

# CMSI Consultation Response

## Respondent Details

NAME

IRMA

COUNTRY

United States

PERMISSION

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

STAKEHOLDER

Other Standard Setting Body

ORGANISATION

Initiative for Responsible Mining Assurance (IRMA)

## COMMENTS & QUESTIONS BY DOCUMENT

Document:  
Governance

### 6. What will the composition of the Board look like?

#### COMMENT:

*The proposed governance model maintains mining industry dominance in critical decision-making, impeding the overall credibility of an initiative that claims to demonstrate “a new kind of industry leadership—one that shares power, fosters unity, and builds consensus”, as well as its ability to re-establish dialogue and trust between stakeholders.*

*- The proposed governance is disproportionately dominated by mining industry affiliated seats, with only 10 ‘seats’ for mining-affected stakeholders out of 54; additionally, exclusive right is given to the four mining associations to select key Board members and the Chair.*

*- The use of Industry and Stakeholder Advisory Groups and public-comment periods are insufficient to address this fundamental asymmetry and solve the deep-seated problems of distrust and conflict that persist in relationships between many mining companies, communities, NGOs, labor unions and Indigenous Peoples.*

*- Given that the proposed governance doesn’t foster this cross-stakeholder confidence, mining companies using the CMSI run the risk of spending significant time and money on a system disconnected from the concerns and demands of stakeholders, including affected peoples, consumer-facing brands and other companies which buy mined materials, investors and other finance leaders.*

Document:  
Standard

## Introduction

COMMENT:

*We believe that detailed comments on your standard are best provided by stakeholders who may engage with your system directly. Responsive to requests, including those from the CMSI, that IRMA's Secretariat provide perspectives on the draft standard, we're providing these comments, but are limiting to very brief summary of leading issues where we see the CMSI system has substantive barriers that could be addressed in order to serve mining companies who wonder "whether the standard they use will be recognised and respected by stakeholders or customers down the value chain." [per the CMSI website]*

*These issues include, but are not limited to these three main areas (please see a short annex with details on these three topics of concern):*

- 1. The proposed governance model maintains mining industry dominance in critical decision-making, impeding the overall credibility of an initiative that claims to demonstrate "a new kind of industry leadership—one that shares power, fosters unity, and builds consensus", as well as its ability to re-establish dialogue and trust between stakeholders.*
- 2. The proposed standard content weakens basic global expectations and contradicts international norms and conventions on many topics, including Indigenous rights, human rights defenders, land acquisition and resettlement, and protecting human safety from risks of mine waste/tailings.*
- 3. The proposed standard reads like generic principles, rather than detailed performance requirements that can be audited, assessed, scored, and compared.*

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COMMENT:

*The mining industry is already demonstrating best practices are possible. All of the 26 chapters in the IRMA Standard have at least one mine site that has undergone audit and achieved 90%+ conformance. That's an incredible testament to the forward momentum in the industry -and it demonstrates that high-bar environmental and social responsibility are achievable right now.*

*We know that to further incentivize a race to the top for responsible practices, we need markets and policy structures that clearly define best practices and differentiate in support of companies who are improving to meet the opportunity.*

*In sum, standard systems like IRMA and CMSI best serve the world when we:*

- Describe best practices that are agreed to across diverse stakeholders invested in improving this industry*
- Create systems that don't only score performance but support companies to improve practices and bring increased value to those who do*
- Demonstrate that companies engaging in our systems are reducing harm, and are increasingly improving how they protect people and their lands where mining and mineral processing happens*
- Reduce conflict through increased dialogue and increased trust between mining companies, communities, workers, end brands, investors, governments and others*
- Ensure, through these improved practices and increasing trust, that supply chains are steady and can reliably flow because conflict is reduced, end brands and investors are satisfied with what they learn through their due diligence and supported in their commitment to responsible sourcing*
- Increase the sharing of benefits of mining for Indigenous rights holders, workers and other directly affected communities so that they welcome engaging with mining companies as their local businesses*
- Inspire and support governments to strengthen laws and regulations that all operators must follow, so that improving practices isn't relegated to voluntary engagement*

