CMSI Consultation Response

Respondent Details

NAME
David Shirley

COUNTRY
United Kingdom

PERMISSION
Yes, CMSI can disclose my feedback, name, and organisation.

STAKEHOLDER
Assurance provider/auditor

ORGANISATION
Corporate Integrity

COMMENTS & QUESTIONS BY DOCUMENT

Document:
Governance

QUESTION 1
The governance principles that guided the development of the governance model are inclusive, effective, credible, impact-driven, pragmatic and efficient. From your perspective, does the proposed governance model meet expectations for consistency with these principles?
Response: 3: Meets expectations

QUESTION 2
Does the proposed governance model ensure no single group is able to unduly influence decisions?
Response: yes

Document:
Assurance

QUESTION 1
From your perspective, does the Assurance process meet your expectations of a robust, credible, replicable and transparent approach?
Response: 3: Meets expectations

Document:
Standard

Introduction

SECTION: 1) Structure of the Consolidated Mining Standard

COMMENT:

Worker and social safe guards section should also have a Grievance Standard. If Standard 17 covers this, it should be made clear in the standard.

COMMENT:

Risk Management should be de-coupled from 1. Corporate Requirements and have it's own number. It should be a prominent and over arching requirement of the standard.

COMMENT:

Please note that although the comments provided in this consultation are registered under David Shirley, they represent the combined comments from Corporate Integrity.

Regards

David Shirley

Director

Corporate Integrity

COMMENT:

1. We assume Good Practice should equate to a Copper Mark Fully Meets. Performance Area sub element criteria for "Good Practice" throughout should reflect CM core requirements.

2. Leading Practice - There are no generally accepted definitions of what is currently considered as Leading Practice, and the narrative should therefore state that this standard provides examples only of what may be considered leading practice. Companies should not be able to claim 'Leading Practice" status just based on CMSI assurance. Maybe this would better be titled "Towards Leading Practice". A useful way to identify leading practice is when Good Practice (=100% mark) is superimposed by innovation or breakthrough practice. Raising the bar over time (e.g. bringing what may currently be considered as Leading Practice into the Good Practice) by having regular reviews of the criteria would be a practical and transparent way of demonstrating ongoing improvement.

3. Many of the examples in this document identified as 'Leading Practice" in our view are already examples of 'Good Practice". We have tried to point these out in our comments.

COMMENT:

A statement on the role of risk assessment in application of the standard would be helpful. The company's self assessment of risk should be a fundamental departure point for external assessment.

Performance Area 1: Corporate Requirements

SECTION: 1.1 Board and Executive Accountability, Policy and Decision, Making, Leading Practice

COMMENT:

Leading Practice vs Board Committee on sustainability matters. Leading practice really depends on the Terms of Reference of this board committee, not merely the existence of one. We have seen many sustainability committees that are only focused on CSR, not risk management and performance.

SECTION: 1.2 Sustainability Reporting, Good Practice

COMMENT:

We see leading practice around deeper issues-based sustainability reporting, ie GRI would be good practice but for example identifying water risk as an enterprise-wide risk and publishing a Water Report, or identifying Climate Risk and meeting TCFD, biodiversity risk and TNFD etc.

Independent assurance on sustainability (for what it's worth, sometimes) feels more like good practice.

SECTION: 1.4 Risk Assessment, Foundational Practice

COMMENT:

Suggest the coverage of risks under 1.4 Foundational be less prescriptive, perhaps 'non-financial risks'...?

SECTION: 1.4 Risk Assessment, Good Practice

COMMENT:

on 1.4 risk assessment Good Practice and Leading Practice might reasonably include

- more frequent updates of risk register in non-steady state operations or projects

- some kind of link to standards of risk assessment (we see significant variability between a collation document and a working "live" process of risk assessment"

- link to Board Risk or Audit and Risk Committee process (some organisations have a "separate" risk register that goes to an ESG or corporate affairs professional but gets nowhere near the Board like financial or regulatory risks do.

