RJC Code of Practices (COP) Review
Round 3 public consultation - Due diligence for the diamond supply chain
Comment period: 28 September – 27 October 2018

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Purpose

The Responsible Jewellery Council (RJC) is reviewing its Code of Practices (COP), the standard against which all RJC members must be certified. We seek input on this document which outlines the proposed COP requirement and implementation guidance on due diligence in the diamond supply chain.

This document has four sections;

1. **Background**: outlining the COP review process and how this round of public consultation fits within the overall review process
2. **Executive summary:** of RJC's proposed guidance on how to apply due diligence in the diamond supply chain
3. **Phased audit approach:** which will be applied by RJC for auditing the due diligence requirement as part of COP certification.
4. **Suggested implementation approach:** The detailed text which will constitute the relevant section of the COP Guidance for the due diligence requirement.

1. Background and COP review process

In December 2009, the RJC formally launched its Code of Practices for responsible business practices in the diamond, gold and platinum group metals jewellery supply chain. All RJC members must be certified against the COP, following an independent, third party audit to verify conformance. A second version of the COP was published in November 2013; and the current review will inform a third version, due to be published in the first quarter of 2019.

We are reviewing the standard through a process of gap analysis and stakeholder consultation which is overseen by our multi-stakeholder Standards Committee[1]. The process has already included two public consultation periods:

- Round 1, a Public Summary of the review process and initial gap analysis (completed in August 2017) with comments published in the Comment Report
- Round 2 on draft Proposed Changes to the standard (completed in July 2018). With comments published in the Comment Report

In our public consultation, we received many questions and comments on how to apply due diligence in the diamond supply chain. This Round 3 of public consultation has been launched to seek stakeholder feedback on the draft Guidance for proposed provision 'X' on due diligence for responsible sourcing, focussing on diamonds. This document will be open for public consultation till 27 October 2018, after which a summary of all the comments received will be published. During this

[1] RJC is committed to developing credible and effective standards and continually improving its systems. We have been a full member of the ISEAL Alliance since 2012, and we follow ISEAL Codes of Good Practice in our standard setting, assurance and monitoring and evaluation.

period, we will be holding meetings to consult on the draft Guidance with two sessions planned in India and Belgium.

At the close of the public consultation, all the feedback will be consolidated and reviewed by the Standards Committee for approvals and finalisation. Publication of the standard is anticipated for March 2019. See the full updated timeline in the annexe of this document.

2. Executive summary

The 2013 version of the COP includes a requirement on due diligence[2]. This has be reworked into a separate proposed requirement which has been drafted to be aligned with the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas. The underlying due diligence principles are that it is:

- An **on-going** approach that is both proactive and reactive.
- **Risk-based**, ie, the intensity of due diligence is proportional to the level of risk.
- Based on **continuous improvement**. This means that companies who start with very little understanding of risks in their supply chains work to improve their systems and understanding over time. To achieve this, good faith and reasonable efforts should be used to promote constructive engagement with suppliers.
- **Global** in scope and intended to enable investment and trade in conflict-affected and high-risk areas, ie, not blacklists or embargoes.
- A process whereby all companies seek to participate in the process of gathering and passing on information about risks in their supply chain, but it is **not a chain of custody** or traceability requirement.

Note on due diligence and the KPCS & WDC SoW

The Kimberley Process Certification Scheme and WDC System of Warranties are a fundamental part of due diligence in the diamond supply chain. The KPCS provides evidence that risks of rebel financing are addressed in the trade of rough diamonds. The KPCS and SoW do not however address all the risks that need to be covered through due diligence (e.g. violations of human rights, bribery, money laundering, and tax evasion, etc.).

It's important to note that the COP requires that RJC members apply the KPCS and adopt the SoW **in all cases**. As outlined in COP 27.5, all RJC members shall comply with sanctions that prohibit transactions involving diamonds with targeted individuals, entities or organisations. Compliance with the law and internationally-agreed UN sanctions and resolutions are core commitments in the OECD Guidance so under no circumstances will a due diligence approach be used to justify sourcing diamonds that have not been sourced in compliance with the KPCS and related SoW requirements.

[2] See COP 6.2 "Members, if operating in, or sourcing diamonds, gold or platinum group metals directly from, a conflict-affected area, shall use the human rights due diligence process to assess the heightened risks of adverse human rights impacts."

Proposed COP provision:

X. Due diligence for responsible sourcing [3]

X.1. Members shall adopt and publicly communicate a supply chain policy with respect to sourcing from conflict-affected and high-risk areas. The policy shall be consistent with Annex II of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (the "OECD Guidance") or other auditable due diligence frameworks recognised by RJC to be aligned with the OECD Guidance ("RJC-recognised due diligence frameworks")

X.2. Members shall exercise due diligence over their supply chains in accordance with the OECD Guidance, or RJC-recognised due diligence frameworks, in ways appropriate to their size and circumstances

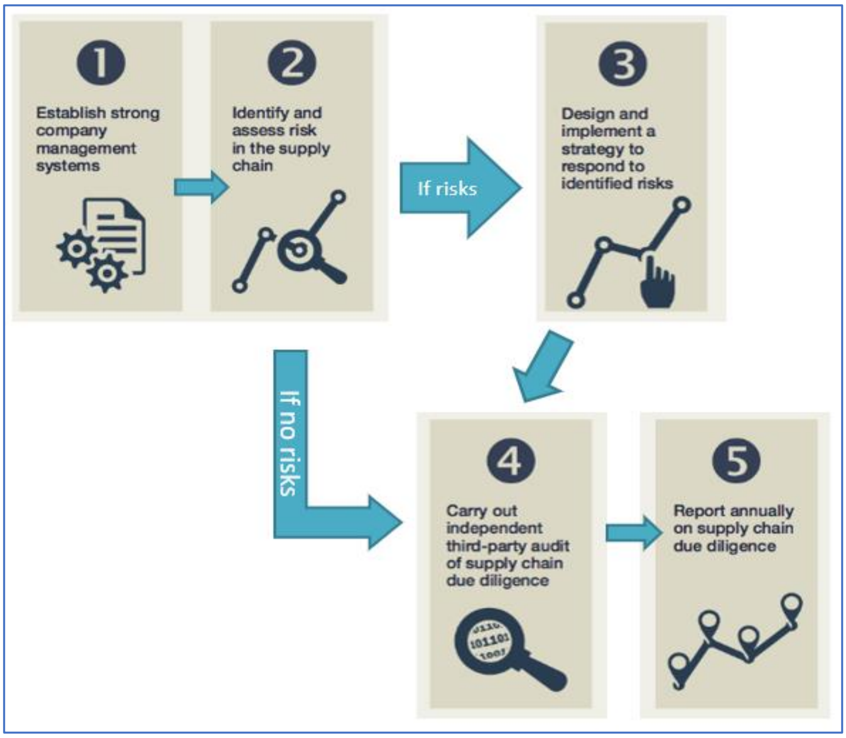
a. Members in the gold value chain shall implement the recommendations of the OECD Guidance Supplement on Gold as applicable to their operations and supply chains.
b. Members in the diamond supply chain shall implement the recommendations of the OECD Guidance whilst complying with COP 27 on the Kimberley Process Certification Scheme and World Diamond Council System of Warranties.

