

CMSI Consultation Response

Respondent Details

NAME

Anonymous

COUNTRY

Switzerland

PERMISSION

Yes, CMSI can disclose my anonymous feedback.

STAKEHOLDER

Industry (upstream)

ORGANISATION

Anonymous

COMMENTS & QUESTIONS BY DOCUMENT

Document:
Governance

1. What is the vision?

COMMENT:

There is insufficient information on how the legal entity will be set up and the governance model will operate in practice.

We believe that it could make sense for the board members to be able to serve a maximum three terms as opposed to two at least initially to make it easier to have continuity of board members while staggering the replacements at the outset.

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: No Response

QUESTION 2

Does the proposed governance model ensure no single group is able to unduly influence decisions?

Response: unsure

Document:
Assurance

QUESTION 1

From your perspective, does the Assurance process meet your expectations of a robust, credible, replicable and transparent approach?

Response: No Response

General comment on Performance Area

COMMENT:

More consideration should be given to whether and what information should be disclosed at asset / facility level vs corporate level.

Overarching Glossary

SECTION: Overarching Glossary

COMMENT:

Business partners/business relationships/suppliers: We recommend amending the definitions of business partners, business relationships and suppliers to make them clearer and reduce some overlaps.

Suggested definition of business partners: "an entity with whom the Facility or its corporate office on behalf of the Facility has a contractual relationship. Business partners include contractors, agents, suppliers, franchisees, local and international intermediaries or traders, joint venture partners, or any other third parties subject to due diligence within the scope of the Consolidated Standard. Business partners do not include customers, clients and end consumers."

Business relationship: We recommend amending it to "Relationships with business partners or sub-contractors, including relationships in the supply chain beyond contractual, "first tier" or immediate relationships. The ability of a Facility to identify, prevent and mitigate actual and potential adverse impacts vary across different types of business relationships, as well as due to other factors."

Supplier: we recommend changing it to "An entity in the supply chain that supplies products or services that contribute to the Facility's own operations, products or services (such as security providers and recruitment agencies)"

We further suggest the following changes to definitions:

Definition of workers to be added, and clarify what applies to employees v. contractors (aligned to EFRAG on definitions)

CAHRA (PA3): this definition is never used except in the name of the respective OECD Due Diligence Guidance

Due diligence (PA3): the term "business partners" should be changed to "business relationships"

High or very risk (PA3): this definition merits further guidance or illustrating examples to make it clearer

Minerals or Metals Processing (PA3): 'excludes onsite milling/processing of ore to concentrate and dore' - This exclusion opens the door to exemptions which will undermine the credibility of the Standard, so we suggest not excluding. Example: In Bolivia, concentrator plants that process ore to concentrate are often not linked to a mine. Several of them process ore from cooperatives. This definition implies that these concentrators are out of scope, which we do not think should be the intention

Minerals or Metals Sourcing (PA3): If this is intended to include smelters who receive feed from its own mine, it would be good to spell this out to prevent misunderstandings. If this is not the case, this should also be clarified in the definition.

Performance Area 1: Corporate Requirements

SECTION: 1.3 Transparency of Mineral Revenues, Foundational Practice, 2

COMMENT:

This is a corporate level requirement, but as a consequence of how “publicly disclose” is defined, it may be understood as disclosure being required on facility level - clarify that only corporate level public disclosure is required here given not a facility level requirement

Performance Area 10: Emergency Preparedness and Response

SECTION: 10.1 Emergency Preparedness and Response Planning, Good Practice, 11

COMMENT:

GP11.d.: We recommend this is done every 3 years rather than every 2 years.

Performance Area 13: Community Impacts and Benefits

SECTION: 13.2 Community Development and Benefits, Leading Practice, 3

COMMENT:

Clarify intended recipients of professional development etc. E.g. add “local communities”.

