



June 2018

CONFLICT MINERALS

Company Reports on Mineral Sources in 2017 Are Similar to Prior Years and New Data on Sexual Violence Are Available

Accessible Version

GAO Highlights

Highlights of [GAO-18-457](#), a report to congressional committees

Why GAO Did This Study

Over the past decade, the United States and the international community have sought to improve security in the DRC. In the eastern DRC, armed groups have committed severe human rights abuses, including sexual violence, and reportedly profit from the exploitation of “conflict minerals”—in particular, tin, tungsten, tantalum, and gold, according to the United Nations. Congress included a provision in the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act that, among other things, required the SEC to promulgate regulations regarding the use of conflict minerals from the DRC and adjoining countries. The SEC adopted these regulations in 2012. The act also included a provision for GAO to annually assess the SEC regulations’ effectiveness in promoting peace and security and report on the rate of sexual violence in the DRC and adjoining countries.

In this report, GAO provides information about (1) companies’ conflict minerals disclosures filed with the SEC in 2017 compared with disclosures filed in the prior 2 years and (2) the rate of sexual violence in the eastern DRC and adjoining countries published in 2017 and early 2018. GAO analyzed a generalizable random sample of SEC filings and interviewed relevant officials. GAO reviewed U.S., United Nations, and international organizations’ reports; interviewed DRC officials, and other stakeholders; and conducted fieldwork in New York at the United Nations headquarters.

GAO is not making any recommendations.

View [GAO-18-457](#). For more information, contact Kimberly M. Gianopoulos at (202) 512-8612 or gianopoulosk@gao.gov.

June 2018

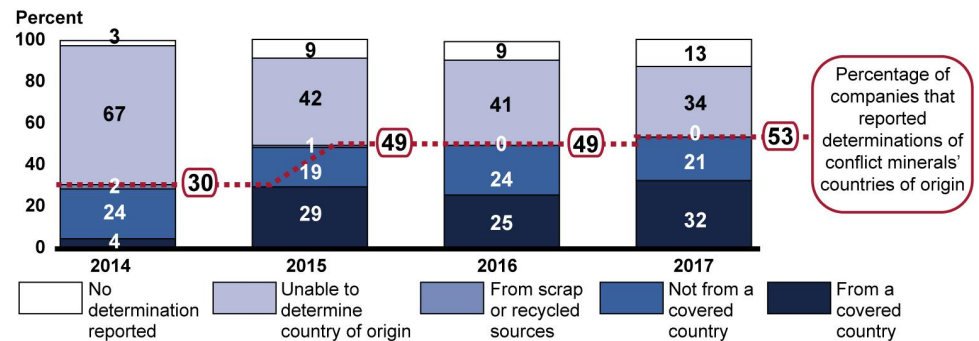
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What GAO Found

GAO’s review of companies’ conflict minerals disclosures filed with the U.S. Securities and Exchange Commission (SEC) in 2017 found that, in general, they were similar to disclosures filed in the prior 2 years. In 2017, 1,165 companies filed conflict minerals disclosures—about the same as in 2016 and 2015. Percentages of companies reporting country-of-origin inquiries in 2017 were also similar to the percentages from those 2 prior years. As a result of the inquiries they conducted, an estimated 53 percent of companies reported in 2017 whether the conflict minerals in their products came from the Democratic Republic of the Congo (DRC) and adjoining countries—similar to the estimated 49 percent in 2016 and 2015 but significantly higher than the estimate of 30 percent in 2014 (see figure). In their 2017 disclosure reports, many companies described actions they took to improve data collection processes, and most companies indicated some challenges in determining the country of origin.

Company Determinations on Sources of Conflict Minerals, by Reporting Year 2014–2017



Source: GAO analysis. | GAO-18-457

Note: “Covered country” refers to the Democratic Republic of the Congo, Angola, Burundi, Central African Republic, the Republic of the Congo, Rwanda, South Sudan, Tanzania, Uganda, and Zambia.

Similar to the prior 2 years, almost all companies required to conduct due diligence, as a result of their country-of-origin inquiries, reported doing so. After conducting due diligence to determine the source and chain of custody of any conflict minerals used, an estimated 37 percent of these companies reported in 2017 that they were able to determine that their conflict minerals came from covered countries or from scrap or recycled sources, compared with 39 and 23 percent in 2016 and 2015, respectively. Four companies in GAO’s sample declared their products “DRC conflict-free,” and of those, three included the required Independent Private Sector Audit report (IPSA), and one did not. In 2017, 16 companies filed an IPSA; 19 did so in 2016.

GAO found information on the rate of sexual violence in the 2017 Uganda and Burundi Demographic and Health Surveys. For Uganda, 22 percent of women and 9 percent of men reported they had experienced sexual violence at least once in their lifetime. For Burundi, 23 percent of women and 6 percent of men reported they had experienced sexual violence at least once in their lifetime. The most recent information on the rate of sexual violence for eastern DRC and Rwanda is from 2016 and is discussed in our previous GAO reports.

Contents

Letter		1
	Background	4
	Conflict Minerals Disclosures Filed in 2017 Were Similar to Those Filed in Prior Years, and SEC Updated Guidance on Enforcement of Due Diligence Requirements	9
	New Survey Data Are Available on the Rate of Sexual Violence in Burundi and Uganda	15
	Agency Comments	18
<hr/>		
Appendix I: Objectives, Scope, and Methodology		21
Appendix II: U.S. Securities and Exchange Commission (SEC) Summary of the Conflict Minerals Disclosure Rule		24
Appendix III: GAO Contact and Staff Acknowledgments		27
Appendix IV: Accessible Data		28
	Data Tables	28
<hr/>		
Related GAO Products		29
<hr/>		
Figures		
	Figure 1: Democratic Republic of the Congo, Its Provinces, and Adjoining Countries	5
	Figure 2: Company Determinations, Resulting from Reasonable Country-of-Origin Inquiries, as to Whether the Conflict Minerals in Their Products Came from Covered Countries, by Reporting Year 2014–2017	11
	Figure 3: Population-Based Surveys on Sexual Violence Rates in the Eastern DRC, Rwanda, Uganda, and Burundi, by Publication Date	16
	Figure 4: U.S. Securities and Exchange Commission (SEC) Flowchart Summary of the Conflict Minerals Disclosure Rule	25

Accessible Data for Company Determinations on Sources of Conflict Minerals, by Reporting Year 2014–2017	28
Accessible Data for Figure 2: Company Determinations, Resulting from Reasonable Country-of-Origin Inquiries, as to Whether the Conflict Minerals in Their Products Came from Covered Countries, by Reporting Year 2014–2017	28

