



Submission under the LBMA's Incident Review of PAMP/MMTC-PAMP

Failings of Synergy's North Mara Gold Mine Assessment

Update

On 3 July 2020, the same day RAID made its *Submission under the LBMA's Incident Review of MMTC-PAMP*, MMTC-PAMP India Private Limited posted [North Mara Gold Mine – Statement](#) on its website. To accompany this statement, it also made available the Executive Summary of Synergy Global Consulting's [North Mara Gold Mine Assessment](#), dated 25 May 2020.

MMTC-PAMP's statement does not counter the failings detailed by RAID in its submission. On the contrary, it reinforces the central tenet that MMTC-PAMP, and Synergy as its appointee, have not followed the LBMA's Responsible Gold Guidance (RGG). This failing applies to both the way the assessment was conducted and MMTC-PAMP's erroneous reliance upon it as the basis for the refiner's own RGG compliance.

Based on RAID's reading of MMTC-PAMP's statement:

- MMTC-PAMP says that together with Barrick, it “jointly coordinated a thorough independent assessment of the mine and its processes and procedures.” This recognises both parties' joint control over the assessment which included tightly controlling the site visit during which the assessor was precluded from meeting human rights victims and Tanzanian civil society groups and curtailing the scope of the assessment. The statement confirms that senior representatives of Barrick and MMTC-PAMP (actually, it was MKS PAMP Group's Head of Refining) were in attendance on the ground. **MMTC-PAMP does not explain how an assessment coordinated by two parties with a shared commercial interest in continuing to trade can be considered independent.**
- MMTC-PAMP references “transitioning” its relationship from Acacia Mining plc to Barrick. This obscures the fact that Barrick had a majority shareholding in Acacia throughout the period of human rights abuse. Rather, Barrick's acquisition of Acacia's minority shares in September 2019 appears to be used as a pretext to restrict Synergy's assessment from that date onwards. Acacia's past conduct (including during 2019) is thereby ignored, and Synergy assesses only what Barrick might **potentially** put in place when it should have been assessing what measures are **actually** in place.

MMTC-PAMP states that it “rigorously follow[s] the London Bullion Market Association (LBMA) Responsible Gold/Silver guidance”. However, it is apparent that:

- While Synergy (albeit without due rigour) assesses Barrick’s due diligence and makes weak and partial recommendations to the mine, **there is no assessment of MMTC-PAMP’s own due diligence**. Hence there is a failure to address the central issue at the heart of the *Forbidden Stories* reporting, which is why MMTC-PAMP, for seven years, sourced gold from North Mara, a mine which has been at the centre of reported systematic and widespread human rights abuses for a decade.
- MMTC-PAMP, through Synergy as its appointee, **failed to conduct enhanced due diligence** under RGG 2.3, as required when the risk (and, in this case, occurrence) of serious human rights abuse arises. Contrary to RGG 2.3.3, it did not “collect evidence of any serious abuse of human rights committed by any party at mine sites” and neglected to “identify instances of conflict or tensions between the producer and the ASM actors”.
- MMTC-PAMP’s 2019 Compliance Report, in the section dealing with Step 3 design and implementation of risk management and mitigation by the refiner, refers solely to Synergy’s assessment. But to do so is entirely without foundation. Synergy was never tasked (though it should have been) with assessing MMTC-PAMP’s due diligence and RGG compliance. In any event, Synergy does not even find that Barrick, let alone MMTC-PAMP, has the appropriate plans in place to deal with the relevant risks to human rights.
- Both the Compliance Report and the assessment are dated 25 May 2020. It is difficult to reconcile how the refiner could have signed-off on its Compliance Report on the same day Synergy also issued its report. While the Synergy assessment was not an adequate or sole basis for MMTC-PAMP’s own RGG compliance, it is not credible that the refiner could have given due consideration to the implications for its own reporting and corrective action in such circumstances.
- MMTC-PAMP states that Synergy’s assessment “has confirmed MMTC-PAMP’s decision to continue to source doré from NMGM.” As noted, because the assessor did not examine MMTC-PAMP’s own due diligence, this too is a baseless assertion. Rather, **MMTC-PAMP has failed to comply with the RGG by not suspending refining when “possible” serious human rights abuses were flagged, and by continuing to do so now, when it has not undertaken enhanced due diligence or produced a Corrective Action Plan.**

It is also of serious concern that EY has audited MMTC-PAMP’s [Compliance Report](#), but has not flagged MMTC-PAMP’s non-compliance with the RGG and the lack of a Corrective Action Plan. EY has itself simply preceded to undertake “limited assurance,” when it should have undertaken “reasonable assurance”.

RAID notes that MMTC-PAMP states that the assessment report has been submitted to the LBMA, but without making it clear that MMTC-PAMP is subject to an ongoing Incident Review by the LBMA.

Finally, to underline RAID’s recommendations on the importance of safeguards to ensure independence of the Incident Review given the influential positions that members of the MKS PAMP Group hold within the LBMA, it should be noted that MMTC-PAMP’s Compliance Report is signed-off by Mehdi Barkhordar as company Chairman. Mr Barkhordar is, of course, currently Vice Chairman of the LBMA Board.

Overview

On 11 June 2020, gold refiner MMTC-PAMP, part of the Swiss-based MKS PAMP Group, posted on its website the Executive Summary of an assessment conducted by Synergy Global Consulting at the North Mara Gold Mine in Tanzania from which it has been sourcing gold since at least 2013.¹ The North Mara mine, operated by gold giant Barrick Gold, has a long and troubled record of human rights abuses and environmental harm. MMTC-PAMP originally [announced](#) in June 2019 that the assessment would “verify on site that the measures taken by the mine comply with our Responsible Sourcing Policy as well as the internationally recognized responsible sourcing standards.” Such sourcing standards include the [Responsible Gold Guidance](#) of the London Bullion Market Association (LBMA). Compliance with the LBMA guidance is necessary for inclusion on the LBMA’s [Good Delivery List](#), giving refiners access to London and international markets.

The posting of the eight-page Executive Summary was fleeting. It briefly appeared on MMTC-PAMP’s press release page, before being removed a few hours later. The full report was not posted. There has been no further statement or news release from MMTC-PAMP about the assessment.

This submission details the failings of the “independent” assessment based on RAID’s close examination of the Executive Summary and our interactions with Synergy Global and PAMP/MMTC-PAMP at the time the assessment was conducted. While we have not had access to the full report (since it has not been published), it is nevertheless clear from the contents of the Executive Summary that Synergy’s assessment, and PAMP/MMTC-PAMP’s conduct of its due diligence more generally, fails to comply with the LBMA’s Responsible Gold Guidance.²

While there are many problems with the assessment (set out below), perhaps most troubling is that the assessor from Synergy Global did not meet with victims of human rights violations at the North Mara mine, or a broad range of local community representatives, nor Tanzanian civil society organizations who have long monitored the human rights situation. As such, their views and information are completely absent.

