HIGHLIGHTS

ALIGNMENT ASSESSMENT
OF INDUSTRY PROGRAMMES WITH THE OECD MINERALS GUIDANCE

OECD

Supported by the European Union through the Instrument contributing to Stability and Peace

The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas provides detailed recommendations to help companies respect human rights and avoid contributing to conflict through their mineral purchasing decisions and practices. The OECD Guidance is for use by any company potentially sourcing minerals or metals from conflict-affected and high-risk areas.

Within the framework of its implementation activities, the OECD has developed and pilot tested an assessment methodology for evaluating the extent to which industry programmes align with the detailed recommendations of the OECD Guidance. This booklet reproduces highlights from the pilot alignment assessment of five industry programmes against the OECD Guidance. The full Alignment Assessment report, the Alignment Assessment Tool and accompanying methodology are available at https://mneguidelines.oecd.org/industry-initiatives-alignment-assessment.htm.

Highlights from the pilot assessment

Substantial progress has been made in recent years towards raising awareness of the potential risks in mineral supply chains and encouraging companies to implement supply chain due diligence practices based on the recommendations set out in the *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas* (OECD Guidance). Industry programmes have played a major role in driving this progress. At the same time, however, international organisations, monitoring groups and media outlets have reported on weaknesses in company sourcing practices, including amongst those participating in industry programmes.

The OECD launched a project in 2016 to develop and pilot test an assessment methodology for evaluating the extent to which industry programmes align with the detailed recommendations of the OECD Guidance. The Alignment Assessment methodology that has been developed and tested through this project covers two aspects of an industry programme: it evaluates the extent to which the recommendations from the OECD Guidance have been incorporated into a programme’s policies and standards, including procedures and operating requirements set by the programme for companies. It also evaluates the extent to which the OECD Guidance recommendations are implemented by a programme. Implementation looks at steps taken by a programme to ensure that recommendations from the OECD Guidance are put into practice, either by holding participating companies to account (for example via an audit) or through implementation activities for which the programme itself takes responsibility. It is important to note that the alignment of a programme does not infer that the due diligence practices of all companies within that programme are similarly aligned to the recommendations of the OECD Guidance.

Five programmes volunteered to participate in the pilot assessment. Four of the programmes implement, among other activities, Step 4 audits[1] at the smelter or refiner ‘control point’ as defined in the OECD Guidance: the Dubai Multi Commodities Centre (DMCC), the London Bullion Market Association (LBMA), the Responsible Jewellery Council (RJC) and the Responsible Minerals Initiative (RMI). The fifth programme, the International Tin Supply Chain Initiative (ITSCI), is an upstream due diligence programme that carries out due diligence, traceability and audits of its members, such as local exporters in producing regions and international traders.

[1] The OECD Guidance identifies the smelter and refiner as the ‘control point’ in the mineral supply chains for tin, tungsten, tantalum and gold and recommends an independent third party audit as Step 4 of the five-step due diligence framework.

Taking the structure and function of the five participating programmes into account, this pilot Alignment Assessment project has primarily focused on the assurance mechanisms that the five programmes have established relating to participating companies' due diligence practices, though other due diligence support and monitoring activities have also been taken into account where applicable.

Assessment results

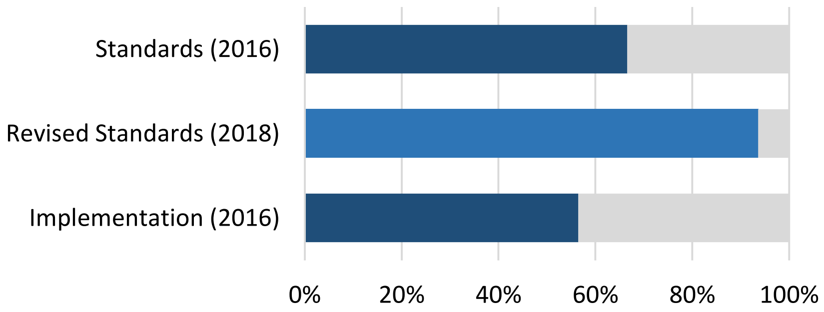
The initial assessment found significant gaps between industry programmes and the recommendations of the OECD Guidance. The 2016 assessment of standards and implementation found that of the five participating industry programmes, three were 'not aligned' (DMCC, RJC and RMI) and two were 'partially aligned' (ITSCI and LBMA).

