evaluate and monitor the effectiveness of due diligence measures undertaken by third party upstream programmes.
- Ensure effective implementation by both companies and auditors of the significantly revised standards.
- Strengthen the audit programme requirements and the competencies of auditors.

Introduction

The OECD has helped lead global efforts to devise and implement an internationally-recognised standard for responsible sourcing of minerals, the *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas* (OECD Guidance). Substantial progress has been made in recent years towards raising awareness of the potential risks in mineral supply chains and integrating into companies' supply chains due diligence practices in line with the OECD Guidance. Industry programmes have played a major role in driving this progress. At the same time, international organisations, monitoring groups and media outlets have reported on weaknesses in company sourcing practices across the globe, including those participating in industry programmes.

Between 2011-2016, the OECD programme on responsible mineral supply chains focused primarily on promoting industry implementation of the OECD Guidance through outreach, awareness-raising and technical assistance. As due diligence practices evolve, the OECD has now turned its attention towards strengthening the quality of those efforts, including by assessing industry programmes, their standards and implementation.

In this context, the OECD launched a project in 2016 to develop an Alignment Assessment tool and methodology to evaluate how those programmes align with the detailed recommendations of the OECD Guidance, and to undertake pilot assessments during 2016 and 2017 of industry programmes in the tin, tantalum, tungsten and gold supply chains.

Five programmes volunteered to participate in the pilot assessment. Four of the programmes implement, among other activities, Step 4 audits[4] at the smelter or refiner 'control point' as defined in the OECD Guidance: the Dubai Multi Commodities Centre (DMCC), the London Bullion Market Association (LBMA), the Responsible Jewellery Council (RJC) and the Responsible Minerals Initiative (RMI). The fifth programme, the International Tin Supply Chain Initiative (ITSCI), is an upstream due diligence programme that carries out due diligence, traceability and audits of its members, such as local exporters in producing regions and international traders.

Taking the structure and function of the five participating programmes into account, this pilot Alignment Assessment project has primarily focused on the assurance mechanisms that the five programmes have established relating to participating companies' due diligence practices, though other due diligence support and monitoring activities have also been taken into account where applicable.

A brief description of each participating programme is provided below, with further background information available in Annex A:

> **DMCC:** The Dubai Multi Commodities Centre's Practical Guidance for Market Participants in the Gold and Precious Metals Industry is available for any company that wishes to be accredited to one of the two standards provided by the DMCC; the Dubai Good Delivery standard or the Market Deliverable Brand standard. The DMCC Guidance was developed to implement the OECD Guidance recommendations.
>
> **ITSCI:** The International Tin Supply Chain Initiative is an industry programme focused on the upstream tin, tantalum and tungsten (3T) supply chains from the African Great Lakes region to

[4] The OECD Guidance identifies the smelter and refinery as the 'control point' in the mineral supply chains for tin, tungsten, tantalum and gold and recommends an independent third party audit as Step 4 of the five-step due diligence framework.

global markets. It provides a traceability and due diligence system that tracks minerals and monitors operators from mine to smelter. ITSCI is implemented on the ground by NGO partners and government agencies, supported by the Secretariat and independent evaluators. ITSCI was developed to implement the OECD Guidance recommendations.

LBMA: The London Bullion Market Association launched its Responsible Gold Guidance (RGG) in 2012 as a mandatory requirement for all refiners on the LBMA Gold Good Delivery List, which is recognised globally as the benchmark standard for gold bullion bars. The LBMA RGG was developed to implement the OECD Guidance recommendations.

RJC: The Responsible Jewellery Council's membership encompasses all stages of the diamond, gold and platinum group metals jewellery supply chain, from mining companies through to retailers. The RJC has a mandatory Code of Practices, which pre-dates the OECD Guidance and covers a wide range of supply chain issues, including responsible sourcing and human rights due diligence. The RJC also has a voluntary Chain of Custody certification standard which focuses on precious metals (gold, platinum, palladium and rhodium) and was developed, in part, to implement the OECD Guidance recommendations.

RMI[5]: The Responsible Minerals Initiative was rebranded from the Conflict-Free Sourcing Initiative (CFSI) in October 2017. The primary focus of RMI's requirements that were in force at the time of this pilot was on compliance with the US Dodd Frank Act Section 1502 relating to conflict minerals. These regulatory requirements reference the OECD Guidance but do not specifically aim to implement the OECD Guidance recommendations.

Box 1: The OECD Guidance and industry programmes

After extensive multi-year, multi-stakeholder negotiations and consultations, the *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas* was launched in 2011 with a global scope and a supplement containing mineral-specific recommendations for the tin, tantalum and tungsten supply chains. A supplement providing recommendations for the gold supply chain was added to the Guidance in 2012. Since then, growing numbers of programmes, often initiated by industry bodies or associations, have been set up or adapted from pre-existing programmes to put the recommendations of the Guidance into practice.

The Guidance encourages collaboration and cooperation between companies and the setting up of industry programmes that can support due diligence, though companies always remain individually responsible for due diligence in their supply chains. Advantages of such collaboration include:

- Cooperation builds capacity on due diligence, common risks and mitigation strategies
- Cost-sharing when programmes take on specific due diligence tasks
- Coordination between programme members on risk assessment and mitigation for those who share suppliers or operate in the same areas
- Increased cooperation between upstream and downstream, smaller and larger, experienced and less experienced companies
- Building partnerships with civil society organisations, government agencies and international organisations

[5] Rebranded from its original name, the Conflict-Free Sourcing Initiative (CFSI), in October 2017.

About this report

This report sets out the findings of the pilot Alignment Assessment of the five participating programmes. A first assessment of each programme covered both standards and implementation activities (see methodology section for more detail). Programmes were then presented with the findings of this first assessment in mid-2017 and, in line with the spirit of progressive improvements set out within the OECD Guidance, given a three month period in late 2017 to make changes to their standards. These were then re-assessed in early 2018.

A comparative analysis of programme standards before and after the re-assessment as well as an account of implementation challenges that were found during the initial assessment is set out within this report. Programme implementation could not be re-assessed as implementation of standards by member companies and its assurance through an audit takes at least one calendar year.

It should be noted that the Alignment Assessment – in addition to evaluating the participating programmes– has also provided important observations about the due diligence and sourcing practices of individual companies that are often members of programmes or subject to their assurance programmes. Whilst the Alignment Assessment of a programme does not enable conclusions to be drawn on the alignment of an individual company's due diligence practices with the OECD Guidance, these observations are nonetheless important insights into current due diligence practices of companies in mineral supply chains.

The Alignment Assessment methodology developed by this project[6] informs a forthcoming EU Delegated Act on the criteria and methodology for the recognition of supply chain due diligence schemes under EU Regulation 2017/821 laying down supply chain due diligence obligations for Union importers of tin, tantalum, tungsten, their ores, and gold from conflict-affected and high-risk areas.

[6] The full methodology is available at https://mneguidelines.oecd.org/industry-initiatives-alignment-assessment.htm.

The Alignment Assessment methodology

This section provides a brief overview of the Alignment Assessment methodology; the full assessment tool and narrative methodology are available on the OECD website[7].

The methodology developed through this project assesses the extent to which a programme is aligned with the expectations of the OECD Guidance by evaluating:

a. Whether **key overarching due diligence principles** have been incorporated into the design and implementation of the programme (set out in the OECD Guidance Introduction and Annexes I and II and assessed in Section A of the Assessment Tool).

b. Whether the programme's requirements for companies and the activities it undertakes itself are aligned to the specific recommendations of the **OECD five-step due diligence framework** (set out in Annexes I and II as well as the supplements of the OECD Guidance and assessed in Sections B and C of the Assessment Tool).

A structured assessment is undertaken against detailed criteria that are set out in the Assessment Tool. Each criterion is linked to relevant recommendations within the OECD Guidance. The Alignment Assessment criteria are each individually rated by the evaluator against two aspects:

a. **Standards**: The extent to which the recommendations from the OECD Guidance have been incorporated into the Programme's policies, standards, procedures and operating requirements set out for companies.

b. **Implementation**: The extent to which it can be reasonably concluded that the criterion is implemented by the Programme, including by deploying the necessary measures to ensure compliance and securing adequate remedial action in cases where companies participating in the programme and/or auditors do not adhere to the programme's policies and standards (when applicable to them).

Assessment in both respects (standards and implementation) should be based on the evidence gathered during all assessment activities. It should be noted, however, that the Alignment Assessment is not intended to provide a conclusion about the adequacy of due diligence implementation by every company participating in the programme.

Each individual criterion is rated as fully aligned', 'partially aligned' and 'not aligned' against both standards and implementation, with the rating for each criterion being a function of these two aspects. For example, a criterion where a programme was 'fully aligned' for the design of its standards, but 'not aligned' for implementation, would generate a rating for that criterion of 'partially aligned'. The Assessment Tool used for the pilot assessment included 97 criteria, though not all are necessarily applicable to all programmes; some are specific for gold or 3Ts, while others are specific to upstream or downstream due diligence activities only. Individual criteria ratings are aggregated into an overall

[7] https://mneguidelines.oecd.org/industry-initiatives-alignment-assessment.htm

assessment rating of ‘fully aligned’, ‘partially aligned’ or ‘not aligned’ and assigned to the programme as a whole.[8]

In addition to the core Alignment Assessment criteria, the Assessment Tool also includes a range of criteria that evaluate programme governance. These criteria reflect the OECD’s views on good practice for programme governance and were assessed as part of this pilot assessment. Each of the programme governance criteria are rated during an assessment as either ‘fully addressed’, ‘improvement opportunity’ or ‘not addressed’. While important, the conclusions drawn in this part of the assessment do not inform the judgement on the alignment of a programme to the recommendations of the OECD Guidance because programme governance recommendations are not included within the OECD Guidance.

Figure 2: Overview of Alignment Assessment process

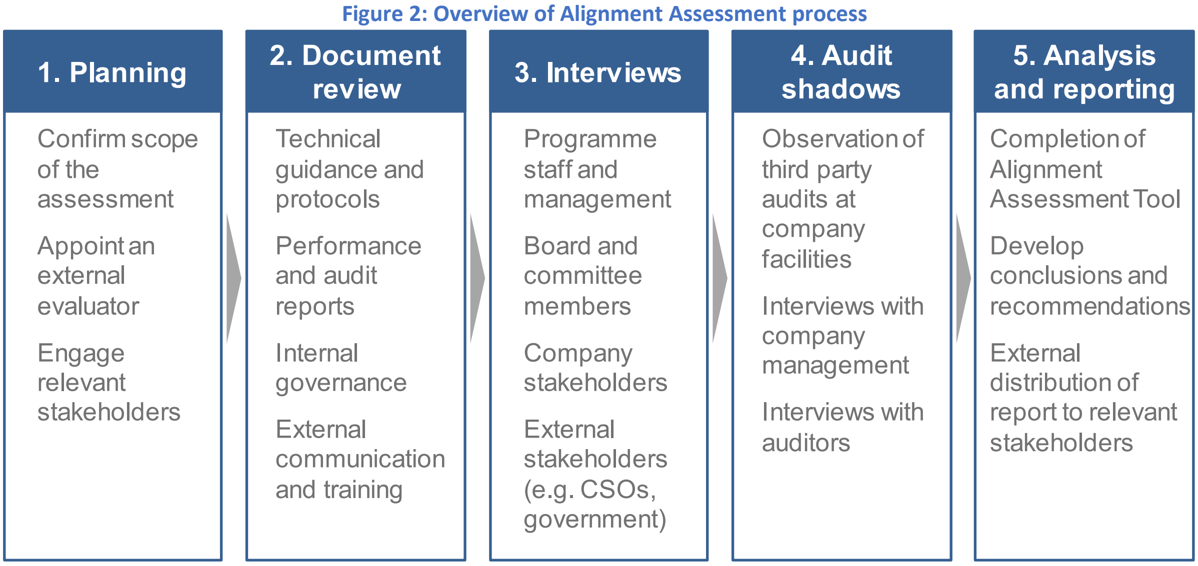


Figure 2 illustrates the key steps involved in an Alignment Assessment evaluation of a programme. The assessment conclusions reached by an evaluator on both aspects of the Alignment Assessment criteria (standards and implementation) are informed by all of the assessment activities: documentation review, interviews with internal and external stakeholders, and shadow audits.

It is important to note that an Alignment Assessment is an evaluation, not an audit. As an evaluation, the Alignment Assessment is focused more on processes and practices, as compared to an audit which is more focused on determining whether pre-defined standards have been met. This is an important distinction as the OECD Guidance itself is not a static compliance standard but a framework for due diligence, with continual improvement an intrinsic part of this framework. During an Alignment Assessment, the evaluator forms a professional judgement – based on the evidence obtained through the assessment activities – on the extent to which a programme has addressed the criteria set out in the Assessment Tool.

[8] The pilot assessment was carried out using a first version of the assessment tool. Following the pilot assessment, changes were made to the tool that is published on the OECD website. The pilot re-assessment of standards for this project used the original tool to allow for comparison between original and revised standards.

Part I

Cross-cutting findings from the OECD Alignment Assessment

Cross-cutting findings

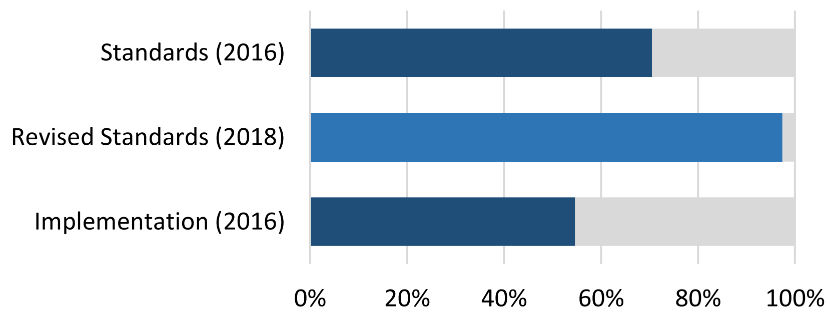
Each programme that volunteered to participate in the Alignment Assessment pilot project was assessed independently of the other participating programmes. The results of each programme's assessment are provided in Part II of this report. However, it is also useful to consider the findings of this assessment work at an aggregated level as there were several strengths and improvement areas that were common across many of the participating programmes. In addition, many downstream companies have suppliers that are members of or subject to the assurance system of more than one industry programme in their supply chain. For some downstream companies all five of the programmes participating in this pilot will be relevant to their supply chain. Considering how, on average, the programmes participating in this pilot fared when assessed against the recommendations of the OECD Guidance provides useful insight into the current status of due diligence practices across global mineral supply chains.

Overarching due diligence principles

The Alignment Assessment methodology sets out the specific, detailed recommendations that the OECD Guidance contains relating to mineral supply chain due diligence. Underpinning the different activities within the OECD's five-step due diligence framework are a set of core principles which provide the spirit and intent of the OECD Guidance. These are defined within the Alignment Assessment methodology in a section dedicated to overarching due diligence principles. The criteria within this section represent the most important aspects of due diligence: without meeting these criteria in full a programme cannot be considered to be fully aligned to the OECD Guidance.

Figure 3 shows the average scores achieved by the participating programmes for this section of the Alignment Assessment during the 2016 fieldwork phase (when both standards and implementation were assessed) and in the 2018 re-assessment of the revised standards.

Figure 3: Average scores under 'Overarching due diligence principles'



Note. Calculations are averaged across programmes.

As the chart shows, at the time of the 2016 fieldwork most of the programmes had quite significant gaps between the requirements they set out for companies in their standards and the recommendations in the OECD Guidance. These gaps at a standards level consequently impacted implementation – it can be seen that, on average, only about half of the core overarching due diligence principles were being implemented by the participating programmes. The most common gaps were found to relate to:

- **The scope of due diligence**: in particular, insufficient consideration of the full scope of risks that are set out in Annex II of the OECD Guidance.
- **The depth of due diligence**: a lack of effective supply chain due diligence activities beyond tier 1 (direct) suppliers including, in particular, a lack of effective on the ground due diligence on higher risk supply chains.

However, Figure 3 also shows that in the year following the 2016 Alignment Assessment fieldwork, many of the participating programmes made extensive changes to their standards to align their requirements with the recommendations of the OECD Guidance. Most of the programmes are, or are close to being fully aligned with the overarching due diligence principles of the OECD Guidance – for some of the programmes that implement Step 4 audits of smelters and refiners this has required fundamental reform and represents a significant achievement in a short space of time.

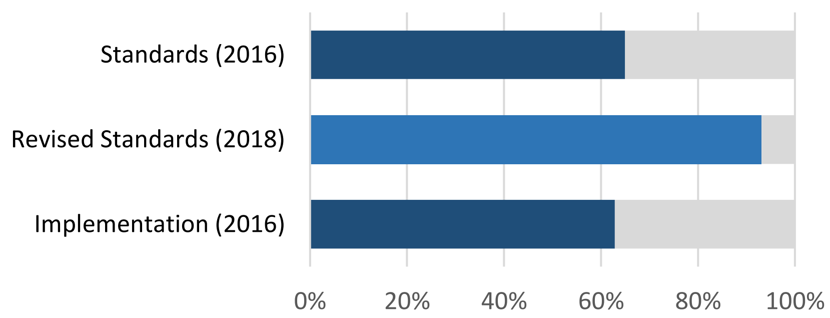
The challenge now will be to ensure that the revised due diligence requirements are effectively implemented across the industries covered by the programmes.

Step 1 – Establish strong management systems

Ensure that due diligence and management systems of companies in mineral supply chains are structured for effective due diligence.

Figure 4 illustrates the Alignment Assessment rating for the management system requirements set for companies, both in terms of the requirements and implementation activities that were in place during 2016 and the subsequent revisions to the programme's standards assessed in 2018.

Figure 4: Average scores under 'Step 1: Establish strong management systems'



Note. Calculations are averaged across programmes.

The Alignment Assessment fieldwork (during 2016) identified some common strengths across the programmes in relation to how the OECD Guidance recommendations for company management systems were incorporated into programmes' standards and implementation activities, but also some common areas where improvement was required.

Common strengths across programmes (2016)

- Requirements for companies to establish a mineral supply chain policy applicable to the company and its suppliers.
- Ensuring that within companies there is internal management accountability for due diligence.
- Maintaining documentation and records of due diligence activities.

Common areas where improvement was needed (2016)

- Ensuring that due diligence extends beyond tier 1 (direct) suppliers for red-flagged supply chains.
- Building the awareness and capacity of suppliers to undertake risk assessment and risk management activities.
- Developing and implementing effective management processes for risk mitigation.

Figure 4 shows that the revised standards that participating programmes have introduced since the Alignment Assessment fieldwork was undertaken are much closer aligned to the OECD Guidance recommendations than the previous standards. Detail on how programmes addressed those areas that needed improvements can be found in Part II of this report. Going forward, it will be important that sufficient focus is provided on implementation activities to ensure that companies and auditors within the programmes understand and apply the revised requirements effectively.

Box 2: Good practice in management accountability for due diligence

At the LBMA refiners visited it was clear that senior management took their accountabilities for due diligence very seriously. For example, at one large international refiner, every new account (i.e. every new supplier of gold) had to be approved by a Compliance Committee that consisted of the Chief Executive Officer, the Chief Financial Officer and the Group Legal Counsel before the refiner could begin a commercial relationship with the supplier. At this refiner, the Group Legal Counsel had personally visited several mine sites in higher risk countries as part of the refiner's due diligence assessments.

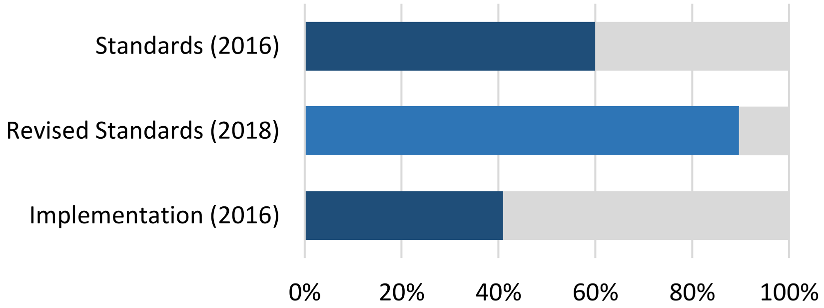
Whilst the scope of due diligence undertaken could be improved at all the refiners that were visited (as discussed in this report) the personal commitment to due diligence by members of the senior management team at these particular refiners was notable. It should be noted that stakeholder interviews and the evaluator's experience at other refiners indicate that not all gold refiners can demonstrate such commitment to due diligence at a senior management level.

Step 2 – Identify and assess risks in the supply chain

Identify and assess risks associated with the circumstances of extraction, trading, handling and export of minerals from conflict-affected and high-risk areas.

Figure 5 illustrates the Alignment Assessment rating for the risk assessment requirements set for companies by participating programmes, both in terms of the requirements and implementation activities that were in place during 2016 and the subsequent revisions to programme standards that were re-assessed in 2018.

Figure 5: Average scores under 'Step 2: Identify and assess risks in the supply chain'



Note. Calculations are averaged across programmes.

On average, there was considerably less alignment with the OECD Guidance recommendations amongst the programmes for risk assessment as compared to the management system requirements under Step 1 of the OECD's five-step due diligence framework.

Common strengths across programmes (2016)

- Requirements for companies to ensure that they determine whether materials are primary (mined) or secondary (recycled).

Common areas where improvement was needed in both standards and implementation (2016)

- Mapping of the supply chain by companies to include both the origin of materials and the activities of suppliers. As noted above, due diligence was often limited to Tier 1 (direct) suppliers and the extent of this due diligence unchallenged by auditors.
- Undertaking enhanced due diligence on red-flagged supply chains, including on the ground assessments. Few smelters or refiners visited during this assessment undertook site visits as part of due diligence and auditors seldom challenged smelters or refiners on where on the ground assessments may be needed as part of due diligence.
- Considering the full scope of Annex II risks within risk assessments. Frequently some, but not all, of the Annex II risks were included within the scope of programme activities and limited risk assessment scopes were not challenged by auditors.

Figure 5 shows that significant improvements were made in programme standards following the initial Alignment Assessment fieldwork in 2016. Further information on the progress made by individual programmes is described in Part II of this report.

Box 3: Good Practice - incident reporting mechanism

A key component of the ITSCI programme that supports companies' risk assessment activities is the incident reporting mechanism. The incident reporting system is administered by local staff and captures information gathered by representatives on the ground, through the DRC whistleblowing hotline (discussed in Box 8), from ITSCI audits, from analysis of chain of custody data, and from ITSCI staff engagement with stakeholders, including through the CLS (community level) and CPS (provincial level) committees.

There are five types of incidents that are reported:

- due diligence (relating to risk management, policies, annual reports etc.)
- chain of custody (relating to the plausibility, traceability or chain of custody documentation)
- corruption
- security
- human rights (which includes health and safety, child labour etc.)

Incidents are categorised by severity: Level 1 incidents are the most serious and refer to incidents that relate to Annex II risks as defined in the OECD Guidance (for example, the presence of armed groups at a mine site or transportation route). Level 2 and 3 incidents are less serious and relate to issues that are beyond the scope of Annex II or suitable for resolution at the local level.

Procedures are established for the management and reporting of incidents. Level 1 incidents have to be reported to relevant stakeholders (which include ITSCI and Pact management, ITSCI member companies, government authorities, the independent auditor and the Advisory Panel members) within 24 hours.

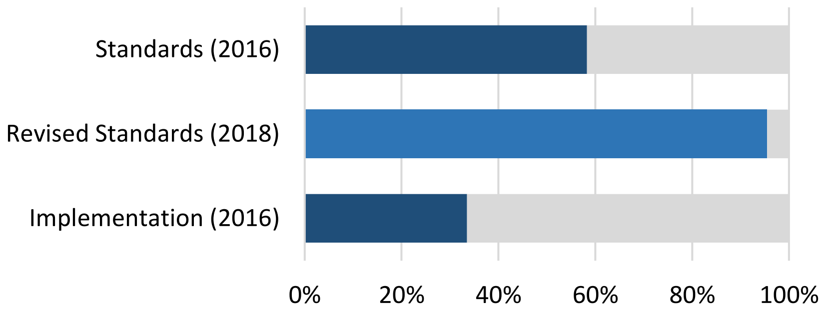
Incident information is provided on a monthly basis to ITSCI members and key stakeholders, including government agencies, the ITSCI Advisory Panel and RMI (which collates, reviews and communicates incident information to its refiners and smelters). Public summaries are provided on a six-monthly basis, albeit with at least a six-month time delay. The most common incidents relate to chain of custody issues. In its public report for the third quarter of 2016 ITSCI reported that there were 664 incidents in its incident reporting database; of these 384 were open. There were 33 Level 1 incidents within the system at that time. Incidents are closed after six months to align timings with OECD Guidance recommendations and show whether risk mitigation was achieved or not.

Step 3 – Design and implement a strategy to respond to identified risks

Evaluate and respond to identified risks in order to prevent or mitigate adverse impacts.

Figure 6 illustrates that, as with Step 2, when the programmes were evaluated in 2016 for this project most were found to fall short of meeting the recommendations for risk mitigation set out in the OECD Guidance.

Figure 6: Average scores under 'Step 3: Design and implement a strategy to respond to identified risks'



Note. Calculations are averaged across programmes.

Common strengths across programmes (2016)

- Requirements for companies to ensure that risk assessment findings are reported to senior management.

Common areas where improvement was needed in both standards and implementation (2016)

- Implementation of risk mitigation measures. Across most programmes, participant companies tended to disengage from suppliers if risks were identified. During most of the shadow audits the auditors did not discuss risk mitigation.
- Building or using leverage in the supply chain to mitigate risks.
- Engaging with external stakeholders to support risk mitigation activities.

Figure 6 shows that significant improvements were made in programme standards following the initial Alignment Assessment fieldwork in 2016. Further information on the progress made by individual programmes is described in Part II of this report.

Box 4: A risk mitigation paradox

Gold refiners have long been used to Know Your Customer (KYC) and Anti-Money Laundering (AML) requirements, which do not generally encourage a progressive approach to managing risks (e.g. money laundering is a "zero tolerance" risk). It was observed during the Alignment Assessment that both refiners and auditors tended to view the different types of risk covered by the OECD Guidance (e.g. risks of money laundering, risks of human rights abuses) as meriting the same type of zero tolerance response. At the observed audits of gold refiners for both the LBMA and DMCC the auditors had a background in financial compliance auditing and therefore expected refiners' processes and decisions to be clearly defined: either there was no risk, in which case the supplier acceptance or business transaction may take place, or there was an identified risk, in which case the supplier or transaction should be rejected. This is not aligned with the OECD Guidance which foresees progressive due diligence that allows for risk mitigation (as opposed to disengagement) under certain circumstances and with defined timescales.

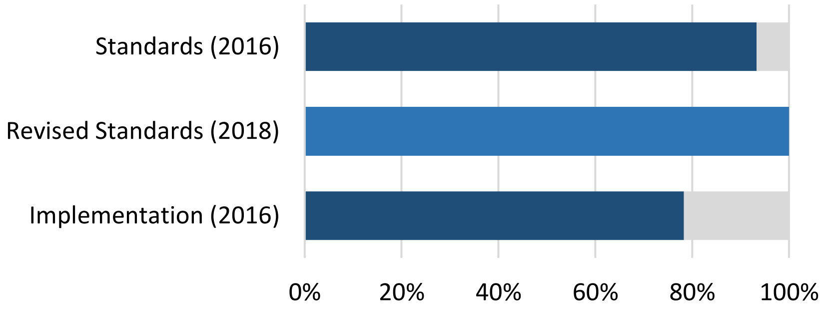
This creates a paradox. On the one hand, there is a need to strengthen risk assessment practices, particularly with regards to refiners' assessments of red-flagged supply chains. At the same time, there is a need for more focus on progressive mitigation as a response to identified risks rather than a default of risk avoidance. In providing increased clarity on risk assessment expectations, care will be needed to avoid the unintended consequence of discouraging responsible refiners from investing in supply chains in higher risk locations.

Step 4 – Carry out an independent audit

Carry out an independent third-party audit of the smelter/refiner's due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas and contribute to the improvement of smelter/refiner and upstream due diligence practices.

This section of the Alignment Assessment focuses on the recommendations that the OECD Guidance makes for the activities of auditors in delivering audits under a programme.[9]

Figure 7: Average scores under 'Step 4: Carry out an independent audit'



Note. Calculations are averaged across programmes.

It should be noted that the provisions in the OECD Guidance relating to audits are quite limited and largely focused on the process of the audits rather than their substance. This explains the discrepancy between the relatively strong scores that programmes achieved in this section of the pilot assessments (as illustrated by Figure 7), and the observed weaknesses in audit activities that are described throughout this report.