SECTION: 1.4 Risk Assessment

COMMENT:

If this standard is risk based, we would expect to see it reflected in operational and corporate practices, ie elevate specific risks to the Risk Committee of the Board or the Audit & Risk Committee of the Board. When we look at the Board risk register we often see Climate Risk (because investors are focused on this) and Tailings Risk (because of recent events in the last 10 years) but, for example, we see little of Human Rights risk or other strategic environmental risks - ie the elevation of risk is patchy.

Consider this connection part of Leading practice

SECTION: 1.5 Crisis Management and Communications, Good Practice

COMMENT:

Re Crisis Management - should include as 'Good Practice' consultation with potentially affected stakeholders - in terms of sociallising risk and in participation in response planning where relevant.

SECTION: Applicability

COMMENT:

It is important that the governance structure is hard wire linked from site to corporate and visa versa. It should be a 'must' for risk evaluation and risk management to be implemented at facility level, 'where feasible" seems too weak.

Performance Area 10: Emergency Preparedness and Response

SECTION: 10.1 Emergency Preparedness and Response Planning, Good Practice, 2

COMMENT:

Testing of ERP should not be arbitrary at twice per year, but related to risk and complexity of emergency response

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Performance Area 11: Security Management

SECTION: 11.1 Security Management, Leading Practice, 2

COMMENT:

MOUs with security forces should be good practice rather than leading practice.

Leading practice might be senior management engagement with security forces decision-makers to periodically improve collaboration/tighten governance.

Performance Area 13: Community Impacts and Benefits

SECTION: 13.2 Community Development and Benefits, Good Practice

COMMENT:

Consider a multi-level approach to support community development, including

1. Creation and endowment of foundations based on facility revenue, directed by a mix of company and local stakeholders, to provide long-term community development benefit.

2. Annual discretionary funding, preferably also tied to a target linked to annual revenue.

3. Statutory obligations for community spend (e.g. linked to ESIA resolutions).

SECTION: 13.2 Community Development and Benefits, Leading Practice, 1

COMMENT:

Re 13.2 Leading Items 1 and 5 should be Good practice.

Performance Area 15: Cultural Heritage

SECTION: 15.1 Cultural Heritage Identification and Management, Good Practice

COMMENT:

Suggest explicit reference to non-tangible cultural heritage (e.g. local knowledge and customs), so as to broaden focus from physical/ archeological materials

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Performance Area 17: Grievance Management

SECTION: 17.1 Grievance Mechanism for Stakeholders and Rights, Holders

COMMENT:

Re 17.1 Leading items 3, 4 and 5 should all be 'Good Practice".

Performance Area 18: Water Stewardship

SECTION: 18.1 Water Management and Performance, Leading Practice, 1

COMMENT:

Meeting facility objectives should be good practice, not leading practice

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SECTION: 18.1 Water Management and Performance, Leading Practice

COMMENT:

Leading practice might include consideration of long term or strategic impactors such as climate change influences on watershed, population influx and tensions on water use allocation over LOM etc

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Performance Area 19: Biodiversity, Ecosystem Services and Nature

SECTION: 19.1 Biodiversity and Ecosystem Services and Nature, Good Practice

COMMENT:

Consider a direct reference to IFC Performance Standard 6 as a convenient reference point for good practice alignment, rather than a footnoted reference.

Performance Area 2: Business Integrity

SECTION: 2.1 Legal Compliance, Leading Practice, 1

COMMENT:

Re legal compliance - Internal audit should be 'Good Practice" not 'Leading Practice,

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SECTION: 2.1 Legal Compliance

COMMENT:

Re Legal compliance - should include list of international norms to which company is committed.

SECTION: 2.2 Business Ethics and Accountability, Leading Practice

COMMENT:

Under Business Ethics and Accountability, suggest all three 'Leading Practice " examples are 'Good Practice" requirements

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Performance Area 21: Tailings Management

SECTION: 21.1 Tailings Management, Leading Practice, 1

COMMENT:

Re 21.1 Leading Item 1 should be 'Good Practice". This is now an accepted norm and without demonstrating full conformance then risk would be unacceptable.

Performance Area 24: Closure

SECTION: 24.1 Closure Management, Leading Practice, 2

COMMENT:

Re 24.1 Leading item 2 should be good practice.