Note on RJC-recognised due diligence frameworks

Other due diligence frameworks are being developed in different countries based on the OECD Guidance. The Chinese Chamber of Commerce for Metals, Minerals and Chemicals (CCCMC) has developed *The Chinese Due Diligence Guidance for Responsible Mineral Supply Chains*. In November 2017, the Indian Government also announced plans to develop *Indian Guidelines for Responsible Sourcing of Gold*. These frameworks will be reviewed by the RJC management team and will be listed on the RJC website for use in accordance with this COP provision as best suits each member.

Due diligence consists of a 5-step risk-based process which applies to all companies throughout the entire mineral supply chain.

Figure 1: Overview of 5 step framework



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[3] Note that proposed provision X.3 (which outlines requirements for refiner members) has been left out of this document as it does not apply to the diamond supply chain; but it will still be a part of the COP provision

The 5 step framework involves:

- **Step 1:** Have a supply chain policy and establish internal management systems to support it, including having a grievance mechanism to allow interested parties to voice concerns regarding conflict related and high risks in the supply chain.
    - Mining companies that don't source material from others don't need to do more in addition to the above for this step other than communicate relevant information downstream.
    - Upstream companies (all those up to point of export of diamonds including miners who source from others, domestic collectors/ traders, rough exporters, international rough traders) should engage with suppliers to collect transparency information.
    - Midstream and downstream companies (international rough traders, cutters & polishers, bourses & exchanges, diamond centres, polished diamond traders, jewellery manufacturers, brands/retail) should seek transparency information from their upstream suppliers, where available, and pass this on in aggregate to downstream buyers
- **Step 2**: Identify risk (or red flags) in the supply chain. Red flags do not mean that impacts have occurred, so the presence of adverse impacts needs to be assessed.
    - Mining and upstream companies should identify red flags in their own operations or from outside sources. If there are red flags, map factual circumstances of red flag locations and assess risk.
    - Midstream and downstream companies should review the evidence of due diligence by their suppliers and identify red flags based on that information as well as other data sources. If there are red flags, use the information to assess risks.
- **Step 3**: **If risks within the defined scope are identified,** share findings with senior management and design and implement a strategy to respond to the risks.
    - Mining and upstream companies should additionally identify all suppliers from the mining to the point of export in red flagged chains.
    - Midstream and upstream companies should seek available audit reports covering the sourcing practices of suppliers from red flagged supply chains.
- **Step 4**: An accredited RJC auditor will carry out an independent 3rd party audit of due diligence (see phased audit approach below).
- **Step 5**: Report annually on individual company supply chain due diligence efforts

3. Phased COP audit approach and pilots

This section outlines RJC's approach to auditing this provision. This text will be included in the RJC Assessment Manual, which contains the instructions for members and auditors on how to conduct assessments to establish conformance with the RJC standards.

Companies operating in the diamond value chain will not be required to undergo a full audit against the COP due diligence provision immediately. Audits shall be phased-in as follows for COP certification or re-certification:

1. 2019: Members shall have the option to use the 2013 or new version of the COP for auditing[4]. If choosing to certify against the new version of the COP, members shall undergo an audit of the following elements of Step 1 of the OECD Guidance:
    - Having a supply chain policy.
    - Assigning responsibility to someone who will lead the development of relevant management systems.

2. 2020: The following elements of Step 1, Step 2 and Step 5 of the OECD Guidance:
    - Having a supply chain policy and responsible person (as above).
    - Preliminary supply chain mapping and scoping efforts (eg, identifying and starting to engage with key suppliers).
    - A report on supply chain due diligence implementation efforts covering the elements above should be available on request. As a company begins to develop its systems, this report could be a simple communication covering the supply chain due diligence policy and the management structure, the individual responsible for due diligence, and initial outcome of engagement efforts with key suppliers.

3. 2021: The findings of the pilot projects will be used to review and update the COP, Guidance, audit approach and any related RJC tools as necessary. At the conclusion of the review and release of updated RJC documents, members undergoing certification and re-certification audits shall be audited for Steps 1-5 of the OECD Guidance. The findings of the pilot projects are essential and a prerequisite for evaluating the implementation of this RJC provision, guidance and supporting tools.

This phased approach reinforces the notion that due diligence is meant to be a progressive, on-going approach to ultimately achieve responsible supply chains.

During the phasing-in approach, the RJC will develop **pilot projects** with members to inform the COP, guidance and tools on how to implement and audit the OECD 5 step framework for the various sectors of the diamond supply chain. The pilot will include (at least) one international trader sourcing directly from an artisanal mining area and one sourcing from a variety of sources (eg, from an industrial mining group and secondary rough diamond trading market). The findings of the pilot projects will be used to review the RJC's COP, guidance, auditing approach and tools.

4. Suggested implementation approach – proposed COP Guidance section

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The detailed text in this section outlines the information and advice that will be provided to RJC members and auditors on how to implement this provision in the diamond supply chain. This text will constitute the relevant *Suggested Implementation Approach* section in the COP Guidance.[5]

Due diligence is a process through which companies in the minerals supply chain can ensure that they respect human rights and do not contribute to further instability or conflict. It is not meant to prohibit trade or to address risks that are unrelated to minerals such as internal or border land disputes that are completely unconnected to the diamond trade.

[4] Note that this is RJC's normal approach for transitioning to new/updated standards.

[5] Note that the relevant chapter in the Guidance will have additional sections for other materials in RJC's scope (gold, platinum group metals, silver, and coloured stones) which are not covered in this document.

Note on scope of risks to be covered

Due diligence needs to cover these risks (from Annex II of the OECD Guidance).

- "Direct or indirect support" to non-state armed groups (eg, rebel groups) – **This risk is covered by the KPCS**
- Direct or indirect support to public or private security forces through the extraction, transport, trade, handling or export of minerals.[6]
- Serious abuses associated with the extraction, transport or trade of minerals (torture, forced labour, worst forms of child labour, sexual violence, violations of international humanitarian law)
- Bribery associated with production, trade and export
- Money-laundering and terrorist financing
- Fraudulent concealment of the origin of minerals
- Avoidance of taxes, fees, and royalties related to mineral extraction, trade and export

Due diligence consists of a 5-step risk-based process which applies to all companies throughout the entire mineral supply chain.

