Douglas Hileman Consulting, LLC
Van Nuys, CA 91405-4235
www.douglashileman.com

5 Tips on Writing a Conflict Minerals Report
By Douglas Hileman, CRMA, CPEA
(www.douglashileman.com and www.DFCMAudit.com)

Approximately 1,300 public issuers submitted filings to the SEC for the Dodd-Frank Conflict Minerals (DFCM) rule. The majority of these filings included a Conflict Minerals Report (CMR), which is required if an issuer determined that some of the 3TG in its supply chain originated in a Covered Country.

Many companies spent considerable effort on their first CMR, wondering what should be included, what should be left out, and whether to avail themselves of decisions of late-breaking decisions in litigation. Within a couple weeks, the first stakeholder analysis of the filings was published. The Big 4, other consultancies, Tulane University, and other stakeholders followed suit over the next few months. These analysts summarized many of the obvious parameters (number of pages, etc.). Some offered conclusions or expectations for the reporting for the 2014 reporting year – but these expectations were not all the same.

Companies are now compiling their CMRs for the 2014 reporting year [filings are due Monday, June 1, 2015]. Here are five tips for publishing a better CMR than you did last year.

1. **Change last year's – or not?** Begin with what you've got. Your conflict minerals team probably reviewed many of the analysts' reports on 2013 filings, and compared your own CMR to others, and to industry norms. You already know what worked for you, and what could use improvement. Don't worry so much if your report was longer or shorter than the average – unless it was WAY longer than the average, or it was so short as to be of limited use. Companies are often reluctant to make changes to the structure, organization, or level of detail of a filing. There is a reluctance to add more, lest the increased effort and reporting becomes expected forever. They are reluctant to say less, and risk creating the appearance of being less transparent. SEC provided a two-year transition period for the conflict minerals rule. Although the primary intention may have been to allow information in the supply chain to become more available and reliable, DHC notes that many aspects of conflict minerals programs took time to develop, too – including the content of the SEC filings. Why not take advantage of the transition period to change your CMR? Decide whether to include smelter lists or not, what metrics to include (or not), how you describe the Reasonable Country of Origin Inquiry [in the Form SD], and how detailed you describe the steps taken for due diligence.

2. **Begin at the middle and work out.** The Dodd-Frank Conflict Minerals (DFCM) rule requires an Independent Private Sector Audit (IPSA) for issuers who make certain conclusions about their Democratic Republic of Congo (DRC) conflict status of their products. Provisions during the transition period [two years for most issuers], are such that most issuers will not require an IPSA

during this period. Some familiar with the rule and ongoing lawsuits believe that an IPSA will not be required; others say the IPSA will be required beginning in Year Three. Hopefully, the SEC will clarify this before public issuers incur expenses – and in time to procure a suitable IPSA auditor. Still, it is worth structuring the CMR to anticipate what an IPSA would require. IPSA Objective #2 requires the auditor to conclude or express an opinion as to whether the issuer actually did the steps they describe for their due diligence. In other words, did you really do what you said you did? So, begin with auditable portions of the CMR in one distinct section. Then, back up and write introductory information. Finally, move forward and write conclusions, determinations, and forward-looking statements.

3. **Report on last year's forward-looking statements.** Most companies included some forward-looking statements in their filings for the 2013 reporting year. Although not necessarily a requirement under the rule, it is reasonable to believe that some analysts will compare 2014 CMRs to forward-looking statements made in the issuer's 2013 CMRs. Did you take actions and make the improvements you committed to? If you have not done so already, review your top customers' 2013 CMRs – especially their forward-looking statements. Some of these statements involved their supply chain – you. Consider how your customers may review your CMR; have you reported improvements in areas they said they would emphasize?

4. **Consider cut-off dates.** Companies have developed programs to track what they manufacture or contract to manufacture, how they collect data from suppliers, data analysis, reporting, and other activities. The DFCM rule applies to the calendar year. At some point, companies must "take a snapshot" of these processes and develop a basis for their CMR. Decide what parameters would be most useful to have cut-off dates: data analysis; product ship dates; product contracting dates; etc. Establish these dates, and stick with them.

5. **Begin thinking about Year Three.** 2014 is the last transition year for most companies; what will be your company's goal for Year Three reporting? Prepare your forward-looking statements carefully. Whether you put all your goals into the CMR or keep them internal, there is no better time to begin thinking about them than now.