
# Mining the Disclosures 2019

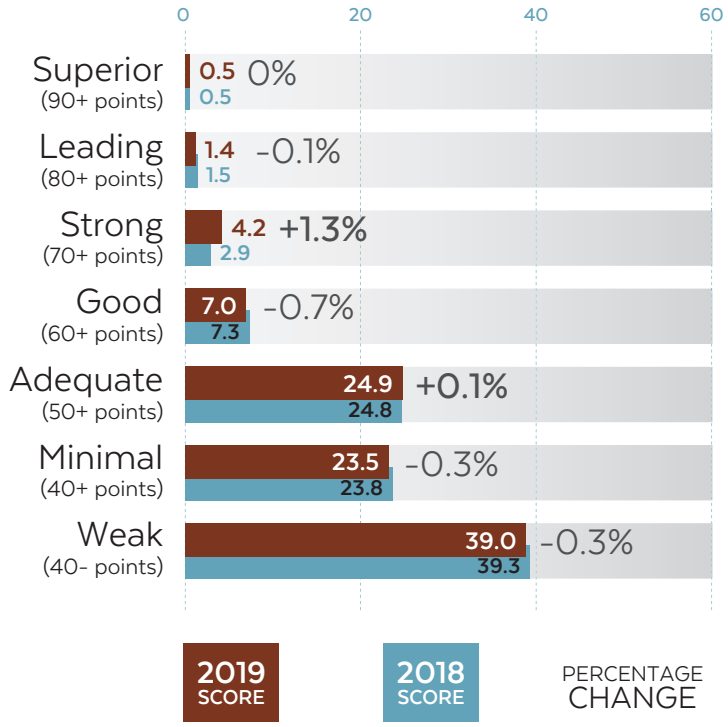
## An Investor Guide to Conflict Minerals and Cobalt Reporting in Year Six

RESPONSIBLE **sourcing** network

# Executive Summary

For the sixth consecutive year, Responsible Sourcing Network (RSN) is analyzing corporate compliance under Special Disclosure Section 1502 of the Dodd-Frank Act (otherwise known as Section 1502 or the Conflict Minerals Rule), and companies' efforts to take action and report their practices publicly. Due diligence by companies with respect to tin, tantalum, tungsten, and gold (3TG) again falls short from the intent of the law and the expectations of stakeholders. With a 2019 average score of 40.1, down from 40.3 in 2018, the scores of the sample group of companies analyzed by RSN keep decreasing. The comparison between 2018 and 2019 regrettably shows the lack of efforts of a large number of companies, highlighted by the decline or stagnation of 59.8% of the sample, and, even more regrettably, 63% of the sample scores at mediocre levels (categories of minimal and weak). After six years of implementation of the law, these results continue to weaken efforts to tackle the financing of armed groups in the Democratic Republic of Congo (DRC). In April 2017, the Securities and Exchange Commission's (SEC) former Acting Chairman, Michael Piwowar, concluded that the decision of the U.S. District Court for the District of Columbia was irreconcilable with the law makers' intent. Following Piwowar's conclusion, the SEC's Division of Corporation Finance issued a statement saying it will not recommend enforcement action of Section 1502, which has eliminated the incentive for companies to implement the law. However, this uncertainty—brought by the Trump administration—should not hide the clear concerns about conflict minerals raised by consumers and investors.

*Figure 1: Percentage of Sample Companies by Performance Category between 2018 and 2019 for 3TG Due Diligence*

