

# CMSI Consultation Response

## Respondent Details

NAME

Robert Pitman

COUNTRY

United States

PERMISSION

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

STAKEHOLDER

Non-governmental organisation (NGO) / civil society organization (CSO)

ORGANISATION

NRGI

## COMMENTS & QUESTIONS BY DOCUMENT

### QUESTION 1

**Overall does the revised version of the Consolidated Standard system (including Standard, Assurance Process, Governance Model\* and Claims Policy) meet your expectations for improvement relative to the original public consultation version?**

Response: **1: Significantly below**

While the revised version of the CMSI certainly represents an improvement on the first public consultation draft, we were disappointed about the decision not to open the governance model to a second round of consultation. This limits transparency and meaningful participation on arguably the most important aspect of the CMSI. The ISEAL Code of Good Practice for Sustainability Systems states that scheme owners should undertake at least two rounds of public input on initial standards development (clause 6.5).

Specific issues with the current governance model include:

- Multi-stakeholder participation. The August 2025 governance model is not genuinely multi-stakeholder. It features protections to ensure that board members bring a diversity of perspectives, but it restricts the ability of these board members to act as representatives of stakeholder constituencies. Stakeholder groups are not able to select their own members, which is fundamental to the credibility of board members serving in a stakeholder capacity. In addition, the fiduciary duties clearly state that board members’ “primary fiduciary duty is to the Legal Entity as a whole and not to the stakeholder group on behalf of which that Director may have been appointed.” (see governance model, p.16) In a genuinely multistakeholder process, representing the perspectives of a stakeholder group need not be at odds with upholding the best interests of the Legal Entity. All references to multi-stakeholder participation should therefore be removed (see standard, p.3; assurance process, p.4; and governance model p.4) unless the governance model is revised to enable the independent and credible involvement of stakeholder representatives. This shortcoming will limit the ability of stakeholder groups to engage in CMSI governance, reducing the potential for the CMSI to self-correct and evolve as problems are discovered, as circumstances change and as responsible mining practices evolve. Importantly, it also means that the CMSI does not meet the multi-stakeholder governance requirements that some governments are placing on verification schemes, such as those of the EU Critical Raw Materials Act, which states that multi-stakeholder governance requires a mandate “which confirms or supports the involvement of the multi-stakeholder representatives of that certification scheme”

- Limiting public discussion on the CMSI. The requirement that board members “speak with a unified voice when representing the Legal Entity to the community” (see governance model, p.16) limits the ability of board members to engage openly about concerns they have with the standard and its implementation. It would limit public oversight and accountability on responsible mining practices by constraining the speech of important stakeholder groups, including indigenous peoples, impacted communities and consumer facing companies -or force groups to not participate in the process in order to maintain their ability to speak freely about the CMSI.
- National Panels. The provision for National Panels, with the ability to set country-specific interpretation for implementers and assurance providers has potential to improve the governance, implementation and assurance of the CMSI, but there is a risk that, without the necessary safeguards, national panels could become the means to dilute CMSI requirements in specific geographies. In particular, we are alarmed by the suggestion that national mining associations could convene National Panels. (See governance model, p.14) National mining associations have industry-oriented mandates that would lead some to question the neutrality of these panels, undermining the credibility of the standard at the national level.

## QUESTION 2

**From your perspective, does the updated Consolidated Standard system, including Standard, Assurance Process, Governance Model\* and Claims Policy meet expectations for driving performance improvement across the industry at a global scale?**

Response: **2: Below expectations**

Overall, we have the following headline concerns:

- Without genuine multi-stakeholder governance, the CMSI may not be able to self-correct and evolve as problems are discovered, as circumstances change and as responsible mining practices evolve. It may also not meet governance requirements that some governments are placing on verification schemes, such as those of the EU Critical Raw Materials Act.
- Without sufficient measures to encourage leading practice, few companies will go beyond the requirements set at the good practice level.
- Without clear, consistent, and detailed reporting at the level of specific requirements in the statement of findings, it will be challenging for communities, civil society, investors and consumer companies to understand how conclusions were reached and whether the standard is being applied consistently.
- Without an equivalency map, it hard for all stakeholders—but particularly investors and value chain companies—to understand whether alignment with the CMSI’s good practice level is equivalent to meeting other international norms, frameworks and guidelines. This undermines credibility of the standard, and limits its ability to streamline the standards world.

