



**BRIEFING PAPER**

# **CORRUPTION RISKS AND ESG SCREENING OF MINING INVESTMENTS**

**How corruption affects environmental, social, governance (ESG) outcomes in mining and what investors need to do to guard their investments**

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**Transparency International's Accountable Mining Programme is working across TI's global network to look at where and how corruption can get a foothold in the mining sector. Using the Mining Awards Corruption Risk Assessment (MACRA) Tool, TI national chapters across 6 continents have identified and assessed corruption risks in mining approvals. By working collaboratively with governments, companies, civil society organisations and communities, we want to build a fairer, clearer and cleaner process for obtaining a mining permit. By building a better system and a fairer process we can prevent corruption before ground is even broken.**

**[www.transparency.org.au](http://www.transparency.org.au)**

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Every effort has been made to verify the accuracy of the information contained in this report. All information was believed to be correct as of June 2021. Nevertheless, Transparency International Australia cannot accept responsibility for the consequences of its use for other purposes or in other contexts.

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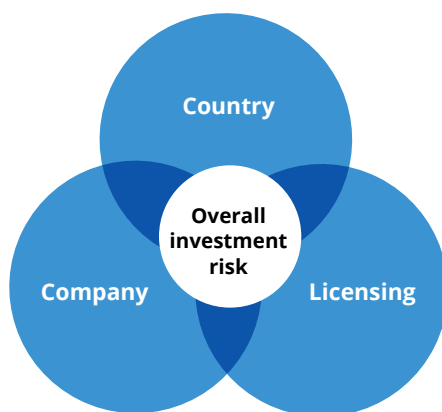
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# EXECUTIVE SUMMARY

Investors are increasingly vigilant about the environmental, social and governance (ESG) performance of mining investments. Corruption affects many mineral-rich countries and this has a real impact on ESG outcomes, especially for communities affected by mining.

Investors need to make corruption risk management and responsible business conduct an expectation of the mining companies they invest in. This is especially critical because of increasing demand for investment in high-risk and emerging markets to source the minerals and metals required for the energy transition. This briefing paper details three key areas investors that need to consider as part of due diligence on mining investments - country risks, licensing risks and company risks.



## Transparency International's Accountable Mining Programme

The Accountable Mining Programme works with industry, government and civil society to address the systemic weakness in the public and private sectors that open the door to corruption in the mining sector with a specific focus on the licensing and permitting phase.

To effectively drive more sustainable and responsible business practices that minimise harm to people and the planet and support a just and equitable energy transition, investors should:

- + **Learn** about the types of corruption risks in the licensing process of the mining sector in target jurisdictions
- + **Screen** for corruption risks as part of responsible ESG due diligence on mining investments considering country risk, licensing risk, and company risks and red flags
- + **Clearly communicate** their anti-corruption expectations and standards so that companies know what to disclose and what they need to change
- + **Engage** with companies at the due diligence stage to better understand their anti-corruption policies, implementation and culture
- + **Continue engagement and monitoring** after investing to promote company uptake of responsible business practices and improvements in anti-corruption policies, practices and culture
- + **Escalate pressure** and work with other investors to influence reluctant companies to improve their systems and practices.

To help investors, this briefing paper answers three questions:

1. Why do investors need to include corruption risks as part of ESG screening?
2. What corruption risks and red flags should investors look out for?
3. How should investors respond when they detect corruption risks?

# INTRODUCTION

Investors have a role to play in reducing corruption in the mining sector. As demand for minerals and metals ramps up to enable the shift from fossil fuels to renewable energy, this role has never been more important.

The energy transition will require significantly more investment in mining to source the raw materials needed for clean energy technology.<sup>1</sup> Yet, mining occurs in some of the globe's most corruption and conflict-prone countries.

ESG (environmental, social and governance) screening and responsible investing can drive more sustainable business practices that minimise harm to people and the planet.

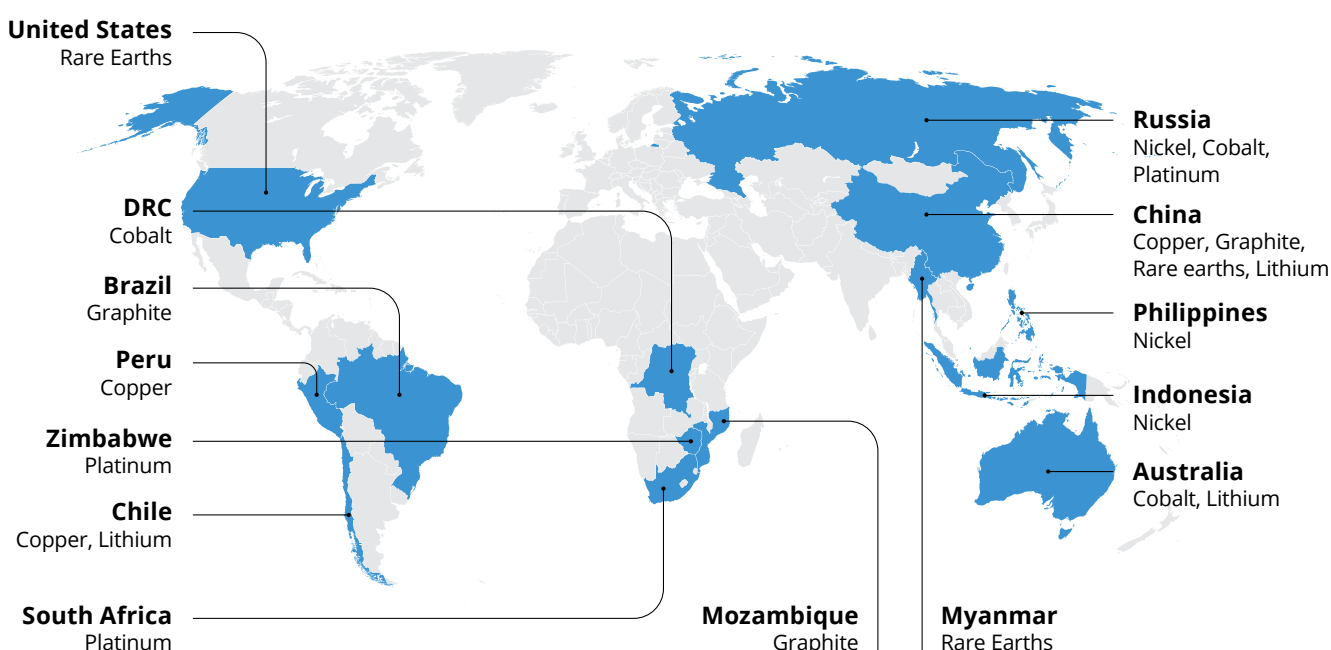
But where there are human rights and environmental violations, corruption is often also present – driving, or exacerbating, these impacts.