The full list of failings covered in RAID’s submission are summarised as follows:

- 1) The assessment was not independent and both PAMP/MMTC-PAMP and Barrick curtailed its scope, controlled with whom the assessor met, and vetted the final report.
- 2) The conduct of the assessment failed to meet specific enhanced due diligence requirements.

¹ This date is based on Acacia Mining’s annual reporting of gold sales by destination. RAID has asked PAMP/MMTC-PAMP to confirm the date it commenced sourcing from North Mara mine, but has received no response.

² When RAID refers to Synergy’s assessment in this submission, this relates to the assessment process and findings, as presented in the Executive Summary.

- 3) The assessment placed unjustified reliance on a “progressive improvement” principle to mask existing shortcomings and the record of human rights violations.
- 4) The assessment relies on hypothetical possibilities, not substantiated evidence, regarding management of risk.
- 5) The assessment makes no reference to Barrick’s failure to provide remedies to the scores of human rights victims who remain without adequate or any redress.
- 6) The assessment both omits consideration of MMTC-PAMP’s failure to suspend trade with Barrick despite clear and ample evidence of a risk of systematic and widespread human rights abuses, and does not recommend suspension despite the absence of risk mitigation strategies in place.
- 7) The assessment and the risk mitigation strategies, which are yet to be developed or implemented, have not been completed within a “reasonable timeframe”.
- 8) MMTC-PAMP has failed to meet its public reporting responsibilities.
- 9) No provision is made to publish Barrick’s mitigation strategy and plan and it is not apparent that MMTC-PAMP is to publish any Corrective Action Plan.
- 10) MMTC-PAMP’s auditing requirements have not been met and should extend to Synergy’s assessment.

In our view, this assessment and PAMP/MMTC-PAMP’s due diligence fails to comply with the LBMA’s Responsible Gold Guidance and should therefore result in the refiner being removed from the Good Delivery List until the issues are addressed. RAID submits this paper as part of the LBMA’s ongoing Incident Review of PAMP/MMTC-PAMP.

Background

In June 2019, MMTC-PAMP was [named](#) as refining gold from the troubled North Mara mine in an investigative series published by journalists at [Forbidden Stories](#) (including [The Guardian](#)).

One of the [Forbidden Stories articles](#) reported on the human rights and environmental situation at the mine as follows:

“over the years police [paid and equipped by the mine] and security guards have been accused of killing dozens – possibly hundreds – of local people, injuring many more and raping countless women. There have also been reports of contamination from mining chemicals, but journalists and human rights activists who have tried to investigate these cases have sometimes found themselves the subject of intimidation, harassment and even threats of deportation from police and state authorities.”

The article went on to detail the lethal shooting of a young man at one of the mine’s waste dumps in August 2017, the shooting in December 2018 of a young student by security

personnel trying to scare villagers, and ongoing pollution concerns. RAID also [exposed](#) other serious abuses in 2018 and 2019, and in early 2020 a case was [launched](#) in UK courts on behalf of some of the human rights victims.

On 1 November 2019, in response to preliminary information provided by RAID on the record of human rights violations and the North Mara supply chain, the LBMA confirmed that it was “actively engaged with MMTC-PAMP on the situation around North Mara, and have also made recommendations on the scope of the independent assessment”. While the LBMA added that it would be happy “to talk through our policies and processes in relation to this situation”, it did not at that time confirm that an Incident Review was underway.

In November 2019, nearly five months after its announcement, MMTC-PAMP confirmed engaging Synergy Global Consulting Ltd as the independent expert (07/11/2019 email from Mr Kalia).

The site visit took place 19 – 21 November 2019. RAID staff repeatedly offered to put Synergy and PAMP’s representative in touch with victims at North Mara and other Tanzanian and international civil society groups, but the offer was not accepted. RAID was present in North Mara during the site visit to encourage local representatives and victims to meet with the assessor, and facilitate such contact if needed, but were told this was not possible due to “safety” concerns (17/11/2019 email from Mr Kalia). When RAID offered to assist in bringing victims to the mine’s premises to accommodate any safety issues, this too was rebuffed (18/11/2019 email from Mr Kalia). RAID’s request for a meeting with the assessor while he was on the site visit was refused. Email correspondence at the time with MMTC-PAMP shows Barrick’s role in restricting those with whom PAMP/Synergy could meet (17/11/2019 and 18/11/2019 emails from Mr Kalia). PAMP/Synergy did not meet with the Tanzanian civil society organisation, the Legal and Human Rights Centre, which has [reported extensively](#) on the human rights situation at the mine.

After repeated requests, the Synergy assessor, Ed O’Keefe, met with RAID at RAID’s London office in December 2019 *after* his site visit was concluded. Mr O’Keefe was bound by terms of reference that restricted what he could say. None of the concerns raised by RAID in the meeting with Mr O’Keefe are reflected in Synergy’s Executive Summary.

In mid-March 2020, RAID was informed in a call with the LBMA that Synergy’s report was being reviewed by Barrick’s legal department before it could be finalised. The LBMA confirmed that an Incident Review of PAMP/MMTC-PAMP was underway and invited RAID’s written comments outlining our concerns as part of that process (17/03/2020 email). The LBMA undertook to keep such concerns “front of mind when reviewing Synergy’s assessment” and to follow up with RAID once it had done so (ibid). RAID submitted concerns in writing on 23 April 2020.

In a call with officials from PAMP and MMTC-PAMP on 2 June 2020, RAID was informed by PAMP that we would receive a written response to our questions about the Synergy assessment, disclosure and prior due diligence, only after the “independent” process had been completed. PAMP expressed the view that RAID was “interfering” in the process. PAMP officials provided RAID with limited information about the assessment but only on condition

that it be kept confidential, despite RAID stressing that discussions about the human rights concerns should be transparent, and that civil society's role was to highlight concerns and ask questions about the due diligence process.

On 11 June 2020, RAID visited MMTC-PAMP's website, found that the Executive Summary of Synergy's North Mara Gold Mine Assessment had been posted on the press release page and downloaded it. The full assessment was not posted. Within a few hours, the link to the Executive Summary was removed from MMTC-PAMP's press release page.

Synergy's Executive Summary is signed by Mr. O'Keefe and dated 25 May 2020.

Analysis

1) The assessment was not independent

The assessment has failed to properly consult or incorporate the views of civil society and affected stakeholders, including, most importantly, victims of human rights violations, and has instead been coordinated and carefully controlled by PAMP and Barrick. In previous correspondence with RAID, MMTC-PAMP refused to disclose the terms of reference for the assessment, but stated that they had been "established in collaboration" with Barrick, as well as Synergy and the LBMA (14/11/2019 email from Mr Kalia).

