March 2, 2011

Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission (SEC)
100 F Street, NE
Washington, DC 20549-1090

RE: Comments Regarding File Number S7-40-10 on Conflict Minerals Disclosure

Dear Ms. Murphy,

We are writing on behalf of various communities of investors. Included in the signatories of this letter are members of the Social Investment Forum (SIF), the U.S. membership association of investors and professionals engaged in the practice of socially responsible and sustainable investing or "SRI", and the Interfaith Center on Corporate Responsibility (ICCR), a membership association of 275 faith- based institutional investors, including national denominations, religious communities, pension funds, foundations, hospital corporations, asset management companies, colleges, and unions. As SIF's recent Report on *Socially Responsible Investing Trends in the United States* points out, SRI assets in the United States topped $3 trillion at the end of 2009, representing one in every nine dollars under professional management in the United States and up 34 percent since 2005, during a period when all U.S. assets under professional management only increased 3 percent.[1] As such, we represent a key and growing constituency for the SEC.

In addition to responses to several of the questions posed by SEC staff in the draft rule on Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act on Conflict Minerals (File Number S7-40-10), we would like to underscore three broader points. First, conflict minerals disclosures are material to investors and will inform and improve an investor's ability to assess social (i.e., human rights) and reputational risks in an issuer's supply chain. Electronic manufacturers were the first exposed to the reputational risks associated with sourcing from the Democratic Republic of the Congo (DRC). As such, these companies were the first to address the demand for greater transparency and traceability in the sourcing of conflict minerals. The Extractives Work Group, a subcommittee of the Electronics Industry Citizenship Coalition (EICC) and Global e-Sustainability Initiative (GeSI)—two industry associations made up of electronic, communications and industrial manufacturers)—is in the process of completing a full smelter audit of tantalum ore processed from the conflict mineral columbite-tantalite and expects to release the results at the close of the first quarter of 2011. Information on the Extractives Work Group can be found at http://www.eicc.info/extractives.htm. We hope more companies will follow the lead of EICC and GeSI and give investors further insight into how management decisions are potentially aiding the direct or indirect flow of funds to armed groups in the DRC.

Next, this rulemaking process offers the unique opportunity to make conflict mineral related disclosures consistent and accessible to all investors, thereby improving efficiency in U.S. markets in allocating capital to issuers with the best overall prospects for long-term shareholder value.

[1] See http://www.socialinvest.org/news/releases/pressrelease.cfm?id=168.

Finally, during the SEC open meeting on December 15, 2010, Chairman Schapiro and SEC staff noted the lack of expertise within the SEC to grapple with these conflict minerals and other sustainability-related disclosures required by the Dodd-Frank Act and thanked organizations for offering comments and guidance on implementation. We feel that once the SEC is adequately funded, it should immediately investigate staffing an Office on Sustainability Issues. We believe this will establish the internal expertise necessary for future rulemaking in this area and aid in the enforcement on the conflict minerals and other specialized disclosures recently issued.

Below are direct responses to the questions posed by SEC staff with question numbers corresponding to the requests for comment in the SEC proposed rule on conflict minerals disclosures. This letter is meant to supplement the investor letter submitted by Lauren Compere of Boston Common Asset Management and signed by over 50 investors representing over $230 billion in assets under management on November 16, 2010 (http://sec.gov/comments/df-title-xv/specialized-disclosures/specializeddisclosures-54.htm); a submission by the Social Investment Forum dated November 18, 2010 (http://sec.gov/comments/df-title-xv/specialized-disclosures/specializeddisclosures-59.pdf); and input given during a meeting with the Division of Corporate Finance staff including Felicia Kung, Lillian Brown, Steven Hearne, and John Fieldsend on November 17, 2010 (http://sec.gov/comments/df-title-xv/specialized-disclosures/specializeddisclosures-75.pdf).

Responses to requests for comment:

1. Investors believe reporting standards should maintain consistency with the statutory language and apply disclosure rules equally to all conflict minerals. Gold for example, is a high-value contributor to conflict financing in the DRC. To provide special conditions or exemptions for gold or any other mineral weakens the intent of the disclosure rules. Greater transparency in the gold supply chain is critical to an investor's ability to evaluate company sourcing practices in the DRC and adjoining regions.