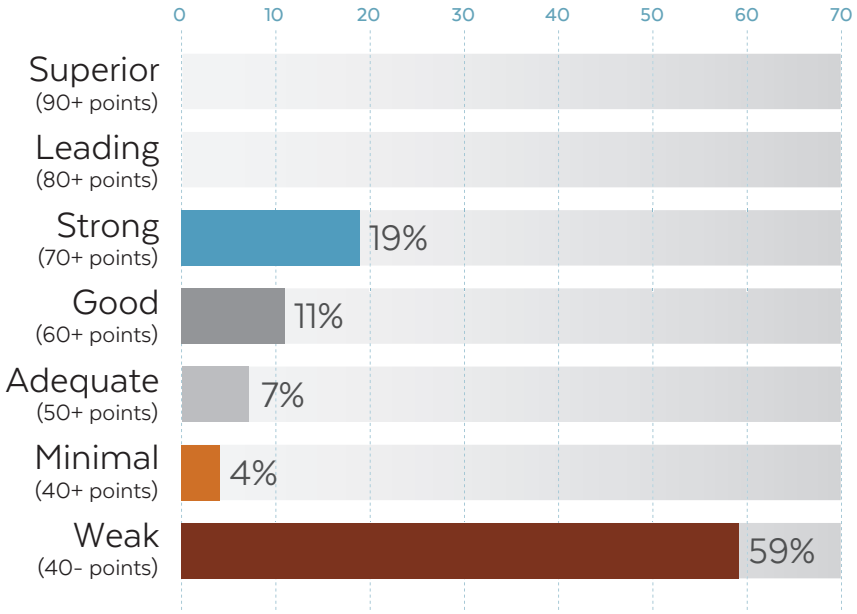



Leading companies, especially in the Technology sector, again remain at the top of the ranking this year. Companies achieving a score of 70 or higher have shown their ability to innovate beyond simple compliance to achieve an integrated and robust response to conflict minerals risks. The seven leading companies, Intel, Microsoft, Apple, Alphabet, Ford, HP, and Dell Technologies, have adopted proactive, due diligence-based strategies. Furthermore, Apple's integration of broad-based impact investments in research, on-the-ground projects, and multi-stakeholder groups should be applauded. Encouragingly, Alphabet reached the leading category and, three companies, Dell Technologies, Acer, and Hewlett Packard Enterprise (HPE), all joined the strong category for the first time, but only HPE was rated in previous years. In the meantime, laggards in 2019 remain the same as 2018 with companies in the Oil & Gas - Integrated, Steel, and Business Services at the bottom of *Mining the Disclosures 2019* ranking. While continuous improvement has been lacking for the past three years, a new and concerning trend was noticed: the provision of the exact same disclosures to the SEC from the year before by many companies in the report's sample. This trend is disconcerting and demonstrates the relegation of 3TG due diligence to a lesser corporate concern and a blatant disregard to implement U.S. federal legislation.

Comparing the same 199 companies from the 2018 sample, 74 scores increased, 13 companies saw no change, 87 lost fewer than five points, and 25 dropped by more than five points. This analysis highlights that 63 percent of companies in the sample remained stagnant or lost points, reiterating a worsening trend of companies' lack of actions to address and report on conflict minerals. This drop is particularly worrying since it reflects a common trend of decline from year-on-year reporting and contradicts the continuous improvement approach enshrined in the Organisation for Economic Co-operation and Development (OECD) Due Diligence Guidance. In 2019, companies performing under 60 out of 100 points—meaning in the three lowest categories (weak, minimal, and adequate)—represented 87% of the sample, which compares to 88% in 2018, and 85% in 2017. Although the sample size is roughly 20% of the total number of companies that filed disclosures with the SEC, the companies in this study's sample are the largest market cap companies in their sectors. There is a general perception that larger companies are going to have more resources to address human rights abuses buried in their supply chains, which means small and medium-sized companies are likely doing even less on this issue. The statistic of relative inaction in this report should raise red flags for investors and consumers, encouraging them to demand more efforts by companies to address the harm of violence and rape linked to the conflict minerals embedded in their products.

The report indicators reveal this trend of stagnation and decline, which is specifically emphasized by the continuous improvement indicator dropping by an additional six points in 2019 after suffering an 11-point decrease in 2018. This means from 2017 to 2019 the continuous improvement indicator dropped from an average of 66 points to 49 out of 100. While this year's *Mining the Disclosures* didn't unveil indicators dropping by more than six points, as they did in 2018, some critical aspects of the due diligence process appear to be at the bottom of corporate priorities. Surprisingly, the backbone of any due diligence program, the development of a publicly available policy, lost five points. In the meantime, progress was achieved in a few areas, mostly due to the efforts by several companies to describe their due diligence program in more detail (description of facilities where the minerals are processed: + 4 points; description of conflict-free sourcing: + 9 points).

