

CMSI Consultation Response

Respondent Details

NAME

Gina Snyman

COUNTRY

United Kingdom

PERMISSION

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

STAKEHOLDER

Other: Social Performance Consultancy

ORGANISATION

Synergy Global Consulting

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: 2: Below expectations

QUESTION 2

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

Response: unsure

Synergy recognises that the Secretariat carries extensive responsibilities in overseeing the implementation and enforcement of the Standard. Given the breadth of these duties, it is crucial that the Secretariat is adequately resourced to fulfil its role effectively. Without appropriate support, there is a risk that the Standard's credibility and impact could be compromised. Ensuring sufficient resources for the Secretariat is essential for maintaining the integrity and long-term success of the initiative.

Document:
Assurance

3. Who Can Conduct External Assurance?

SECTION: Assurance Provider Requirements

COMMENT:

3.1.1 Requirement 4. c: " Assurance providers must disclose any business or financial relationship with or financial interest in the Facility, or company within the scope of the assessment. Potential conflicts of interest will be evaluated by the Secretariat and disclosed in the Assurance Report."

This scope of this provision is too inclusionary. Any business or financial relationship or interest should automatically exclude an Assurance Provider being part of an assessment at that facility, and it should not be limited either merely to relevance to the 'scope of the assessment', in the same way that 4.b precludes Assurance Providers who have been employed directly by or provided consulting or advisory services related to the scope of the Consolidated Standard to the Facility within the last three years.

4. Consolidated Standard External Assurance Process

COMMENT:

4.2.5 - 'Assurance providers are required to take a risk-based approach to gather and analyse evidence systematically on a Facility's performance against applicable Performance Areas. A risk-based approach is understood to be the most appropriate way to prioritise data gathering and analysis.' The reference here is to ISO 31000: Risk Management-Guidelines. - However, this risk-based approach favours risk to the Facility, over impacts on stakeholders, and is contrary to the standard required by the UNGPs.

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4.2.8 - 'Advanced notice to stakeholders and rights holders: contact details of Lead Assurance Provider and Secretariat to be share.' - This re-iterates the necessity to adequately capacity and resource the secretariat to ensure that it is able to respond meaningfully to stakeholders and rightsholders, potentially in volume.

4.2.12 External Stakeholder and Rights Holder Interviews - ... 'Higher levels of performance may require a greater number of interviews to substantiate evidence (i.e. more interviews may be required for Leading Practice and Good Practice than for Foundation Level). - This distinction is flawed. All information should be corroborated with a wide range of stakeholders engaged. Practice area scoring should not be based on the amount of information collected and corroborated, but the content and substance of the performance areas that are done well.

4.2.13 Assurance Plan: the secretariat has 10 days to provide feedback on the plan to the Assurance Provider, failing which it is deemed complete. - It is positive that the content required for the assurance plan is comprehensive. This re-iterates the need for the secretariat to be sufficiently staffed to meet this oversight function (within a relatively short time frame) for each assurance plan to be properly considered (and not deemed complete due to resource constraints), or the very foundation of an assessment may be flawed.

QUESTION 1

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

Response: **2: Below expectations**

An external assurance process is positive. So are minimum requirements for Assurance Providers conducting external assurance.

The Draft Standard requires the Assurance Process between the Facility and the Assurance Provider to maintain and operate a public grievance mechanism to receive feedback and / or questions about the Standard and to receive allegations, complaints or concerns about the application of the Standard and Assurance Process.

We recognise that the scope for this grievance mechanism is limited to the assurance process. The grievance mechanism could likely invite extensive submissions and expand the workload for the secretariat to process a wide range of grievances from stakeholders and rightsholders. This is flagged, as elsewhere, for consideration of realistic capacitating of the secretariat. It is critical for the secretariat to engage responsively with all communications received, regardless of their relevance or applicability, to retain credibility of the secretariat and the Standard in the experiences and perceptions of stakeholders and rights holders. Particularly so given the criticism already of the Draft Standard being an industry led consolidation of existing standards, and not a stakeholder driven or collaborative process.

Document: Standard

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: **1: Significantly below** \begin{quote}Synergy Global Consulting welcomes the initiative for a consolidated mining standard and acknowledges the importance of a unified approach to addressing the complex challenges in the sector. We are particularly supportive of the inclusion of the ICMM Human Rights Due Diligence (HRDD) tools within the Standard, having been actively involved in their development and implementation. This aligns with our commitment to advancing responsible mining practices.

However, Synergy expresses concern regarding the three tiers of performance standards outlined in the Draft Standard. Specifically, we believe that these tiers allow for a very low threshold for onboarding to the system, despite the fact that they are intended as an introductory phase. This raises questions about the robustness of the initial entry requirements and the potential for weak standards at the outset.

Additionally, we find that the standard's criteria for 'Good Practice' are set at a level that appears to fall short of meeting the intended benchmark of alignment with international norms and guidelines. The current thresholds seem insufficient to truly drive meaningful progress in responsible mining practices, and we urge a reassessment of these requirements to ensure they better reflect global best practices and more effectively advance the sector's sustainability and ethical standards.

Synergy recognises that the Secretariat carries extensive responsibilities in overseeing the implementation and enforcement of the Standard. Given the breadth of these duties, it is crucial that the Secretariat is adequately resourced to fulfil its role effectively. Without appropriate support, there is a risk that the Standard's credibility and impact could be compromised. Ensuring sufficient resources for the Secretariat is essential for maintaining the integrity and long-term success of the initiative.