So, for responsible investing to be truly responsible, investors need to screen potential investments in mining for corruption risks, in addition to adverse human rights and environmental impacts.

This investor briefing paper answers three questions:

1. Why do investors need to include corruption risks as part of ESG screening?
2. What corruption risks and red flags should investors look out for?
3. How should investors respond when they detect corruption risks?

## TOP PRODUCER COUNTRIES OF ENERGY TRANSITION MINERALS



Source: Adapted from IEA (2021) The Role of Critical Minerals in Clean Energy Transitions. All rights reserved.

# WHY INVESTORS NEED TO SCREEN FOR CORRUPTION RISKS

No investment that contributes to or profits from corruption and unethical conduct is a responsible investment. Investors need to be concerned about corruption affecting their investments in mining.

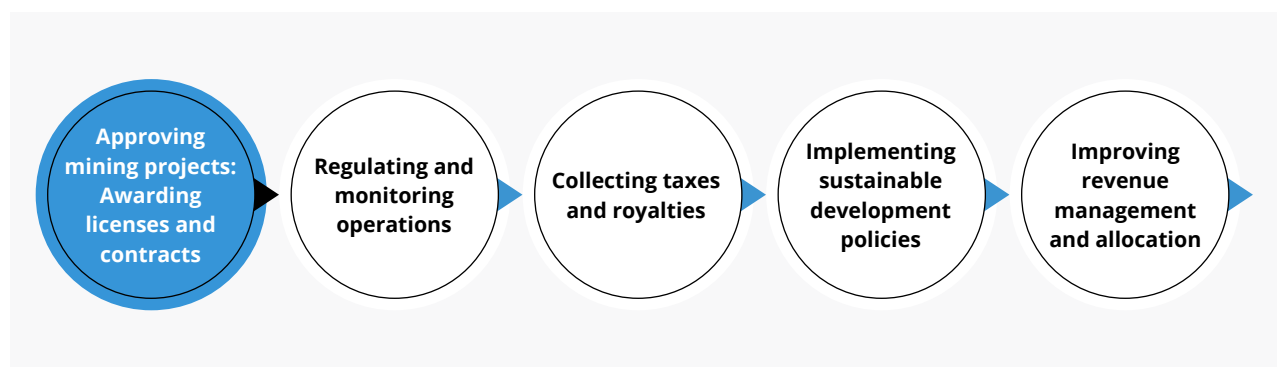
While a mining company might engage in corruption at any stage of a project, this briefing paper is focused on the corruption risks in **licensing and permitting for new mining projects and expansions**.<sup>2</sup> This phase of a project is particularly susceptible to corruption given the frequent touchpoints with government and communities and the high business stakes to secure the deal. According to the OECD, one in four cases of corruption in the extractive sector occur during this initial phase.<sup>3</sup>

## A note on terminology

Governments – whether at a subnational (state/province) or national level – grant exploration, mining and related land access rights in different forms. The rights may be called: leases, titles, licences, concessions or tenements.

The methods used to allocate the rights also differ. In some countries, rights are granted on a first-come-first-served basis via a licence application process, in others through a tender or competitive bidding process, or via negotiated agreements.

This paper uses ‘rights’ and the ‘licensing process’ to refer universally to all these terms.



Mining value Chain. Adapted from: World Bank, Extractives Industries Value Chain.



**Investors...risk reputational damage as well as reduced returns if they invest in companies that are implicated in corruption, particularly if the resultant scandal is poorly managed by the portfolio company.**

Principles for Responsible Investment<sup>4</sup>

### **A company that has secured its mining rights through corruption is a risky investment.**

The company is at risk of having its rights revoked by the current or a future government of the country, making the asset worthless.

The company and its directors could face prosecution and severe legal penalties, economic sanctions and even blacklisting, which will damage the company's reputation and devalue the company's stocks.