Document:  
**Assurance**

## 1. Introduction

SECTION: 1.1 About the Consolidated Standard

COMMENT:

*Concerning the reference to multi-stakeholder participation in the introduction. The August 2025 governance model is not genuinely multi-stakeholder. It features protections to ensure that board members bring a diversity of perspectives, but it restricts the ability of these board members to act as representatives of stakeholder*

constituencies. Stakeholder groups are not able to select their own members, which is fundamental to the credibility of board members serving in a stakeholder capacity. In addition, the fiduciary duties clearly state that board members' "primary fiduciary duty is to the Legal Entity as a whole and not to the stakeholder group on behalf of which that Director may have been appointed." (see governance model, p.16) In a genuinely multi-stakeholder process, representing the perspectives of a stakeholder group need not be at odds with upholding the best interests of the Legal Entity. All references to multi-stakeholder participation should therefore be removed (see standard, p.3; assurance process, p.4; and governance model p.4) unless the governance model is revised to enable the independent and credible involvement of stakeholder representatives.

This shortcoming will limit the ability of stakeholder groups to engage in CMSI governance, reducing the potential for the CMSI to self-correct and evolve as problems are discovered, as circumstances change and as responsible mining practices evolve. Importantly, it also means that the CMSI does not meet the multi-stakeholder governance requirements that some governments are placing on verification schemes, such as those of the EU Critical Raw Materials Act, which states that multi-stakeholder governance requires a mandate "which confirms or supports the involvement of the multi-stakeholder representatives of that certification scheme".

Additionally, the requirement that board members "speak with a unified voice when representing the Legal Entity to the community" (see governance model, p.16) limits the ability of board members to engage openly about concerns they have with the standard and its implementation. It would limit public oversight and accountability on responsible mining practices by constraining the speech of important stakeholder groups, including indigenous peoples, impacted communities and consumer facing companies -or force groups to not participate in the process in order to maintain their ability to speak freely about the CMSI.

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### 3. Who Can Conduct External Assurance?

SECTION: 3.1 Assurance Provider Requirements, 3.1.1 Assurance Provider Qualifications

COMMENT:

3.1.1.5.b. Insert "or any members of their immediate family" after Assurance Providers.

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### 4. Consolidated Standard External Assurance Process

SECTION: 4.3 Execution of Facility Assessment, 4.3.5 Non

COMMENT:

The assurance process does not clearly state whether the corrective actions identified by assurance providers will be made public. Making these documents public, either alongside or as part of the statement of findings, would provide valuable information that rights holders, investors and value chain companies can use to make decisions around projects. It also would allow these stakeholders to help hold companies accountable to corrective actions that they must meet.

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SECTION: 4.5 Reporting

COMMENT:

Concerning the statement of findings, our experience has taught us that a credible assurance process must provide clear, consistent, and detailed information at the level of specific requirements. This should include why specific requirements do not apply. Without this information it is challenging for communities, civil society, investors and consumer companies to understand how conclusions were reached and whether the standard

*is being applied consistently. Requiring the publication of a more thorough Statement of Findings in this way would significantly improve accountability and confidence in the assurance system.*

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COMMENT:

*As part of the statement of findings assurance providers are able to provide companies with information about requirements they need to meet the leading practice level of the CMSI. However, this is only required for companies that indicate that they are working to achieve the leading practice level. As part of the drive towards continual improvement, this should not be something that companies opt in to. Rather, all companies that meet the good practice level should automatically receive information about the requirements they need to meet to attain leading practice. To help companies meet these requirements, they should be published alongside or as part of the statement of findings.*

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SECTION: 4.6 Continual Improvement Plan

COMMENT:

*Given the fact that encouragements on their own are not enough to spur action, we think that more should be done to move towards leading practice. One option would be to require companies to publish an improvement plan for going beyond the Good practice level including a plan for achieving the leading practice level.*

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QUESTION 1

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

Response: **2: Below expectations**

We have the following key comments about the assurance process:

- Statement of findings. Our experience has taught us that a credible assurance process must provide clear, consistent, and detailed information at the level of specific requirements. This should include why specific requirements do not apply. Without this information it is challenging for communities, civil society, investors and consumer companies to understand how conclusions were reached and whether the standard is being applied consistently. Requiring the publication of a more thorough Statement of Findings in this way would significantly improve accountability and confidence in the assurance system. (See section 4.5)
- Corrective actions. The assurance process does not clearly state whether the corrective actions identified by assurance providers will be made public. Making these documents public, either alongside or as part of the statement of findings, would provide valuable information that rights holders, investors and value chain companies can use to make decisions around projects. It also would allow these stakeholders to help hold companies accountable to corrective actions that they must meet. (See section 4.3.5)
- Requirements to meet leading practice. As part of the statement of findings assurance providers are able to provide companies with information about requirements they need to meet the leading practice level of the CMSI. However, this is only required for companies that indicate that they are working to achieve the leading practice level. As part of the drive towards continual improvement, this should not be something that companies opt in to. Rather, all companies that meet the good practice level should automatically receive information about the requirements they need to meet to attain leading practice. To help companies meet these requirements, they should be published alongside or as part of the statement of findings. (See section 4.3.5)
- Level of assurance required. The assurance process does not state the level of assurance that assurance providers are expected to meet in carrying out their role. This needs to be made clear. To reduce risks of “greenwashing” and potential damage to the CMSI’ s credibility that could