Common strengths across programmes (2016)

- Formalised audit mechanisms in place, with programme-specific audit standards and auditor accreditation processes.
- Audit scope and activities specified by programmes in line with the recommendation set out in the OECD Guidance.

Common areas where improvement was needed in both standards and implementation (2016)

- Significant gaps in auditors' knowledge on mineral supply chains and the OECD Guidance recommendations. Gaps were also observed in relation to professional competencies – in particular, amongst some auditors, a lack of critical analysis.
- Insufficient attention to the Step 5 reporting requirements set out in the OECD Guidance.

As the design of most programmes standards were quite closely aligned with the OECD Guidance recommendations, changes to the revised standards in this area were relatively minor.

[9] The OECD Guidance recommendations for audits cover issues such as the scope of the audit, the need for auditors to be independent of the refiner and the activities that should form part of the audit. It should be noted that under the OECD Guidance, audits are expected to assess the due diligence processes and activities of refiners against the recommendations for due diligence that are set out in the OECD Guidance. Audits are not expected to include forensic accounting or investigations into potential fraud or corruption.

Box 5: Good practice - audit testing procedures

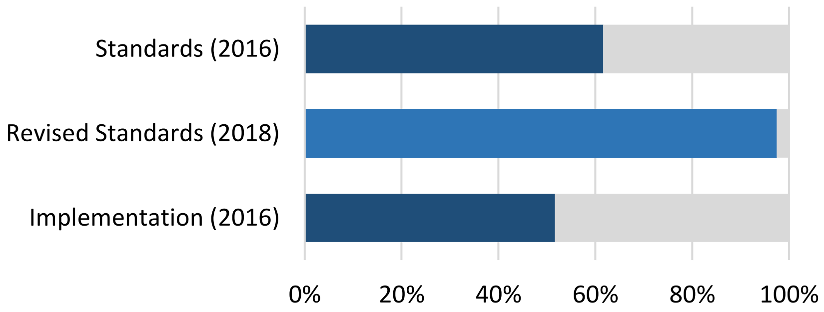
One of the LBMA audit firms, prior to going on-site, requested that the refiner provide a breakdown of the year's transactions noting the type of gold (mined or recycled), the origin of the gold and the type of business. The audit firm then developed their own views on which suppliers or transactions they felt were higher risk, using information such as the Heidelberg Conflict Barometer. Once on-site, the auditor compared their risk assessment with the refiner's risk assessment. Where a supplier had been categorised as lower risk by the refiner than the auditor's assessment, the auditor challenged the refiner to explain the rationale for their decision.

Step 5 – Report on supply chain due diligence

Publicly report on due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas in order to generate public confidence in the measures companies are taking.

Under the OECD Guidance all companies (including smelters or refiners) should publish a due diligence report that describes the company's management systems, the methodology and results of the risk assessment and the steps taken to manage identified risks. Smelters or refiners should also publish the audit report.

Figure 8: Average scores under 'Step 5: Report on supply chain due diligence'



Note. Calculations are averaged across programmes.

Figure 8 illustrates that when the programmes were evaluated in 2016 for this project most were found to be falling significantly short of meeting the recommendations for public reporting set out in the OECD Guidance. Whilst most programmes had some form of company reporting requirements in place, there were no common areas of strength across the participating programmes for this section of the Alignment Assessment.

Common areas where improvement was needed in both standards and implementation (2016)

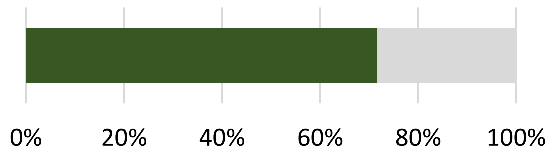
- Ensure consistent, annual and public reporting by companies on due diligence processes and performance. Some programmes did not set reporting requirements for companies, others limited the requirement to report to certain companies within the programme or only focused on the publication of summary audit reports, rather than full Step 5 due diligence reports in addition to audit reports.
- Ensure auditors cover Step 5 reporting requirements adequately and address the quality of reporting as well as ensure that programmes monitor reporting by companies and the adequate inclusion of Step 5 reports in the scope of audits.

- Ensure public reporting describes companies' due diligence management approach, risk assessment findings and risk mitigation measures undertaken – in a meaningful level of detail. Where reports were available, they were often basic and generic, lacking descriptions of risks or measurable indicators of risk management performance.

As Figure 8 illustrates, significant improvements were made in programme standards following the initial Alignment Assessment fieldwork in 2016 and the reporting requirements set by most of the participating programmes are now fully aligned with the OECD Guidance recommendations.

Programme governance

Figure 9: Average scores under 'Programme governance'



Note. Calculations are averaged across programmes.

This aspect of the assessment evaluates programmes against a range of criteria that are not contained in the text of the OECD Guidance but have emerged as key elements of good practice in the governance and management of industry supply chain programmes. It is important to note that the assessment of programme governance does not form part of the formal alignment assessment of programmes and hence is not reflected in the ratings. Figure 9 shows the average programme governance score achieved by the programmes participating in the Alignment Assessment (there was no re-assessment of programme governance scores following the 2016 fieldwork).

The criteria in this section of the assessment were drawn from a range of sources. These included standards developed by the ISEAL Alliance (the global membership organisation for sustainability standards), international assurance standards for non-financial reporting, as well as more generally accepted corporate governance principles.

In this section of the assessment there was quite a lot of variability between the different programmes, each having different areas of strength and areas where improvement is needed. Nonetheless, some common themes emerged across the programmes participating in this pilot Alignment Assessment.

Common areas of strength across programmes

- Despite some of the weaknesses the Alignment Assessment identified in the technical depth and rigour of audits under many of the participating programmes, the governance of the audit process was an area of strength across most of the programmes. This included aspects such as the independence of auditors and the processes for corrective action plans following an audit.
- Other areas of strength across the group of programmes included the vetting procedures that programmes had put in place for companies wishing to participate in the programme, and the formalisation of internal procedures to respond to grievances relating to the programme or participating companies.

Common areas for improvement

This section of the Alignment Assessment also includes criteria relating to the technical depth and rigour of audits so it is perhaps unsurprising, given findings discussed in the programme-specific sections of this report, that these criteria were identified as improvement areas for most programmes.

Particular areas for improvement included the need for programmes to:

- Specify that auditors design audit testing activities that are focused on those areas that represent the greatest risk.
- Ensure that auditors obtain a sufficient understanding of the nature of the auditees' business and supply chain when undertaking their audits.
- Ensure that their auditor accreditation activities are focused on the skills and competencies of individual auditors and are not limited to generic firm-level accreditations. This includes ensuring that relevant individuals from accredited audit firms attend training sessions provided by the programme.
- In addition to the Step 5 reports from participant companies, programmes should also report to their stakeholders on the impacts and progress that the programme is having on responsible mineral sourcing.

Cross-cutting recommendations to programmes

Following the completion of the Alignment Assessment fieldwork in 2016, a significant number of recommendations for areas that could be strengthened were communicated to the participating programmes. Recommendations related both to the extent to which requirements that programmes set for companies through their standards were aligned with the recommendations of the OECD Guidance, and to the measures taken to by the programmes to implement the OECD Guidance recommendations.

All programmes made changes as a result, publishing revised standards between late 2017 and early 2018. As this report has discussed, the changes have been substantial. The changes to each programme are discussed in the programme-specific sections of this report that follow in Part II. Any remaining gaps between the revised standards and the OECD Guidance recommendations are also highlighted.

Many of the implementation recommendations following the 2016 fieldwork related to gaps between a programme's standards and the OECD Guidance recommendations. The implementation of the revised programme standards could not be assessed in this pilot. However, there were some broader themes that apply across most of the participating programmes and will need to be addressed if programmes are to be fully aligned (against both standards and implementation) with the OECD Guidance.

Increase the breadth and depth of risk assessment

- Many programmes have revised their standards to ensure that the need for due diligence to cover all Annex II risks is clearly referenced. Company implementation of these requirements should be monitored and non-conformances addressed. It may be necessary for programmes to clarify their expectations for how some of the Annex II risks should be addressed by participating companies, for example clarifying that smelters and refiners are expected to seek assurances that upstream suppliers have paid all appropriate taxes and levies to government authorities, but are not expected to audit the financial payments made.
- Programmes should make it explicitly clear to both companies and auditors through communications and training that companies are expected to undertake due diligence beyond their direct tier 1 (direct) suppliers on red-flagged supply chains. Programmes should also ensure that auditors provide sufficient challenge and review the scope of companies' due diligence practices. Company implementation (and auditor challenge) of these requirements should be monitored and non-conformances addressed.
- Programmes should ensure that there is effective implementation of their requirements for enhanced due diligence on red-flagged supply chains, particularly in relation to on the ground assessments. Specific engagement with both companies and auditors on the issue of on the ground assessments is recommended to raise awareness of when these assessments should be undertaken and how they should be carried out (to be in accordance with OECD Guidance recommendations).

Raise awareness on the role and importance of risk mitigation

- Revisions to programme standards have substantially addressed previous gaps that many programmes had in their standards relating to risk mitigation. These should be supported by clear communications to companies and auditors. Programmes should clarify through training, engagement and other communication what risk mitigation means in practice and how risk mitigation may be viewed as 'compliant' with programme expectations.
- Programmes should engage with external stakeholders (e.g. downstream companies, banks, civil society organisations and local governments) to explain the role of risk mitigation within the programme and how the programme itself monitors companies' risk mitigation activities.

Encourage supplier capacity building

- Programmes should provide support to companies on measures that they may take to build the awareness and capacity of suppliers to undertake risk assessment and risk management activities. Programmes should ensure that auditors constructively review and challenge companies' supplier engagement.

Strengthen oversight of the audit process

- Programmes should strengthen the accreditation processes for auditors. Accreditation processes should include evaluating the capabilities of individual auditors, not just the credentials of an audit firm.
- Programmes should require accredited auditors to undergo regular training on the programme's requirements and mineral supply chain due diligence more broadly. Training should be linked to auditor approval, so that only trained auditors undertake audit activities.
- Programmes should ensure that they have a sufficient degree of oversight over the specific activities undertaken by auditors. Without compromising independence, programmes should consider requiring auditors to report details to them on the activities involved in each audit they do, for example the number of days involved, the audit procedures undertaken, the rationale for risk prioritisation decisions and descriptions of sample sizes used in testing activities.
- Programme staff should occasionally undertake shadow audits themselves, in order to see first-hand how auditors and companies under the programme are responding to the programme's requirements.

Ensure transparent reporting

- Programmes should ensure that all companies publicly report annually on their due diligence. These reports should describe the reporting company's due diligence management systems, the risk assessment findings and any risk mitigation actions undertaken, whether individually or collectively.
- Smelters and refiners should also disclose the summary audit report, describing the timing, scope and conclusions of the audit. Reports should be published.

Strategic considerations across programmes

Beyond the programme specific findings and cross-cutting observations, several more strategic considerations emerged as part of this assessment.

Cross-recognition between programmes

The cross-recognition between responsible supply chain programmes was a major point of discussion with all participating programmes. Some of them had cross-recognition provisions between their programmes but decided to cease this cross-recognition when it became apparent that there were stark differences in the way programme standards and implementation were set up from one programme to another. For example, the limited geographic scope of the previous RMI standard (the Conflict-Free Smelter Program) or the audit period of up to two-years of the RJC's Chain of Custody standard were limitations for effective cross-recognition with other programmes that had set out responsible sourcing provisions differently.

While LBMA, RJC and RMI, and the RJC and DMCC, are actively working on alignment between their programmes to allow for renewed cross-recognition (which means member companies or those participating in the assurance programmes of those programmes would not have to undergo multiple audits) slight differences in approach or scope of those programmes will continue to pose challenges. One example is that the LBMA designates all gold sourced from artisanal and small-scale mining to constitute a red flag that should trigger enhanced due diligence. This is not handled in the same way by RJC or RMI and could hence lead to challenges for cross-recognition of audits.

Insufficient assessment of third party due diligence providers

Where programmes rely on other initiatives to support certain aspects of their due diligence requirements (for example, when relying on upstream due diligence programmes, or on mutual recognition between various smelter and refiner audit programmes), a robust and regular assessment of these initiatives, including their standards and implementation, will be important. Even if effective cross-recognition assessments between programmes are in place, individual companies should undertake appropriate due diligence on their suppliers as a programme's alignment with the OECD Guidance does not mean that all companies within that programme are implementing due diligence practices that are aligned with the OECD Guidance. Companies cannot simply rely on a supplier's participation in an industry programme as evidence of effective due diligence by that supplier.

Scoping of the alignment assessment

This pilot project identified that, for future Alignment Assessments, it is crucial that all stakeholders of the programme being evaluated are clear on what conclusions may or may not be drawn from the Alignment Assessment. These are directly impacted by the scope of the programme being evaluated.

Some programmes only cover certain parts of the mineral supply chain; for example, some programmes only cover upstream activities. Some programmes undertake certain due diligence activities on behalf of companies; others only set requirements that companies are required to meet.

For example, within the programmes participating in this pilot assessment, ITSCI does not cover Step 4 audits of smelters and refiners. ITSCI also undertakes certain due diligence activities on behalf of companies – as permitted by the OECD Guidance – rather than solely setting requirements for companies to meet. Within the RJC's standards framework, only the Chain of Custody standard contains provisions intended to implement the recommendations of the OECD Guidance. Therefore the Alignment Assessment conclusions for the RJC only relate to the Chain of Custody standard which is applied by approximately 6% of the roughly 1,000 companies that are members of the RJC.

Future applications of the Alignment Assessment methodology will need sufficient clarity on such scoping considerations to prevent stakeholders drawing potentially misleading conclusions from assessment outcomes.

Due diligence implementation of programmes vs. implementation by companies

Another key challenge that emerged from this assessment is whether claims can be made about the quality of due diligence implementation by member companies or those participating in an assurance programme as an extension of the alignment assessment rating achieved by the programme. The assessment methodology looks at the extent to which it can be reasonably concluded that a criterion is implemented by a programme, including by deploying the necessary measures to ensure compliance and securing adequate remedial action in cases where companies participating in the programme and/or auditors do not adhere to the programme's standards (when applicable to them). So the focus is on assessing the programme and its mechanisms to ensure that its members implement adequate due diligence. It is important to note that the alignment of a programme does not infer that the due diligence performance of all companies within that programme is similarly aligned to the recommendations of the OECD Guidance.

Encouragement of sourcing from artisanal and small-scale mining (ASM)

Across refiner and smelter-level programmes, the recommendations set out in the Appendix on 'Suggested measures to create economic and development opportunities for artisanal and small-scale miners (ASM)' of the OECD Guidance were not very explicitly or pro-actively addressed. Refiner and smelter-level programmes should strive to do more to discourage a currently common default position, identified through this project, of many smelters and refiners to disengage from ASM or higher risk areas. The OECD Guidance is explicitly intended to support responsible sourcing from higher risk areas and industry disengagement can have significant adverse impacts on mineral producing communities and regions.

Part II

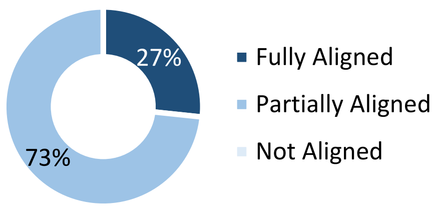
Programme-specific results

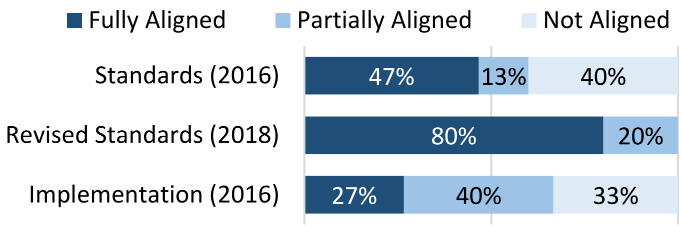
Dubai Multi-Commodities Centre

Assessment results

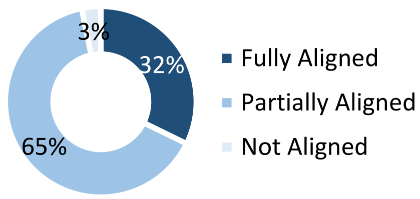
Overall rating 2018: Partially Aligned

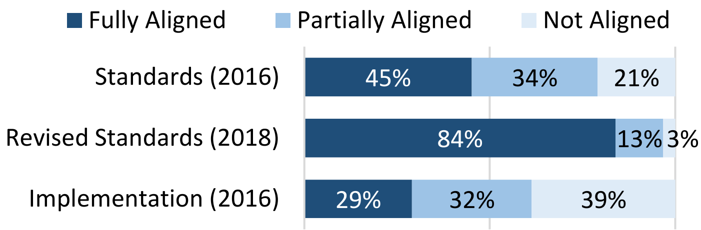
Overarching due diligence principles



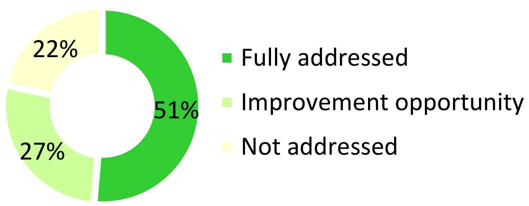


Overall alignment with the five-step framework





Programme governance review



Key strengths of the DMCC programme

- DMCC staff oversight of the detailed findings that result from the audit programme.
- Engagement on responsible sourcing with gold traders and government authorities in the UAE and with producers and exporters in higher risk countries.
- An Independent Governance Committee provides a mechanism for external oversight of the programme.

Key areas for improvement

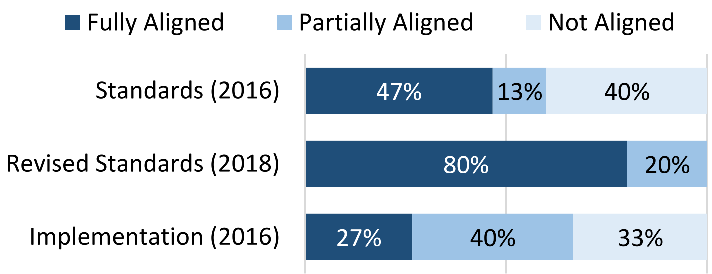
- Enhance the vetting and capacity building of auditors to strengthen audit consistency and rigour.
- More explicit clarification to DMCC refiners and auditors that all Annex II risk areas should be considered during risk assessment and risk mitigation activities.
- Clarification to DMCC refiners and auditors that on the ground risk assessments should always be undertaken on red-flagged supply chains.

Overarching due diligence principles

During 2016 when the assessment activities for the Alignment Assessment project commenced the due diligence requirements of the DMCC's Responsible Gold Programme were implemented primarily through the DMCC Practical Guidance for Market Participants in the Gold and Precious Metals Industry (DMCC Guidance) and the accompanying DMCC Review Protocol on Responsible Sourcing of Precious Metals (Review Protocol). These were subsequently replaced during 2016 with the DMCC Rules for Risk Based Due Diligence in the Gold and Precious Metals Supply Chain (DMCC Rules). Due to the timing of annual audit cycles the DMCC Rules were not in force during the main fieldwork phase of the Alignment Assessment project, though the DMCC Rules (v1.1/2017) were assessed in early 2018 under the revised standards assessment.

Figure 10 illustrates the extent to which the design and implementation of the DMCC Guidance and Review Protocol in force in 2016 incorporated the overarching due diligence principles of the OECD Guidance, compared with the design of the 2017 v1.1 DMCC Rules.

Figure 10: DMCC's score under 'Overarching due diligence principles'



The DMCC Guidance in force in 2016 followed the structure and content of the OECD Guidance and addressed, in both design and implementation, a number of the core principles of the OECD Guidance. However, the Alignment Assessment identified some important gaps with the design and implementation of these requirements:

- The DMCC Guidance contained the statement that "…due diligence should be proportionate to the value of the transaction…". This was not consistent with the good faith approach to due diligence set out in the OECD Guidance and also represents a potential loophole, as it could be interpreted to mean that a lower level of due diligence is applied to small volumes of materials that are from high risk sources.

- The concept of continual improvement in due diligence performance over time was missing from formal requirements set out in the DMCC Guidance and from the approaches taken by refiners. The emphasis, rather, was more static: that compliance with the DMCC requirements was a minimum threshold that refiners need to achieve. The only reference to performance improvement was in relation to the risk mitigation measures that suppliers may put in place; there was no reference to refiners improving their own due diligence and risk assessment processes over time.
- There was no explicit recognition within the previous DMCC Guidance of due diligence being undertaken by refiners in good faith and using reasonable efforts. A number of stakeholders including DMCC member companies, auditors and civil society organisations stated in interviews that the DMCC was not visibly committing itself and accredited refiners to good faith responsible sourcing. Stakeholder interviews demonstrated that many held the view that the DMCC would do just the minimum necessary to be considered 'compliant'. Whilst these may be somewhat subjective views of the interviewees, the fact that they were consistently held amongst diverse stakeholders interviewed for this assessment suggested that there was scope for the DMCC to do more to demonstrate good faith intent; both in terms of the requirements it sets for refiners and in how the DMCC itself engages with external stakeholders on responsible sourcing matters.
- Whilst recognition is given to the role of on the ground assessments within due diligence, the way this was phrased within the DMCC Guidance was that these were optional for red-flagged supply chains. This is inconsistent with the recommendations of the OECD Guidance.

As Figure 10 illustrates, the DMCC Rules significantly improved the alignment of the DMCC's standards with the core due diligence principles of the OECD Guidance, with the DMCC Rules now fully aligned at a Standards level with the majority of criteria in this part of the Alignment Assessment. There are several areas that could be further improved to achieve full alignment for Standards:

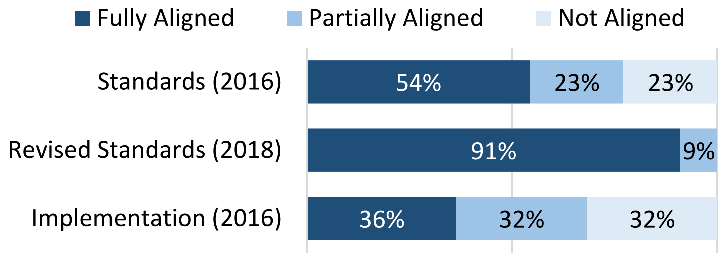
- Expectations for due diligence and risk management performance improvement over time are only set out in respect to refiners where the DMCC audit has identified some risk areas, as opposed to being an expectation that applies to all actors within the gold supply chain.
- More explicit clarification to DMCC refiners and auditors that all Annex II risk areas should be considered during risk assessment and risk mitigation activities.
- Clarification to DMCC refiners and auditors that on the ground risk assessments should always be undertaken on red-flagged supply chains.

Step 1 – Establish strong management systems

Ensure that due diligence and management systems of companies in mineral supply chains are structured for effective due diligence.

Figure 11 illustrates the Alignment Assessment rating for the management system requirements set for companies, both in terms of the requirements and implementation activities that were in place during 2016, and the subsequent revisions to the DMCC's standards during 2017.

Figure 11: DMCC's score under 'Step 1: Establish strong management systems'



The requirements for management systems that the DMCC sets for companies are primarily defined in the protocols and procedures of the DMCC Rules (previously the DMCC Guidance). The implementation of management system requirements is assessed through an annual audit.

As Figure 11 shows, many of the management system criteria from the OECD Guidance were met, at least in part, by the 2016 DMCC Guidance. However, the 2017 v1.1 of the DMCC Rules has substantially improved the alignment of the DMCC's standards with the OECD's recommendations for the design and function of due diligence management systems. The only criteria in this section of the assessment not now fully addressed by the DMCC's standards are the recommendations that companies maintain documented records of due diligence decisions taken by management (not just documentation on supplier activities), and the recommendation that companies' supply chain policies should be incorporated into contracts with suppliers.

However, as Figure 11 also shows, at the refiners visited it was observed that not all of the requirements set out in the DMCC Guidance were being fully implemented. Key gaps related to how rigorously (or not) the auditors challenged refiners' management processes. At both of the shadow audits undertaken, the core audit team (those responsible for the bulk of the audit testing work) demonstrated a relatively low level of familiarity with gold supply chains and with the OECD Guidance, and this had an impact on the extent to which the implementation of the DMCC's requirements was challenged through the audit. For example, auditors did not challenge refiners on the technical competencies of the staff responsible for supply chain due diligence, or on the measures taken by refiners to understand and build due diligence capacities in their supply chains.

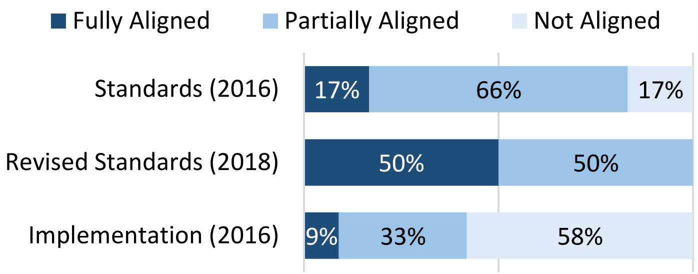
With the new DMCC Rules much more closely aligned to the OECD Guidance, it will be important that auditors are sufficiently well versed in the practical implementation of the OECD Guidance recommendations so that they are able to effectively challenge refiners' application of the due diligence requirements of the DMCC Rules. The OECD-alignment of these implementation activities will need to be assessed at a later date.

Step 2 – Identify and assess risks in the supply chain

Identify and assess risks associated with the circumstances of extraction, trading, handling and export of minerals from conflict-affected and high-risk areas.

Figure 12 illustrates the Alignment Assessment rating for the risk assessment requirements set for companies by the DMCC, both in terms of the requirements and implementation activities that were in place during 2016 and the subsequent revisions to the DMCC's standards during 2017. As the chart shows, the introduction of the new DMCC Rules has improved the alignment of the DMCC's risk assessment requirements with the OECD Guidance recommendations, though there remains scope for further improvement.

Figure 12: DMCC's score under 'Step 2: Identify and assess risks in the supply chain'



The Alignment Assessment of the DMCC Guidance found that whilst the risk assessment requirements followed the broad steps that are recommended in the OECD Guidance, there was a lack of specificity in the DMCC's requirements for refiners' risk assessments as compared to the recommendations set out in the OECD Guidance. Implementation of these requirements was weaker again, as can be seen from Figure 12, primarily due to the lack of auditor review and challenge of the risk assessment activities and decisions of refiners.

For example, at both refiners visited during this assessment, the auditors did not challenge refiners on how they had defined or identified red flags in their supply chains, nor did they challenge refiners on the circumstances that would warrant an on the ground assessment or seek to review information from such assessments. Auditors' risk assessment testing work was very focused on KYC procedures and risks, and whether refiners could demonstrate that KYC risks for their Tier 1 suppliers had been assessed and documented.

The new risk assessment requirements set out in the 2017 v1.1 DMCC Rules follow the OECD Guidance recommendations much more closely. However, the revised standards fall short of full alignment for this step primarily due to wording in the DMCC requirements that makes on the ground risk assessments on red-flagged supply chains one of several due diligence options for refiners, as opposed to explicitly stating that these assessments are required (which is what the OECD Guidance recommends). Such details are important as they directly impact how companies and auditors apply a programme's requirements, and as noted in the summary section of this report, this Alignment Assessment project found that on the ground assessments were a consistent area of weakness for many smelters or refiners.

On the ground assessments were referenced by the former DMCC Guidance in force in 2016 but, again, in such a way that these were presented as optional for red-flagged supply chains. On the ground assessments were not systematically undertaken for red-flagged supply chains by the two DMCC refiners visited by the Alignment Assessment evaluator. Most refiners interviewed during the assessment more broadly carried out some on the ground assessments. However, those assessments focused primarily on commercial considerations, such as the quality and volume of material that could be supplied and the potential for scaling up operations. There was a relatively low level of awareness amongst the refiners and auditors engaged with during this assessment on the circumstances under which a due diligence-focused, on the ground assessment should be undertaken. Addressing this lack of awareness should be a priority area for the DMCC.

Box 6: Challenges in financing on the ground assessments

One of the challenges that several stakeholders noted in relation to on the ground assessments is that some of the DGD and MDB-accredited gold refiners source gold in much lower volumes than, for example, some of the large European or North American refineries. Where transaction values are smaller, for example when sourcing small volumes of gold from multiple ASM or medium-scale producers, the relative costs to a refiner of undertaking on the ground assessments can be much higher than if the refiner was sourcing large volumes of gold from a single large-scale producer.

This does not reduce the need for on the ground assessments to be undertaken should the risk assessment identify red flags in the supply chain, but it does emphasise the balancing act required when seeking both to encourage industry to engage in sourcing from potentially higher risk countries, and to ensure that mineral sourcing is responsible and companies' due diligence activities are adequate.