The client is given as MMTC-PAMP, which means Synergy is contracted to carry out the work in accordance with the terms specified if it is to receive payment from the refiner. The commercial nature of this arrangement, particularly with non-disclosure of the TORs, undermines the assessor's independence. Furthermore, the Executive Summary makes clear that Barrick continued to be integrally involved in, and exercised control over, the conduct and finalisation of the assessment. Importantly, the report includes clauses stipulating that (a) information provided/utilised by Synergy is subject to a 2019 confidentiality agreement between Barrick, MMTC-PAMP, and Synergy, and (b) no part of the report is to be reproduced without the prior written approval of Synergy *and* Barrick Gold Corporation (p. 2).³

Further, the report is addressed to Barrick Gold Corporation and subsidiaries, alongside MMTC-PAMP, and recommendations are addressed to Barrick as well as the refiner (p. 2). Indeed, the stated intention in the assessment is to provide MMTC-PAMP *and* Barrick with Synergy's views (p. 3).

The assessment refers to "context", including Barrick's merger with Randgold, its acquisition of Acacia (actually, a purchase of minority shares not already owned), and its negotiations to resolve disputes with the Tanzania government in January 2020 (i.e. months after the site visit). Synergy further acknowledges how this context "shaped" the scope, the site assessment, including engagement with external stakeholders, the assessment of risk and recommendations (p. 4). It is difficult to see how any of these factors, which are of obvious

³ The page references in this submission refer to the Executive Summary.

commercial importance to Barrick, were allowed to impinge upon the assessment of specific matters of serious human rights violations and risk mitigation under the RGG.

Crucially, the site visit itself was orchestrated by Barrick/NMGM. MMTC-PAMP rejected meeting victims or civil society groups, as proposed months previously by RAID, so as not to “compromise” its plans for the site visit (18/11/2019 email from Mr Kalia). Initially, MMTC-PAMP had stated that “Barrick are organising the logistics of the visit” and did not “feel comfortable” with Synergy or PAMP holding such meetings, purportedly for safety reasons (17/11/2019 email from Mr Kalia). RAID addressed any safety issues by offering, with the agreement of victims, to meet at the mine’s offices, but MMTC-PAMP still refused (18/11/2019 emails between Ms Van Woudenberg and Mr Kalia).

The report confirms that the site visit was indeed dominated by Barrick: a site tour, a tour of community investment projects, interviews with senior Barrick corporate employees, NMGM management/staff, a “detailed presentation” prepared for Synergy (p. 4). The site visit was conducted over three days, although it is not apparent whether there was a full itinerary on the day of arrival and/or departure. It was seriously remiss of Synergy and PAMP/MMTC-PAMP to rely upon their fleeting visit, yet believe that they would not benefit from the lived experience over many years of residents and victims.

In short, the Synergy assessment has been prepared within a very small, closely linked circle of entities with overlapping management and/or financial interests. Moreover, there is no indication that any measures have been put in place even to mitigate the clearly compromised positions of the respective entities or limit the undue influence their respective interests have on the conduct and outcome of the report.

2) The assessment fails to comply with the enhanced due diligence requirements of the LBMA’s RGG

The assessment claims to be based on OECD Due Diligence Guidance and LBMA Responsible Gold Guidance (RGG).⁴ As the OECD Guidance is not directly implemented, referring to it in this respect is of limited relevance, and overall, the assessment is portrayed as though it is part of RGG implementation.

Beyond an obvious fudging, Synergy’s assessment fails to clearly set out how it fits within the RGG process. This notwithstanding, RGG 2.3.3 best matches the circumstance MMTC-PAMP described (“we take any new allegation very seriously”) when announcing the independent assessment in June 2019 and the fact that Synergy’s own assessment is focused upon recommendations to improve risk management:

“Following a change of risk level to high-risk, Refiners have to perform all the enhanced Due Diligence steps within a reasonable timeframe, and apply, if required, Step 3 of this Guidance (Design and implement a management strategy to respond to identified risks).”

⁴ In line with footnote 5, presumed to be [V8](#), effective from 1 January 2019. The OECD Due Diligence Guidance may be found here: <https://www.oecd.org/corporate/mne/GuidanceEdition2.pdf>.

The analysis thus proceeds on the basis that Synergy's assessment is undertaken under the RGG requirements in line with this provision.

Set out below are provisions under the RGG that apply to the situation at North Mara, but which Synergy fails to consider:

- RGG section 2.2 *High Risk Supply Chains* applies because of the high human rights risk. Indeed, security forces management and serious abuses are prioritised as high risk by Synergy at North Mara after assessing the level of inherent risk "based on the potential likelihood and scale of potential serious negative impacts." Yet Synergy does not refer to section 2.2.
- Given North Mara's high-risk designation, RGG section 2.2 requires enhanced due diligence.
- RGG section 2.3 *High Risk Categories*, in directing refiners to carry out enhanced due diligence, sets out minimum, additional steps (indicated by italics):
 - *"On-site investigation/visit at the appropriate location (for example mining sites for Mined Gold...) aimed at substantiating the documented supply chain Due Diligence findings.... The frequency of follow-up will depend on the number and severity issues identified"*.

It is arguable that Synergy's assessment constitutes such enhanced due diligence, though the term is not used and nothing is done to situate the assessment in terms of 2.3 *per se*.

- *"On-site visits should be conducted by...a competent **independent** third-party consultant **free of any conflict of interest**"* (emphasis added).

Clearly, this provision has not been met, as it is apparent that Barrick has exercised considerable influence over the conduct and completion of the assessment (see section (1) above).

- *"Designated assessors...should report back truthfully and accurately."*

The lack of concrete information in the Executive Summary suggests that many aspects of the situation at North Mara go unreported or that material has been removed by PAMP/MMTC-PAMP or Barrick. The failure to meet victims, for example, or the description of human rights violations in personal injury terms, with no clear indication as to perpetrators or actors responsible for those violations, runs counter to a genuine attempt to ensure truthful or accurate reporting.

- *"Refiners should use the on-site visit templates included in the LBMA Toolkit. Refiners will be asked to justify their positions if they do not use the on-site visit template included in the LBMA Toolkit"*.

The [Toolkit](#) includes a broad range of questions, including specifically regarding artisanal mining, local communities and security issues, which the Executive Summary does not address yet are clearly directly relevant to the matters being assessed. Synergy appears not to have used the toolkit nor did it justify in the Executive Summary why it has not done so.

- RGG section 2.3.3 sets out yet more minimum enhanced due diligence steps for large-scale miners where there is a high risk of human rights abuse. Again, the Synergy assessment falls short of these requirements, for example:

- *“Refiners should understand progressively the nature of public or private security services provided at the mine sites... (including the screening and training of security employees)”* during the on-site assessment.

Synergy’s scope is limited to “[m]anagement of and plans for, security and human rights issues and related risks” (p. 4).

