Davis Polk

Survey Finds Companies Unprepared for Conflict Minerals Compliance

July 26, 2013 | Client Update | 2-minute read

With the recent **court decision** upholding the SEC conflict minerals rule, a recent **survey** PwC published summarizing responses from more than 900 individuals this past spring becomes more relevant. The survey asked about how companies are preparing to comply, and the results indicate that a lot of work remains.

Almost half of the companies are in the initial stages of their efforts. Another 16% have not even started to obtain information while 32% are still determining the applicability of the rule to their company. Likely due to assistance from their trade associations, those in the automotive, technology, and industrial products and manufacturing industries have made the most progress with respect to gathering supplier information and completing reasonable country of origin inquiries. Getting accurate supplier data was cited as the single most challenging task.

Legal and compliance personnel, along with purchasing and supply chain departments, are leading the compliance efforts, followed by the SEC reporting or finance department. Slightly more than 10% mentioned board involvement. However, 25% stated that they were not sure who was responsible, possibly indicating a lack of internal organization.

In terms of the stage of efforts, more than 20% are gathering data or in the process of assessing the data, while one-third are still trying to identify products containing conflict minerals. The remaining companies have either not gotten that far or are uncertain where they stand. The daunting nature of the task is evidenced by the response from more than a quarter of companies indicating that over 1,000 suppliers are in their supply chain, while a third did not even know the number, and only 17% reported having less than 100 suppliers.

Sending conflict minerals surveys to suppliers was the favored method for gathering information, with almost half of respondents planning on that approach and many not anticipating any need to conduct further due diligence. PwC expressed concerns about the lack of follow-up expected, since in their experience, the first level supplier does not have sufficient information to be able to respond completely or accurately.

While the SEC rules estimated that more than half of registrants would likely need to file a Conflict Minerals Report, survey responses suggest that less than 10% have arrived at that conclusion so far. Of those planning to file Form SD, 30% answered that the CFO or GC will be signing the document.

Many companies also worry about damage to their reputations or losing customers as a result of their conflict status once the reports become public.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

Ning Chiu
+1 212 450 4908
ning.chiu@davispolk.com