Abbreviations

Dodd-Frank Act	Dodd-Frank Wall Street Reform and Consumer Protection Act
DRC	Democratic Republic of the Congo
IPSA	independent private sector audit
OECD	Organization for Economic Co-operation and Development
RCOI	Reasonable Country of Origin Inquiry
SEC	Securities and Exchange Commission
State	U.S. Department of State
UN	United Nations
USAID	U.S. Agency for International Development

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June 28, 2018

Congressional Committees

The exploitation of the mining and trade of “conflict minerals”—in particular, tin, tungsten, tantalum, and gold from the eastern region of the Democratic Republic of the Congo (DRC)—has contributed to the displacement of people and severe human rights abuses. The 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act¹ (Dodd-Frank Act) addresses, among other things, trade in conflict minerals.² Section 1502 of the act required several U.S. agencies, including the U.S. Securities and Exchange Commission (SEC), to take certain actions to implement the act’s conflict minerals provisions.³ The act required the SEC to promulgate disclosure and reporting regulations regarding the use of conflict minerals from the DRC and adjoining countries (in this report also collectively referred to as “covered countries”) by April 2011.⁴ The SEC adopted a conflict minerals disclosure rule (hereafter, SEC

¹Pub. L. No. 111-203, § 1502, 124 Stat. 1376, 2213-18.

²The 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 Pub. L. No. 111-203, § 1502(e)(4). Columbite-tantalite, cassiterite, and wolframite are the ores from which tantalum, tin, and tungsten, respectively, are processed.

³The act requires the U.S. Department of State (State), in consultation with the U.S. Agency for International Development, to submit a conflict minerals strategy to appropriate congressional committees to address the linkages between human rights abuses, armed groups, mining of conflict minerals, and commercial products. Pub. L. No. 111-203, § 1502(c). The act also requires the Department of Commerce to report, among other things, a listing of all known conflict minerals processing facilities worldwide. Pub. L. No. 111-203, § 1502(d).

⁴The term “adjoining country” is defined in Section 1502(e)(1) of the Dodd-Frank Act as a country that shares an internationally recognized border with the DRC. Pub. L. No. 111-203, § 1502(e)(1). Such countries comprised Angola, Burundi, Central African Republic, the Republic of the Congo, Rwanda, South Sudan, Tanzania, Uganda, and Zambia when the SEC issued its conflict minerals rule. For the purposes of the SEC disclosure rule, the SEC refers to these countries as “covered countries.”

disclosure rule) in August 2012 and published it in the Federal Register in September 2012.⁵

The SEC disclosure rule requires companies to file a specialized disclosure report known as the Form SD if they manufacture, or contract to have manufactured, products that contain conflict minerals necessary to the functionality or the production of those products and, as applicable, to file a conflict minerals report.⁶ The Form SD provides general instructions to companies for filing the conflict minerals disclosure and specifies the information that each Form SD and conflict minerals report must include.⁷ In addition, the Dodd-Frank Act included a provision for GAO to report, beginning in 2012 and annually thereafter, on the effectiveness of the SEC disclosure rule in promoting peace and security in the DRC and adjoining countries and to report annually, beginning in 2011, on the rate of sexual violence in war-torn areas of the DRC and adjoining countries, among other things.⁸

In this report, we (1) examine conflict minerals disclosures filed with the SEC in 2017 compared with such disclosures filed in each of the prior 2

⁵77 Fed. Reg. 56,274. According to the SEC, when the SEC proposes or adopts a set of rules, those rules are published in a document called a “proposing release” or an “adopting release.”

⁶As adopted, the final rule applies to any issuer that files reports with the SEC under Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78m(a) and 78o(d)) and uses conflict minerals that are necessary to the functionality or production of a product manufactured or contracted by that issuer to be manufactured. For the purposes of our report, we refer to those issuers affected by the rule as “companies.”

⁷Companies were required to file under the SEC disclosure rule for the first time by June 2, 2014, and annually thereafter by May 31.

⁸Pub. L. No. 111-203, § 1502(d), as amended by the GAO Mandates Revision Act, Pub. L. No. 114-301, § 3, 130 Stat. 1514 (2016). GAO is required to report on the effectiveness of the SEC rule annually from 2012 through 2020, with additional reports in 2022 and 2024. GAO is also required to report on the rate of sexual violence from 2011 through 2020, with additional reports in 2022 and 2024. This report contributes to our work in response to the annual reporting requirements in Section 1502 of the Dodd-Frank Act. In response to the mandates, GAO has issued nine reports since 2011. See Related GAO Products at the end of this report.

years⁹ and (2) provide information on the rate of sexual violence in the eastern DRC and adjoining countries published in 2017 and early 2018.

To examine disclosures that companies filed with the SEC in 2017 in response to the SEC disclosure rule, we downloaded disclosure reports (Form SDs) and conflict minerals reports from the SEC's publicly available Electronic Data Gathering, Analysis, and Retrieval (EDGAR) database. We randomly sampled 100 Form SDs from a population of 1,165 to create estimates generalizable to the population of all companies that filed in response to the SEC disclosure rule.¹⁰ All estimates based on our sample have a margin of error of plus or minus 10 percentage points at the 95-percent confidence level, unless otherwise noted. We determined that the EDGAR database was sufficiently reliable for identifying the universe of Form SD filings. As described in that report, to review the completeness and accuracy of the EDGAR database, we reviewed relevant documentation, interviewed knowledgeable SEC and GAO officials, and reviewed prior GAO reports on internal controls related to the SEC's financial systems. We reviewed the Dodd-Frank Act and the requirements of the SEC disclosure rule to develop a questionnaire that guided our data collection and analysis of the Form SD filings. We also interviewed company representatives attending an industry conference in Santa Clara, California, to obtain additional perspectives on meeting disclosure requirements. In addition, we met with representatives of a range of stakeholders, including nongovernmental organizations, service providers, international organizations, and the private sector, in Washington, D.C., and Santa Clara, California. To identify information published since our last report about sexual violence in the eastern DRC and adjoining countries,¹¹ we conducted Internet literature searches to identify academic articles published in 2017 and early 2018, and we

⁹Conflict minerals disclosures filed with the SEC in a given year—in this report, 2017, 2016, 2015, or 2014—contain information about conflict minerals used in the previous year—in this report, 2016, 2015, 2014, or 2013, respectively. All years cited in this report are calendar years (January–December).

¹⁰A Form SD may include a conflict minerals report, if applicable. The number of SD filings we downloaded from the public EDGAR site on September 25, 2017 varies slightly from SEC's reported number of 1,168 filings. According to SEC staff, some companies filed their Form SD after September 25, 2017.