For example, when the United States Department of Justice issued one of the world's largest mining companies with a subpoena for documents as part of a possible corruption and money-laundering investigation, the company's share price plunged. The news wiped almost US\$8 billion off the company's market value.<sup>5</sup>

### **Corruption risks are a financially material consideration for due diligence on a potential investment.**

Corruption sits within the 'Governance' classification of risks when considering ESG performance of a company.

Governance risks go well beyond board independence and composition and encompass business conduct and ethics, of which a company's internal systems for managing corruption risks are a critical component.

Leading international frameworks and standards recognise a company's efforts to work against bribery and corruption as a core part of ESG and responsible business conduct.

#### **ESG frameworks and standards that include anti-corruption, ethics and integrity**

- + Global Reporting Initiative (GRI)
- + OECD Guidelines for Multinational Enterprises on Responsible Business Conduct
- + Principles for Responsible Investment (PRI)
- + Sustainable Accounting Standards Board (SASB)
- + Sustainable Development Goals (SDGs) – SDG 16
- + United Nations Global Compact
- + World Economic Forum Stakeholder Capitalism Metrics

## As part of ESG screening, investors need to recognise that corruption and environmental and social impacts are interconnected.<sup>6</sup>

Human rights abuses and environmental damage often co-exist with corruption where government institutions are weak and unable to offer adequate protection and where the voice of civil society and the media is stifled.

For investments in mining to be truly responsible and not complicit in illegal or unethical conduct, investors must look into the corruption risks related to the mining project and their impact on human rights and social and environmental outcomes. For example:

- + A company that secures access to land for mining through corruption may dispossess local women and men of their land. Forced to resettle elsewhere, they may lose access to key sources of livelihood and sites of cultural or traditional importance. Women will often suffer disproportionate impacts.<sup>7</sup>
- + A company that obtains its mining rights through corruption is a company with little regard for the law. Such a company is less likely to respect environmental or safety standards when developing, operating or closing its mine and is more likely to pay bribes to inspectors so that they look the other way. This puts the health and safety of workers and local communities at risk.
- + A company that makes corrupt payments to buy-off traditional leaders is violating the rights of others in the community, including the right of Indigenous Peoples to give or deny their Free, Prior and Informed Consent (FPIC) to projects that will affect their lives.<sup>8</sup>

## Mining, community consultation and corruption risks

In the context of community consultation, corruption can take several forms including:

- + Companies manipulating the consultation/ FPIC process by bribing traditional authorities
- + Companies ignoring or avoiding obligations to consult by bribing government officials
- + Companies relying on 'signatures' obtained fraudulently from community members
- + Companies providing deliberately misleading information about the project or providing information in a form they know that local women and men cannot understand

Source: TI Accountable Mining Programme (2021)  
*Stronger community voices: Corruption risks in community consultation*

# WHAT CORRUPTION RISKS TO INCLUDE IN DUE DILIGENCE

There are three key areas investors need to consider as part of due diligence on mining investments: country risk, licensing risk and company risk.

Effective and efficient due diligence is risk-based. The higher the level of corruption risk in the country, the more closely investors should assess the corruption risks in the licensing process and the company.

While beyond the scope of this briefing paper, investors should also consider the exposure of the company to ongoing corruption risks throughout the lifecycle of the mining project, as these can create systemic problems for the asset. These include corruption risks related to import/export permits and dealings with customs officials, licence renewals and site inspections.

## **Country risk**

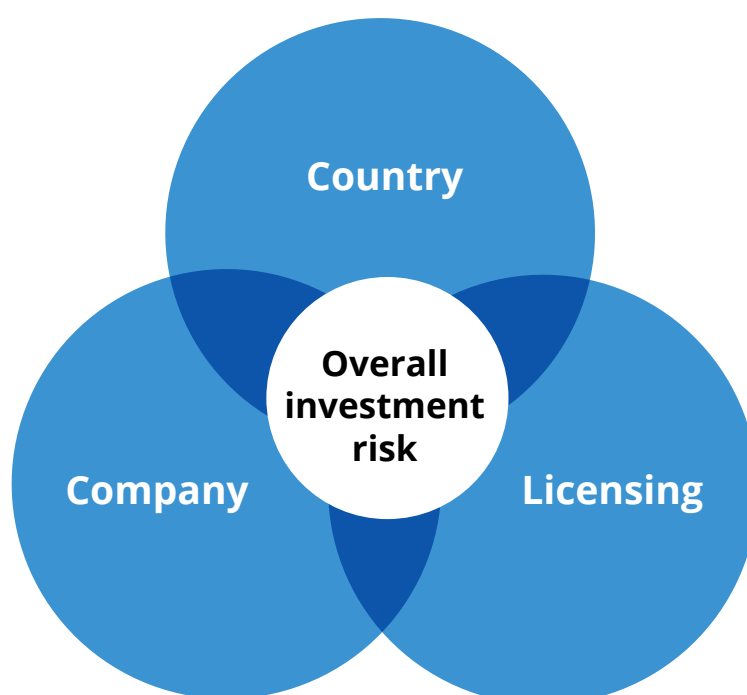
Corruption risk profile of the country where the asset is located.

## **Licensing risk**

Corruption risks in the process for allocating mining rights.

## **Company risk**

Presence of red flags in how the company secured its mining rights and the strength of internal anti-corruption controls.