*In each of our organizations, we know that the proverbial "green checks" don't deliver these things. The outcomes need to be trusted and people need to see positive change, or they distrust the achievement claims. If a standard itself isn't trusted, mining companies who engage may grow frustrated that their efforts aren't*

*appreciated and they may decide “why bother”. We’d like to work more closely with your organization to build complementary systems to meaningfully address broken trust in this space and bring value for the work your members are doing to produce materials the world relies on, in a manner consistent with a world in which we all want to live.*

*We look forward to discussing the opportunities in greater depth.*

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COMMENT:

*The proposed standard reads like generic principles, rather than detailed performance requirements that can be audited, assessed, scored, and compared.*

*- Broadly worded requirements which have vague language don’t provide specific details on quality/maturity/breadth nor allow for differentiating between companies who have leading practices and those who may be creating significant risks. We have heard from dozens of mining companies that detailed entry-level requirements are useful for supporting improved practices at sites with significant risks. On the other hand, vague requirements allow nearly all who use them to “check a box” without differentiating between responsible practices and those who continue to put people and supply chains at risk. Vague requirements have been criticized by mining companies, auditors, users of audit reports including affected peoples, end brands and financiers. The use of vague language is found throughout the draft CMSI Standard. This includes requirements like “Engage stakeholders and rights-holders on broader Facility-related topics such as strategy, procurement and hiring plans, risks and opportunities.”; “Provide local people with access to job opportunities”; “Develop a community investment programme”; “Manage and mitigate risks related to X identified in the risk assessment.”: “Implement measures to avoid, minimise or otherwise mitigate adverse impacts from X.”, and many more. Many seem not only too vague but also overly multi-dimensional for a meaningful assessment, such as “Identify risks and impacts related to closure and rehabilitation in consultation with stakeholders and rights-holders, including but not limited to those related to land, biodiversity, water bodies, water sources, workers, communities, infrastructure, and post-closure liabilities.”; “Engage potentially impacted stakeholders and rights-holders on processes and decisions that affect their health, well-being, safety, livelihoods, communities, lands, environment and other rights and interests. Hold separate engagements with women, underrepresented and vulnerable groups where appropriate.”; and many others.*

*- While additional implementation and conformance guidance may be developed, the draft in its current form raises reasonable concern that these normative decisions -which are essential to guarantee the interpretation and impact of a standard-could be made without stakeholder engagement on the more-technical, yet decisive process, of defining the implementation and verification rules to meet the requirements*

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## **Performance Area 14: Indigenous Peoples**

COMMENT:

*The proposed standard content weakens basic global expectations and contradicts international norms and conventions on many topics. This includes, but is not limited to:*

*- Indigenous Peoples’ fundamental right to Free, Prior, and Informed Consent (FPIC) which the CMSI only refers to as a set of “principles” and doesn’t require companies to unequivocally respect. Instead, companies are required to “obtain agreement with affected Indigenous Peoples demonstrating consent to anticipated impacts”. The language used does not require such “consent” to be free, prior, and informed, and suggests that such “agreement” can always be obtained. This isn’t compatible with international conventions (which prevent sites from pursuing projects, modification, land acquisition, etc., without the FPIC of Indigenous Peoples). The language used is also weaker than the recent update to the ICMM Position Statement which was publicly criticized by 77 Indigenous organizations.*

*- Companies are only asked to “recognize” the risks to Indigenous Peoples living in isolation, which contradicts protections given to them by international conventions, which require to not initiate contact, or make contact,*

*with them. If proposed activities may affect their rights or territories, projects must be redesigned to avoid all such impacts, or, if avoidance is not possible, ceased or not pursued*