¹¹See GAO, Conflict Minerals: Information on Artisanal Mined Gold and Efforts to Encourage Responsible Sourcing in the Democratic Republic of the Congo, [GAO-17-733](#) (Washington, D.C.: Aug. 23, 2017).

interviewed and obtained key documents from researchers and representatives of U.S. agencies and several United Nations agencies.

We conducted this performance audit from September 2017 to June 2018 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 audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

History of Conflict in the DRC and the Region

The DRC is a vast, mineral-rich nation with an estimated population of about 83 million people and an area that is roughly one-quarter the size of the United States, according to the United Nations. Figure 1 shows the DRC's provinces and adjoining countries.

Figure 1: Democratic Republic of the Congo, Its Provinces, and Adjoining Countries



Source: GAO, based on United Nations map data. | GAO-18-457

Since gaining its independence from Belgium in 1960, the DRC has undergone political upheaval and armed conflict. From 1998 to 2003, the

DRC and eight other African countries were involved in what has become known as “Africa’s World War,” which resulted in a death toll of an estimated 5 million people in the DRC, according to the U.S. Department of State (State). The eastern DRC has continued to be plagued by violence, often perpetrated against civilians by illegal armed groups and some members of the Congolese national military. Notably, in 2012, an illegal armed group occupied the city of Goma and other cities in the eastern DRC and clashed with the Congolese national army. During this time, the United Nations 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. In 2017, the United Nations reported that serious violations of human rights remain widespread in the DRC, including continued acts of sexual violence by government security forces as well as nonstate armed groups.

Uses of Conflict Minerals

Various industries, particularly manufacturing industries, use the four conflict minerals specifically named in the Dodd-Frank Act—tin, tungsten, tantalum, and gold—in a wide variety of products.¹² For example, tin is used to solder metal pieces and is also found in food packaging, steel coatings on automobile parts, and some plastics. Tungsten is used in automobile manufacturing, drill bits and cutting tools, and other industrial manufacturing tools and is the primary component of filaments in incandescent light bulbs. Most tantalum is used to manufacture capacitors that enable energy storage in electronic products such as cell phones and computers or to produce alloy additives used in turbines in jet engines. Gold is held as bullion by central bank reserves and used in making jewelry and also in the electronics industry, for example, to manufacture cell phones and laptops.

SEC Conflict Minerals Disclosure Rule

In August 2012, SEC adopted its conflict minerals disclosure rule in response to Section 1502(b) of the Dodd-Frank Act. The act required that SEC promulgate disclosure and reporting regulations regarding the use of conflict minerals originating from the DRC and covered countries. In the summary section of the adopting release for the rule, SEC noted that to

¹²Pub. L. No. 111-203, § 1502(e)(4).

accomplish the goal of helping to end the human rights abuses in the DRC caused by the conflict, Congress chose to use the Dodd-Frank Act's disclosure requirements to bring greater public awareness of the sources of companies' conflict minerals and to promote the exercise of due diligence on conflict mineral supply chains.

The SEC disclosure rule addresses the four conflict minerals named in the Dodd-Frank Act from the DRC and covered countries. The rule outlines a process for companies to follow, as applicable, to comply with the rule (see app. II). The process broadly requires a company to

1. determine whether it manufactures, or contracts to be manufactured, products with "necessary" conflict minerals;
2. conduct a reasonable country-of-origin inquiry (RCOI) concerning the origin of those conflict minerals; and
3. exercise due diligence, if appropriate, to determine the source and chain of custody of those conflict minerals, adhering to a nationally or internationally recognized due diligence framework, if such a framework is available for these necessary conflict minerals.¹³

¹³Performing due diligence on source and chain of custody is required if a company knows or has reason to believe that its conflict minerals may have originated in the covered countries and knows or has reason to believe that the conflict minerals may not be from scrap or recycled sources.

If companies choose to disclose that their products are “DRC conflict free,”¹⁴ the SEC disclosure rule requires companies to obtain an independent private-sector audit (IPSA).¹⁵

¹⁴According to SEC staff, in April 2014, the U.S. Court of Appeals rejected challenges to the bulk of the SEC conflict minerals rule but held that Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) and the rule violate the First Amendment to the extent that they require regulated entities to report to the SEC and to state on their website that any of their products “have not been found to be DRC conflict free.” *Nat’l Ass’n of Mfrs. v. SEC*, 748 F.3d 359 (D.C. Cir. Apr. 14, 2014). In light of the court’s decision, on April 29, 2014, SEC staff issued guidance indicating that, pending further action by the SEC or a court, companies required to file a conflict minerals report would not have to identify their products as “DRC conflict undeterminable” or “not found to be ‘DRC conflict free.’” See Keith F. Higgins, Director, SEC Division of Corporation Finance, *Statement on the Effect of the Recent Court of Appeals Decision on the Conflict Minerals Rule*. On April 3, 2017, the U.S. District Court for the District of Columbia entered final judgment in the case, setting aside the SEC rule “to the extent that the Statute and Rule require regulated entities to report to the Commission and state on their websites that any of their products have not been found to be ‘DRC conflict free’ and remanded to the Commission.” *Nat’l Ass’n of Mfrs. v. SEC*, No. 13-cv-635 (D.D.C. Apr. 3, 2017). According to SEC staff, the April 2014 guidance is still in effect.

¹⁵Under the SEC disclosure rule, an IPSA expresses an opinion or conclusion as to whether the design of the issuing company’s due diligence measures is in conformity, in all material respects, with the criteria set forth in the nationally or internationally recognized due diligence framework it used and whether the description of the due diligence measures it performed as set forth in the company’s conflict minerals report is consistent with the due diligence process undertaken by the company.

Conflict Minerals Disclosures Filed in 2017 Were Similar to Those Filed in Prior Years, and SEC Updated Guidance on Enforcement of Due Diligence Requirements

Our review of companies' conflict minerals disclosures filed with the SEC in 2017 found that, in general, they were similar to disclosures filed in the prior 2 years. In 2017, a similar number of companies filed conflict minerals disclosures as in 2015 and 2016. Based on our review of a generalizable sample, we found that almost all companies that filed conflict minerals disclosures in 2017 reported performing inquiries about their conflict minerals' country of origin, similar to the results we previously reported for 2016 and 2015.¹⁶ In their 2017 disclosure reports, many companies described actions they took to improve data collection processes, and most companies indicated challenges in determining the country of origin. Our review of company filings found that almost all companies required to conduct due diligence, as a result of their country-of-origin inquiries, reported performing it. SEC issued revised guidance in April 2017, indicating that the SEC's Division of Corporation Finance would not recommend enforcement action if companies did not report on specified due diligence disclosure requirements.