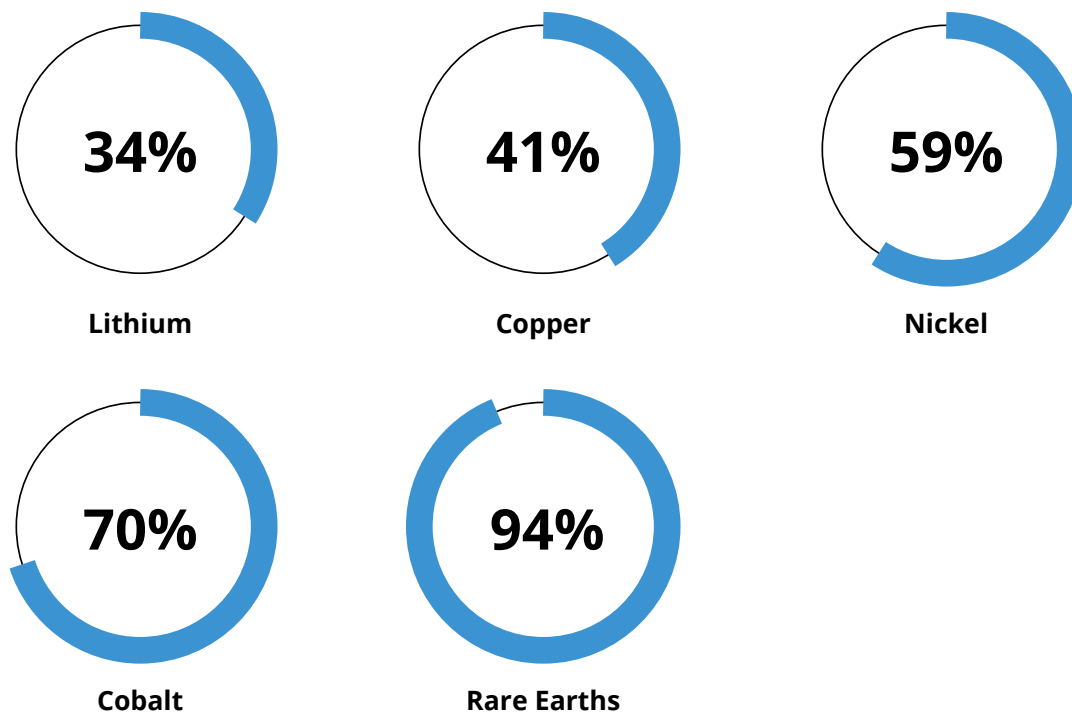
# COUNTRY CORRUPTION RISK PROFILE

Screening potential investments by the level of corruption risk in the country or jurisdiction is a critical first step to inform investment decision-making.

Investors need to consider whether local laws and regulators are equipped to properly handle the risks and impacts of mining, including the arrival of

new market entrants and capital. This is particularly important as companies look to exploit reserves in locations that were previously considered too risky or where mining is an emerging industry. The need for scrutiny is particularly relevant for energy transition minerals, as many new reserves are in jurisdictions with weak governance and higher levels of corruption and ESG risk.

## PERCENTAGE OF KEY ENERGY TRANSITION MINERALS IN CORRUPT JURISDICTIONS



Source: Based on Church and Crawford (2020) *Minerals and the Metals for the Energy Transition* using the Transparency International 2017 Corruption Perceptions Index.

## How can investors determine the level of corruption risk in the country?

There are various paid and free databases and resources providing details on the level of corruption, political and governance risks in different countries. Transparency International's annual [Corruption Perceptions Index](#), for example, is used globally by many companies and investors.

## What should investors do if the project is in a high-risk jurisdiction?

- ✓ Before deciding whether to proceed with an investment in a company that has business interests and assets in a high-risk jurisdiction, investors will want to conduct more rigorous due diligence on the company to confidently identify, assess and rate all risks associated with investing in them. Refer to the next sections for guidance on due diligence on the licensing process and company.
- ✓ If investing in a company with interests in a high-risk jurisdiction, investors should impose additional conditions to require the company to put in place certain anti-corruption safeguards and controls and to report on material changes in the level of corruption risk in the country.
- ✓ For existing investments, investors should monitor the countries where the company has key assets or new business interests to determine whether there have been any material changes to the level of corruption risk that warrant follow up engagement with the company about how it is managing those risks.

## Corruption Perceptions Index (CPI)

Transparency International's [Corruption Perceptions Index](#) ranks 180 countries and territories by their perceived levels of public sector corruption on a yearly basis. The most recent CPI (2020) calculates country scores using 13 different data sources from 12 different institutions that capture perceptions of corruption within the past two years.

## Governance Indices

Weak governance is an indicator that corruption may be a problem in the jurisdiction. Free databases rating countries on the strength of their governance include:

- + The [World Bank's Worldwide Governance Indicators](#) report aggregate and individual governance indicators for over 200 countries and territories over the period 1996–2019, for six dimensions of governance.
- + The [Resource Governance Index](#) ranks countries on the strength of their oil, gas and mining sector governance.

Human rights violations and corruption often co-exist where government institutions are weak. Maps and indices on countries' performance on human rights such as the [Freedom House Index](#) are also useful to consult.

# CORRUPTION RISKS IN THE LICENSING PROCESS

Investors also need to look into the level of corruption risk in the mining licensing process, particularly in high-risk jurisdictions.