- Step 1: Establish strong company management systems
- Step 2: Identify and assess risk in the supply chain
- Step 3: **If risks within the defined scope are identified,** design and implement a strategy to respond to them
- Step 4: RJC members are required to undergo audits on the full COP, including due diligence, as part of certification. Part of due diligence also involves carrying out or supporting independent third-party audit of due diligence practices at a specified point in the supply chain. These specified points will be determined through consultations with industry representatives and drawing on findings from the RJC pilot projects and hence introduced as a requirement at a later date.
- Step 5: Report annually on individual company supply chain due diligence efforts

Step 1: Establish strong company management systems

Management systems for due diligence have various components which are inter-related. These are:

A. Supply chain policy
B. Internal management
C. Transparency
D. Engagement with suppliers
E. Grievance mechanism

[6] Under Annex II of the OECD Guidance, "direct or indirect support" to public or private security forces through the extraction, transport, trade, handling or export of minerals includes, but is not limited to, procuring minerals from, making payments to or otherwise providing logistical assistance or equipment to, non-state armed groups or their affiliates who: i) illegally control mine sites or otherwise control transportation routes, points where minerals are traded and upstream actors in the supply chain; and/or ii) illegally tax or extort money or minerals at points of access to mine sites, along transportation routes or at points where minerals are traded; and/or iii) illegally tax or extort intermediaries, export companies or international traders.

Proposed COP provision:

Due diligence for responsible sourcing
X.1. Members shall adopt and publicly communicate a supply chain policy with respect to sourcing from conflict-affected and high-risk areas. The policy shall be consistent with Annex II of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (the "OECD Guidance") or other auditable due diligence frameworks recognised by RJC to be aligned with the OECD Guidance ("RJC-recognised due diligence frameworks")

A. Supply chain policy

Points to consider for due diligence policy:

- Establish a supply chain policy that clearly states your company's position on responsible sourcing from conflict-affected and high-risk areas (CAHRAs). See the suggested supply chain policy in the annex below, which is adapted from the OECD Guidance Model Supply Chain Policy (Annex II).
- The policy shall be developed in conformance with COP 27 on KPCS and the WDC SoW and clarify that sourcing of rough diamonds is in accordance with the systems and controls laid out by the KPCS, the WDC SoW and relevant national legislation.
- Seek to involve all those staff affected by the policy in its development, eg from procurement. It may also be beneficial to consult with key suppliers and customers to ensure that your policy can be practically implemented.
- Use the policy as a communications tool to clarify your position and expectations to suppliers and other stakeholders by:
    - making it publicly available (eg, on your website, or in paper or electronic copy available upon request);
    - sending it directly to immediate suppliers via contracts or other notifications; and
    - subject to available resources, training suppliers and building their capacity to better understand and adhere to your requirements.
  - Mining companies shall support the implementation of the Extractive Industry Transparency Initiative (EITI) by reporting on taxes, fees and royalties paid to government when in an implementing country, or otherwise consider supporting reporting by relevant suppliers unless prohibited by national law.

Proposed COP provision:

X. Due diligence for responsible sourcing
X.2. Members shall exercise due diligence over their supply chains in accordance with the OECD Guidance, or RJC-recognised due diligence frameworks, in ways appropriate to their size and circumstances

a. Members in the gold value chain shall implement the recommendations of the OECD Guidance Supplement on Gold as applicable to their operations and supply chains.
b. Members in the diamond supply chain shall implement the recommendations of the OECD Guidance whilst complying with COP 27 on the Kimberley Process Certification Scheme and World Diamond Council System of Warranties.

B. Internal management

Points to consider for internal management:

- Structure internal management to support supply chain due diligence and assign authority and responsibility to senior staff to oversee the due diligence process.

- The individual leading your due diligence system should be able to:
    - Lead the supply chain policy's development and implementation across your organisation.
    - Work to ensure all relevant suppliers respect the policy and review business relationships with suppliers based on risk levels.
    - Respond to identified supply chain risks.
    - Publicly report on due diligence every year.

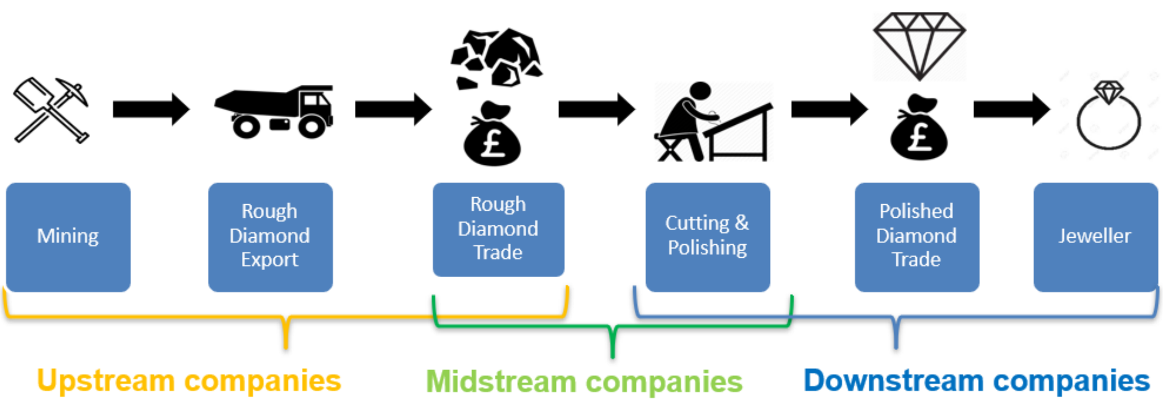
C. Transparency

Before you can identify and assess risk, you must make good faith efforts to understand your supply chain, identify your suppliers and seek transparency information on the sources of diamonds over time.

Points to consider for transparency:

- Whatever your company type, you are expected to keep, as a minimum, an internal inventory and transaction documents to be able to retrospectively identify material inputs and outputs. The internal inventory should include information on the form (rough, polished), type, value (if available), and weight of diamond inputs and outputs. This can be by parcel.
- This information should include supplier details and Know Your Counterparty (KYC) information (as outlined in COP 10).
- You can gather supplier information by using checklists, forms and invoices or by collecting the information directly in meetings and documenting that.

