



# **Bullion Banks and Gold Traders**

## **Peer Learning Webinar**

**30 July, 2013**



# Agenda

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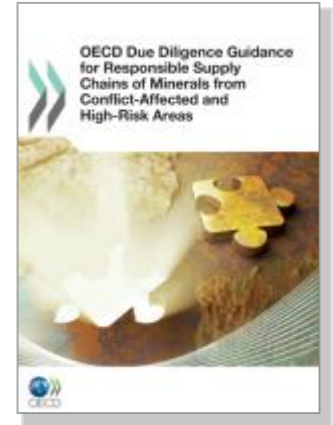
- Welcome
- Introduction to the OECD Due Diligence Guidance
- Proposed Bullion Bank Best Practice Guide
  - Review of draft Bullion Bank Best Practice Guide from LBMA
  - Perspective from HSBC
  - Perspective from Credit Suisse
- Questions /Feedback
- Next steps



# Welcome

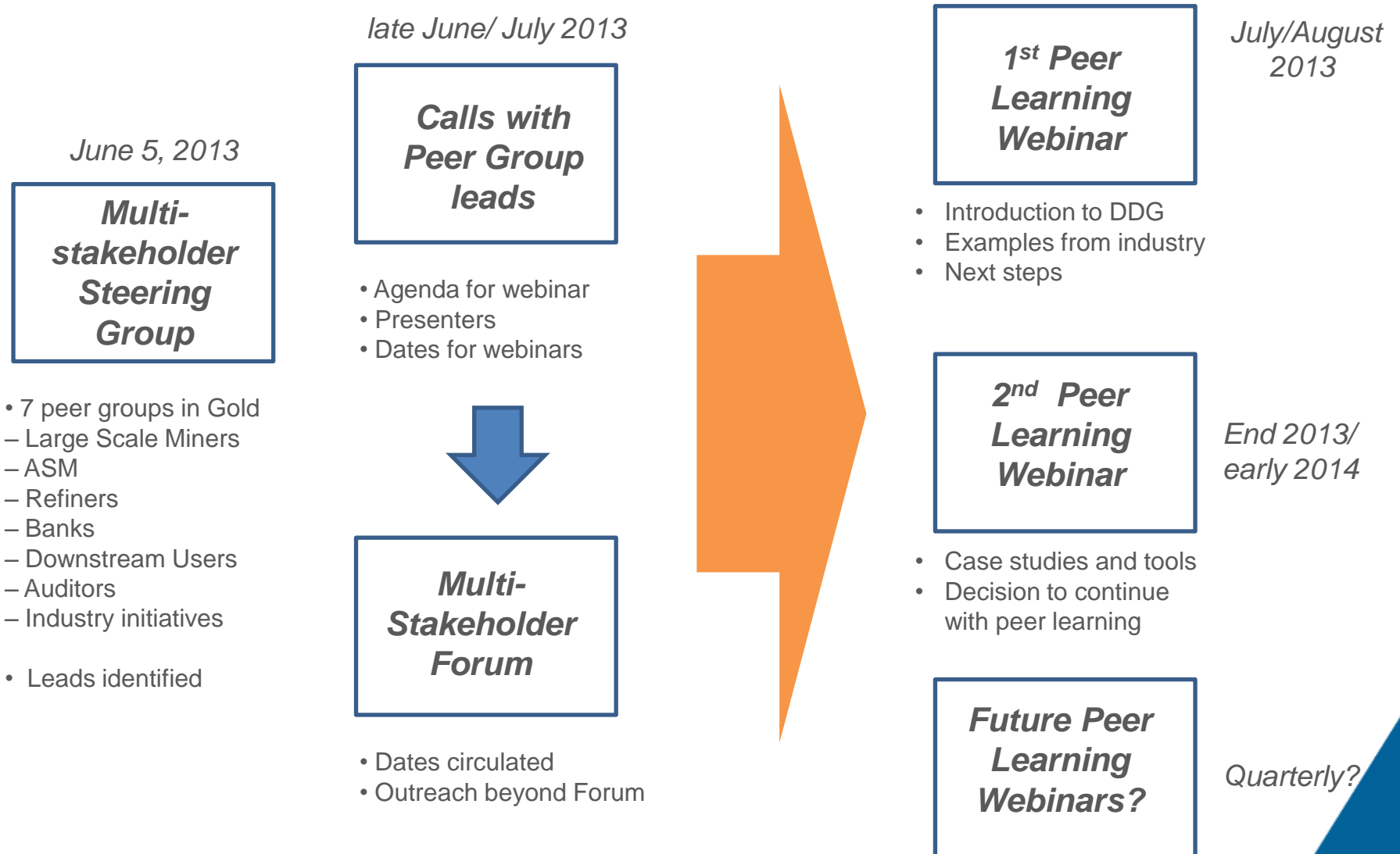
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- **Objectives of Peer Learning:**
  - Foster open and constructive exchange of information
  - Learn from companies that are further along in due diligence implementation
  - Introduce tools and resources to you
  - Answer your questions
  
