

Fighting Exploitation in Your Supply Chain

Promoting Transparency and
Preventing Corruption in the EU

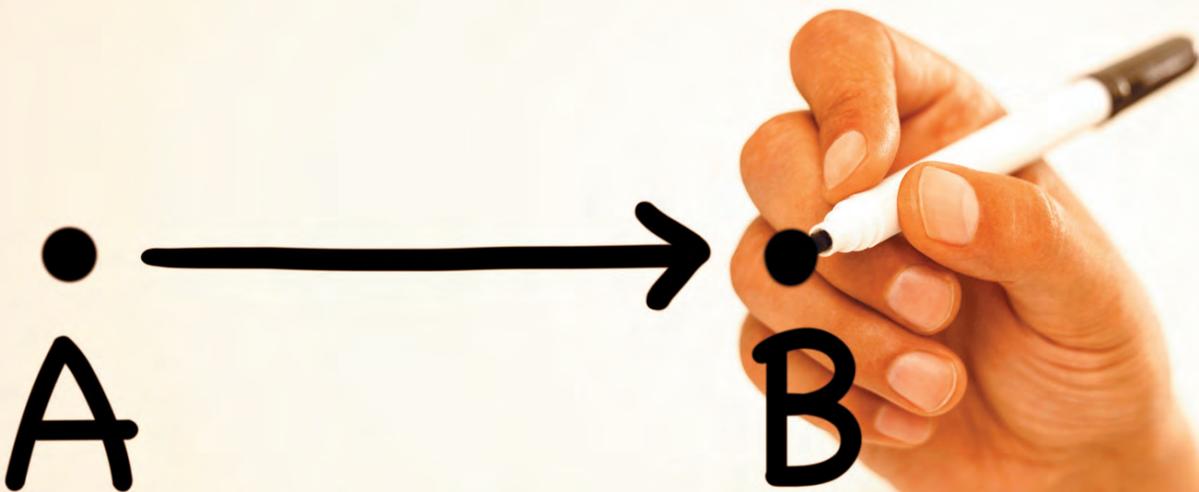
Overview

In recent years, there has been a surge of new regulations that present information about supply chains and encourage good corporate behaviour. These include regulations covering human trafficking and the use of conflict minerals.

Businesses across the world are at risk for corruption in their supply chains with a number of countries enacting regulations to help combat corruption and drive sustainable, positive business practices. With the introduction of the EU Conflict Mineral Regulation and UK Modern Slavery Act of 2015, companies across Europe will need to implement procedures and make disclosures about their regulatory compliance.

The question becomes, what can be done to improve current risks that exist in supply chains and make businesses at the forefront of accelerating progress and solutions to address this issue?

The member firms of Crowe Horwath International can help. With proven regulatory and industry expertise combined with customized technology to design and implement an efficient and effective compliance program, our member firms' holistic approach can enhance your visibility, prioritize key risks, and provide a clear road map to regulatory compliance and revenue protection.



Protect Your Reputation

Human Trafficking

Regulations seeking to eliminate human trafficking and slavery have been enacted requiring companies to define their role in preventing these acts from occurring within their supply chains. With an estimated 21 million victims of forced labour globally, regulatory bodies are just one of the many stakeholders demanding supply chain transparency. Investors, non-governmental organisations, and consumers are also leading the charge, demanding transparency so they can make better-informed decisions.

Conflict Minerals

There has been an increasing international focus on “conflict minerals.” Attention has been particularly given to mining operations in the Democratic Republic of the Congo (DRC) and neighbouring countries. The main risk arises from the armed groups actively engaging in mining operations in this region. These groups exploit workers and indigenous people, abuse basic human rights and use the proceeds from the sale of conflict minerals to finance regional conflicts.

“Costing the European economy up to 1% of its GDP, the EESC has called on the European institutions and Member States to take concerted action to limit the impact of corruption on people and the economy.”