Synergy recognises “the tension between Acacia and the sections of the local community created by the combination of intrusions by people external to the mine and community disorder, and the Tanzanian Police Force and the security company employed at NMGM” (p. 4). However, it is also made clear that consideration of Acacia’s past risk management is “limited” and that the assessment is focused upon Barrick’s plans and actions going forward based on the principle of “progressive improvement” (addressed in section (3) below).

- *“Refiners should assess the militarisation of mine sites...and the risk of direct or indirect support to... public or private security forces, where relevant”*.

Yet there is only reference in Synergy’s Executive Summary to Barrick having measures in place to manage any liaison with the police force (p. 7). No findings are presented on the [Memorandum of Understanding](#) governing such support. Synergy does state that an existing independent audit on alignment with the Voluntary Principles on Security and Human Rights (VPSHR) has already identified “a number of areas for improvement” (p. 7) without Synergy identifying the shortcomings to be remedied, let alone any measures in place or developed by Barrick to address them.

- *“Refiners should collect evidence of any serious abuse of human rights committed by any party at mine sites”*.

There is no indication in the summary that Synergy has done this. On the contrary, by referring only to “personal injuries incurred by members of the community” (p. 3) and “allegations of personal injury claims in the past” (p. 4), the assessment avoids recognising killings and assaults as human rights violations. It suggests that nothing was done to understand, let alone investigate, existing allegations or unresolved claims.

The mine has had in place an [investigation policy](#) that set out in detail the measures to be taken to collect evidence of human rights abuses at the mine site, and a grievance process that according to the mine's own account [concluded](#) over 160 grievances concerning security and human rights since 2016 alone. RAID offered to arrange meetings with victims and provided Synergy with [references](#) to a range of other reporting on human rights violations. The fact that the assessment omits reference to *any* evidence of human rights abuses in these circumstances is astonishing and undermines any credibility it may otherwise have had.

- *“During the mandatory on site visit, estimate the number of ASM miners (if any) on the producer’s concession and...identify instances of conflict or tensions between the producer and the ASM actors”.*

Synergy's assessment scope does not set out the need to establish such baseline data, and it goes unreported. This is a particularly glaring omission given that many of the reported human rights abuses concern community members prospecting for gold.

3) The assessment inappropriately relies on a “principle of progressive improvement” to mask existing shortcomings and the record of human rights violations

As noted, the Executive Summary makes no findings regarding the mine's involvement in the long and well-documented record of human rights abuses at and around the mine site. Instead, seemingly due to the undisclosed terms of reference, it seeks to shift the frame to one that is exclusively forward-looking. To this end, Synergy makes the “principle of progressive improvement” (pp. 3 and 8) central to its recommendation that MMTC-PAMP continue trading with Barrick based on “the potential of the new Barrick management... to be able to demonstrate its ability to remedy and improve” management of risks at the mine. In footnote 2, it explains that “progressive improvement” is used “as per” the OECD Guidance. As the footnote implies by omission, there is no principle of progressive improvement in the RGG.⁵ Thus relying on a “progressive improvement” principle, as the assessment does, has no basis in the RGG. On the contrary, RGG 3.2 provides that even if a preliminary assessment concludes that serious human rights abuse is merely “possible”, the refinery is “to suspend refining gold from this provenance until it can obtain additional information/data confirming or refuting the preliminary assessment” (see section (6) below).

Moreover, even in the OECD Guidance (which, as explained, is not directly implemented), references to “progressive improvement”⁶ cannot justify continuing to source from a mine where there is a “reasonable risk” that it is linked to serious human rights abuses: the Model Supply Chain Policy is similarly clear that refiners are to “immediately suspend or discontinue engagement” with mines in such instances.⁷ Rather, the term “progressive improvement”

⁵ The RGG does refer to the “concept of continuous improvement”, but it does so in relation to refiners' due diligence practices, not mining companies and their contribution to, or other involvement in, human rights abuses.

⁶ The term is used in Annex I(3)(B) regarding designing and implementing a strategy to respond to identified risks; Annex II, footnotes 8 and 10, where it refers to measures *accompanying* suspension; and in the introduction to the Supplement on Gold, referring to due diligence practices (p. 64).

⁷ Annex II, subparagraph 2.

refers to due diligence practices or the objective of strategies to respond to identified risks, which the report acknowledges are not currently in place. Further, regarding the management of identified high risks that relate to public or private security, as in this case, the OECD Guidance provides that “[s]uspension may be accompanied by a revised risk management plan, stating the performance objectives for progressive improvement that should be met before resuming the trade relationship.”⁸ In other words, “progressive improvement” amounts to monitoring based on proper indicators (absent under Synergy’s assessment) *when trading has already been suspended* (which it has not been).

In any event, a purely forward-looking perspective is inappropriate in this case, since there have been such serious and longstanding human rights issues. The Executive Summary places significant reliance on the notion that Barrick represents “new” management (p. 3), which glosses over the fact that Barrick was the majority shareholder of Acacia Mining during its ownership of the mine from 2010 to 2019 (in 2019 Barrick purchased the outstanding shares and took Acacia private). Even when Acacia was separately listed, Barrick took over management of Acacia’s tax dispute with the Tanzanian government, [excluding](#) Acacia’s management from negotiations from mid-2017 onwards. While willing to take direct control of the tax dispute, Barrick did not take similar robust action to improve Acacia’s management of the human rights situation. For the Executive Summary to suggest that Barrick bears no responsibility for the human rights abuses that occurred prior to its purchase of the outstanding minority shares in Acacia indicates a limited understanding of Barrick’s past relationship and influence.

4) The assessment relies on hypothetical possibilities, not substantiated evidence, regarding management of risk

For an assessment to be credible, it must be based on verifiable, substantiated evidence as to the actual management of risk; it cannot rely on mere possibilities, particularly in relation to areas of high risk.⁹ Yet from the outset, Synergy indicates that it will consider “**the potential** of the new Barrick management...**to be able to demonstrate its ability** to remedy and improve the historical management of the various issues at NMGM” (p. 3, emphasis added). That is, the assessment considers Barrick’s **potential ability to demonstrate an ability** to meet the necessary RGG standard, which is so abstract and hypothetical as to render the exercise both meaningless and absurd.

The focus on potential ability is evident in the section of Synergy’s Executive Summary that deals with the actual assessment of risk management (pp.5 ff.). The Executive Summary identifies two areas within the LBMA’s scope, “Security forces management and serious abuses” and “Environmental performance: TSF and water management”, as currently high risk and therefore a priority (p. 6). It must be noted that no substantive information is provided on how these risks were identified in the first place, presumably because this would have meant acknowledging, for example, the record of violations at North Mara (at the outset

⁸ Annex II, footnote 8.