- **Deliverables from Peer Learning**
  - OECD Due Diligence Guidance introduction
  - Tools
  - Case studies and industry examples





# Peer learning process





# THE OECD DUE DILIGENCE GUIDANCE

**Tyler Gillard**  
Head of Project, Legal Adviser  
OECD Investment Division



# Key features of the OECD Guidance

- **One set of expectations**

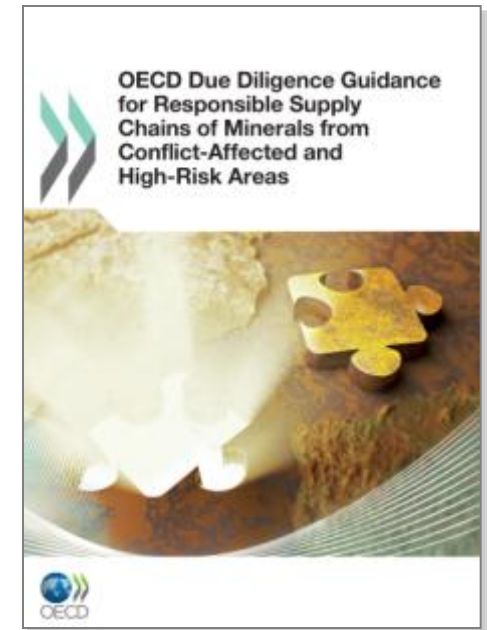
A common framework for due diligence expectations throughout the entire mineral supply chain *from mines until end users*

- **Progressive approach**

The promotion of *constructive engagement with suppliers* in order to gradually affect changes in their sourcing practices without embargoes!

- **Different treatment**

Depending on mineral (e.g. Supplements on Gold, and 3Ts) and location of company in the supply chain (e.g. upstream and downstream companies), resulting in *complementary due diligence processes*





# Principles of the OECD Guidance

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- Due diligence is a **dynamic, on-going process** with the information collected and built, with quality progressively improved
- Companies are encouraged to **integrate** the due diligence standards and principles into **existing due diligence practices** and management systems
- The due diligence recommendations may be carried out jointly through **industry or other multi-stakeholder initiatives** to save costs and reduce audit fatigue
  - ✓ *Local industry and stakeholder initiatives can help companies implement the OECD Guidance within your sector and market – e.g. WGC, LBMA, Conflict-Free Sourcing Initiative, RJC, DMCC and other industry programmes operationalise OECD Guidance.*



# Overview of the OECD Guidance

- **Objective:**

To provide clear, practical guidance for companies to ensure they do not contribute to conflict or abuses of human rights through their mineral and metal procurement practices

- **Method:**

5-step risk-based due diligence process

- **Scope:**

Applies to all companies throughout the entire mineral supply chain that potentially use 3T and gold from conflict or high-risk areas







