



United States Government Accountability Office

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Statement for the Record for the  
Subcommittee on Africa and Global  
Health Policy, Committee on Foreign  
Relations

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# CONFLICT MINERALS

## Insights from Company Disclosures and Agency Actions

Statement of Kimberly Gianopoulos, Director,  
International Affairs and Trade

# GAO Highlights

Highlights of [GAO-17-544T](#), a report to the Subcommittee on Africa and Global Health Policy, Committee on Foreign Relations

## Why GAO Did This Study

Armed groups in eastern DRC continue to profit from the exploitation of minerals, according to the United Nations. Provisions in the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act require that U.S. agencies take certain actions. For example, the act requires, among other things, SEC to promulgate regulations regarding the use of conflict minerals from the DRC and adjoining countries. The act also requires Commerce to submit a report that includes an assessment of IPSAs filed in conjunction with SEC disclosures. As we reported in 2015, U.S. agencies have supported a range of initiatives; for example, strengthening traceability mechanisms that minimize the risk that minerals that have been exploited by illegal armed groups will enter the supply chain.

Based on an August 2016 report ([GAO-16-805](#)), this statement examines (1) company disclosures filed in 2015 in response to the SEC conflict minerals regulations and (2) Commerce's actions regarding its conflict minerals-related requirements under the Dodd-Frank Act. GAO analyzed a generalizable random sample of Specialized Disclosures (Form SDs) filed with SEC and interviewed relevant officials for that report.

## What GAO Recommends

In its August 2016 report, GAO recommended that Commerce establish a plan outlining steps and time frames for assessing the accuracy of due diligence processes such as IPSAs, and developing the necessary expertise to fulfill these requirements. Commerce concurred with GAO's recommendation.

View [GAO-17-544T](#). For more information, contact Kimberly Gianopoulos, (202) 512-8612 or [gianopoulosk@gao.gov](mailto:gianopoulosk@gao.gov).

April 2017

## CONFLICT MINERALS

### Insights from Company Disclosures and Agency Actions

## What GAO Found

Our analysis of a generalizable sample of conflict minerals disclosures filed with SEC in 2015 found that an estimated 49 percent of companies in 2015 reported having determined whether the conflict minerals in their products came from covered countries, compared with 30 percent in 2014—an increase of 19 percentage points. As a result of due diligence, a majority of companies reported in 2015 that they were unable to determine the country of origin of the conflict minerals in their products and whether such minerals benefited or financed armed groups in the covered countries. However, companies reported a range of actions they had taken, or planned to take, to build on or improve their due diligence efforts, such as shifting operations or encouraging those in their supply chain to shift from current suppliers to suppliers who are certified as conflict free.

As of July 2016, the Department of Commerce (Commerce) had not submitted to Congress a report that includes an assessment of the accuracy of Independent Private Sector Audits (IPSA) and other due diligence efforts as well as recommendations for IPSA processes, as the Dodd-Frank Act requires, and had not developed a plan for doing so. Commerce officials told us in July 2016 that they had not yet assessed the accuracy of the four IPSAs filed in 2014 or the six IPSAs filed in 2015. Commerce officials said they established a team to manage Commerce's responsibilities related to IPSAs in March 2016, but the officials noted that they did not have the internal knowledge or skills to review IPSAs or establish best practices.

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Chairman Flake, Ranking Member Booker, and Members of the Subcommittee,