In some ways the Standard represents the culmination of a two-decade long process of developing a mining industry standard which has its roots in the Mining Certification Evaluation Project (MCEP) conducted in 2002-2006. The requirements of the standard do not differ substantially from those in the MCEP criteria - we would therefore encourage the CSMI partners to consider how the standard could be better positioned to drive leadership throughout the industry, rather than simply offering a relatively low bar based on standard which were developed in some cases many years ago, and which does not reflect the current higher standards to which many, if not the majority, of the organisations involved aspire to and are committed to meeting.

Generally, the Standard is weak in terms of taking an integrated approach to management. This includes inter-linkages between different performance areas, as well as progressive linkage and cross-referencing between elements within each performance area.

In addition, the overall approach to the performance areas is inconsistent - it would be useful if a more consistent approach to each performance area was used so that there is a coherent structure, language and practice level between the performance areas and more reflective of the management system approach which it intends to apply.

The standard has 24 performance areas, 'human rights' is one of these categories. In contrast, the ICMM Human Rights Due Diligence Guidelines (and the UNGPs upon which they draw upon) refer to companies applying a human rights lens across all decision making: 'A human rights lens ensures that impacts on people are the primary focus rather than any impact to the business, while recognising that the two often converge.' This ought to be reflected in the Standard, with human rights more clearly and explicitly integrated and embedded throughout the Standard.

The draft standard does not explicitly reflect that companies must, at a minimum, meet the requirements of domestic law, the law in operation where the parent company is registered if applicable, or international law.

In contrast, the IFC requires that in addition to meeting the requirements under its Performance Standards, its clients must comply with applicable national law, including those laws implementing host country obligations under international law. And, when host country regulations differ from the levels and measures presented in the EHS Guidelines, projects are expected to achieve whichever is more stringent. If less stringent levels or measures are appropriate in view of specific project circumstances, a full and detailed justification for any proposed alternatives is needed as part of the site-specific environmental assessment. This justification should demonstrate that the choice for any alternative performance level is protective of human health and the environment.

This also ought to be reflected in the Standard.

Generally, the standard has few requirements for site-level performance reporting. Whilst there are requirements for sustainability reporting and performance against the standard, this does not necessarily equate to site-level disaggregated reporting about the social and environmental impacts of the business. We believe this would be a simple, achievable yet transformative requirement in an area which the industry continues to be weak on. For instance, the 2022 Responsible Mining Index noted that "The vast majority of the 250 assessed mine sites across 53 countries cannot demonstrate that they are informing and engaging with host communities and workers on basic risk factors such as environmental impacts, safety issues or grievances. Some 94% of the mine sites score an average of less than 20% on the fifteen basic ESG issues assessed". A simple requirement for site-level public reporting on a consistent set of key risk issues would be better reflective of the intent of the standard.

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: 1: Significantly below

The Draft Standard setting 'Good Practice' as the benchmark for the standard is setting the bar too low:

- it is below the standard already required by the UNGPs, and, by extension the standards contained in the Universal Declaration of Human Rights, ICCPR, ICESCR, and ILO specific conventions.
- these performance requirements are also below ICMM's own performance expectations and run contrary to the ICMM's Human Rights Due Diligence told, as well as the ICMM's recent Indigenous Peoples Position Statement which integrates HRDD.

Good practice points 2 & 3: 'a due diligence process' appears to be conflated with 'identify and assess human rights risks & impacts', which ignores the integrate, track and communicate parts of HRDD as defined in the UNGPs. We find this is a common confusion; however we would not expect to find this sort of misinterpretation in a standard such as this. This ought to be articulated more clearly in the Standard.

This is necessary because applying ongoing human rights due diligence is a way for companies to proactively assess actual and potential human rights impacts, act upon the findings, track responses, and transparently communicate how impacts have been addressed.

Regarding practical implementation: while the draft Standard does reference cross-cutting themes and the interrelatedness amongst the pillars, this ought to be more explicitly articulated

for Facilities, and Assurance Providers, as well as broader stakeholders, to have clarity on the application of the Standard:

Pillar: Ethical Business Practices Performance Area: 5. Human Rights This ought to be a cross-cutting theme across all four pillars. Human Rights should be embedded across all themes and pillars, not as a stand-alone measure to meet.

Pillar: Worker & Social Safeguards Performance Area: 10. Emergency preparedness and response. This ought also to apply to environmental stewardship and to social performance.

Pillar: Environmental Stewardship Performance Area: 23. Circular economy This ought to be cross-cutting with social performance and ethical business practices.

Pillar: Environmental Stewardship Performance Area: 25. Mine closure This ought to be cross-cutting with ethical business practices (e.g. sufficient financial provision and disclosure to ensure ongoing rehabilitation and responsible mine closure.)

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: 1: Significantly below

These distinctions appear to permit assurance recognition, albeit at the foundational practice level, that are a regression of industry core minimum standards.

The terminology used for the three levels is misleading and we would recommend more neutral terminology: - 'Foundational' appears to be intended to be a temporary entry point to meeting the next level and should be worded in line with this. Consistent with this definition, attainment of this level should be contingent upon a (disclosed) improvement plan to achieve the (currently termed) 'Good Practice' level. - As noted above 'Good Practice' is an inaccurate term for the specific requirements within this level, as in many cases they requirements do not achieve this level. An improvement plan would also be beneficial, where any gaps are identified, potential high-risk areas, or aspiration to meeting (currently termed) 'Leading Practice' level. - Similarly, the requirements indicated in 'Leading Practice' are generally substantially below what would be considered as leading within the industry. We believe the current terminology is currently a source of considerable confusion and criticism and more accurate descriptions may help address this to some extent. One potential option would be to align with the various Maturity Models e.g. for closure, water stewardship, social performance and human rights. The requirements that are deemed 'good practice' ought to be the measure of core minimum standards.

As a consolidated standard, and voluntary initiative, it should contain the most inclusive standards and rigorous audits.

Document:
Claims

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