About as Many Companies Filed Conflict Minerals Disclosures in 2017 as in Each of the Prior 2 Years

In 2017, 1,165 companies filed conflict minerals disclosures—almost as many companies as filed in 2016 and 2015 (1,230 and 1,281 respectively). Our analysis of a generalizable sample of filings found that an estimated 90 percent of the companies that filed in 2017 were domestic and an estimated 10 percent were foreign companies, similar to

¹⁶For analysis of 2016 and 2015 filings, respectively, see *GAO, SEC Conflict Minerals Rule: 2017 Review of Company Disclosures in Response to the U.S. Securities and Exchange Commission Rule*, [GAO-17-517R](#) (Washington, D.C.: Apr. 26, 2017) and *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).

the domestic-to-foreign ratio we found in 2016 and 2015.¹⁷ While not all companies reported the minerals used, of those that disclosed this information, an estimated 69 percent reported using tin, 54 percent reported using tantalum, 59 percent reported using tungsten, and 63 percent reported using gold, figures that are similar to the percentages reported in 2016.¹⁸

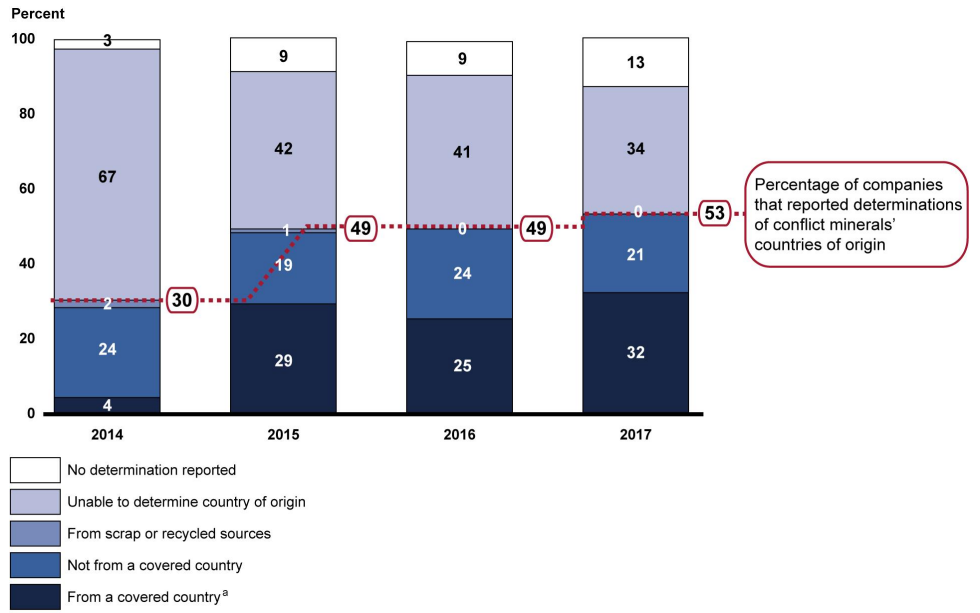
Percentages of Companies Reporting Minerals' Country-of-Origin in 2017 Were Similar to Prior 2 Years

Our analysis of a generalizable sample of 2017 filings found that, as in 2016 and 2015, almost all companies that filed conflict minerals disclosures indicated that they performed country-of-origin inquiries. Specifically, an estimated 100 percent of the companies reported that they performed such an inquiry, similar to the percentages that we estimated reported doing so in 2016 and 2015. As a result of the inquiries they conducted, an estimated 53 percent of companies reported in 2017 whether the conflict minerals in their products came from covered countries—similar to the estimate of 49 percent in 2016 and in 2015 but significantly higher than the estimate of 30 percent in 2014 (see fig. 2).

¹⁷Our generalizable sample of 100 filings for 2017 and 2016 resulted in confidence intervals of plus or minus 10 percent, at the 95-percent confidence level, except where noted.

¹⁸As we previously reported, the SEC disclosure rule does not require companies to disclose the conflict minerals they used.

Figure 2: Company Determinations, Resulting from Reasonable Country-of-Origin Inquiries, as to Whether the Conflict Minerals in Their Products Came from Covered Countries, by Reporting Year 2014–2017



Source: GAO analysis. | GAO-18-457

Note: Company determinations are reported in response to the U.S. Securities and Exchange Commission conflict minerals disclosure rule. Data shown are estimates that have a margin of error of plus or minus 10 percentage points at the 95-percent confidence level.

^aA company determines that it knows or has reason to believe that the conflict minerals in its products came from covered countries, which comprise the Democratic Republic of the Congo, Angola, Burundi, Central African Republic, the Republic of the Congo, Rwanda, South Sudan, Tanzania, Uganda, and Zambia.

Some Companies Reported Improvements in Supply Chain Data Collection Efforts, but Challenges Remain

In the filings we reviewed, many companies indicated they had taken actions to improve their data collection processes, such as gathering missing information about their supply chains and working with suppliers to encourage conflict-free sourcing. In interviews, representatives of selected companies that filed conflict minerals disclosures in 2017 and other industry participants noted that (1) awareness among suppliers about the use of conflict minerals had continued to increase and (2) the process for collecting data on supply chains had become more routine

and standardized.¹⁹ However, as in prior years, our review of filings found that most companies reported challenges in determining the country of origin of conflict minerals, in part due to lack of access to suppliers and complex supply chains involving many suppliers and processing facilities.²⁰

Almost All Companies Required to Conduct Due Diligence Reported Performing It

Our review of company filings found that almost all companies that were required, as a result of their country-of-origin inquiries, to conduct due diligence on the source and chain of custody of the conflict minerals in their products reported doing so.²¹ In 2017, an estimated 96 percent reported conducting due diligence, compared with 96 and 97 percent in 2016 and 2015 respectively. An estimated 87 percent of companies in 2017 reported using a due diligence framework prescribed by the Organization for Economic Co-operation and Development (OECD) guidance for conducting due diligence on the source and chain of custody of the conflict minerals in their products.²² That result is comparable to an estimated 92 percent that we reported in 2016 and an estimated 95 percent that we reported in 2015. The remaining 13 percent of the

¹⁹Industry participants are nonfiling entities with expertise in conflict minerals, such as technology service providers, consultants, nongovernmental organizations, and industry groups.

²⁰See [GAO-17-517R](#) and [GAO-16-805](#).

²¹The SEC disclosure rule requires that companies that know, or have reason to believe, that conflict minerals necessary to their products may have originated in one of the covered countries must conduct due diligence on the source and chain of custody of their conflict minerals and may not have come from recycled or scrap sources must use a nationally or internationally recognized due diligence framework, if such a framework is available for the necessary conflict minerals.