I am pleased to submit this statement about our recent work related to conflict minerals. Over the past decade, the United States and the international community have sought to improve security in the Democratic Republic of the Congo (DRC)—the site of one of the world’s worst humanitarian crises. The 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) contains a sense of Congress expressing that the exploitation and trade of conflict minerals originating in the DRC was contributing to the humanitarian emergency in that country and directs several U.S. agencies to take actions.<sup>1</sup> Notably, Section 1502 of the Dodd-Frank Act includes several provisions pertaining to the trade in these minerals. For example, section 1502 requires the U.S. Securities and Exchange Commission (SEC), in consultation with the Department of State (State), to promulgate disclosure and reporting regulations regarding the use of conflict minerals from the DRC and adjoining countries,<sup>2</sup> known as “covered countries.”<sup>3</sup> Section 1502 also requires the Department of Commerce (Commerce) to annually submit a report to appropriate congressional committees that includes, among other things, a list of all known conflict minerals processing facilities worldwide and an assessment of the accuracy of independent private sector audits (IPSA) and certain other due diligence

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<sup>1</sup>Pub. L. No. 111-203, § 1502, 124 stat. 1376, 2213-2218. The Dodd-Frank Act defines conflict minerals as columbite-tantalite (coltan), cassiterite, gold, wolframite, or their derivatives, or any other mineral or its derivatives that are determined by the Secretary of State to be financing conflict in the DRC or an adjoining country. See § 1502(e)(4). Columbite-tantalite, cassiterite, and wolframite are the ores from which tantalum, tin, and tungsten, respectively, are processed.

<sup>2</sup>Section 1502(b) of the Dodd-Frank Act added section 13(p) to the Securities Exchange Act of 1934, 15 U.S.C. § 78m(p).

<sup>3</sup>Section 1502(e)(1) of the Dodd-Frank Act defines “adjoining country” as a country that shares an internationally recognized border with the DRC. When SEC issued its conflict minerals rule, such countries comprised Angola, Burundi, Central African Republic, the Republic of the Congo, Rwanda, South Sudan, Tanzania, Uganda, and Zambia. Pub. L. No. 111-203, § 1502. For the purposes of the conflict minerals rule, SEC refers to these countries as “covered countries”.

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processes.<sup>4</sup> In addition, section 1502 contains a provision for GAO to, among other things, report annually through 2020, in 2022, and in 2024 to appropriate congressional committees, beginning in July 2012, on the effectiveness of the SEC rule in promoting peace and security in the DRC and adjoining countries.<sup>5</sup> SEC adopted its conflict minerals disclosure rule in August 2012,<sup>6</sup> and companies began to file disclosures in 2014.<sup>7</sup>

As we reported in 2015, U.S. agencies have supported a range of initiatives, including, for example, validating conflict-free mine sites and strengthening traceability mechanisms that minimize the risk that minerals that have been exploited by illegal armed groups will enter the supply chain.<sup>8</sup> We have also reported that U.S. diplomacy has increased awareness and improved coordination about the supply chain of conflict minerals in the region, according to officials from the United Nations, the International Conference on the Great Lakes Region, and the governments of the DRC and adjoining countries.<sup>9</sup>

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<sup>4</sup>In addition, section 1502(c) of the Dodd-Frank Act directed State, in consultation with the U.S. Agency for International Development, to submit to appropriate congressional committees a conflict minerals strategy to address the linkages between human rights abuses, armed groups, mining of conflict minerals, and commercial products. Section 1502(e) of the act defines “appropriate congressional committees” to mean the House of Representatives’ Committee on Appropriations, Committee on Foreign Affairs, Committee on Ways and Means, and Committee on Financial Services, and the Senate’s Committee on Appropriations; Committee on Foreign Relations; Committee on Finance; and Committee on Banking, Housing, and Urban Affairs. Pub. L. No. 111-203, § 1502.

<sup>5</sup>See Pub. L. No. 111-203, § 1502(d) (as amended by GAO Mandates Revision Act of 2016, Pub. L. No. 114-301, § 3, 130 Stat. 1514).

<sup>6</sup>Conflict Minerals, 77 *Fed. Reg.* 56,274 (Sept. 12, 2012) (codified at 17 C.F.R. § 240.13p-1).

<sup>7</sup>Conflict minerals disclosures filed with SEC in a given calendar year contain information about conflict minerals used in the previous calendar year.