In the year following the initial 2016 assessment, the participating programmes were given time to make changes to their standards to better align their requirements with the recommendations of the OECD Guidance. Programmes' standards were re-assessed in early 2018.

Following these changes, most of the programmes' standards now are in, or close to, full alignment with the recommendations of the OECD Guidance. For some of the programmes that implement Step 4 audits of smelters and refiners this has required fundamental reform and represents a significant achievement in a short space of time.

Due to the time needed for companies to implement and then be audited against the revised programme standards, implementation of the revised standards could not be re-assessed in this pilot project. A full re-assessment of implementation would be envisaged for 2019/2020. **Without the re-assessment of implementation it was impossible for any of the programmes to improve their rating to 'fully aligned' in this pilot assessment, given the shortfalls observed in programme implementation identified during the 2016 assessment activities.**

Figure 1: Average scores for overall alignment with the OECD five-step due diligence framework



Note. Calculations are averaged across programmes.

The challenge now will be to ensure that the revised due diligence requirements are effectively implemented across the industries covered by the programmes. As Figure 1 shows, the extent to which the due diligence recommendations from the OECD Guidance were implemented by programmes in 2016 closely relates to the extent to which a programme's standards were aligned to the OECD Guidance in the original assessment. Gaps at a standards level before the 2018 re-assessment therefore significantly impacted the practical implementation of due diligence measures for many of the participating programmes.

Priorities for strengthening supply chain due diligence practices

The fieldwork for this project has provided unprecedented insights into the current status of industry due diligence practices in the tin, tantalum, tungsten and gold supply chains. Several key priorities for strengthening supply chain due diligence in mineral supply chains have emerged:

- **Ensuring an adequate scope of due diligence:** Programmes and their companies' due diligence activities should cover the full scope of risks that are set out in Annex II of the OECD Guidance and risk assessment should be applied to supply chains globally, not limited to specific geographies. For some programmes the initial assessment identified substantial limitations in due diligence scope.
- **Ensuring an adequate depth of due diligence:** There is a need for programmes to ensure that participating companies apply due diligence to the whole supply chain, not just to tier 1 (direct) suppliers. Similarly, across many programmes implementing Step 4 audits of smelters and refiners there is a lack of effective on the ground due diligence by participating companies on their higher risk supply chains, as well as insufficient focus by these programmes in ensuring that on the ground due diligence assessments are undertaken, where necessary.
- **Building supplier capacity for due diligence:** Mineral supply chains are often complex, with many stages between the point of mineral extraction and the end use of minerals. Insufficient focus on building the capacity of suppliers to undertake adequate due diligence means that many companies in industry programmes may not have appropriate visibility or control over risks in their supply chain. Measures taken by programmes to strengthen supplier capacity to implement due diligence varied significantly and often had significant scope for improvement.
- **Implementation of risk mitigation measures:** Across many programmes participant companies – mainly smelters and refiners – that were interviewed or where audits were observed tended to disengage from suppliers if risks were identified, rather than seek to mitigate the risks through responsible sourcing practices. During most of the audits that were observed the auditors did not discuss risk mitigation. Programme engagement with participating companies on risk mitigation also varied significantly and, particularly amongst some smelter and refiner-focused programmes, was often lacking
- **Strengthening of independent audits:** Across programmes implementing refiner and smelter audits, significant gaps in auditors' knowledge on mineral supply chains and the OECD Guidance recommendations were identified. Gaps were also observed in relation to professional competencies of auditors, in particular, amongst some auditors, a lack of critical analysis. Many audits were overly focused on documentation checks rather than robustly challenging companies' management practices and due diligence decision-making.
- **Reliance by programmes on audits:** Many programmes rely on audits as the primary assessment and enforcement mechanism for ensuring that companies implement the programme's requirements. There is a need for ongoing monitoring of risks in supply chains and of the due diligence activities of companies beyond the 'point in time' assessment provided by an audit.
- **Transparent reporting on due diligence activities:** Across all programmes there is a need for improved reporting by companies. While some programmes ensure that most participating companies publish due diligence reports, the reports were often basic and generic, lacking descriptions of risks or measurable indicators of risk management performance. Some programmes needed to adjust their standards to clarify that there is a clear requirement for annual public reporting.