Performance Area 15: Cultural Heritage

COMMENT:

The inclusion of the word “and users” throughout this Performance Area is problematic, too broad and ill defined - e.g. unclear whether “users” would include tourists. Should be replaced with a different term such as “local communities” or “accountable parties”.

Performance Area 16: Artisanal and Small-Scale Mining

SECTION: 16.1 ASM Risk Assessment, Engagement and Reporting, Foundational Practice, 2

COMMENT:

“Publicly commit to support formalization initiatives’ is too narrow. A facility’s policy/public commitment should at a minimum include a commitment to doing risk and impact assessment of ASM where they are present. A public commitment to “formalization” only covers one ASM related tactic and is arguably not “foundational”.

SECTION: 16.1 ASM Risk Assessment, Engagement and Reporting, Good Practice, 1

COMMENT:

“ASM risk assessment” should also include the risks and impacts that the facility/operation has on ASM miners and ASM communities.

SECTION: 16.1 ASM Risk Assessment, Engagement and Reporting, Good Practice, 4

COMMENT:

Remove duplication: GP4 A "Grievance Mechanism needs to be communicated to the area of influence". This is important, but it is covered under PA17. It's not clear if there is an additional requirement here to PA17, if not it should be deleted (if the intention is just to have a cross reference to PA17, it would be more appropriate to do so in a guidance document than in the requirement itself);

SECTION: 16.1 ASM Risk Assessment, Engagement and Reporting, Good Practice, 5

COMMENT:

Remove duplication. "Risk based due diligence if sourcing from legitimate ASM". Same comment as for GP4A. Clarify if there are additional requirements to PA 3, and if not, delete.

SECTION: 16.1 ASM Risk Assessment, Engagement and Reporting, Leading Practice, 2

COMMENT:

"Support alternative livelihoods' should be moved to "good practice level".

SECTION: Intent

COMMENT:

We suggest moving "create economic opportunities' earlier in the sentence so it is a more general objective (not limited to economic opportunities around ASM formalization). This would follow the relevant Copper Mark criterion more closely. "Manage the risks and impacts associated with ASM where they are present. Create economic opportunities and contribute to the professionalization and formalization of legitimate ASM operators..."

Performance Area 18: Water Stewardship

SECTION: 18.1 Water Management and Performance, Leading Practice, 4

COMMENT:

It is not clear how often the independent review should occur. Add "at defined intervals" as follows: "Conduct an independent review of effectiveness at defined intervals and monitor the implementation..."

Performance Area 19: Biodiversity, Ecosystem Services and Nature

SECTION: 19.1 Biodiversity and Ecosystem Services and Nature, Leading Practice, 1

COMMENT:

LP1 and 4 should include No Net Loss in order to be practicable during operational stages. One would typically only be able to confirm the achievement of Net Gain vs NNL by closure. By adding NNL to LP 1 & 4, these would also align with LP3. Therefore, add "no net loss or" as follows: "Develop and implement a biodiversity management plan to achieve no net loss or net gain of biodiversity by closure..."

SECTION: 19.1 Biodiversity and Ecosystem Services and Nature, Leading Practice, 4

COMMENT:

LP1 and 4 should include No Net Loss in order to be practicable during operational stages. One would typically only be able to confirm the achievement of Net Gain vs NNL by closure. By adding NNL to LP 1 & 4, these would also align with LP3. Therefore, add "no net loss or" as follows: "Complete an independent review at defined intervals to assess the effectiveness of measures to address impacts on biodiversity and ecosystem services and progress to achieve no net loss or net gain."

Performance Area 22: Pollution Prevention

SECTION: 22.1 Non, mineral Waste and Hazardous Materials Management, Foundational Practice

COMMENT:

FP3 and GP2 require that actions are already implemented. These types of actions are implemented during the life of operation and a requirement to develop and implement a plan for waste reduction and mitigation of harm would enable periodic tracking of this ongoing requirement. Therefore, replace "Implement actions" with "Develop and implement a plan" as follows: "Develop and implement a plan to avoid and reduce the amount of waste generated across the operational activities, including opportunities..."