Figure 2: The diamond supply



- Companies should seek to collect and pass on transparency information as outlined in table 1 below.
    - **Upstream companies** should collect and share transparency information with their customers, including information available on the source of the diamonds. This information could be based on, for example, information provided in Kimberley Process certificates. If information is not forthcoming, adopt a road map plan with your suppliers to obtain it over time and then document discussions and agreements with suppliers as evidence of your due diligence activities.
    - **Midstream and downstream companies** should seek transparency information from their upstream suppliers where available and pass this on

in aggregate to downstream buyers, using information sources such as the current WDC SoW. If information is not forthcoming, adopt a road map with your suppliers to obtain it over time and document as evidence of your due diligence activities. Commercial **Information on specific supplier relationships does not need to be shared.**

Note on traceability

All companies should seek to participate in the process of gathering and passing on information about their supply chain. However, due diligence is **not** a chain of custody or traceability for the entire chain –**only when red flags are identified** and **only upstream segments of the supply chain** (ie, miners through to rough export) are expected to seek traceability of materials to the company or geographic area source.

Table 1: supply chain transparency information to gather

Upstream companies – traceability information to gather Miners, domestic collectors/ traders, rough exporters/primary rough diamond importers	
a.	the **source** of diamonds, with the greatest possible specificity (eg, company/ area)
b.	**locations** where diamonds are consolidated prior to export
c.	the **method of extraction** (ASM or medium or large-scale mining)
d.	the **weight** and other characteristics (if relevant) of the diamonds or diamond parcels
e.	**how mineral is transported** and processes in place to ensure integrity, with due regard taken of security concerns
f.	*For "red flagged" supply chains only:* seek to **identity all suppliers and relevant service providers** handling the diamonds in the upstream supply chain **from the original or known source**; the ownership (including beneficial ownership); the corporate structure including the names of corporate officers and directors; the business, government, political or military affiliations of those companies and officers within conflict-affected and high-risk areas
g.	*For "red flagged" supply chains only:* seek to identify all **taxes, fees or royalties paid to government** related to the extraction, trade, transport and export of mineral
h.	*For "red flagged" supply chains only:* seek to identify **all payments or compensation made to government agencies** and officials related to the extraction, trade, transport and export of mineral
i.	*For "red flagged" supply chains only:* seek to identify **all payments made to public or private security forces or other armed groups** at all points in the supply chain from extraction onwards, unless prohibited under applicable law

Midstream and downstream companies – supply chain transparency information to gather International rough traders[7], cutters & polishers, bourses & exchanges, diamond centres, polished diamond traders, jewellery manufacturers, brands/ retail
a. The identification of upstream **control point(s)** in the supply chain (where established)
b. The identification, in **aggregate**, of the **sources** of your diamonds to the extent possible
c. Where available, basic information on the due diligence of suppliers/control points undertaken on the source of supply (any information from participation in WDC SoW, other industry programmes, public policies and reports)
d. *For "red flagged" supply chains only*: any available audit reports of audits in conformance with the OECD Guidance, covering the sourcing practices of selected suppliers/control points.

- The **source** of diamonds is the furthest upstream supplier that can be identified in your supply chain. For companies in the upstream part of the supply chain (miners through to rough diamond export) this means the company or geographic area of production. For midstream and downstream companies this can be:
    - the company or geographic area of production
    - rough secondary/ open market
    - polished supplier
- **Control points** are stages in the supply chain with generally higher visibility and control over upstream stages. Where identified, they become a key focus area for the collection and sharing of information on the circumstances of upstream production and trade. For example, the first importer of rough diamonds, that source directly from a diamond producer country, could be considered as an upstream control point. However, it may not be possible to identify a practical control point and where this is the case companies should focus their attention on gathering as much information as possible through engagement with their suppliers.

Note on confidentiality relating to information on the source of diamonds

Suppliers should be asked to provide information on the source of material when this is available in a way which respects business confidentiality. For example, ask for documentation that will help you to identify the source of diamonds such as shipping/transport or other documents that provide evidence of the original source (eg. company/area). Communication and request for information should be carried out with due regard for commercial confidentiality and other competitive or security concerns. Various strategies may be useful in communicating to the extent possible while respecting confidentiality concerns. The possibility of a non-disclosure agreement with your suppliers, or trusted third parties or digital tools to aggregate information while protecting commercially sensitive data should also be considered.[8]

[7] International rough traders can be upstream players if they engage directly in the country of origin. In other cases they are considered as midstream.

[8] See p. 87 of the OECD Due Diligence Guidance for Responsible Business Conduct: "Certain approaches may be useful in communicating information to the extent possible while respecting confidentiality concerns. FOR EXAMPLE limiting access to sensitive information to those approved by the information provider; anonymising the source of information; providing a valid explanation or justification, where possible, for why the information has not been shared; using third parties or innovative technologies that allow disclosure of key information while protecting commercially sensitive data, for example, to disclose certain information in aggregate or without identifying specific business relationships; delaying reporting until persons are no longer

Information on source can be aggregated into categories and shared in the form of proportion of diamonds from particular sources. For example, 10% from known mining companies, 20% from specific countries/areas and 70% from secondary market/open market. An example of aggregation categorises is:

- Known producers such as ALROSA, De Beers, Rio Tinto and Dominion which are independently certified
- Smaller industrial or artisanal producers
- Secondary market rough suppliers
- Polished suppliers

- Aim to get aggregated source information on all your diamond supplies over time. If you are starting with mostly unknown sources, focus on continuously improving this. Seek to increase your knowledge of sources over time.
- If your supplier has no information on source, their own due diligence efforts or those of their suppliers, work with them over time to get this information. Offer to help by setting up joint meetings with them and their upstream suppliers.
- If you are a mining company that does not source material from other producers, step 1 will be relatively straightforward but you will still need to:
    - Develop a policy and systems (1A-B) for managing your own operations for existing or future conflict and high-risk scenarios, and for communicating information downstream.
    - Keep an internal inventory and be able to pass on basic information such as dates of extraction, weights to retrospectively identify outputs (1C).
    - Have a grievance mechanism (1E), see below.

Note on what to do when information is not available – 'comply or explain' approach
Companies who have been unable to gather transparency information from their suppliers should adopt a **'comply or explain'** approach. In other words, if you are starting with very little or no information on upstream sources and risks, you can still demonstrate compliance with this provision by explaining the steps you've taken to seek information and your plans to improve your data over time. Where practical, companies should seek to identify the original source which, for diamonds, would be the mine, company or geographical area of production. In the absence of this information, companies should identify the furthest upstream point in the known supply chain which could be a geographical location or a commercial entity.