2,4,8. All issuers including foreign private issuers that file reports under Sections 13(a) and 15(d) of the Securities Exchange Act of 1934 ("Exchange Act") should be required to file a "Conflict Minerals Disclosure" report as part of its annual report if it meets the requirement of "person described" in 2(B). As proposed, wholly-owned subsidiaries and asset-backed issuers should not be omitted under the definition. We also recommend that entities with Over-The-Counter American Depository Receipts (OTC ADRs) that file an annual report with the SEC using the form Annual Report to Security Holders (ARSs) or any other annual report pursuant to Section 12g3-2(b) of the Exchange Act also be required to file a "Conflict Minerals Disclosure" report.

5. We do not believe smaller issuers should be exempt from the disclosure rules. The rules will be credible only if all companies filing reports under Sections 13(a) and 15(d) are included in the definition. As investors in both large and small cap companies that have exposure to these minerals, it is critical for us to be able to properly assess consistent conflict minerals disclosures from all of our holdings, regardless of size. Congressional action directed at stemming the flow of funds to armed groups in the DRC and adjoining countries had been initiated well ahead of the passage of Section 1502, thereby affording companies the time to begin inquiries into the country of origin of conflict minerals necessary to the functionality of their products. Companies beginning an inquiry process can look to industry-wide smelter verification processes or other industry initiatives to minimize costs.

9. We believe the proposed rules should define the term "manufacture" to limit subjective interpretation and ambiguity. "Manufactured" should be defined as the "production, preparation,

assembling, combination, compounding, or processing of ingredients, materials, and/or processes such that the final product has a name, character, and use, distinct from the original ingredients, materials, and/or processes." This should specifically include the mining (all types, including initial ore extraction and production of concentrate), processing, refining, alloying, fabricating, importing, exporting, or sale of conflict minerals because sales supporting conflict could occur at various parts of the metals supply chain.

10. The rules should, as proposed, apply to both issuers that manufacture and issuers that contract to manufacture products in which conflict minerals are necessary to the functionality or production of those products.

12. The conflict minerals rules should apply to issuers who sell generic products under their own labels or labels that they establish to be contracting the manufacture of those products, as long as those issuers have contracted with other parties to have the products manufactured specifically for them.

13. Reporting issuers that are mining companies should be considered as "persons described" under Section 1502. The extraction of conflict minerals from a mine constitutes "manufacturing" or "contracting to manufacture" a "product." Further, we support the definition of "manufacture" from the United States Controlled Substances Act, which defines "manufacture" as the production, preparation, propagation, compounding, or processing of a drug or other substance, either directly or indirectly or by extraction from substances of natural origin[2].

14. Investors will benefit from less ambiguity. Therefore we believe no distinctions should be made between an issuer who solely produces minerals from a mining reserve, and an issuer that produces, concentrates and refines conflict minerals. Both types of mining issuers should be subject to the disclosure requirements under the proposed rules.

16. The rules should define the phrase "necessary to the functionality or production of a product." Absent a definition in the rules, issuers will be uncertain in important aspects as to the scope of their reporting obligations. Investors will find it difficult to compare the reports of issuers that may use differing definitions. We support the definition of necessary as suggested in the "Multi-Stakeholder Group Letter" submitted by Patricia Jurewicz on November 18, 2010:

> A conflict mineral is considered necessary when:
>
> a. The conflict mineral is intentionally added to the product; or
> b. The conflict mineral is used by the Person for the production of a product and such mineral is purchased in mineral form by the Person and used by the Person in the production of the final product but does not appear in the final product; and
> c. The conflict mineral is essential to the product's use or purpose; or
> d. The conflict mineral is required for the marketability of the product

19. We agree a conflict mineral should be considered necessary when "[t]he conflict mineral is intentionally added to the product; or [t]he conflict mineral is used by the [issuer] for the production of a product and such mineral is purchased in mineral form by the [issuer]and used by the [issuer]in the

[2] 21 U.S.C.A. 802(15), the United States Controlled Substances Act.

production of the final product; and[t]he conflict mineral is essential to the product's use or purpose; or[t]he conflict mineral is required for the marketability of the product."[3]

20. When conflict minerals are present in tooling and production machinery used to produce a product, they should not be considered to be 'necessary to production' of the product. Tooling and production machinery often have long useful lives. Therefore the conflict minerals in the tooling or production machinery was in most cases mined many years ago prior to the development of any process to identify their origin. Identifying minerals contained in the tooling and production machinery as 'necessary' to production of an issuer's product would result in large categories of products being designated to contain minerals of unknown origin for many years. This would dilute the usefulness of conflict minerals report to investors without advancing the objectives of the statute.