*- Defenders are addressed in extremely vague terms (i.e. “respect the rights of [...] defenders”; “identify and assess human rights risks and impacts[...]with the intention of avoiding infringing on the human rights of others (including human rights defenders)”; “engage with human rights defenders to inform human rights due diligence processes”; and “Identify and mitigate human rights risks and impacts associated with the provision of security, paying special attention to vulnerable groups including human rights defenders”) which raises concerns that companies adopting the CMSI model would not be held accountable to existing guidance published by the industry on human rights due diligence (e.g. recent ICMM human rights due diligence guidance).*

*- Regarding land acquisition and resettlement, the IFC Performance Standard 7 is only mentioned within the ‘Good Practice’ level, not at the “Foundational” level in CMSI, creating a certification loophole even where illegal forced evictions have been carried out. The two models envisaged for the “Performance claims” (i.e. CMSI certification) that an audited site could make are based on full conformance with the ‘Foundational’ requirements, combined with different partial thresholds of conformance with the ‘Good Practice’ requirements.*

*- On the critical safety issues of mine waste, companies would be able to be certified regardless of their level of conformance with the Global Industry Standard on Tailings Management (GISTM). What is expected of companies at the ‘Good Practice’ level appears to be limited to “pursuing conformance”, undertaking reviews and audits of the “status of conformance”, and “disclosing the overall conformance status” with “a timebound summary of actions to address [gaps]”. No conformance is required with any GISTM requirement or criteria. In absence of nuance and support for continuous improvement, full compliance with the GISTM is expected at ‘Leading Practice’ level, which is purely optional. Given that the GISTM was set by the mining industry itself, is seeing uptake by dozens of mining companies, and given the interest by leaders in the finance sector for substantive progress to reduce risks to human safety related to mine waste, this represents a step backwards.*

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Consolidated Mining Standard Initiative  
c/o CopperMark, ICMM, Mining Association of Canada, World Gold Council  
Sent via Email to All Organizations

16 December 2024

Dear Colleagues,

At the request of a number of member organizations and colleagues, these comments are submitted on behalf of the IRMA Secretariat staff, in response to your request for input on the Consolidated Mining Standard Initiative. We also offer our time to meet to explore in detail the points here and ways to work together.

### **Appreciation:**

Industry trade associations provide an unparalleled role with mining company members. You host a space where companies can share insights on innovations as well as challenges. You offer the value of communication that is both internal among your members, increasing their capacity to improve practices, and also external to the world, helping the public to understand the challenges faced by mining companies who produce materials that many of us use every day. We appreciate the importance of the work that you do, and we seek to be useful to you and your membership.

Given the number of mining companies who are shared members across your associations, your efforts to harmonize expectations for members is valuable service for consistency in expectations. As an increasing number of mining companies in your membership engage in IRMA audits, we continue to seek ways that their progress and achievement can be recognized in your systems as well. We welcome your continued oversight of our systems to ensure that they meet expectations you have for achievement recognition.

### **IRMA's continued commitment to collaborate with mining trade associations:**

As we share insights with you here, we acknowledge the hard work involved in developing standards and encouraging engagement. We don't claim perfection or mastery; our insights are as much informed by the challenges we've faced as progress we've made. In addition, we've learned a great deal from your own efforts and the expertise of your key staff. MAC's Toward Sustainable Mining program was an early initiative among mining associations which introduced to Canadian mining companies the practice of ranking mine site performance and encouraging continual improvement. Similarly, we've appreciated the willingness of CopperMark's staff leadership to share perspectives on auditing processes (extending back years to their time in the Responsible Minerals Initiative), and their interest to recognize IRMA achievement for mining companies engaging in both programs.

We continue to commit to working in collaboration and to shared purpose with your organizations. Of the 99 mining companies formally registered using IRMA's Standards many are your members, and many are also outside your four organizations. Thus, together we have an opportunity to create efficiency for your members, and also to reach a broad set of mining companies who aren't in your direct network, including small and medium sized companies.