D. Engagement with suppliers

- Make sure that all your suppliers know your supply chain policy and, if any problems arise (eg, there is no due diligence information, or they have high-risk sources), work with them to try and resolve the issue before you consider suspending or terminating the relationship.
- Where possible, try to establish long-term relationships with suppliers (rather than short-term ones) in order to increase leverage and trust. If you are working with a dynamic and large supplier-base, develop questionnaires and checklists for your suppliers to submit. Then focus your engagement on those suppliers with the least information available and any suppliers that may represent a greater level of risk.

at risk, for example after a grievance or risk has been addressed; providing assurance through other methods, such as inviting an independent third party to review the enterprise's due diligence processes and disclosing their findings publicly or to a relevant collaborative initiative."

- Include provisions for sharing due diligence information in your commercial contracts with suppliers. Where practical, encourage them to source from audited control points[9] over time and include provisions in their own contracts with their suppliers.

E. Grievance mechanism

- Establish a grievance mechanism as an early-warning risk awareness system which "allow[s] any interested party to voice concerns regarding the circumstances of mineral extraction, trade, handling and export in a conflict-affected or high-risk area"[10]. This will allow a company to be alerted of risks in its supply chain in addition to the company's own fact and risk assessments."
- Companies should use their existing grievance mechanisms (e.g. if you have one established for COP 12 on provenance claims). For smaller companies, RJC's grievance mechanism can be used.

Step 2: Identify and assess risk in the supply chain

This step is all about identifying and assessing risk in your supply chain. To do so, use information gathered from Step 1C and 1D, as well as information from other relevant data sources.[11] The process is slightly different for upstream, midstream and downstream companies.

Points to consider for identifying and assessing risks:

- High and low-risk sources can be identified based on the presence or absence of 'red flags' that indicate a potential risk of adverse impacts in your supply chain (for example, serious human rights abuses or financing, fuelling or facilitating conflict). High-risk sources may also be identified through the review of information collected via a grievance mechanism.
- There are three broad types of red flags (see table 2); and the presence of any of these in your supply chain will require you to seek to investigate further and, where necessary, take action to mitigate the identified risks.

Table 2: Red flags

Type	Description
Diamond origin and transit red flags	• *The diamonds originate from or has been transported through a conflict-affected or high-risk area (CAHRA, see NOTE XX below).* • *The diamonds are claimed to originate from a country that has limited known reserves or stocks, likely resources or expected production levels of diamonds (i.e. the declared volumes of diamonds from that country are out of keeping with its known reserves or expected production levels)* • *The diamonds are claimed to originate from a country through which diamonds from conflict-affected and high-risk areas is known or reasonably suspected to transit*
Supplier red flags:	• *Suppliers or other known upstream companies operate in one of the above-mentioned red flag locations of diamonds origin and transit, or have shareholder or other interests in suppliers of diamonds from one of the above-mentioned red flag locations of origin and transit* • *Suppliers or other known upstream companies are known to have sourced diamonds from a red flag location of origin and transit in the last 12 months*

[9] A control point could be audited by RJC or other recognised schemes.
[10] Definition from the OECD Guidance
[11] See table on 'Sources of information for identifying risks' in the Annexe

Type	Description
Red flag circumstances:	• *Anomalies or unusual circumstances are identified through the information collected in Step 1 which give rise to a reasonable suspicion that the diamonds may contribute to conflict or serious abuses associated with extraction, transport or trade*

Note : How to identify a CAHRA

Conflict-affected and high-risk areas include areas of political instability or repression, institutional weakness, insecurity, collapse of civil infrastructure, widespread violence, and areas where rebel movements or their allies are using rough diamonds to finance conflict aimed at undermining legitimate governments. In practice, you need to look at all countries, regions and areas that you source, or plan to source from and determine whether they are a CAHRA or not, relying on evidence from credible sources. This will include, for example, reviewing research reports from governments, the KPCS and WCD SoW, international organisations, NGOs and media, maps, UN reports and UN Security Council sanctions, industry literature relating to diamond extraction, and its impacts on conflict and human rights in the country of potential origin. Companies should also refer to any criteria and indicators of conflict-affected and high-risk areas developed through multi-stakeholder initiatives, including ongoing work related to the implementation of the OECD Guidance facilitated by the OECD. Table 4 in the annexe outlines sources of information for identifying CAHRAs.

Note: How will RJC audit the differing ways companies identify CAHRAs?

Companies may reach different conclusions relating to whether a specific area is, or is not, a CAHRA. The OECD Guidance promotes the use of good faith efforts in making this determination, and companies should be able to demonstrate that they have adequately reviewed and considered credible sources of information for identifying CAHRAs. Inconsistencies that are clearly linked to a weak due diligence management system would be flagged by auditors as a non-conformance and addressed during the RJC audits, but general differences in approach are not a non-conformance. These differences are likely to reduce over time as the application of due diligence in the diamond supply chain matures. This is in line with the continuous improvement model recommended in the OECD Guidance.

- Regularly review and evaluate your exposure to risk, especially when forming relationships with new suppliers, or when existing suppliers change their sourcing practices:
    - **For upstream companies** (eg, miners, exporters, traders), identify any red flags in your supply chain and investigate them.
        - To identify a red flag, you should review the context of each location of diamond source and transport relying on evidence from credible sources and using good faith efforts to make reasonable determinations about risk.
    - **For midstream and downstream companies** (eg, cutter & polisher, polished trader, jewellery manufacturer, retail), gather and review available evidence on the due diligence practices of your upstream suppliers/control points.
        - Assess the effectiveness of the information collection and sharing of the upstream suppliers and, where available, of control points.
        - Make reasonable and good faith efforts to obtain evidence of their due diligence practices to determine whether they have identified red flags in their supply chains. Undertake KYC in accordance with COP provision 10 and the current WDC SoW.
- If you are able to reasonably conclude (based on the information available to you) that red flags are not present, then the sources of your diamonds can be considered low risk, requiring minimal further action.

- Where ‘red flags’ are identified, assess the risk that ‘adverse impacts’ are occurring:
    - **For upstream companies** map the factual circumstances of all red flag supply chains through in-depth review of context (e.g. desktop research, stakeholder engagement) and on-the-ground assessments. After mapping the factual circumstances of all red flag supply chains, you will need to assess the information you have collected to determine the level of risk. In practice, that means looking for the presence of adverse impacts related to conflict-affected and high-risk areas.
    - **For midstream and downstream companies** evaluate the risk mitigation practice of ‘red-flagged’ suppliers/control points in your supply chain. Determine whether the upstream suppliers/control points’ due diligence practices have been independently audited against a relevant standard and, where available, obtain and review the results of the audit(s).