It should be noted though that in line with the OECD Guidance, on the ground assessments can be carried out collectively, or through industry programmes, to manage costs and avoid duplication of visits.

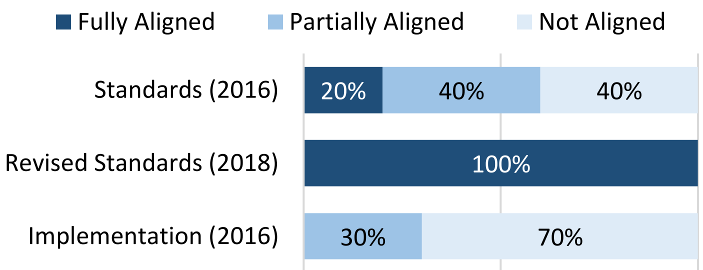
Step 3 – Design and implement a strategy to respond to identified risks

Evaluate and respond to identified risks in order to prevent or mitigate adverse impacts.

In the DMCC Guidance that was in force during 2016, the DMCC had set fewer requirements for companies in relation to risk mitigation than it had for risk assessment, and a majority of criteria in this section of the Alignment Assessment were not being implemented by member refiners. Only two of the 10 assessment criteria were fully aligned in the design of the DMCC's requirements and none were fully aligned in implementation. The main reason for this was a lack of detail within the DMCC Guidance on risk management and mitigation, which correspondingly impacted on the activities of DMCC refiners and auditors.

Figure 13 shows that the gaps at a standards level have been comprehensively addressed with the introduction of the 2017 v1.1 DMCC Rules, which are now fully aligned across all the OECD Guidance criteria in this section of the assessment.

Figure 13: DMCC's score under 'Step 3: Design and implement a strategy to respond to identified risks'



It will be important that the implementation of the new requirements of the DMCC Rules is supported by appropriate capacity building, as when the implementation of the 2016 DMCC Guidance was evaluated for this project, both refiners and auditors were observed to have a limited understanding of what risk mitigation, as envisaged in the OECD Guidance, might mean in practice. There are also some significant challenges with risk mitigation, as previously discussed in Box 4 in Part I of this report.

It was observed during the fieldwork for this project that some DMCC refiners were more willing to engage in sourcing gold from, for example, West African countries than some of their European or North American counterparts. As a programme, the DMCC has been providing support to DMCC member companies in engaging with African suppliers; for example to-date it has organised two conferences in Ghana to facilitate engagement between refiners and potential suppliers. There could be opportunities for the DMCC to build on this type of engagement to support an improved understanding of the risk assessment and risk mitigation recommendations of the OECD Guidance.

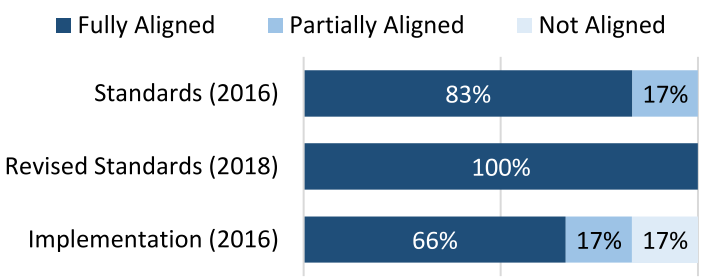
Step 4 – Carry out an independent audit

Carry out an independent third-party audit of the smelter/refiner's due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas and contribute to the improvement of smelter/refiner and upstream due diligence practices.

This section of the Alignment Assessment focuses on the recommendations that the OECD Guidance makes for the activities of auditors in delivering audits under a programme[10]. As Figure 14 illustrates, the majority of the criteria for audits that are specified in the text of the OECD Guidance were addressed by the design of the DMCC's 2016 audit standard, the Review Protocol. This required audits to be undertaken in accordance with the ISAE 3000 assurance standard. The DMCC's Review Protocol provided detailed auditor guidance covering areas including audit scope, the criteria to be used in the audit, the need for auditor independence and audit activities, amongst others.

The Review Protocol has been replaced by the 2017 v1.1 DMCC Rules and, as Figure 14 shows, further requirements have been introduced meaning that the design of the new standard is now fully aligned with all of the OECD Guidance recommendations in this section of the assessment.

Figure 14: DMCC's score under 'Step 4: Carry out an independent audit'



The 2017 v1.1 DMCC Rules expand on the requirements previously set out in the DMCC's 2016 Review Protocol and also require auditors to have adequate subject matter knowledge of the OECD Guidance and the specifics of gold supply chains. It will be important that the DMCC monitor this and provide appropriate training as the new DMCC Rules are implemented by audit firms (see 'Specific responsibilities of programmes' and 'Programme governance' below), as it was observed during the fieldwork that there is a need to strengthen the technical competencies of auditors.

[10] The OECD Guidance recommendations for audits cover issues such as the scope of the audit, the need for auditors to be independent of the refiner and the activities that should form part of the audit. It should be noted that under the OECD Guidance, audits are expected to assess the due diligence processes and activities of refiners against the recommendations for due diligence that are set out in the OECD Guidance. Audits are not expected to include forensic accounting or investigations into potential fraud or corruption.

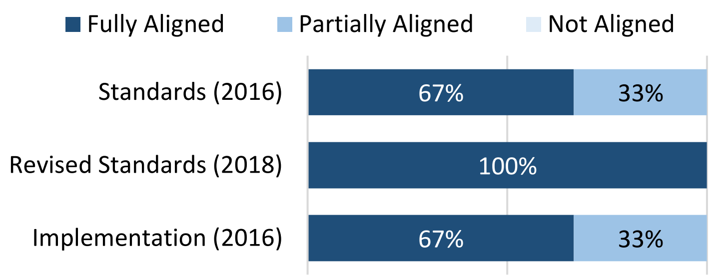
The DMCC auditors at both refineries visited for this assessment were from a financial audit background and, except for the audit firm leads (who did not undertake the audits themselves), the auditors had a relatively low level of understanding of gold supply chains or the OECD Guidance. This lack of subject matter understanding amongst audit team members had a clearly observed impact of limiting certain areas of auditors' assessment work, particularly with regards to supply chain risk assessment and risk mitigation measures. Addressing this knowledge gap – for example by accrediting each individual auditor, rather than the firms, and ensuring they attend relevant training sessions - will be important, going forward, to ensure full implementation of the DMCC Rules.

Step 5 – Report on supply chain due diligence

Publicly report on due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas in order to generate public confidence in the measures companies are taking.

Under the OECD Guidance all companies should publish a report that describes the company's management systems, the methodology and results of the risk assessment and the steps taken to manage identified risks. Smelters or refiners should also publish the audit report. As illustrated by Figure 15, in 2016 the DMCC was fully aligned with two out of the three criteria that apply to the DMCC in this section of the Alignment Assessment. With the subsequent revision of the DMCC's requirements through the introduction of the 2017 v1.1 DMCC Rules, its standards are now fully aligned with the OECD Guidance recommendations for company reporting.

Figure 15: DMCC's score under 'Step 5: Report on supply chain due diligence'

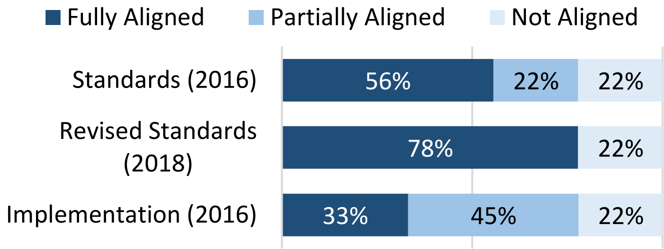


It will be important that the DMCC takes steps to ensure that refiners' reports fully implement the reporting recommendations that are set out under Step 5 of the OECD Guidance. In common with some other industry programmes, a lack of transparency in reporting was an area of concern for external stakeholders of the DMCC interviewed during this assessment, who noted challenges in understanding and monitoring refiner due diligence activities due to a lack of adequate publicly available information. Refiners' reports for the 2016 implementation period were often very generic, lacking detail and specificity. Most refiners' reports did not meet the standards of scope, transparency and detail set out in the OECD Guidance. The DMCC should ensure that refiners and auditors are fully aware of the reporting expectations set out under Step 5 of the OECD Guidance to support future improvements to company reporting.

Specific responsibilities of programmes

This section of the Alignment Assessment focuses on the recommendations that the OECD Guidance makes for the activities of programmes.

Figure 16: DMCC's score under 'Specific responsibilities of programmes'



Several strengths were noted for this aspect of the Alignment Assessment during the 2016 fieldwork:

- Know Your Customer (KYC) and media search evaluations are undertaken by the DMCC Compliance team for all companies that are seeking to join the DMCC, not just refiners wishing to be DGD or MDB accredited. The Compliance analysis of DMCC member companies is focused on KYC and Anti-Money Laundering (AML) risks, but for refiners additional research is done on responsible sourcing issues. It was observed that this had extended to making enquiries about companies that were outside of the DMCC's jurisdiction but linked in some way, for example through beneficial ownership. The DMCC's KYC evaluations also extend to the audit firms seeking to become DMCC accredited auditors. DMCC member companies and accredited refiners are re-assessed by the DMCC's Compliance team on an annual basis. All DMCC staff members undertake anti-money laundering training every two years.
- A formal whistleblowing mechanism is in place, with a dedicated email address and documented procedure, both of which are available from the DMCC's website (alongside other policies, including the DMCC's Anti-Money Laundering and Combatting the Financing of Terrorism Policy).
- The DMCC has good oversight of the audit process, including the DMCC receiving the full management report for each DMCC audit undertaken. These are subject to a formalised review process, with issues or high risk non-conformances escalated to the Independent Governance Committee.

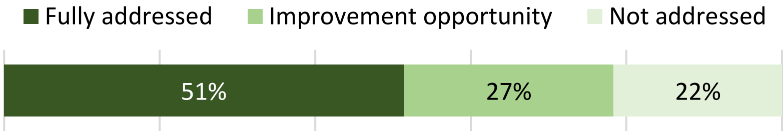
The 2017 v1.1 DMCC Rules have further strengthened the DMCC's standards in this area. The OECD Guidance recommendations that remain unaddressed under the revised standards are the recommendations that programmes support companies sourcing minerals from red-flagged operations in establishing on the ground assessment teams with appropriate capabilities and access rights, and demonstrate an understanding of the social and economic impacts that the programme's requirements may have on developing countries.

The DMCC Rules contain provisions relating to the accreditation of auditors. It will be important that, in implementing these requirements, the evaluation of auditor skills is not limited to a compliance-driven process but involves the robust checking of auditors' understanding of gold supply chains and the due diligence recommendations of the OECD Guidance. This should include assessing whether auditors have an adequate knowledge of human rights and conflict risks, in addition to more traditional compliance issues such as money laundering or terrorist financing.

Programme governance review

This aspect of the assessment evaluates programmes against 37 criteria that are not contained in the text of the OECD Guidance but have emerged as key elements of good practice in the governance and management of industry supply chain programmes. Figure 17 shows that half of these criteria were fully addressed by the DMCC.

Figure 17: DMCC's score under 'Programme governance review'



Some of the areas of strength that were noted during the assessment include:

- **The establishment of an Independent Governance Committee** (IGC) that has an oversight role on the responsible gold programme. The IGC was established in 2015 and is comprised of individuals who work on various levels of the gold value chain, but who are independent from DMCC members and auditors (all are from the private sector). The IGC meets approximately quarterly, and only the Committee Chairperson's organisation, SGS, is paid by the DMCC; other members do not receive any participation fees or remuneration. Membership of the IGC, the Committee's Terms of Reference, and reports of IGC activities are made publicly available on the DMCC website. The IGC plays a key role in oversight of the audit programme. When the IGC was established the Committee reviewed every audit, but in 2016 this process was modified so that the IGC only reviews those audits where the DMCC staff have identified discrepancies or the auditors have reported a non-conformance.

- **Inclusion of responsible sourcing in trade-focused outreach conferences**. In addition to its own annual conference in Dubai, the DMCC has for the last two years organised an annual conference for refiners and West African gold producers in Ghana. Whilst these conferences are predominately aimed at building and promoting trade linkages, responsible sourcing has been on the agenda and the DMCC has invited external speakers to attend, including the OECD. If the responsible sourcing elements of these conferences were further strengthened these could provide a valuable means of supporting capacity building amongst gold producers in the region and facilitating on the ground assessments.

- **Engagement with gold suppliers, traders and other industry stakeholders on responsible sourcing**. The DMCC free zone is a significant gold trading hub and, though much of this trading activity is focused on financial products, there are also large numbers of trading companies that are in the physical gold supply chain and may often provide the link between gold producers and refiners, including the large numbers of refiners based in India, one of the world's largest consumers of physical gold. Though the DMCC's responsible gold programme is focused on refiners, the DMCC also requires all companies that are based in the free zone to make commitments to responsible sourcing (see Box 7). At present this initiative has not progressed beyond asking companies to make written commitments, but should it do so, this could have a significant impact in helping to bring responsible sourcing practices into mainstream commercial markets that are not currently participating in responsible sourcing initiatives.

In addition, the DMCC has proactively engaged with a number of other important industry stakeholder groups on responsible sourcing issues. This has included engagement with the UAE Federal Customs Authority and with commercial airline companies in relation to hand-carried gold, and with the Dubai Gold and Jewellery Group (which represents many of the non-DMCC member companies based in the Dubai gold souk) to encourage more widespread adoption of the DMCC responsible sourcing requirements.

Box 7: Commitments from suppliers in the DMCC free zone

The DMCC requires all companies that work with gold and precious metals and are physically based in the DMCC free zone, which includes large numbers of gold traders, to sign a Letter of Undertaking. This Letter of Undertaking commits companies to put in place a responsible sourcing policy; to observe all relevant national and international laws and regulations; to acknowledge that they have received a copy of the DMCC Guidance; and to state their recognition and acceptance that failure to comply with the undertaking will lead to sanctions, including fines or license suspension. These Letters of Undertaking apply to around 2,000 companies in the DMCC area and are re-issued annually as part of the DMCC's annual membership renewal process.

To date the DMCC has not taken any follow-up or enforcement actions. Nonetheless, in requiring these commitments as part of its conditions of free zone membership, the DMCC has taken an important first step in engaging with a significant proportion of the Dubai-based gold supply chain. Building upon these commitments to raise awareness and encourage the uptake of due diligence practices could bring significant responsible sourcing benefits to the gold industry in the region, given the DMCC's status as a trading hub.

Nonetheless, as Figure 17 illustrates, there were also a number of improvement opportunities identified in this aspect of the Alignment Assessment:

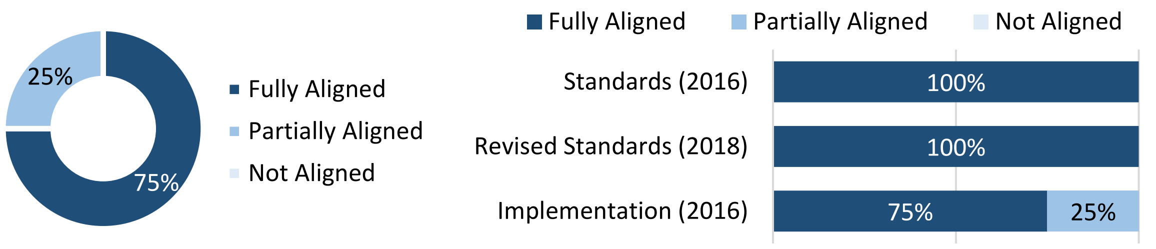
- The DMCC's engagement with non-industry stakeholders is limited at present. There is no formal engagement with civil society organisations, for example through a stakeholder panel or membership of the IGC. When the DMCC's standards and procedures are revised, this is done internally (involving the IGC) and there is no public consultation process. Information relating to member companies' performance, for example refiners' compliance reports, is not provided on the DMCC website.
- Stakeholders interviewed for this Alignment Assessment, including DMCC members, expressed concern that the DMCC does not recognise when perceptions of conflicts of interest might arise that can undermine the positive impacts of the DMCC's responsible gold programme. These concerns relate to the highly visible, continued engagement at DMCC conferences and outreach events (for example through sponsorship) of a company whose refining entity was delisted from the DGD list for a breach of responsible sourcing requirements. For many stakeholders, the fact that the delisted entity was legally separate from the entity sponsoring DMCC events was a moot point as the two entities shared the same brand and ownership.
- At present the DMCC does not publicly disclose information on supply chain risks, incidents or mitigation measures that it observes amongst DMCC refiners. Particularly when combined with the current low level of transparency from accredited refiners on their supply chain risk management and performance, this means that at present it is difficult for external stakeholders to gain much understanding on the effectiveness of the DMCC responsible gold programme. Increased transparency on this could provide significant reputational benefits to the programme.

International Tin Supply Chain Initiative

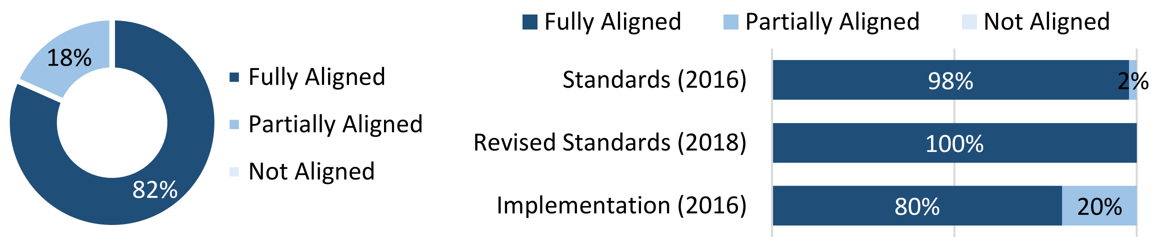
Assessment results

Overall rating 2018: Partially Aligned

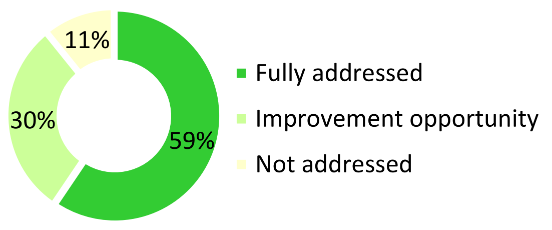
Overarching due diligence principles



Overall alignment with the five-step framework



Programme governance review



Key strengths of the ITSCI programme

- Detailed focus on the practical application of the OECD Guidance in high risk areas, reflected in 100% alignment on standards across all assessment criteria.
- Extensive on the ground activities including involvement of local stakeholders on risk assessment and monitoring.
- Effective audit programme (note: ITSCI audits are not Step 4 audits at the smelter or refiner level but cover upstream entities such as mining cooperatives and companies, local exporters and some international traders).

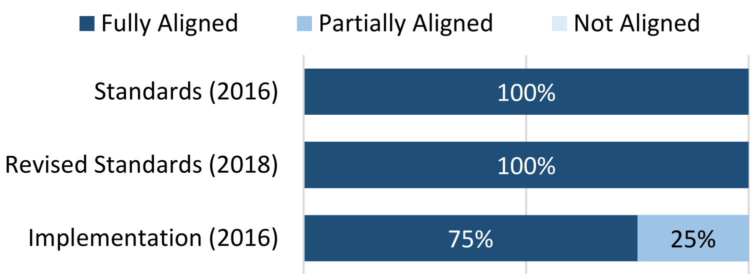
Key areas for improvement

- Build the capacity of member companies to undertake risk assessment and risk mitigation.
- Improve the timeliness and accessibility of programme communications (recognising that communications for financially contributing programme members may be prioritised).
- Strengthen organisational governance.

Overarching due diligence principles

ITSCI has been specifically designed to implement the recommendations of the OECD Guidance, with the exception of Step 4 audits (the programme audits its member companies that are not smelters or refiners, hence the audits are not considered Step 4 audits as per the OECD Guidance). This is reflected in the programme's rating for the entire Alignment Assessment, including in this section: ITSCI was rated 'Fully Aligned' in relation to the design of the programme's policies, standards and procedures.

Figure 18: ITSCI's score under 'Overarching due diligence principles'



Particular strengths that were noted in this aspect of the Alignment Assessment include:

- Explicit requirements for companies to commit to implementing the recommendations of the OECD Guidance, to recognise that they retain responsibility for due diligence in their supply chains, and to ensure that due diligence is a continual, ongoing process within their businesses.
- The specific focus for ITSCI of enabling responsible sourcing from conflict-affected and high risk areas. It has achieved notable success in doing so with significant volumes of tin, tantalum and tungsten (3T) exported from the African Great Lakes region since the programme came into operation in 2011. According to the latest data summary (Q1 2012 to Q2 2016) almost 76,000 tonnes of 3T have been exported to date under the ITSCI programme.
- The integration of on the ground risk assessments, monitoring and risk mitigation as a central component of the programme. ITSCI's activities on the ground include, amongst other things:
    - Governance assessments: undertaken by independent consultants, they cover Annex II risks and other risks relating to the implementation of the ITSCI programme in a specific geographical region.
    - Mine site baseline assessments: undertaken by local staff (some of whom are geologists), these assessments determine the anticipated plausible production from a mine in order to provide a control against minerals from non-approved mines entering the supply chain through fraudulent origin reporting. Baseline assessments also record other key details, such as GPS location, mine license information, details of the government agents assigned to the site, number of miners working on site and whether

there is evidence of Annex II risk factors, such as child labour or the presence of armed groups at a mine site.

- Partnerships with government authorities to deliver the mineral chain of custody system (tagging of minerals with associated data records at each key point along the supply chain prior to export).
- Production data, collected from mine site, processors and exporter log books, which enable oversight of levels of production so as to identify any unusual activity, comparison against recorded baselines, as well as detailed information on transportation routes and mineral chain of custody.
- On-going incident monitoring and reporting, which includes the involvement of local communities in on the ground risk identification and mitigation measures, for example in response to incidents, through the CLS (community level) and CPS (provincial level) committees. These are multi-stakeholder groups that were set up for the purposes of risk identification and mitigation.
- Provision of a whistleblowing mechanism that is increasingly used by local stakeholders of the programme.

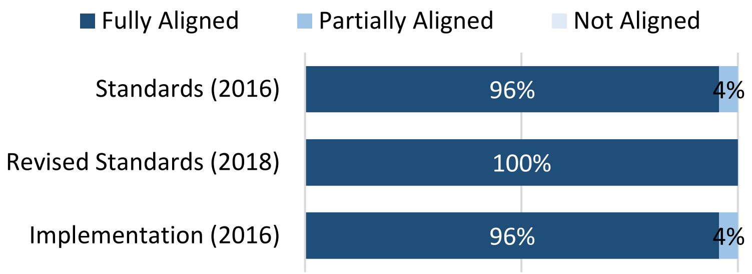
The key challenge relates to a tendency amongst companies to solely rely on ITSCI for due diligence and risk mitigation, as opposed to using ITSCI information to support their own due diligence and risk mitigation. This was observed by the evaluator during the Alignment Assessment but also raised by a significant number of stakeholders. Part of the challenge relates to the realities of working with local mineral producers, processors and exporters in the Africa Great Lakes region: many ITSCI member companies are small-scale operators and do not have formalised management systems. The expectations for company due diligence therefore need to be explained and interpreted for the local context. However, it was also identified that this was an area in which ITSCI could do more, as a programme, to build the capacity of companies to undertake meaningful due diligence using ITSCI's tools. This is discussed in more detail below.

Step 1 – Establish strong management systems

Ensure that due diligence and management systems of companies in mineral supply chains are structured for effective due diligence.

Figure 19 illustrates the Alignment Assessment rating for the management system requirements set for companies, both in terms of the requirements and implementation activities that were in place during 2016 and the subsequent revisions to ITSCI's standards during 2018. It can be seen that, with the exception of one criterion, during the 2016 fieldwork ITSCI was already fully aligned with all of the OECD Guidance recommendations for this section of the Alignment Assessment.

Figure 19: ITSCI's score under 'Step 1: Establish strong management systems'



The detailed requirements for management systems that ITSCI sets for companies are primarily described within the ITSCI Audit Checklist, though company policies and due diligence plans are also included in membership approval processing. ITSCI staff noted that their experience was that the ITSCI audit was the most effective means of engaging the management of companies with the requirements and expectations of the programme, and that particularly in the early years of the programme auditors frequently had to explain to companies how to practically implement due diligence activities and address areas identified in the audit where there were risks or improvement opportunities. The Audit Checklist has evolved to become the main document setting out the specific details of ITSCI's requirements for member companies' due diligence, risk assessment and risk mitigation activities. The Audit Checklist is provided to all companies participating in the programme.

The ITSCI Audit Checklist is based on the OECD Guidance and follows the structure and content of the OECD Guidance recommendations very closely, with additional traceability requirements. The auditors assess companies against the detail of these criteria; this assessment forms one of several important mechanisms by which ITSCI can drive company implementation of its requirements.

ITSCI furthermore provides a traceability system for minerals that uses tags and logbooks to identify mineral production sites, transport routes and entities handling minerals. Incidents relating to non-conformances with ITSCI's traceability system are logged and followed up through the incident management system (see boxes 3 and 8).

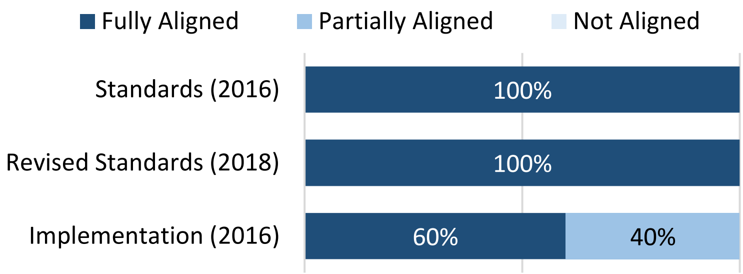
Only one standards criterion across the whole assessment for ITSCI was not rated as 'fully aligned' in 2016; this related to the OECD Guidance recommendation that upstream companies support the implementation of the principles and criteria of the Extractive Industries Transparency Initiative (EITI). ITSCI made changes in 2018 to the wording of this requirement to align with the text and spirit of the OECD Guidance, brining ITSCI now to 100% full alignment across all standard criteria.

Step 2 – Identify and assess risks in the supply chain

Identify and assess risks associated with the circumstances of extraction, trading, handling and export of minerals from conflict-affected and high-risk areas.

Figure 20 illustrates the Alignment Assessment rating for the risk assessment requirements set for companies by ITSCI. The design of all of ITSCI's requirements for companies' risk assessment activities was 'fully aligned' with the recommendations of the OECD Guidance.

Figure 20: ITSCI's score under 'Step 2: Identify and assess risks in the supply chain'



Implementation of the OECD Guidance recommendations for risk assessment was more challenging. ITSCI provides a range of resources to support companies with the risk assessment activities: key examples are the Governance Assessments of mining regions; mine baseline assessments; monthly incident reports; and the Due Diligence List that names mine sites or individual companies that have incidents raised against them or where production levels (for a mine site) are inconsistent with the production estimates from the baseline assessment.

However, audit observations, supported by a review of audit reports and interviews with ITSCI auditors, demonstrated that many companies do not yet effectively make use of ITSCI data to support their own risk assessment activities. This is a common area of minor non-conformance findings in ITSCI audit assessments. Instead, many companies place reliance on the ITSCI programme to assess risks for them and assume that if minerals have been appropriately 'bagged and tagged' through the ITSCI system then this means they are 'risk free'. There is scope for improvement in how ITSCI engages with companies to encourage greater and more meaningful use of the tools and data made available to them through the ITSCI programme.

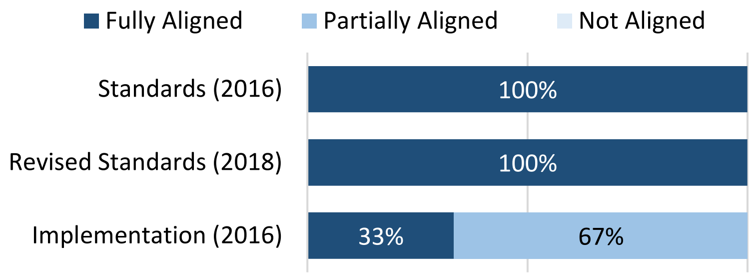
As noted above, the audit is an important mechanism by which ITSCI is able to review in detail and challenge whether companies are applying the specific requirements of the programme. However, the limited ratio of ITSCI audits compared to ITSCI membership (5 audits for 159 members in 2016) limits the current effectiveness of this as a means of driving implementation of ITSCI's requirements for companies. This suggests that either more regular audits or a combination of more regular audits with alternative means of communication or pressure on members to improve assessment of risk is needed.

Step 3 – Design and implement a strategy to respond to identified risks

Evaluate and respond to identified risks in order to prevent or mitigate adverse impacts.