come if assurance processes were shown to have made material misstatements, we believe that the standard should require reasonable assurance.

## Document: Standard

### General comment on Performance Area

#### COMMENT:

*The credibility of the CMSI rests on the assertion that the good practice level “is a level of practice in line with industry standards and international norms, frameworks and guidelines”. But the standard does not say specifically which international norms, frameworks and guidelines have been incorporated. This makes it hard for all stakeholders—but particularly investors and value chain companies—to understand whether alignment with the CMSI is equivalent to meeting other international norms, frameworks and guidelines. To help these stakeholders and to support transparency, the CMSI should publish an equivalency mapping detailing all the norms, frameworks and guidelines that the CMSI purports to meet.*

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### Introduction

#### COMMENT:

*Concerning the reference to multi-stakeholder participation in “Introduction, section (1) Overview of the Consolidated Mining Standard Initiative.*

*Multi-stakeholder participation. The August 2025 governance model is not genuinely multi-stakeholder. It features protections to ensure that board members bring a diversity of perspectives, but it restricts the ability of these board members to act as representatives of stakeholder constituencies. Stakeholder groups are not able to select their own members, which is fundamental to the credibility of board members serving in a stakeholder capacity. In addition, the fiduciary duties clearly state that board members’ “primary fiduciary duty is to the Legal Entity as a whole and not to the stakeholder group on behalf of which that Director may have been appointed.” (see governance model, p.16) In a genuinely multi-stakeholder process, representing the perspectives of a stakeholder group need not be at odds with upholding the best interests of the Legal Entity. All references to multi-stakeholder participation should therefore be removed (see standard, p.3; assurance process, p.4; and governance model p.4) unless the governance model is revised to enable the independent and credible involvement of stakeholder representatives.*

*This shortcoming will limit the ability of stakeholder groups to engage in CMSI governance, reducing the potential for the CMSI to self-correct and evolve as problems are discovered, as circumstances change and as responsible mining practices evolve. Importantly, it also means that the CMSI does not meet the multi-stakeholder governance requirements that some governments are placing on verification schemes, such as those of the EU Critical Raw Materials Act, which states that multi-stakeholder governance requires a mandate “which confirms or supports the involvement of the multi-stakeholder representatives of that certification scheme”.*

*Additionally, the requirement that board members “speak with a unified voice when representing the Legal Entity to the community” (see governance model, p.16) limits the ability of board members to engage openly about concerns they have with the standard and its implementation. It would limit public oversight and accountability on responsible mining practices by constraining the speech of important stakeholder groups, including indigenous peoples, impacted communities and consumer facing companies -or force groups to not participate in the process in order to maintain their ability to speak freely about the CMSI.*

## Overarching Glossary

### COMMENT:

*The facility / site definition of the CMSI should link the idea of facility to already existing definitions such as the definition of project established for payments to government reporting laws, such as chapter 10 of the EU accounting directive, and similar laws in Canada, the UK, Norway, Switzerland and other jurisdictions. This would reduce burden by ensuring alignment with existing reporting obligations.*

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## Performance Area 01: Corporate Requirements

### SECTION: 1.3 Transparency of Mineral Revenues, Good Practice, 3

#### COMMENT:

- 1. Clarify whether this applies at a corporate level or facility level. It might be better to have two requirements. One concerning the company approach to contract transparency, and a second looking specifically at whether relevant contract documents for the facility are published, and if so, where.*
  - 2. Publication of new contracts is what the IMF calls an established international norm similar to project-level payment disclosures. (see <https://www.imf.org/en/publications/policy-papers/issues/2019/01/29/pp122818fiscal-transparency-initiative-integration-of-natural-resource-management-issues>) Like project-level disclosure, this should be under “toward good practice”.*
  - 3. Defining “new contracts” requires setting a date after which contracts must be disclosed. By not specifying such a date, the CMSI undermines the 1 January 2021 date established by the EITI requirement and the ICMM commitment. At a minimum and for consistency across standards and to avoid confusion, we think it would be better to use the same date across all standards.*
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### SECTION: 1.3 Transparency of Mineral Revenues, Leading Practice, 2