NOTE on Adverse impacts related to conflict-affected and high-risk areas
Adverse impacts can be any of those outlined in the International Bill of Human Rights and the International Labour Organization’s Declaration on Fundamental Principles and Rights at Work. The list below identifies those specifically related to mineral supply chains
Serious abuses associated with the extraction, transport or trade of minerals: • Any forms of torture, cruel, inhuman and degrading treatment. • Any forms of forced or compulsory labour. • The worst forms of child labour. • Other gross human rights violations and abuses such as widespread sexual violence. • War crimes or other serious violations of international humanitarian law, crimes against humanity or genocide.
Direct or indirect support to non-state armed groups (covered by the KPCS)
Direct or indirect support to public or private security forces i.e. continue or suspend trade whilst implementing mitigation measures
Bribery and fraudulent misrepresentation of the origin of minerals
Money laundering and non-payment of taxes and royalties due to governments.

Step 3: Design and implement a strategy to respond to identified risks

If a “red flag” is identified in Step 2, members should use the following risk mitigation procedures;

- Report findings of the supply chain risk assessment to the designated senior management of the company.
- Devise and adopt a risk management plan for responding to identified risks. ie, continue, suspend, or terminate trade with supplier. Any such plan will be set by the company in a way that is appropriate to their size, and ability to successfully mitigate the particular risks.
- Red flags do not mean that actual impacts have occurred and engagement with the supplier should not be immediately terminated. Immediate suspension or disengagement is only required when there is **reasonable risk** of serious abuses or support to non-state armed groups from that supply. Mitigation is recommended for all other Annex II risks (public security forces, bribery, fraud, tax evasion), with a clearly defined timeframe (6 months) to demonstrate significant measurable improvement.
- Implement the risk management plan, including measurable risk mitigation.
- Monitor and track performance of risk mitigation efforts.
- Undertake additional fact and risks assessments for risks requiring mitigation, or after a change in circumstances.

Step 4: Carry out independent third-party audit of due diligence practices

- Certification is required on all COP provisions and RJC accredited auditors will verify members' implementation of due diligence.
- RJC auditors will look to verify that members have made reasonable and good faith efforts to implement the requirements of the due diligence provision based on a continual improvement approach. In practice this means that compliance against the provision can be achieved even if very little information on sources is available as long as effective management system processes and plans for improvement can be demonstrated.
- If red flags are identified by control points in your supply chain, ask them to carry out an independent third-party audit on their due diligence efforts.

Step 5: Report annually on supply chain due diligence

- Publicly report on supply chain due diligence policies and the implementation of the due diligence framework.
- This should be in conjunction with the COP requirement 3 on reporting.
- A practical approach should be taken to the form and content of the report/communication, taking into account the scale and impacts of the business. For example, for a small business, the report/communication could be in the form of a memorandum, it does not need to be a printed publication.
- Sustainability reports done by mining companies on the basis of GRI standards to be accepted as sufficient.

5. Annexe

Table 3 Phased audit approach

Milestone	RJC member companies implement (at minimum)	RJC auditors check for evidence that:
2019		
• New COP is released • Pilots start	• 1A (have a policy • 1B (assign responsibility)	• A policy is in place • Authority and responsibility has been assigned to a senior staff member(s) who will lead the development of relevant management systems.
2020		
• Pilots underway	• 1A (have a policy • 1B (assign responsibility) • 1C (transparency) • 1D (engage with suppliers • 2 (identify and assess risks) • 5 (reporting)	As above + • Preliminary supply chain mapping and identification of risks • Identification of suppliers is taking place and the policy is actively communicated to the most important suppliers • A report on the above elements is available upon request (eg, a communication of the supply chain policy, the management structure and individual responsible for due diligence, and initial outcome of engagement efforts with key suppliers.
2021		
• Pilots successfully conclude • Review of COP, Guidance, and tools. Any updates released	Full 5 step framework	See table 5 on application of the 5 step framework to the diamond supply chain

Table 4 Sources of information for identifying risks[12]

Risk issues	Components	Evidence /info for company risk assessment (*for upstream*)
Risk of providing **"direct or indirect support" to non-state armed groups** (e.g. rebel groups)	**"Direct or indirect support" includes** sourcing from, making payments to or providing assistance to non-state armed groups, public or private security forces, or their affiliates, who: • illegally control mine sites or otherwise control transportation routes, points where minerals are traded and upstream actors in the supply chain; and/or • illegally tax or extort money or minerals at points of access to mine sites, along transportation routes or at points where minerals are traded; and/or • illegally tax or extort intermediaries, export companies or international traders.	**Kimberley Process Certificates** provides evidence that no rebel forces have benefited from rough diamond extraction, i.e. no further checks and updated WDC SoW
Risk of providing **"direct or indirect support" to public or private security forces** (e.g. criminal networks within the police or army units or private mine security).		• Check credible reports such as the Reports of the UN Group of Experts for specific regions and sanctions regimes, for example on the DRC, Cote d'Ivoire. • Reach out to civil society networks operating or based on-the-ground in/around mine of origin, the trading centres and transport routes. • Check the status of any mine sites assessed, inspected or mapped through various government, industry or multi-stakeholder initiatives. • For LSM, check compliance with Voluntary Principles on Security and Human Rights in implementing countries • For high-risk sources, undertake on-the-ground assessments to verify or complement the above research. • Analyse RJC alerts.
Risk that that you are sourcing from or that you are linked to any party committing "**serious abuses**" associated with the extraction, transport or trade of minerals	**"Serious abuses" include:** • any forms of torture, cruel, inhumane and degrading treatment; • any forms of forced or compulsory labour; • other gross human rights violations and abuses such as widespread sexual violence; • war crimes or other serious violations of international humanitarian law, crimes against humanity or genocide	• Check credible reports such as those from international organizations like OHCHR, ILO, ICRC • Reach out to civil society networks operating or based on-the-ground (as above). • Check information on human rights abuses and support to armed groups in the reports of international and local NGOs • For high-risk sources, undertake on-the-ground assessments to verify or complement the above work. • Analyse RJC alerts
Risk of **inadequate, inaccurate and fraudulent traceability information**.	This may include inadequate application of chain of custody and/or traceability measures, irregularities in chain of custody and/or traceability information, or actual fraud in the chain of custody and/or traceability information	For high-risk sources, undertake on-the-ground assessments to verify or complement the desk research.