Figure 21 shows that, as with the risk assessment criteria under Step 2, the standards that ITSCI sets for companies are fully aligned with all of the OECD Guidance recommendations in this section of the Alignment Assessment.

Figure 21: ITSCI's score under 'Step 3: Design and implement a strategy to respond to identified risks'



The ITSCI incident management process clearly identifies, for each reported incident, the relevant stakeholders and recommended mitigation measures for addressing the reported incident. Through the communication of incident reports to member companies ITSCI provides the opportunity for companies to consider where they could or should use their leverage to mitigate potential risks. While ITSCI is pro-active in reminding companies to take their own actions, it was found during the shadow audits and interviews with local staff, companies and auditors, that this message still does not register with many member companies.

In addition to the incident reports, ITSCI also maintains a 'Due Diligence List' that is sent to members and key stakeholders (including government authorities) on a monthly basis. The Due Diligence List names mine sites or companies where risks relating to the plausibility of production have been identified in order to assist companies in prioritising their due diligence efforts. During 2016 a revised version of the Due Diligence List was implemented in Rwanda which includes additional information about how long a company or site has been on the List, whether they've been on the List before, and links to relevant incident reports. It is understood that this revised format is being extended to other countries where ITSCI operates.

However, as with the risk assessment criteria under Step 2, there is scope for improvement in the measures that ITSCI undertakes to seek implementation by member companies of ITSCI's risk mitigation requirements. Some companies proactively undertake risk mitigation measures, including one of the companies in the DRC visited for this assessment. However, this is also an area where ITSCI audits frequently find gaps, for example with companies purchasing minerals from mine sites on the Due Diligence List without having done an assessment of whether the risks highlighted by ITSCI had been addressed, or without being aware that suppliers are on the List.

A risk area that has been repeatedly highlighted by external stakeholders and monitoring organisations, including the UN Group of Experts, relates to reports of fraudulent use of ITSCI tags by government service agents in the region. The alleged purpose of such fraudulent use is to integrate minerals that are extracted from non-ITSCI sites (where conditions of extraction are not monitored) into the ITSCI system with the aim of accessing the international market for responsibly produced minerals. This risk was a concern for external stakeholders interviewed during this Alignment Assessment and the evaluator noted that a significant proportion of incidents reported by ITSCI during the fieldwork period for this project were tag-related. ITSCI reports that this is due to the large volumes of minerals tracked by the system and the large numbers of tags and transactions in the supply chain; in 2016 ITSCI distributed more than 580,000 tags in more than 6,000 distributions to government agents.

ITSCI has implemented management controls that seek to mitigate the risk of fraudulent tag use, such as limiting the number of tags distributed to government agents and monitoring the plausibility of production closely. Identified incidents are reported and monitored through the incident reporting system. Whilst the number of tag-related incidents is a positive reflection on ITSCI's incident reporting process, it also reinforces the need for companies within the programme to undertake effective due diligence on their own suppliers and not solely rely on the ITSCI programme to address this on-going challenge.

The evaluator recognises that the audit is not the only mechanism that ITSCI deploys to monitor company implementation of its requirements, and also that the response rate to incidents by companies is relatively good (according to ITSCI analysis, from a total of 3382 incidents between 2011-2016 only 6% were unresolved due to insufficient progress by companies). Nonetheless, audits are the primary means by which ITSCI can gain insights into the sourcing practices, actions and decision-making of member companies. Furthermore, any incidents that relate to a company failing to implement ITSCI requirements or to take appropriate mitigation action in response to risks would usually only be logged after an audit – ITSCI otherwise has limited insight into what companies may or may not be doing.

As noted above, not all members are regularly audited; during the assessment period of 2016 only 3% of active members were audited. Moreover, the focus on certain prioritised risks or geographies means that large numbers of ITSCI members operate actively in the programme but can go unchecked on how they are implementing ITSCI's requirements for several years at a time.

Step 4 – Carry out an independent audit

Carry out an independent third-party audit of the smelter/refiner's due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas and contribute to the improvement of smelter/refiner and upstream due diligence practices.

ITSCI has not been rated for the majority of this section of the Alignment Assessment as under the OECD Guidance audits are only required for 3TG minerals at the level of a smelter or refiner (the identified 'control point' in the supply chain) and ITSCI does not audit smelters or refiners. Nonetheless, ITSCI does have an audit programme of its members (mainly local mineral exporters but also cooperatives, mining companies and international traders).

However, there is one criterion in this section that relates to the requirements that a programme sets for companies that are subject to audit under the programme to facilitate auditor access to company sites, documentation, records and, as appropriate, suppliers and on the ground assessment teams. ITSCI was fully aligned with this recommendation as it facilitates effective access to documentation and records for companies that are members of other programmes that are relying on ITSCI upstream due diligence activities, such as the RMI.

For ITSCI, the audit process of its upstream members has a dual purpose:

- It provides information on smelters' supply chains that is needed to fulfil the recommendations for Step 4 audits set out in the OECD Guidance and builds confidence in the programme amongst smelters or refiners purchasing from ITSCI member companies and other key stakeholder groups such as downstream companies.
- It provides a means of engaging directly with member companies on their business structure and supply chains to build capacity amongst members to comply with ITSCI's requirements.

It was noted by ITSCI staff that serious risks or incidents had never been first identified by the audit; these had always been identified through the incident reporting process prior to auditors arriving on site. Nonetheless, the third party audit is an integral part of the programme.

All ITSCI audits are currently delivered by one audit provider, Synergy Global Consulting Ltd, and by a small pool of Synergy staff – all of whom have been vetted and trained by ITSCI. There is an established audit process, which includes a desk-based pre-audit followed by the on-site audit, with the Audit Checklist providing the key audit procedure. All audit reports are submitted to ITSCI Governance Committee for review and approval before the summary audit report is issued. The evaluator was informed that the Governance Committee review of audit reports often created delays in the issuing of audit reports to companies and for their publication.

Amongst ITSCI member companies there can be considerable variance in company activity year-to-year, heavily impacted by mineral prices, so annually recurring audits may not always be practical. However, the methodology for deciding on which and how many audits of ITSCI member companies should be carried out each year remained unclear. ITSCI states that this is based on a number of risk factors, including the number of incidents and previously identified concerns such as lack of due diligence understanding. This has resulted in only 5 audits for 159 members in 2016 in what many consider high-risk areas in the African Great Lakes region, raising questions about the adequacy of the methodology used.

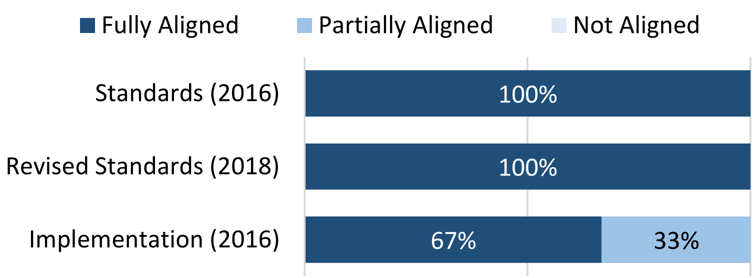
Summary audit reports follow a standard format that clearly shows how different aspects of the OECD Guidance five-step framework were assessed, with findings and observations noted against each area. Issues are described and assigned a rating and timeframe for completion. Audit summary reports are provided to ITSCI members once reviewed by ITSCI Governance Committee. They are also published on ITSCI website, but are very dated by the time they are made publicly available. At the time of writing (March 2018) the latest audit report on ITSCI website was for an audit undertaken in September 2016, the report of which was posted on ITSCI website in February 2018.

Step 5 – Report on supply chain due diligence

Publicly report on due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas in order to generate public confidence in the measures companies are taking.

Under the OECD Guidance all companies should publish a report that describes the company's management systems, the methodology and results of the risk assessment and the steps taken to manage identified risks. Smelters or refiners should also publish the audit report. As illustrated by Figure 22, ITSCI was fully aligned in relation to its standards.

Figure 22: ITSCI's score under 'Step 5: Report on supply chain due diligence'



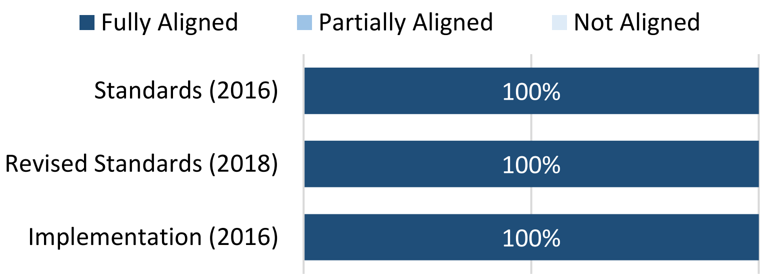
ITSCI member companies are required to produce a Step 5 report after one year of membership and active trading, and failure to do so will result in an incident being raised against the company. Although a lack of reporting is not an Annex II risk, ITSCI has not specified extensive options for further sanctions if the company does not comply in due time. Member companies' reports are published on the ITSCI website[11]. As of January 2017, 72% of companies that were approved and active members during 2016 had a report on ITSCI website (though due to different reporting periods, or periods of business inactivity, those reports did not necessarily all relate to the calendar year 2016).

Information is provided by ITSCI to member companies on the information that they should include within their Step 5 report, which includes the content recommendations set out in the OECD Guidance. It is also worth noting that, due to the size and circumstances of the companies, the notion of external reporting may be unfamiliar to many. Nonetheless, the content of member company reports, in particular a lack of detail or measurable performance indicators, was a concern raised by a number of external stakeholders. Most reports don't fully address the detailed recommendations for report content that are set out in the OECD Guidance.

Specific responsibilities of programmes

This section of the Alignment Assessment focused on the recommendations that the OECD Guidance makes for the activities of programmes. As Figure 23 illustrates, ITSCI achieved a rating of Fully Aligned for all of the criteria in this section of the Alignment Assessment.

Figure 23: ITSCI's score under 'Specific responsibilities of programmes'



A number of particular strengths were observed:

- **Due diligence is undertaken on companies seeking to join the programme.** As part of the membership application, companies are required to provide various details of their business and structure, including information on beneficial ownership by both individuals and companies. This information is evaluated by Synergy prior to a recommendation being made to the Governance Committee on whether a company should be accepted for membership.
- **A significant amount of in-region training on the implementation of the programme is provided to government stakeholders**. Several government stakeholders commented that they viewed the training that is delivered via the ITSCI programme to government agents as an important tool in strengthening mineral sector governance.
- **The ITSCI programme is designed to collect and process information that can be utilised by companies further downstream**, including by smelters and refiners, for due diligence purposes. Extensive volumes of data are collected and processed by ITSCI and made available in various formats to members and other key stakeholders. A particularly useful report for smelters and refiners is the ITSCI Shipment Report. This report provides due diligence information relating to

[11] http://www.ITSCI.org/company-annual-reports-public

an individual smelter's specific supply chain, including weight discrepancies, transport routes, mine sites, transport methods and exporter details.

- **A central whistleblowing mechanism is available for ITSCI as a whole**, with a dedicated email address on the website as well as a documented whistleblowing complaints management procedure also available online. Within the DRC there is a dedicated whistleblowing phone service operated in North and South Kivu by a third party civil society organisation that is active and appears to function well (see Box 8).

The ITSCI Shipment Report, described above, could be a very useful tool to support smelters' and refiners' due diligence. However, at present these reports only appear to be used by smelters and refiners for the purposes of passing their RMI (former Conflict Free Smelter Program (CFSP)) audit, rather than as a tool to support ongoing due diligence. ITSCI's reporting queue prioritises requests based on the dates of audits and it was also reported that Shipment Reports can take ITSCI up to six months to prepare, so timeliness of this information may be a barrier to its uptake as a due diligence tool.

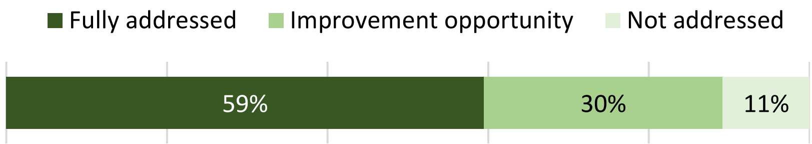
Box 8: Whistleblowing mechanism for local stakeholders in the DRC

ITSCI has established a whistleblowing hotline which is managed by a local NGO in the DRC and, in 2016, covered ITSCI sites in the North Kivu and South Kivu provinces. During 2017 the coverage of the whistleblowing programme was extended to Maniema and the Katanga provinces. The hotline provides two toll-free numbers which accept both SMS messages and voice calls and is actively used. The NGO uses its network of around 60 volunteer investigators based in local communities to fact-check issues that are raised on the hotline (volunteers are not paid but receive telephone credits to help with their enquiries). If a reported incident is more severe, investigators from the NGO's staff will investigate fully, working closely with ITSCI staff. Relevant incidents raised from the hotline will be included on ITSCI incident reports, with the NGO reporting on a weekly basis but following ITSCI protocol for immediate reporting of higher risk 'Level 1' incidents. At the time of the evaluator's fieldwork in the DRC (July 2016) there had been four 'Level 1' incidents reported via the hotline during 2016.

Programme governance review

This aspect of the assessment evaluates programmes against 37 criteria that are not contained in the text of the OECD Guidance but have emerged as key elements of good practice in the governance and management of industry supply chain programmes.

Figure 24: ITSCI's score under 'Programme governance review'



As this report has shown, the design and implementation of ITSCI's requirements is closely aligned to the recommendations of the OECD Guidance.

Some particular strengths that were noted during the assessment include:

- **External stakeholders (particular government agencies and community representatives) are heavily involved in on the ground risk identification and mitigation measures**, for example in response to incidents, through the CLS and CPS committees (as previously noted).
- **ITSCI and its implementation partner, Pact, regularly participate in public conferences, including the OECD Forum meetings, where a significant amount of information about the programme is provided.** Information relating to risks and mitigation strategies is provided by ITSCI in public forums and also in working groups with key stakeholders such as the OECD.
- **A significant amount of information is publicly available on the ITSCI website**, including on member companies, risks and annual reports, albeit not always in a particularly accessible format (communications are discussed below) and not always in a timely manner.
- **ITSCI has recently entered into an agreement with the RMI (formerly CFSI) to improve the level of information sharing between the two programmes** particularly with regards to the details of incidents identified by ITSCI and the monitoring of follow-up actions.
- **The audit programme has been closely managed and developed over time in order to improve the quality and consistency of the audits.** With only one audit provider, ITSCI has close oversight of the audit activities and the competencies of individual auditors. The Audit Checklist contains a lot of detail and has evolved over the life of the programme to incorporate lessons learned. Training has been developed and provided to auditors, which includes discussion on competency areas such as critical analysis and professional scepticism, rather than just the process of the audit.

This Alignment Assessment also identified a number of improvement opportunities.

- **There is very little involvement of external stakeholders in the development and oversight of due diligence, reporting and auditing activities of the programme**, which are managed and delivered by the ITSCI secretariat. There is an External Advisory Panel, however this has never met in person as a group and ITSCI only occasionally consults individual members of the panel on an ad hoc basis when input on specific topics is being sought. As such, the Panel has no formalised and operational oversight function. It should be noted that the evaluator was informed that ITSCI invited a significant number of NGOs to join the External Advisory Panel, but most declined to do so.
- **There is a significant amount of information produced through ITSCI programme, both for members and that is made publicly available to non-members. However, accessing and utilising the information is a challenge.**
- Part of this challenge relates to how information is presented, both online and in regular communications. Making information more readily accessible could yield useful benefits to the programme's impacts by assisting companies in strengthening due diligence processes. Consideration should be given to evaluating the needs of users (or intended users) of ITSCI's information resources and developing communications resources accordingly. It is understood that ITSCI is currently working on a new database solution with a specialist software provider to streamline data processes and enable members to access real-time data relating to their supply chains. Transparency on the exclusion of member companies could also be communicated more clearly.
- The other part of this challenge is the timeliness of information. It is understandable that ITSCI would wish to make a distinction between the timeliness of information provided to members

compared to that provided publicly. However, at time of writing (March 2018) the most recent Governance Assessment report available online was from an assessment in September 2016; the most recent audit report was from an audit conducted in September 2016; and the most recent incident summary reports related to the period of July – December 2016. Measures to improve the timeliness of information provided to both members and non-members should be considered.

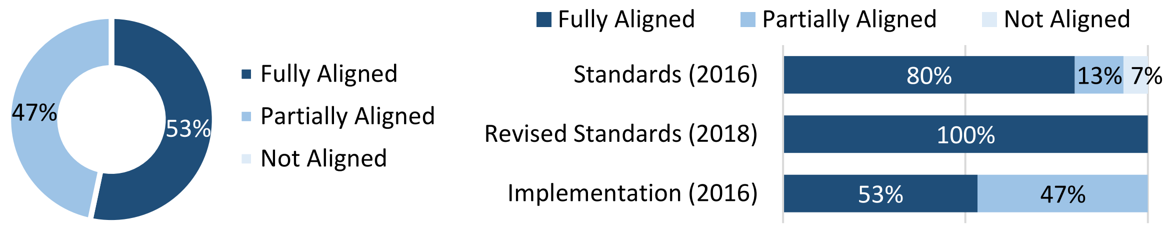
- **The organisational structure of ITSCI creates a 'pinch point' which can result in delays to document approval and decision making.** Key decisions are made by the 'Governance Committee' which consists of two individuals, one of whom is the ITSCI programme manager. Each individual on the Governance Committee has a nominee who may stand-in, but it is the evaluator's understanding that they are seldom asked to do so. Both internal and external stakeholders noted delays to the approval of audit reports and company membership applications.
- **ITSCI was established as a project within the International Tin Association Ltd. Despite the programme's subsequent growth in the following years and its current scale, it still lacks the formal organisational structure that might be expected of a programme of ITSCI's scale.** There is no board or supervisory committee to whom the programme manager reports; as noted above, the Governance Committee consists of only two individuals, one of whom is the programme manager. The financial turnover of the ITSCI programme is substantially larger than any other aspect of the International Tin Association Ltd's finances (ITSCI is run on a not-for-profit basis and all programme revenues are held in trust and used solely for programme activities). There have been some limited discussions about transitioning ITSCI into an independent organisation (such as a registered charity or social enterprise) but these have not progressed into a formal plan, with the availability of resources to manage such a transition one of the key concerns of ITSCI programme managers.
- **The programme's aims and objectives are loosely defined beyond its ambitions of maximising market access for central African miners and supporting smelters' and refiners' due diligence.** When the programme was being set up there was a defined strategy, objectives and implementation plan, but now the programme is established there is no defined strategy with specific objectives and plans for future development. There is no theory of change for ITSCI and whilst there are a number of different initiatives underway, these are not part of a broader strategic plan. Various metrics are utilised as a proxy for organisational performance (e.g. number of miners participating, number of mine sites, number of incidents, number of member companies) but without clear objectives and targets such data is of limited value.
- **It was also observed during this assessment that whilst ITSCI has a strong working relationship and corresponding recognition with the RMI, cross-recognition with other programmes is more challenging.** ITSCI actively aims to support and integrate with the work of the International Conference for the Great Lakes Region (ICGLR) and ITSCI actively sought agreement with ICGLR on a joint approach. However, at the time of writing ITSCI states that the ICGLR's audit approach is substantially different to that of ITSCI and so ITCSI does not recognise ICGLR audits within the programme. It was also observed that there is a somewhat antagonistic relationship between other upstream programmes, such as the Better Sourcing Program and ITSCI.

London Bullion Market Association

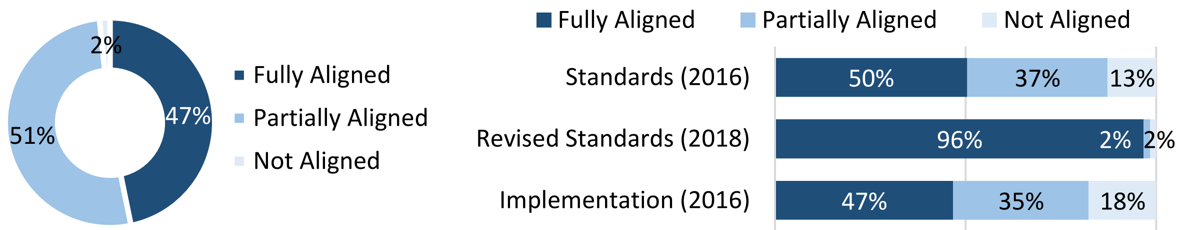
Assessment results

Overall rating 2018: Partially Aligned

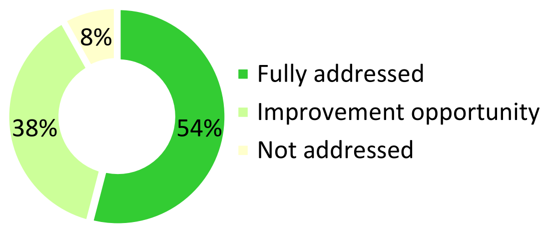
Overarching due diligence principles



Overall alignment with the five-step framework



Programme governance review



Key strengths of the LBMA Responsible Gold Programme

- Programme requirements closely follow the structure and content of the OECD Guidance.
- Principles of company responsibility and accountability are clearly understood by refiners interviewed or visited during the assessment.
- Strong internal governance and structured management processes.

Key areas for improvement

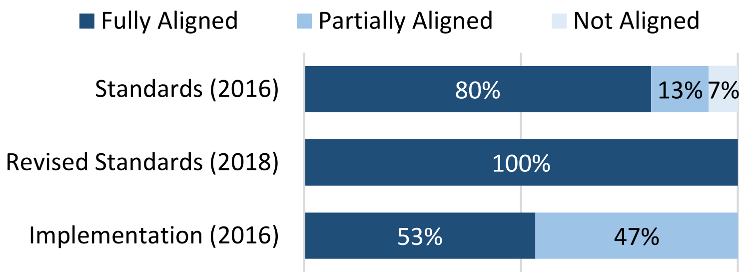
- Strengthen requirements so that refiners ensure due diligence is undertaken throughout the supply chain, beyond tier 1 (direct) suppliers, where appropriate.
- Enhance the vetting and oversight of auditors to strengthen audit consistency and rigour.
- Provide transparency on refiner de-listing decisions and non-conformance findings from the audit programme.

Overarching due diligence principles

During 2016, when the assessment activities for the Alignment Assessment project commenced, the due diligence requirements of the LBMA's Responsible Gold Programme were implemented primarily through the LBMA Responsible Gold Guidance (v6) and the LBMA Third Party Audit Guidance (v3 – 11/03/2016). These were subsequently updated during 2017 with some quite substantial changes to the Responsible Gold Guidance (RGG) v7 and some more minor updates to the Third Party Audit Guidance (v3 – 01/09/2017).

Figure 25 illustrates the extent to which the design and implementation of the LBMA's standards was aligned to the overarching due diligence principles of the OECD Guidance during the fieldwork period of 2016 and shows the impact of the revised standards introduced in September 2017. Only the design of the revised standards could be assessed in this project: implementation effectiveness will need to be assessed at a later date once the standards have been implemented by LBMA refiners and auditors.

Figure 25: LBMA's score under 'Overarching due diligence principles'



With the RGG being based on the five-step framework of the OECD Guidance, the LBMA achieved quite a strong score in this aspect of the Alignment Assessment following the assessment activities in 2016. Many of the core principles of the OECD Guidance were incorporated into the requirements of the RGG (v6). These have been further improved by the revisions introduced by RGG (v7) and the LBMA's standards are now fully aligned with all the overarching due principles of the OECD Guidance.

The assessment of implementation of the LBMA's requirements identified some areas with scope for improvement.

- One of the overarching principles of the OECD Guidance is that due diligence and risk management performance should improve over time. The RGG (v6) lacked a clear reference to continual improvement and it was observed through the shadow audits and stakeholder interviews that the LBMA's requirements were considered more as static compliance thresholds rather than a basis for continual and progressive improvement. The LBMA will need to raise awareness of this change as part of its implementation measures for the RGG (v7) which has now addressed this at a standards level.
- Whilst most of the different types of risk set out in Annex II were identified in the RGG (v6), and therefore considered in the implementation of the programme by refiners and auditors, there were some gaps. For example, the role of security providers and the payments of taxes/royalties is not referenced as a risk factor that refiners and auditors should be alert to. It was also observed that both auditors and refiners focused primarily on conflict risks and Know Your Customer (KYC) assessments, with less consideration given to issues relating to human rights.

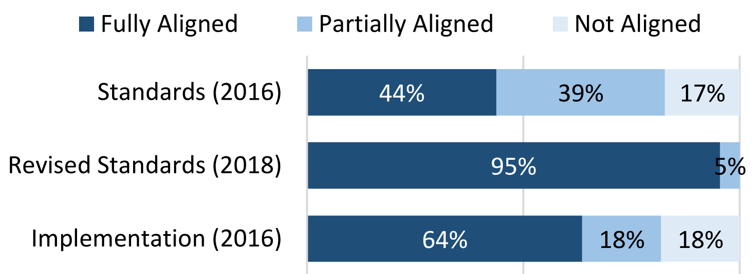
- Within the RGG (v6) there was no encouragement for refiners to source responsibly from conflict-affected or high-risk areas. The refiners visited in this assessment tended to be risk-averse in their sourcing decisions. Whilst refiners must always make their own commercial decisions, the purpose of the OECD Guidance is to enable the responsible sourcing minerals from conflict-affected or high-risk areas. Taking steps to encourage such responsible sourcing will be an important part of implementing the revised RGG (v7) requirements which encourage refiners to consider such sourcing where appropriate.

Step 1 – Establish strong management systems

Ensure that due diligence and management systems of companies in mineral supply chains are structured for effective due diligence.

Figure 26 illustrates the Alignment Assessment rating for the management system requirements set for companies, both in terms of the requirements and implementation activities that were in place during 2016 and the subsequent revisions to the LBMA's standards during 2017.

Figure 26: LBMA's score under 'Step 1: Establish strong management systems'



As Figure 26 shows, many of the management system criteria from the OECD Guidance were met, at least in part, by the RGG (v6). However, the RGG (v7) has substantially improved the alignment of the LBMA's standards with the OECD's recommendations for the design and function of due diligence management systems. The only criterion in this section of the assessment now not fully addressed by the LBMA's standards is in relation to the OECD Guidance recommendation that companies communicate to their suppliers a firm expectation that suppliers will undertake due diligence and risk management consistent with the standards set out in Annex II of the OECD Guidance. On this aspect the LBMA uses less directive terminology which, in the view of the evaluator, leaves too much room for interpretation and consequently risks seeing variable implementation.

The refiners visited during the Alignment Assessment fieldwork had sophisticated management systems in place with due diligence activities fully integrated into core business processes, backed up with significant documentation. The structure and functioning of refiners' management systems and processes was assessed during the LBMA audits that were shadowed for this project.

However, as Figure 26 illustrates, there was nevertheless scope for improvement in how several of the LBMA's requirements were being implemented. Most significantly, there is a need to strengthen how auditors evaluate how company management systems drive due diligence down the supply chain beyond the relationship between a refiner and its tier 1 (direct) suppliers. This is particularly true with regards to recycled gold.

Whilst the RGG encourages refiners to ask their suppliers to commit to complying with a supply chain policy that is consistent with Annex II it was observed that, in practice, refiners tended to limit their due diligence to KYC and commercial assessments. Auditors did not challenge refiners on such practices. Refiners asked their suppliers to sign an agreement to implement the refiner's supply chain policy but then took no further checks on the supplier's own due diligence on their suppliers. Many refiners are supplied with gold from merchant banks and other gold refineries, for example, and it was observed that due diligence on such transactions was limited solely to KYC assessments of the direct supplier. Kilobars (1kg gold bars) from gold refineries that are not part of a responsible sourcing programme (produced with gold from an unknown origin) were observed entering LBMA refineries, having been supplied to the refinery by a merchant bank (with the bank being the refiner's supplier). Whilst full KYC due diligence had been done by the refinery on the supplying bank, the refineries had no knowledge over where the kilobars had originated and placed reliance on banks being regulated entities. Similar approaches to due diligence were observed on transactions between refineries. Such transactions were not challenged by the auditors or identified as potential risks despite the opacity of the gold supply chain in such circumstances.

Box 9: Good practice - management accountability for due diligence

At the LBMA refiners visited it was clear that senior management took their accountabilities for due diligence very seriously. For example, at one large international refiner, every new account (i.e. every new supplier of gold) had to be approved by a Compliance Committee that consisted of the Chief Executive Officer, the Chief Financial Officer and the Group Legal Counsel before the refiner could begin a commercial relationship with the supplier. At this refiner, the Group Legal Counsel had personally visited several mine sites in higher risk countries as part of the refiner's due diligence assessments.