# Structure of the OECD Guidance

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## Due Diligence Guidance includes:

1. A 5-step risk-based due diligence framework for all minerals from conflict-affected and high-risk areas (**Annex I**)
2. A model supply chain policy (**Annex II**):
  - **NO!** Sourcing from parties linked to serious abuses
  - **NO!** Direct or indirect support to non-state armed groups
  - **MITIGATE!** Direct or indirect support to public or private security forces
  - **MITIGATE!** Bribery in the supply chain, fraud or misrepresentation of chain of custody or traceability information
  - **MITIGATE!** Money-laundering through the mineral supply chain
  - **MITIGATE!** Non-payment by suppliers of taxes, fees and royalties related to mineral extraction, transport and export, or non-disclosure of payments by suppliers in accordance with EITI
3. Principles for risk mitigation (**Annex III**)
4. Supplement on Tin, Tantalum and Tungsten
5. Supplement on Gold, including a special Appendix on artisanal and small-scale mining



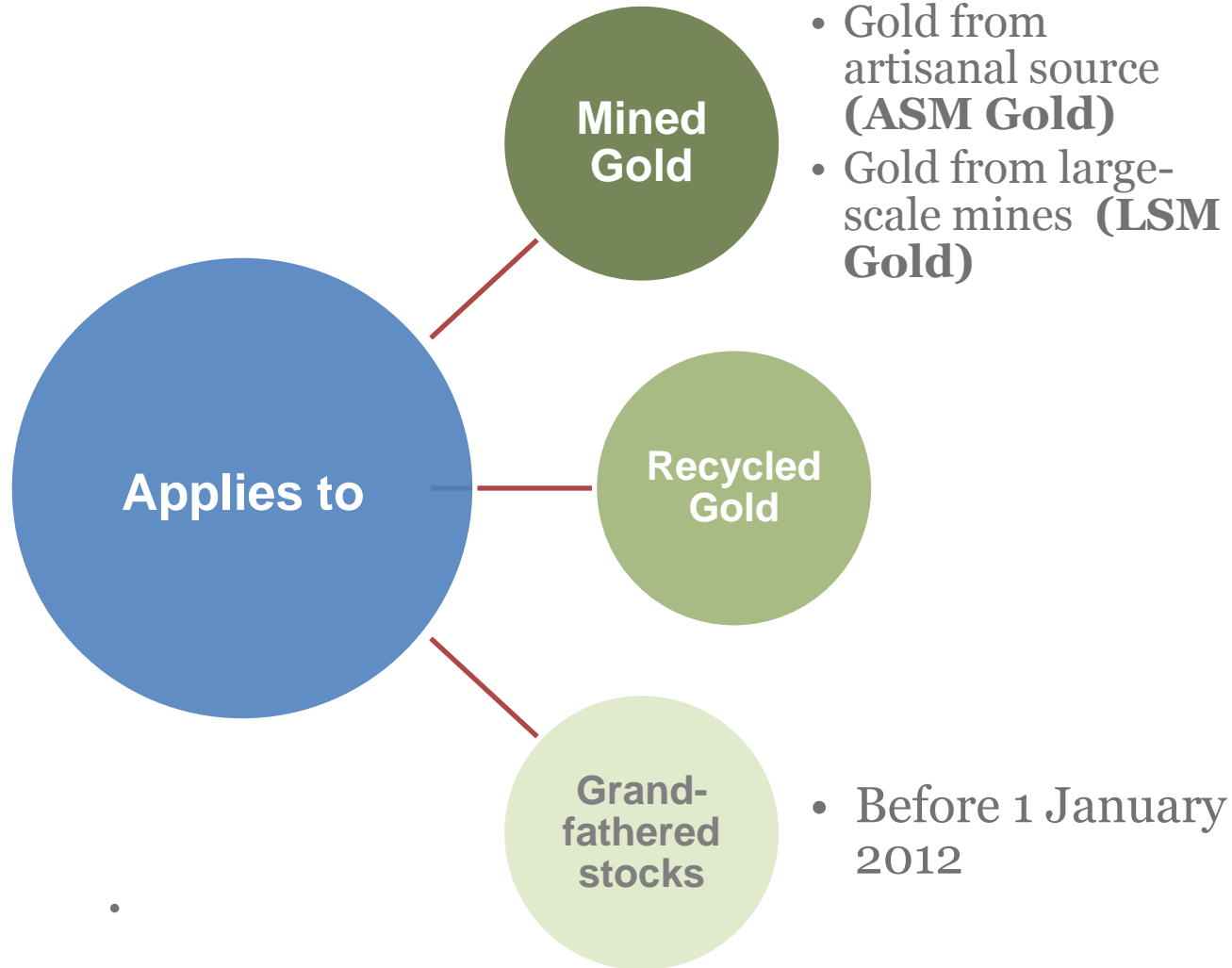
# Supplement on Gold: Application

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- **Applies to all companies in the supply chain:**
  - “Upstream companies” refers to all the companies between the mine and the refiner, e.g. mining companies, local exporters, traders of unrefined gold, recyclers, refiners
  - “Downstream” companies refers to all companies after the refiner until the consumer, e.g. jewellers, bullion banks, industrial users of gold



# Supplement on Gold: Application





# Five Step Risk-Based Due Diligence



Step 1

- Establish strong company management systems

Step 2

- Identify and assess risks in the supply chain

Step 3

- Design and implement a strategy to respond to identified risks – *If red flag identified*

Step 4