This will provide more granular information about the extent to which the company has been or is likely to be exposed to pressure to engage in bribery and corruption when securing its key asset – the rights to mine.

## How can investors identify corruption risks in the licensing process?

The table on the following page contains a non-exhaustive list of corruption risks in the licensing process.

Investors should look at the applicable laws and regulations as well as the decision-making and regulatory institutions and how effectively they implement the law. Aside from official government information, investors could consult the local chamber of mines/industry association as well as independent reports and resources.

## Are any of these indicators present in the jurisdiction?

If several are present, it suggests the company was or will be exposed to a higher level of corruption risk when applying for exploration or mining rights.

## What should investors do in those cases?

- ✓ Investors should enquire more closely into how the company secured or is planning to secure its mining rights to identify whether there are any corruption red flags.
- ✓ Assessing the strength of the company's internal anti-corruption systems and the presence of any corruption red flags – as outlined in the next section – will provide further indication of whether the rights were or are likely to be secured through corruption.
- ✓ Where the company is yet to secure its rights, investors have an opportunity to bring to the company's attention its corruption risk exposure and set expectations about what the company should do to manage the risks.

## Resources on corruption risks in licensing

For country-specific information, see Transparency International's Accountable Mining Programme [country corruption risk assessments](#).

The [Mining Awards Corruption Risk Assessment Tool](#) provides a methodology and over 80 common corruption risks to help identify and assess corruption risks in licensing.

The [Resource Governance Index](#) rates various aspects of countries' natural resource governance including licensing both in terms of legal design as well as implementation.

| <b>Legal/regulatory factors</b>                             | <b>Higher levels of corruption risk where...</b>                                                                                                                                                                                                                                            |
|-------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Application and evaluation criteria                         | Application requirements and evaluation criteria are unclear or vague                                                                                                                                                                                                                       |
| Application fees                                            | Fees payable are unclear, frequently change or are discretionary                                                                                                                                                                                                                            |
| ESIA requirement                                            | Requirements for environmental and social impact assessment are not clearly defined                                                                                                                                                                                                         |
| Free Prior Informed Consent (FPIC) and community engagement | Requirements for community engagement and FPIC are not clearly defined                                                                                                                                                                                                                      |
| Power to revoke                                             | Government's power to revoke is based on vague criteria and broad ministerial discretion                                                                                                                                                                                                    |
| Reason for rejection                                        | Government authority is not required to provide reasons for rejecting an application                                                                                                                                                                                                        |
| Right of review/appeal                                      | No right to seek review of government decision in court                                                                                                                                                                                                                                     |
| Surface rights/access rights                                | Process for acquiring access to land is not clear; increased corruption risk if land titles, including traditional land rights, are not properly registered.                                                                                                                                |
| <b>Institutional factors</b>                                | <b>Higher levels of corruption risk where...</b>                                                                                                                                                                                                                                            |
| Cadastre/licence register                                   | Register is not digital or online, or information about allocated mining blocks and licences granted is not up to date                                                                                                                                                                      |
| Cadastre agency – location                                  | Agency office located in regional area and not adequately funded                                                                                                                                                                                                                            |
| Government agencies – funding                               | Funding of agency is low or inadequate                                                                                                                                                                                                                                                      |
| Government officials – experience and expertise             | Government officials in the licensing agency are not experienced or do not have the expertise to properly administer the process                                                                                                                                                            |
| Government officials – wages                                | Wages of government officials in relevant departments are low                                                                                                                                                                                                                               |
| Government agencies – number                                | Many agencies are involved and coordination between them is low                                                                                                                                                                                                                             |
| Method of licence allocation                                | The first-come, first-served principle is not honoured and preferred applicants are able to jump the queue, or in the case of competitive allocation processes (tender, auctions), review panels are composed of political appointees with no technical qualifications to evaluate the bids |
| Ministerial discretion                                      | Minister has broad discretion; level of risk is even higher if Minister's office has a history of making decisions contrary to technical advice/if Minister does not receive expert technical advice                                                                                        |
| Planned regulatory or legal reform                          | Varies depending on the context and the purpose of the reforms                                                                                                                                                                                                                              |
| Political interference                                      | Senior government leaders are known to impose arbitrary conditions on the licence that have no basis in the legislation, for example local procurement or employment conditions at election time                                                                                            |
| State-owned companies                                       | State-owned companies are present in the mining sector and the risks are higher where they are required to have a stake/equity in the project                                                                                                                                               |

# COMPANY CORRUPTION RED FLAGS AND RISK MANAGEMENT

Investors also need to run checks on the company. Where jurisdiction risks and licensing risks are high, investors should conduct more thorough due diligence on the company.

To guard against investments that enable or are complicit in corruption and adverse impacts, investors need to investigate (1) how the company secured its mining rights, including the involvement of any business partners, and (2) the company's internal governance and track record on preventing corruption in its business.