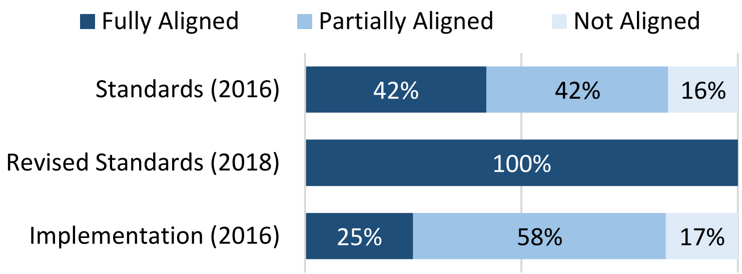
Whilst the scope of due diligence undertaken could be improved at all the refiners that were visited (as discussed in this report) the personal commitment to due diligence by members of the senior management team at these particular refiners was notable. However, stakeholder interviews and the evaluator's experience at other refiners indicate that not all gold refiners can demonstrate such senior management commitment to due diligence.

Step 2 – Identify and assess risks in the supply chain

Identify and assess risks associated with the circumstances of extraction, trading, handling and export of minerals from conflict-affected and high-risk areas.

Figure 27 illustrates the Alignment Assessment rating for the risk assessment requirements set for companies by the LBMA, both in terms of the requirements and implementation activities that were in place during 2016 and the subsequent revisions to the LBMA's standards during 2017. As the chart shows, the introduction of the RGG (7) significantly improved the alignment of the LBMA's standards to the OECD Guidance and they are now fully aligned with all the OECD Guidance recommendations for risk assessment.

Figure 27: LBMA's score under 'Step 2: Identify and assess risks in the supply chain'



More detail is provided within the text of the RGG (both v6 and v7) on Step 2 of the OECD five-step due diligence framework than on any other aspect. All refiners visited for this project had established risk assessment processes and procedures, often including their own internal guidance on geographies or counterparts that they considered to represent higher risks. Both auditors that were shadowed challenged refiners' risk assessment determinations.

Nevertheless, as Figure 27 illustrates, many of the criteria in this section of the assessment were not fully addressed by refiners and auditors. Most significantly, whilst refiners were active in risk assessment, and auditors made sure to evaluate the risk assessment processes and activities during the audit, the quality or rigour of risk assessment undertaken by refiners sometimes fell short of the standards set out in the OECD Guidance.

- **There is a need for greater emphasis on refiners' due diligence extending beyond Tier 1 (direct) suppliers** where the nature of the supplier's business means that the refiner lacks visibility into the origin of the gold that is being supplied. As noted under Step 1, this risk is particularly pertinent to certain forms of recycled (previously refined) gold, such as kilobars from refineries that are not part of a responsible sourcing programme, or gold sourced from merchant banks or traders.
- **With regards to risks of human rights abuses, refiners tended to rely on declarations from suppliers that they would comply with the refiner's policy**, as opposed to investigating suppliers' human rights performance themselves as part of their due diligence. Such reliance went largely unchallenged through the audit.
- **Reports from on the ground assessments of mine sites, when available, were inconsistently documented and often focused on commercial matters only** (e.g. plausibility of production, possession of a mining licence). Analysis of broader conflict or human rights risks was lacking from the site visit reports that the evaluator viewed. Again, this was unchallenged through the audit.

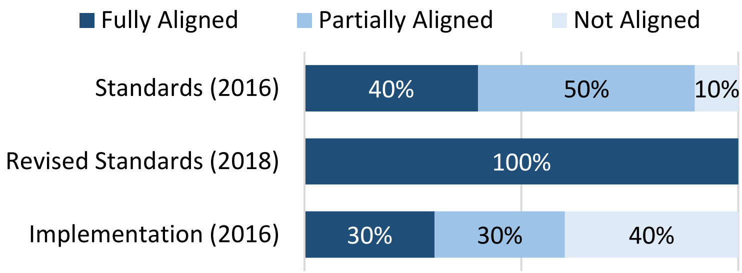
Strengthening these aspects through training of both refiners and auditors will be important to ensure effective implementation of the LBMA's risk assessment requirements.

Step 3 – Design and implement a strategy to respond to identified risks

Evaluate and respond to identified risks in order to prevent or mitigate adverse impacts.

As with the risk assessment criteria under Step 2, the revisions to its standards that the LBMA introduced with the RGG (v7) have substantially improved the LBMA's alignment to the OECD Guidance recommendations for risk mitigation. This is illustrated by Figure 28 which shows that the LBMA's standards are now fully aligned with all the OECD Guidance Step 3 recommendations. However, as Figure 28 also shows, when the implementation of the previous LBMA RGG (v6) was evaluated for this project some quite significant gaps were identified.

Figure 28: LBMA's score under 'Step 3: Design and implement a strategy to respond to identified risks'



As noted under 'Overarching due diligence principles', the concept of continual improvement in due diligence performance over time was missing from formal requirements set out in the RGG (v6) and from the implementation actions of refiners and auditors. Whilst this has been addressed at a standards level by the RGG (v7) it will be important for the LBMA to be proactive in educating refiners and auditors on the risk mitigation aspects of the OECD Guidance and what that practically means for how refiners should engage with their suppliers.

It was observed at the refiners visited that management took a risk-averse approach to sourcing, particularly with respect to mined gold. If risks were identified during due diligence, these were usually managed by not sourcing from that supplier or disengaging if the risks related to an existing supplier.

As discussed in Box 4 in Part I of this report, the sensitivity of gold refineries to reputation risks creates a paradox between the need to both strengthen refiners' risk assessment practices and also provide more focus on progressive risk mitigation.

For example, several of the refiners visited had, in effect, an 'internal embargo' on sourcing mined gold from African countries. In these refiners, the management teams felt that they did not have sufficient capacity to manage the risks that they perceived they would be exposed to if sourcing from the continent. These were commercial decisions: the refiners in question had no shortages of supply from gold producers where they felt the risks were lower and more easily managed. Therefore, they felt there was little reason to incur the extra cost and potential risk exposure that they thought would be associated with African gold. As decisions such as this are commercial decisions that only companies can take, this observation has not impacted the LBMA's Alignment Assessment score. Nonetheless, it highlights the need for continued effort by diverse stakeholders to encourage and facilitate engagement by responsible businesses in the gold supply chains of higher risk countries and regions (not just in Africa).

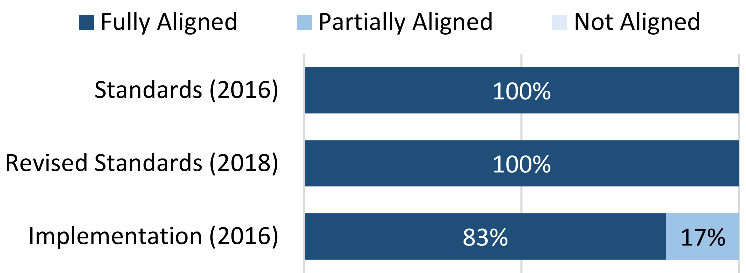
Step 4 – Carry out an independent audit

Carry out an independent third-party audit of the smelter/refiner's due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas and contribute to the improvement of smelter/refiner and upstream due diligence practices.

This section of the Alignment Assessment focuses on the recommendations that the OECD Guidance makes for the activities of auditors in delivering audits under a programme.[12]

The criteria for audits that are specified in the text of the OECD Guidance are fully addressed by the design of the documented RGG standards – both RGG (v6) and the updated RGG (v7). These provide detailed auditor guidance covering areas including audit scope, the criteria to be used in the audit, the need for auditor independence and audit activities, amongst others. There are six audit-related criteria in this section of the Alignment Assessment and for all but one the LBMA's requirements were observed to be fully implemented by the auditors.

Figure 29: LBMA's score under 'Step 4: Carry out an independent audit'



One area where improvement could be made, however, is in relation to the technical competencies of auditors. Whilst the auditors at the observed LBMA audits had sufficient competencies and knowledge, the evaluator has observed poor quality audits being undertaken for other audit programmes by auditors who also deliver LBMA audits. A lack of technical competencies and appropriate subject matter knowledge was a key area of concern raised by external stakeholders and acknowledged by LBMA staff who have, on occasion, had to take action against audit firms and refineries. This has included de-listing refineries for failure to meet the requirements of the RGG and de-accrediting auditors for insufficient audit rigour.

One notable example related to a refinery where an audit, undertaken by a global auditing firm, raised a major non-conformance as it found the refinery had no formal risk management system in place. However, the same firm had audited the same refinery for the previous three years and each time had reported it to be fully compliant with the LBMA requirements. Whilst this particular refiner was removed from the Good Delivery list and the country office of the auditing firm removed from the Approved Service Providers list, there remains scope for improving the LBMA's management of the audit programme. This is discussed further under the 'Specific responsibilities of programmes' and 'Programme governance' sections of this report.

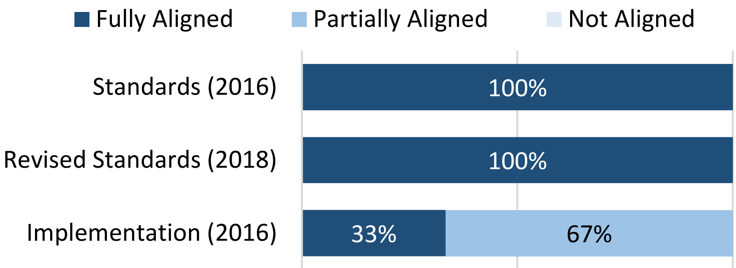
[12] The OECD Guidance recommendations for audits cover issues such as the scope of the audit, the need for auditors to be independent of the refiner and the activities that should form part of the audit. It should be noted that under the OECD Guidance, audits are expected to assess the due diligence processes and activities of refiners against the recommendations for due diligence that are set out in the OECD Guidance. Audits are not expected to include forensic accounting or investigations into potential fraud or corruption.

Step 5 – Report on supply chain due diligence

Publicly report on due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas in order to generate public confidence in the measures companies are taking.

Under the OECD Guidance all companies should publish a report that describes the company's management systems, the methodology and results of the risk assessment and the steps taken to manage identified risks. Smelters or refiners should also publish the audit report. As illustrated by Figure 30, the LBMA was fully aligned in relation to its standards, both for the RGG (v6) and the revised RGG (v7).

Figure 30: LBMA's score under 'Step 5: Report on supply chain due diligence'



The LBMA provides two options for the reporting criteria set out in the OECD Guidance to be met by refiners under the RGG. The approach taken depends on which assurance standard is being applied through the independent audit:

- Refiners that commission an audit under the standard ISAE 3000 are required to prepare an annual compliance report that describes the steps undertaken by the refiner to implement the RGG. This report is then assured by the auditor and refiners are required to make the final assured report publicly available.
- Refiners that commission an audit under the standard ISO 19011 are required to make the audit summary report publicly available, with the auditor's report including a description of the assessment methodology and the findings of the audit.

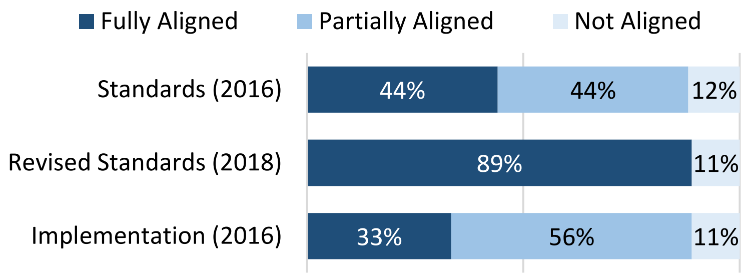
Under the OECD Guidance either approach is acceptable provided that the disclosure recommendations of the OECD Guidance are met. The LBMA furthermore provides more detailed guidance on reporting in the Third Party Audit Guidance which includes a mock-up report covering all key reporting aspects set out in the OECD Guidance.

Under the LBMA's Responsible Gold programme, reports are published annually for all the refiners on the Good Delivery list, in accordance with the RGG requirements. However, the information in most refiners' reports is very generic, lacking detail and specificity and programme auditors did not focus sufficiently on checking the quality of reports. Most refiners' reports do not meet the standards of scope, transparency and detail set out in the OECD Guidance. Lack of transparency in reporting was also an area of concern for external stakeholders interviewed during this assessment, who noted challenges in understanding and monitoring refiner due diligence activities due to a lack of publicly available information.

Specific responsibilities of programmes

This section of the Alignment Assessment focused on the recommendations that the OECD Guidance makes for the activities of programmes. Figure 31 illustrates that this is another area where the LBMA's standards have substantially improved with the introduction of RGG (v7). The only area where there is scope for further standards alignment with the OECD Guidance recommendations in this section is in relation to the OECD Guidance recommendation that programmes evaluate the social and economic impacts that their activities have on developing countries.

Figure 31: LBMA's score under 'Specific responsibilities of programmes'



Key strengths noted in this aspect of the assessment included the KYC due diligence on prospective refiners wishing to join the Good Delivery list that is undertaken by the LBMA. Regular training is provided to companies and auditors; for auditors it is a mandatory requirement to attend annual training (delivered by webinar) and the LBMA staff track attendance and follow-up with non-attendees as required. The guidance that is provided to auditors is detailed and in accordance with international standards (ISAE 3000 and ISO 19011).

Nonetheless, there are several areas that could be improved further. A key area is strengthening controls over the audit programme. As previously noted, the LBMA requires that refiners must pass an annual independent audit against the criteria set out in the RGG. Refiners are responsible for commissioning the auditor and must use an audit firm that has been accredited by the LBMA for RGG audits.

At the time of writing (March 2018), 42 different audit firms were listed on the LBMA website as Approved Service Providers (it should be noted that for multinational audit firms the LBMA requires each country office that delivers audits to be accredited separately). In order to become an Approved Service Provider audit firms must submit an application form describing their capabilities to deliver RGG audits and provide the CVs of lead auditors. However, the large number of accredited audit firms (or country offices) makes it challenging for the LBMA staff to maintain much oversight over the auditors delivering the RGG audits, particularly as not every Approved Service Provider will necessarily deliver an LBMA audit every year. A selection of auditors' application forms was reviewed by the evaluator and the information provided was observed to be quite generic and of limited value in conveying an understanding of the audit firm's understanding of gold supply chains and the OECD Guidance.

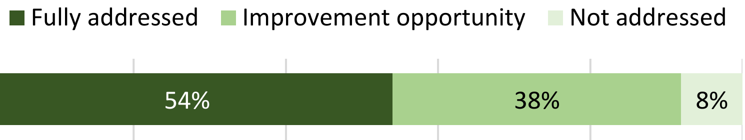
Further, as the LBMA only require the CVs of lead auditors, there is no oversight over the capabilities of the other auditor staff who are involved in an audit and who could potentially be doing the majority of the work (there are no specific requirements set by the LBMA about how involved in audit delivery the lead auditor should be). This means that there is no mechanism to ensure that all auditors who work on an RGG audit have been trained on the LBMA and OECD requirements. Industry interviewees all had experiences of uninformed auditors working on their audits. The Alignment Assessment evaluator attended an auditor training webinar and noted that despite attendance being mandatory for RGG auditors the webinar was relatively poorly attended by auditors. It was also noted that the auditors attending the webinar did not appear to engage with the subject matter (there were no questions or comments from any attendees).

Related to this, there is also significant variance in the amount of work involved in different LBMA audits. Under the LBMA Responsible Gold programme, audits against both the ISAE 3000 and ISO 19011 assurance standards are permitted and companies are free to choose which standard best meets the needs of their business. Significant differences between the two types of audit were observed during the Alignment Assessment fieldwork: the ISAE 3000 audit involved a team of three auditors spending a total of around 22 days on the audit. The ISO 19011 audit, by contrast, involved one auditor spending three days on the audit. Whilst both the observed auditors were competent and diligent in their work, clearly there are big differences in the amount of audit testing[13] that is possible within such different timeframes. The LBMA does not have oversight of the details of audit testing undertaken in an audit, but it is very likely that there is significant variance across the programme between different assurance standards, audit firms and auditee refiners. The programme would benefit from measures to provide confidence in the consistency of LBMA audits so that auditees and external stakeholders can be confident that one refiner's LBMA audit can be considered equivalent to another's. At present there is insufficient information to make this determination.

Programme governance review

This aspect of the assessment evaluates programmes against 37 criteria that are not contained in the text of the OECD Guidance but have emerged as key elements of good practice in the governance and management of industry supply chain programmes.

Figure 32: LBMA's score under 'Programme governance review'



Some of the areas of strength that were noted during the assessment include:

- **Clear documentation of the LBMA's requirements for refiners and auditors through the RGG and the RGG auditor guidance.** The RGG itself is clearly based on the OECD Guidance and whilst there are areas where requirements could be improved, it is clearly set out, kept under review and is regularly reviewed and updated by the LBMA staff (as of early 2018 the RGG was on its seventh version). When guidance documents are subject to significant revision there is a formal consultation process to enable external stakeholders to comment and provide feedback.
- **The internal governance arrangements of the LBMA are carefully managed** with various internal oversight structures, documented management processes, and controls to manage potential conflicts of interest. The same is true for how the LBMA staff manage the Good Delivery list and the integration of Responsible Gold as a key component of the Good Delivery list.

[13] Audit testing refers to the procedures that the auditor undertakes during an audit, which may include interviews with management and employees, 'walk-throughs' of key processes used by a refinery at different stages of the gold refining process, examination of databases, de-calculation of key data and reviews of documentation.

- **The LBMA is outward reaching as a programme and actively engaged on cross-recognition.** The LBMA used to cross-recognise Responsible Jewellery Council (RJC) Chain of Custody certification, though this is not currently the case due to LBMA concerns about differences in audit scope between the two programmes. Nonetheless, the LBMA is currently working with the RJC and the Responsible Minerals Initiative (RMI – formerly the Conflict-Free Smelter Initiative (CFSI)) on harmonisation and cross-recognition. The LBMA also recognises the World Gold Council Conflict-Free Gold Standard, Fairmined and Fairtrade gold certifications within its standards.
- **The LBMA is actively involved in a number of initiatives to support the development of responsible artisanal and small-scale (ASM) gold supply chains**, notably the Responsible and Accountable Gold Solutions (RAGS) programme and the aforementioned recognition of Fairmined and Fairtrade gold within its standards.

The assessment also identified several areas where there are improvement opportunities:

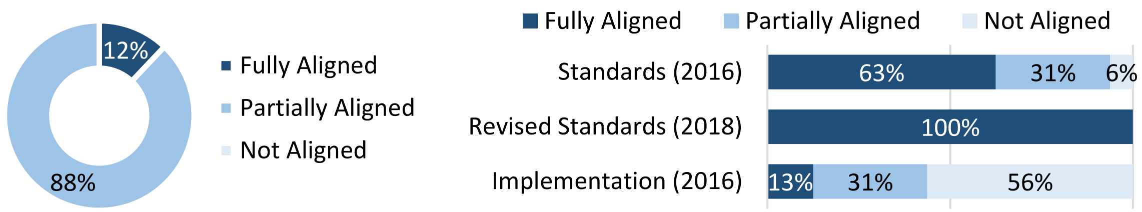
- **A consistent theme from the stakeholder interviews was a desire to see more transparency from the LBMA on how it manages the Responsible Gold programme and monitors the performance of refiners within the programme.** Both Good Delivery refiners and external stakeholders stated that they would like to see the LBMA report publicly when a refiner has been delisted – at present if a refiner is de-listed they are simply removed from the list on the website. Refiners commented that transparency on the LBMA's measures in case of non-conformance by companies would benefit the industry by improving the credibility of the Responsible Gold programme with external stakeholders.
- The LBMA staff obtains a significant amount of information about potential risks or incidents due to their extensive connections and reach across the global gold industry. The LBMA tracks the information it obtains internally. **However, at present very little information is provided to refiners or auditors on emerging or potential risks that the LBMA has identified.** The LBMA does not communicate to auditors, prior to them commencing an audit, any information or allegations that the LBMA may have about the refiner that is about to be audited.
- **As previously noted, the LBMA does not set requirements for refiners relating to a progressive approach to refiners' risk mitigation measures with their suppliers.** In terms of the LBMA's own engagement with refiners, however, it does take a progressive approach and advocate good faith efforts by refiners in relation to addressing non-conformance issues identified through an audit. There is much to be welcomed about this. However, the view of the evaluator, and of several external stakeholders, is that the LBMA tends towards being too lenient when perhaps they could/should push refiners harder to address non-conformance findings. Actions taken to address non-conformances are handled privately between the LBMA and refiner concerned, so external stakeholders have no means of knowing if, for example, the LBMA has extended the timeframe granted to a refiner to address a non-conformance finding beyond the timeframes that are specified in the RGG for corrective actions, or allowed for longer audit timeframes (i.e. allowing more time to elapse between audits than the one year timeframe that is foreseen in the RGG).

Responsible Jewellery Council

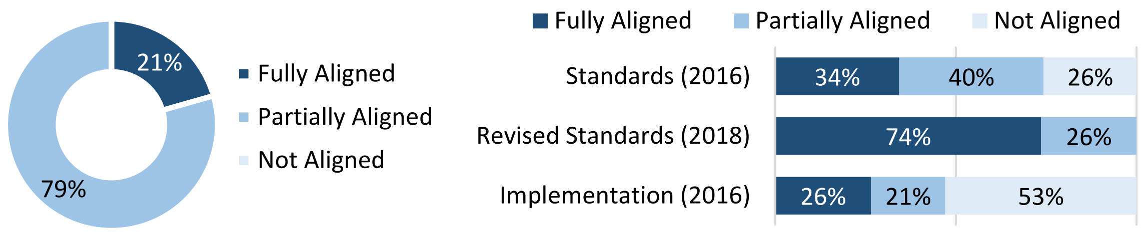
Assessment results

Overall rating 2018: Partially Aligned

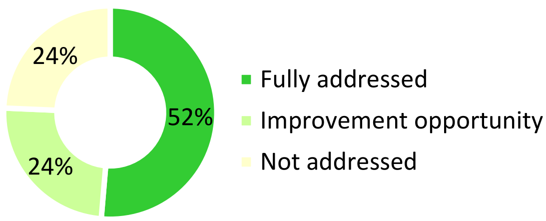
Overarching due diligence principles



Overall alignment with the five-step framework



Programme governance review



Key strengths of the RJC programme

- Programme's significant leverage and reach across the jewellery sector through both the Code of Practices (CoP) and Chain of Custody (CoC) standards.
- Extensive communications and guidance to members and external stakeholders.
- Transparency on programme impacts and performance, including reporting against a publicly available Theory of Change.

Key areas for improvement

- Responsible sourcing requirements are mainly contained in the RJC's Chain of Custody standard which, at the time of writing, was adopted by only 6% of RJC's member companies. Inclusion of more robust responsible sourcing requirements in the Code of Practices would significantly boost responsible sourcing throughout the jewellery industry.
- Ensure that responsible sourcing requirements are implemented across all gold sourced by refiners seeking CoC certification.
- Strengthen the audit programme requirements and the competencies of auditors.

Overarching due diligence principles

The RJC has two certification standards. Certification against the RJC Code of Practices (CoP) is mandatory for all members within two years of joining, and certification must be maintained through periodic re-assessment. The RJC CoP is focused on management systems and covers a wide range of issues including business ethics, human rights, social and environmental performance. The requirements of the CoP predate the development of the OECD Guidance and are not intended to implement it, though there are some areas of the CoP that have relevance to the OECD Guidance recommendations.

The RJC Chain of Custody (CoC) standard addresses traceability and responsible business practices in the gold and precious metals supply chain. It is a voluntary certification standard which was developed in 2012 and is intended to align with the OECD Guidance. This Alignment Assessment project focused primarily on the CoC standard, which was being used by 59 entities of RJC's over 1000 members at the time of writing. The CoP requirements were considered only insomuch as companies that apply the CoC standard will also be applying the CoP and some of the CoP requirements have relevance to the application of the OECD Guidance recommendations. However, CoP audits were not considered in the Alignment Assessment.

In December 2017 the RJC launched an updated and significantly revised CoC standard. Figure 33 illustrates the extent to which the design and implementation of the RJC's standards was aligned to the overarching due diligence principles of the OECD Guidance during the fieldwork period of 2016 and shows the impact of the revised CoC standard. Only the design of the revised CoC standard could be assessed in this project: implementation effectiveness will need to be assessed at a later date once the standard has been implemented by RJC refiners and auditors.

Figure 33: RJC's score under 'Overarching due diligence principles'

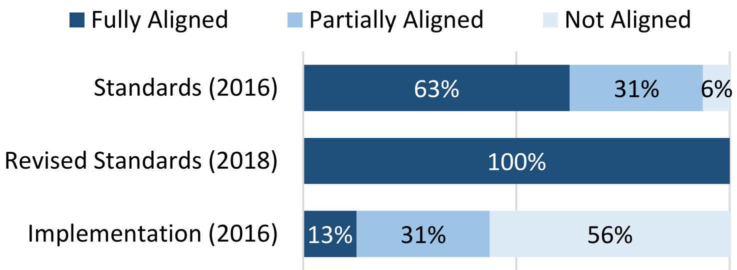


Figure 33 shows that while many of the core due diligence recommendations of the OECD Guidance were incorporated into the design of the original CoC standard, the revised CoC standard substantially improves on this. The revised CoC standard is now fully aligned with all of the criteria in this aspect of the Alignment Assessment. However, across the CoC standard, there was sometimes a lack of detail relating to specific expectations set out in the OECD Guidance – these are discussed below.

In addition, as the chart illustrates, the Alignment Assessment identified some significant gaps between the design of the original CoC standard to incorporate OECD Guidance recommendations and the practical implementation of these recommendations.

The main implementation mechanism for the RJC in seeking to ensure that companies adopt its standards is the CoC audit programme. There were two particular implementation limitations identified:

- **The RJC CoC certification applies to materials, not a company.** At both the refiners whose audits were observed for this Alignment Assessment, the refiners sought to achieve CoC certification for only around 5% of total annual production. The materials for which certification was sought were from the refiners' lowest risk supply chains[14] and consequently this was where auditors focused their attention. In theory, the conflict-free sourcing provisions contained in the CoC, which are the key requirements designed to implement the OECD Guidance recommendations, apply to all gold that a refinery is sourcing, not just those materials for which CoC certification is being sought. In practice, however, this is not happening and at the audits that were shadowed CoC certification work focused entirely on those materials that were intended to be certified. Auditors were under pressure to complete the audit testing activities required for CoC certification within the time available; if the auditors were inclined to evaluate whether the RJC conflict sensitive sourcing provisions had been applied by the refiner to all gold then there would need to be significant modifications to the time allocated for the completion of the audit.
- **A key principle of the OECD Guidance is the adoption of a progressive approach to due diligence and risk mitigation, using good faith and reasonable efforts.** Within the CoP, the concept of continual improvement over time is included at a general level. The CoP also references the need to take into account risk severity and probability of adverse impacts in due diligence. However, the CoP does not address supply chain due diligence – that is covered by the CoC – but under the CoC, materials are either conflict-free, or not. Materials from suppliers undergoing risk mitigation measures cannot be accepted as CoC certified materials. The CoC Standard states that risk mitigation should be applied to non-CoC materials. However, based on the audits that were shadowed and stakeholder interviews there is little evidence that companies seeking CoC certification are applying the CoC Standard requirements to non-CoC materials. Companies with just CoP certification would be unlikely to look to the CoC Standard in order to identify if there are additional requirements for non-CoC materials that they should consider.

These implementation limitations may still apply despite the revisions to the CoC standard. The most effective way to overcome these would be to integrate OECD-aligned due diligence requirements into the CoP standard. This is something the RJC is actively working on at the time of writing. Provisions including commitment to OECD-aligned due diligence requirements in the CoP have been drafted and will undergo a public consultation process in 2018. The RJC's objective is to publish a new CoP in 2019.

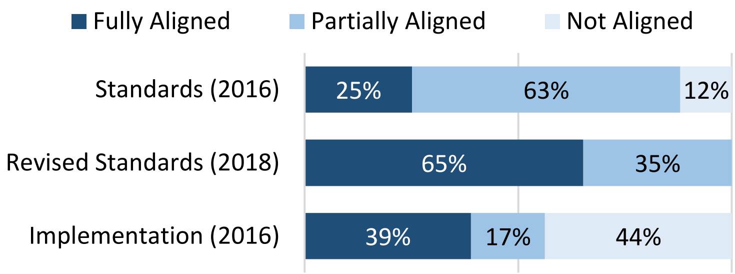
Step 1 – Establish strong management systems

Ensure that due diligence and management systems of companies in mineral supply chains are structured for effective due diligence.

Figure 34 illustrates the Alignment Assessment rating for the management system requirements set for companies, both in terms of the requirements and implementation activities that were in place during 2016 and the subsequent revisions to the CoC that came into effect in 2018.

