# Monitoring corporate disclosure

## Assessing company reporting on mineral supply chain due diligence

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**The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas**
This OECD Minerals Guidance provides detailed recommendations approved by governments to help companies respect human rights and avoid contributing to conflict through their mineral or metal purchasing decisions and practices. The Guidance may be used by any company potentially sourcing minerals or metals from conflict-affected and high-risk areas, and is intended to foster transparent, conflict-free supply chains and sustainable corporate engagement in the minerals sector. The OECD Council adopted the Recommendation on Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (hereafter the "Minerals Recommendation") on 25 May 2011, based on a proposal from the Development Assistance Committee (DAC) and the Investment Committee. The main purpose of this Recommendation is that Members and non-Members having adhered to it disseminate and promote the observance by companies of the Minerals Guidance. More information on the OECD's work in the mining sector can be found at: [http://www.oecd.org/corporate/mne/mining. htm](http://www.oecd.org/corporate/mne/mining.htm)

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**Notes on this document**
This document was prepared by the OECD Secretariat and WikiRate using qualitative and quantitative research methods, to analyse publicly accessible information including annual reports, policies, public audit reports, website content and supplier engagement documents to assess disclosure for 2014 and 2018 of a sample of 503 companies.

This document analyses the disclosure practices as per Step 5 of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas of a global sample of companies using minerals and metals in their supply chains.

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# 1. About the OECD Minerals Guidance

The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (OECD Minerals Guidance) provides a 5-step Framework for Risk-Based Due Diligence (hereafter the "5-step Framework") with practical due diligence recommendations to assist companies in avoiding contributing to the risks identified in Annex II of the Minerals Guidance (hereafter "Annex II risk scope") such as serious human rights, conflict and financial crimes through their mineral purchasing decisions and practices. The Minerals Guidance is for use by any company in the mineral supply chain potentially sourcing minerals or metals from conflict-affected or high-risk areas. The Minerals Guidance is global in scope, and applies to all mineral supply chains. More information on the Minerals Guidance and OECD Responsible Minerals Implementation Programme can be found on their respective webpages.

**Practical due diligence recommendations to assist companies to avoid contributing to risks such as serious human rights, conflict and financial crimes through their mineral purchasing decisions**


Adopt due diligence policies and build internal capacity to implement them. Engage with suppliers and business partners. Develop internal controls and transparency over the mineral supply chain, collect data, and set up grievance mechanisms.

Review information on the supply chain to identify any red flags that would trigger enhanced due diligence. Delve deeper and map the factual circumstances of red-flagged operations, supply chains, and business partners. Prioritise risks as set out in Annex II of the Minerals Guidance.

Report risk assessment findings to senior management and improve internal systems of control and oversight. Only disengage from suppliers associated with the most harmful impacts. In all other cases, take steps to increase leverage, either individually or collaboratively, to prevent or mitigate risks. Build internal and business-partner capacity.

Carry out independent third-party audits to verify that due-diligence practices have been implemented properly at key "control points" (refiners and smelters for example) in the supply chain. Auditors should gather findings and recommend specific improvements to existing processes.

Publicly report on supply chain due diligence policies and practices, including by publishing the supply chain risk assessment and management plan, with due regard to business confidentiality and other competitive concerns. Respond to stakeholder questions, concerns, and suggestions.

# 1. About the OECD Minerals Guidance

## Due diligence expectations for upstream

Miners | Traders | Points of transformation

- Establish a system of transparency to gather information on country of origin and suppliers, and undertake a red flag review
- Collaborate with local government, CSOs, local business to prevent and mitigate impacts; monitor results
- Report publicly on due diligence efforts
- For red flagged supply chains, establish traceability or chain of custody to the mine of origin and undertake on-the-ground assessments of mines, producers, and traders for conflict, serious abuses, bribery, tax evasion, fraud, money laundering

## Due diligence expectations for downstream

Market makers | Manufacturers | End-users

- Identify 'choke points' in supply chain (e.g. metal smelter or refiners)
- Report publicly on due diligence efforts
- Collect information on their upstream due diligence (e.g. both through individual efforts and industry auditing)
- Use collective industry leverage to encourage improvement of upstream due diligence

**Box 1.1. Annex II risk scope of the OECD Minerals Guidance**

**Serious abuses of human rights** associated with the extraction, transport or trade of minerals, such as worst forms of child labour, forced labour, degrading treatment, torture and widespread sexual violence.

**Direct or indirect support to non-state armed groups, public or private security forces:** for example, in cases where such groups control mine sites or transportation routes or points where minerals are traded, illicitly tax or extort money or minerals at points of access to mine sites, along transportation routes or at points where minerals are traded.

**Bribery, corruption and fraudulent misrepresentation of the origin of minerals:** Bribery or fraud occurs when supply chain actors offer, promise, give, or demand a bribe or other undue advantage to obtain or retain business or any other improper advantage, for example to secure mine site concessions, to facilitate smuggling, or to fraudulently misrepresent the origin of a mineral. Bribes can take the form of money or other pecuniary advantages (e.g. sub-contracting firms linked to public officials) or non-pecuniary advantages (e.g. favourable publicity).

**Money laundering** is the process by which criminals disguise the illegal origin of the proceeds of criminal conduct by making such proceeds appear to have derived from a legitimate source.

**Tax evasion:** Under the Minerals Guidance, in addition to paying taxes, fees and royalties due to governments, companies are expected to disclose payments in accordance with the principles set forth under the Extractive Industry Transparency Initiative.

Source: OECD (2016)

# 2. Main findings

This report presents the findings of a benchmarking study of implementation of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas ("Minerals Guidance") by a global sample of companies producing, trading and sourcing minerals or metals based on their public disclosures. The study provides evidence of the Minerals Guidance's role as the keystone in an emerging global architecture for responsible business conduct in mineral supply chains, with a significant expansion in its uptake between 2014 and 2018.

The study also reveals major shortcomings in disclosure related to implementation, especially on how companies use due diligence practically to identify and mitigate risks. In part, this suggests growing pains as companies move beyond compliance-based approaches typically focussed on risks to the company, to a due diligence framework that emphasizes progressive improvement to address adverse impacts external to the company, including through responsible engagement in complex operating environments. Improving on this dimension is critical to enhancing the positive contribution of mineral supply chains to development in mineral producing and trading countries.

**The study also reveals major shortcomings in disclosure related to implementation, especially on how companies use due diligence practically to identify and mitigate risks.**

An important caveat to this research is that public disclosures are a proxy for companies' implementation of the Minerals Guidance though do not necessarily provide a full or accurate view of it. Companies might do more than they disclose, or conversely exaggerate their performance in public-facing documents. The study did not verify the accuracy of source documents or adequacy of the due diligence reported on. In addition, while the sample was expansive and diverse, covering 503 companies, constructing it inevitably involved trade-offs on the extent to which certain sectors were represented (see Chapter 3 on Methodology for more detail).

# 2. Main findings

**Main findings**

**Positive direction of travel** The share of global companies demonstrating some level of uptake of the Minerals Guidance increased from 30% in 2014 to 53% in 2018.

**Strengths and weaknesses** Companies across sectors consistently excel in disclosing minerals sourcing policies (Step 1) and increasingly report on auditing control points like smelters or refiners (Step 4). But the study found weak disclosure on Step 2: identifying risks and Step 3: responding to risks.

**Higher uptake is associated with legislation.** Legislation appears to shape patterns of uptake, pushing covered sectors to disclose extensively on due diligence while non-covered sectors largely sidestep minerals due diligence.

**Significant shortcomings in the quality of disclosure are still evident among participating companies**

**A sub-set of downstream companies** are in the forefront of disclosure on due diligence, as evidenced by downstream performance on specific metals consistently exceeding that for suppliers, even if only marginally in some cases. High-performing downstream companies' efforts, however, are undermined by their peers in by low-performing – and traditionally low-scrutiny – sectors.

**The high performance of this susbset** of downstream companies does not appear to translate into equally high performance among upstream companies, with progressively falling performance on disclosure as the supply chain moves upstream. Nonetheless, limited anecdotal evidence does point to higher levels of performance by companies operating in certain high-risk areas under most scrutiny.

**Other metal sectors** outside of the more seasoned tin, tungsten, tantalum and gold sectors (commonly referred to as "3TG") are well positioned to implement due diligence disclosure, but should heed the lessons of past implementation arising from this study, including the need to engage directly with issues at stake in producing countries through Steps 2 and 3 of the Minerals Guidance, and disclose accordingly.

**Participation in industry programmes** is associated with more disclosure on due diligence, but significant shortcomings in the quality of disclosure are still evident among participating companies. The mechanisms by which industry programmes foster improved due diligence merit further research.

**Companies in electronic vehicle** (EVs) supply chains perform better on the Guidance's 5-step framework than the average company in the study sample; they also made significantly more improvement between 2014 and 2018 than the average company. Nonetheless, consistent with other sectors, the EV supply chain scored poorly on Steps 2 and 3, identifying and responding to risks, respectively. This shortcoming merits serious attention as the EV industry is widely regarded as a key locus in efforts to foster a just low-carbon transition powered by responsibly sourced raw materials.

As public reporting is an integral part of the due diligence process, companies that do not fully report on their due diligence as per Step 5 are not meeting expectations for implementing the Minerals Guidance. As shown in the study, industry initiatives need to increase their attention to disclosure given their potential to enhance the quality and completeness of their members' public reporting and cascade disclosure requirements through the supply chain. This entails expanding beyond their traditional geographic focuses, assessing their members more rigorously on disclosure – including failing auditees that do not meet the disclosure requirements – and providing tools, templates and frequently asked questions documents to help companies enhance the quality of their reporting. Governments also have an important role to play in line with the Minerals Recommendation to actively support integration of the Guidance into corporate management systems. One of the most direct ways to do this is by introducing disclosure requirements in line with the Guidance as part of their regulatory frameworks, as well as supporting efforts to monitor disclosure for companies operating in or from their jurisdiction.

The concluding section of the study presents avenues for further research on due diligence uptake by companies, including through future editions of this study. By forming a fuller picture of due diligence implementation, this research is intended to be a living resource to help raise the bar for real action by companies, empower stakeholders, including those affected by the trade in minerals, inform investors and provide actionable data for policymakers.