Programme governance

It is important to note that the assessment of programme governance does not form part of the formal alignment assessment of programmes as governance matters are not explicitly addressed in the OECD Guidance. However, programme governance is key to a programme's effectiveness, so this remains an important aspect of the assessment. There were some common areas of strength across programmes:

- The vetting procedures for companies wishing to participate in the programme and the formalisation of internal procedures to respond to grievances relating to the programme or participating companies.
- The governance of the audit process (i.e. co-ordination of audit activities) was an area of strength across most of the programmes and included aspects such as the independence of auditors and the necessary processes for corrective action plans following an audit.

The delivery of audits (i.e. the technical content of the audits themselves) was a particular area of programme governance identified as needing improvement. Key priorities include:

- Specifying that auditors design audit testing activities that are focused on those areas that represent the greatest risk.
- Ensuring that auditors obtain a sufficient understanding of the nature of the auditees' business and supply chain when undertaking their audits.
- Ensuring that programme auditor accreditation is focused on the skills and competencies of individual auditors and are not limited to generic firm-level accreditations.

Strategic considerations across programmes

Beyond the programme specific findings and cross-cutting observations, some more strategic considerations emerged as part of this assessment.

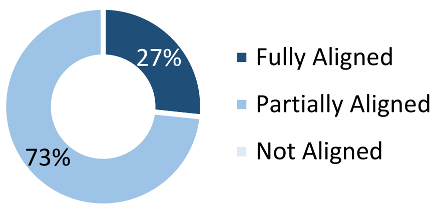
- **Cross-recognition between programmes:** Many programmes have taken steps to cross-recognise other programmes. At the same time, significant differences in the design and implementation between programmes exist which can create challenges for mutual recognition. Where programmes rely on other initiatives to support certain aspects of their due diligence requirements (for example, when relying on upstream due diligence programmes, or on mutual recognition between various smelter and refiner audit programmes), a robust and regular assessment of these initiatives, including their standards and implementation, will be important. Even if effective cross-recognition assessments between programmes are in place, individual companies should undertake appropriate due diligence on their suppliers as a programme's alignment with the OECD Guidance does not mean that all companies within that programme are implementing due diligence practices that are aligned with the OECD Guidance. Therefore companies cannot simply rely on a supplier's participation in an industry programme as evidence of effective due diligence by that supplier.
- **Sourcing from artisanal and small-scale miners (ASM) and higher risk areas:** Refiner and smelter-level programmes should strive to do more in terms of encouraging the responsible sourcing from ASM and discouraging a currently common default position of smelters and refiners to disengage from ASM or higher risk areas. The OECD Guidance is explicitly intended to support responsible sourcing from higher risk areas and industry disengagement can have significant adverse impacts on mineral producing communities and regions.

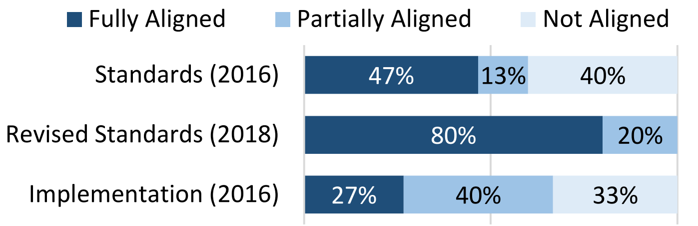
Assessment results for individual programmes

Dubai Multi Commodities Centre (DMCC)