<sup>8</sup>GAO, *SEC Conflict Minerals Rule: Initial Disclosures Indicate Most Companies Were Unable to Determine the Source of Their Conflict Minerals*, [GAO-15-561](#) (Washington, D.C.: Aug. 18, 2015).

<sup>9</sup>The International Conference on the Great Lakes Region (ICGLR) comprises 12 member states: Angola, Burundi, Central African Republic, the Republic of the Congo, the DRC, Kenya, Uganda, Rwanda, South Sudan, Sudan, Tanzania, and Zambia. In 2010, ICGLR began working to develop a regional certification mechanism to ensure that conflict minerals are fully traceable. ICGLR’s regional certification mechanism enables member countries and their mining companies to demonstrate where and under what conditions minerals were produced, allowing member governments to issue ICGLR regional certificates for those mineral shipments that are in compliance with the standards of the mechanism. ICGLR issued its first certificate in November 2013 to a mine in Rwanda.

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Based on key findings from a report we issued in August 2016, this statement examines (1) company disclosures filed with SEC in 2015 in response to the SEC conflict minerals rule and (2) Commerce's actions regarding its conflict minerals–related requirements under the Dodd-Frank Act.<sup>10</sup> To conduct the work on which this statement is based, we analyzed documents and data and interviewed officials from SEC, Commerce, State, the U.S. Agency for International Development, the U.S. Geological Survey, nongovernmental organizations, industry, and international organizations. We analyzed a random sample of 100 reports from a population of 1,281 to create estimates generalizable to the population of all companies that filed specialized disclosure reports and conflict minerals reports with SEC. We spoke with company representatives to obtain additional perspectives. We traveled to China, Malaysia, and Singapore for field work and visited conflict minerals processing facilities to observe conflict minerals processing and due diligence processes. We met with a range of stakeholders, including representatives of nongovernmental organizations, international organizations, and the private sector. Our August 2016 report includes a detailed explanation of the methods used to conduct our work.

We conducted the work on which this statement is based in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

The DRC is a vast, mineral-rich nation in Africa with an estimated population of about 75 million people and an area that is roughly one-quarter the size of the United States. Since gaining independence from Belgium in 1960, the DRC has undergone political upheaval, including a civil war, according to State. In particular, eastern DRC has been plagued by violence, often perpetrated against civilians by illegal armed groups and some members of the Congolese national military. In 2007, the International Rescue Committee estimated that since 1998, more than 5.4 million people had died in the DRC as a result of such violence, which

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<sup>10</sup>See GAO, *SEC Conflict Minerals Rule: Companies Face Continuing Challenges in Determining Whether Their Conflict Minerals Benefit Armed Groups*, [GAO-16-805](#) (Washington, D.C.: Aug. 25, 2016).

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has also destabilized the minerals-rich eastern DRC, created insecurity, displaced thousands of people, and perpetuated a cycle of poverty.<sup>11</sup> In November 2012, M-23, an illegal armed group, occupied the city of Goma and other cities in eastern DRC and clashed with the Congolese national army. During this time, the United Nations (UN) reported numerous cases of sexual violence against civilians, including women and children, which were perpetrated by armed groups and some members of the Congolese national military. The UN High Commissioner for Refugees (UNHCR) estimated that as of mid-2013, almost 50,000 refugees from the Central African Republic, more than 120,000 refugees from other countries, and about 2.6 million internally displaced persons were living in camps or with host families in the DRC.

The SEC conflict minerals disclosure rule addresses the four conflict minerals named in the Dodd-Frank Act—tin, tungsten, tantalum, and gold—from the DRC and adjoining countries. The rule outlines a process for companies to follow, as applicable, to comply with the rule. Broadly, the process comprises three steps, requiring a company to (1) determine whether it manufactures, or contracts to have manufactured, products with “necessary” conflict minerals; (2) conduct a reasonable country-of-origin inquiry (RCOI) concerning the origin of conflict minerals used; and (3) exercise due diligence, if appropriate, to determine the source and chain of custody of conflict minerals used.<sup>12</sup> (App. I depicts the SEC’s flowchart summary of the rule.)