# 3. Methodology

**A benchmarking approach**
The authors used a benchmarking approach for this study for several reasons. First, because it is anchored in the 5-step Framework of the Minerals Guidance: the study assesses how companies complete Step 5 of the Minerals Guidance, which covers Report Annually on Supply Chain Due Diligence, to capture how they perform on Steps 1-4. The logic behind reporting is that transparency engenders accountability. Legislation and independent benchmarking initiatives around the world rely on public disclosures to evaluate companies' observance of due diligence and RBC norms. Benchmarking against public disclosures also has the advantage of avoiding self-selection bias, which can occur, for example, when only higher-performing companies volunteer to respond to a survey.

Even high-quality public disclosures have certain limitations in scope, however, and this study did not verify the accuracy of source documents.

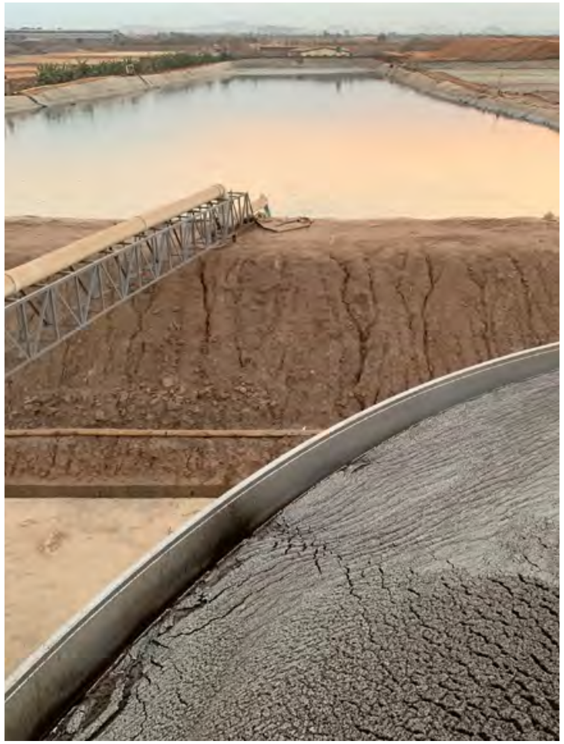
**The logic behind reporting is that transparency engenders accountability**

Companies might do more than they disclose, or conversely exaggerate their performance in public-facing documents. Public disclosures may therefore be an imperfect proxy for measuring the implementation of every substantive element of the Minerals Guidance, though a fundamental one nonetheless.

**Indicator development**
The study used indicators based on Step 5 of the Minerals Guidance to assess companies' disclosures. The indicators capture not only the existence of particular public reporting features, but also a reasonable level of quality and completeness. This includes the extent to which they address the full risk scope in Annex II of the Minerals Guidance. Besides carrying out periodic updates to this global study, the OECD will further test these indicators and their value as a proxy for implementation by companies by measuring their relationship to responsible trade and impacts in specific mineral producing countries through the Monitoring and Evaluation (M&E) Framework for the Guidance (OECD, 2021a). (See Tables 3.1 and 3.2 for the list of indicators used in the study).

**Building the sample**
The study sought to achieve a global snapshot of companies' uptake of the Minerals Guidance through their disclosures. To do this, the authors constructed a diverse sample of 503 companies producing or sourcing minerals or metals, comprising over 300 downstream companies, nearly 150 smelters, refiners (SORs) and commodity traders, and more than 50 major and junior mining companies. The majority of publicly traded downstream companies were selected based on revenue, drawing from the Forbes Global 2000 list, with the number of companies per country selected in proportion to GDP. Additional publicly traded companies from countries without a sufficient number of companies in the Forbes Global 2000 list to be proportionate to their GDPs, companies from countries with small GDPs but which play key roles in mineral supply chains and 50 state-owned and privately held companies were added based on desk research. The sample is thus weighted to reflect global markets and include companies with the leverage to influence practices throughout their supply chains. Companies producing tin, tungsten, tantalum, gold, cobalt, copper, aluminium, lead, zinc, iron, and steel were included among SORs and mining companies in the sample. In addition, companies sourcing precious stones were included as part of the downstream sample.

**Data collection**
The authors collected data for 2014 and 2018 using both manual desk research and automated methods. The latter were used particularly for structured data sources such as SD filings and public membership records from industry initiatives. Findings and source documentation have been uploaded to the WikiRate platform as a living resource for stakeholders, researchers and the public-at-large.



# 3. Methodology

**Table 3.2.** Risks in Annex II of the Minerals Guidance against which disclosures were assessed ("Annex II risk scope")

**Serious abuses associated with the extraction, transport or trade of minerals**

- Torture, cruel, inhuman and degrading treatment
- Forced or compulsory labour
- Worst forms of child labour
- Other gross human rights violations, such as widespread sexual violence
- War crimes or serious violations of international humanitarian law

**Direct or indirect support to non-state armed groups**

**Money laundering**

**Risks related to public or private security forces**

**Bribery and fraudulent misrepresentation of origin of minerals**

**Payment of taxes, fees, and royalties due to governments**

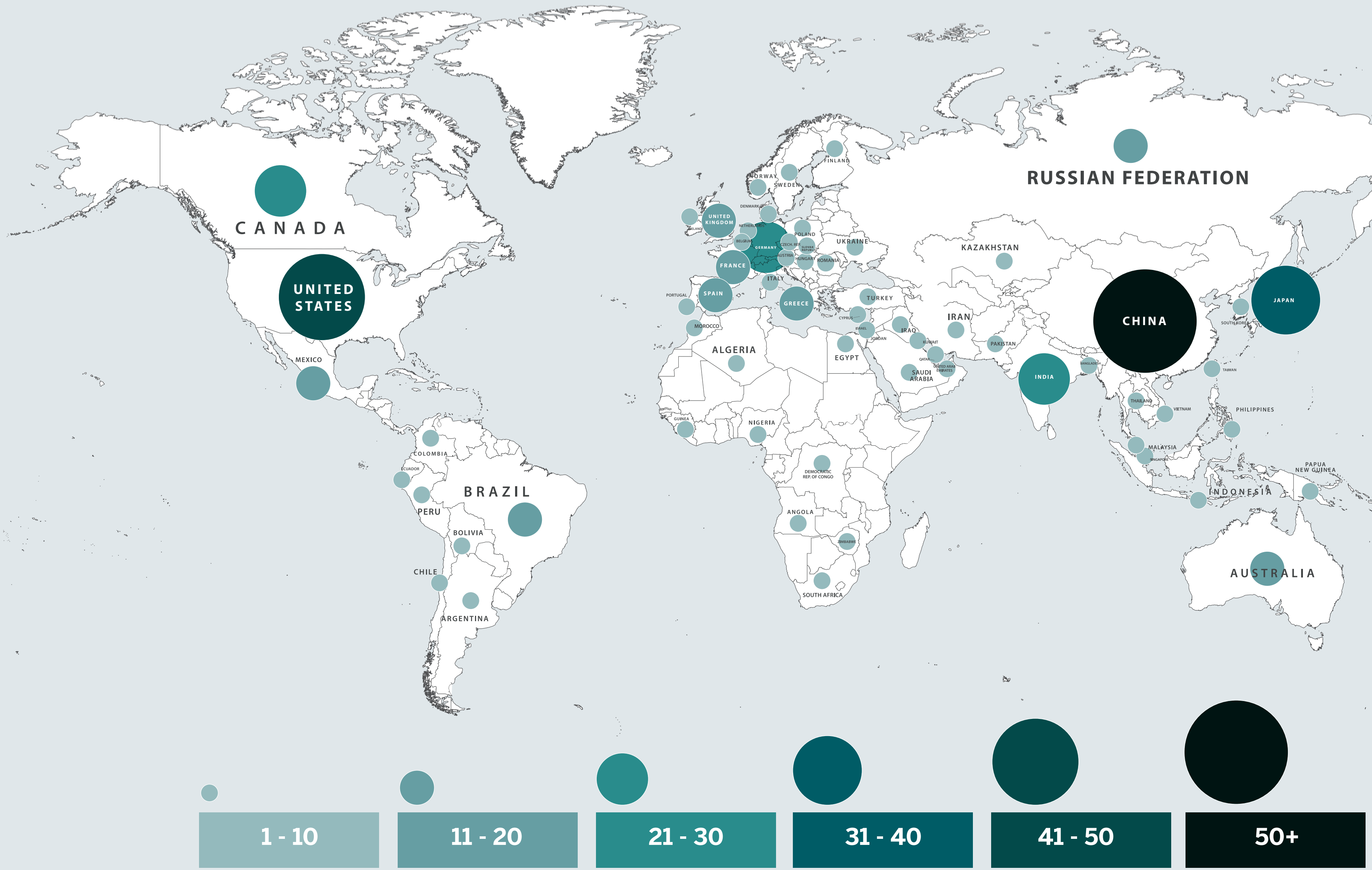
- Company disclosure of payments in accordance with the principles set forth under the Extractive Industries Transparency Initiative

**Table 3.1.** Indicators assessing disclosures against the 5-step Framework

| Step | Indicators |
|---|---|
| 1 Establish strong management systems | The company mentions the Minerals Guidance in public documents |
| | The company has developed a due diligence policy for the responsible sourcing of minerals |
| | The company describes the internal management of its minerals due diligence programme including:<br>a) Description of the management structure<br>b) Description of the senior management responsible |
| | The company describes its internal systems of transparency, information collection and controlover the supply chain |
| | The company has developed a grievance mechanism |
| 2 Identify, assess, and prioritise risks | The company has established a system to accurately review the information gathered in Step 1 |
| | The company discloses actual or potential risks identified* |
| 3 Manage Risks | The company has developed a measurable risk mitigation plan |
| | The company has included affected stakeholders in the development of its risk mitigation plan* |
| | The company describes how they build suppliers' capacity as relevant* |
| | The company tracks performance of risk mitigation plan |
| 4 Audit control points | The company has identified the smelters and refiners in its supply chain (downstream companies only)* |
| | The company audits the smelters and refiners in its supply chain (downstream companies only) |
| | The company publishes its audit report (only smelters and refiners)* |
| | The company reviews the due diligence practices of its suppliers* |