Performance Area 3: Responsible Supply Chains

SECTION: 3.1 Responsible Supply Chain (applicable to all facilities), Good Practice

COMMENT:

Many supply chain management processes we see have no "teeth" in contractual enforcement, ie are stated expectations to cover the mine but are not intentionally actionable (eg warnings, blacklist, removal). Suggest that Good practice minimum would have contractual clauses that support meaningful enforcement of expectations.

SECTION: 3.1 Responsible Supply Chain (applicable to all facilities), Leading Practice, 9

COMMENT:

Needs to be more specific in requiring supply chain due diligence risk assessment for all suppliers.

SECTION: 3.1 Responsible Supply Chain (applicable to all facilities), Leading Practice

COMMENT:

Six Good Practice and Ten Leading Practice expectations seems top heavy. Some 'Leading" would seem better placed in 'Good". e.g. 1, 4, and 10

Performance Area 4: New Projects, Expansions and Resettlement

SECTION: 4.1 Risk and Impact Assessments of New Projects and Expansions, Good Practice, 1

COMMENT:

A common failure here is that insufficient time is allowed in project planning for genuine stakeholder engagement. Therefore "engage potentially affected stakeholders in the baseline data collection process" specifies when but does not necessarily activate the "enough time to change design" expectation that ought to underpin good practice.

For example, a fast tracked project of 8 weeks baselining followed by 4 months design and a short ESIA process in a poorly regulated country results in tick-box engagement.

An "adequate time to respond/change approach" clause in good practice might be useful.

SECTION: 4.1 Risk and Impact Assessments of New Projects and Expansions, Good Practice

COMMENT:

Good practice might be to operationalise ESIA-identified risks. We often find that the risk management is transactional and related to approvals (ie impact and agreed mitigation). During handover from EPCM phase to operations (usually with a full changeover of personnel), these re often lost.

COMMENT:

Suggest reference to linking ESIA and resettlement planning to the Project Stage Gate process. Use of Stage Gate processes would assure that environmental and social impact planning (including resettlement) do not get out of phase with project planning and implementation.

SECTION: 4.1 Risk and Impact Assessments of New Projects and Expansions, Leading Practice, 1

COMMENT:

Vulnerable communities ought to be in good practice, not leading practice

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SECTION: 4.2 Land Acquisition and Resettlement, Good Practice

COMMENT:

Recommend that independent, 3rd party audit of resettlement effectiveness be included at the Good Practice level.

SECTION: 4.2 Land Acquisition and Resettlement, Leading Practice

COMMENT:

Items 3 and 4 of 'leading" may be better placed in 'Good".

Performance Area 5: Human Rights

SECTION: 5.1 Human Rights, Foundational Practice, 4

COMMENT:

Connect "defined interval" training to risks. Simply setting an annual interval and sticking to it does not necessarily address the underlying why of frequency.

SECTION: 5.1 Human Rights, Leading Practice

COMMENT:

leading performance here might include human rights defenders in mitigation reviews rather than just the HRIA

Performance Area 6: Child Labour and Modern Slavery

SECTION: 6.1 Risk, Mitigation and Operating Performance, Foundational Practice, 3

COMMENT:

Risk assessment re Child and /or Forced labour should cover supply chain, in particular contractors. Maybe need to be more explicit here.

SECTION: 6.1 Risk, Mitigation and Operating Performance, Good Practice, 5

COMMENT:

Minimum or Good practice in several jurisdictions now is to publicly disclose the risk and mitigation actions related to Modern Slavery, rather than just publishing instances.

Publishing risk, mitigation and instances of occurrence might be more transparent and indicative of good or leading practice

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SECTION: 6.1 Risk, Mitigation and Operating Performance, Leading Practice, 1

COMMENT:

Leading practices 1 and 2 would seem to be better placed under 'good practice".

Performance Area 7: Rights of Workers

SECTION: 7.1 Workers' Rights Risk, Mitigation and Operational Performance, Leading Practice, 3

COMMENT:

"living wage" item 3 in leading practice - should it not be good practice?