- Carry out or ensure an independent third-party audit smelter/refiner's due diligence – *If red flag identified*

Step 5

- Report annually on supply chain due diligence – *If red flag identified*



# Global industry initiatives for gold

Initiative	Organisations involved	Purpose	Participation type	Independent audit required
<b>Conflict-Free Sourcing Initiative (CFSI) –which includes the Conflict Free Smelter (CFS) program</b>	Global e-Sustainability Initiative (GESI); Electronic Industry Citizenship Coalition (EICC) <sup>®</sup>	Verifies that the sources of conflict minerals processed by smelters are conflict-free. Enables downstream companies to identify and source from conflict-free smelters. (Operationalises OECD Guidance for smelter/refiners.)	Voluntary	Yes
<b>WGC Conflict-Free Gold Standard and Tools</b>	World Gold Council (WGC)	Establishes a common approach for mining companies to responsibly mine gold and demonstrates that their mining operations do not fuel conflict or the abuse of human rights. (Operationalises OECD Guidance for mining companies.)	Voluntary	Yes
<b>LBMA Responsible Gold Guidance</b>	London Bullion Market Association (LBMA)	Ensures that all gold feed stock and all gold produced by refiners are conflict-free. Enables downstream companies to identify and source from conflict-free refiners. (Operationalises OECD Guidance for refiners.)	Mandatory for LBMA accredited refiners	Yes
<b>RJC Chain-of-Custody Certification Program</b>	Responsible Jewellery Council (RJC)	Supports the identification and tracking of conflict-free gold throughout gold supply chains with the transfer of chain-of-custody documentation.	Voluntary	Yes
<b>DMCC Practical Guidance for market participants in Gold</b>	Dubai Multi-Commodities Centre	Assists DMCC-licensed members and other industry participants in the UAE to enforce OECD due diligence.	Mandatory for all DMCC-licensed members	Yes