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<sup>11</sup>International Rescue Committee, “Mortality in the Democratic Republic of the Congo: An Ongoing Crisis” (New York, New York: May 1, 2007), accessed March 31, 2017, <https://www.rescue.org/report/mortality-democratic-republic-congo-ongoing-crisis>.

<sup>12</sup>The four conflict minerals are used in a wide variety of products. For example, tin is used to solder metal pieces and is also found in food packaging, steel coatings on automobile parts, and some plastics. Most tantalum is used to manufacture tantalum capacitors, which enable energy storage in electronic products such as cell phones and computers, or to produce alloy additives, used in turbines in jet engines. Tungsten is used in automobile manufacturing, drill bits and cutting tools, and other industrial manufacturing tools and is the primary component of filaments in light bulbs. Gold is used as reserves and in jewelry and is also used by the electronics industry, including, for example, in cell phones and laptops.

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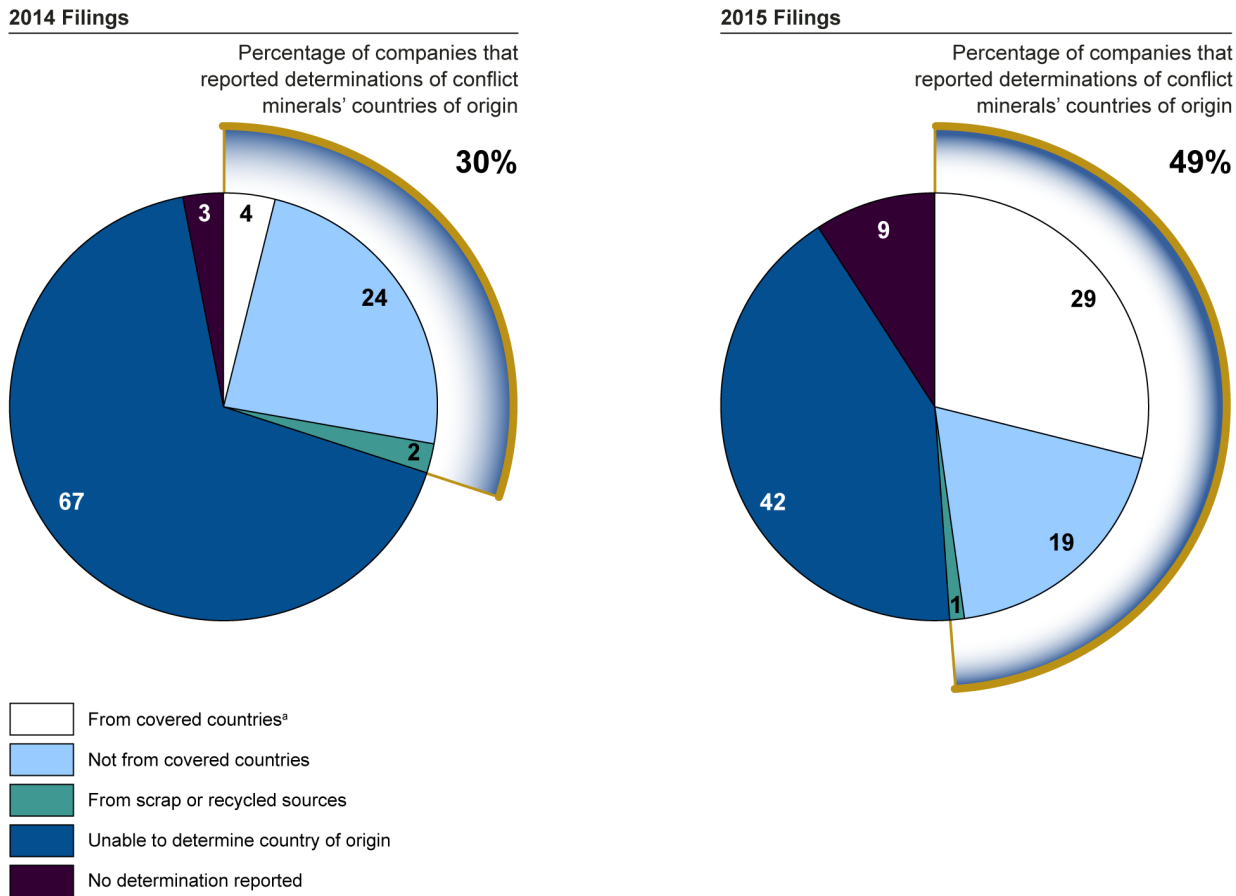
## SEC Filings in 2015 Show Companies Were More Informed about Supply Chains but Continued to Face Challenges in Determining Conflict Mineral Origins