⁹ This is evident from Steps 2 and 3 of the RGG, which, for example, refer to the need to “**collect evidence** of any serious abuse of human rights” (2.3.3, emphasis added) and direct refiners to suspend refining gold where it is possible that there are serious human rights abuses “until it can obtain **additional information/data** confirming or refuting the preliminary assessment” (3.2, emphasis added).

deemed “off limits” by Barrick and PAMP/MMTC-PAMP when setting down the assessment’s scope).

Risk management is analysed in respect of each of these areas on the basis of three categories: Barrick management systems, risk assessment processes, and site-level risk management strategies (the fourth, annual reporting, is considered in section (8)(ii) below). The assessment gives Barrick the highest score (3 – acceptable risk) for all three areas regarding “Environmental performance” (p. 6). For “Security forces management and serious abuses”, it also gives Barrick the highest score for its corporate management systems and risk assessment, while grading its site-level risk management as requiring improvement but not unacceptable (2).

Yet its claims for Barrick’s corporate management systems rest primarily on generalities,¹⁰ and in relation to both risk assessment and site-level management, the Executive Summary acknowledges, with the exception of TSF and water management, that it has no, or insufficient, factual basis for these “findings”. It states, at times contradictorily, that:

- “Barrick has identified and assessed the relevant risks at site, senior management are aware of and involved in the risk assessment process, and has put in place, **or is in the process of putting in place**, suitable risk management plans”;
- “Generally, plans to manage the key risks are **being developed or starting to be implemented and many systems to manage risk are being reviewed, put in place or not yet fully implemented or effective**”;
- “For some risk areas, **Barrick is in the process of understanding issues more fully...** For other risk areas, site management systems have been audited and findings **provide a good basis for improvement plans (e.g. risks linked with security forces)**” (pp. 6-7).¹¹

Similarly, in its single short paragraph on “Security forces” under the heading “Assessment findings”, the Executive Summary notes that an “independent audit has already identified a number of areas for improvement”, but does not refer to what those areas are, nor makes any findings as to how or even whether they will actually be addressed (nowhere does Synergy even suggest that Barrick has made any commitments in this regard).¹²

¹⁰ The report gives Barrick the top score for its company systems despite Barrick’s failure to exercise its influence over Acacia during the period of some of the worst human right abuses at North Mara and its troubling record of management of human rights at other mines, such as the Porgera gold mine, where the Papua New Guinea government recently refused to extend the lease, [citing](#) “environmental issues, resettlement issues and many, many other legacy issues”, which include serious [human rights](#) violations. Even the Corporate Human Rights Benchmark only [gives](#) Barrick a 5.7 out of 10 on its “governance and policy” score (and a mere 56.9 out of 100 overall) in its 2019 results. The report’s failure to engage with these matters while relying on Barrick’s management systems as a factor **in Barrick’s favour** seriously undermines its credibility.

¹¹ The emphasis in each of these passages has been added.

¹² In fact, the report only provides Synergy’s own recommendation on security forces, which reflects little understanding of the crux of the problem. Instead, Synergy appears to seek to shift blame to the local communities by focusing exclusively on “minimising the underlying drivers for intrusions”. Shockingly, nothing is said about restraining security forces that have been engaged in human rights abuses as serious as beating, shooting and killing local community members (not all of whom “intruded” onto the mine site, though clearly, regardless, there is no justification for such abuses).

The relevant question is not whether Barrick has grounds to develop and implement improvement plans when it comes to security and human rights, but whether it has in fact done so. Even on the assessment's own findings, there can be no basis for concluding that risks, including crucially those concerning security forces, *are*, as opposed to *may eventually be*, adequately managed. As such, the report's recommendation that the refiner continue to trade with Barrick is inconsistent with the RGG.

5) The assessment says nothing about remedies to human rights victims

Those whose human rights have been violated are [entitled](#) to effective and timely remedies. To deny or delay the provision of a remedy, particularly for human rights abuses that cause serious bodily harm and require urgent medical treatment as many at North Mara do, thus compounds and aggravates the violations. Yet remarkably, the assessment makes no findings regarding remedies for human rights abuses at the mine at all.

For the second time since MMTC-PAMP began sourcing gold from the mine, victims of human rights abuses have been forced to [pursue justice](#) against Barrick's subsidiaries in UK courts (the first time the claims were [settled](#) confidentially out of court). Barrick's CEO has [stated](#) that the company refused lawyers' advice to settle the most recent claims and instead chose to force the victims, many of whom suffered injuries requiring ongoing medical treatment, to endure the expensive and lengthy court process. Moreover, these include only a [fraction](#) of those who suffered human rights abuses perpetrated by security forces at the mine who remain without adequate, or any, remedy and are precluded from bringing claims due to the short limitation period under Tanzanian law.

The assessment recommends that Barrick ensures an independent/effective process for grievances, albeit as an "Other risk area" rather than one that concerns the OECD Due Diligence Guidance and RGG, as clearly it does (p. 7). This is also an area, in accordance with RGG 3.3, where those affected should be consulted over any planned mitigation and progress over its delivery. Yet there is no indication, roughly six months after the site visit, that Barrick has put in place *any* process for grievances, let alone an independent or effective one. On the contrary, there is evidence that Barrick intends to oppose access to remedy.

6) MMTC-PAMP and the suspension of trade with North Mara mine

There are three aspects to this matter, all of which lead to the conclusion that MMTC-PAMP should have suspended, and should continue to suspend, trading with North Mara mine.

- (i) Should the refiner, alerted to allegations of serious human rights abuse at North Mara, have undertaken a preliminary assessment into such allegations and acted accordingly?

As noted, RGG 3.2 is clear that such a preliminary assessment only need conclude that such serious human rights abuse is "**possible**" (emphasis added) in order for a refinery "to suspend refining gold from this provenance until it can obtain additional information/data confirming or refuting the preliminary assessment."

Given almost a decade of publicly recorded serious human rights violations at North Mara, long before the 2019 Forbidden Stories coverage, it is inconceivable that this “possible” threshold has not been met. Yet MMTC-PAMP clearly failed, contrary to the RGG, to suspend trading with North Mara mine at any point. It is also clear that MMTC-PAMP should have suspended trading while the Synergy assessment was underway.

- (ii) Currently, is there a valid basis upon which the refiner should continue to trade with North Mara?

Synergy recommends that “MMTC-PAMP continues trading with NMGM while engaging with Barrick, with ongoing monitoring or performance and implementation” (p. 8). However, this recommendation is inconsistent with Synergy’s own findings and the RGG.

Despite its efforts at careful phrasing, Synergy itself concludes that there are areas, including in relation to security forces, where improved risk management is required. Read in the context of the record of violence perpetrated against community members by security forces guarding the mine, and the speculative findings regarding risk management, the implication of that finding is that a risk of serious human rights abuses is “possible”, which is the threshold for suspension.