23. As proposed, there should be a brief conflict minerals disclosure in the body of the annual report, which would provide an easily accessible location for gathering this material information.

24. In recognition of the materiality of the data, all required information as outlined in the proposed rule should be ***filed*** in the body of the annual report rather than furnished as an exhibit.

25, 26, 27 and 30. A separate captioned section offers investors access to conflict minerals disclosure filed in the body of the annual report. This captioned section should include all information as proposed.

Additionally, we note in the proposed rules that issuers who have determined conflict minerals in their products did not originate in the DRC or adjoining countries must file a description of the reasonable country of origin inquiry it undertook to make its determination. We concur with this proposed language and also encourage the SEC to require issuers who source conflict minerals from DRC countries, or cannot determine if they source conflict minerals from DRC countries, to file this information in the Conflict Minerals separately captioned section of the annual report.

Issuers that have determined that their conflict minerals did not originate in DRC countries should be required to file the countries of origin for their conflict minerals. The essence of the conflict minerals provision is to provide for full disclosure of the steps taken by issuers to avoid practices that contribute to financing the conflict in the DRC. In turn, these disclosures will be evaluated by investors that wish to make investment decisions based on the degree of care taken by the issuer to avoid contributing indirectly to the conflict. The rule should make clear that such reporting must be sufficiently detailed to provide investors an understanding of the steps an issuer has taken to determine whether the minerals in their supply chain are sourced from the DRC or adjoining countries. Further, investors would be able to analyze the various countries issuers claim that their conflict minerals have originated from. This information could be compared to country reports regarding their production of conflict minerals to determine whether issuers were accurately gathering country of origin information.

We understand there may be several reasonable approaches for country of origin inquiries and due diligence processes dependent on the circumstances of the registrant with such inquiries and processes improving year over year. The ability for investors to determine whether a company's particular inquiry and due diligence approach is improving depends on an investor's access to a series of filed reports. Therefore, we request that the SEC require issuers who source conflict minerals from the DRC or adjoining countries, or cannot determine if they source conflict minerals originating from the DRC or

[3] http://sec.gov/comments/df-title-xv/specialized-disclosures/specializeddisclosures-67.pdf.

adjoining countries, to *file* a description of their reasonable country of origin inquiry and detail what steps they took to exercise due diligence on the source and chain of custody of the conflict minerals in the conflict minerals disclosure section of the annual report. This information can also be provided as part of the "Conflict Minerals Report".

28. The final rule should require an issuer to maintain reviewable business records if it determines that its conflict minerals did not originate in DRC countries. This would be useful for investors if instances arose where there was evidence (even years later) that contradicted a company's claim that its conflict minerals did not originate in the DRC. Moreover, the rule should require that those business records be maintained for five years consistent with the recommendations of recordkeeping from the *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*.[4]

29. We prefer the disclosure in an issuer's annual report to be provided in an interactive format, such as XBRL, to facilitate analysis of the data.

31. An issuer should be required to post its audit report on its Internet website, as proposed.

32. An issuer should be required to keep posted its Conflict Minerals Report and audit reports on its Internet website for five years. This will give investors easy access to this important information and will allow investors to understand and evaluate whether the issuer is making progress in improving its due diligence processes.

33. The "reasonable country of origin inquiry standard" is appropriate. To be considered reasonable, the inquiry must include processes that allow an issuer to make a determination of the country of origin for the conflict minerals in its products. This is particularly important because failing to undertake a thorough inquiry to determine an issuer's country of origin could cause issuers not to file a conflict minerals report, when indeed they should, thereby thwarting the intent of the law to create a transparent supply chain for conflict minerals sourced from the DRC and adjoining countries.

For example, it is widely recognized that the processing facility (smelter) is the key choke point in the minerals supply chain. As such, companies could review information, from its processing facilities, such as purchasing documentation and bills of lading that will allow them to determine the country of origin for the minerals in their products.

Additionally, reasonable country of origin inquiry could include instances where issuers rely on an industry wide process that deems smelters "conflict free" provided this industry-wide process is comparable to the *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.* Such standards and transparency requirements should be described in its annual disclosure or conflict minerals report as applicable. In this instance, reasonable country of origin inquiry would be the disclosure of the smelters for the conflict minerals in its products, in an issuer's annual disclosure or conflict minerals reports. Therefore investors and other interested stakeholders would be able to compare the smelter to a list of approved conflict free smelters from an industry-wide process or smelters identified by the Department of Commerce as sourcing conflict minerals from the DRC or adjoining countries.