²²Organization for Economic Co-operation and Development, *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*, 3rd ed. (Paris, France: OECD Publishing, 2016). The OECD framework includes five steps: establish management systems, identify and assess risk in the supply chains, design and implement a strategy to respond to identified risks, carry out independent third-party audit of supply chain due diligence, and report on supply chain due diligence. The OECD guidance is for use by any company potentially sourcing minerals or metals from conflict-affected and high-risk areas and, according to the OECD, is one of the international frameworks available to help companies meet their due diligence reporting requirements.

companies that reported conducting due diligence in 2017 did not specify a framework for their due diligence activities.

After conducting due diligence, an estimated 37 percent of the companies reported in 2017 that they were able to determine that their conflict minerals came from covered countries or from scrap or recycled sources, compared with an estimated 39 and 23 percent in 2016 and 2015, respectively. An estimated 47 percent of the companies in 2017 reported that they could not definitively confirm the source of the conflict minerals in their products, compared with an estimated 55 and 67 percent in 2016 and 2015, respectively. However, as in previous years, almost all of the companies that reported conducting due diligence in 2017 reported that they could not determine whether the conflict minerals financed or benefited armed groups. Four companies in our sample reported determining that the minerals in their products did not finance or benefit armed groups in covered countries, and declared some products “DRC-conflict free.” Three of these companies included the required independent private-sector audit (IPSA) report, and one company did not include an IPSA report.²³ Overall, a total of 16 companies filed an IPSA report in 2017, compared with 19 in 2016.²⁴

SEC’s Division of Corporation Finance Issued Updated Guidance Indicating It Would Not Recommend Enforcement Action on Due Diligence Disclosure Requirements

In April 2017, the SEC’s Division of Corporation Finance issued revised guidance indicating that it would not recommend enforcement action to the Commission if companies did not report on specified due diligence

²³The company cited the SEC’s 2017 guidance in their decision not to obtain an IPSA (see next section for additional information on the SEC’s revised guidance). According to the SEC staff, however, the 2014 staff guidance remains in effect for any companies that choose to disclose their due diligence, so an IPSA would be required if a company elects to describe any of its products as “DRC conflict free.”

²⁴[GAO-17-517R](#). Six companies filed an IPSA report in 2015, and four companies filed one in 2014.

disclosure requirements.²⁵ The SEC disclosure rule requires companies, if applicable, to report on their due diligence in a conflict minerals report (see app. II for additional detail on the disclosure requirements). SEC's Division of Corporation Finance staff told us that they received inquiries from a small number of companies about the filing process for 2017. In response to these inquiries, these staff noted that they advised companies that the companies had the flexibility to determine whether or not to report on their due diligence and to report their country-of-origin inquiry findings in either the Form SD or in a conflict minerals report. However, the Division of Corporation Finance staff also told us that, regardless of the division's revised guidance, the SEC could still initiate enforcement action if companies do not report on their due diligence, as required by the SEC disclosure rule. In our sample, three companies cited the updated guidance and other statements issued by the SEC in their filings as a rationale for not reporting on due diligence activities. In interviews, representatives of some companies and other industry participants told us that even though the revised guidance and other statements made by the SEC raised some uncertainty about the filing process, generally, companies plan to continue to report similar conflict minerals disclosure information.

²⁵In April 2017, SEC staff issued updated guidance stating that "in light of the uncertainty regarding how the Commission [SEC] will resolve those issues and related issues raised by commenters, the Division of Corporation Finance has determined that it will not recommend enforcement action to the Commission if companies, including those that are subject to paragraph (c) of Item 1.01 of Form SD, only file disclosure under the provisions of paragraphs (a) and (b) of Item 1.01 of Form SD. This statement is subject to any further action that may be taken by the Commission, expresses the Division's position on enforcement action only, and does not express any legal conclusion on the rule." See SEC, Updated Statement on the Effect of the Court of Appeals Decision on the Conflict Minerals Rule (April 7, 2017). In a July 2017 letter by SEC Chairman Jay Clayton to Senator Richard J. Durbin, the Chairman noted that the federal district court's remand presented significant issues for the SEC to consider, including whether the "DRC conflict free" description is required by the statute or, rather, is a product of the SEC's rulemaking. The Chairman's letter noted that SEC staff was considering recommendations for the SEC on a potential rulemaking to address registrants' compliance obligations under the rule. SEC Division staff told us that if that review determines that the "DRC conflict free" description was a product of the SEC's rulemaking, then the SEC staff would propose rule changes and further guidance, if needed. According to SEC officials, they expect the staff's 2017 guidance will remain in effect until next steps are determined.

New Survey Data Are Available on the Rate of Sexual Violence in Burundi and Uganda

We identified two new population-based surveys since our last report related to sexual violence in Burundi and Uganda published in 2018; the most recent information for eastern DRC and Rwanda is from 2016. We also identified some new case-file data on sexual violence in the DRC; however, as we reported previously, case-file data on sexual violence are not suitable for estimating an overall rate of sexual violence.²⁶

Results of Two New Demographic and Health Surveys Conducted in Uganda and Burundi Were Published in 2018

We identified two new population-based surveys related to sexual violence that were conducted in Uganda and Burundi in 2016 and 2017, respectively, and whose results were published in 2018. The Uganda Demographic and Health Survey was conducted from June to December 2016 by the Uganda Bureau of Statistics with technical assistance from ICF International.²⁷ The survey estimated that 12.7 percent of women nationwide, ages 15-49, reported they had experienced sexual violence in the 12-month period preceding the survey, while 21.9 percent reported they had experienced sexual violence at some point in their lifetime. In addition, 4 percent of men nationwide, ages 15-49, reported they had experienced sexual violence in the 12-month period preceding the survey, while 8.3 percent reported they had experienced sexual violence at some point in their lifetime.