[12] Table modified from presentation by OECD

Risk issues	Components	Evidence /info for company risk assessment (*for upstream*)
Risk of **bribery**	This may include: • Bribery of public officials to obtain favourable tax treatment or other preferential treatment or access to confidential information. • Bribery of public officials to obtain customs clearance or fraudulent information on mineral origin • Facilitation payments to obtain export licenses or documentation • Bribery of public officials to obtain authorisations or permits. • Selling products to government agencies at an elevated price to provide public officials with a share of the profit. • Bribing public officials to ignore or avoid regulations or controls. • Providing gifts, meals and entertainment to those with whom the enterprise does business without adequate controls or records.	OECD Anti-Bribery country reviews, OECD Foreign Bribery Report UNCAC and UNODC materials International anti-corruption NGOs (e.g. Transparency International Corruption Index) For high-risk sources, undertake on-the-ground assessments to verify or complement the above research.
Risk of **money-laundering and terrorist financing**	'Know Your Coutnerparty' (KYC) information as gathered for COP provision 10. See FATF typologies reports	UN, EU or USA sanctions regime for residence companies Worldcheck / Bureau Van Dijck FATF non-cooperative jursidiction and country reports National Financial Intelligence Units International NGOs working on AML & illicit financial flows For high-risk sources, undertake on-the-ground assessments to verify or complement the above research.
Risk of **tax evasion**	See OECD Base Erosion & Profit-Shifting reports	Documents from national tax authorities Metal industry publications OECD tax and trade reports

Risk issues	Components	Evidence /info for company risk assessment (*for upstream*)
Risk of **money-laundering and terrorist financing**	See FATF typologies reports	UN, EU or USA sanctions regime for residence companies Worldcheck / Bureau Van Dijck FATF non-cooperative jursidiction and country reports National Financial Intelligence Units International NGOs working on AML & illicit financial flows For high-risk sources, undertake on-the-ground assessments to verify or complement the above research.
Risk of **tax evasion**	See OECD Base Erosion & Profit-Shifting reports	Documents from national tax authorities Metal industry publications OECD tax and trade reports

Table 5 Application of the 5-step framework to the diamond supply chain

OECD Step	Upstream		Midstream	Downstream	
	Rough diamonds		Polished diamonds		Diamond jewellery
	Production	Rough trade & export *Potential control point*	Cut/polish & trade *Potential control point*	Jewellery manufacturing	Jewellery retail
Step 1: Establish a company management system	•If sourcing from others, implement Step 1 A-E. •If not sourcing from others leave out: - 1C (with the exception of input/output inventories). - 1D.	•Implement Step 1 A-E. •Establish identity of suppliers. •Ask them about their due diligence. • Seek aggregated information on source of diamonds (company or area).	•Implement Step 1 A-E. •Establish identity of suppliers •Ask about the due diligence of your suppliers. • Compile aggregated information on source.	Same steps as for cut/ polish and trade (see left box)	Same steps as for jewellery manufacturing (see left box)
Step 2: Identify and assess risk in the supply chain	•Identify red flags in your own operations or from outside sources. If red flags: •Map factual circumstances of red flag locations. •Assess risk (based on presence of adverse impacts).	•Identify red flags in supply chain from supplier info as well as other data sources.[13] If red flags: •Map factual circumstances of red flag locations. •Assess risk in the supply chain (based on presence of adverse impacts).	•Review evidence of due diligence by suppliers and (if applicable) upstream control points. •Identify red flags in supply chain from that info as well as other data sources. If red flags: •Use the info to assess risk in the supply chain (based on presence of adverse impacts).	Same steps as for cut/ polish and trade (see left box)	Same steps as for jewellery manufacturing (see left box)
Step 3: Design and implement a strategy to respond to identified risks ***These actions are only for red-flagged portions of your supply chain.***	•Share findings of risk assessment with senior management. •If sourcing from others: enhance engagement with sources. •Devise, adopt and monitor risk management plan.	• Identity **<u>all</u>** suppliers from the mining to the point of export in red-flagged supply chain. • Seek KYC information on all these suppliers as well as info on payment of taxes, any government compensation and payments to security. •Share findings of risk assessment with senior management. •Enhance engagement with suppliers. •Devise, adopt and monitor risk management plan.	• Seek available audit reports covering the sourcing practices of suppliers or (if applicable) upstream control points. •Share findings of risk assessment with senior management. •Enhance engagement with suppliers.	Same steps as for cut/ polish and trade (see left box)	Same steps as for jewellery manufacturing (see left box)
Step 4: 3rd-party audit	Accredited RJC auditor carry out independent 3rd party audit of due diligence				
Step 5: Report annually	• Reporting done on basis of GRI Sustainability Reporting Standards.	Report annually on implementation of OECD 5-Step framework.			

[13] See table on 'Sources of information for identifying risks' in Annexe

Example policy on diamonds from conflict-affected areas

The following draft is based on OECD Guidance Annex II and can be modified or adapted to suit individual businesses.

1. [*COMPANY NAME*] is a [*BRIEF DESCRIPTION OF THE COMPANY*]. This policy confirms [*COMPANY NAME*]'s commitment to respect human rights, avoid contributing to the finance of conflict and comply with all relevant UN sanctions, resolutions and laws.

2. [*COMPANY NAME*] is a certified member of the Responsible Jewellery Council (RJC). As such, we commit to proving, through independent third-party verification, that we:
   a. respect human rights according to the Universal Declaration of Human Rights and International Labour Organization Fundamental Rights at Work;
   b. do not engage in or tolerate bribery, corruption, money laundering or finance of terrorism;
   c. support transparency of government payments and rights-compatible security forces in the extractives industry;
   d. do not provide direct or indirect support to illegal armed groups; and
   e. enable stakeholders to voice concerns about the jewellery supply chain.

3. We also commit to using our influence to prevent abuses by others. [*Here you can choose to include a brief description of how you will consider and address the risks of non-compliance by your suppliers through your supply chain policy. Also consider including information about your complaints mechanism for interested parties to voice concerns about materials from conflict-affected areas. You can use the OECD Due Diligence Guidance Model Policy as a reference in developing your policy]*

4. **Regarding serious abuses associated with the extraction, transport or trade of diamonds**

We will neither tolerate nor profit from, contribute to, assist or facilitate the commission of:
   a. torture, cruel, inhuman and degrading treatment;
   b. forced or compulsory labour;
   c. the worst forms of child labour;
   d. human rights violations and abuses; and
   e. war crimes, violations of international humanitarian law, crimes against humanity or genocide.

5. We will immediately stop engaging with upstream suppliers if we find a reasonable risk that they are committing abuses described in paragraph 4 or are sourcing from, or linked to, any party committing these abuses.

6. **Regarding direct or indirect support to non-state armed groups**
   We only sell or purchase diamonds that are in full compliance with the Kimberley Process Certification Scheme and, as such, will not tolerate direct or indirect support to non-state armed groups, including, but not limited to, procuring diamonds from, making payments to, or otherwise helping or equipping non-state armed groups or their affiliates who illegally:
   a. control mine sites, transportation routes, points where diamonds are traded and upstream actors in the supply chain; and
   b. tax or extort money or diamonds at mine sites, along transportation routes or at points where diamonds are traded, or from intermediaries, export companies or international traders.