[4] OECD, Due Diligence Guidance, page 24, 2010.

As processing facilities are deemed conflict free based on OECD (or comparable) due diligence guidance, issuers can contractually obligate their suppliers to source from processing facilities deemed conflict free. In this instance, an issuer should include in its disclosure to the SEC the processing facilities it has driven its suppliers to and a description of the steps it has taken to ensure compliance, such as spot checks or supply chain audits. If a processing facility is deemed conflict free and the processing facility sources from the DRC or adjoining countries, issuers should be required to disclose, in addition to the processing facility, the country of origin and mine of origin with greatest specificity for the minerals in its products, and a detailed summary of the audit report (described in our response to Question 50). Therefore, investors and other stakeholders can assess how the determination was made that the conflict minerals sourced from the DRC or adjoining countries did not directly or indirectly finance or benefit armed groups in the DRC countries.

34. We do not think it would be appropriate to permit an issuer to make no inquiry attempt, as this would provide a loophole for issuers to circumvent the intent behind the Conflict Minerals Provision.

35. Issuers should be able to rely on reasonable representation from their suppliers. As referenced in the "Multi-Stakeholder letter" submitted by Patricia Jurewicz on November 18, 2010:

"A supplier declaration approach is preferable in place of a product-based or materials declarations approach. The supplier declaration approach would consist of having direct and component suppliers and others in the supply chain take reasonable means to assure that all the tin, tantalum, tungsten, and/or gold in their materials/products are sourced from a compliant smelter."

"Compliant smelter" is one that has a process in place that allows an independent third party auditor to: 1) verify the origin of its input streams (i.e. including but not limited to raw materials recycled material, k-salts, tin slag etc.); 2) verify whether any of its input streams directly or indirectly financed or benefited armed groups in the DRC; 3) discloses the due diligence processes it uses in conformance to the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.

36. The essence of the statute is to provide for the disclosure of efforts by issuers to identify and eliminate from their products, minerals from conflict mines. Issuers' disclosures under the regulations should be sufficiently complete to allow investors to clearly understand the basis on which the issuer has determined the origin of conflict minerals, regardless of how the declaration is characterized. If they state that no conflict minerals originated in the DRC or adjoining countries, the due diligence process has to clearly define and demonstrate what led them to this statement.

37. As the proposed rules acknowledge, the effectiveness of efforts to determine country of origin will evolve over time as issuers and groups of issuers continue to work with governments and NGO's to develop infrastructure to trace origin of metal from mine to smelter, and as issuers improve the robustness of programs for tracing minerals from smelter to product. During the initial period after the rules are finalized, we expect that some reportable conflict minerals will be of unknown origin. In such case, issuers should provide disclosures in the Conflict Minerals Report describing the conflict minerals of unknown origin and any progress made in the reporting year toward determination of origin.

To avoid confusion, the rule should make clear that issuers are not required by anything in the statute or the rule to physically label their products in any way with regard to the presence or absence of conflict minerals.

However, if companies wish to label their products, we request that the Commission expressly reserve the use of a "DRC conflict free" label as an advertising claim for sourcing within the DRC region to provide incentive for those companies that conduct the extra effort to source conflict free and reward those that encourage legitimate minerals trade that does not directly or indirectly finance or benefit armed groups in the DRC or an adjoining country. We also request that any such claims or labels are subject to Federal Trade Commission (FTC) regulations and guidance in regards to substantiation and to guard against deceptive claims that a product is "DRC conflict free" under Section 5 of the Federal Trade Commission Act (FTCA).

The language of this provision, on its face, appears to permit a company to label a product "DRC conflict free" if the product contains conflict minerals sourced only from areas outside of the DRC or its adjoining countries. Companies that currently source conflict minerals from outside of the DRC region would have no incentive to begin sourcing responsibly from the DRC region, since presumably they could benefit from use of the "DRC conflict free" label even without changing their sourcing patterns or behavior. Allowing companies to use the "DRC conflict free" label in these circumstances might reduce benefits in the DRC, since companies could reap the benefits of the "DRC conflict free" label while completely avoiding the region.