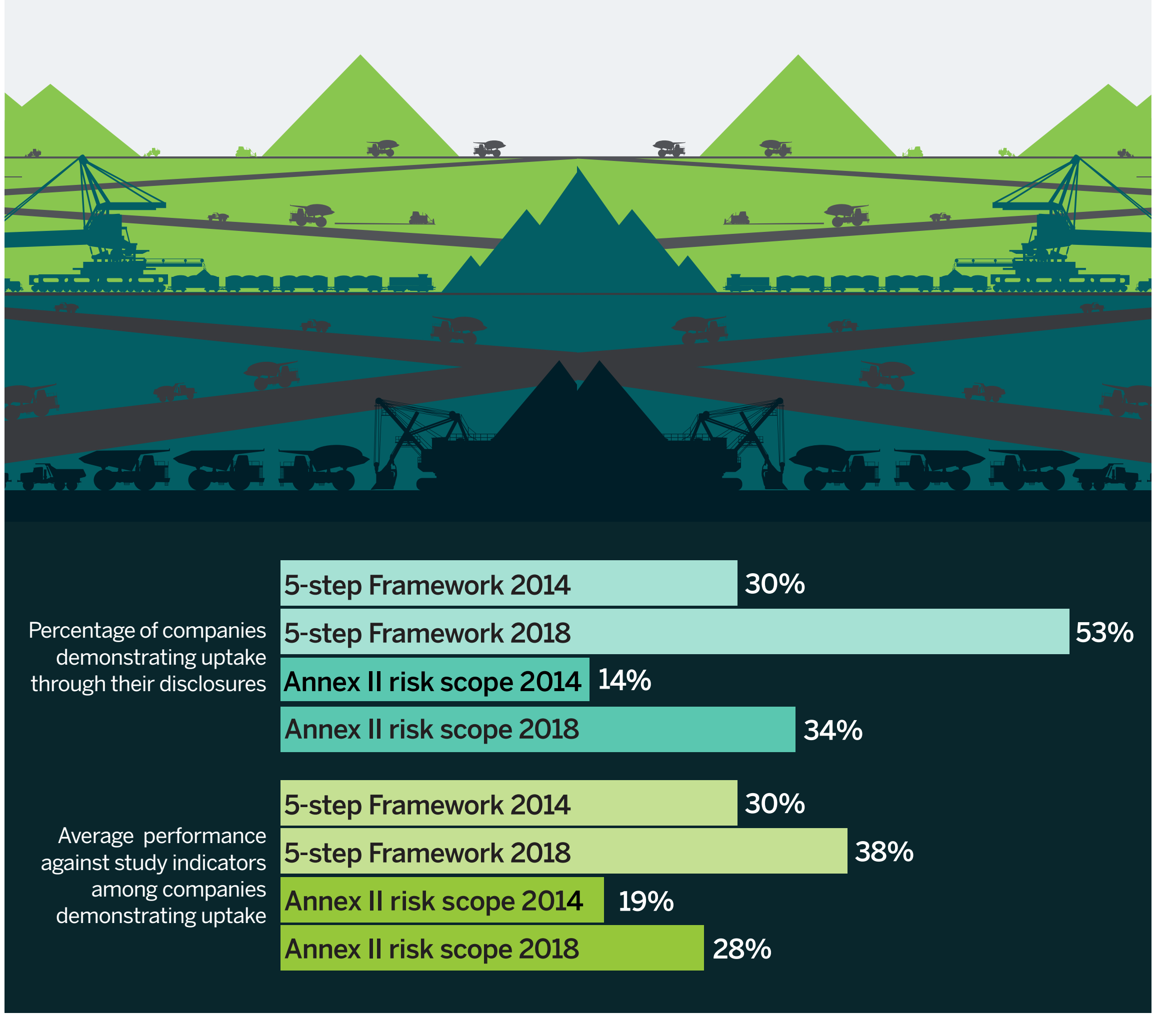
**Note:** Indicators marked with an asterisk ("*") were limited to the smaller 101-company deep dive sub-set of the full 503-company sample. The deep dive was stratified as to be largely representative of the full sample in terms of company and geographic distribution.

## Figure 3.3 Geographic spread of sampled companies



# 4. Overall disclosure on the 5-step Framework and Annex II risk scope

Figure 4.1. Growth in uptake 2014-2018




Steady expansion in the use of the Minerals Guidance has solidified its status as the global benchmark on minerals due diligence, with over half of sampled companies demonstrating some uptake of the standard in 2018. The share of global companies demonstrating some level of uptake based on corporate self-reporting increased from 30% in 2014 to 53% in 2018. This represents a major achievement, with uptake extending well beyond the metals and sectors traditionally under the most scrutiny. For example, disclosures showed that not only companies in the tin, tungsten, tantalum and gold (commonly referred to as "3TG"), auto, and electronics sectors are using the Minerals Guidance, but also companies in sectors as diverse as oil services, retail, food and beverage, and pharmaceuticals, in addition to smelters, refiners, traders and miners of many non-3TG metals and minerals.

**The share of global companies demonstrating some level of uptake based on corporate self-reporting increased from 30% in 2014 to 53% in 2018**

Among those companies whose disclosures showed some level of uptake, however, their performance on the whole was middling, with an average uptake score of 38% in 2018 against the study's indicators on the 5-step Framework. This means that the disclosure of the average company demonstrating uptake fulfilled only six out of the 15 indicators in Table 3.1. This reflects uneven corporate self-reporting on the five steps (shown in Figure 5.1.). In addition, within the group of companies demonstrating uptake, a relatively small number of companies with high-scoring disclosures pulled up the average.

The nearly half of sampled companies with no disclosure at all on minerals due diligence presents the greatest cause for concern. While market expectations on supply chain due diligence are increasingly the norm, there clearly remain major gaps in coverage. This undermines the influence and leverage of companies that do carry out due diligence, and potentially allows links between the minerals trade and serious abuses to remain intact. This issue is explored further in Figures 8.1 and 8.2.

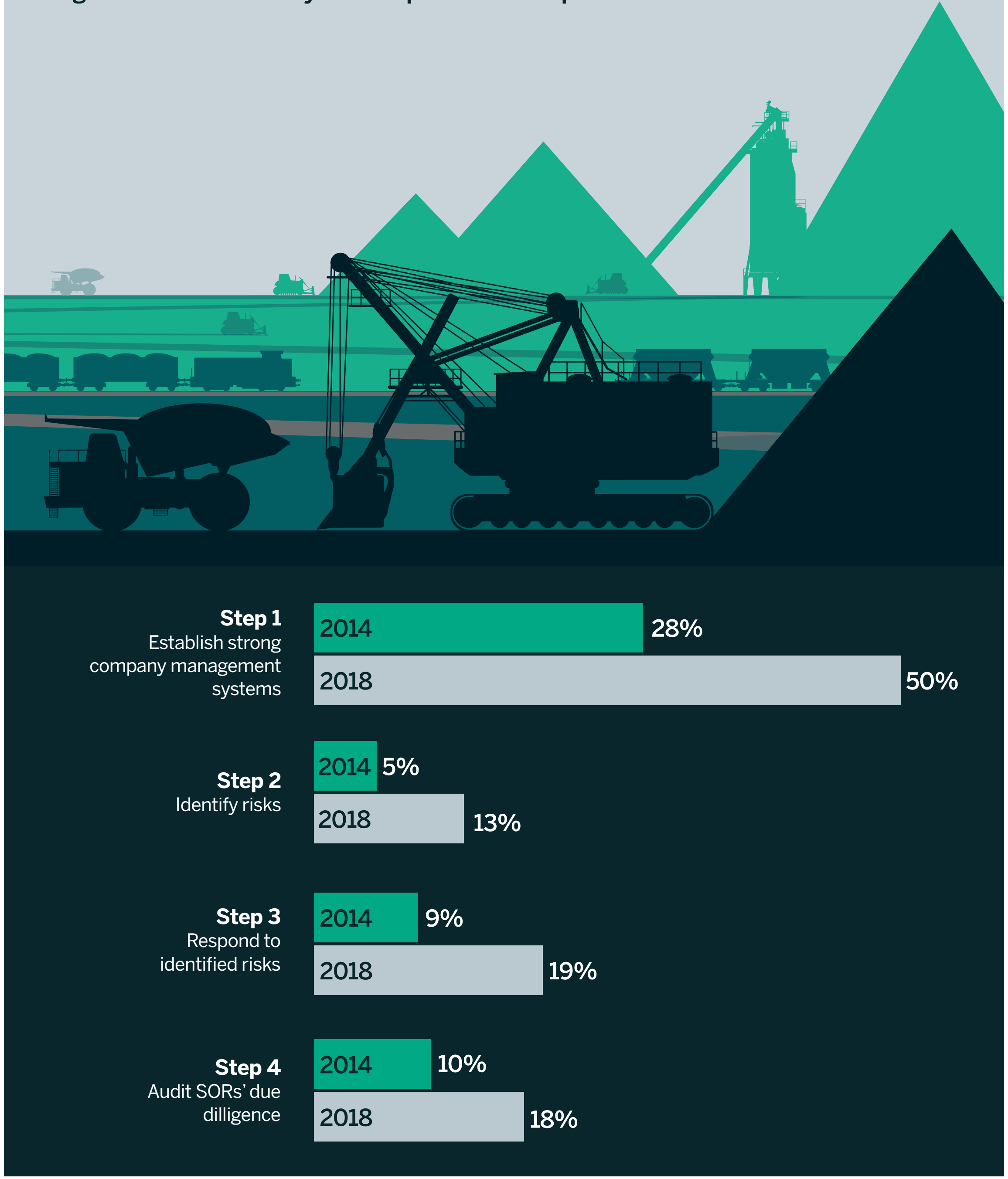
# 5. Disclosure by step of the 5-step Framework

Corporate self-reporting on minerals due diligence suggests uneven implementation of the Minerals Guidance. Companies excel in disclosing mineral sourcing policies (Step 1) and increasingly report on auditing of control points like smelters or refiners (Step 4). However, the study found weak disclosure on Step 2: identifying risks and Step 3: responding to risks. The indicator on which companies' disclosures were strongest was under Step 1 on the provision of grievance mechanisms, which 33% of all companies sampled had established based on their disclosures.