Putting aside the question of whether the assessment is “evidence-based” (no evidence is provided), any performance objectives, “devised with input and engagement from the supplier,” are to include “qualitative and/or quantitative indicators” and “[s]ignificant and measurable improvement towards eliminating the risk within six months from the adoption of the risk management plan should be identified.” In the absence of such improvement, the RGG is clear that “Refiners should suspend the relationship until the supplier has responded to the improvement plan.”

Barrick’s improvement strategy and risk management plan when it comes to security/serious abuses, as described by Synergy, would not appear to meet RGG performance objectives. As detailed in section (4) above, Barrick’s risk management plans are not yet implemented, and in some cases not even developed (and hence the required indicators cannot exist). Synergy acknowledges this leads “to the need to demonstrate improvement” (p. 7), indicating that Barrick has not in fact shown the improvement necessary for MMTC-PAMP to continue trading.

Furthermore, and in the context of Barrick’s, PAMP’s and Synergy’s failure to meet victims and civil society organisations during the site visit, it is unsurprising that provisions under RGG 3.3 to “cooperate and/or consult relevant stakeholders (such as... international or civil society organisations and affected third parties)” and to “consult and or monitor progress with stakeholders on the risk mitigation plan” are neglected.

Synergy may recommend, and MMTC-PAMP may accept, that the refiner “reviews progress on the... risk areas and related improvement plan by the end of 2020” (p. 3) but there is no basis whatsoever for such a vague timeframe within the RGG, which

under section 3.3 provides for “significant and measurable improvement towards eliminating the risk within six months from the adoption of the risk management plan”. Although the Executive Summary was signed in May 2020, the assessment findings expressly date to December 2019 (p. 7), meaning that it purports to permit Barrick twice the time allowed.

Further, and to reiterate, in the case of North Mara there is nothing in the Synergy assessment to suggest that a meaningful plan is in place. As under RGG 3.2, the continued absence of such a plan should result in an immediate suspension of trading.

- (iii) There is a further reason that Synergy’s recommendation to continue trading is contrary to the RGG.

Synergy’s focus in the assessment is upon Barrick’s improvement strategy and risk management plan, but, under RGG 3.3, *it is the refiner* who is to produce such a strategy and plan. This refiner-focused requirement is, however, entirely beyond Synergy’s assessment scope and the drawing up of such a plan and strategy by MMTC-PAMP is not even contemplated. The refiner has failed, to date, to produce any such plan.

The RGG is explicit on this point: trade can only continue if such an improvement plan pertaining to the refiner is in place.

7) The enhanced due diligence was not carried out within a “reasonable timeframe”

Under RGG 2.3, refiners must complete all enhanced Due Diligence steps, including design and implementation of a strategy to respond to identified risks, within a “reasonable timeframe”. Such timeframe is not further specified, but already the assessment (let alone meaningful follow-up) is clearly outside of any plausible meaning of what it could constitute. The assessment makes clear that no strategy to respond to identified risks is yet designed, let alone implemented.

Even under a situation of routine due diligence, the RGG would require a refiner to report annually (Step 5). As detailed below, MMTC-PAMP’s Compliance Report to the end of 2019 is overdue. But the reporting on human rights violations at North Mara ought to have given rise to a sense of urgency, yet from announcing the assessment, it took MMTC-PAMP five months to appoint the independent expert and conduct the site visit. A year on from the announcement, there is nothing to suggest that the assessment (notwithstanding its flaws and superficial nature) is being acted upon.

The reasons for the delay have not been made public, but undoubtedly include negotiations between the mine, the refiner and the LBMA over terms of reference for the “independent” assessment and referral of the draft report to both MMTC-PAMP and Barrick.¹³

¹³ In February 2020, Synergy informed RAID that the assessment report was almost complete. On 17 March 2020, LBMA told RAID in a teleconference that the assessment report was with Barrick’s legal team.

The problems arising from the delay are already apparent. The RGG provides that, if a management strategy of risk mitigation is undertaken, “[s]ignificant and measurable improvement towards eliminating the risk” is to be achieved *within* six months. The assessment findings are expressly dated to December 2019, nearly six months prior to the assessment’s finalisation. Yet no indication is provided as to what measures, which even the assessment acknowledges were necessary to mitigate risk, have been developed, let alone implemented.

8) Meaningful disclosure and requirements for public reporting have not been met

There are three aspects to public disclosure, relating firstly to the Synergy assessment itself, secondly to Synergy’s assessment of Barrick’s reporting on risk management and thirdly to reporting by MMTC-PAMP under the RGG.

- (i) To reiterate, it is not clear how the Synergy assessment fits within the RGG framework, but it must equate to enhanced due diligence. The extent to which Synergy’s assessment can inform MMTC-PAMP’s Corrective Action Plan, and disclosure of the latter, is dealt with in the next section. Rather, the concern here is the position both MMTC-PAMP and the LBMA have taken on disclosure of the assessment.

As noted, the information provided to and used by Synergy in its assessment report is subject to a confidentiality agreement signed with both MMTC-PAMP and Barrick and the report itself is confidential to the client (that is, MMTC-PAMP). Thus, both the refiner and the miner have sought to retain control over Synergy’s assessment and the information it contains, which does not bode well for transparency and public reporting. But this concern is compounded by the fact that both Barrick and the refiner have already exercised control over the content of Synergy’s report before arriving at the May version. Hence this insistence on confidentiality pertains to a report which has already been vetted.

In November 2019, MMTC-PAMP committed to publishing the outcomes of the assessment (14/11/2019 email from Mr Kalia), but, by February 2020, it appeared to have backtracked, informing RAID that it would only consider doing so (17/02/2020 email from Mr Kalia). While the refiner briefly posted the Executive Summary of Synergy’s assessment on its website, it appears to have done so only fleetingly and this cannot be considered meaningful publication. To RAID’s knowledge, MMTC-PAMP has not released the full report.

Before turning to the LBMA’s stated position on disclosure of such assessments, it is pertinent to reiterate the circumstance out of which the North Mara assessment arose. A decade of public reporting on human rights violations at North Mara mine culminated in the June 2019 series of prominent media articles focusing attention on the gold supply chain. This prompted MMTC-PAMP to *publicly* commit to an expert site visit and *publicly* state: “Should we not be satisfied with the result of this visit, we will take appropriate action, including immediately suspending or discontinuing our engagement with the North Mara mine if necessary.” If MMTC-PAMP fails to *publicly disclose* the full report of the site assessment, particularly when its trade with North

Mara has continued uninterrupted throughout years of killings and assaults at the mine, then supply chain due diligence under the LBMA certification system is seriously undermined.

In a 27 April 2020 email to RAID, the LBMA stated that it continued “to encourage the refiner to publish a summary of the assessment at a minimum”, while at the same time acknowledging PAMP’s and Barrick’s joint review of the assessment.

Considering, in particular, the obvious conflict of interest presented by Barrick’s role in this review, RAID strongly urges MMTC-PAMP, with encouragement from the LBMA, to publish both the TORs and the full assessment report prior to any such review.