We believe that for companies to label products as "DRC conflict free," more substantiation is required beyond the due diligence contemplated by the Act. Those companies wishing to use a "DRC conflict free" label should include in their reporting to the SEC information on the actual mine of origin and transport routes of their source minerals, along with any other information that is part of the basis of their claim that the minerals did not directly or indirectly finance or benefit armed groups in the DRC or an adjoining country. This information should be made available to the public in the same way that issuers make public other information related their use of conflict minerals (through the SEC and on the company's website). A claim such as 'DRC free' should be reserved for companies who can substantiate they source conflict minerals from countries outside of the DRC and adjoining countries.

Labeling a product as "DRC conflict free" is an advertising claim subject to FTC regulations and guidance pursuant to Section 5 of the FTCA.[5] Although the Dodd-Frank Act refers permissively to the ability of companies to apply a DRC conflict free label, there is nothing in that statute to suggest that Congress intended to modify the basic requirements of the FTCA for such claims. Like all advertising claims, those declaring a product is "DRC conflict free" must be properly qualified and substantiated and must not be misleading or deceptive.

Investors accordingly request that the Commission (1) clarify in its rule that products may not be labeled "DRC conflict free" if the minerals were sourced from outside of the DRC or adjoining countries, (2) reserve "DRC conflict free" labels for companies sourcing from the region, (3) recognize that the FTC has enforcement jurisdiction over DRC conflict free labeling claims, and (4) make substantiation a requirement if products are labeled "DRC conflict free".

39. We support the alternative rule as proposed for this question. Country of origin should be disclosed for all conflict minerals that originate in the DRC countries. Conflict minerals that do not originate in the DRC countries should be subject to the reporting required under the reasonable country of origin inquiry process (see response to Question 33). All conflict minerals identified as originating in the DRC countries

[5] 15 U.S.C. § 41.

should also disclose information to identify mine or location of origin of ores with greatest specificity, country of origin and facilities. When possible, issuer should directly correlate disclosed locations with the map of the region maintained by the U.S. government.

50. The rule should provide guidance to issuers of steps that presumptively would constitute a reliable due diligence process. We recommend the types of information delineated below are disclosed to the SEC. Please note that the elements listed below vary slightly from the original elements recommended in the November 16th investor letter[6] so they align with the recently approved OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (OECD Guidance, Annex I, p. 10).

Whether independently or through an industry wide process, a due diligence process for minerals sourced in the DRC and/or adjoining countries containing the following elements and demonstrating good faith and a reasonable standard of care, should be presumed to be reliable if the issuer's disclosure includes:

a. A conflict minerals policy;
b. A supply chain risk assessment procedure that includes "upstream" and "downstream" due diligence, which includes a description of efforts made and the result of efforts to obtain information outlined in [its upstream and downstream due diligence process] (which includes everything (in points a and b) below);
c. A description of the policies and procedures to remediate instances of non-conformance with the policy;
d. An independent third party audit of the Person's due diligence report, which includes a review of the management systems and processes; and
e. The results of the independent 3rd party smelter audit detailing items (b)i-x [see below]; or the inclusion of a link to the published smelter audit reports made available via the Person's website or publicly available website detailing items (b)i–x [see below]; with due regard taken of [designated] business confidentiality and other competitiveness concerns. [7]

Per the "Reporting" section of the investor letter submitted on November 16th, 2010[8], when it is determined that tin, tungsten, tantalum and/or gold mineral ore originates in the DRC and/or adjoining countries, the third party audit, made available via a publicly available website and which issuers must disclose in their conflict minerals report, should additionally include:

a. Smelter auditing protocol performed by an independent 3rd party.
b. When it is determined that incoming minerals originate from DRC or neighboring countries, the 3rd party audit in (a) would additionally include the following information (which is aligned with the OECD Guidance, p. 22, 26 & 37):

   i. an on-the-ground risk assessment that addresses the points outlined in the OECD's Guidance Step 2 and Appendix;
   ii. all taxes, fees or royalties paid to government for the purposes of extraction, trade, transport and export of minerals;

[6] See: http://sec.gov/comments/df-title-xv/specialized-disclosures/specializeddisclosures-54.htm
[7] Business confidentiality and other competitive concerns means price information and supplier relationships subject to evolving interpretation.
[8] See: http://sec.gov/comments/df-title-xv/specialized-disclosures/specializeddisclosures-54.htm

iii. any other payments made to governmental officials for the purposes of extraction, trade, transport and export of minerals;
iv. all taxes and any other payments made to public or private security forces or other armed groups at all points in the supply chain from extraction onwards;
v. the ownership (including beneficial ownership) and corporate structure of the exporter, including the names of corporate officers and directors; the business, government, political or military affiliations of the company and officers.
vi. the mine of mineral origin;
vii. quantity, dates and method of extraction (artisanal and small-scale or large-scale mining);
viii. locations where minerals are consolidated, traded, processed or upgraded;
ix. the identification of all upstream intermediaries, consolidators or other actors in the upstream supply chain;
x. transportation routes.