Step 1 is in many ways a prerequisite for implementation of other steps of the 5-step Framework of the Minerals Guidance since it comprises the establishment of the management systems on which effective due diligence depends. The commitments companies make by publicly disclosing mineral sourcing policies are also a strong basis for promoting accountability. Meanwhile, the growing coverage

**The indicator on which companies' disclosures were strongest was under Step 1 on the provision of grievance mechanisms, which 33% of all companies sampled had established based on their disclosures.**

**Figure 5.1. Percentage of companies satisfying at least one indicator through their disclosures by four steps of the 5-step Framework**



# 5. Disclosure by step of the 5-step Framework

of industry programmes auditing control points as part of Step 4 of the 5-step Framework is a multiplier for implementation and a foundation for building a level playing field for corporate uptake of due diligence globally. Auditing must go hand in hand, though, with disclosure on Steps 2 and 3, to promote genuine accountability so that civil society, governments and all interested parties can scrutinize how companies' actions line up with their commitments.

The low level of disclosure on Steps 2 and 3 is cause for concern. It may suggest significant shortcomings in implementation, but could also be due to reluctance to disclose actual risks in great detail, perhaps arising from fear of litigation or reputational harm. These steps, though – identifying and responding to risks respectively – represent the Minerals Guidance in action. They are the touch points the supply chain has with mineral producing countries, and the main vectors for due diligence to impact mining communities. The Minerals Guidance calls on companies not only to disclose how they conduct due diligence, but what their due diligence has revealed and the specific steps they have taken to address risks. Corporate self-reporting tends to be vague on Steps 2 and 3, however, and relatively inscrutable as a result.

Interestingly, companies disclose somewhat more on how they respond to risks than on identifying risks, even if results are weak for both steps. It is understandable that companies producing or sourcing minerals may seek to highlight the efforts they make to mitigate risks. The divergence in performance here, however, suggests that some companies may emphasize positive outcomes of due diligence without disclosing identified risks, and leaving open the possibility that some risks may be neglected by

**The low level of disclosure on Steps 2 and 3 is a cause for concern. It may suggest significant shortcomings in implementation**

companies. This finding mirrors the consistently lower scores on Annex II risk scope indicators (Table 3.2) throughout the study, suggesting that companies may have a form of tunnel vision when it comes to identifying risks. The Minerals Guidance calls on companies to take a risk-based approach, giving priority to risks based on the likelihood and severity of potential adverse impacts. Prioritising certain risks, however, is not a license for companies to neglect others indefinitely.

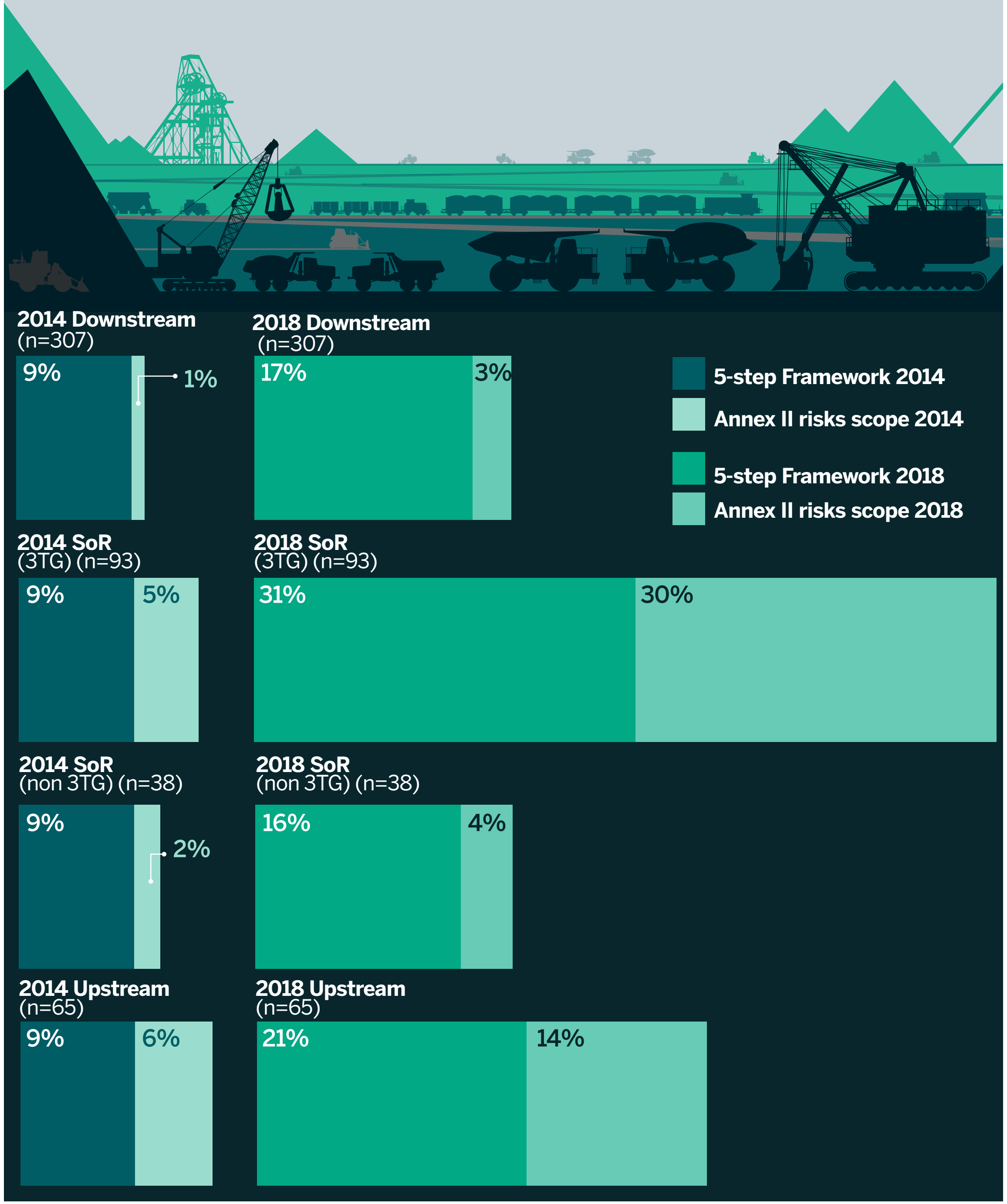
# 6. Disclosure by supply chain segment

Although the requirements of the Minerals Guidance are applicable to all actors in the supply chain, data shows that disclosure is uneven across supply chain segments. The Minerals Guidance expects companies to undertake due diligence on risks of adverse impacts taking place in the upstream part of the supply chain, and foresees a third party audit of SoRs' due diligence practices (Step 4).

In combination with the elevated scrutiny, particularly through legislation, advocacy and press coverage of sourcing 3TG, it is perhaps unsurprising that 3TG smelters and refiners (SoRs) scored the highest against the disclosure expectations related to the 5-step Framework with 31% in 2018, nearly identical to their performance on Annex II risk scope. Mining companies in the sample follow with 21% on the 5-step Framework, although this group's score on Annex II risk scope is much lower (14%). There was strong growth in disclosure between 2014 and 2018, especially for SoRs.

**There was strong growth in disclosure between 2014 and 2018, especially for Smelters or Refiners.**

Figure 6.1. Disclosure on the 5-step Framework and Annex II risk scope by supply chain segment



# 6. Disclosure by supply chain segment

Yet, disclosure levels for these upstream companies are incomplete, notwithstanding the scrutiny these supply chain segments are exposed to, bearing in mind the data is from 2018. Industry associations such as the Responsible Minerals Initiative, the London Bullion Market Association, the Responsible Jewellery Council, the Dubai Multi-Commodities Centre, and the International Tin Association have developed audit programmes covering SoRs or other upstream companies (Responsible Minerals Initiative, 2021); (London Bullion Market Association, 2021); (Responsible Jewellery Council, 2005-2020); (Dubai Multi Commodities Centre, 2021); (International Tin Association, 2021). These programmes have been a driving force for uptake of due diligence practices among both downstream and upstream programmes, but only in recent years has there been an emphasis on improving disclosure practices.

**Only in recent years has there been an emphasis on improving disclosure practices.**

The OECD Alignment Assessment of industry programmes with the Minerals Guidance carried out in 2016-2018 (hereafter the "Alignment Assessment") found that these programmes were falling significantly short of meeting the recommendations for public reporting set out in the Minerals Guidance. Significant improvements were made in programme standards following the initial Alignment Assessment fieldwork in 2016 and the reporting requirements set by most of the participating programmes were fully aligned with the Minerals Guidance recommendations in 2018. However, since such updated requirements were only instituted just before or during the period covered by this study's 2018 dataset, this disclosure study likely does not fully capture the implementation of the updated audit programme standards (OECD, 2018).