*Figure 2: Percentage of Sample Companies by Performance Category for Cobalt Due Diligence in 2019*




In this 2019 report, RSN introduces for the first time a scored analysis of non-mandatory cobalt due diligence disclosures by a group of 27 companies in the industry sectors of technology, automotive, and jet engines, selected for the large prevalence of their cobalt consumption. Building upon an Amnesty International report on child labor in the cobalt industry, and the subsequent pressure on companies' responsible sourcing practices, RSN now includes cobalt as a mineral of focus. While efforts have been taken to increase transparency in the cobalt industry—the Democratic Republic of Congo (DRC) produces about 72% of the world's supply—much more remains to be done. As no surprise, the leading companies in 3TG due diligence score also score the highest—all over 70 points—in having a transparent and clean cobalt supply chain. Apple, Microsoft, Dell Technologies, and HP dominate the technology sector, joined by BMW, the only automotive company above this threshold. However, no companies scored in the superior (above 90 points) and leading (above 80 points) categories, and 70% of the sample group (19 companies) scored under 60 points (minimal, weak, and adequate categories).

With the aim to provide a better understanding of how legislation affects corporate behavior regarding conflict minerals, this year's report includes companies not governed by Section 1502, and therefore never rated previously. The scores of these eight international technology companies highlight the commitment of some leading actors outside the scope of Section 1502 to adopt and promote responsible sourcing of minerals, while others lag with low scores. As conflict minerals compliance becomes a global concern for customers and investors, the inclusion of these new companies demonstrates that they can get ahead of upcoming regulations and adopt proactive strategies to trace their supply chains and address risks. While Hitachi, Huawei, Samsung Electronics, Toshiba, and Fujitsu are categorized as weak, Panasonic is categorized in the minimal category, outperforming 50% of the SEC filing companies; LG Electronics qualifies for the good category; and Acer grabs the sixth place of the ranking and lands in the strong category. In 2019, Dell Technologies was also added to the sample as the company became public again in 2018. Although a privately held company since 2013, Dell had been very active in conflict minerals due diligence, which explains its leading score today (78.1, strong category). Dell Technologies was formed following the acquisition by Dell of EMC, a company previously rated in *Mining the Disclosures 2014*, *2015*, and *2016*.

The lack of improvement and the mediocre state of SEC disclosures and publicly available information profoundly limits the ability of the industry as a whole to drive significant change in the DRC mining industry. While companies with the highest *Mining the Disclosures* scores have shown that investing in on-the-ground projects, research, and strong due diligence systems can positively impact the region, the burden of cleaning up global 3TG supply chains cannot reside with only a handful of leading corporate actors. Lasting advances in Central Africa will depend on the lowest scoring companies stepping up and adopting proactive due diligence systems and innovative strategies to address the grave and damaging material risks in their conflict minerals sourcing.

# Cobalt Due Diligence Ranking

*Mining the Disclosures 2019* cobalt due diligence ranking provides insights on companies' activities to identify, address, and report on human rights risks in their cobalt supply chains. Tracking and comparing companies' publicly available qualitative and quantitative information provides investors, and other stakeholders, with insights to corporate actions. In addition, it allows companies to see how their activities compare to their peers and notifies them of opportunities to improve their practices.