Our expression of interest to collaborate isn't new. IRMA staff worked with ICMM and MAC for over a year, starting in August 2021, to explore ways to build synergies between our systems. That work paused following our email on 13 September 2022, in which we noted that for IRMA to participate in a joint standard, that system would need to be premised on equal governance across stakeholder sectors. IRMA fully agrees with you on the importance of the mining industry's direct engagement in development of standards; we also see that their governing role should be equally shared by the customers of mining, the finance sector, communities affected by mining, labor unions and NGOs.

This is an excerpt from our email, 13 September 2022, responding to a draft document "Building a Global Standard" that had been exchanged between our three organizations:

In briefest sum: we remain enthusiastic about the opportunity to build a program that serves all stakeholders and rights holders interested to drive greater environmental and social responsibility in mining and mineral processing, especially given the strains of a climate-stressed world. We continue to be impressed by the potential for positive meaningful change if ICMM and MAC encourage their members to engage in a system that has the multistakeholder service and equal governance visioned by IRMA over a decade. Truly, if this is achieved, we will have created something of service to our world.

Our concern with the document is that there are several places where the governance and decision-making notably shift from the equal power sharing that has been built in IRMA's multistakeholder structure to a system driven by two mining industry trade associations and IRMA staff (who also serve mining, and then 5 other stakeholder sectors). That fact alone, along with a number of other associated themes/outcomes in the document, are likely to destabilize progress to date and make such a new system untrusted and without buy-in.

I think these issues could be corrected, if ICMM has member interest to engage in an equally-governed multistakeholder system. There are so many components on which we already agree. But I think we need to revisit the intentions and needs of ICMM on governance.

When ICMM and MAC moved forward in late 2022 and early 2023 to work with other mining trade associations on a converged industry standard, the IRMA Board of Directors followed up with a letter in March 2023 expressing continued interest to collaborate with all four organizations. Please find that letter attached again here.

While our governance models differ, and this influences the standard and audit programs that we host, we continue to see value in working together and ensuring that IRMA's work brings value to your members.

## **Summary of comments on CMSI Standard content**

We believe that detailed comments on your standard are best provided by stakeholders who may engage with your system directly. Responsive to requests, including those from the CMSI, that IRMA's Secretariat provide perspectives on the draft standard, we're providing these comments, but are limiting to very brief summary of leading issues where we see the CMSI system has substantive barriers that could be addressed in order to serve mining companies who wonder "whether the standard they use will be recognised and respected by stakeholders or customers down the value chain." [per the CMSI website]

These issues include, but are not limited to these three main areas (please see a short annex with details on these three topics of concern):



- 1. The proposed governance model maintains mining industry dominance in critical decision-making, impeding the overall credibility of an initiative that claims to demonstrate “a new kind of industry leadership—one that shares power, fosters unity, and builds consensus”, as well as its ability to re-establish dialogue and trust between stakeholders.**
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## Summary

The mining industry is already demonstrating best practices are possible. All of the 26 chapters in the IRMA Standard have at least one mine site that has undergone audit and achieved 90%+ conformance. That's an incredible testament to the forward momentum in the industry – and it demonstrates that high-bar environmental and social responsibility are achievable right now.

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We look forward to discussing the opportunities in greater depth.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Aimee Boulanger', written in a cursive style.

**Aimee Boulanger**  
Executive Director



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  - **Companies are only asked to "recognize" the risks to Indigenous Peoples living in isolation**, which contradicts protections given to them by international conventions, which require to not initiate contact, or make contact, with them. If proposed activities may affect their rights or territories, projects must be redesigned to avoid all such impacts, or, if avoidance is not possible, ceased or not pursued
  - **Defenders are addressed in extremely vague terms** (i.e. "respect the rights of [...] defenders"; "identify and assess human rights risks and impacts[...]with the intention of avoiding infringing on the human rights of others (including human rights defenders)"; "engage with human rights defenders to inform human rights due diligence

processes”; and “Identify and mitigate human rights risks and impacts associated with the provision of security, paying special attention to vulnerable groups including human rights defenders”) which raises concerns that companies adopting the CMSI model would not be held accountable to existing guidance published by the industry on human rights due diligence (e.g. recent ICMM human rights due diligence guidance).

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