[14] In addition to the due diligence requirements, for materials to be CoC certified there must be full traceability and RJC-certified entities at every stage of the supply chain.

Figure 34: RJC's score under 'Step 1: Establish strong management systems'



As Figure 34 illustrates, the majority of the OECD Guidance recommendations for company management systems were addressed in the design of the original RJC standards, though for many of these the RJC's requirements are only partially aligned to the OECD Guidance recommendations. As the chart shows, the revised CoC standard has increased the alignment of RJC standards to the OECD Guidance recommendations, though quite a few criteria remain partially aligned.

The reason that quite a few criteria remain partially aligned, even under the revised CoC standard, is a lack of specificity in certain RJC requirements as compared to quite specific recommendations that are set out by the OECD Guidance. For example:

- The OECD Guidance recommends that companies have a supply chain policy that addresses all of the risk areas set out in Annex II of the Guidance and that within the supply chain policy, companies should set out a clear and coherent management process for addressing these risks. Whilst the RJC requires companies to adopt a policy consistent with Annex II there is no requirement for companies to set out how they will manage such risks.
- The OECD Guidance makes quite explicit recommendations about the need for supply chain due diligence to be managed by someone with the necessary competence, knowledge and authority within the organisation to effectively discharge these responsibilities and communicate with internal and external stakeholders (e.g. management, suppliers). The RJC uses more flexible language, suggesting that "where possible" the person responsible should be suitably qualified or have the ability to relay critical information to relevant stakeholders.
- The OECD Guidance makes a number of clear recommendations about the need to ensure a company's due diligence expectations are clearly communicated to suppliers, including in formal agreements, whereas the RJC references these recommendations in a less directive way as activities that companies can consider (but they are not necessarily required to do).

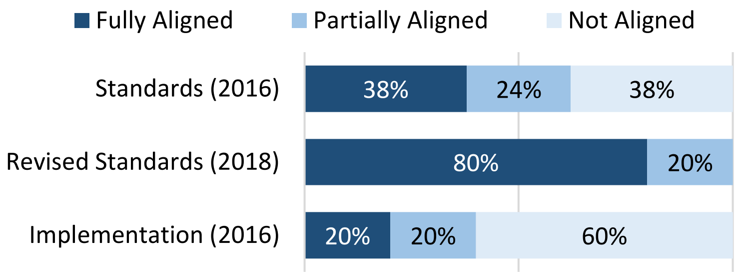
The implementation of the OECD Guidance recommendations broadly mirrored the extent to which the criteria in this section of the Alignment Assessment had been addressed in the design of RJC requirements (as applicable during the 2016 fieldwork period). There were a few criteria, however, where the recommendations of the OECD Guidance were being fully implemented by companies and auditors, even though the precise text of the relevant RJC requirement did not fully address the relevant OECD recommendation. These criteria were in relation to companies' Know Your Customer (KYC) due diligence and information management, and the physical security measures established over gold inputs and outputs by a refinery. In both these areas, the OECD Guidance recommendations are consistent with measures that are common practice within the gold refining sector to manage risks such as money laundering or fraud.

Step 2 – Identify and assess risks in the supply chain

Identify and assess risks associated with the circumstances of extraction, trading, handling and export of minerals from conflict-affected and high-risk areas.

Figure 35 illustrates the Alignment Assessment rating for the risk assessment requirements set for companies by the RJC, both in terms of the requirements and implementation activities that were in place during 2016 and the subsequent revisions to the CoC standard in early 2018. As the chart shows, the introduction of the new CoC standard has substantially improved the alignment of the RJC's risk assessment requirements with the OECD Guidance recommendations, though there remains some scope for further improvement.

Figure 35: RJC's score under 'Step 2: Identify and assess risks in the supply chain'



In relation to the revised standards - as with the Step 1 requirements described above - there are a few areas where the revised CoC standard addresses a recommendation area from the OECD Guidance, but without the same level of specificity. For example:

- Under the OECD Guidance, when 'red flags' are identified in a mineral supply chain companies are expected to undertake on the ground assessments, which should be performed by suitably qualified and independent assessors. One of the findings of this Alignment Assessment project was that, across many programmes, if on the ground assessments were undertaken at all, all too frequently the scope of these assessments focused narrowly on commercial issues, such as production volumes and mineral grades and did not consider the issues that the OECD Guidance is intended to address. While on the ground assessments are required, the RJC standards state that companies should "consider" using a qualified person to undertake such assessments, but being qualified is not explicitly required.
- Downstream companies are recommended by the OECD Guidance to obtain evidence of the due diligence practices of smelters or refiners and review this against the due diligence processes of the OECD Guidance. The CoC guidance includes the requirement for downstream companies to obtain evidence of and evaluate suppliers due diligence, but it does not explicitly reference the need for on the ground assessments, nor does it require to review this against the process of due diligence in the OECD Guidance.

With regards to implementation (of the former CoC standard) there were two aspects of risk assessment that should be strengthened:

- The first relates to **clarifying the breadth of risk assessment – beyond CoC materials – that auditors should assess**. It was observed during the shadow audits that, because of the focus on CoC material traceability, less focus is given to the broader assessment of the entire gold supply. As noted above, whilst in principle the RJC conflict-sensitive sourcing requirements apply to all gold sourced by a CoC refiner, the reality is that auditors focus on those materials that are to be CoC certified. At the observed audits the refiners were seeking CoC certification for materials from low risk suppliers that accounted for around 5% of each refiner's production and there were no questions from the auditors about risk assessment or what circumstances might trigger enhanced due diligence for the remaining 95% of the refiners' gold sourcing.

- The second aspect relates to the **depth of risk assessment**. Due diligence was observed to only extend to tier 1 (direct) suppliers, and to focus on KYC due diligence. For broader conflict and human rights related risks, refiners tended to rely on declarations from suppliers that they would comply with the refiner's policy, as opposed to investigating supplier performance themselves as part of their due diligence. Furthermore, it was observed that at the visited refiners there were substantial volumes of refined gold bars being sourced from other refiners and from merchant banks. For these suppliers, the refineries had no visibility over the origin of the gold prior to the supplying refiner or merchant bank. Due diligence was limited to KYC assessments and consideration of conflict-sensitive sourcing was limited to placing reliance on a supplying refinery's membership of a relevant industry programme, such as the London Bullion Market Association (LBMA) Good Delivery List, or on banking regulatory controls. There were no challenges from the auditors on whether the auditee refiners had considered sourcing risks beyond tier 1 (direct) suppliers, or on whether supplier declarations were adequate evidence that potential risks in the supply chain were being addressed. Whilst under the OECD Guidance it is reasonable to place reliance on other industry programmes that are themselves intended to be aligned with the OECD Guidance (after robust assessments as discussed earlier in this report in relation to cross-recognition between programmes) the same cannot be said for banking regulatory controls which do not consider mineral sourcing risks.

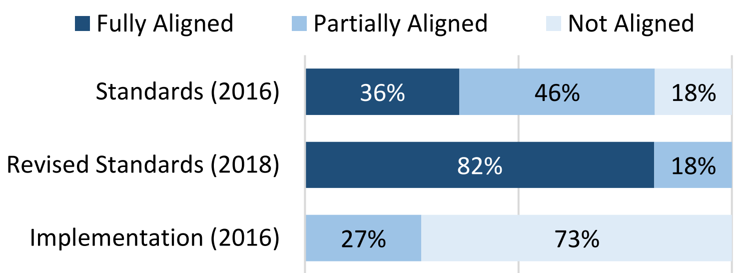
The RJC should consider how these areas can be addressed as the revised CoC standard is implemented.

Step 3 – Design and implement a strategy to respond to identified risks

Evaluate and respond to identified risks in order to prevent or mitigate adverse impacts.

As noted above under 'Overarching due diligence principles' the RJC does not allow risk mitigation to be applied to CoC materials**.** Whilst in principle the requirements for companies to undertake risk mitigation activities apply to all non-CoC materials, the assessment fieldwork during 2016 found that in practice there were gaps of detail in the CoC standard compared to the OECD Guidance, and more significant gaps in practical implementation. Substantial improvements have been made with the introduction of the revised CoC standard, as can be seen by Figure 36.

Figure 36: RJC's score under 'Step 3: Design and implement a strategy to respond to identified risks'



Under the revised CoC standard, most of the criteria in this section of the Alignment Assessment are now fully aligned in terms of the RJC's standards. The two criteria that remain only partially aligned do so because of a lack of detail in the RJC's requirements compared to the OECD Guidance recommendations for how companies respond to identified risks in the supply chain and how risk mitigation progress is measured and monitored.

Based on the findings of the fieldwork during 2016, effective implementation of the RJC's risk mitigation requirements may require significant interventions from the RJC to raise awareness of these requirements among both refiners and auditors.

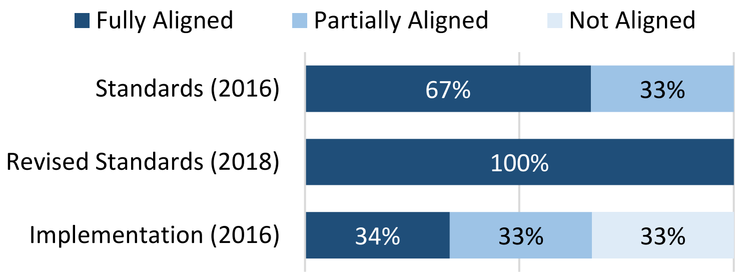
During the shadow audits it was observed that, at the visited gold refiners, risk avoidance took precedence over risk mitigation. The RJC auditors did not raise any questions to the auditees concerning risk mitigation. Furthermore, the evaluator's interviews with refinery management and stakeholders revealed that for many gold refineries, ceasing trade with a supplier that was associated with an identified risk was the preferable option to engaging with the supplier to mitigate the risk. Whilst ceasing trade is a valid mitigating action in the OECD Guidance, in practice the threshold from where the identification of a risk by a refinery leads to the mitigating action of ceasing trade with the supplier is much lower than the measure of last resort that is envisaged in the OECD Guidance for risks other than serious abuses. Whilst industry programmes such as the RJC cannot and should not determine risk thresholds for member companies, the RJC's training and engagement activities could nonetheless be an important mechanism for raising awareness of and advocating the progressive due diligence approach to risk mitigation that is set out in the OECD Guidance.

Step 4 – Carry out an independent audit

Carry out an independent third-party audit of the smelter/refiner's due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas and contribute to the improvement of smelter/refiner and upstream due diligence practices.

This section of the Alignment Assessment focuses on the recommendations that the OECD Guidance makes for the activities of auditors in delivering audits under a programme[15]. As Figure 37 illustrates, many of the criteria for audits that are specified in the text of the OECD Guidance were addressed by the design of the original CoC standard, and further improvements have been made in the revised CoC standard.

Figure 37: RJC's score under 'Step 4: Carry out an independent audit'



[15] The OECD Guidance recommendations for audits cover issues such as the scope of the audit, the need for auditors to be independent of the refiner and the activities that should form part of the audit. It should be noted that under the OECD Guidance, audits are expected to assess the due diligence processes and activities of refiners against the recommendations for due diligence that are set out in the OECD Guidance. Audits are not expected to include forensic accounting or investigations into potential fraud or corruption.

There were two main areas for improving the implementation of audit requirements that were observed during the fieldwork for this Alignment Assessment project:

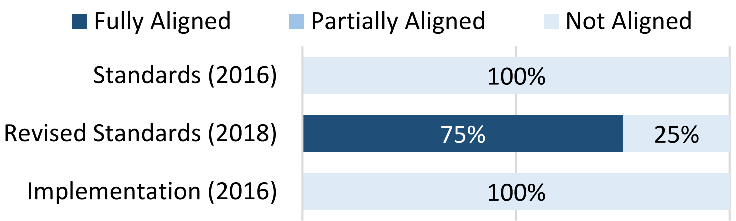
- As previously noted, the RJC CoC extends conflict-sensitive sourcing practices to all of the gold handled by a refiner, not just the material that is intended to be CoC certified. However, this requirement was not being applied at the observed audits, with the audit focus almost exclusively on CoC material. Furthermore, the scope of the assessment (in terms of audit time) creates constraints as the auditors were fully occupied working to complete the required testing procedures (which did not include evaluating non-CoC sourcing practices in any level of depth) in the time available to them. Stakeholder interviews confirmed that the shadow audits were typical audits in terms of scope and time and, indeed, the RJC provides guidance on the number of audit days that is closely observed by member companies and audit firms.
- Whilst the RJC has processes in place to evaluate auditor competencies, at both companies whose audits were observed for the Alignment Assessment the auditors' technical knowledge of mineral supply chains was relatively weak. They did not appear to have more than a superficial understanding of responsible sourcing challenges in mineral supply chains upstream of the refiner and demonstrated little awareness of relevant issues or developments in the gold supply chain (for example, NGO reports highlighting relevant risks or exposing poor practices of companies in the gold supply chain). They also had a low level of awareness of the OECD Guidance recommendations.

Step 5 – Report on supply chain due diligence

Publicly report on due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas in order to generate public confidence in the measures companies are taking.

Under the OECD Guidance all companies should publish a report that describes the company's management systems, the methodology and results of the risk assessment and the steps taken to manage identified risks. Smelters or refiners should also publish the audit report.

Figure 38: RJC's score under 'Step 5: Report on supply chain due diligence'



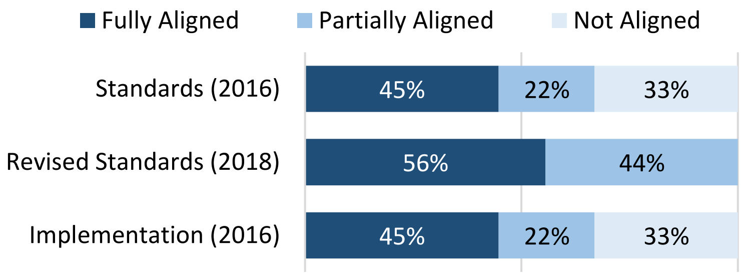
As illustrated by Figure 38, the original CoC standard did not contain any reporting requirements. This has been addressed in the revised CoC standard which is now fully aligned with all of the OECD Guidance recommendations under Step 5, with the exception of the recommendation that refiners should publish the summary audit reports. This recommendation is included in the revised CoC, but lacks requirements for details of audit dates, activities, methodology and conclusions. The evaluator understands it is the RJC's intention to produce an audit checklist that will provide further clarification on reporting requirements but, at the time of writing, this checklist was not available.

As these reporting requirements are completely new under the CoC, it will be important that the RJC ensures companies and auditors are trained on how to address these.

Specific responsibilities of programmes

This section of the Alignment Assessment focused on the recommendations that the OECD Guidance makes for the activities of programmes.

Figure 39: RJC's score under 'Specific responsibilities of programmes'



Many of the criteria in this section of the Alignment Assessment are addressed, at least to some extent, by the original RJC standards and have been improved by the revised CoC requirements. Key strengths that were noted in this aspect of the Alignment Assessment include:

- **There is a substantial training programme in place.** Introductory training is provided to new members to explain RJC requirements and companies' responsibilities. Training is also provided on specific topics that are part of the RJC system (though mainly focused on CoP requirements). From time-to-time webinars are provided that are open to non-members. Training is also provided to auditors, for whom the completion of this training is mandatory.
- **A detailed grievance procedure is in place and available on the RJC website** with contact details and a dedicated email address. (At the time of writing no one had raised any complaints)
- **Notwithstanding the weaknesses in audit quality identified in this assessment, there are some noteworthy strengths in the RJC's processes for managing the audit programme that should facilitate future improvements to audit quality.** All auditors (not just lead auditors) are required to attend mandatory training in order to be accredited. Further training is offered by RJC periodically. Following an audit of a member company, all audit reports are subject to RJC review prior to approval. During the RJC review, audit reports and the auditors' performance are assessed against the objectives, scope and criteria of the RJC audit programme in efforts to ensure consistency across the audit programme.

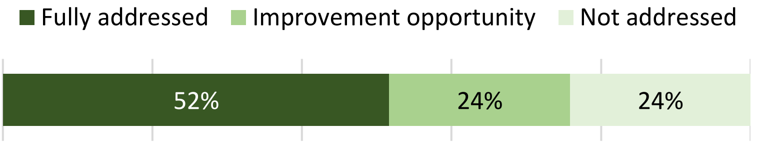
There are also some areas for improvement:

- The due diligence that the RJC does on new members could be strengthened to include KYC checks on beneficial ownership (this could be considered at the point of certification). Such checks are undertaken by several other industry programmes and could be particularly relevant to the RJC given its constituency is the jewellery sector.
- As previously discussed, the RJC does not publish the audit summary reports from CoC or CoP audits, though the RJC introduced reporting requirements within the revised CoC and stated that further auditor checklist requirements that are forthcoming may address this point.
- Consideration could be given to measures to support member companies with the implementation of on the ground risk mitigation and to evaluating the broader social and economic impacts of the programme.

Programme governance review

This aspect of the assessment evaluates programmes against 37 criteria that are not contained in the text of the OECD Guidance but have emerged as key elements of good practice in the governance and management of industry supply chain programmes.

Figure 40: RJC's score under 'Programme governance review'



Some areas of strength that were identified in this aspect of the assessment include:

- **Clear requirements for the categorisation, reporting and completion of corrective actions** are set out in the RJC standards and guidelines for companies and auditors, which are also publicly available on the RJC website. These include the categorisation and handling of non-conformance audit findings, and the sanctions that will be applied should an audit find major non-conformances.
- **Stakeholders highlighted the RJC's communications activities as a key strength.** There is a comprehensive library of both RJC and external resources on the website, recorded webinars of training sessions and detailed descriptions of the RJC's standards and requirements, all of which are publicly available. Information on member companies is maintained on the website, including whether they are certified and if so to what scope, what the dates of the certification period are, where the company's head office is and what type of business it is. There is also a search function to assist website users in finding RJC member companies. The RJC regularly participates in public forums such as conferences and also, from time to time, hosts webinars that are open to the public in order to discuss the RJC programme.
- **There is a clear governance structure for the RJC which is described in detail on the RJC website**, including names of Board members and committee Chairs. The RJC Governance Handbook is also publicly available on the website and describes how the RJC Memorandum of Association and the Articles of Association are to be implemented, and how the Board and Committees of the RJC are run.
- **The RJC has set up monitoring and evaluation (M&E) processes to evaluate its own performance and impact.** It has a theory of change which is available on its website and has published two impacts reports so far. Data is available in the Impacts reports on the RJC's progress towards meeting its aims and objectives. The Impacts reports have historically focused on the uptake of the CoP by industry and the impact of the RJC in engaging the jewellery industry; there is an opportunity to build on this with more data on responsible sourcing practices or supply chain issues.

Box 10: Good practice – consultation on standards development

The RJC has an extensive, structured consultation process for seeking input and engagement from stakeholders when developing or revising its standards. The RJC has established a multi-stakeholder Standards Committee to provide oversight of the RJC's review and decision-making in relation to standards revisions, with the Committee made up of equal numbers of industry and non-industry stakeholders, including representatives from each part of the jewellery supply chain as well as individuals from non-governmental organisations (NGOs), civil society and auditors.

The consultation process includes the opportunity for public comment and the publication of at least one draft of a revised standard. During the recent revisions to the CoC standard there were three separate consultation periods between August 2016 and September 2017, the first on the scope of the standard and the second and third on proposed changes to the standard. Proposed changes to the standard were summarised and published, similarly a summary of all comments received was also published.

Archives of previous consultations remain publicly available on the RJC website.

There were also a number of improvement opportunities identified in this aspect of the Alignment Assessment. As previously discussed under the Alignment Assessment findings for Step 2 and Step 3, there is a need for the RJC to substantially increase its focus on supply chain risks and how they might be identified and mitigated through the programme (via the actions of member companies). An important element of this is how the RJC raises awareness of risks amongst member companies and auditors, and tracks and communicates risk-related information in order to support companies and auditors. Good practice would be for the RJC to communicate information about relevant supply chain risks and mitigation measures to external stakeholders.

One of the most important areas for improvement relates to the work of auditors. Whilst there are some notable strengths in the management of the audit programme by the RJC staff, there are significant weaknesses in the substance of the audits themselves. There are two interlinked areas which should be targeted for improvement:

- The technical competencies of the auditors themselves
- The details of the audit procedures that determine auditors' testing activities

At the observed audits the RJC auditors demonstrated a low level of understanding of the recommendations of the OECD Guidance, the typical risks that are relevant to mineral supply chains, and the practical due diligence and risk mitigation actions that refiners can take in order to ensure they are sourcing minerals responsibly. Notwithstanding the recognition that a greater focus on risk assessment requirements within the RJC standards themselves has a central role, there was also an observed absence of critical analysis in the undertaking of audit procedures.

For example, under the RJC CoC Standard a refinery's certification against either the LBMA Responsible Gold Guidance or the Responsible Minerals Initiative (RMI - formerly Conflict Free Smelter Programme) can be accepted by the RJC auditors as evidence that the RJC's responsible sourcing requirements have been met. At one of the shadow audits, the auditor asked to view the refinery's LBMA certificate as evidence of responsible sourcing practices. However, that refiner's LBMA certificate had been obtained as a result of the LBMA cross-recognising the previous RJC CoC audit[16], making this a circular and

[16] The LBMA removed cross-recognition with the RJC CoC during 2016, but at the time of this particular visit the previous year's certificate was still valid for the refiner.

meaningless check. It also meant that for the refiner in question there was no auditor challenge on the conflict-sensitive sourcing aspects of the RJC CoC Standard.

Alongside strengthening auditor competencies, it is also necessary to consider the format of the auditor procedures and whether, in the efforts to bring consistency to the audit process, an unintended consequence is a reduction in the role of auditors' professional judgement as part of the audit process. It was observed that auditors systematically worked through the audit checklists and toolkits provided by the RJC and did not deviate from the prescribed questions and documentation checks.

There is a balance to be struck between establishing controls that deliver consistency, and (once competencies have been strengthened) providing scope to – and requiring – auditors to apply professional judgement. Aspects of the audit procedures that could be modified to address this include:

- **Ensuring that the auditors do not just verify the existence of management systems and controls** (e.g. confirming that a senior manager has been assigned responsibility for the conflict minerals policy) **but also assess whether the company's systems and controls are functioning as intended** (e.g. seeking evidence of the senior manager's role in due diligence and what decisions he/she has taken following supplier risk assessments).
- Giving consideration to how materiality may be applied to **ensure auditors' testing focuses on those areas that represent the greatest risk**. Rather than setting sample size guidance at a programme level, consideration should be given to requiring the auditors to make this judgement and explain their rationale.
- **Requiring auditors to not just verify the presence of certain documentation, but also make judgements on quality**. This is particularly important for documentation relating to risk assessments, such as reports from an on the ground assessment of a supplier of mined gold. Guidance could be provided to auditors about what should be covered in such reports.

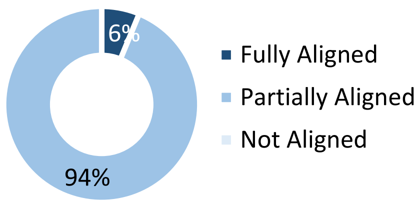
Beyond the activities of auditors, the RJC should continue to evaluate how the RJC audit programme may cross-recognise other programmes, particularly the LBMA and RMI (formerly CFSI). There are various issues that need to be addressed, not least differing audit periods, but the RJC is currently actively working with the LBMA and RMI on cross-recognition and is encouraged to continue this work.

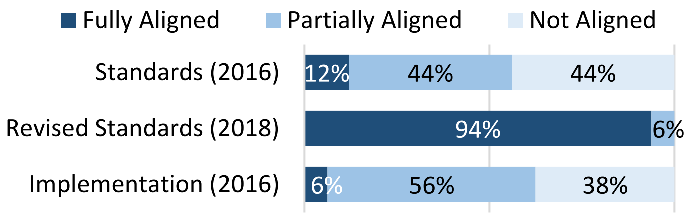
Responsible Minerals Initiative

Assessment results

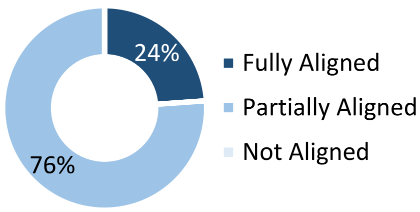
Overall rating 2018: Partially Aligned

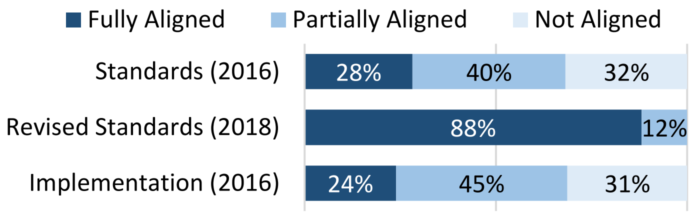
Overarching due diligence principles



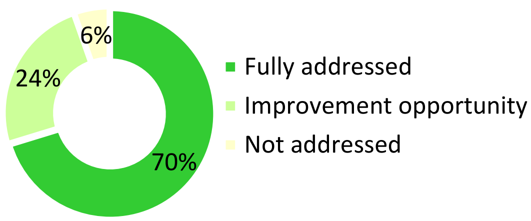


Overall alignment with the five-step framework





Programme governance review



Key strengths of the RMI programme

- Effective programme management that includes extensive and proactive engagement with external stakeholders.
- Use of leverage to facilitate due diligence and risk mitigation activities both upstream and downstream.
- High levels of transparency with extensive information made available to members and non-RMI members.

Key areas for improvement

- Develop a robust assessment mechanism to enable the RMI to evaluate and monitor the effectiveness of due diligence measures undertaken by third party upstream programmes.
- Ensure effective implementation by both companies and auditors of the significantly revised standards.
- Strengthen the audit programme requirements and the competencies of auditors.

Overarching due diligence principles

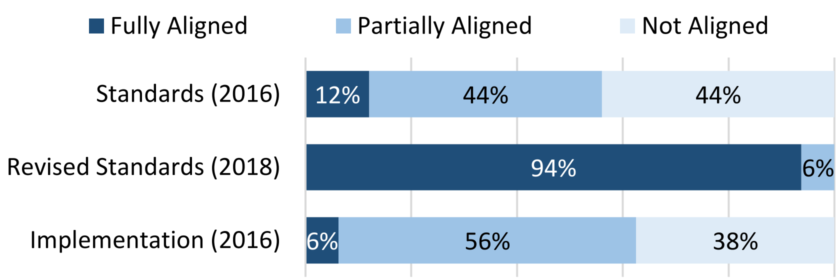
During 2016 when the assessment activities for the Alignment Assessment project commenced, the RMI, in its former guise as the Conflict-Free Smelter Initiative, was still largely focused on supporting its downstream member companies with Dodd Frank compliance. The RMI's smelter auditing programme, then known as the Conflict-Free Smelter Program (CFSP), was (and remains) a key mechanism for supporting downstream companies with their compliance obligations.

A key feature of the RMI is that from the outset it was designed to support smelters and refiners in responsibly sourcing minerals from conflict-affected and high risk areas. This has been achieved through the formal integration of upstream due diligence programmes, including ITSCI and, more recently the Better Sourcing Program, within the programme's due diligence processes.

Whilst the conflict minerals provisions of US Dodd Frank Act (Dodd Frank), Section 1502 and the related SEC Rule reference the OECD Guidance, there are significant differences between the compliance requirements under Dodd Frank and the specific due diligence recommendations set out in the OECD Guidance. These differences had a substantial impact on the Alignment Assessment rating of the RMI standards and implementation measures that were in force during 2016.

In 2017 the RMI developed and published a new Responsible Minerals Assurance Process (RMAP) to replace the Conflict-Free Smelter Program (CFSP) requirements, with new standards for each of the minerals covered by the programme (tin, tungsten, tantalum and gold). Unlike the CFSP, the RMAP is explicitly intended to align with the OECD Guidance and, therefore, introduces significantly different requirements for companies and auditors. The impact of these revised standards can be clearly seen in Figure 41 which shows how the RMI was rated against the Alignment Assessment criteria for overarching due diligence principles.

Figure 41: RMI's score under 'Overarching due diligence principles'



There were several reasons why the standards set out under the former CFSI programme fell significantly short of the core due diligence principles that are contained within the OECD Guidance:

- **Insufficient development of the concept of risk-based due diligence and risk management.** Due diligence and risk management processes, as envisaged by the OECD Guidance, are dynamic, tailored to severity and probability of adverse impacts, based on reasonable efforts and expected to improve over time. The requirements for companies that were set out and implemented by the CFSP were binary and static. High-risk countries of origin were predetermined by Dodd Frank. Minerals from these countries were either conflict-free, or not. Validation of a smelter or refiner's conflict-free status was achieved through the presence of certain documentation, rather than an assessment of the effectiveness of management controls.

