

## CLIENT ALERT

### EU Parliament Votes in Favor of Mandatory EU Conflict Minerals Regime

June 2015

On May 20, the European Parliament voted in favor of an EU conflict minerals regime that, if approved by the European Council of Ministers, would require importers and down-stream companies using certain minerals to publicly disclose their due diligence practices for their supply chain. The Parliament's version of the regulation casts a far wider net than the voluntary regulation originally proposed by the Commission, which would have only covered importers of tin, tungsten, tantalum and gold (3TG).

The Parliament is now in talks with EU member states to negotiate a final version of the regulation. EU deliberations on conflict minerals have lasted several years, and the process of Parliament and the EU Council of Ministers reaching consensus on this controversial topic will likely take months.

The United States acted on the conflict minerals issue in 2012 through a U.S. Securities and Exchange Commission (SEC) rule implementing the 2010 Dodd-Frank Act. The Act requires companies to disclose their use of conflict minerals if they are "necessary to the functionality or production of a product" manufactured by those companies [See our [previous Client Alert](#)]. For U.S. companies with reporting requirements, the Conflict Minerals Reports and Form SD filings for 2014 were due to the SEC on June 1.

The European Commission's initial 2014 draft conflict minerals proposal was considered "business friendly": it included a voluntary regime that focused on importers, smelters, and refiners of 3TG (upstream companies). The proposal was intended to complement the existing U.S. rule, under which the primary burden rests with downstream companies that use 3TG in their products.

The European Parliament's proposal, in contrast, reflects the advocacy of NGOs such as Amnesty International and Global Witness, which pushed for a mandatory scheme that included all companies in the chain: "all companies who first place covered resources, including products that contain those resources on the Union market," must conduct supply chain due diligence and submit a public report. Those companies also must "take all responsible steps to identify and address any risks arising in their supply chains for minerals and metals." This proposal, if adopted, would require 800,000-plus companies to file annual reports.

The key differences between the European Parliament's proposal and the U.S. Dodd-Frank Act's Conflict Minerals Rule are that Parliament's proposal imposes additional requirements on "upstream companies" and requires the European Commission to provide a list of "responsible importers" to the public. If such a list is issued, it would be the first government-issued list of its kind.

Companies should determine whether they would fall within the scope of the Parliament's proposal and, if so, analyze the proposal's potential impact on their operations and consider developing an advocacy strategy for expressing their views to key European decision-makers.

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For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

**Patricia L. Wu**

C&M International Vice President and Managing Director – Washington, D.C.

Phone: +1 202.624.2963

Email: [pwu@crowell.com](mailto:pwu@crowell.com)