The Burundi Demographic and Health Survey was conducted from October of 2016 to March of 2017 by the Burundi Institute of Statistics and Economic Studies with technical assistance from ICF International. The survey estimated that 12.7 percent of women nationwide, ages 15-49, reported they had experienced sexual violence in the 12-month period

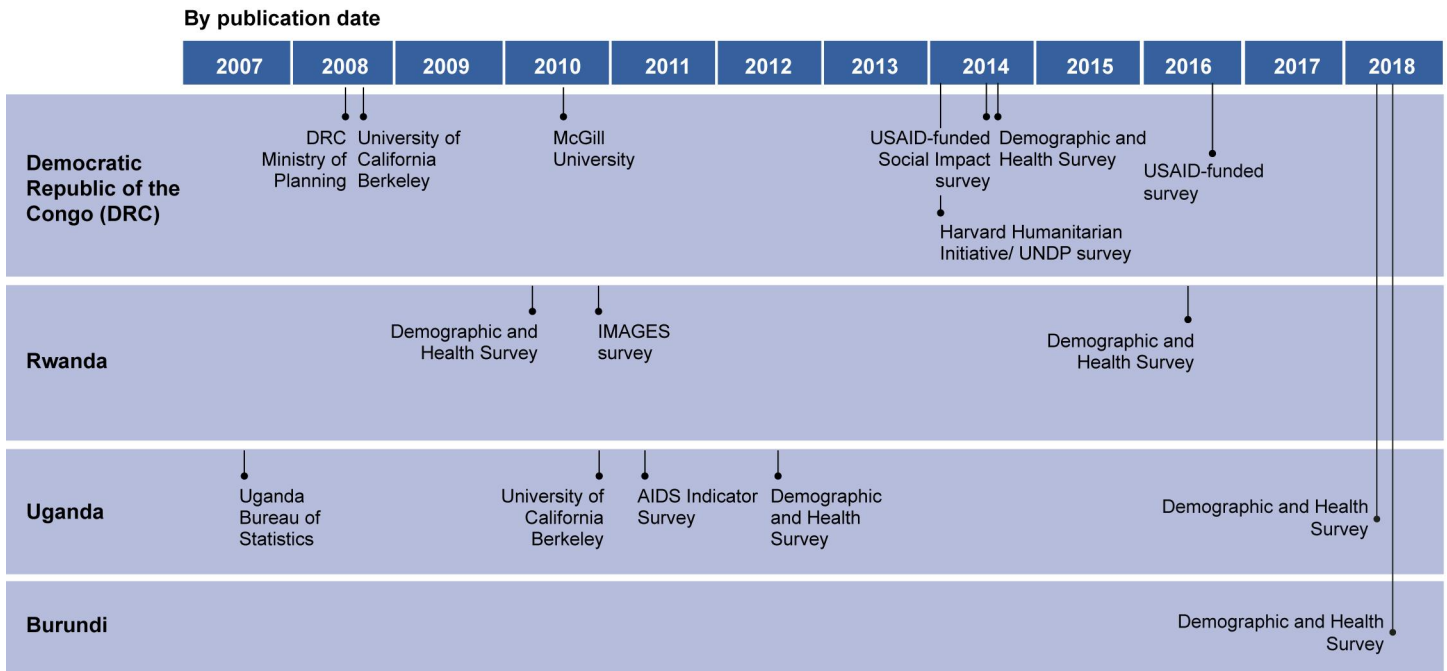
²⁶[GAO-17-733](#) and [GAO-16-805](#).

²⁷ICF International implements the Demographic and Health Survey Program, which has provided technical assistance to more than 300 surveys in over 90 countries. The program provides capacity building to host-country implementing agencies through all survey stages, including survey design and sampling, training, field work, data tabulation and analysis, report writing, and dissemination and use of findings.

preceding the survey, while 23.1 percent reported they had experienced sexual violence at some point in their lifetime. In addition, 1.9 percent of men nationwide, ages 15-49, reported they had experienced sexual violence in the 12-month period preceding the survey, while 6.1 percent reported they had experienced sexual violence at some point in their lifetime.²⁸ The most recent information on the rate of sexual violence for eastern DRC and Rwanda is from 2016 and is discussed in our previous reports.²⁹

Figure 3 shows the publication dates for the population-based surveys with data on rates of sexual violence in the eastern DRC, Rwanda, Uganda, and Burundi that have been published since 2007.

Figure 3: Population-Based Surveys on Sexual Violence Rates in the Eastern DRC, Rwanda, Uganda, and Burundi, by Publication Date



Legend: USAID = U.S. Agency for International Development; UNDP = United Nations Development Programme

Source: GAO analysis. | GAO-18-457

²⁸According to the United Nations, sexual and gender-based violence includes any act that is perpetrated against a person’s will and is based on gender norms and unequal power relationships.

²⁹GAO-17-733 and GAO-16-805.

Note: ICF International implements the Demographic and Health Survey Program, which has provided technical assistance to more than 300 surveys in over 90 countries. The program provides capacity building to host-country implementing agencies through all survey stages, including survey design and sampling, training, fieldwork, data tabulation and analysis, report writing, and dissemination and use of findings.

Some Additional Case-File Information about Sexual Violence Has Become Available

State and United Nations entities have provided additional case-file information about instances of sexual violence in the DRC and adjoining countries.³⁰ State's annual country reports on human rights practices provided the following case-file data pertaining to sexual violence in the DRC and Burundi:³¹

- **DRC.** In 2017, the UN documented 267 adult victims and 171 child victims, including two boys, of sexual violence in conflict. This violence was perpetrated by illegal armed groups as well as state security forces and civilians and was concentrated in North Kivu Province and in the Kasai region, according to State.
- **Burundi.** One government organization—Humara Center—responsible for investigating cases of sexual violence and rape received 197 cases of sexual and gender-based violence through early December 2017, according to State. Observers stated many women were reluctant to report rape, in part due to fear of reprisal, according to State.

In addition, UN entities reported the following case-file data about sexual violence in the DRC:

- **DRC.** In 2017, the United Nations Organization Stabilization Mission in the DRC verified 195 cases of conflict-related sexual violence, with

³⁰As we previously reported, several factors make case-file data unsuitable for estimating rates of sexual violence. First, because case-file data are not aggregated across various sources, and because the extent to which various reports overlap is unclear, it is difficult to obtain complete data or a sense of magnitude from case files. Second, in case-file data as well as in surveys, time frames, locales, and definitions of sexual violence may be inconsistent across data collection operations. Third, case-file data are not based on a random sample, and the results of analyzing these data are not generalizable. See [GAO-17-733](#) and [GAO-16-805](#) for additional information.

³¹U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, Country Reports on Human Rights Practices for 2017, accessed April 30, 2018. <https://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm>.

illegal armed groups responsible for 80 percent of the cases and DRC security forces responsible for the remaining 20 percent. United Nations officials we interviewed raised concerns about a resurgence of sexual violence in certain regions in the DRC due to a variety of factors, including political instability arising from the government's postponement of the presidential election originally scheduled to take place in November 2016.

Agency Comments

We provided a draft of this report to the SEC, State, and the U.S. Agency for International Development for comment. SEC provided technical comments, which we incorporated as appropriate. State and USAID did not provide comments.