- **The focus on risk within the requirements for companies was represented solely by minerals originating from the African Great Lakes region.** The OECD Guidance is global in scope and also recognises the geography of mineral origin as only one of the risk factors that companies should consider in their due diligence activities (beyond mineral origin, red flags may relate to suppliers or circumstances within the supply chain).
- **A lack of management accountability for due diligence.** The structure of the CFSP requirements had, perhaps unintentionally, resulted in smelters or refiners effectively 'outsourcing' their due diligence responsibilities – both in terms of identifying supply chain risks (these were pre-determined by the CFSI) and in terms of supply chain due diligence (where smelters or refiners tend to rely almost exclusively on ITSCI traceability but often did not make use of the due diligence tools provided by ITSCI, such as incident reports).

As Figure 41 shows, the new RMAP standards fundamentally change the requirements that the RMI now sets for companies.

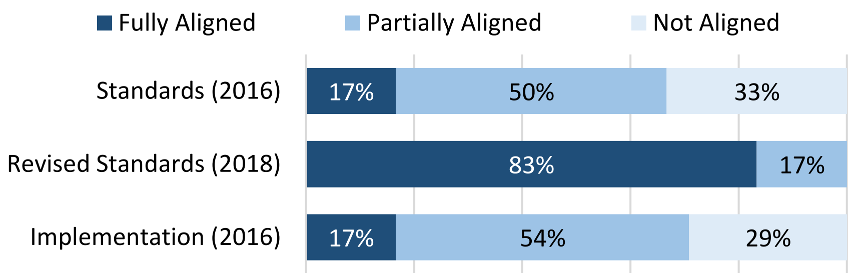
The key challenge for the RMI will be to ensure that the new requirements are effectively implemented by companies and auditors (implementation of the revised standards was not assessed in this pilot Alignment Assessment project).

Step 1 – Establish strong management systems

Ensure that due diligence and management systems of companies in mineral supply chains are structured for effective due diligence.

Figure 42 illustrates the Alignment Assessment rating for the management system requirements set for companies, both in terms of the requirements and implementation activities that were in place during 2016 and the subsequent revisions to the RMI's standards during 2017.

Figure 42: RMI's score under 'Step 1: Establish strong management systems'



The requirements for management systems that the RMI sets for companies are primarily defined in the protocols and procedures of the new RMAP (previously the CFSP). The implementation of management system requirements is assessed through the RMAP audit. As Figure 42 shows, the management system requirements set out under the former CFSP did not fully address many of the OECD Guidance recommendations.

The CFSP was very clear on the need for companies to establish a conflict minerals policy and maintain internal documentation to demonstrate compliance with its due diligence processes and procedures. However, these processes and procedures differed from the OECD Guidance recommendations in many places. Consequently, implementation of these requirements by the programme – primarily through the audit – was also found to need significant improvements if the programme was to be considered aligned with the OECD Guidance.

A key challenge identified by the Alignment Assessment was the precedence of documentation requirements above requirements for due diligence processes or actions. This was also a consistent area of concern for many of the external stakeholders of the RMI who were interviewed during the Alignment Assessment.

For the criteria under Step 1, this manifested itself through the emphasis given by CFSP protocols and procedures, and by auditors, on a smelter or refiner's policy. Within the programme's structure was an implicit assumption that if a company's policy is in place and is communicated, then it will be acted upon. However, during the observed audits no evidence was sought by auditors to determine what actions occurred as a result of a smelter or refiner's policy (such enquiries were not part of the CFSP audit protocol that auditors are required to follow).

The other main areas for improvement in this section of the Alignment Assessment relating to the design and implementation of management system requirements under the former CFSP system included:

- Inconsistent references to the risks defined in Annex II of the OECD Guidance. As a consequence, there was limited consideration of these different risk areas by auditors.
- No requirements for smelters or refiners to establish risk assessment and management processes, with management system requirements for smelters or refiners focusing on: a) the communication of the conflict minerals policy to employees and suppliers; b) the documentation requirements as specified by the CFSP; and c) the management of material inputs and outputs. Consequently, these were the areas where auditors focused their efforts, with reviews of documentation and material flows taking the majority of the time at the observed audits.
- The only references to due diligence within the supply chain related to the requirements for smelters or refiners sourcing from the designated high-risk countries to obtain documented evidence of the chain of custody within an approved upstream programme such as ITSCI or the Better Sourcing Program. The auditors' focus was solely on whether there was documentation available for minerals supplied from the African Great Lakes region that proved that minerals were sourced via an upstream programme; there was no challenge of how companies used information from upstream programmes as part of their due diligence decision-making (discussed in more detail under Step 2) or on due diligence for minerals sourced from other countries or outside of the approved upstream programmes.

As Figure 42 shows, during 2017 the RMI substantially revised its management system requirements for companies under the new RMAP, which is now much more closely aligned with the recommendations of the OECD Guidance. The majority of Alignment Assessment criteria under Step 1 of the RMI's revised standards are now fully aligned with the OECD Guidance recommendations. Remaining gaps against full alignment for the design of the RMI's Standards relate to:

- Requiring smelters or refiners to support the principles and criteria of the Extractive Industries Transparency Initiative (EITI), particularly when sourcing minerals that are not covered by another third party upstream programme.
- Similarly, requiring smelters or refiners to seek to ensure that all relevant mineral taxes and royalties have been paid by upstream suppliers. Again, this requirement may be particularly

relevant when smelters or refiners are sourcing minerals from sources not covered by a third party upstream programme.

- A lack of encouragement for smelters or refiners to enter into longer-term relationships (whether contractual or otherwise) to better support responsible sourcing objectives.

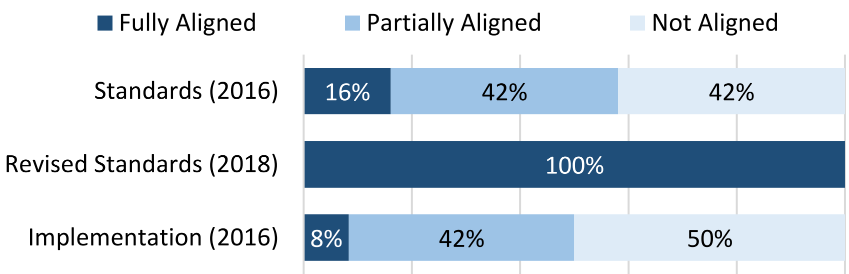
The implementation of the revised RMAP standards will need to be assessed at a future date, once the new standards are being implemented by smelters or refiners for an entire audit cycle.

Step 2 – Identify and assess risks in the supply chain

Identify and assess risks associated with the circumstances of extraction, trading, handling and export of minerals from conflict-affected and high-risk areas.

Figure 43 illustrates the Alignment Assessment rating for the risk assessment requirements set for companies under the RMI, both in terms of the requirements and implementation activities that were in place during 2016 and the subsequent revisions to the RMI's standards during 2017. As the chart shows, there has been a substantial change in the risk assessment requirements the RMI sets for companies with the introduction of the new RMAP standards.

Figure 43: RMI's score under 'Step 2: Identify and assess risks in the supply chain'



The OECD's assessment of the risk assessment requirements that were set for companies and being implemented during 2016 found that the concept of risk-based due diligence was largely missing. The evaluator's observations, supported by the stakeholder interviews, was that there was a relatively poor understanding amongst smelters or refiners of what due diligence as set out in the OECD Guidance actually means in practice. This is illustrated by Figure 43. For many smelters or refiners, supply chain due diligence was defined by the documentation processes that were set out by RMI and supporting programmes such as ITSCI. Companies participating in the CFSP tended to rely almost entirely on programmes such as ITSCI for the due diligence of supply chains in conflict-affected and high-risk areas.

For example, under the ITSCI programme arguably the single most important information source for smelters or refiners who wish to do due diligence on their supply chains is the ITSCI Shipment Report. This report provides specific due diligence information relating to an individual smelter or refiner's supply chain, including weight discrepancies, transport routes, mine sites, transport methods and exporter details. Without this information it is difficult for smelters or refiners to act on information provided by ITSCI, such as incident reports, as it is difficult for smelters or refiners to relate incident reports to their specific supply chain. In principle, Shipment Reports are available to smelters or refiners who are ITSCI members upon request but in practice it can sometimes take up to six months for ITSCI to generate these reports (as set out in more detail in the section on ITSCI above).

As Figure 41 shows, the RMI's requirements for smelters or refiners relating to risk assessment under the new RMAP are substantially different from the CFSP requirements and are now fully aligned to the OECD Guidance.

It will be important that both companies and RMAP auditors are well versed in the practical implications of implementing the OECD Guidance recommendations for risk assessment. It was observed by the evaluator, and reinforced through stakeholder interviews, that CFSP auditors provided limited challenge to smelter or refiners' due diligence activities beyond assessing whether documentation was available to verify that assessments had been done.

This section of the Alignment Assessment also contains some criteria that relate to the activities of the RMI itself. On these, the RMI achieved a strong rating. One area relates to the work undertaken by the RMI to support downstream companies in identifying the smelters or refiners in their supply chain. Whilst the responsibility for identifying smelters or refiners rests with downstream companies, the RMI provides tools and information to assist and facilitate this work, notably the Conflict Minerals Reporting Template (CMRT), the Smelter Reference List and the lists of active and compliant smelters - all of which are available on the RMI website. The RMI tools are globally recognised as a leading source of information on smelters or refiners and are central to the Dodd Frank compliance efforts of hundreds of companies. The RMI proactively engages with downstream companies to refine and communicate the information they hold on the identities and activities of smelters or refiners and actively maintain and update, usually on a daily basis, the information that is made available publicly and to members online.

In addition to helping downstream companies identify smelters or refiners, the RMI also facilitates and coordinates downstream engagement with smelters or refiners through a Smelter Engagement Team. The Smelter Engagement Team is comprised of representatives from downstream companies who act as centralised communications points (Single Points of Contact) for the smelters or refiners to increase smelters or refiners' awareness of downstream companies' expectations and options for technical assistance. Each smelter or refiner within the CFSP is assigned a Single Point of Contact who then coordinates the engagement with that smelter or refiner by downstream companies. Engagement with smelters is usually by correspondence, but on occasion Single Points of Contact may visit a smelter or refiner to assist with pre-audit preparations and communication of downstream company due diligence expectations. Participants in this team also engage in pre-audit technical assistance in preparation for their audits.

Box 11: Good practice – review of upstream incident reporting

The RMI has been working in collaboration with the upstream due diligence programmes that are recognised within its assurance framework – ITSCI and the Better Sourcing Program – to collate and analyse information relating to potential risks in mineral supply chains. This has been through a review of the incidents reported by these upstream programmes.

In 2016, in collaboration with ITSCI and a downstream member company, a review was undertaken of 863 ITSCI incidents from DRC, Burundi, Rwanda and Uganda, as well as over 400 additional risks reported by local NGOs and other sources to supplement and verify coverage of the ITSCI monitoring system. The RMI's review focused on all identified high and medium-risk incidents and included a spot-check on low-risk incidents, with the objective of validating the risk classification and reporting processes and supporting companies' due diligence assessments. In 2017 RMI extended its incident review processes to include incidents reported through the Better Sourcing Program.

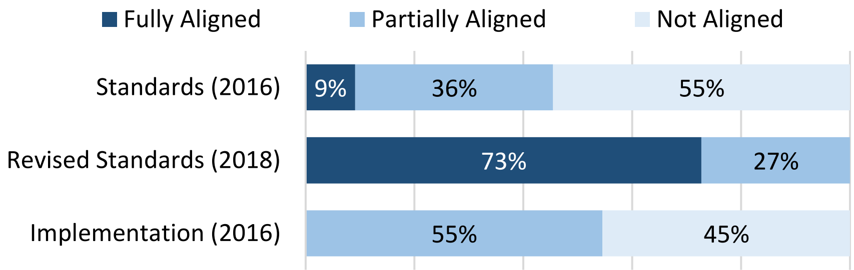
Step 3 – Design and implement a strategy to respond to identified risks

Evaluate and respond to identified risks in order to prevent or mitigate adverse impacts.

With limited requirements relating to risk assessment being in place during 2016, it is perhaps unsurprising that a similar pattern is repeated in the section of the Alignment Assessment that is focused on risk mitigation. Figure 44 illustrates that during the initial 2016 assessment, half of the criteria in this section were not addressed, and most of the remaining criteria were only partially addressed. A key weakness within the CFSP programme requirements for smelters or refiners was a narrow interpretation of risks due to the focus on addressing non-compliance with CFSP requirements – which themselves did not contain a supply chain risk assessment element as envisaged in the OECD Guidance.

This is substantially changed, at least at a standards level, with the introduction of the new RMAP process.

Figure 44: RMI's score under 'Step 3: Design and implement a strategy to respond to identified risks'



There were just three areas where the revised standards of the new RMAP were not fully aligned with the recommendations of the OECD Guidance:

- Whilst the RMI sets clear timeframes for risk mitigation by smelters or refiners should non-compliances be identified during an audit, it is not explicit that smelters or refiners are expected to implement clearly defined timeframes for measurable risk mitigation should risks be identified in their supply chains.
- The new RMAP standard for gold contains an annex on responsible sourcing from ASM, which is highly commendable. However, this annex does not form part of the audit protocol and is not formalised within the programme's requirements for companies.
- The role of upstream programmes, such as ITSCI or the Better Sourcing Program, is integrated within the RMI, and such programmes may undertake risk mitigation measures in cooperation with stakeholders such as local authorities. However, there is a need for a structured assessment mechanism that enables the RMI to monitor, at a programme level, whether such risk mitigation measures are indeed carried out.

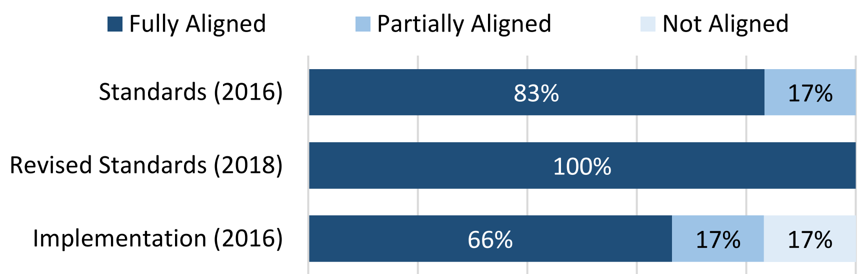
The OECD Guidance makes a number of recommendations for companies relating to the use of engagement and leverage in order to address supply chain risks. During the 2016 period the RMI did not have any requirements for companies to use their leverage to reduce supply chain risks (the new RMAP has now introduced this as a requirement). Nonetheless, the evaluator noted that the RMI itself was and remains very proactive in building and exercising leverage over supply chain actors. Many of the stakeholders interviewed for this assessment noted that the RMI was proactive and effective in working to address relevant supply chain issues. For example the RMI has collaborated with ITSCI to address issues such as legacy stock from mines in the DRC with former presence of armed groups and initiated a process to improve the level of information sharing between the two programmes in 2016 (according to RMI, the latter was a direct result of requests from RMI downstream companies to gain more visibility into ITSCI's processes). Other examples include the RMI's ongoing engagement with national governments through the International Conference for the Great Lakes Region (ICGLR) and its engagement with government authorities and industry associations in China.

Step 4 – Carry out an independent audit

Carry out an independent third-party audit of the smelter/refiner's due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas and contribute to the improvement of smelter/refiner and upstream due diligence practices.

This section of the Alignment Assessment focuses on the recommendations that the OECD Guidance makes for the activities of auditors in delivering audits under a programme. As Figure 45 illustrates, the RMI achieved quite a high rating in this section of the Alignment Assessment for the standards and implementation of the old CFSP. The new RMAP has made further improvements, bringing the RMI standards into full alignment with the OECD Guidance recommendations for this section of the assessment.

Figure 45: RMI's score under 'Step 4: Carry out an independent audit'



Five out of the six criteria that are specified in the OECD Guidance relate to the planning and scoping of the audit. Audits are tightly controlled by the RMI and guidance and protocols provided for auditors. At the time of the 2016 assessment fieldwork only three audit firms were accredited to provide audits, giving the programme clear oversight over the audit process (as of March 2018 there were four fully approved audit firms and one that was provisionally approved).

The RMI has established an Audit Review Committee (ARC), comprised of three independent (non-industry) reviewers who assess every audit report, challenge findings or seek clarifications if required, before approving (or rejecting) the audit report. Only once a smelter or refiner's audit report has been approved by the ARC can the smelter or refiner be listed as a Compliant Smelter or Refiner on the publicly available smelter database. The ARC was established to drive consistent standards in the audit programme, and interviewees noted that this objective had been achieved with significant improvements in consistency of audit activities and interpretations of the RMI's audit protocols.

Nonetheless, as previously highlighted, some significant weaknesses were observed in the audits, with the technical competency of auditors being a key factor. This was a concern raised both by external stakeholders and industry members of the RMI. It was also directly observed by the evaluator during the two shadow audits, with auditors demonstrating a low level of knowledge about the OECD

Guidance and the practicalities of due diligence and responsible sourcing from conflict-affected and high-risk areas. Improving auditor competencies should be a priority for the RMI. There is further discussion of audits in the 'Programme governance review' section below.

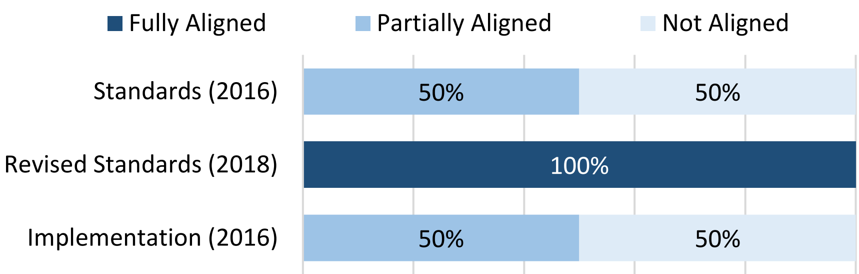
Step 5 – Report on supply chain due diligence

Publicly report on due diligence for responsible supply chains of minerals from conflict-affected and high-risk areas in order to generate public confidence in the measures companies are taking.

Under the OECD Guidance all companies (including smelters or refiners) should publish a report that describes the company's management systems, the methodology and results of the risk assessment and the steps taken to manage identified risks. Smelters or refiners should also publish the audit report, with due regard taken of business confidentiality and other competitive concerns.

As illustrated by Figure 46, the RMI was not aligned with the OECD Guidance recommendations during the initial fieldwork period during 2016 but, with the introduction of revised standards through the RMAP, has moved to full alignment of standards – this is an important shift that should lead to much improved transparency and reporting by smelters and refiners given the large number of companies participating in the RMAP.

Figure 46: RMI's score under 'Step 5: Report on supply chain due diligence'



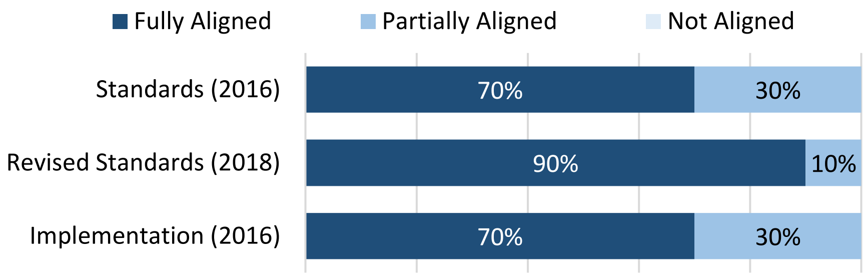
Under the old CFSP, smelters or refiners sourcing minerals from the African Great Lakes region were required to have a public due diligence report and a number of smelters or refiners within the CFSP did produce publicly available reports. However, the majority of smelters or refiners did not report as this was not a mandatory requirement for all participants. Furthermore, stakeholders interviewed during the Alignment Assessment project were critical of the lack of detail in those reports that were published.

The implementation of the new RMAP reporting requirements will need to be assessed at a future date, including whether auditors are sufficiently checking the quality of smelters' or refiners' reports.

Specific responsibilities of programmes

This section of the Alignment Assessment focused on the recommendations that the OECD Guidance makes for the activities of programmes. Figure 47 illustrates that in many aspects of this section the RMI was already fully aligned with the recommendations set out in the OECD Guidance and that further improvements have been made with the revised standards set out in the new RMAP.

Figure 47: RMI's score under 'Specific responsibilities of programmes'



Strengths observed during the 2016 assessment period included:

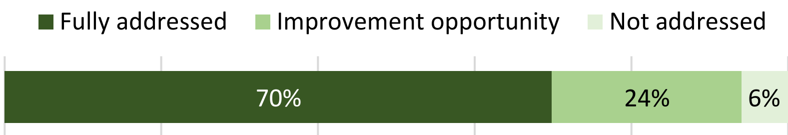
- Undertaking due diligence checks on smelters or refiners seeking to join the programme. This includes requiring smelters or refiners to complete a due diligence questionnaire that requires details of beneficial ownership, undertaking a World Check (a database of heightened risk individuals and organisations) review on the company and performing a technical review of production plausibility.
- Making significant efforts on training. An e-Learning Academy is available to members, smelters or refiners and auditors with over 30 training sessions, ranging from introductions to the RMAP for new smelters, to training on technical issues or sessions specifically for Chinese participants. A significant amount of training materials and external publications are also publicly available on the RMI website, including on due diligence practices.
- Undertaking a significant amount of work collecting, processing and publicising to downstream companies information about smelters or refiners and due diligence, as previously described.
- Providing access to a grievance mechanism that is open to all stakeholders.

The only area where there is scope for further alignment with the OECD Guidance recommendations in this section is in relation to the OECD Guidance recommendation that programmes evaluate the social and economic impacts that their activities have on developing countries.

Programme governance review

This aspect of the assessment evaluates programmes against 37 criteria that are not contained in the text of the OECD Guidance but have emerged as key elements of good practice in the governance and management of industry supply chain programmes.

Figure 48: RMI's score under 'Programme governance review'



Some particular strengths that were noted during the assessment include:

- Involvement of external stakeholders in the RMI's activities to identify, monitor and mitigate risks. The RMI has a monthly stakeholder call during which updates are provided on the programme and emerging issues, and input sought. The RMI regularly meets with key stakeholders, such as government representatives and industry associations in order to discuss and review upstream incidents raised through the ITSCI system and mitigation activities. There is a formal Stakeholder Committee which meets on an ad hoc basis as required. During 2016 this Committee was formally involved in contributing to the development of RMI's strategic five-year plan. When formal requirements are updated, such as the launch of the new RMAP procedures, there is a public consultation process which is open to all stakeholders.

- Stakeholders consistently praised the work of the RMI in communicating relevant information about the programme and about supply chain issues. The RMI is very active in a range of public forums, at which it shares details on progress within the programme and also key supply chain issues (its communications around the issue of legacy mineral stocks in the DRC were highlighted by a number of stakeholders, as were more recent communications relating to Myanmar tin).
- With regards to incidents and risks, the RMI has agreements with other industry programmes (ITSCI, Better Sourcing Program, LBMA, Responsible Jewellery Council) to facilitate the sharing of relevant incident information. From time to time, the RMI will share such information with members, smelters and auditors via newsletters or notifications. The RMI compliant/active smelter list on its website is updated every few days and removal notifications are provided to members. Bimonthly Reasonable Country of Origin Inquiry (RCOI) reports provide additional information to members on which countries smelters or refiners are sourcing minerals from to support downstream companies' due diligence and Dodd Frank compliance efforts.
- There are also some notable strengths in how the overall delivery of the audit programme is managed by the RMI. The review of all audits by the Audit Review Committee provides an additional element of independence and objectivity to the audit process that many supply chain programmes do not currently have. The RMI collects and reviews the CVs of all audit team members, not just the lead auditors, and approves individual auditors for audits.
- The Corrective Action Process (CAP) for addressing non-conformances is transparently set out in RMAP procedures. Of particular note is the extended CAP (E-CAP) process which enables the RMI to show good faith and recognise reasonable efforts of smelters or refiners who may need additional time to address an area of non-conformance. Importantly, there is a documented and publicly available E-CAP policy, and those smelters or refiners subject to the E-CAP process are identified in a publicly available list. RMI members are regularly updated on the progress of any smelters or refiners that are subject to the E-CAP process.
- The internal governance structures of the RMI are formalised and described on the RMI website. At the time of writing there were five full-time RMI staff members, who report to the RMI Steering Committee which is made of up representatives from RMI member companies. The Steering Committee in turn reports to the RBA Board of Directors. Details of all the individuals involved are provided on the website.
- The RMI has a process to evaluate cross-recognition and equivalencies with other programmes. The LBMA and RJC are (as of March 2018) currently cross-recognised within the RMI. ITSCI and the Better Sourcing Program are accepted upstream assurance programs facilitating the sourcing of ASM material from conflict-affected and high-risk areas, and the RMI is actively exploring further opportunities that could be relevant in the future.

The most important area for improvement relates to the RMI's audit programme. As highlighted above, whilst there are some notable strengths in the management of the audit programme by the RMI, there were significant weaknesses identified during the 2016 assessment period in the audits themselves. These relate to areas not explicitly addressed by the text of the OECD Guidance but nonetheless materially impacting how the recommendations of the OECD Guidance are implemented by programmes. Whilst these observations relate to the old CFSP, not the new RMAP, they are nonetheless relevant to highlight as at the time of writing audits against the RMAP standards had not yet started.

The first area relates to auditor competencies: familiarity with the subject matter, and skills and behaviours. At the observed audits the auditors demonstrated a low level of understanding of the recommendations of the OECD Guidance, the typical risks that are relevant to mineral supply chains in conflict-affected and high-risk areas, and the practical due diligence and risk mitigation actions that smelters or refiners can take in order to ensure they are sourcing minerals responsibly. There was also an observed absence of curiosity, professional scepticism and critical analysis in the undertaking of audit procedures. It is worth noting that in addition to direct observations, several stakeholders with familiarity with the audit process (including RMI member companies) raised similar concerns about auditor competencies.

Alongside strengthening auditor competencies, it is also necessary to consider the format of the auditor procedures and whether, in the effort to bring consistency to the audit process, an unintended consequence is a reduction in the role of auditors' professional judgement as part of the audit process. It was observed that auditors systematically worked through the audit checklists and toolkits provided by the programme and did not deviate from the prescribed questions and documentation checks. In defence of the auditors, it could quite reasonably be argued that if the auditors did deviate from the procedures then this would be 'scope creep'; it is perhaps an inevitable consequence of prescriptive audit procedures that auditors will then be duty-bound to not deviate from these procedures.

There is a balance to be struck between establishing controls that deliver consistency and (once competencies have been strengthened) providing scope to – and requiring – auditors to apply professional judgement to form conclusions on risks. Considerations include:

- Ensuring that the auditors do not just verify the existence of management systems and controls (e.g. confirming that a senior manager has been assigned responsibility for the conflict minerals policy) but also assess whether the company's systems and controls are functioning as intended (e.g. seeking evidence of the senior manager's role in due diligence and what decisions he/she has taken following supplier risk assessments).
- Giving consideration to how materiality may be applied to ensure auditors' testing focuses on those areas that represent the greatest risk – recognising that this may not always be determined by the geography of mineral origin or material type.
- Requiring auditors to not just verify the presence of certain documentation, but also make judgements on quality. This is particularly important for documentation relating to risk assessments, such as reports from an on the ground site assessment of a supplier. Guidance could be provided to auditors about what should be covered in such reports.

The evaluator noted that the new RMAP standards have taken some steps towards addressing the above areas in comparison to the previous CFSP audit standards. In addition to the new RMAP standards, the RMI also now undertake periodic shadow audits to directly observe the work of RMI auditors.

Annex A. Overview of the programmes that participated in the pilot

Dubai Multi-Commodities Centre

The Dubai Multi-Commodities Centre (DMCC) operates a Free Zone in the United Arab Emirates (UAE) that focuses on commodities trading, both of mineral and agricultural commodities. The DMCC is an initiative of the Government of Dubai and is one of over 40 free zones[17] that are located in the UAE.

The DMCC launched its Practical Guidance for Market Participants in the Gold and Precious Metals Industry (DMCC Guidance) in 2012. The DMCC Guidance is available for any company that wishes to be accredited to one of the two standards provided by the DMCC:

- The Dubai Good Delivery (DGD) standard was developed by the DMCC in 2005 to increase confidence in the gold and silver industry through technical, quality and financial standards.
- The Market Deliverable Brand (MDB) standard provides an accreditation of quality and technical gold and silver production, but with reduced requirements on areas such as financial turnover and the number of years of operation compared to the DGD standard.