– European Economic and Social Committee

Steps to Compliance

As pressure builds to eliminate human trafficking from global supply chains, companies should develop robust compliance plans to not only meet these regulatory requirements but to protect their business reputation. Furthermore, the global regulatory landscape in the field of human rights is rapidly evolving. Anti-human trafficking regulations are emerging in many countries, including Ireland, France, and several in East Africa.

A structured and risk-based approach can help make the task of complying with the human trafficking regulations more efficient and can also lead to short-term and long-term benefits, including:

- Protecting revenue and relationships with key customers
- Preparing for enforcement and reducing the risk of reputational damage
- Demonstrating social responsibility for customers and investors
- Leveraging the process to improve supply chain transparency and performance
- Enhancing the company's brand as a humanitarian organisation

Integrating with Other Supply Chain Transparency Requirements

The global supply chain compliance landscape has grown increasingly complex, and many companies struggle to effectively manage a litany of supply chain regulations and customer demands. Integrating human trafficking compliance with other supply chain compliance programs such as REACH legislation, the RoHS directive, California Proposition 65, and other conflict minerals regulations offers many benefits:

- Increasing efficiencies
- Reducing supplier fatigue
- Improving risk identification and mitigation
- Allowing for more informed sourcing decisions
- Quicker response time to emerging and evolving regulations and customer requirements



Supply Chain Transparency Regulations

	EU Conflict Mineral Regulation	UK Modern Slavery Act of 2015
Date enacted	The European Parliament approved the legislation in March 2017. The mandatory application will start from 1 January 2021, with early compliance strongly encouraged.	The European Parliament approved the legislation in March 2017. The mandatory application will start from 1 January 2021, with early compliance strongly encouraged.
Who is subject to disclosure requirements?	Member State importers of minerals or metals containing or consisting of tin, tantalum, tungsten and gold are required to make disclosures. The Regulation contains a volume threshold for each raw material subject to the conflict mineral. Recycled metals do not fall within the scope of the Regulation.	Applies to organisations (companies or partnerships) that: <ul style="list-style-type: none"> • Carry on business in the UK providing goods or services; and • Have group turnover (the entity and its subsidiaries) of over £36m <p>Organisations are subject to the requirements whether or not they are incorporated in the UK. In addition, not for profit organisations can be captured where they are conducting commercial activities that exceed the limits.</p>
What is required to be included in the disclosure?	Disclosures about management systems: <ul style="list-style-type: none"> • Supply chain policy, incorporation of OECD due diligence guidance for supply chain • Details of minerals and metals potentially originating from conflict-affected and high-risk areas • Establish and operate chain of custody or supply chain traceability system for metals and mineral <p>Disclosures about risk management:</p> <ul style="list-style-type: none"> • Identify and assess risks of adverse impacts in its mineral supply chain with the OECD Due diligence guidance recommendation • Implement a strategy of response to the identified risks, with reporting, countermeasures, monitoring and subsequent risks mitigation 	The organisation should state either: <ul style="list-style-type: none"> • The steps the organisation has taken to ensure there is no slavery and human trafficking in its supply chain • Or that it has taken no such steps <p>The statement may include information about:</p> <ul style="list-style-type: none"> • The structure of the organization, its business model, and its supply chains • Its policies in relation to human trafficking and slavery • Its due diligence processes in relation to human trafficking and slavery in its business and supply chains • Where within the business there is a risk of human trafficking and slavery in their supply chain and the steps taken to assess and manage that risk • Their effectiveness in ensuring that human trafficking and slavery are not taking place in their supply chain, measured against appropriate performance indicators • The training regarding human trafficking and slavery available to staff

Supply Chain Transparency Regulations (cont'd.)