We are sending copies of this report to appropriate congressional committees and to the Chairman of the Securities and Exchange Commission, the Secretary of State, and the Administrator of the U.S. Agency for International Development. The report is also available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-8612 or gianopoulosk@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix III.



Kimberly M. Gianopoulos
Director, International Affairs and Trade

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Appendix I: Objectives, Scope, and Methodology

In this report, we provide information about (1) companies' disclosures filed with the U.S. Securities and Exchange Commission (SEC) in 2017 compared with disclosures filed in the prior 2 years and (2) the rate of sexual violence in the eastern Democratic Republic of the Congo and neighboring countries published in 2017 and early 2018.

To examine the fourth annual company disclosures filed with the SEC in 2017 in response to the SEC disclosure rule, we downloaded the specialized disclosure reports (Form SD) and conflict minerals reports (CMR) from SEC's publicly available Electronic Data Gathering, Analysis, and Retrieval (EDGAR) database in September 2017. We downloaded 1,165 filings identified as Form SDs and the CMRs included in EDGAR.¹ To review the completeness and accuracy of the EDGAR database, we reviewed relevant documentation, interviewed knowledgeable SEC officials, and reviewed prior GAO reports on internal controls related to SEC's financial systems. We determined that the EDGAR database was sufficiently reliable for identifying the universe of SD filings.

We reviewed the conflict minerals section of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act)² and the requirements of the SEC disclosure rule³ to develop a data collection instrument (DCI) that guided our analysis of Form SDs and CMRs that contain the information disclosed by the filing companies. Our DCI was not a compliance review of the Form SDs and CMRs. The questions were written in both yes-no and multiple-choice formats.⁴ An analyst reviewed

¹The number of SD filings we downloaded from the public EDGAR site on September 25, 2017 varies slightly from SEC's reported number of 1,168 filings. According to SEC staff, some companies filed their Form SD after September 25, 2017.

²Pub. L. No. 111-203, § 1502, 124 Stat. 1376, 2213-18.

³17 CFR § 240.13p-1.

⁴For the purposes of this review, we collected data on company disclosures of their due diligence efforts, when available, even if the company did not report that it knew whether its conflict minerals originated from a covered country or from recycled or scrap sources after performing a reasonable country-of-origin inquiry.

the Form SDs and CMRs and recorded responses to the DCI for all of the companies in the sample. A second analyst also reviewed the Form SDs and CMRs and verified the responses recorded by the first analyst. Analysts met to discuss and resolve any discrepancies.

We randomly sampled 100 Form SDs from a population of 1,165 to create estimates generalizable to the population of all companies that filed. All estimates based on our sample have a margin of error of plus or minus 10 percentage points or less at the 95-percent confidence level. Because we followed a probability procedure based on random selections, our sample is only one of a large number of samples that we might have drawn. Since each sample could have provided different estimates, we express our confidence in the precision of our particular sample's results as a 95-percent confidence interval. This is the interval that would contain the actual population value for 95 percent of the samples we could have drawn. We also attended an industry conference on conflict minerals and spoke with company representatives to provide additional perspective.

To address our second objective, we identified and assessed any information on sexual violence in the eastern DRC and the three adjoining countries—Rwanda, Uganda, and Burundi—that had been published or otherwise had become available in 2017 and early 2018.⁵ We discussed the collection of sexual violence–related data in the DRC and adjoining countries, including population-based survey data and case-file data, during interviews with U.S. Department of State and U.S. Agency for International Development officials and with representatives of nongovernmental organizations and researchers whom we interviewed for our prior review of sexual violence rates in the eastern DRC and adjoining countries.⁶ We also interviewed officials from the United Nations Population Fund and the United Nations Special Representative of the Secretary-General in New York on Sexual Violence in Conflict. In

⁵GAO, *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). We identified this information about sexual violence in the eastern DRC and neighboring countries in response to a provision in the Dodd-Frank Wall Street Reform and Consumer Protection Act that GAO submit an annual report that assesses the rate of sexual violence in war-torn areas of the DRC and adjoining countries. Pub. L. No. 111-203, § 1502.

⁶See GAO, *Conflict Minerals: Information on Artisanal Mined Gold and Efforts to Encourage Responsible Sourcing in the Democratic Republic of the Congo*, [GAO-17-733](#) (Washington, D.C.: Aug. 23, 2017) and [GAO-16-805](#).

addition, we conducted Internet searches to identify new academic articles containing any additional information on sexual violence published in 2017 and early 2018.⁷

We conducted this performance audit from September 2017 to June 2018 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 audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

⁷Our review of literature also included any available information on the national rate of sexual violence in the DRC.

Appendix II: U.S. Securities and Exchange Commission (SEC) Summary of the Conflict Minerals Disclosure Rule