# Other Great Lakes-based initiatives

Initiative	Organisations involved	Purpose	Participation type	Independent audit required
<b>ITRI Tin Supply Chain Initiative (iTSCi)</b>	ITRI; Tantalum Niobium International Study Center; Pact; Channel Research	Supports responsible sourcing from Central Africa through the development of (1) a physical chain-of-custody system that tracks and monitors minerals from mine to smelter and (2) a due diligence system that includes independent audits and mine site and transportation route assessments.	Voluntary	Yes
<b>Certified Trading Chains</b>	German Federal Institute for Geosciences and Natural Resources (BGR)	Supports responsible sourcing from Central Africa through the creation of a certification framework for artisanal mining sites.	Voluntary	Yes
<b>ICGLR's Regional Certification Mechanism</b>	International Conference on the Great Lakes Region (ICGLR)	Establishes a certification mechanism for the mining and trading of conflict minerals from the Great Lakes Region.	Mandatory for member countries	Yes



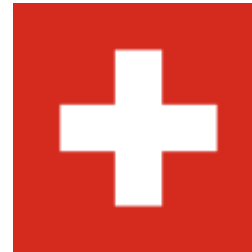
# OECD Implementation Programme

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- **Problem-solving and information-sharing**
  - Common and coordinated solutions
- **Collaboration**
  - Consistency and harmonisation of expectations:
    - ✓ *Collaborated multiple industry programmes to support harmonisation and a level playing field*
- **Promotion and dissemination**
  - Tools, workshops and training seminars
- **Peer-learning**
  - 3T Pilot from Aug 2011 – December 2012
  - Gold implementation programme launched this year – training and case studies
- **ICGLR-OECD-UN GoE Forum**
  - In-person meeting in May and November each year – *next meeting on 13-15 November in Kigali, Rwanda*



# Selection of OECD Multi-stakeholder Steering Group members



**BEDEWA**



**global witness**



**PARTNERSHIP AFRICA CANADA**

*Observatoire  
Gouvernance et Paix*





**Thank you!**

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For further information on this project and to download the OECD Due Diligence Guidance:

[www.oecd.org/daf/investment/mining](http://www.oecd.org/daf/investment/mining)

