

Market Entry Standard* Advisory Group

October 6, 2017 Call

NEXT STEPS

Advisory Group members will:

- Contact RESOLVE (jpeyser@resolv.org; tkennedy@resolv.org) with any ideas about what is needed or would be helpful to AG members as they communicate about the MES in their own networks.

RESOLVE will:

- Distribute the research paper elaborating on the rationales for and processes to be involved in development of the standard (an updated version is attached.)
- Coordinate with others to arrange a side meeting of AG members in attendance at the CFSI Conference on October 18-19. [done]
- Update Estelle Levin's email address on the listserv.

SUMMARY

Introductions

Members welcomed new members Aimee Boulanger (Initiative for Responsible Mining Assurance) and Estelle Levin (Levin Sources). (Fabiana Di Lorenzo will now represent Levin Sources on the MES Standard Committee).

MES Milestones and AG Process

The project team from ARM and RESOLVE provided an update on the MES development timeline and milestones. Development of the draft standard has been slightly delayed, with the draft now expected for Advisory Group review and approval in January.

Marcin Piersiak provided an update on pilot activities in Colombia, where ARM has been actively engaging various levels of the government, as well as independent experts to raise awareness and identify opportunities to improve the efficiency and effectiveness of due diligence while reducing its burden on small-scale miners. Outreach includes identifying opportunities for the government to support verification and risk mitigation.

ARM is implementing three pilots to test elements of the standard. The three pilot sites were chosen with a view to engaging vulnerable groups (e.g., women), engaging multiple mine organizational structures, testing innovative models, and working in areas where conflict was formerly present and which have been stabilized through Colombia's recent peace process. A local management committee has been formed at each of the pilot locations, to help miners understand the necessities of due diligence and how they can be involved in identifying the risks and forming a common action plan for mitigation. The three pilot projects are as follows:

- In Cauca, ARM is working with Afro-Colombian mineral selectors who process discarded rock from a miners' cooperative, to reduce their mercury use.
- In Taraza, ARM is working with alluvial miners, both excavators and panners, to support the acquisition of a title and to initiate a traceability system.
- In Nariño, ARM is working with a cooperative who has inconsistent practices; ARM is seeking to bring the less advanced miners up to the same level of performance as those employing best practices.

ARM has found that these miners are aware of the concept of due diligence – if uncertain how to put it into practice – and are interested in engaging in due diligence frameworks and legitimate systems.

Risks to Include in 1st Version of Standard

During this call, members discussed how to categorize proposed risks and issues to be included in the first version of the MES. It is envisioned that an assessment of mine operations interested in joining the MES will render a few classifications: 1) does not meet entry criteria (risks/issues are present which require immediate disengagement); 2) meets entry criteria (does not have risks requiring immediate disengagement, but risks are present that require active engagement); 3) meets minimum entry criteria and additional classifications to track intermediary progressions toward best practices.

To define the risk categories, ARM drew from a BGR publication which proposes a consolidated framework for social responsibility and sustainability issues in mining (Kickler & Franken, 2017); this framework aligns with ISO 26000. The draft categorization aligns risks/issues with ISO groupings. Some risks require different levels of required action. For instance, “child labor” is a broad category, ranging from the worst forms (these would prevent entry into the MES system and require immediate disengagement by downstream purchasers), to labor in mining-adjacent industries (requiring some mitigation effort), to presence of children at mine site, etc.

A few points of nomenclature were also noted:

- 1) Instead of classifying risks as “unmitigable” or “immitigable” risks (risks identified in Annex II of the OECD Due Diligence Guidance as requiring immediate disengagement), it is preferable to use another term, as all risks can technically be mitigated. Suggestions included, “risks identified by OECD Due Diligence Guidance as requiring disengagement,” or “Tier 1 Risks.”
- 2) The standard assesses the *presence* of issues, not just the *risk* that issues *could* arise. However, the standard will likely continue to refer to “risks” to remain closely linked to the OECD Due Diligence Guidance. “Manageability of risk” was suggested as a possible approach for clarity.

Feedback on the proposed standard structure design included the following:

- Apart from identifying the risks which require immediate disengagement, the standard should not be too prescriptive in any graduated levels. That is, miners should have the flexibility and opportunity to sequence other improvements in consultation with their market partners and taking into account those “low-hanging” risks which may be easiest to address quickly, or risks which are a priority to the supply chain to address, or risks which otherwise may deliver most benefit to the miners if addressed.
- An additional category for consideration, apart from risks associated with mining, are the data management structures associated with assessing conformance with the standard. For instance, confidential details should only be available to the miners or cooperative/organization, with other details available to share with prospective or actual downstream partners.

- Additional value would be provided by developing supplemental guidelines for and communications about how governments can make their artisanal sectors competitive and attract buyers by providing some of the legal frameworks or informational resources the standard will gather and assess.

Feedback particular to the initial risk categorization included the following:

- The groupings and categorizations make sense, and the alignment with ISO is useful.
- A change should be made to clarify that “security forces and conflict-affected and high risk areas” do not require immediate disengagement; instead, these are indicators of whether enhanced due diligence is needed.
- Further elaboration of the sub-components of each cell (e.g., to clarify what is worst forms of child labor, requiring immediate disengagement, vs. lesser forms such as presence of children that require mitigation.)
- For clarity on the table, the rows entirely in green might be removed completely.

Name of Standard

The Advisory Group returned to discussions about potential names in place of “Market Entry Standard” that would better convey the focus on progressive improvement, and that it is meant to empower and connect miners to markets rather than erect yet another barrier to market entry. Members reviewed names that have been suggested to date. Feedback on the call suggested that “Passport to Markets” is a front-runner descriptor – though it may sound “too automatic”, and that members prefer a term like “system” or “code” – something suggesting linkages to other systems, capacity building, and training) in place of “standard”.

Stakeholder Engagement Planning

As the draft standard will be available for comment in January, the AG discussed opportunities to engage stakeholders in formal or informal consultation. Suggestions included convening miner focus groups in Africa and Asia to complement that gathered through the Colombian pilots. This could potentially be conducted in the course of some of Pact or Solidaridad’s programs in those regions. It was noted that a clear articulation of anticipated benefits of participation for miners will be needed for these sessions.

Advisory Group members were also asked to consider their own constituencies and pathways for sharing information, and to contact RESOLVE with any ideas about what is needed or would be helpful to AG members as they communicate in their own networks.

PARTICIPANTS

Advisory Group Members

- Yves Bertran, Alliance for Responsible Mining
- Ludovic Bernaudat, United Nations Environment Programme
- Aimee Boulanger, Initiative for Responsible Mining Assurance
- Leah Butler, Conflict Free Sourcing Initiative
- Anne-Marie Fleury, Responsible Jewellery Council
- Philippe Fornier, Swiss Better Gold Initiative
- Estelle Levin, Levin Sources
- Louis Marechal, OECD (*observer)
- Boukje Theeuwes, Solidaridad

- Cristina Villegas, Pact

Project Team

- Felix Hruschka, Alliance for Responsible Mining
- Taylor Kennedy, RESOLVE
- Jen Peyser, RESOLVE
- Marcin Piersiak, Alliance for Responsible Mining