Our analysis of a generalizable sample of conflict minerals disclosures filed with SEC in 2015 found that, while similar estimated percentages of companies in 2014 and 2015 reported performing RCOIs, a higher estimated percentage of companies in 2015 indicated having more knowledge about their supply chains as a result of the RCOIs.<sup>13</sup> An estimated 49 percent of companies in 2015 reported having determined whether the conflict minerals in their products came from covered countries, compared with 30 percent in 2014—an increase of 19 percentage points. Figure 1 shows the 2014 and 2015 percentages of companies that reported determinations of their conflict minerals' origins on the basis of the RCOI results.

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<sup>13</sup>Companies began reporting to SEC under the rule for the first time in 2014 on conflict minerals used in 2013.

**Figure 1: Percentages of Companies That Reported Determinations of Conflict Minerals' Origins, 2014 and 2015**



Source: GAO analysis. | GAO-17-544T

Notes: Companies reported country-of-origin determinations to the U.S. Securities and Exchange Commission (SEC), based on the results of "reasonable country-of-origin inquiries" conducted in response to the SEC conflict minerals disclosures rule. Percentages shown represent estimates with a margin of error of plus or minus 10 percentage points or less at the 95-percent confidence interval.

<sup>a</sup>The companies determined that they knew, or had reason to believe, that the conflict minerals in their products came from "covered countries." Covered countries comprise the Democratic Republic of the Congo and adjoining countries as defined by section 1502 of the Dodd-Frank Act. Pub. L. No. 111-203, § 1502, 124 Stat. 1376, 2213-18.



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While companies' disclosures indicated that they had conducted RCOIs regarding their conflict minerals, companies reported difficulties in obtaining this information from suppliers, similar to difficulties we have previously described.<sup>14</sup> As we have previously reported, a company's supply chain can involve multiple tiers of suppliers, potentially delaying a company's request for information about "upstream" suppliers. For example, companies required to report under the rule could submit the inquiries to their first-tier suppliers; those suppliers could either provide the reporting company with sufficient information or initiate the inquiry process up the supply chain, such as by distributing the inquiries to suppliers at the next tier (tier 2). The tier 2 suppliers could then distribute the inquiries to their suppliers (tier 3), and this process could continue until inquiries reached the processing facility level. Collecting information about each tier could add time to the process.

As in 2014, a majority of companies reported in 2015 that they were unable to determine the country of origin of the conflict minerals in their products and whether such minerals benefited or financed armed groups in the covered countries. However, companies reported a range of actions they had taken, or planned to take, to build on or improve their due diligence efforts, such as shifting operations or encouraging those in their supply chain to shift from current suppliers to suppliers who are certified as conflict free.<sup>15</sup>

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<sup>14</sup>See [GAO-16-805](#); [GAO-15-561](#); and GAO, *SEC Conflict Minerals Rule: Information on Responsible Sourcing and Companies Affected*, [GAO-13-689](#) (Washington, D.C.: July 18, 2013).