SECTION: 22.1 Non, mineral Waste and Hazardous Materials Management, Good Practice

COMMENT:

GP2: FP3 and GP2 require that actions are already implemented. These types of actions are implemented during the life of operation and a requirement to develop and implement a plan for waste reduction and mitigation of harm would enable periodic tracking of this ongoing requirement. Therefore, replace "Implement actions" with "Develop and implement a plan" as follows: "Develop and implement a plan to address identified adverse impacts from waste proportionate to the risk of..."

Performance Area 3: Responsible Supply Chains

SECTION: 3.1 Responsible Supply Chain (applicable to all facilities), Foundational Practice, 2

COMMENT:

Business relationships: Does this include the JV's supply chains? The expectations related to JV partners should be clarified.

SECTION: 3.1 Responsible Supply Chain (applicable to all facilities), Good Practice, 5

COMMENT:

Prioritised business relationships - are those prioritised business relationships that are identified in Good Practice 1?

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

COMMENT:

Requires further guidance / explanation

SECTION: 3.2 Responsible Mineral Sourcing, Foundational Practice, 1

COMMENT:

There are several OECD guidances in the reference section. Should be specified which OECD guidance this refers to.

COMMENT:

Our recommendation is to align 3.1 as much as possible with the OECD RBC and with Copper Mark's Criterion 10.

Performance Area 7: Rights of Workers

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

COMMENT:

This should be part of an employment agreement.

SECTION: 7.1 Workers' Rights Risk, Mitigation and Operational Performance, Good Practice, 5

COMMENT:

There is no reference to skills and experience.

SECTION: 7.1 Workers' Rights Risk, Mitigation and Operational Performance, Good Practice, 6

COMMENT:

Enable workers to access adequate food and clothing in the workplace. This may not be a requirement of facilities that are not "Remote".

SECTION: 7.1 Workers' Rights Risk, Mitigation and Operational Performance, Good Practice, 9

COMMENT:

These requirements would not be standard for all countries, local legislation could be a consideration.

SECTION: 7.1 Workers' Rights Risk, Mitigation and Operational Performance, Leading Practice, 6

COMMENT:

Does not state if this can be unpaid or if it has to be paid.

SECTION: Applicability

COMMENT:

It is unclear which requirements are applicable to the directly employed workers and indirectly employed workers. The terminology should align with ERFAG on worker definitions (see also general comments to this section)

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It is unclear which requirements are applicable to the directly employed workers and indirectly employed workers. The terminology should align with ERFAG on worker definitions.

Performance Area 8: Diversity, Equity, and Inclusion

SECTION: 8.1 Governance of Diversity, Equity, and Inclusion (Corporate Level), Good Practice, 6

COMMENT:

As this is a corporate level requirement, it should be clarified that disclosure should be on corporate level only given the definition of "publicly disclose".

Performance Area 9: Safe, Healthy and Respectful Workplaces

SECTION: 9.1 Health and Safety Management, Foundational Practice, 6

COMMENT:

Change 'that are gender-appropriate' into ..."hygiene facilities that are designed to meet gender-specific needs, based on local culture and context."

SECTION: 9.3 Training, Behaviour and Culture, Good Practice, 1

COMMENT:

GP1.c.: Include that this should be risk based. Not all trainings or trainees needs to be subject to a post-training competency assessment.

SECTION: 9.4 Monitoring, Performance and Reporting, Good Practice, 2

COMMENT:

GP2 (Publicly disclose physical and psychological safety and health performance at least annually): Clarification is needed on expectations for psychological safety.

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:

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:

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: No Response

Document:
Claims

Disclaimer

COMMENT:

We suggest adopting the 75%/75% model and believe a gradual ramp-up approach would be more likely to encourage adoption of the Standard from smaller companies.

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}We suggest adopting the 75%/75% model and believe a gradual ramp-up approach would be more likely to encourage adoption of the Standard from smaller companies.\end{quote}