	EU Conflict Mineral Regulation	UK Modern Slavery Act of 2015
Where must the disclosure be published?	The report should be made public as widely as possible. This includes being presented on the internet and on an annual basis. The report should comment on the supply chain due diligence policies and practices for responsible sourcing. The report shall contain the steps taken by the responsible importer to implement the obligations, as well as include a summary report of third-party audits performed. The report of the audits should include the name of the auditor, with due regard to business confidentiality and other competitive concerns.	On the organisation's website for each financial year. The link must be in a prominent place on the company's website.
Signatory?	Must be approved by management and audited by an independent third party in accordance with local regulations.	The published disclosure on the website must be signed by a director or partner for the company.
Penalty for noncompliance	Every Member State shall lay down the rules applicable to infringements of the provisions of the conflict mineral regulation.	Civil proceedings in the High Court for an injunction in England and Wales. In Scotland, civil proceedings for the Court of Session for specific performance.
Website	www.ec.europa.eu/trade/policy/in-focus/conflict-minerals-regulation/	www.legislation.gov.uk/ukpga/2015/30/contents/enacted

Impact of the Conflict Minerals Regulation

The EU framework splits the due-diligence obligation between the so-called “upstream” and “downstream” companies, which are part of the mineral supply chain.

The regulation sets out clear, mandatory due diligence obligations for the critical "upstream" part of the mineral supply chain, which includes those who import raw materials to smelting and refinery plants in the EU. This covers the vast majority of such metals and minerals imported to Europe. The particular needs of small companies will be catered to so as to avoid subjecting them to overly cumbersome procedures, by exempting recycled minerals, and imports of very small volumes.

For “downstream” companies, that use refined forms of metals and minerals in components and goods, these companies will be required to perform due diligence on their supply chain, as well as setting up a transparency database. Further reporting obligations may be introduced.

The compliance of the policies to the new conflict mineral regulation must be certified by a third party auditor.

The third party auditor shall certify therefore:

- Nation state importer's activities, processes and systems used to implement supply chain due diligence regarding minerals or metals within the scope of the Regulation, including the responsible importer's management system, risk management, and disclosure of information;
- Determine as the objective of the audit the conformity of the Nation state importer's supply chain due diligence practices with the conflict mineral Regulation, and make recommendations in the audit report for the auditee to improve its supply chain due diligence practises;
- Respect the audit principles of independence, competence and accountability as set out in the OECD Due Diligence Guidance

There is no limitation of geographical area. All relevant information must be disclosed in all conflict-affected high risk areas.

The European Commission will soon prepare non-binding guidelines in the form of a handbook for companies. The handbook will explain how best to apply the criteria for the identification of conflict-affected and high-risk areas.

How can Crowe Horwath Member Firms Help?

Comprehensive Compliance

Creating and implementing a comprehensive compliance plan is no easy task. Advisory specialists from Crowe Horwath International member firms can help companies understand the regulations applicable to their business and assist with services including:

- Crafting the required disclosures to facilitate legislative compliance
- Designing a comprehensive program to meet evolving customer demands
- Integrating with other supply chain transparency requirements related to conflict minerals, such as Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) legislation, the Restriction of the Use of Certain Hazardous Substances (RoHS) directive, and California Proposition 65
- Auditing / certifying and maintaining internal accountability standards
- Conducting training for employees, contractors, and agents

Customs Considerations

Crowe Horwath International experts can advise on enabling easy, quick and risk free access to different markets when tax regulated products and services across (tax) borders:

- Review applicable Customs and Excise legislation, export controls and sanction regulations
- Implement a Customs and Excise control framework
- Apply for a license as Authorised Economic Operator
- Apply for specific tax rulings



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About Us

Crowe Horwath International is ranked eighth largest global accounting network with over 200 independent accounting and advisory services firms in close to 130 countries around the world. Crowe Horwath International's member firms are committed to impeccable quality service, highly integrated service delivery processes and a common set of core values that guide decisions daily. Each firm is well established as a leader in its national business community and is staffed by nationals, thereby providing a knowledge of local laws and customs which is important to clients undertaking new ventures or expanding into other countries. Crowe Horwath International member firms are known for their personal service to privately and publicly held businesses in all sectors and have built an international reputation in the areas of audit, tax and advisory services.