#### COMMENT:

*While we welcome the inclusion of beneficial ownership reporting as a long-standing requirement of the EITI standard, it should be included as a good practice rather than as a leading practice.*

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### SECTION: 1.3 Transparency of Mineral Revenues, Leading Practice, 4

#### COMMENT:

- 1. Clarify whether this applies at a corporate level or facilities level.*
  - 2. The CMSI should reflect the reality that publication of contracts entered into prior to 1 January 2021 is now common place. In a recent analysis of the ICMM contract transparency commitment, we found that the overwhelming majority of contracts disclosed were voluntary disclosures of pre-2021 contracts (document available on request). We therefore think that this should be included as part of good practice. If some stakeholders are concerned that such a requirement would result in the disclosure of information that is not appropriate for public consumption, a next-best approach could be to require publication with a caveat that companies could redact all or parts of these contracts, as long as they provide a specific justification for this approach. The CGD-convened Principles on Commercial Transparency in Public Contracts outlines principles that companies could follow to employ this approach.*
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### SECTION: 1.3 Transparency of Mineral Revenues, Towards Good Practice, 2

#### COMMENT:

Clarify whether this should take place at the corporate or facility level. It might be clearer for assurance providers to include two requirements one for the corporate level and one for the specific facility, noting that the facility level disclosure could be met as a result of corporate level disclosures.

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SECTION: Applicability

COMMENT:

*The language on applicability states that while the requirements in this performance area are intended to be implemented and assured at the corporate level, some requirements such as the disclosure of mineral revenues can be implemented and assured at the facility level. This lack of clarity adds a level of ambiguity that will make it hard for assurance providers and facilities to know exactly what should be done to achieve these requirements. We believe a more appropriate approach would be to specify clearly for each requirement the level at which the requirement should be assured. For some issues, including payments to government, contract disclosure and beneficial ownership, the best approach would be to have two requirements for each –one looking at the company-wide approach, and a second determining whether the policy is being applied properly at the facility level.*

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SECTION: Glossary and Interpretive Guidance

COMMENT:

*Entries on “Contracts” and “Disclosure of contracts” should refer to the “latest EITI Guidance Note”. Ensuring that all standards are pegged to the latest EITI guidance on contracts helps ensure a harmonized approach to contract transparency.*

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## **Performance Area 02: Business Integrity**

SECTION: 2.1 Legal Compliance

COMMENT:

*The standard should include provisions on stabilization and responsible taxation.*

*Stabilization: This could draw from the OECD Guiding Principles on Durable Extractive Contracts. These principles state that companies should commit to not make stabilization agreements on non-fiscal issues including, but not limited to climate change, environmental protection, human rights, or labour rights. This is important because it allows governments to continue to align regulations with internationally recognized rules. Note that the guiding principles acknowledge that there may be situations where fiscal issues can be subject to stabilization. But in these instances, the investor should demonstrate a legitimate commercial need—and if that’s the case, the time and scope should be limited, with the option for review.*

*Responsible taxation: Following the OECD BEP’s project and numerous offshore scandals, several principles of fair taxation have emerged. Failure to incorporate these into the standard would fall short of globally accepted norms and standards including the World Gold Council’s Responsible Gold Mining Principles, Governance section C,1.6., the B Team responsible tax principles, the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, and the OECD Guiding principles on durable extractive contracts.*

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## **Performance Area 20: Climate Action**

COMMENT:

*There is no specific requirement relating to methane. This seems like a major gap given the links between methane and coal mining, but also given the methane releases associated with other kinds of mining including salt, potash, trona, diamond, gold, base metals, and lead mining.*

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## Performance Area 24: Closure

SECTION: Glossary and Interpretive Guidance

COMMENT:

*The entry for “financial provision” must also say that undiscounted figures should be provided. This is critical so that costs are known and accounted for when assets are sold.*

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QUESTION 1

**Does the scope, content, and narrative style of the consolidated standard meet your individual expectations for responsible production practices?**

Response: 2: Below expectations

While there have been several updates to the scope, content and narrative style of the standard, we feel that more needs to be done to show equivalency of the CMSI standard. The credibility of the CMSI rests on the assertion that the good practice level “is a level of practice in line with industry standards and international norms, frameworks and guidelines” . But the standard does not say specifically which international norms, frameworks and guidelines have been incorporated. This makes it hard for all stakeholders—but particularly investors and value chain companies—to understand whether alignment with the CMSI is equivalent to meeting other international norms, frameworks and guidelines. To help these stakeholders and to support transparency, the CMSI should publish an equivalency mapping detailing all the norms, frameworks and guidelines that the CMSI purports to meet.