Given that the LBMA is conducting an Incident Review of MMTC-PAMP, and has oversight of responsible sourcing and Good Delivery List accreditation, it ought to exercise its leverage to ensure such transparency. RAID also notes the LBMA’s recent news release on the Incident Review of Perth Mint, where the LBMA recognises that “any incident or issues that may impact the credibility of the Good Delivery List and the wholesale precious metals market are treated very seriously”, urging transparency and disclosure by the refiner on identified risks, mitigation and further action.

- (ii) The Synergy report itself refers to Barrick’s (but not MMTC-PAMP’s) public reporting requirements, concluding in respect of annual reporting on risk management performance, that “[r]eporting is not assessed at this time as Barrick has not been in control of NMGM within its latest annual public reporting period” (p. 7). If Synergy is referring to due diligence and audit reporting, for example under the World Gold Council’s Conflict Free Gold Standard (CFGS), then the absence of such reporting and assurance to cover North Mara mine since the end of 2017 should have been flagged as a concern. Synergy also confirms that Acacia’s CFGS assurance statement until the end of 2017 was cross-recognised by the LBMA “as demonstrating compliance with LBMA due diligence requirements”, without elaborating on how MMTC-PAMP conducted its own due diligence thereafter.
- (iii) Public reporting is required as the final fifth step under the RGG/OECD due diligence process. Under the RGG, all refiners are required to publicly report on their RGG compliance for the preceding 12-month reporting period. In MMTC-PAMP’s case, the relevant reporting period is to 31 December 2019. This timeframe encompasses Synergy’s site visit. Furthermore, while North Mara had been fully acquired by Barrick by the third quarter of 2019, the refiner is also responsible for reporting on due diligence and compliance during the previous nine months of Acacia’s ownership (when Barrick was a majority shareholder).

The Refiner’s Compliance Report, to include a summary of activities undertaken during the period to demonstrate compliance and the refiner’s level of compliance with each Step of this Guidance, must be issued within three months following its financial year end.¹⁴

¹⁴ LBMA Third Party Audit Guidance, V1, 11.12.18, 1.2 Timing of Audits, p.8.

MMTC-PAMP's Refiner Compliance Report to the end of 2019 is therefore overdue. Previous reports have been posted by the following February.

In its 27 April 2020 email, the LBMA further informed RAID:

"we have requested that MMTC-PAMP include their action plan for North Mara (based on the outcomes of the independent assessment) in their 2019 audit and have granted an extension to allow them time for this. We expect to receive the audit report by end of Q3 2020, although there is a possibility that this may be further delayed due to the current crisis [the Covid-19 pandemic]."

However, RAID can find no basis for such an extension within the RGG or the Third Party Audit Guidance. It is not apparent that the LBMA has waived the reporting timetable for other refiners. As a case in point, PAMP issued its own Refiner's Compliance Report on 25 February 2020 (although it appears not to have made this publicly available, as required), together with the auditor's 31 March 2020 Assurance Report and 2019 Responsible Gold Certificate. Yet, although PAMP has directed follow-up over North Mara, it has not prioritised issuance of MMTC-PAMP's Compliance Report, despite the high risks identified at the mine.

Notwithstanding the absence of provision for such delay within the RGG, it is not clear precisely to what the LBMA extension refers. Under the RGG, as noted above, refiners are to produce a Compliance Report, whereas the LBMA refers in this instance to MMTC-PAMP's "2019 audit". This requires clarification as under the RGG (see below), there is separate provision for auditing of the Compliance Report and publication of the auditor's Assurance Report. Moreover, assuming the "action plan" equates to a Corrective Action Plan (see below), then it is difficult to see how this can be based upon Synergy's assessment, which does not comply in scope or execution with the RGG and recommends a mitigation plan for Barrick *not* MMTC-PAMP.

RAID is also concerned that the LBMA's focus is upon RGG reporting without giving any consideration to the ongoing Incident Review of MMTC-PAMP. Whilst MMTC-PAMP should have met its reporting obligations to date (given that it remains GDL-accredited), clearly, any future compliance reporting is dependent upon the outcome of the Incident Review Process (IRP), which has the power to sanction MMTC-PAMP and suspend or remove it from the Good Delivery List.

9) No provision is made to publish Barrick's mitigation strategy and plan and it is not apparent that MMTC-PAMP is to publish any Corrective Action Plan

Despite its serious shortcomings when it comes to presenting evidence to back up its risk assessment and its scoring of risk management and assessment findings, the Synergy Executive Summary does identify "several areas that require improved risk management" and recommends that Barrick "develop a plan for measurable risk mitigation in consultation with MMTC-PAMP and other stakeholders." It also recommends that MMTC-PAMP monitors and reviews progress on implementation.

Under RGG Step 5, there is a clear requirement that a refiner submits a Corrective Action Plan when there is, medium/high-risk non-compliance and/or the refiner “fails to satisfy one or more of the requirements as set out in Steps 1 to 5 of this Guidance.” It is apparent that Synergy’s “plan for measurable risk mitigation” is akin to a Corrective Action Plan, only this is addressed to Barrick and not to MMTC-PAMP.

But this does not get the refiner off the hook. On the contrary (and under RGG 3.2), MMTC-PAMP must produce its own improvement strategy and plan “devised with input and engagement from the supplier, which clearly defines performance objectives within a reasonable timeframe.” In other words, MMTC-PAMP can draw upon Synergy’s assessment and Barrick’s (albeit, seriously flawed) improvement strategy and plan, but it must also report on its own Corrective Action Plan.

The RGG is less than clear on whether the Corrective Action Plan should be public. However, and at a minimum, it is difficult to see how the public Refiner Compliance Report fulfils the requirement to cover the “[r]efiner’s level of compliance with each Step of this Guidance” unless it refers to areas of non-compliance to be addressed under a Corrective Action Plan.

10. MMTC-PAMP’s auditing requirements have not been met and should extend to Synergy’s assessment

If the refiner’s Compliance Report is overdue, this has the knock-on effect of delaying MMTC-PAMP meeting the requirement under RGG step 4 to ensure independent auditing of its supply chain due diligence and to publish the resulting Assurance Report (under step 5).

Under RGG Step 4, *Audit Periodicity*, an annual audit must be completed within three months of the refiner’s financial year-end, so MMTC-PAMP’s audit ought to be completed by now. The Third Party Audit Guidance (section 1, *Deliverables*) further specifies that the auditor’s assurance report “should be publicly disclosed alongside the Refiner’s Compliance Report”. Indeed, previously, MMTC-PAMP has posted the auditor’s public Assurance Report within the first quarter of the following year. Furthermore, where there is non-compliance or a significant change of circumstances – surely the situation giving rise to the Synergy assessment and recommendations – a full audit is required.