Both non-3TG SoRs and downstream companies score similarly for disclosure on the 5-step Framework (16% and 17% respectively) and Annex II risk scope (4% and 3% respectively), but likely for different reasons. Until 2018, most non-3TG SoRs were less exposed to disclosure requirements in line with the Minerals Guidance, due to several factors:

- the absence of industry or legal requirements for non-3TG supply chains
- a lack of agreement on the identification of a control point in some of these supply chains
- the lack of non-3TG audit programmes seeking to foster implementation of the Guidance except in cobalt supply chains

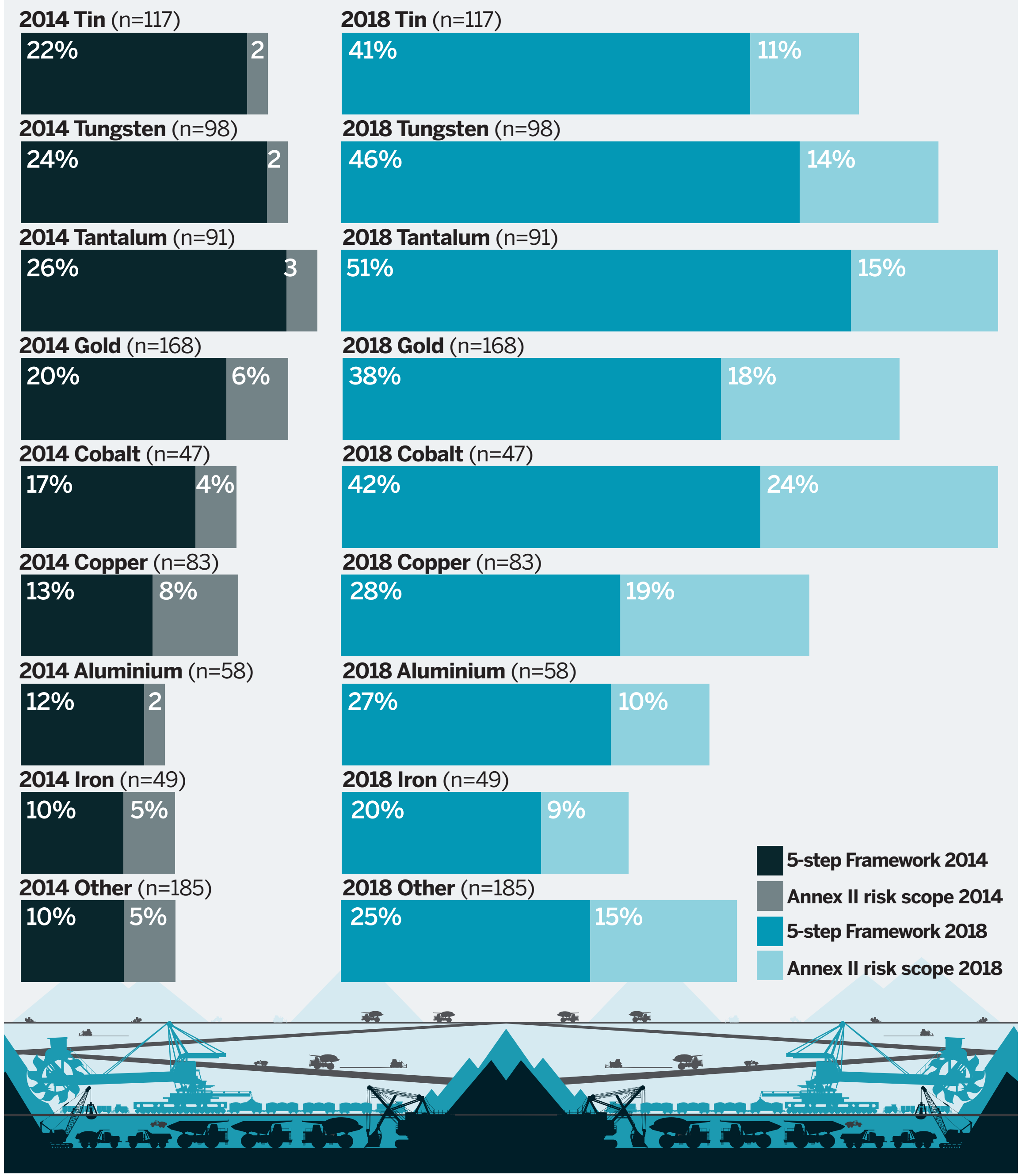
Following collection of the 2018 data for this study, additional developments have emerged that are poised to influence uptake of due diligence, with both the London Metal Exchange's introduction of responsible sourcing requirements and the European Commission's proposed new regulatory framework for batteries (London Metal Exchange, 2019) (COM/2020/798, 2020). Although downstream companies, particularly from certain jurisdictions with disclosure requirements in place, may have individual high scores related to disclosure, the diversity of industries, geographies and ownership structures of the companies in the sample – some with no disclosure at all – are the main factors behind the segment's low score, as discussed further in Chapter 8.

# 7. Disclosure by mineral

The third edition of the Minerals Guidance clarifies its applicability to all mineral and metal supply chains (OECD, 2016). As indicated in Figure 7.1, disclosure levels related to the 5-step Framework vary widely across mineral supply chains, with tantalum scoring the highest (51%) and iron scoring the lowest (20%). Disclosure rates related to Annex II risk scope are consistently lower than those related to the 5-step Framework, but the difference between the highest and lowest value is also smaller, with the highest scoring mineral being cobalt with 24% and the lowest being iron with 9%. This is an interesting finding, and may in part tell an iterative story of how due diligence has expanded into more supply chains. Companies newly confronted with pressure to take action on cobalt following advocacy that shed light on risks in this sector may have taken learnings from conflict minerals reporting in 3TG and applied them to cobalt, though often falling short on disclosure related to corruption risks (OECD, 2019). Nevertheless, an upward trend in disclosure is

Only companies that disclosed what metal they produce or source were included in this chart. Companies, for example that are known to source metals in some form, but which did not disclose specifically which minerals or metals they source, did not generate useable data for this chart.

**Figure 7.1.** Disclosure on the 5-step Framework and Annex II risk scope by metal



# 7. Disclosure by mineral

noticeable across all minerals, with most nearly doubling their scores on the 5-step Framework and on Annex II risk scope between 2014 and 2018.

Minerals under higher levels of scrutiny – by governments, private sector initiatives and advocacy campaigns – show higher rates of disclosure. 3TG have traditionally been the focus of legislation in the United States of America, the Democratic Republic of the Congo and, later, in the European Union (see Figure 9.1 for more detail). These regulatory initiatives have spurred the development of private sector-led due diligence programmes based on the Minerals Guidance. While companies in the 3TG and cobalt supply chains perform better than others, even their 2018 disclosures only satisfied 40-50% of the study's indicators on the 5-step Framework or, on average, seven of 15 indicators. As shown in Figure 5.1, this is mostly due to the lower level of disclosure on risk identification and mitigation measures (Steps 2 and 3), and the diversity of industries, geographies and ownership structures of the companies in the sample, which may have been exposed to responsible sourcing incentives and pressures to varying extents.

It is likely that a similar trend of higher disclosure will be observed in mineral supply chains beyond 3TG following awareness raising campaigns by civil society and market makers' and exchanges' initiatives, as is already observable in cobalt, which tied with tantalum for the largest jump in disclosure performance on the 5-step Framework between 2014 and 2018. Legislation covering minerals beyond 3TG (in particular those that are used in electric vehicle batteries, such as cobalt, lithium, graphite and nickel) is currently under consideration in key importing jurisdictions. The London Metal Exchange introduced requirements in line with the Minerals Guidance for brands delivering on the exchange, and industry initiatives across various base metals are developing industry standards and audit programmes based on the Minerals Guidance (London Metal Exchange, 2019). These developments are not reflected in the data collected for this report but might be key to driving greater disclosure, especially among downstream industries with more diversified mineral sourcing but which currently focus on 3TG in their disclosures.

> **An upward trend in disclosure is noticeable across all minerals, with most nearly doubling their scores on the 5-steps Framework and on Annex II risk scope between 2014 and 2018.**

A convergence of attention by governments, industry and civil society is needed to improve the quality and comprehensiveness of disclosure across minerals. OECD research has pointed to the need for more balanced reporting across mineral supply chains by journalists, civil society and other stakeholders on serious human rights abuses, conflict financing and other financial crimes. While all 40 minerals analysed through the recently released Trends in Stakeholder Reporting publication appear to be associated with these adverse impacts, 3TG and cobalt from Central Africa received outsized attention, which risks stigmatising and potentially "de-risking" responsible mineral sourcing from the region, while other supply chains and regions remain blind spots (OECD, 2021b).

# 8. Interpreting the data across metal, segment and sector

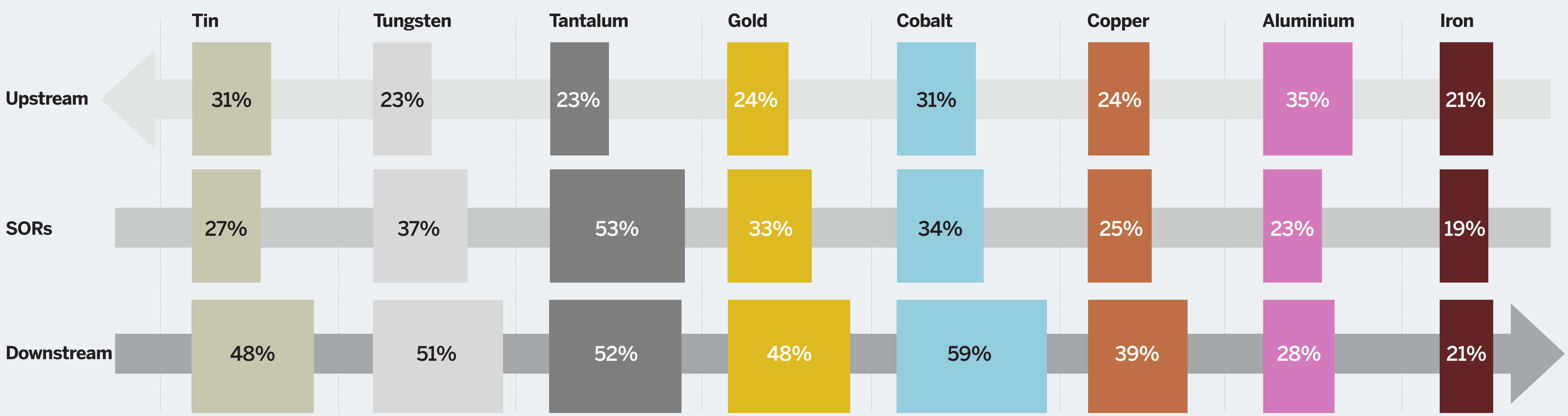
Figure 8.1 shows how supply chain segments producing and sourcing different metals perform against the study's 5-step Framework indicators, while Figure 8.2 shows overall downstream performance by sector on disclosing against both the 5-step Framework and Annex II risk scope indicators. Bringing these different dimensions together reveals some interesting patterns of implementation by companies. Several findings stand out.

**Downstream sets the tone** In seven of the eight metals with a significant number of companies in the study, the downstream segment sets the upward bound for performance, with scores on the 5-step Framework tending to decrease progressively as one moves up the chain. In most supply chains, this creates a tapered pattern, interestingly with downstream cobalt users scoring highest despite having been exposed to scrutiny much later than the 3TG sector. This may speak in part to the intense nature of media coverage and investor interest in risks in the cobalt supply chain. Moreover, it may be no coincidence that downstream companies sourcing tantalum and cobalt are the highest scoring – with both metals heavily concentrated in the Great Lakes Region – considering the disproportionate attention that the region has received. Another finding, however, especially for 3TG and cobalt, is that the downstream segment's investment in due diligence is not necessarily translating into similarly high performance upstream, at least based on disclosures.