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# PERSPECTIVE FROM LBMA

# LBMA RESPONSIBLE GOLD GUIDANCE

## Purpose & Structure

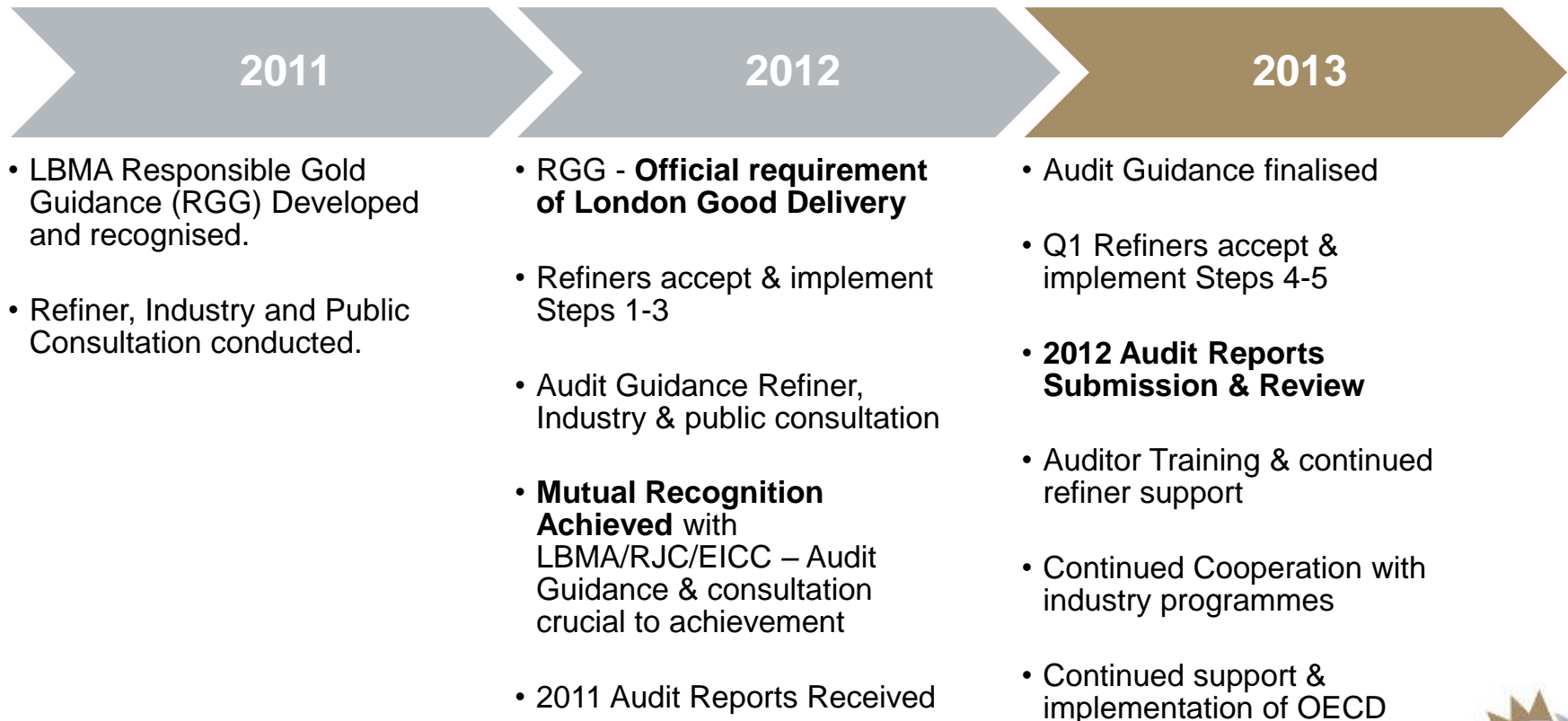


- ▶ To ensure London Market is free from metal that had financed conflict or been used for money laundering or terrorist financing.
- ▶ Global, long term focus.
- ▶ OECD + KYC, AML + mandatory audits = **LBMA Responsible Gold**
- ▶ **All feedstock** (mined production, scrap, investment bars) subject to due diligence and audit.
- ▶ Risk-based: Higher risk = more due diligence is needed (and vice versa)
- ▶ **All production** (large bars, kilo bars, scrap etc.) therefore conflict-free.
- ▶ Focuses on conflict-free process, **not** conflict-free product.



# RESPONSIBLE GOLD GUIDANCE

## LBMA & GD Refiner Implementation



# REGULATION

## US Dodd-Frank and EU Regulations



- ▶ July 2010 – The US Dodd-Frank Act includes specific reporting requirements for companies using 3Ts and gold (DRC focus)
- ▶ August 2012 – Final US rules recognise OECD Due Diligence Guidance (OECD = global focus)
- ▶ 2014 – EU Regulations expected to be finalised (focus OECD)

# REGULATION

## Drivers –conflict & activism

- ▶ On-going conflict in DRC despite UN presence since 1999
- ▶ NGO campaigns were instrumental in creation of US regulation.
- ▶ NGOs need education & communication – OECD Forum provides opportunity for open communication

# GOLD INDUSTRY INITIATIVES

Support & Recognition throughout gold supply chain



# MUTUAL RECOGNITION

## For Refiner Audits Achieved – Sept 2012

	LBMA	RJC	CFSI (EICC)
Common Features: 3 <sup>rd</sup> Party Audit, OECD & SEC Compliance			
Tailored Focus	London Bullion Market	Jewellery Supply Chain - Mine to Retail	Manufacturers
Audit outcome	Continued Good Delivery Accreditation	CoC Certification	Validated Smelter/ Refiner list
Harmonisation	RJC CoC, CFS audits = Responsible Gold Requirement.	LBMA, CFS =.	RJC, LBMA audits = CFS.

## One Audit Report – Three Programmes

World Gold Council, Fairtrade and Fairmined initiatives support refiner due diligence.