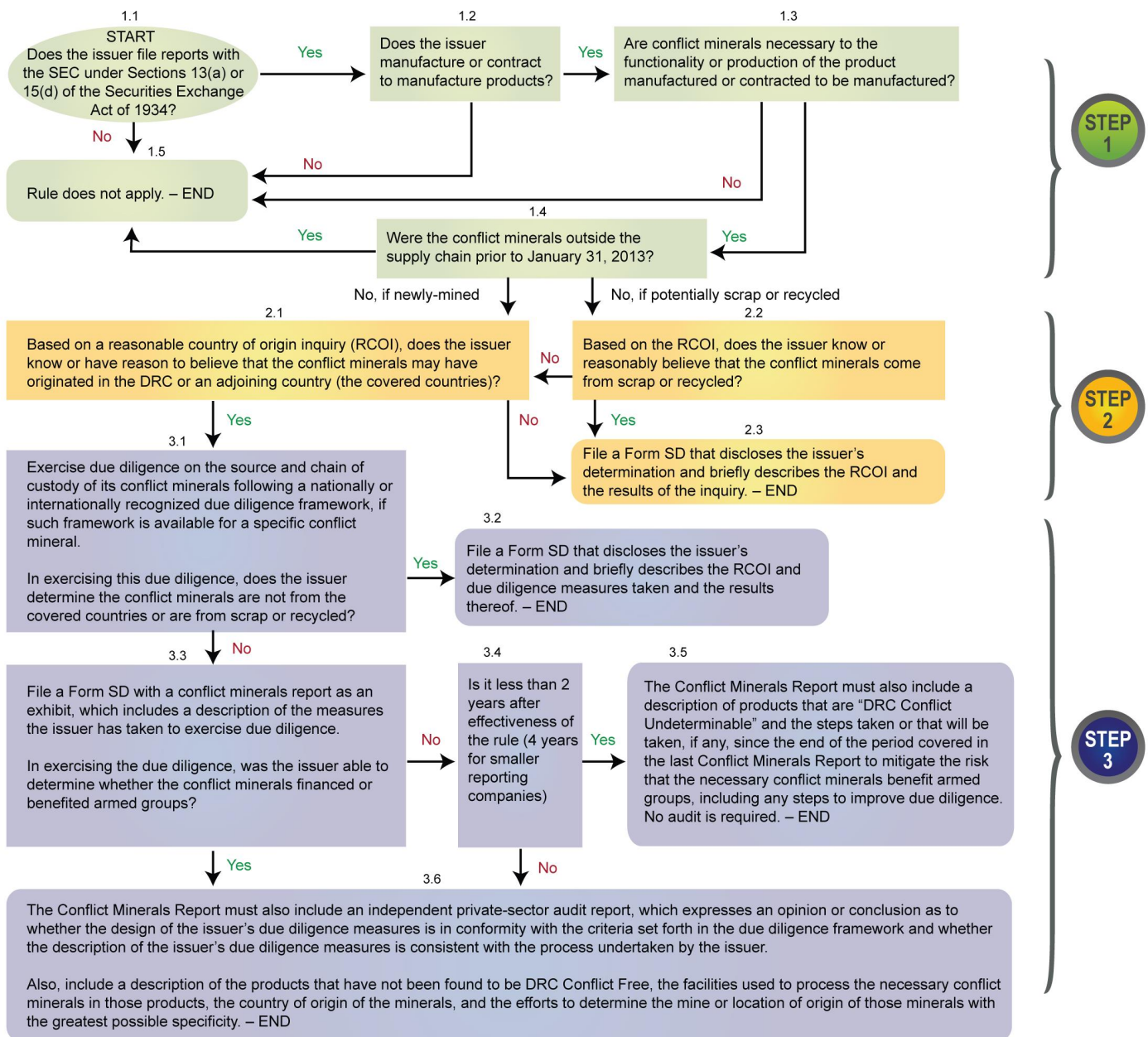
The U.S. Securities and Exchange Commission (SEC) conflict minerals disclosure rule requires certain companies to file a specialized disclosure report, known as the Form SD, if the company manufactures, or contracts to have manufactured, a product or products containing conflict minerals that are necessary to the functionality or the production of those products.¹ The rule also requires each company, as applicable, to provide a description of the measures the company took to exercise due diligence in determining the source and chain of custody of the conflict minerals, the facilities used to process them, their country of origin, and the efforts made to determine the mine or location of origin with the greatest possible specificity.² Form SD provides general instructions for filing conflict minerals disclosures 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 4 shows the SEC's flowchart summarizing the conflict minerals disclosure rule.

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

²SEC staff issued updated guidance indicating that "in light of the uncertainty regarding how the Commission [SEC] will resolve those issues and related issues raised by commenters, the Division of Corporation Finance has determined that it will not recommend enforcement action to the Commission if companies, including those that are subject to paragraph (c) of Item 1.01 of Form SD, only file disclosure under the provisions of paragraphs (a) and (b) of Item 1.01 of Form SD. This statement is subject to any further action that may be taken by the Commission, expresses the Division's position on enforcement action only, and does not express any legal conclusion on the rule." See SEC, *Updated Statement on the Effect of the Court of Appeals Decision on the Conflict Minerals Rule* (Apr. 7, 2017).

Appendix II: U.S. Securities and Exchange Commission (SEC) Summary of the Conflict Minerals Disclosure Rule

Figure 4: U.S. Securities and Exchange Commission (SEC) Flowchart Summary of the Conflict Minerals Disclosure Rule



Source: Securities and Exchange Commission (SEC). | GAO-18-457

Note: The flowchart was included in the SEC's 2012 release adopting the conflict minerals rule (Rel. No. 34-67716). SEC staff have not revised the flowchart to reflect the decision of the U.S. Court of Appeals for the District of Columbia Circuit on the rule (Nat'l Ass'n of Mfrs. v. SEC, 748 F.3d 359 [D.C. Cir. Apr. 14, 2014]) or statements issued by the SEC Division of Corporation Finance on the effect of the court's decision. (See Keith F. Higgins, Director, SEC Division of Corporation Finance,

**Appendix II: U.S. Securities and Exchange
Commission (SEC) Summary of the Conflict
Minerals Disclosure Rule**

Statement on the Effect of the Recent Court of Appeals Decision on the Conflict Minerals Rule.)
According to SEC staff, they had no plans to update the flowchart as of April 2018.

Appendix III: GAO Contact and Staff Acknowledgments

GAO Contact

Kimberly M. Gianopoulos, (202) 512-8612 or gianopoulosk@gao.gov

Staff Acknowledgments

In addition to the individual named above, Godwin Agbara (Assistant Director), Farahnaaz Khakoo-Mausel (Analyst-in-Charge), Diana Blumenfeld, Andrew Kurtzman, Justin Fisher, Grace Lui, David Dayton, Christopher Keblitis, and Michael McAtee made key contributions to this report.

Appendix IV: Accessible Data

Data Tables

Accessible Data for Company Determinations on Sources of Conflict Minerals, by Reporting Year 2014–2017

Category	2014	2015	2016	2017
From a covered country	4	29	25	32
Not from a covered country	24	19	24	21
From scrap or recycled sources	2	1	0	0
Unable to determine country of origin	67	42	41	34
No determination reported	2.5	9	9	13

Accessible Data for Figure 2: Company Determinations, Resulting from Reasonable Country-of-Origin Inquiries, as to Whether the Conflict Minerals in Their Products Came from Covered Countries, by Reporting Year 2014–2017

Category	2014	2015	2016	2017
From a covered country	4	29	25	32
Not from a covered country	24	19	24	21
From scrap or recycled sources	2	1	0	0
Unable to determine country of origin	67	42	41	34
No determination reported	2.5	9	9	13

Related GAO Products

Conflict Minerals: Information on Artisanal Mined Gold and Efforts to Encourage Responsible Sourcing in the Democratic Republic of the Congo. [GAO-17-733](#). Washington, D.C.: August 23, 2017.

SEC Conflict Minerals Rule: 2017 Review of Company Disclosures in Response to the U.S. Securities and Exchange Commission Rule. [GAO-17-517R](#). Washington, D.C.: April 26, 2017.

Conflict Minerals: Insights from Company Disclosures and Agency Actions. [GAO-17-544T](#). Washington, D.C.: April 5, 2017.

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

Related GAO Products

the Minerals Trade in Eastern Democratic Republic of the Congo.
[GAO-10-1030](#). Washington, D.C.: September 30, 2010.

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