<sup>15</sup>According to SEC, conflict-free minerals may originate from covered countries but did not finance or benefit armed groups.

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## Commerce Has Produced Lists of Conflict Minerals Processing Facilities but Lacks a Plan to Assess Audits of Conflict Minerals Filings

Although Commerce provided lists of known conflict minerals processing facilities to Congress in 2014 and 2015 to fulfill the Dodd-Frank Act requirement, Commerce has not made plans to assess the accuracy of companies' IPSAs and other due diligence efforts as the act also requires. The Dodd-Frank Act requires that Commerce annually submit a report, starting in January 2013, containing a listing of all known conflict mineral processing facilities worldwide; an assessment of the accuracy of companies' IPSAs and other due diligence efforts described by the Dodd-Frank Act conflict minerals provisions; and recommendations for IPISA processes, including recommendations to improve IPSAs' accuracy and establish standards of best practices.<sup>16</sup> To comply with its responsibilities under the Dodd-Frank Act, and in response to a recommendation we made in 2014, Commerce produced annual reports in 2014 and 2015 listing known conflict minerals processing facilities.<sup>17</sup> However, as of July 2016, Commerce had not submitted to Congress a report that includes an assessment of the accuracy of IPSAs and other due diligence efforts as well as recommendations for IPISA processes, as the Dodd-Frank Act requires, and had not developed a plan for doing so.<sup>18</sup>

Commerce officials told us in July 2016 that they had not yet assessed the accuracy of the four IPSAs filed in 2014 or the six IPSAs filed in 2015.<sup>19</sup> In March 2016, Commerce officials had stated that they had

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<sup>16</sup>Pub. L. No. 111-203, § 1502(d)(3).

<sup>17</sup>In June 2014, we reported that Commerce had not yet compiled a list of all conflict minerals processing facilities (i.e., smelters and refiners) known worldwide by January 2013, as required by the Dodd-Frank Act, and we recommended that Commerce develop a plan to do so. See GAO, *Conflict Minerals: Stakeholder Options for Responsible Sourcing Are Expanding, but More Information on Smelters Is Needed*, [GAO-14-575](#) (Washington, D.C.: June 26, 2014). In August 2016, we reported that Commerce concurred with our 2014 recommendation and had published lists of conflict minerals processing facilities in 2014 and 2015; see [GAO-16-805](#). In August 2016, Commerce posted an updated list of processing facilities, which we have not reviewed.

<sup>18</sup>Pub. L. No. 111-203, § 1502(d)(3). Specifically, Commerce is to assess the accuracy of the IPISA and other due diligence processes described under section 13(p) of the Securities Exchange Act of 1934 and develop recommendations for the processes used to carry out such audits, including ways to improve the accuracy of such audits, and establish standards of best practices for such audits.

<sup>19</sup>Commerce officials said that an additional 19 companies filed IPSAs in 2016. IPSAs are required for SEC-filing companies that choose to describe their products as "DRC Conflict Free" in their disclosure. Our analysis of a sample of 100 disclosures submitted by companies in 2015 found that two of the companies were required to complete an IPISA and one of these companies did so.

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established a team to manage Commerce’s responsibilities related to IPSAs earlier that month and further stated that Commerce did not yet have the internal knowledge or skills to review IPSAs or establish best practices. Therefore, we recommended in our August 2016 report that Commerce establish a plan outlining steps and time frames for assessing the accuracy of due diligence processes such as IPSAs, for developing recommendations for the process used to carry out IPSAs, and for developing the necessary expertise to fulfill these requirements.<sup>20</sup> Commerce concurred with our recommendation and stated that it was working to complete such a plan.

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Chairman Flake, Ranking Member Booker, and Members of the Subcommittee, this concludes my statement for the record.