51. We do not believe there should be different due diligence measures prescribed for gold.

54. We recommend the rules make reference to specific due diligence standards that are aligned with international initiatives such as the OECD Guidance. They should be, as described above, in the context of describing steps that would give rise to a presumption that the due diligence process was reliable.

61. Gold stockpiles (e.g., bars and coins) existing outside of DRC and adjoining countries before July 15, 2010, should be considered "DRC conflict free" after due diligence as part of the Conflict Minerals Report. This will help to avoid the risk of encouraging new gold mining rather than use of existing gold stocks should those stockpiles, where already outside of DRC countries, be pre-existing.

62. The rules should not allow a *de minimis* threshold, since the conflict mineral content in products is for intentional use only and that content can represent significant value to conflict groups even if it is a small portion of a product.

63. Recycled metal that is reclaimed from end-user or post-consumer products or scrap metals should be exempt from this rule where the issuer has a reliable process for determining the metals are from recycled sources. The proposed rule acknowledges that issuers purchasing conflict minerals from recycled or scrap sources would not implicate the concerns of the provision.[9] This is consistent with the OECD Guidance, which says, "Metals reasonably assumed to be recycled are excluded from the scope of this Guidance".[10] The final rule should adopt the provision of the proposal that recycled and scrap material may be designated as DRC Conflict Free. As the SEC notes, issuers could misbrand their products as recycled, therefore we agree with the SEC's proposal that issuers claiming that their products are recycled exercise due diligence to ascertain how that determination was made and disclose in a Conflict Minerals Report which is subject to an independent audit.

64. The rule should require that issuers with recycled or scrapped conflict minerals undertake reasonable inquiry and due diligence to determine that conflict minerals were derived from recycled or scrap material. This should include reasonable processes to verify claims that the metals were acquired from recycled or scrap material. It is acceptable for recycled conflict minerals to be described, through a Conflict Minerals Report, as DRC conflict free, but the Commission must precisely define "recycled" and

[9] Securities and Exchange Commission, Conflict Minerals proposed rule, page 63 and footnote 157.
[10] OECD Due Diligence Guidance, page 6, footnote 2.

require thorough due diligence and audits of statements of provenance for recycled content determinations. This is of critical importance because definitions of "recycled" vary, and irresponsible elements of the supply chain could falsely claim for example that newly mined gold is actually recycled (as described further in our response to Question 65).

65. See response to Question 63. We believe the Commission should adopt the following definition of recycled to be included in the final rule:

> Recycled metals are reclaimed end-user or post-consumer products, or scrap processed metals created during product manufacturing. Recycled metal includes excess, obsolete, defective, and scrap metal materials which contain refined or processed metals that are appropriate to recycle in the production of tin, tantalum, and/or tungsten. Minerals partially processed, unprocessed or a bi-product from another ore are not recycled metals.

Given the intricacies and additional uses of gold, we support a specific definition of recycled gold from the non-profit organization, Earthworks: For gold, this should be defined as gold that is independently verified with statements of provenance to contain 100% gold from post-consumer products, such as post-consumer jewelry, electronics, or dental gold. The definition of post-consumer recycled gold must exclude scrap from jewelry (bench waste, etc.) and other manufacturing, and any jewelry or other product not previously individually owned ("unwanted" jewelry). This is necessary because there are cases elsewhere of companies turning newly-mined gold into apparent manufacturing scrap (to avoid taxes), and in other cases operations have made and subsequently "recycled" rough jewelry to gain a government pre-export manufacturing incentive. Gold coins and bars, or financial gold, should not be included in the definition as they do not represent a consumer product and resemble newly-mined gold. Bars and coins must be considered separate from recycled gold, in part also because companies or individuals could launder DRC conflict gold by making uncertified claims that gold bars are recycled when they may be newly mined gold bars, or an un-quantified mix of recycled and newly mined gold.

Thank you for the opportunity to comment on this important rulemaking process. We are available to meet in person or on the phone to clarify any questions you might have. Please contact Aditi Mohapatra at aditi.mohapatra@calvert.com or (301) 961- 4715.

Sincerely,

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