

# EU Conflict Minerals & Metals Regime in full application from 1 January 2021 – Are You Ready?

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## Introduction

In May 2017 the EU issued rules concerning conflict minerals and metals compliance obligations. These rules will be fully applicable from 1 January 2021. In view of that deadline, this article is a brief reminder of this particular regulatory regime.

## What is this all about?

Upstream supply-chain due diligence to ensure responsible resourcing from conflict areas and the elimination of financing armed groups in these areas along with combatting local corruption.

## When do the rules apply?

Some aspects of the rules have already applied since 9 July 2017 – the rest of the rules which are the most significant part will fully apply from 1 January 2021.

## What's the scope?

Certain minerals and metals namely tin, tungsten, tantalum and gold, in various forms including ores and concentrates, sourced from any conflict-affected and high-risk areas.

## Are there any thresholds?

Yes – certain thresholds apply, as detailed in the rules - small-volume importers are in effect exempt.

## Are there any exemptions?

Yes – recycled metals are exempt. Minerals and metals that are obtained as by-products however fall within the scope of the rules.

## Who do the rules apply to?

These rules mainly apply to EU importers. Global smelters and refiners involved in processing are also covered.

## What obligations do importers have?

From 1 January 2021, EU importers have the following four types of obligations:

- Management System Obligations (policies, traceability systems etc.);
- Risk Management Obligations (identification and assessment of risks of adverse impacts on supply chains etc.);
- Third-Party Audit Obligations (activities, processes and systems used to implement due diligence etc.); and,
- Disclosure Obligations (to be made to EU country regulators – the results of third-party audits etc.).

## Are there any sanctions?

Yes – these are governed by national law.

## Who enforces the rules?

EU country regulators. Their tasks will include carrying out checks (audits etc.) in order to ensure compliance with the rules by EU importers.

### **What about the UK and Brexit?**

The UK officially left the EU on 31 January 2020 and is currently in a transition period until the end of 2020 during which time the UK and the EU try to agree a new relationship between themselves. It is expected that the UK will continue to apply the rules, either as specifically set out in the EU rules or in an adapted form, but this still all has to be decided.

### **What can affected businesses do now?**

Businesses affected by the rules should consider doing one or more of the following:

- Identify conflict-affected and high-risk areas that may be covered;
- Set up or improve due diligence processes and procedures;
- Engage within the supply chain to flush out and address risk issues and make contractual amendments;
- Adopt, improve or verify a conflict minerals and metals compliance policy;
- Introduce third party compliance audits;
- Prepare for disclosure requirements;
- Adopt a communications strategy, internal and external;
- Get the Board on board; and,
- Train the appropriate staff, such as those involved in procurement and purchasing.

Our full FAQs on the EU conflict minerals and metals regime can be found here: <https://www.corderycompliance.com/eu-conflict-minerals-metals-regime-faqs/>

The EU conflict minerals and metals rules can be found here: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32017R0821>

We report about compliance issues here: <https://www.corderycompliance.com/news/>

For more information please contact André Bywater or Jonathan Armstrong who are commercial lawyers with Cordery in London where their focus is on compliance issues.

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