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## GAO Contact and Staff Acknowledgments

For questions about this statement, please contact Kimberly Gianopoulos, Director, International Affairs and Trade, at (202) 512-8612 or [GianopoulosK@gao.gov](mailto:GianopoulosK@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. Individuals making key contributions to this statement include Godwin Agbara (Assistant Director), Farahnaaz Khakoo-Mausel (Analyst-in-Charge), Elisa Yoshiara, Reid Lowe, Jeffrey Baldwin-Bott, Jasmine Senior, Andrew Kurtzman, Julia Jebo-Grant, David Hancock, Neil Doherty, Justin Fisher and Grace Lui.

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<sup>20</sup>See [GAO-16-805](#).

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# Appendix I: Securities and Exchange Commission (SEC) Summary of the Conflict Minerals Disclosure Rule

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The SEC rule requires companies to file a Specialized Disclosure report, known as Form SD, if they manufacture, or contract to have manufactured, products containing conflict minerals necessary to the functionality or production of those products.<sup>1</sup> The rule also requires companies, as applicable, to document the source and chain of custody of any conflict minerals as well as steps taken to determine the mine or location of origin with the greatest possible specificity. Form SD provides general instructions for filing the conflict minerals disclosure and specifies the information that companies must provide. Companies were required to file under the rule for the first time by June 2, 2014, and annually thereafter on May 31. Figure 2 shows SEC's flowchart summary of the conflict minerals disclosure rule.<sup>2</sup>

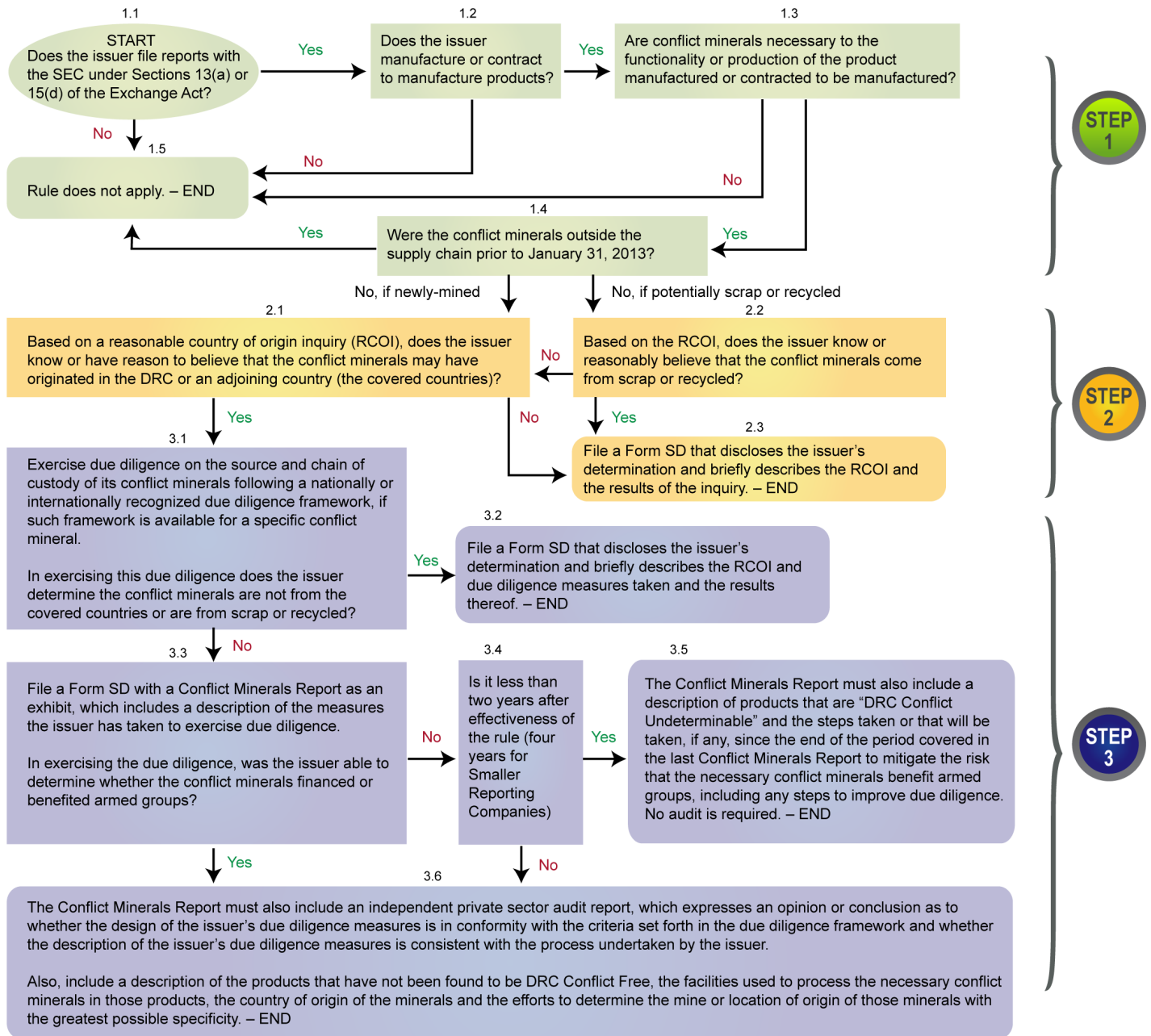
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<sup>1</sup>The SEC rule applies to companies that file reports with SEC under sections 13(a) or 15(d) of the Securities Exchange Act of 1934.