## ARE THERE RED FLAGS IN THE COMPANY'S MINING RIGHTS?

### What red flags should investors look for?

The following red flags indicate that the company might have secured its exploration or mining rights through corruption.

| Red flags                                                                                                                                                                           | Where to look to see if the red flag is present                                                                                                                                                                                                                                        |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>+ The company and its directors lack experience in the mining sector but nevertheless were able to secure mining rights</li> </ul>           | <ul style="list-style-type: none"> <li>+ Publicly available information on the internet</li> <li>+ Enquire with the company</li> <li>+ Enquire with chamber of mines/industry association in the country where company is listed</li> </ul>                                            |
| <ul style="list-style-type: none"> <li>+ The company secured the mining rights and related permits far more quickly than is usual in that country</li> </ul>                        | <ul style="list-style-type: none"> <li>+ Licensing authority's website for standard processing times</li> <li>+ Applicable mining laws and regulations</li> <li>+ Enquire with the local chamber of mines</li> </ul>                                                                   |
| <ul style="list-style-type: none"> <li>+ The company or its directors have a history of controversial or unlawful conduct according to media reports and court documents</li> </ul> | <ul style="list-style-type: none"> <li>+ Company databases (commercial and independent – see below)</li> <li>+ Court databases in the countries where the company is listed or has projects</li> <li>+ Google news sources</li> <li>+ Stock market filings and declarations</li> </ul> |

| Red flags                                                                                                                                                        | Where to look to see if the red flag is present                                                                                                                                                                                                                                                                                                                                                                               |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| + The company has a shareholder, key business partner or ultimate beneficial owner who is politically connected in the country where the asset is located        | <ul style="list-style-type: none"> <li>+ Beneficial Ownership registers established under requirement 2.5 of the EITI Standard</li> <li>+ Corporate register of the country</li> <li>+ <a href="https://www.opencorporates.com">OpenCorporates.com</a></li> <li>+ Commercial databases</li> <li>+ Company's legal documents</li> <li>+ Local news reports, social media</li> <li>+ Local NGOs/civil society groups</li> </ul> |
| + The company used a third-party agent or intermediary to obtain the rights                                                                                      | <ul style="list-style-type: none"> <li>+ Enquire with company</li> <li>+ Enquire with licensing authority</li> </ul>                                                                                                                                                                                                                                                                                                          |
| + The agreed terms of the licence or contract differ significantly from industry standards                                                                       | <ul style="list-style-type: none"> <li>+ Licence register for indication of standard terms</li> <li>+ EITI country reports and validation</li> <li>+ Enquire with local chamber of mines/industry association</li> </ul>                                                                                                                                                                                                      |
| + A key supplier of the company for the project under local content/procurement arrangements is related to/ connected to senior political figures in the country | <ul style="list-style-type: none"> <li>+ Enquire with the company</li> <li>+ Local news reports, social media</li> <li>+ Local NGOs/civil society groups</li> </ul>                                                                                                                                                                                                                                                           |
| For more red flags see:                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                               |
| + NRGI, <a href="#">Twelve Red Flags: Corruption Risks in the Award of Extractive Sector Licenses and Contracts</a> (New York: 2016)                             |                                                                                                                                                                                                                                                                                                                                                                                                                               |
| + OECD, <a href="#">FAQ: How to Address Bribery and Corruption Risks in Mineral Supply Chains</a> (Paris: 2021)                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                               |

## Where other sources of information are available?

There are several independent databases put together by non-profit organisations which contain information about mining companies and their ESG performance. Commercial databases are also available for a fee.

- + [Responsible Mining Index](#) – ranks almost 40 mining companies on their economic, environmental, social and governance performance and provides a detailed scorecard and accompany documentation for each company.

- + [Corporate Business and Human Rights Index](#) – ranks over 55 extractive companies on their human rights performance (often interlinked with corruption) and provides a detailed scorecard for each company.
- + [Business and Human Rights Resource Centre](#) – tracks hundreds of extractives companies. Their website displays news reports, complaints from communities and company responses on human rights issues.

## Should due diligence cover the company's business partners?

Yes, investors also need to screen the co-owners or joint venture partners of the mining project. Investors need to check the beneficial owners and political connections of the company's key business partners to ensure their stake in the project or high-value supplier contract is not a vehicle for corruption.

Screening is important because the political links and ownership may not always be obvious. For example, some governments require a percentage of local ownership in the mine and as such foreign companies must partner with or vest a stake in the project in a local company. Similarly, governments may require foreign companies to contract with a local company for downstream processing to maximise the project's economic benefit to the country.

This becomes problematic when government decision-makers steer the foreign company to partner with or source from a local company in which they have a personal interest. A stake in a mining project or major supplier/processing contract is worth a considerable amount of money. Foreign companies that agree to partner with politically connected companies in exchange for mining rights or other project permits and approvals are engaging in bribery.

**A study of 100 real-world corruption cases relating to the award of extractive rights in the oil, gas and mining sectors found that in over half of the cases, the company in question had a politically connected, hidden ultimate beneficial owner.<sup>10</sup>**

## What should investors do if they detect any of these red flags?

- ✓ Raise your concerns with the company and ask them to explain the red flags
- ✓ Conduct more thorough due diligence on the company and the lawfulness of the asset to decide whether to invest
- ✓ Refuse to invest in companies where there are reasonable grounds to believe they obtained the mining rights through bribery or corruption and have not taken steps to correct the situation, including self-reporting to authorities
- ✓ Set clear and specific expectations for improvements as a condition of investment and monitor company progress before proceeding with the investment and then continue to monitor after investing
- ✓ For existing investments, engage with the company to request an explanation for the red flags identified and seek to understand what measures the company took to avoid corruption at the time or is currently taking to investigate and self-report corruption
- ✓ For existing investments, set clear and specific expectations for improvements as a condition of ongoing investment and monitor company progress



## ARE THERE RED FLAGS IN THE COMPANY'S ANTI-CORRUPTION CONTROLS?

To determine to what extent the company takes corruption risks seriously and has measures in place to guard against corruption, investors need to look at the company's internal systems.