# OECD IMPLEMENTATION

## Development of Best Practice Guides

- ▶ Developing KYC best practice guide for bullion banks in order to ensure they are compliant with the OECD, SEC due diligence rules.
- ▶ Once finalised, Members and Associates will be encouraged to implement in order to demonstrate the London market is conflict-free.
- ▶ This will also enable Members & Associates to demonstrate compliance with the OECD rules.
- ▶ The LBMA is also encouraging other exchanges to adopt a Responsible Gold policy to ensure that refiners not on the LBMA list are also compliant.



# PROPOSED BULLION BANK PROCESS

## Client Identification

### Principal operating address

One of the following:

- Business information service e.g. Bankers Almanac, Moodys, Swift, Companies House, One source
- Independent website
- Written confirmation from a firm of lawyers or accountants
- Annual audited report and accounts (dated within last 2 years)
- Certificate of incorporation

### Registered address

One of the following:

- Business information service e.g. Bankers Almanac, Moodys, Swift, Companies House, One source
- Independent website
- Written confirmation from a firm of lawyers or accountants
- Annual audited report and accounts (dated within last 2 years)

### Verify full legal name

One of the following:

- Certificate of Incorporation / Certificate of Legal Validity
- Annual audited report and accounts (dated within last 2 years)
- Written confirmation from a firm of lawyers or accountants
- Independent website
- Business information service e.g. Bankers Almanac, Moodys, Swift, Companies House, One source

## Identify Beneficial Owners

### Identify ownership above Threshold up to a natural person or listed/regulated on the approved list

One of the following:

- Business information service e.g. Bankers Almanac, Moodys, Swift, Companies House, One source
- Independent website
- Share register
- Annual audited report and accounts (dated within last 2 years)
- Written confirmation from a firm of lawyers or accountants

## Identify Controllers

### List of Directors (or equivalent)

One of the following:

- Independent website
- Written confirmation from a firm of lawyers or accountants
- Annual audited report and accounts (dated within last 2 years)
- Board resolution
- Business information service e.g. Bankers Almanac, Moodys, Companies House, One source
- Directors Register
- Entry in Independent Company Register

## Legal formation

### Evidence of legal establishment / formation

One of the following:

- Business information service e.g. Bankers Almanac, Moodys, Companies House, One source
- Certificate of Incorporation / Certificate of Legal Validity