Both accreditation standards require gold refiners to comply with the DMCC Guidance. At the time of this Alignment Assessment (early 2017) there were 14 accredited DGD refiners and three accredited MDB refiners. 11 of the DGD refiners were LBMA-accredited refiners who were recognised by the DMCC through cross recognition. Only one of these gold refineries was physically based in the DMCC free zone. Two DGD refiners are based in Dubai and two MDB refiners are based in the emirates of Sharjah and Fujairah. All other DMCC-accredited refiners are based outside of the UAE.

The DMCC Guidance was replaced in August 2016 with the DMCC Rules for Risk Based Due Diligence in the Gold and Precious Metals Supply Chain (DMCC Rules), though at the time of this Alignment Assessment, due to companies' reporting periods only the DMCC Guidance was in force. This report refers primarily to the DMCC Guidance, and it is the implementation of the DMCC Guidance that has been assessed at refiner-level, though occasional reference is made to forthcoming DMCC Rules.

London Bullion Market Association

The London Bullion Market Association (LBMA) launched its Responsible Gold Guidance (RGG) in 2012 as a mandatory requirement for all refiners on the LBMA Good Delivery List18, which is recognised globally as the benchmark standard for gold and silver bullion bars. Until 2017 the requirements of the LBMA's RGG only applied to gold, but in January 2018 the Responsible Silver Guidance (RSG) came into force.

[17] A free zone (or free trade zone) is a designated area within a country where goods can be imported, processed and exported with no or minimal taxation, or free from other requirements such as restrictions on foreign ownership. The DMCC is not the only free zone in the UAE that supports the gold and precious metals industry.
[18] http://www.lbma.org.uk/the-good-delivery-list

The Responsible Sourcing Programme requirements are set out primarily in the RGG and RSG, which are based on the five-step due diligence framework of the OECD Guidance, and the associated Third Party Audit Guidance documents. To be considered an LBMA Good Delivery Refiner, all refiners must pass an annual audit against the requirements of the RGG and RSG[19]. The programme is managed by LBMA staff, based in London.

The RGG only applies to gold refiners and, at the time of writing in early 2017, only to the gold refined by these refiners (most gold refiners also refine other metals, particularly silver).

International Tin Supply Chain Initiative

The International Tin Supply Chain Initiative (ITSCI) is an industry programme focused on the upstream tin, tantalum and tungsten (3T) supply chains in the African Great Lakes region. It began development in 2008 in response to global concerns about the links between the mineral trade and conflict in the Democratic Republic of Congo (DRC). ITSCI was formally established as a membership programme in 2011 and is jointly managed by the International Tin Association Ltd and the tantalum industry association, the Tantalum-Niobium International Study Center (T.I.C.).

ITSCI provides a traceability and due diligence system that tracks minerals and monitors operators from mine to smelter. It uses tags and associated data to provide traceability for minerals and a due diligence system that includes company, mine site and transportation route assessment, risk reporting and follow-up, whistleblowing and stakeholder meeting facilitation, independent audits and a range of options for sanctions. The programme is implemented on the ground by the US-based NGO, Pact, who in turn works with local NGOs and through partnerships with national governments whose agencies carry out tagging. Data support and other activities are performed by the ITSCI Secretariat and independent evaluators. The programme is financed on a not-for-profit basis through company membership fees and a levy on mineral volumes.

The programme currently operates in the Democratic Republic of Congo (DRC), Rwanda, Burundi and Uganda. Currently all officially exported 3T minerals from Burundi, the DRC (North and South Kivu, Maniema and four Katanga provinces) and the vast majority from Rwanda are exported through the ITSCI programme. At the time of this assessment ITSCI estimated that over 1,650 mine sites, employing over 55,200 people, were covered by the programme. There were close to 350 upstream companies who were Full Members of the programme, of which around 160 were active. There were eight large international downstream companies who were Associate Members. In 2016, ITSCI recorded and encouraged follow-up mitigation on 863 incidents of risk.

Responsible Jewellery Council

The Responsible Jewellery Council (RJC) was established in 2005 by a group of 14 diamond and gold jewellery businesses seeking to develop a credible response to reputational risks facing the diamond and gold supply chain. Since then, the RJC's membership has grown to over 1000 organisations representing different parts of the diamond, gold and platinum group metals jewellery supply chain, from mining companies through to retailers.

Companies joining the RJC are required to achieve certification against the RJC Code of Practices (COP) within two years of joining, and to maintain this certification through periodic re-assessment. The RJC

[19] There are a range of other requirements for Good Delivery refiners but these are not relevant to the Alignment Assessment.

COP covers a wide range of supply chain issues, including business ethics, human rights, social and environmental performance. The requirements of the COP predate the development of the OECD Guidance and are not intended to implement it, though there are areas of the COP that have relevance to the OECD Guidance recommendations.

The RJC also has a voluntary Chain of Custody (CoC) Standard against which members can choose to be certified. The CoC Standard was developed in 2012 and is designed to build on the COP. It focuses on the flow of responsibly produced and sourced precious metals (gold, platinum, palladium and rhodium) through the supply chain in order to enable materials to be labelled as CoC Certified. The CoC Standard is intended to align to the OECD Guidance and is therefore the main focus of this Alignment Assessment. At the time of the writing in early 2017, approximately 40 companies were accredited to the CoC standard.

During 2016 the RJC began a process of reviewing the CoC standard and the revised Standard was released in December 2017. This Alignment Assessment relates to the RJC standards that were in force during 2016.

Responsible Minerals Initiative

Founded in 2008 by members of Responsible Business Alliance (RBA) – formerly known as the Electronic Industry Citizenship Coalition (EICC) – and the Global e-Sustainability Initiative, the Responsible Minerals Initiative (RMI) – rebranded from the Conflict-Free Sourcing Initiative (CFSI) in October 2017 – is the largest industry supply chain programme focused on responsible mineral supply chains. The RMI operates as an initiative of the RBA, with dedicated staff members based primarily at the RBA offices in Washington DC.

The RMI was originally set up to assist RBA member companies in responding to concerns raised by non-governmental organisations (NGOs) about 'conflict minerals' originating in the Democratic Republic of Congo (DRC) and entering the global supply chains of the electronics industry. When the United States enacted Dodd Frank Section 1502 in 2010 the RMI's focus evolved to also support industry compliance with Dodd Frank. The US Securities and Exchange Commission (SEC)'s Conflict Minerals Rule, which implements the conflict minerals provisions of Dodd Frank, references the OECD Guidance as one of the frameworks available to support due diligence.

The majority of the RMI's 350+ members are downstream companies from a range of industries, together with a small number of smelters or refiners, mining companies, industry associations, and vendor members. The flagship initiative of the RMI is the Responsible Minerals Assurance Process (RMAP) - rebranded from the Conflict-Free Smelter Program (CFSP), which provides an annual audit of smelters and refiners to determine whether they can be validated verified as 'conflict-free' having systems in place to responsibly source minerals in accordance with RMAP standards. The RMAP is the largest global smelter and refiner audit programme and covers the majority of the known smelters and refiners for tin, tantalum, tungsten, gold ('3TG') and as of 2018, cobalt, either directly or via cross-recognition with other programmes. It is the only industry audit programme that covers all four of the 'conflict minerals' defined under Dodd Frank.

The RMAP sets conformance requirements for smelters and refiners through the RMAP protocols standards, procedures and other tools. The RMAP protocols standards, procedures and tools also set the requirements for auditors, who validate verify where smelters and refiners are in compliance conformance with the RMAP. Smelters and refiners participate in the RMAP, but, with a few exceptions, are generally not members of the RMI. RMI's standards are developed through a multi-step public consultation process with review and oversight by a multi-stakeholder standards advisory group and Executive Steering Committee.

The RMI is the overarching programme, which is funded primarily by its downstream member companies. In addition to developing and administering the RMAP, the RMI also provides tools and resources to support downstream companies in their due diligence and reporting, and engages in advocacy and stakeholder engagement on responsible sourcing issues relevant to its members.

The RMI was primarily focused on NGO engagement and Dodd Frank compliance until relatively recently. In 2016 the programme introduced a range of changes which broaden the scope of its application to support responsible sourcing from conflict-affected and high-risk areas globally and address a wider range of risks covered in the OECD Guidance. These changes also included broadening the mineral scope beyond '3TG'. Furthermore, the changes have included work to align the RMAP audit standard requirements more closely with the OECD Guidance. First audits against the revised RMAP standards were conducted in February and March of 2018 but implementation was not assessed as part of the re-assessment.

Annex B. Statements by participating programmes

DMCC

OFFICIAL STATEMENT
DMCC AND THE OECD ALIGNMENT ASSESSMENT

APRIL 2018

On behalf of DMCC (Dubai Multi Commodities Centre) we would like to thank the OECD and all the stakeholders involved (iTSCi, RJC, LBMA, RMI) for the opportunity to participate in the Pilot Assessment. We thank the non- programme members of the informal Advisory Group Global Witness and European Commission for their extensive guidance in this process.

DMCC welcomes this collaboration with the OECD and all the participants in enhancing the mechanisms of Responsible Supply Chains of Minerals from Conflict Affected and High Risk Areas. We all have one common objective: to create and build sustainable livelihoods in the precious minerals supply chain and encourage companies to source responsibly from high risk areas.

For DMCC the timing to participate in this exercise is right. We have been working closely with the OECD on responsible supply chain initiatives since 2011.

During our journey we have overcome several challenges. Sometimes it requires tough decisions such as delisting a member company or enhancing our governance structure through the establishment of an independent governance committee.

We do understand that the essence of building a responsible sourcing programme is continuous improvement.

It is a step-by-step process and the outcome of the OECD Alignment assessment report points to key areas that we acknowledge can be further strengthened. While there are areas where we do not completely share the views of the OECD's assessment, we are taking into consideration the valuable recommendations that we have received.

We do accept that consistent interpretation and proper application of the alignment assessment criteria is vital. It is important to define the extent of alignment taking into consideration the nature and scope of the individual programs and their members.

As a final comment it is important for us to share with you our desire and commitment to streamline and collaborate across all the industry initiatives. There are clearly areas where industry programmes would benefit from more collaboration and could potentially create synergies and ultimately allow all of us to reach our common goals.

The results of the alignment assessment clearly show there is a critical need to build capacity and educate stakeholders in both the upstream and downstream sectors. This is particularly true in respect of implementation. Programmes could cooperate in auditor selection criteria, capacity building, core training (such as on mineral supply chain and mineral supply chain due diligence), leading ultimately to cross recognition of programmes and auditors. Cooperation and cost-sharing would also be meaningful in the area of on- the- ground assessments of specific regions or specific routes for the ultimate benefit of the industry, especially for those programmes that have many members in common. We continue to strengthen our own team to advance training programmes and enhance the level of capacity building expertise in the industry.

If we want impact we need a broad geographical scope. We need broad coverage if we want to be effective. We should not stigmatise certain regions and risk by excluding them from global markets. This requires partnerships and collaboration of all key stakeholders.

Taking into consideration the complexity of the value chain, we believe collaboration is the only way forward and call on our partners / other industry stakeholders to do so. This OECD Alignment exercise is a first step in a roadmap to drive partnership building across programmes to put in place effective but reasonable systems to encourage responsible sourcing of minerals produced in conflict areas.

Overall, we believe that this OECD Alignment exercise has enhanced our working relationship with the OECD, characterised by a high level of cooperation and trust on both sides. We look forward to building more synergies and working more closely with the other Participating Programmes on building positive impact and integrating best practices within the broader agenda of the Sustainable Development Goals.

Thank you.

Almas Tower
Jumeirah Lakes Towers
P.O. Box 48800, Dubai, UAE
+971 (0) 4 424 9600
dmcc.ae

MADE FOR TRADE

LBMA

OECD Alignment Project

The pilot OECD Alignment Assessment has been both a valuable and useful exercise to help industry schemes recognise further development opportunities. Since the launch of the LBMA Responsible Gold Guidance in 2012, LBMA has remained committed to continuous improvements. This can be demonstrated through the updates provided on both the actual policies and standards, as well as expectations on implementation in the last six years. Engagement with stakeholders throughout the supply chain has helped LBMA ensure that the Programme continues to remain relevant and that it addresses the key risks facing the supply chain.

LBMA welcomes the feedback received from the OECD on further improvements, with the understanding that the Alignment Assessment should not conclude the further development of the Programme. For the Programme to remain effective continuous improvement is critical.

To that end, LBMA has expanded the scope of the Responsible Sourcing Programme to include Silver and is in the process of finalising the Responsible Platinum & Palladium Guidance. In addition, the LBMA is also focused on including other Responsible Business Practices, particularly Environment and Sustainability.

LBMA would like to express our thanks to all at the OECD and all stakeholders engaged throughout the process for their hard work over the past 18 months in delivering the Alignment Project Pilot.

Responsible Jewellery Council

RJC Statement on OECD Alignment Assessment Pilot

The Responsible Jewellery Council (RJC) is the leading standards and certification organisation for the jewellery industry and we are dedicated to driving responsible business practices across the entire jewellery supply chain from mine to retail. We are over 12 years old now, and continuously improving our systems is an important part of our work. For this reason, we welcomed the opportunity to participate in the Alignment Assessment pilot project as a valuable way to learn together.

As a standards-setting organisation, we have long recognised that a credible due diligence process is a key responsible business practice. We have a history of working closely with the OECD on the development of the Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (OECD Guidance), particularly the Supplement on Gold, and we remain actively engaged as members of the Multi-Stakeholder Steering Group (MSG). The OECD Guidance is the most widely recognised due diligence reference, applicable to all minerals and adopted by a wide range of industries and initiatives globally. This is because it is a tool for responsible trade, designed for companies, and with practicality and continuous improvement at its heart. The importance of aligning with the OECD Guidance is very clear for us, and we are committed to continuing to support the Guidance and other relevant frameworks.

Now that we’ve completed the Alignment Assessment, we can confirm the valuable learning opportunity it’s been. It’s pushed us to closely scrutinise our standards and our certification and put into place immediate as well as longer-term improvements. We were encouraged by the ‘partially aligned’ rating awarded to us following the recent re-assessment and are clear on the way forward for reaching full alignment.

Overall, we believe that the Alignment Assessment is a robust and practical approach for assessing how a program is aligned with the OECD Guidance. However, there are some improvements that can be made in the level of prescription with regards to the language that should be used (i.e. in standards or guidance documentation) to demonstrate alignment on the criteria. We work with companies in the gold, diamond, platinum group metals, and soon silver and coloured gemstones supply chains. Our 1,000+ members range from multi-national mining companies to small diamond cutting businesses, jewellery manufactures and well-known brands; they come in all sizes and from over 75 different countries. Some supply chains are more mature in their application of due diligence than others, and over-prescriptiveness in the Alignment Assessment tool can hinder our ability to cover this broad range.

We are committed to the ongoing work ahead of us all in applying and improving due diligence practices. Working in partnership with others to make this happen is critically important for us and will continue to support our cross recognition with the Responsible Minerals Initiative, London Bullion Market Association and the Dubai Multi Commodities Center, and working with the World Diamond Council and CIBJO (the World Jewellery Confederation) to ensure due diligence systems build on and are aligned with the Kimberly Process Certification Scheme, System of Warranties and other jewellery sector initiatives.

In closing, we would like to take this opportunity to thank the OECD Secretariat and Kumi Consulting for their valuable support and feedback throughout the pilot Alignment Assessment. We look forward to further collaboration and cooperation with all parties that contributed to and participated in this important and innovative project.

Andrew Bone, Executive Director RJC

Responsible Minerals Initiative Program Statement on the OECD ALIGNMENT ASSESSMENT Pilot assessment findings

10 April 2018

The Responsible Mineral Initiative's core mission is to help companies meet regulatory compliance requirements and support responsible sourcing of minerals from conflict-affected and high-risk areas. With the promulgation of the European Union Conflict Minerals Regulation, the RMI received a clear call from tin, tantalum, tungsten and gold (3TG) smelters and refiners (SORs), downstream industry, and RMI's stakeholders to ensure the Responsible Minerals Assurance Process (RMAP, formerly the CFSP) is aligned to the OECD Guidance and accepted in the EU framework. This development coincided with the OECD alignment assessment project and helped to affirm our decision to significantly and fundamentally advance the RMAP's scope to facilitate both regulatory compliance for "conflict minerals" as well as broader responsible sourcing of minerals from conflict-affected and high-risk areas globally. Since the Alignment Assessment was conducted, we have implemented a number of key changes to our Standards, strengthened the implementation of our program, and enhanced our governance structure.

The RMI progressed from "unaligned" overall in 2016 to "partially aligned" overall in 2017. Our revised 3TG Standards are 94 percent "fully aligned" in 2017. This is a significant achievement. We are thankful to the RMI's members for their support, the RMI Standards Advisory Group for bringing an additional technical voice across stakeholders, and for the OECD and Kumi Consulting for their recommendations and professionalism. We are already working on the implementation of the revised Standards. As of April 2018, four assessments against the revised standard have been conducted.

A few highlights of major changes we made to all three RMAP Standards (Tin / Tantalum, Tungsten, Gold) to achieve alignment with the OECD Guidance include:

- Emphasis on the assessment of SORs' due diligence management systems to test the design and implementation of the OECD 5-Step framework. Due diligence management systems are required to be proportional to the size, complexity and risk level of the company and its supply chain,
- Requirement to consider all OECD red flags and for due diligence to include all risks as outlined in the OECD Annex II Model Policy,
- Global geographic scope for OECD conformance beyond the Covered Countries (outlined in the Dodd-Frank Act, Sec. 1502),
- Balanced attention between the auditor's assessment of SOR management systems and due diligence, supported by evidence from supplier and transaction reviews, and
- A reporting framework that requires public Step 5 Due Diligence Reports and Summary Audit Reports for all participating SORs and that will allow external stakeholders to measure progress over time.

For more information on revisions the RMI made to its Standards, please refer to our webpage here. Furthermore, RMI has taken a number of actions to address the specific improvement opportunities identified by OECD:

#1: Recommended improvement opportunity: Develop a robust assessment mechanism to enable the RMI to evaluate and monitor the effectiveness of due diligence measures undertaken by third-party upstream programmes.

#1: RMI Action: The OECD has placed significant focus on the need for the RMI and SORs to have oversight and "assess" upstream mechanisms to ensure alignment with the OECD Guidance. The revised Standard and Assessment Workbooks include additional controls for SORs using an upstream assurance mechanism, while also clarifying that such systems are not required to be used, allowing for alternatives such as closed-pipe models or individual systems. SORs utilizing an upstream mechanism must understand the scope of the mechanism and any gaps between the mechanism's activities and the OECD Guidance, to shape the SORs' processes. In addition to specific expectations on the SORs, the RMI will also assess that mechanisms have been independently reviewed and found aligned with the OECD Guidance. In further support of implementing, monitoring and tracking performance of upstream risk mitigation, the RMI conducts ongoing due diligence review of the upstream mechanisms' incident processes. In 2016, the RMI conducted a review of iTSCi incidents and in 2017 the RMI added the review of Better Sourcing Program (BSP) incidents, sharing opportunities for improvement observed with both programs.

One overarching feature of the current system that we think is not sufficiently recognized in the report is the importance of linking upstream systems to downstream demand, and the role this has played historically. The structured connections between the RMI and iTSCi were designed to support the SOR's ability to responsibly buy from artisanal (ASM) sources in the African Great Lakes Region. The linkages between the two programs included:

- SORs' sourcing practices (e.g., SORs purchasing minerals from green validated ASM sites),
- The RMI's standard, where iTSCi was initially the only upstream mechanism referenced to support SORs sourcing responsible minerals from the Democratic Republic of the Congo (this is now expanded to any upstream mechanism that is independently reviewed to be aligned with the OECD Guidance and is recognized by the RMI),
- RMI's review of upstream incident processes and reports, and
- Financial and technical contributions by the RMI to upstream systems.

These links contribute significantly to SORs' confidence in responsibly buying minerals from the Great Lakes Region. Over 20 3T SORs participating in the RMI source from the African Great Lakes Region, the vast majority of which is ASM material. This is quite significant considering SORs' diverse global sourcing practices and is something we track and report to RMI members bi-monthly via Reasonable Country of Origin (RCOI) Reports.

#2: Recommended improvement opportunity: Ensure effective implementation by both companies and auditors of the significantly revised standards.

#2: RMI Action: The RMI recognizes that the implementation of its revised Standards is equally important to the design itself and we are working closely with SORs and auditors to strengthen this component. Core actions to ensure the implementation of RMI Standards is aligned with the OECD Guidance include:

- An extensive training program, including online and in-person trainings conducted in Asia, North America and Europe in 2018. Trainings emphasize the shift of RMAP to a management systems approach, ensuring that auditors test those areas that represent the greatest risk and verify the design and implementation of appropriate due diligence management systems.
- New assessment tools, including a revised Assessment Workbook which SORs must complete prior to the on-site assessment to identify the areas that represent the greatest risk.
- Ongoing engagement with SORs to prepare them for the new Standards, including advance pre-assessment work, trainings, one-on-one assistance and our Single Point of Contact program.
- Regular observation of assessments by RMI staff to identify opportunities to strengthen implementation.

#3: Recommended improvement opportunity: Strengthen the audit programme requirements and the competencies of auditors.

#3: RMI Action: Starting in late 2016, we made significant investments in the oversight and capacity-building of auditors, including a multi-year training program. We overhauled the RMI's auditor approval program to require individual auditor approvals for both lead and team auditors, redesigned required training and credentials (with more emphasis on management systems, audit methodology, and OECD 5-Step process, for example), increased seniority and experience requirements for lead auditor roles, instituted a requirement to have two auditors at every audit and an auditor score card system, and enhanced shadow audit requirements conducted by RMI staff.

To further ensure quality of auditors and process, the RMI has also updated the role of the Audit Review Committee (ARC) to review the auditors' consistent application of the Standard, providing further oversight into the integrity of the process used by the auditor.

We reaffirm our commitment to work with other programs and OECD on improvements regarding auditor competency and quality and emphasize that this is a challenge across multiple mechanisms that could benefit from additional cross-program focus and dialogue.

In conclusion, we have embedded the OECD concept of continual improvement in our standards and in our audit processes going forward. This is a concept the RMI will hold itself to as well, as the program continues to evolve. We feel strongly that due diligence systems need to be able to adapt to meet evolving needs of stakeholders as well as future regulatory drivers, whatever they may be. While a consistent interpretation of OECD Guidance is very helpful, we also want to be mindful that the overall framework does not become too prescriptive such that it impedes the abilities of systems to further improve over time.

Responsible Minerals Initiative
www.responsiblemineralsinitiative.org

Statement Regarding OECD Alignment Assessment Pilot Report

17th April 2018

The ITSCI Programme very much welcomed the opportunity to participate in the Alignment Assessment, to contribute our experience to tools and methodology development, and understand where further improvements in our activities could be possible as we continue to strive for progressive improvement in mineral supply chains from high risk areas.

Achieving full standard alignment
In 2018, ITSCI is delighted to have achieved a unique **100% standards alignment** rating for our overarching due diligence principles, and a unique **100% standards alignment** rating for our work on the 5 Step framework. The OECD Guidance, together with the needs created by Dodd Frank and UN reporting, has always been a primary reference for ITSCI. Our programme is designed around Annex II risks, at every tier in the supply chain, through stakeholder engagement, mitigation, leverage, training and continuous presence on the ground. We originally faced many challenges in transforming the complex and flexible Guidance into a meaningful standard appropriate for small and large operators, in many different countries, and we are therefore immensely pleased to have achieved 100% alignment through just a single clarification in one item of our 2016 standard that related to EITI.

Understanding implementation
The assessment led to several interesting discussions which have challenged our understanding of due diligence implementation, in particular judgements relating to the roles and responsibilities of programmes versus those of member companies, governments and other stakeholders. We have sometimes struggled to fully understand the reasoning of the evaluators for their final rating assessments, and while ITSCI fully recognises the need for continual improvement in the programme, and in the activities of our members, further clarity would be highly appreciated.

ITSCI achieved a high **75% implementation alignment** rating for the overarching **due diligence principles**. Some partial alignment arose from facts, such as that ITSCI is only implemented in Africa, rather than globally. However, much partial alignment arose from the evaluators' assessment of the responsibilities or performance of other actors, for example in the item on '*Responsibility for determining the actions that a company undertakes in response to identified risks rests with the company's management*'. This was partially aligned although all members of ITSCI are advised at all times, and in their programme agreement, to determine their own response to risks; we have no mandate to determine the decisions or actions of any company's management and would not wish to accept liability for doing so.

ITSCI also achieved a high **80% implementation alignment** rating for the **5 Step framework** of due diligence, with individual rating of each Step 1 to 5, aside from Step 3, of between 80% and 100%. Allocation of a lower implementation score for Step 3 regarding response to identified risk has been both surprising and disappointing considering the extent of effort and clear positive results achieved through the ITSCI incident reporting, management and follow up system. The partial alignment in this area results both from a) the recurring question of the impact of member company performance, and b) an apparent focus on ITSCI auditing processes rather than on our extensive continual on-the-ground monitoring and engagement activities which we believe to be effective.

The alignment notes 'over-reliance' of companies on the programme or that we are 'doing too much', however, we make significant efforts to ensure all decisions are ultimately made by companies, although we suggest mitigation actions, as well as monitor whether they are achieved. The alignment assessment implies we should also 'do more'. Greater precision on the line between these options, and concrete factual suggestions for changes, would help us to improve alignment particularly when considering the inherent purpose of industry programmes to support members.

Overall alignment

Although implementation clarification and improvement opportunities of course exist, ITSCI is immensely pleased to achieve overall combined **91% standards + implementation alignment** for the 5 Steps of the Guidance on which our programme focuses; sufficient for this assessment section to already be considered as **fully aligned**.

Interpretations of the Guidance, methodology and tool

The assessment notes programmes should implement a flexible standard that recognises progressive improvement and avoid static standards of compliance. This progressive approach which is adopted by ITSCI adds further complexity to the assessment since not all programme members are at the same stage of 'progress' at any one time. The evaluation uses a generalisation of the performance of member companies and we believe that the selection of shadow audits, as well as how 'progress' is defined, and recognised, is critical to achieving a fair and meaningful assessment. ITSCI fully recognises limitations in members understanding and performance of due diligence, provides training and support to achieve improvement, and uses leverage and sanctions to drive that. The shadow audits were on two small, high risk companies who had recently joined our programme, while the option of shadowing at a larger trading company with good due diligence practices was declined. Further discussion on sampling and **'how much progress'** on an aggregate across member companies is needed, or measured, in order to achieve a 'full alignment' will be critical for the future.

We appreciated some discussion of the methodology and tool design but we suggest that further opportunities to collectively consider a) the meaning of the Guidance text, b) whether the Guidance is appropriately captured in the tool, c) how the evaluation utilises non-factual information, and d) if the scoring system remains appropriate, would be beneficial. Interpretation of the written Guidance at each step is a consequence of the above process and there is also significant potential to deviate from the original expectations of due diligence at each stage. We believe it is essential to avoid or at least **minimise 'interpretation'** as the assessments could become subjective and inconsistent.

Governance and disclosure

ITSCI achieved **74% overall governance** in the assessment which we believe to be typical of all programmes. We have a clear and formalised structure and note that we provide an exceptionally **high level of disclosure** and transparency of information to the public, including to non-members, which is not expected in the Guidance and not typically seen. Information is immediately available to any company, including downstream, who choose to purchase rights of access. Note also that ITSCI has not cross-recognised systems which we are uncertain provide an equal level of alignment.

Importance of on-the-ground assessment
Due diligence implementation requires information to be available from the ground for company decision making. The lack of such information creates embargos, and such information can only be generated through **on-the-ground teams** with a range of expertise and appropriate management. We are encouraged that the alignment recognises the importance of on-the-ground activity and note that the extent of our activities, including wider training and support for all stakeholders, is limited by **financial resource**, an issue also noted in Box 6 in regard to gold.

We strive to ensure market access for all, including artisanal miners, and have worked hard to set appropriate standards of due diligence to avoid disengagement which remains our fundamental objective. We believe that the implementation of ITSCI has driven enormous improvements in human rights and conflict and will seek to minimise increased requirements from this assessment to avoid further increases to the burden on miners on the ground.

Yours sincerely

Kay Nimmo, International Tin Association — Roland Chavasse, T.I.C.

On behalf of the Governance Committee of the ITSCI Programme

Telephone	Email	Internet	International Tin Association Ltd
+44 (0)1727 875 544	itsci@internationaltin.org	http://www.internationaltin.org	**Secretariat iTSCi Programme**
		and http://www.itsci.org	Unit 3, Curo Park, Frogmore,
			St. Albans, Herts AL2 2DD, UK

mneguidelines.oecd.org

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