

Conflict Minerals Reports
5 Tips for Forward Looking Statements

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SEC filings for Dodd-Frank Conflict Minerals (DFCM) include a Form SD, and, for most of the affected public issuers, a Conflict Minerals Report (CMR). The SEC filings were first required for the 2013 reporting year. Many companies' programs matured in 2014, and continued fine-tuning in 2015. Still, most companies are not able to conclude their products are "DRC Conflict Free" – or, based on status of litigation, may choose not to do so.

Many companies include a section in their CMRs such as "Future Steps to Mitigate Risks" or "Future Program Improvements." Many stakeholders expect these forward-looking statements as indications of how the filer will achieve conflict-free status. Here are five tips that can help avoid putting your company at risk.

1. **What did you say last year?** Last year's forward-looking statements are a logical start. What did you complete, and what still needs attention? The author encourages filers to include progress on these steps in the appropriate section(s) of the CMR or Form SD. For example, if you indicated you would "engage with suppliers to improve response rate," did you? Are you reporting on it in this year's filings? If you have completed an action, it is no longer needed as a forward-looking statement. If you have not completed an action ["continue working with industry groups"], it may be useful again for the next filing. If all the forward-looking statements are identical, it can suggest lack of progress or commitment.
2. **Align forward-looking statements with your customers' signals.** Your progress on conflict minerals depends upon your suppliers. So does your customer's progress. Review the prior year's filings of your five largest customers. Review customer requests received since then. Align your forward-looking statements with what your customers expect.
3. **Don't over-promise – or coast.** Stakeholders may review your CMR to see if you took actions or accomplished goals as promised. If you set the bar too high, you may need to explain why you didn't achieve goals. If you set the bar too low, it can appear that you are not taking conflict minerals program seriously. Be realistic on your promises.





4. **Use forward-looking statements as an opportunity to get resources.** When you present your CMR to senior management for signature, call their attention to the forward-looking statements. Focus on forward-looking statements where you have resource needs. For example, are you planning to engage a data management vendor? Or develop a training program for employees? Are you considering an independent program review or IPSA readiness assessment? Will you require resources to improve engagement in industry associations? If your conflict minerals program needs resources to achieve these goals, use this as an opportunity to ask for the resources.

5. **They're not in scope for IPSA – or are they?** The IPSA Objectives focus on the design of the due diligence framework, and whether the issuer took the steps they said they took. Normally, forward-looking statements would not be considered in scope for the IPSA. Consider, however, a forward-looking statement that says the company “will continue to improve data quality control efforts.” This implies that the company has taken such steps already. The IPSA Auditor may review your “Steps Taken” section to see if this is described. The IPSA Auditor may use this statement as a basis for including the entire section in scope.

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