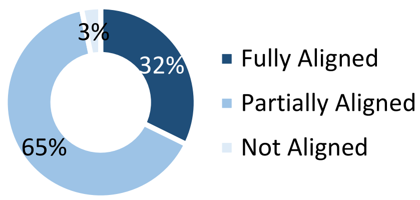
Overall rating 2018: Partially Aligned

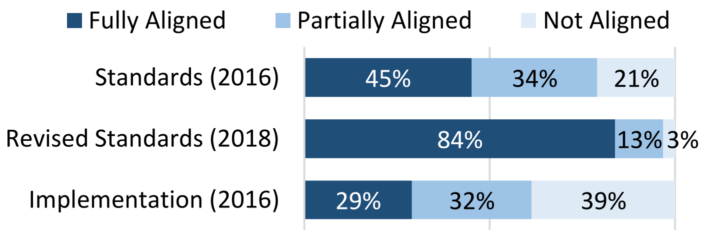
Overarching due diligence principles



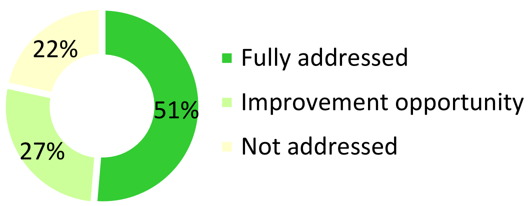


Overall alignment with the five-step framework





Programme governance review



Key strengths of the DMCC programme

- DMCC staff oversight of the detailed findings that result from the audit programme.
- Engagement on responsible sourcing with gold traders and government authorities in the UAE and with producers and exporters in higher risk countries.
- An Independent Governance Committee provides a mechanism for external oversight of the programme.

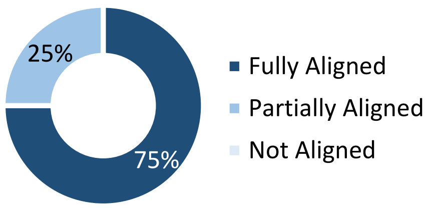
Key areas for improvement

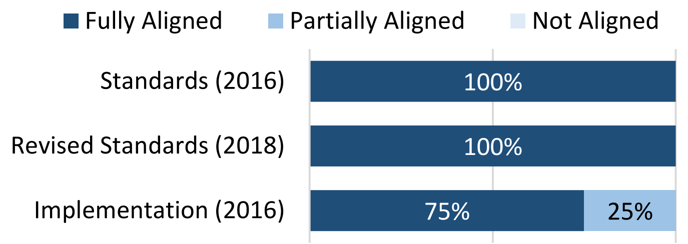
- Enhance the vetting and capacity building of auditors to strengthen audit consistency and rigour.
- More explicit clarification to DMCC refiners and auditors that all Annex II risk areas should be considered during risk assessment and risk mitigation activities.
- Clarification to DMCC refiners and auditors that on the ground risk assessments should always be undertaken on red-flagged supply chains.

International Tin Supply Chain Initiative (ITSCI)

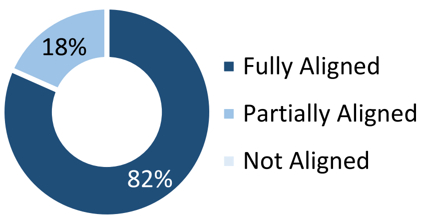
Overall rating 2018: Partially Aligned

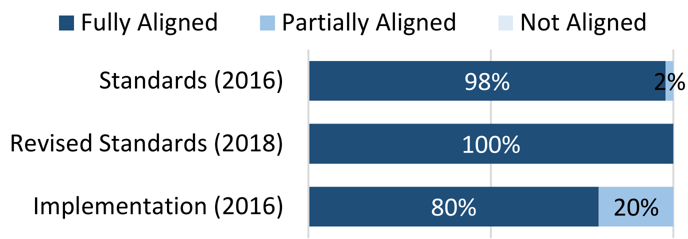
Overarching due diligence principles



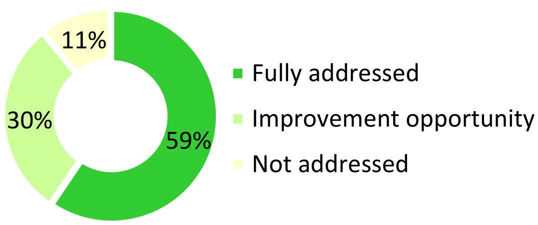


Overall alignment with the five-step framework





Programme governance review



Key strengths of the ITSCI programme

- Detailed focus on the practical application of the OECD Guidance in high risk areas, reflected in 100% alignment on standards across all assessment criteria.
- Extensive on the ground activities including involvement of local stakeholders on risk assessment and monitoring.
- Effective audit programme (note: ITSCI audits are not Step 4 audits at the smelter or refiner level but cover upstream entities such as mining cooperatives and companies, local exporters and some international traders).