<sup>2</sup>SEC notes that the flowchart is intended merely as a guide and that companies should refer to the rule text and the preamble's narrative description for the requirements of the rule. While our discussion in this section is guided by the SEC flowchart, for the purposes of this report, we do not elaborate on every element in the flowchart.

Appendix I: Securities and Exchange Commission (SEC) Summary of the Conflict Minerals Disclosure Rule

Figure 2: Securities and Exchange Commission (SEC) Flowchart Summary of the Conflict Minerals Disclosure Rule



Source: Securities and Exchange Commission (SEC). | GAO-17-544T

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# Related GAO Products

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*SEC Conflict Minerals Rule: Companies Face Continuing Challenges in Determining Whether Their Conflict Minerals Benefit Armed Groups.* [GAO-16-805](#). Washington, D.C.: August 25, 2016.

*SEC Conflict Minerals Rule: Insights from Companies' Initial Disclosures and State and USAID Actions in the Democratic Republic of the Congo Region.* [GAO-16-200T](#). Washington, D.C.: November 17, 2015.

*SEC Conflict Minerals Rule: Initial Disclosures Indicate Most Companies Were Unable to Determine the Source of Their Conflict Minerals.* [GAO-15-561](#). Washington, D.C.: August 18, 2015.

*Conflict Minerals: Stakeholder Options for Responsible Sourcing Are Expanding, but More Information on Smelters Is Needed.* [GAO-14-575](#). Washington, D.C.: June 26, 2014.

*SEC Conflict Minerals Rule: Information on Responsible Sourcing and Companies Affected.* [GAO-13-689](#). Washington D.C.: July 18, 2013.

*Conflict Minerals Disclosure Rule: SEC's Actions and Stakeholder-Developed Initiatives.* [GAO-12-763](#). Washington, D.C.: July 16, 2012.

*The Democratic Republic of Congo: Information on the Rate of Sexual Violence in War-Torn Eastern DRC and Adjoining Countries.* [GAO-11-702](#). Washington, D.C.: July 13, 2011.

*The Democratic Republic of the Congo: U.S. Agencies Should Take Further Actions to Contribute to the Effective Regulation and Control of the Minerals Trade in Eastern Democratic Republic of the Congo.* [GAO-10-1030](#). Washington, D.C.: September 30, 2010.

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