**Downstream performance on disclosure is highly disparate** (Figure 8.2). Among the 17 downstream sectors with at least five companies sampled by the study, eight had average scores of 10% or less on the 5-step Framework. Four sectors had average scores of 34% or more, a relatively good average score considering this graph shows performance against the full list of indicators.

A major factor underlying this variation is the

**Figure 8.1.** Performance on disclosure by metal and supply chain segment (5-step Framework, 2018)




Only companies that disclosed what mineral or metal they produce or source were included in this chart. Companies, for example that are known to source metals in some form, but which did not disclose specifically which minerals or metals they sourced, did not generate useable data for this chart. The threshold for inclusion of a supply chain segment-metal category in the chart was at least five companies in the sample.

# 8. Interpreting the data across metal, segment and sector

fact that most sectors scoring 10% or less have traditionally been under less scrutiny regarding minerals due diligence. These sectors include companies that are end users of metals but do not manufacture or license metal or mineral-bearing original equipment themselves. Not only do these sectors rarely arise in research and advocacy on responsible mineral supply chains, such companies also appear not to be covered by due diligence legislation like Section 1502 of the Dodd-Frank Wall Street Reform & Consumer Protection Act in the United States, for example, which centres application of the law on issuers of securities that manufacture or contract others to manufacture products containing tin, tungsten, tantalum and gold. As end users of minerals, however, the Minerals Guidance still expects companies in such low-scrutiny sectors to carry out due diligence, so this finding represents a key gap rather than justification for weak implementation. Low-scrutiny sectors also had a major influence on the top-line results of the study, particularly since the sampling methodology selected downstream companies based on revenue and in proportion to the GDP of their headquarters location or jurisdiction where they primarily operate. This led to two low-scrutiny sectors – oil & gas operations and telecoms – comprising the top two sectors in the sample by number of companies.

A related finding is that most companies in "low-scrutiny" sectors in the sample do not disclose what types of minerals or metals they source even though desk research established they do source metals. And whereas low-scrutiny companies performed poorly on average, companies in sectors traditionally under more scrutiny both performed better in general and were more likely to disclose the types of metals they source. Interestingly, this produces the result that, while downstream companies overall

Figure 8.2. Performance on disclosure by downstream sector

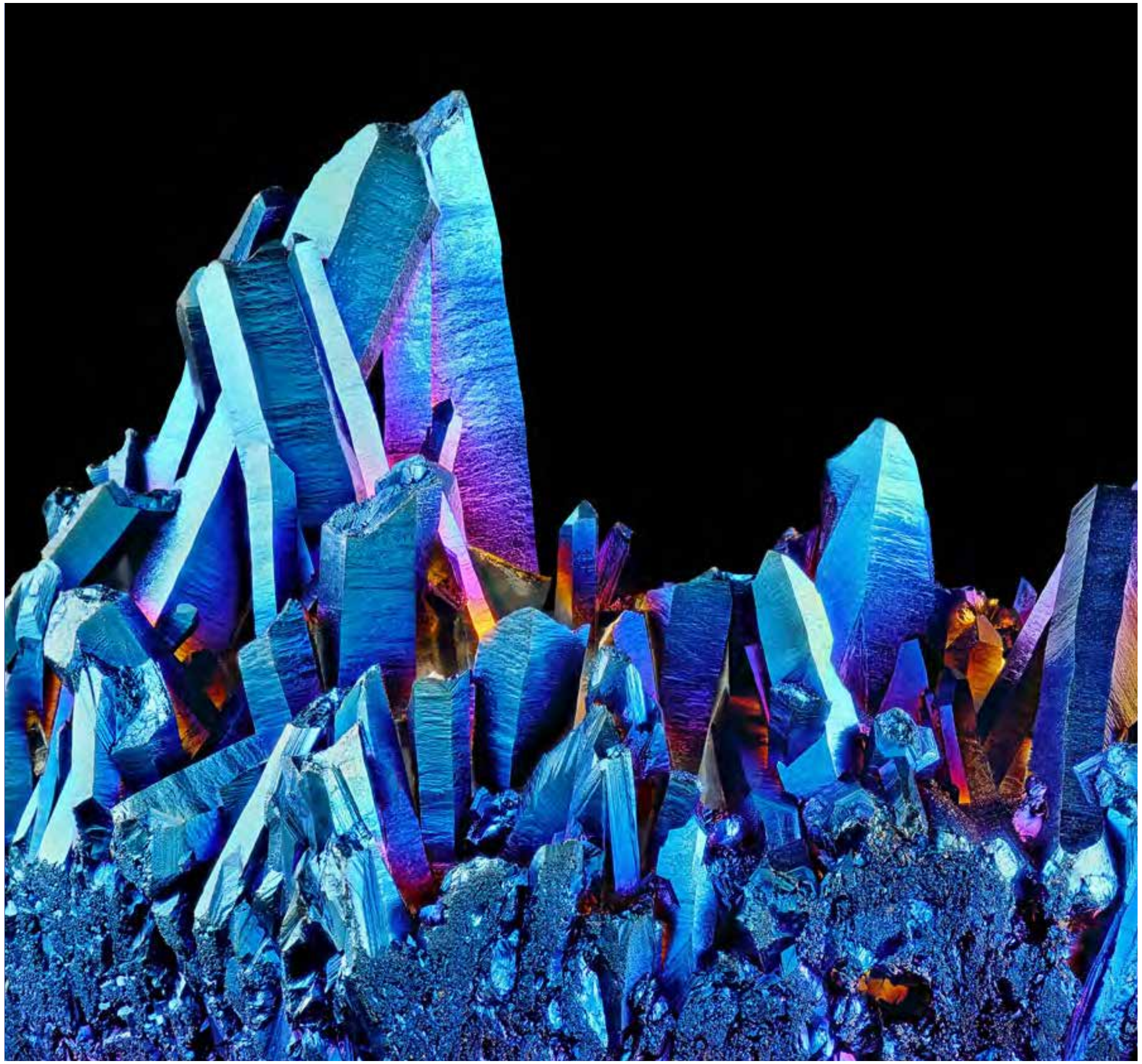
# 8. Interpreting the data across metal, segment and sector

scored worse than SORs and miners on the 5-step Framework in 2018 (Figure 6.1), downstream companies that disclose the minerals they source performed better than their upstream counterparts (see bottom row of Figure 8.1). Relatedly, the downstream sectors that disclose what metals they source also appear to be sectors for which metals comprise a relatively high share of inputs or product content. Considering several sectors like oil & gas operations and telecoms for which metals constitute similarly important inputs but had weak performance on disclosure, further research may be warranted on the intersection of legislation and materiality as dual drivers of uptake.

**Convergence in upstream performance**
Compared to downstream companies, SORs and miners varied little in performance on disclosure between metals, with all metal-supply chain segment pairs scoring in the 23-37% range when the highest (tantalum smelters) and lowest (iron smelters) are excluded. It might seem surprising that the upstream 3TG sector scored little better than other base and industrial metals after years of being under higher scrutiny and experience implementing industry due diligence programmes.

Several factors likely explain the convergence in performance among SORs and miners operating in different metal supply chains. One must bear in mind how the study's sample affected results. Miners made up the smallest category among supply chain segments, and comprised a global spectrum of companies. As a result, the possibly superior performance of upstream companies in the high-risk areas under the most scrutiny and with particularly advanced implementation like the Great Lakes Region of Africa likely failed to show up in the data as a result of the globally diverse upstream 3TG sample. Anecdotally, however, the small subset of 3T mining companies (tin, tungsten and tantalum are the minerals collectively referred to as the "3T") operating in the Democratic Republic of the Congo (DRC) in the sample scored just above 50% on average against the 5-step Framework indicators for 2018, well above average for both upstream 3T companies and the full sample. Another likely factor behind the convergence in results for miners is the diversified nature of companies up and down the minerals supply chain. This can work in different ways. For example, it is plausible that 3TG served as a point of entry for high-performing companies to conduct due diligence across their mineral sourcing portfolio. Likewise, poor performance by diversified companies also contributes to convergence, as such companies drag down the averages for many metals simultaneously. Accordingly, both high-performing and low-performing diversified companies likely had a levelling effect on the scores across metal supply chains, resulting in modest to middling scores throughout.

**Both high-performing and low-performing diversified companies likely had a levelling effect on the scores across metal supply chains, resulting in modest to middling scores throughout.**



# 9. Disclosure referencing national legislation

Figure 9.1. Average Guidance Uptake (by legislation)