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

We have concerns that the applicability criteria for some performance areas remains ambiguous. For example performance area 1 states that while the requirements in this performance area are intended to be implemented and assured at the corporate level, it also states that some such as the disclosure of mineral revenues can be implemented an assured at the facility level. This lack of clarity adds a level of ambiguity that will make it hard for assurance providers and facilities to know exactly what should be done to achieve these requirements. We believe a more appropriate approach would be to specify clearly for each requirement the level at which the requirement should be assured. For some issues, including payments to government, contract disclosure and beneficial ownership, the best approach would be to have two requirements for each—one looking at the company-wide approach, and a second determining whether the policy is being applied properly at the facility level.

QUESTION 3

**From your perspective, does the three-level performance structure (Towards Good Practice, Good Practice, Leading Practice) 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

Our major concern about the three-level performance structure is that the standard does not include sufficient measures to encourage leading practice. Attainment of leading practice will not be acknowledged in the most visible parts of the standard, such as the aggregate scores, and will instead be buried in each site's assured claims report. We believe that companies that attain leading practice deserve greater acknowledgement in their aggregate scores. This could be achieved in the following ways:

- By publishing information of leading practice indicators achieved in or alongside the aggregate score.
- By including a leading practice performance claim
- By including a separate score in addition to the aggregate score that is calculated as the percentage of applicable requirements met in all three performance levels.
- By making it a requirement for assurance providers to provide companies with information about requirements they need to meet the leading practice level of the CMSI (currently this is only required for companies that indicate that they are working to achieve the leading practice level).

## Document: Claims

### 1. Introduction

SECTION: 1.3 The Consolidated Standard Claims

COMMENT:

*The standard does not include sufficient measures to encourage leading practice. Attainment of leading practice will not be acknowledged in the most visible parts of the standard, such as the aggregate scores, and will instead be buried in each site's assured claims report. We believe that companies that attain leading practice deserve greater acknowledgement in their aggregate scores. This could be achieved in the following ways:*

- o By publishing information of leading practice indicators achieved in or alongside the aggregate score.*
- o By including a leading practice performance claim*
- o By including a separate score in addition to the aggregate score that is calculated as the percentage of applicable requirements met in all three performance levels.*

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COMMENT:

*Understanding where facilities are falling short. Facilities are able to make an initial performance claim if 80% of applicable performance areas are at a good practice level. While the site's assured claims report will show which areas the site has not met the good practice standard in, this is not very visible. Given that some investors and value chain companies may have specific policy redlines relating to specific policy areas (e.g. Child Labor or FPIC), information on which performance areas have not met good practice should be published in a highly visible place to aid fast assessment of specific facilities. We believe that this could be achieved by including this information in a note alongside the facility's aggregate score.*

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### 3. Claims

SECTION: 3.1 Types of Claims

COMMENT:

*The CMSI should add a claim for leading practice. This would better incentivize the leading practice level.*

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QUESTION 1

**Does the level of transparency provided by the Claims Policy (i.e. through disclosing scores for each Performance Area, aggregated scores to indicate overall progress towards Good Practice, and Performance Claims) meet your expectations to incentivise continuous performance improvement?**

Response: 2. Below expectations \begin{quote}We have the following core comments on the claims policy.

The claims policy needs to support a stronger path to leading practice. The standard does not include sufficient measures to encourage leading practice. Attainment of leading practice will not be acknowledged in the most visible parts of the standard, such as the aggregate scores, and will instead be buried in each site's assured claims report. We believe that companies that attain leading practice deserve greater acknowledgment in their aggregate scores. This could be achieved in the following ways:

- By publishing information of leading practice indicators achieved in or alongside the aggregate score.
- By including a leading practice performance claim
- By including a separate score in addition to the aggregate score that is calculated as the percentage of applicable requirements met in all three performance levels.

The claims policy needs to give more transparency around where facilities are falling short. Facilities are able to make an initial performance claim if 80% of applicable performance areas are at a good practice level. While the site's assured claims report will show which areas the site has not met the good practice standard in, this is not very visible. Given that some investors and value chain companies may have specific policy redlines relating to specific policy areas (e.g. Child Labor or FPIC), information on which performance areas have not met good practice should be published in a highly visible place to aid fast assessment of specific facilities. We believe that this could be achieved by including this information in a note alongside the facility's aggregate score.\end{quote}