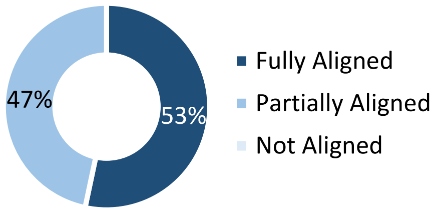
Key areas for improvement

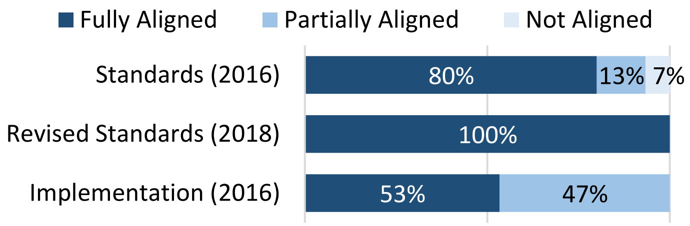
- Build the capacity of member companies to undertake risk assessment and risk mitigation.
- Improve the timeliness and accessibility of programme communications (recognising that communications for financially contributing programme members may be prioritised).
- Strengthen organisational governance.

London Bullion Market Association (LBMA)

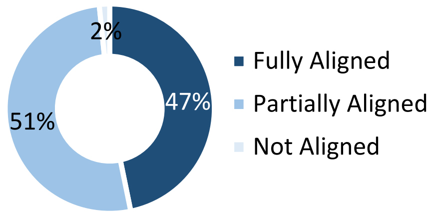
Overall rating 2018: Partially Aligned

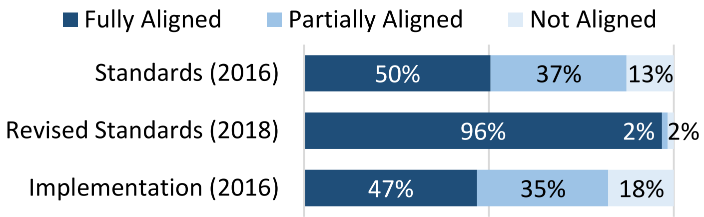
Overarching due diligence principles



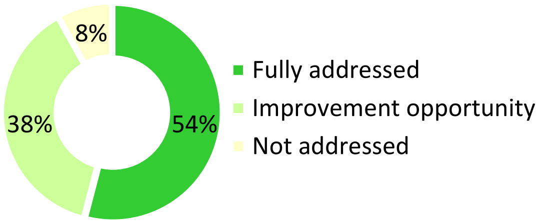


Overall alignment with the five-step framework





Programme governance review



Key strengths of the LBMA programme

- Programme requirements closely follow the structure and content of the OECD Guidance.
- Principles of company responsibility and accountability are clearly understood by refiners interviewed or visited during the assessment.
- Strong internal governance and structured management processes.

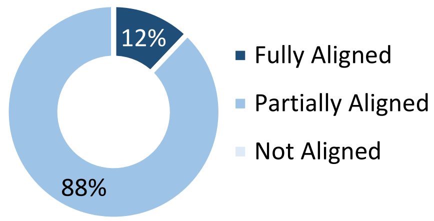
Key areas for improvement

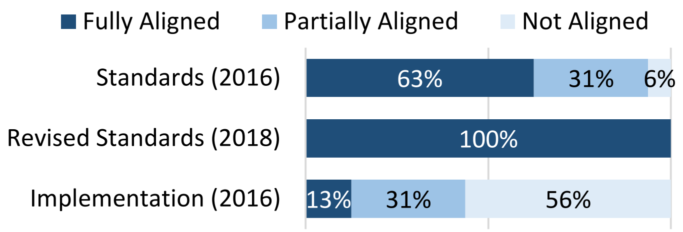
- Strengthen requirements so that refiners ensure due diligence is undertaken throughout the supply chain, beyond tier 1 (direct) suppliers, where appropriate.
- Enhance the vetting and oversight of auditors to strengthen audit consistency and rigour.
- Provide transparency on refiner de-listing decisions and non-conformance findings from the audit programme.

Responsible Jewellery Council (RJC)