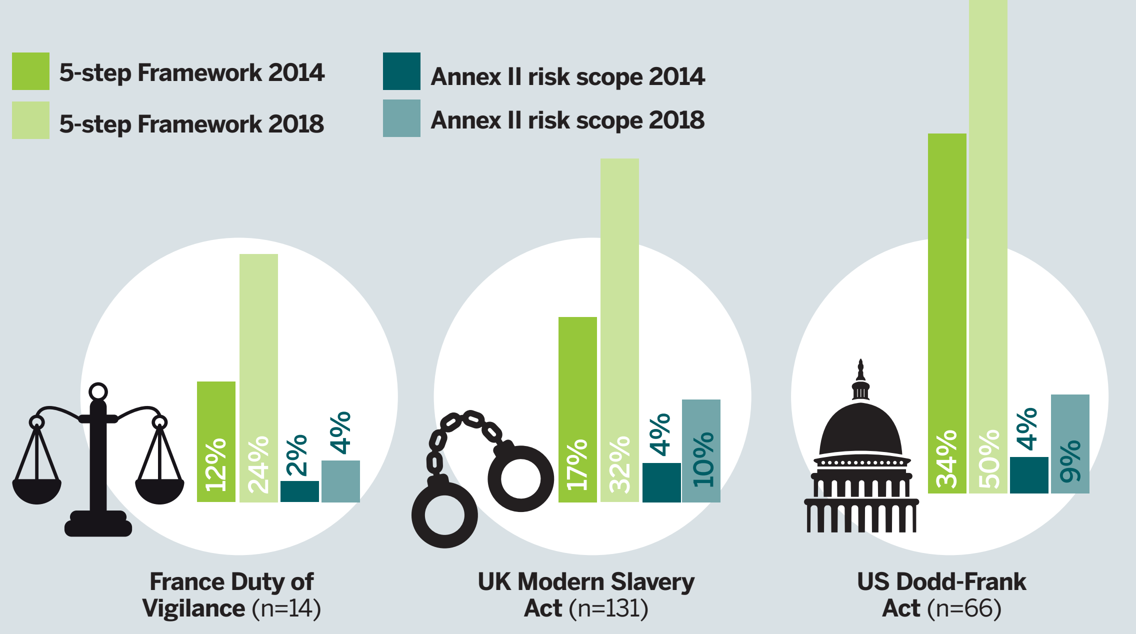



Figure 9.1 shows that the existence of mandatory legal requirements are a strong incentive for disclosing information in line with the Minerals Guidance. In July 2010, the US Congress included a provision (Section 1502) in the Dodd–Frank Wall Street Reform and Consumer Protection Act ("Dodd Frank Act") pertaining to trade of 3TG produced in the DRC and adjoining countries. The Minerals Guidance was recognised by the Securities and Exchange Commission as the only available international due diligence framework and has de facto become a requirement for all publicly listed companies sourcing 3TG. Therefore, companies covered by Section 1502 perform quite well on disclosure, scoring 50% on average against the 5-step Framework indicators of the study. Nevertheless, this level of uptake remains low, and the very low scores against the Annex II risk scope indicators seem to indicate an approach more focused on compliance than on due diligence. It is encouraging to see that the extent of disclosure has improved between 2014 and 2018, even if the enforcement of the rule was suspended in 2017 (Reuters, 2017). Considering the significant size of the sample and its diversity in ownership structure, this likely reflects the introduction of Section 1502 of the Dodd-Frank Act and its requirements (111th United States Congress, 2009); (United States Securities and Exchange Commission, 2012). The levels of disclosure by British companies referencing the UK Modern Slavery Act 2015 (Modern Slavery Act 2015 (c. 30), 2015) and French companies referencing the Duty of Vigilance law of 2017 (Loi relative au devoir de vigilance, 2017) also scored higher than average against the 5-step framework, at 32% and 24% respectively.

**Companies covered by Section 1502 perform quite well on disclosure, scoring 50% on average against the 5-step Framework indicators of the study.**

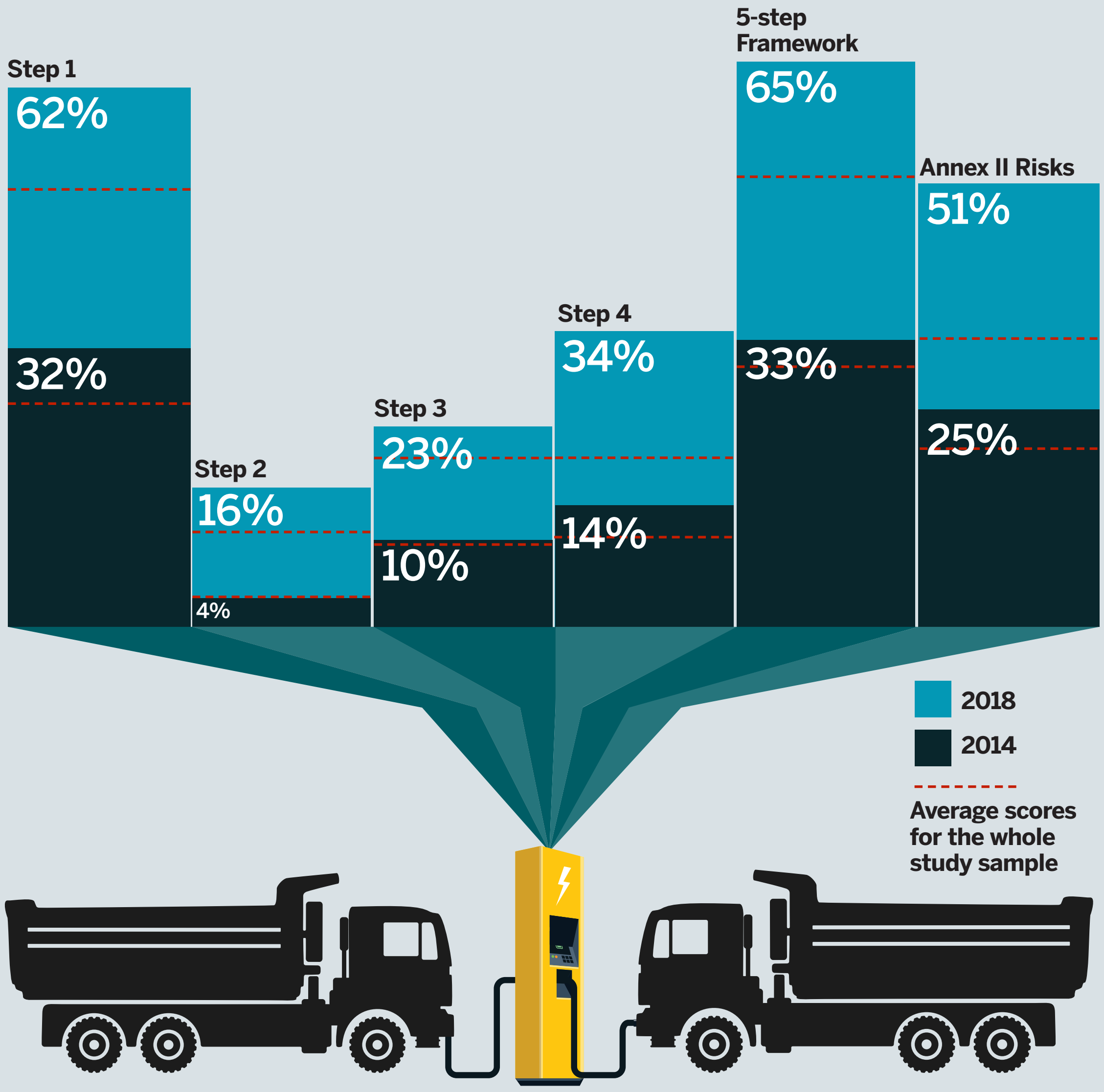
When analysing the findings, the ownership structure of companies and the scope of legislation must be considered. As the only minerals-specific law implemented between 2014 and 2018, Section 1502 of the Dodd-Frank Act is only applicable to publicly traded companies on U.S. stock exchanges. As such, the law has a more limited impact on private downstream companies or other state-owned or controlled entities. While other regulations, such as the U.K. Modern Slavery Act of 2015, target all companies above a defined global annual turnover (GBP 36 million) and regardless of their ownership structure, they do not directly reference the Minerals Guidance as they are sector-agnostic. The Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum, tungsten, their ores, and gold originating from conflict-affected and high-risk areas ((EU) 2017/821, 2017) was applicable as of January 2021, so its effects are not captured in the data. Prospective due diligence obligations, such as those being considered by the European Union as part of sector-agnostic human rights due diligence legislation, are likely to further drive uptake in disclosure by companies within the next decade, including in metal supply chains that have been less exposed to responsible sourcing requirements.

# 10. Sectoral deep dive: electric vehicles

In policymaking and industry circles, electric vehicles (EVs) are the aspirational embodiment of a just transition—fostering a low-carbon transition that is powered by responsibly sourced raw materials. This study provides some encouraging signs the industry could be well positioned to deliver on this latter dimension. Not only do companies in EV supply chains perform better on the 5-step Framework than the average company in the study sample; they also made significantly more improvement between 2014 and 2018 than the average company. Nonetheless, and consistent with other sectors, the EV supply chain scored poorly on Steps 2 and 3, identifying and responding to risks, respectively. This is a major shortcoming, especially considering these steps are the primary ways for responsible sourcing and due diligence to make a positive contribution to mineral producing and trading countries. Put simply, diligently carrying out these steps is a prerequisite to truly realizing a just transition. Overall, however, the 2018 data suggest the

**Only 10% of sampled companies in the construction sector, of particular importance for the pandemic recovery, demonstrated any uptake at all of the Minerals Guidance through their disclosures.**

**Figure 10.1.** Percentage of companies in the electric vehicle supply chain satisfying at least one indicator through their disclosures by step of the Minerals Guidance




industry was in the process of building a strong foundation for supply chain due diligence. Many developments are converging in this sector that could drive further improvements, like the responsible sourcing requirements of the London Metal Exchange covering several battery metals in addition to the new draft European Battery Regulation (COM/2020/798, 2020).

By contrast, only 10% of sampled companies in the construction sector, of particular importance for the pandemic recovery, demonstrated any uptake at all