Possibly also item 8. Many mines have a very large contracted workforce and we have seen issues of contracted workers not benefiting from the same policies as employees.

SECTION: 7.2 Grievance Mechanism for Employees and Contractors (Workers), Leading Practice, 1

COMMENT:

Leading practice might be more transparency to workers around grievances and resolution so that the feedback loop is systemically closed.

Much of this section is letting management know what's happening, which is indeed good practice. Leading practice might be more empowering of workers and/or growing cultural resilience.

Performance Area 8: Diversity, Equity, and Inclusion

COMMENT:

Curious as to the selection of DEI for both corporate and facility level, but not other performance areas.

Performance Area 9: Safe, Healthy and Respectful Workplaces

SECTION: 9.1 Health and Safety Management, Leading Practice, 1

COMMENT:

9.1 Both Leading practices would be better placed as good practice. Cannot see how an operating mine does not have need for 3rd/4th line of defense assurance over H&S

SECTION: 9.2 Psychological Safety and Respectful Workplaces

COMMENT:

Psych safety - this is a good evolution. Thought will need to be given to assurability and rigour

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SECTION: 9.3 Training, Behaviour and Culture, Leading Practice

COMMENT:

Re 9.3 Leading Items 1. and 2. should be in 'Good Practice". Without these a SH system is incomplete.

SECTION: 9.4 Monitoring, Performance and Reporting, Leading Practice, 1

COMMENT:

Re 9.4 Leading practice 1 should definitely be under Good Practice.

Also 'non fatality" performance should never be put up as Leading Practice. Also this is an outcome not a practice.

QUESTION 1
Does the scope, content, and narrative style of the consolidated standard meet your individual expectations and the collective industry expectation for responsible production practices?
Response: 2: Below expectations

QUESTION 2
Do the requirements meet your expectations for being sufficiently clear to support consistent and practical implementation and to achieve necessary performance improvement?
Response: 2: Below expectations

QUESTION 3
From your perspective, does the three-level performance structure (Foundational, Good, Leading) of the Consolidated Standard meet your expectations for providing an effective on ramp and clear articulation of good practice and effective path to continuous improvement?
Response: 2: Below expectations

> Document:
> # Claims

3. Types of Reporting & Claims

COMMENT:

It is impractical to put a meaningful % achievement on 'Good Practice ". It is also potentially misleading to make a 'Good Practice" claim if all requirements are not fully met. Expected level of compliance should not

vary depending on size of facility. Key is that risks are adequately managed and management arrangements in place to meet the criteria are commensurate with the level of risk (risk-based approach). In this way the assurance provider will consider risk and complexity when determining if the site has sufficient management arrangements in place to comply. We therefore suggest a 100% requirement (e.g. in or out) should always apply.

Note that working a % score would need a granular scoring approach to each Performance Area sub element. This would require an opinion on weighting on what is important. From an assurance point of view this would add significantly to assurance effort. In our experience such systems do not provide the benefits commensurate with the significant extra effort required. As the public report will be presented for each Performance Area sub element, it seems appropriate that some companies fall short of 'Good Practice' on some sub elements. A company should not be able to claim that a Performance Area sub element is fully met if in the opinion of the assessor it is only partially met.

QUESTION 1

We would value perspectives on a few additional questions related to threshold of performance associated with achievement claims. Please click here/ see page 11 of Reporting and Claims Policy.

Response: No Response \begin{quote}It is impractical to put a meaningful % achievement on 'Good Practice '. It is also potentially misleading to make a 'Good Practice' claim if all requirements are not fully met. Expected level of compliance should not vary depending on size of facility. Key is that risks are adequately managed and management arrangements in place to meet the criteria are commensurate with the level of risk (risk-based approach). In this way the assurance provider will consider risk and complexity when determining if the site has sufficient management arrangements in place to comply. We therefore suggest a 100% requirement (e.g. in or out) should always apply.

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We therefore strongly recommend that to obtain a Logo Claim the facility must achieve 100% Good Practice. However, as for Copper Mark the claim can be made on first assessment provided all gaps are closed within a specified time frame.\end{quote}