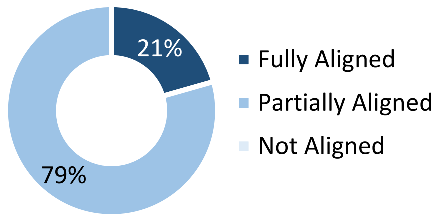
Overall rating 2018: Partially Aligned

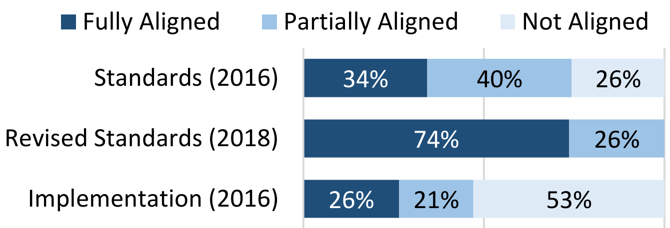
Overarching due diligence principles



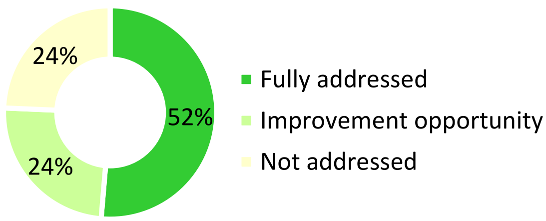


Overall alignment with the five-step framework





Programme governance review



Key strengths of the RJC programme

- Programme's significant leverage and reach across the jewellery sector through both the Code of Practices (CoP) and Chain of Custody (CoC) standards.
- Extensive communications and guidance to members and external stakeholders.
- Transparency on programme impacts and performance, including reporting against a publicly available Theory of Change.

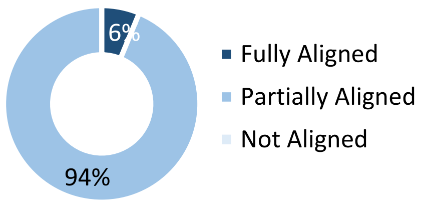
Key areas for improvement

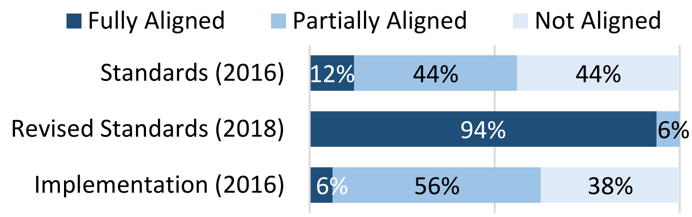
- Responsible sourcing requirements are mainly contained in the RJC's Chain of Custody standard which, at the time of writing, was adopted by only 6% of RJC's member companies. Inclusion of more robust responsible sourcing requirements in the Code of Practices would significantly boost responsible sourcing throughout the jewellery industry.
- Ensure that responsible sourcing requirements are implemented across all gold sourced by refiners seeking CoC certification.
- Strengthen the audit programme requirements and the competencies of auditors.

Responsible Minerals Initiative (RMI)

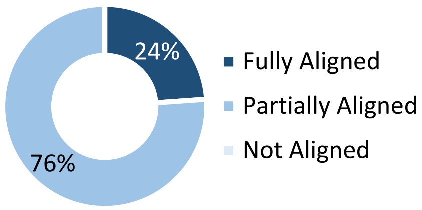
Overall rating 2018: Partially Aligned

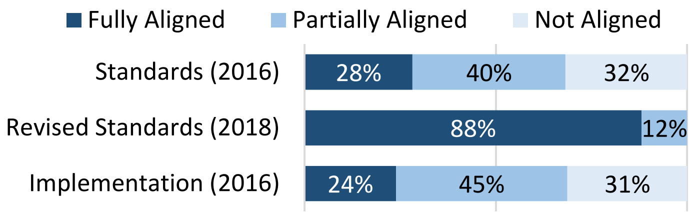
Overarching due diligence principles



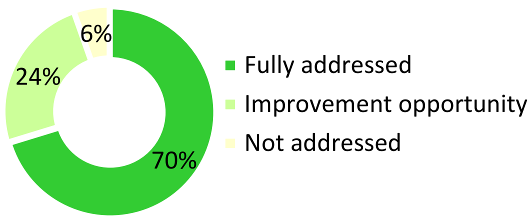


Overall alignment with the five-step framework





Programme governance review



Key strengths of the RMI programme

- Effective programme management that includes extensive and proactive engagement with external stakeholders.
- Use of leverage to facilitate due diligence and risk mitigation activities both upstream and downstream.
- High levels of transparency with extensive information made available to members and non-RMI members.

Key areas for improvement

- Develop a robust assessment mechanism to enable the RMI to evaluate and monitor the effectiveness of due diligence measures undertaken by third party upstream programmes.
- Ensure effective implementation by both companies and auditors of the significantly revised standards.
- Strengthen the audit programme requirements and the competencies of auditors.

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