## Screening and Search Results

### World-check search on Client

results to be copied to file

### Worldcheck Search on Ultimate Beneficial Owners

results to be copied to file

### Worldcheck Search on list of Directors (or equivalent)

results to be copied to file

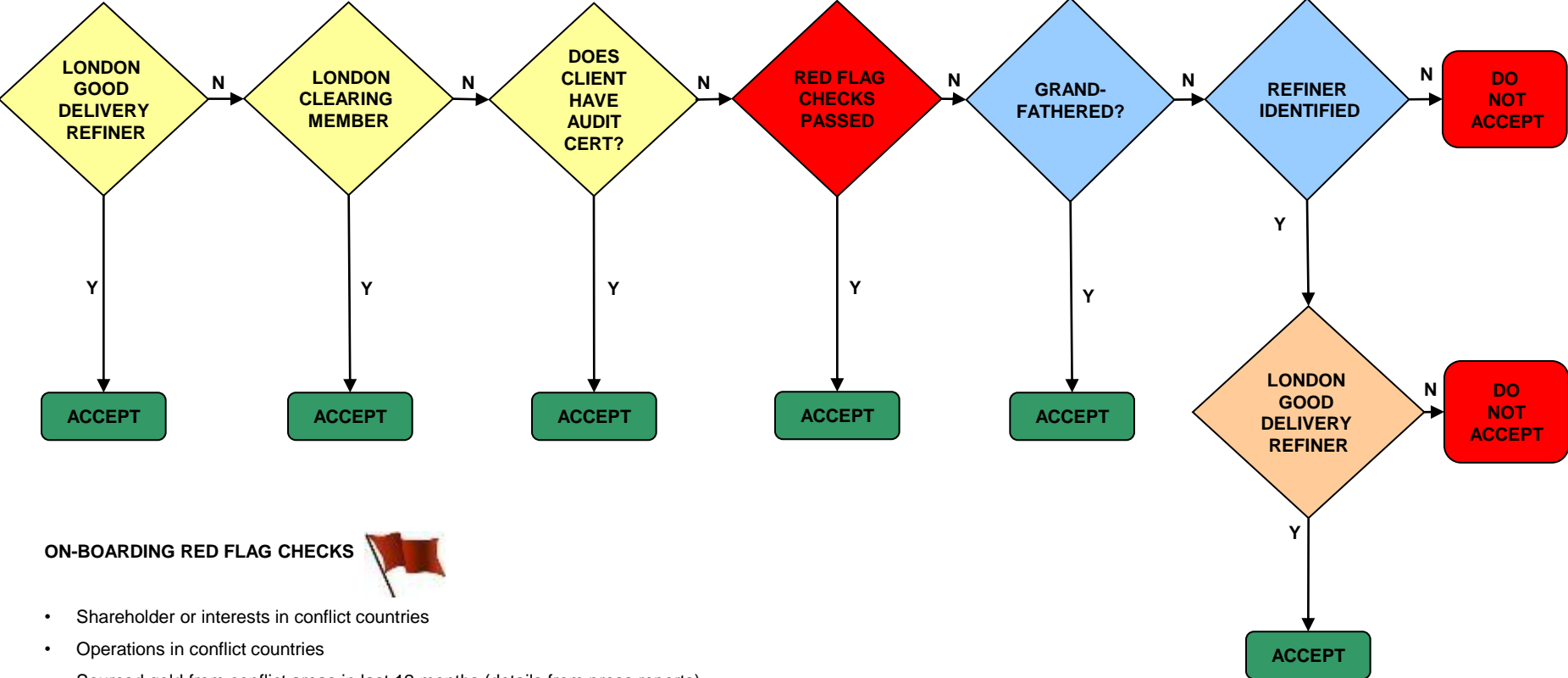
## OECD Red Flags - NEW

### Check if the following exist:

- Shareholder or interests in conflict countries
- Operations in conflict countries
- Sourced gold from conflict areas in last 12 months (details from press reports)



# PROPOSED BULLION BANK PROCESS



**ON-BOARDING RED FLAG CHECKS**



- Shareholder or interests in conflict countries
- Operations in conflict countries
- Sourced gold from conflict areas in last 12 months (details from press reports)

**BUSINESS PROCESS**

- Trading desk should know and understand the rules and should know which suppliers of physical gold have been categorized as 'conflict free'



# NEXT STEPS

## Refiner Support & Bullion Bank Implementation

- ▶ Best Practice Guides for Refiners:
  - ▶ Criteria/Indicators for determining High-Risk & Conflict-Affected Areas
  - ▶ Guidance on how best to conduct KYC for scrap
  - ▶ Templates
  - ▶ Other, as needed
  
- ▶ Regular webinars/seminars to address implementation challenges.
  
- ▶ LBMA/RJC Responsible Gold Forum on 1<sup>st</sup> October, on second day of LBMA Conference in Rome.
  
- ▶ Developing KYC best practice guide for bullion banks in order to ensure they are compliant with the OECD, SEC due diligence rules.





# PERSPECTIVE FROM HSBC (VERBAL)



# PERSPECTIVE FROM CREDIT SUISSE (VERBAL)



# Q&A, FEEDBACK



## Next steps

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- Forum meeting 13-15 November 2013 in Kigali, Rwanda
- Feedback to this webinar (content, approach) – written comments welcome
- Learn more: <http://www.oecd.org/daf/inv/mne/mining.htm>