## Sectors' and Companies' Rankings on Cobalt Due Diligence

*Figure 3: Cobalt Ranking per Sector*

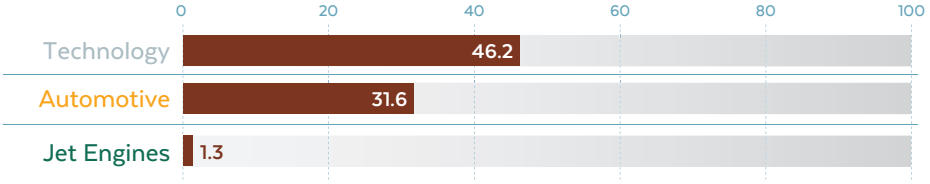
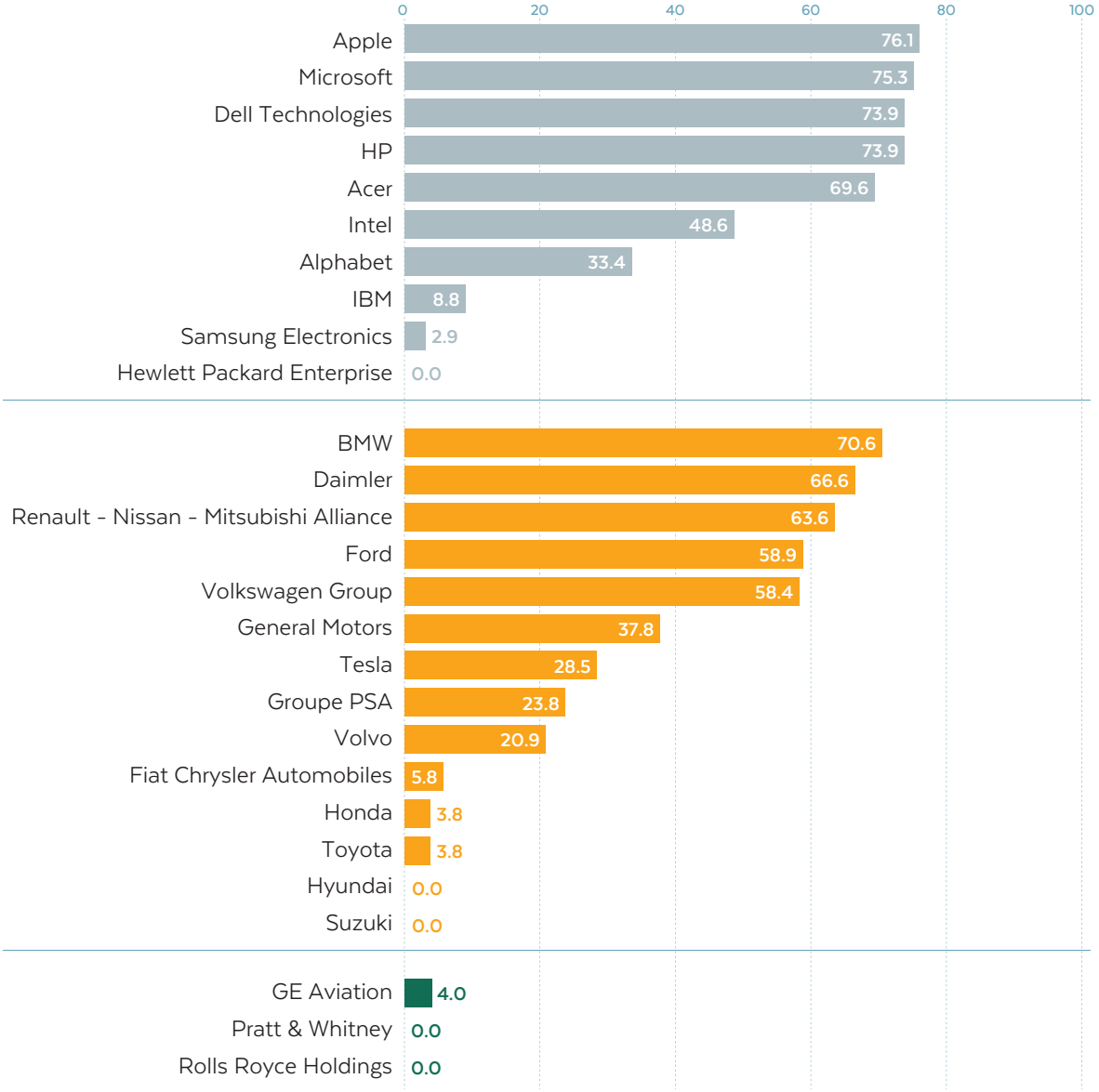



*Figure 4: Cobalt Ranking per Company Divided by Sector*




Download the report at www.sourcingnetwork.org/mining-the-disclosures-2019