### What should investors look for?

There are three overarching questions investors should be asking as part of due diligence:

- + Are the right **policies** in place?
- + Are the policies **implemented**?
- + Does the company have a **culture of integrity**?

A checklist for each of these questions can be found on the following pages.

See also the Basel Institute on Governance, [Measuring effectiveness of anti-corruption programmes: Indicators for company reporting](#).

### Where can investors find relevant information?

Some of these questions can be answered by consulting publicly available information on the company's website and information compiled by independent, reputable third parties.

Questions regarding implementation of anti-corruption policies and culture require investors to engage closely with the company at the investment screening stage and on an ongoing basis after investing.

The checklist below suggests sources for each of the three questions.

### What should investors do if they detect gaps?

Where there are red flags – for example, the company lacks key policies or cannot demonstrate that its policies and values are implemented in practice – there is an increased chance that the company will engage in corruption.

- ✓ In those cases, investors need to proactively engage with the company and set clear and specific expectations about the improvements that the company needs to make either before the investment can proceed or as a condition of investment.
- ✓ Where it is a condition of investment and the company does not make adequate improvements within a reasonable time period, investors should consider escalating pressure, possibly in conjunction with other investors, or walking away from the investment if the company repeatedly fails to demonstrate good faith attempts at improvement.

For guidance on how to engage effectively refer to the Principles for Responsible Investment (PRI), [Engaging on Anti-Bribery and Corruption – a guide for investors and companies](#).

## Investors have an important role to play

Investors need to ensure that they are informed about the corruption risks in their investments, clearly communicate their expectations to companies, engage with the companies they

invest in, and monitor and influence company conduct. By including corruption risks in their ESG screening and engagement with mining investments, investors can drive more sustainable and responsible business practices that minimise harm to people and the planet.

## Resources to recommend to mining companies

Investors can refer mining companies to the following resources to help them strengthen their anti-corruption controls and responsible business practices.

- + **Transparency International Accountable Mining Programme, [Anti-Corruption Guide for Junior Mining Companies](#)** – explains the business case for preventing corruption, the corruption risks and red flags in five high-risk areas of mining licensing and links to sample policies and training materials
- + **Transparency International Accountable Mining Programme, [Responsible Mining Business Integrity Tool](#)** – online, interactive tool bringing together indicators from best practice standards, reporting frameworks and anti-bribery laws to help companies evaluate and improve their anti-corruption and business integrity systems
- + **Initiative for Responsible Mining Assurance** – the [standard](#) covers metrics related to business integrity, environmental and social responsibility
- + **Responsible Mining Index** – [methodology](#) covers a range of economic, environmental, social and governance metrics

## SCREENING CHECKLIST - COMPANY ANTI-CORRUPTION CONTROLS

### Are the right policies in place?

The company should, at a minimum, have the following policies and procedures in place and these should be publicly disclosed.

#### How to find this information:

Review the company's website for public disclosures. Request disclosure of internal policies, procedures and guidelines from the compliance function of the company.

- + **Anti-Bribery and Corruption procedure:**  
There should be a procedure for preventing, detecting and addressing corruption in the company. This should be multi-faceted and include regular corruption risk assessments, clear procedures for internal approvals and record-keeping for engaging third parties, giving gifts, hospitality and other benefits, and the use of cash.
- + **Code of Conduct:**  
This should set out clear expectations for behaviour in simple terms, including a zero tolerance for corruption and facilitation payments. The Code should be binding on all directors, employees, including those in subsidiaries, and on third party contractors and agents.
- + **Community Engagement policy:**  
Anti-corruption policies and procedures, including internal approval requirements, should apply to dealings with community and traditional leaders including in the context of land access and FPIC. Inclusive and meaningful community engagement that ensures women's voices are heard is critical to avoid corruption risks with communities.
- + **Conflicts of interest policy and procedure:**  
The risks of bribery and corruption are exacerbated when there are opportunities for private and political gain. The company should have a clear policy on disclosure of conflicts of interests and maintain an accurate register of interests of all company directors, senior managers and beneficial owners, including their political associations, especially as relevant to securing licences.
- + **Lobbying and political donations policy:**  
Attempts through lobbying or political donations to influence government to relax licensing rules and standards, fast track application processes or open areas to mining can be a form of corrupt or unethical behaviour. To minimise conflicts of interest and undue influence, the company should have clear processes, rules and public reporting on its engagement with political actors, including the hiring of current/former government officials. Political donations should be prohibited or at least publicly disclosed, and lobbying expenditure and activities should be publicly disclosed.
- + **Whistleblower policy and procedure:**  
The company should have a whistleblower/ 'speak up' hotline and clearly communicate to intended users the steps involved in making a report and how the company will respond. The whistleblower policy and procedure should make it clear how individuals who make reports will be supported and protected from retaliation and how reports will be dealt with.

## Are the policies implemented?

It is important for investors to go beyond the company's disclosure of policies and ask about how effectively they are implemented, focusing on the following matters.