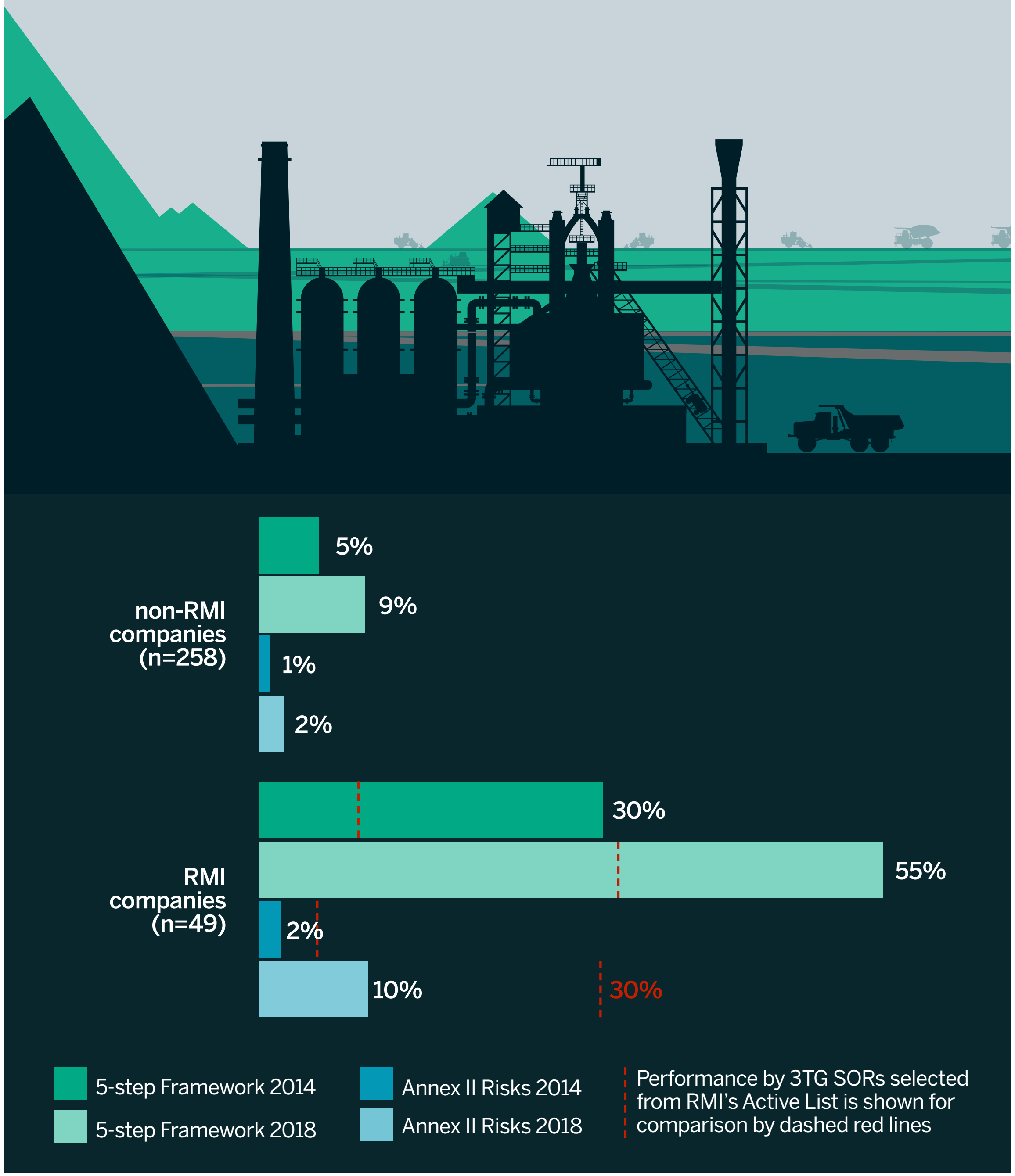
# 11. Areas for further research

As public reporting is an integral part of the due diligence process, companies falling short of full disclosure as per Step 5 of the Minerals Guidance are not fully implementing it. This is why studying disclosure is a foundation for analysing the impact of due diligence practices, as outlined by the OECD Monitoring and Evaluation Framework: OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (OECD, 2021a) (Monitoring and Evaluation Framework).

As the OECD will continue to assess progress on disclosure, the indicators used in future editions of this report will seek to align with those presented in the uptake section in the Monitoring and Evaluation Framework. While disclosure may not always be a perfect proxy for the quality of implementation, it provides a more balanced and wide-ranging view of implementation at scale for stakeholders and policymakers than possible alternatives, and reliance on it as a source of data is poised to grow further.

**As public reporting is an integral part of the due diligence process, companies falling short of full disclosure as per Step 5 of the Minerals Guidance are not fully implementing it**

Figure 11.1. Performance of downstream companies by Responsible Minerals Initiative membership status (5-step Framework and Annex II risk scope)



## 11. Areas for further research

Results have clearly shown an upward trend in reporting across all supply chain segments, industry sectors and minerals between 2014 and 2018. The OECD will continue to conduct analysis of corporate disclosure against the expectations of Step 5 of the Minerals Guidance. In particular, the finding that certain low-scrutiny downstream industries that are large users of metals are vastly underperforming other downstream industries raises important questions, with potentially significant implications for how policymakers can drive uptake of due diligence. Are these low-performing sectors enabling leakages of minerals associated with unmitigated human rights and business integrity risks into global supply chains? Or alternatively, do such sectors tend mainly to be appendages to supply chains whose control points and original equipment manufacturers (OEMs) are already regulated, well monitored or subject to strong market expectations? It might be useful to identify and include first- and second-tier suppliers of those low-scrutiny downstream industries in the samples of future editions of this study, in addition to examining their proximity to control points. The OECD's M&E Framework will also go some ways toward identifying the impacts on mineral-producing countries stemming from the variation in uptake levels between different sectors.

The role of industry programmes is another important avenue for further research and engagement. As presented in the study, and confirmed by the initial findings of the Alignment Assessment before the standard re-assessment, industry initiatives need to be vigilant about disclosure- given their potential to enhance the quality of disclosure of their member companies. Figure 11.1 presents a case in point for the promise of industry initiatives, but also persistent challenges they face. Downstream Responsible Minerals Initiative (RMI) members perform far better than non-members on the 5-step framework in the sample. And yet, RMI members still show similarly low levels of disclosure against the full Annex II risk scope of the Minerals Guidance. Furthermore, while significantly over-performing the full sample average on Step 2, only 41% of downstream RMI members satisfied at least one indicator related to identifying risks. In some sense, the impressive results of downstream RMI members compared to non-members is likely the result of the self-selected nature of RMI membership, which puts into stark relief the dichotomy between higher- and lower-scrutiny companies and their divergent approaches to due diligence.

**The OECD will continue to conduct analysis of corporate disclosure against the expectations of Step 5 of the Minerals Guidance.**

More work can also be done to improve our understanding of how due diligence expectations are cascaded through the supply chain using disclosures. Through public documents, it is possible to reconstruct the configuration of entire supply chains from mine to end user and the complex web of value addition relationships between them. This opens promising avenues for studying the intensity of these supply chain relationships along certain nodes, testing assumptions about leverage and the nature of private sector-driven incentives for due diligence. In particular, studying control points will enable increased focus on the effectiveness of risk identification and mitigation practices upstream, and to investigate these practices' impact in conflict-affected and high-risk areas by looking at conditions in the areas where the minerals supplied to such control points are produced and traded.

# 12. Recommendations

**Box 11.1.**
**Recommendations**
Companies, governments and civil society organisations have an important role to play to increase the share of companies that disclose their mineral supply chain due diligence, and to enhance the comprehensiveness and quality of disclosure in line with the Minerals Guidance

## Promote due diligence reporting by companies in mineral supply chains

**Governments** should consider both incentives and requirements to enhance public disclosure to further implement the Minerals Recommendation. This can include a range of measures, directed towards individual companies as well as the broader policy environment in which they operate. The introduction of disclosure requirements in line with the Minerals Guidance as part of regulatory frameworks, compiling public repositories of company due diligence reports and incorporating due diligence disclosure requirements into public procurement guidelines are a few promising ways to drive more companies to publicly disclose. More broadly, governments might consider putting in place oversight mechanisms for industry initiatives so that voluntary schemes deliver on clearly defined mandates and hold participating companies accountable. International co-operation and trade negotiations also present opportunities for harmonising strong disclosure expectations in producing, trading and consuming countries, and between donors and partner countries.

**Industry initiatives** should use the findings of the Alignment Assessment (OECD, 2018) and future Assessments to make sure they are aligned with the disclosure requirements of the Minerals Guidance. To improve in this regard, some industry initiatives will have to do better at verifying that disclosure requirements are cascaded through the supply chain, expanding beyond their traditional geographic focuses, and providing tools and templates to help member companies enhance the quality of their reporting. This is valid for both those industry initiatives covering minerals historically under more scrutiny like 3TG and cobalt, in addition to precious stones and new industry initiatives set up in response to national legislation or market maker requirements.

**Companies** should step up efforts on improving the quality of their disclosure. Companies that are not yet reporting on their due diligence despite sourcing metals or minerals should start doing so, and companies that are already reporting should do so with greater specificity. This may be an obvious take-away from this report and, in some sense, is about better honing the fundamentals of due diligence. It also entails working more closely with suppliers to cascade disclosure requirements through the supply chain, including by incorporating flow-down provisions related to public disclosure of due diligence into contracts and building suppliers' capacity to meaningfully disclose in line with the Minerals Guidance. Companies should devote particular attention to improving performance on Steps 2 and 3, through their own practices and as part of their review of their suppliers' due diligence, and disclosing accordingly:

- Disclosing both the information yielded through the risk assessment process and the methodology used to conduct the risk assessments. This could also include how companies have identified the most severe risks in their supply chains. In addition, downstream companies should describe how they identify smelters/refiners in the supply chain and assess their due diligence practices.
- Disclosing what steps the company has taken to manage risks, including a summary of the strategy for risk mitigation in the risk management plan, capability-training, if any, and the involvement of affected stakeholders. Companies should also disclose efforts made to monitor and track performance for risk mitigation and all the instances and results of follow-up after 6 months to evaluate significant and measurable improvement. In addition, they should disclose the number of instances where the company has decided to disengage with suppliers and/or supply chains consistent with Annex II of the OECD Minerals Guidance.

Investors should demand high quality, meaningful and detailed public disclosure in line with the Minerals Guidance of investees producing or sourcing minerals or metals. In addition to the potentially transformative role finance can play in enhancing the quality of supply chain due diligence, improved transparency in this regard would make future evaluations of investee risk exposure and due diligence systems more efficient.

## Monitor and take action on public reporting by companies in mineral supply chains

**Governments** should support efforts to monitor disclosure by companies operating in their jurisdictions. The OECD Feasibility Study for the garment and footwear sector offers a menu of options for governments to undertake measurement of responsible business conduct instruments (OECD, 2020). This would allow them to better understand the implications of policy interventions related to the Minerals Guidance and the potential need for accompanying measures to increase their effectiveness.

**Civil society organisations** should use the indicators outlined in the M&E Framework (OECD, 2021a), as well as those in this study, to benchmark public disclosure of companies in selected mineral supply chains or sectors.

**Industry initiatives** should assess their members more rigorously on disclosure. Expectations should be clear in this regard, and failure to disclose accordingly should lead to non-conformances in audits and – if not addressed – ultimately consequences for members and auditees that are consistently applied; this should include not passing audits if reports are not of sufficient quality and regularly published. Industry initiatives can support their members by providing templates for disclosure, sharing best practices and compiling repositories of members' public reports.

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