7. We will immediately stop engaging with upstream suppliers if we find a reasonable risk that they are sourcing from, or are linked to, any party providing direct or indirect support to non-state armed groups as described in paragraph 6.

8. **Regarding public or private security forces**
We affirm that the role of public or private security forces is to provide security to workers, facilities, equipment and property in accordance with the rule of law, including law that guarantees human rights. We will not provide direct or indirect support to public or private security forces that commit abuses described in paragraph 4 or that act illegally as described in paragraph 6.

9. **Regarding bribery and fraudulent misrepresentation of the origin of diamonds**
We will not offer, promise, give or demand bribes, and will resist the solicitation of bribes, to conceal or disguise the origin of diamonds, or to misrepresent taxes, fees and royalties paid to governments for the purposes of extraction, trade, handling, transport and export of diamonds.

10. **Regarding money laundering**
We will support and contribute to efforts to eliminate money laundering where we identify a reasonable risk resulting from, or connected to, the extraction, trade, handling, transport or export of diamonds.

11. **Regarding the payment of taxes, fees and royalties due to governments:**
We will ensure that all taxes, fees and royalties related to mineral extraction, trade and export from conflict-affected and high-risk areas are paid to governments and, in accordance with the company's position in the supply chain, we commit to disclose such payments in accordance with the principles set forth under the Extractive Industry Transparency Initiative (EITI) when operating in EITI implementing countries.

Signed/endorsed: Date of effect:

Definitions

Term	Proposed Definition
Adverse Impact	Adverse impacts can be any of those outlined in the International Bill of Human Rights and the International Labour Organization's Declaration on Fundamental Principles and Rights at Work. In the context of mineral supply chains, this includes any one or more of the following impacts: • Serious abuses associated with the extraction, transport or trade of minerals • Direct or indirect support to non-state armed groups • Direct or indirect support to public or private security forces (engaged in illegal activities) • Bribery and fraudulent misrepresentation of the origin of minerals • Money laundering • Non-payment of taxes, fees and royalties due to governments [Reference: OECD Due Diligence Guidance]
Conflict	Armed aggression, widespread violence, and/or widespread human rights abuses
Conflict-Affected and High Risk Area (CAHRA)	Areas identified by the presence of conflict or other risks of harm to people. Armed aggression may take a variety of forms, such as a conflict of international or non-international character, which may involve two or more states, or may consist of wars of liberation, or insurgencies, civil wars, etc. High risk areas may include areas of political instability or repression, institutional weakness, insecurity, collapse of civil infrastructure and widespread violence. Such areas are often characterised by widespread human rights abuses and violations of national or international law. [Reference: OECD Due Diligence Guidance]. These areas may be a region, a country, an area within a country, or an area that crosses one or more country boundaries. Operations are not necessarily complicit in conflict or high risks if they are located in these areas. Under Section 1502 of the United States' Dodd-Frank Wall Street Reform and Consumer Protection Act, the DRC and adjoining countries are deemed a conflict-affected area.
Conflict-Affected and High Risk Area (CAHRA)	Areas identified by the presence of conflict or other risks of harm to people. Armed aggression may take a variety of forms, such as a conflict of international or non-international character, which may involve two or more states, or may consist of wars of liberation, or insurgencies, civil wars, etc. High risk areas may include areas of political instability or repression, institutional weakness, insecurity, collapse of civil infrastructure and widespread violence. Such areas are often characterised by widespread human rights abuses and violations of national or international law. [Reference: OECD Due Diligence Guidance]. These areas may be a region, a country, an area within a country, or an area that crosses one or more country boundaries. Operations are not necessarily complicit in conflict or high risks if they are located in these areas. Under Section 1502 of the United States' Dodd-Frank Wall Street Reform and Consumer Protection Act a narrow definition of conflict-affected area is used for gold, tungsten tin and tantalum and covers the DRC and adjoining countries.
Conflict Diamond	Rough diamond used by rebel movements or their allies to finance conflict aimed at undermining legitimate governments, as described in relevant United Nations Security Council (UNSC) resolutions insofar as they remain in effect or in other similar UNSC resolutions which may be adopted in the future, and as understood as recognised in United Nations General Assembly (UNGA) Resolution 55/56, or in other similar UNGA resolutions which may be adopted in future. [Source: Kimberley Process Certification Scheme]
Conflict-Sensitive	Consideration of the spectrum of issues that may have, or may in the future, cause and trigger conflict. [Reference: International Alert, Conflict-Sensitive Business Practice: Guidance for Extractive Industries]. Conflict-sensitive sourcing encompasses strong management systems, including policies, risk assessment and mitigation, and complaints mechanisms.

Term	Proposed Definition
Risk	Defined in relation to the potentially adverse impacts of a company's operations, which result from a company's own activities or its relationships with third parties, including suppliers and other entities in the supply chain.
Red flags	Locations, suppliers, or circumstances that are triggers for enhanced due diligence as defined in table 2.

Updated COP review timeline – September 2018

Round 1: Review of scope - COMPLETE

- Undertake gap analysis and stakeholder mapping
- Round 1 public comment on scope of review (min 60 days, 10 July – 8 Sept 2017): Public Summary
- Publish summary of comments received: Comment report
- Facilitate dialogue on input received with Standards Committee
- Research and draft proposed changes to COP

Round 2: Proposed changes to standard - COMPLETE

- Round 2 public comment on proposed changes to COP and key guidance (min 60 days, 16 April - 1 July 2018): Proposed changes
- Workshops and consultation from 20 March - 16 July 2018
- Publish summary of comments received: Comment report
- Facilitate dialogue on input received with Standards Committee (24 July). Decision on whether to do Round 3.
- Update COP review timeline (if needed)
- Research and revise proposed changes

Round 3 (optional): Revise changes to standard

- Round 3 public comment on revised changes for outstanding issues (min 30 days, 28 Sept - 28 Oct)
- Publish summary of comments received
- Facilitate dialogue on input received with Standards Committee

Approvals and finalisation

- Standards Committee recommends approval of the revised COP (c18 Jan 2019)
- RJC Executive Committee accepts recommendation or sends back to Committee for further review (*c*31 Jan 2018)
- Board of Directors accepts recommendation or sends back to Committee for further review (*c* 15 Feb 2018)
- Edititorial and legal review
- Publish revised COP (8 March 2019)
- Certification starts (1 May 2019)