### How to find this information:

Interview representatives from different company functions including compliance, exploration, investment and business functions. To get a clear picture of these issues 'on the ground', investors should also speak to employees at a country level, such as mine-site managers and employees responsible for interacting with government and communities.

#### + **Resourcing and integration of the compliance function:**

How is the compliance function structured in the company? To what extent is the compliance function empowered and resourced to engage with business units to detect and act on emerging corruption risks? Is the compliance function able to report directly and freely to the Board?

#### + **Training:**

How are employees in high-risk positions (such as those engaging with government officials or communities or located in high-risk jurisdictions) identified, trained and supported to deal with corruption risks? What topics or issues does the training cover and what form does it take (considering different corruption risks with communities and government)? How does training differ across different risk tiers of employees? Who conducts the training and what is their qualification? How often does training occur?

#### + **Third parties and business partners:**

What procedure does the company have in place for conducting integrity and corruption due diligence on prospective third-party suppliers, agents and business partners? Does this include due diligence on the beneficial owners and political associations of the third party and any relevant criminal or civil legal proceedings? Does

the company require the third party to comply with its Code of Conduct and anti-corruption policies and procedures through contractual provisions? Does the company have a right to audit the third party for compliance?

#### + **Monitoring and evaluation:**

How does the company identify gaps and areas for improvement in its anti-corruption systems? Is an independent body engaged to conduct assurance or audit?

#### + **Breakdown of whistleblower reports and investigations:**

How many reports are there and what types of issues are reported via the company whistleblower hotline? Employee use of the whistleblower hotline is an indication of a healthy culture where employees recognise wrongdoing and feel empowered to speak up.

#### + **Investigations and outcomes:**

How has the company investigated and dealt with reports of corruption or ethics concerns? What changed as a result? Investigating reports and imposing disciplinary measures and making systemic changes in response to non-compliance and failures in procedures shows that the company takes these issues seriously and acts on reports of corruption.

## Does the company have a culture of integrity?

A corporate culture that values integrity and responsible business conduct is the company's best defence against corruption. To assess to what extent the company has a culture of integrity or whether instead it sees anti-corruption as a box-ticking compliance exercise, investors should ask questions about the following matters.

### How to find this information:

A culture of integrity needs to be embedded horizontally – across all business functions – and vertically – from the corporate office and throughout country teams and subsidiaries. Interview the compliance team, Board and a sample of managers and employees in different functions and at the country level.

- + **The cost of not paying bribes:**  
Has the company lost contracts or incurred costs as a result of refusing to engage in corruption? It is realistic to expect that a mining company with interests in high-risk jurisdictions would have encountered some kind of pressure to participate in corruption. How the company has dealt with such pressure and whether they are willing to disclose it reveals a great deal about the culture of the business.
- + **Incentive structures:**  
To what extent is performance on ESG (including anti-bribery and corruption) tied to management pay – from senior management through to local management in-country? The incentives and key performance indicators set for senior management speak to what the company values. Remuneration that is solely pegged to financial targets undermines the weight of any anti-corruption or integrity policies.
- + **Communications from leaders and managers:**  
How do leaders at a Board, senior management, country level and mine site communicate zero tolerance for corruption and commitment to integrity and responsible business practices? Can employees name any examples? Employees should receive a clear, regular and consistent message that they have the company's backing and support to resist requests or demands for bribery or corrupt conduct. Particular focus should be paid to in-country management as they set the tone 'on the ground'.
- + **Board oversight and commitment:**  
To what extent does the Board oversee the company's progress on implementing business integrity and anti-corruption controls? How often does the Board receive relevant reports? Is there anyone on the Board with relevant expertise? Has the Board specifically named anti-corruption and integrity as priorities for the company?

# ENDNOTES

1. The [World Bank](#) has estimated that the production of minerals, such as graphite, lithium and cobalt, could increase by nearly 500% by 2050 to meet the demand for clean energy technologies. [Wood MacKenzie](#) estimates that at least \$1 trillion will be needed over the next 15 years to produce an adequate supply of copper, aluminium, nickel, cobalt and lithium.
2. For corruption risks across the project lifecycle, see OECD (2016). [Corruption in the Extractive Value Chain - Typology of Risks, Mitigation Measures and Incentives](#). Paris: OECD.
3. OECD (2016).
4. UN Global Compact and Principles for Responsible Investment (2016). [Engaging on Anti-Bribery and Corruption – a guide for investors and companies](#). London: PRI.
5. Biesheuvel, T. and Wild, F., “Glencore drops after U.S. orders documents in corruption probe”, Bloomberg (web) 3 July 2018.
6. See, OECD (2020) [Connecting the anti-corruption and human rights agendas](#). Paris: OECD. UN Human Rights Working Group (2020) [Connecting the business and human rights and the anticorruption agendas](#) Geneva: United Nations.
7. Diego, R. (2021) [Why tackling gender inequality is key to addressing corruption in the mining licensing process](#). Melbourne: Transparency International.
8. Erdiaw-Kwasie, M. and Caripis, L (2021) [Stronger community voices: addressing corruption risks in community consultation on mining](#). Melbourne: Transparency International.
9. Lebre, E et al (2020) [The social and environmental complexities of extracting energy transition metals’](#) *Nature Communications* 11(4823).
10. Sayne, A., Gillies, A., Watkins, A. (2017) [Twelve Red Flags: Corruption Risks in the Award of Extractive Sector Licenses and Contracts](#) New York: 2016.



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