RAID can find no provision within the RGG or Third Party Audit Guidance that allows for annual auditing requirements to be waived or delayed and it is not apparent on what basis any such extension has been granted to MMTC-PAMP. Moreover, and as noted above, it is not clear whether LBMA’s is reference to MMTC-PAMP’s “2019 audit” refers to the audit *per se* or the Refiner’s Compliance Report.

While Synergy’s assessment concerns the equivalent of a Corrective Action Plan for Barrick (albeit a plan that is inadequate), MMTC-PAMP has not, to date, publicly acknowledged that it has developed its own Corrective Action Plan. The LBMA’s Audit Guidance further specifies (4.1) that the refiner’s Corrective Action Plan should be reviewed by the auditor as part of their assurance testing, to include (4.2) whether it provides all relevant information, is completed in accordance with the requirements and whether corrective actions have been implemented. Where high-risk non-compliances exist, follow-up audits (4.3) are required within 90 days after release of the refiner’s Compliance Report.

When it comes to auditing in the context of the North Mara supply chain, there are major concerns:

- Firstly, year after year, MMTC-PAMP's auditors, most recently EY in their own capacity, have signed-off on assurance when the most cursory of investigations would have uncovered a raft of credible, public reports detailing human rights violations at North Mara.
- Secondly, SR Baltiboi & Co. LLP, the auditor previously signing-off on MMTC-PAMP's responsible sourcing, is not on the LBMA's list of approved auditors.
- Thirdly, it is not at all apparent how Synergy's assessment and recommendations square with the responsibility of EY to audit MMTC-PAMP's Compliance Report and review any required Corrective Action Plan.
- Fourthly, there appears to be no auditing whatsoever of the mitigation plan recommended by Synergy to Barrick or, indeed, any indication of who is to carry out such an audit and on what basis they are to do so.
- Finally, it is difficult to reconcile Synergy's recommendation that MMTC-PAMP review Barrick's progress on implementation by the end of 2020 with the requirement under the RGG for a follow-up audit on any Corrective Action Plan produced by the refiner to occur within 90 days.

Recommendations to the LBMA

- (1) Suspend MMTC-PAMP from the Good Delivery List for its failures to date to meet standards required by the RGG.** The LBMA has oversight of responsible sourcing and the GDL. Its Sanctions Policy includes "suspension subject to resolution or being transferred to the Former List with immediate effect." Hence, the ongoing Incident Review of MMTC-PAMP does not preclude suspension, pending the outcome of the process.

In this case, MMTC-PAMP has failed: (a) to suspend sourcing gold from the North Mara mine despite the threshold of "possible" human rights abuse being met (even by Synergy's own assessment); (b) to conduct a site visit and expert assessment which meet RGG requirements on enhanced due diligence to otherwise refute the risk and occurrence of human rights abuse to allow sourcing to recommence; (c) to provide risk mitigation strategies; and (d) to produce a timely Corrective Action Plan.

To permit MMTC-PAMP to remain on the GDL in these circumstances would be to condone clear and ongoing non-compliance with the RGG in relation to matters that go to the heart of the LBMA's responsible sourcing scheme.

- (2) Make an immediate public announcement that an Incident Review of PAMP/MMTC-PAMP is underway, including details of the matter(s) at issue and when the review commenced.** This is in line with [commitments](#) made in respect of the Perth Mint Incident Review. The LBMA should similarly provide public updates on the PAMP/MMTC-PAMP Incident Review, including a timeline for its completion.

Given the high profile, public, long-standing and serious nature of human rights violations concerning North Mara and MMTC-PAMP's continuous sourcing of gold from the mine over several years, the credibility of RGG certification is at stake. In our view, keeping the IRP "confidential until the issue has been resolved" risks undermining, rather than protecting, the LBMA's reputation.

- (3) When the Incident Review of PAMP/MMTC-PAMP is completed, publish its findings, relevant substantiating information and how it reached its conclusions.** In its recent news release announcing the Incident Review of Perth Mint, the LBMA describes the IRP as a "high priority", recognising that "any incident or issues that may impact the credibility of the Good Delivery List and the wholesale precious metals market are treated very seriously." Responsible sourcing, which would otherwise constitute a process of self-assessment, relies not only upon the IRP to investigate non-compliance and impose sanctions (where warranted), but also upon public accountability to ensure proper governance.
- (4) Direct MMTC-PAMP to release the Synergy assessment in full and the terms of reference for the assessment.** The LBMA should follow the example of its approach in the Perth Mint case where it used its leverage publicly to press for transparency and disclosure.

The Incident Review Process envisages unspecified action that the LBMA may take at Step 8 of the process and public disclosure at Step 9. In the specific circumstance when MMTC-PAMP has made a public commitment to undertake a site visit and expert assessment, and based on this provision within the IRP, the LBMA should direct such disclosure in the public interest as well as to safeguard the credibility of LBMA's responsible sourcing programme.

- (5) Given the lack of engagement with victims, communities around North Mara, and civil society by PAMP/MMTC-PAMP and the appointed assessor, commit to receiving further information from such stakeholders under the IRP.** In respect of the Perth Mint Incident Review, the LBMA said it would seek to verify information from numerous stakeholders. It should follow a similar course in this case.
- (6) As part of the Incident Review of PAMP/MMTC-PAMP, give additional consideration to:**
- a. How MMTC-PAMP met the requirement of initial enhanced due diligence when it commenced trading with African Barrick Gold/Acacia Mining;**
 - b. The basis for MMTC-PAMP's due diligence on North Mara mine in 2018 and 2019, given that Acacia Mining ceased to provide management assurance based on the Conflict-Free Gold Standard at the end of 2017 (and notwithstanding that provisions concerning cross-recognition changed under RGG V.7).**
- (7) Review its decision to waive RGG reporting and auditing requirements for MMTC-PAMP and explain on what basis it granted an extension.**

- (8) Set a credible public deadline for MMTC-PAMP to complete and publish its 2019 Refiner’s Compliance Report, which, in this instance, should include a detailed Corrective Action Plan.**
- (9) Publicly explain what safeguards are in place to ensure independence of the Incident Review of PAMP/MMTC-PAMP and how any conflicts of interests are addressed, given PAMP’s and Barrick’s prominent roles on the LBMA’s Board**

Members of the Board of Directors of both Barrick and the MKS PAMP Group [are also members](#) of the LBMA’s Board of Directors. Indeed, the MKS PAMP Group’s Vice Chairman is also Vice Chairman of the LBMA. Representatives from entities within the MKS PAMP Group also sit on the LBMA’s Public Affairs and Refiners’ Committees and PAMP is one of six Good Delivery Referees, assessing applicants for the List and monitoring other refiners.¹⁵ Synergy has also been [engaged](#) by the LBMA “to lead on disclosure requirements for both the LBMA and Refiners”.

In these circumstances, it is essential that safeguards be implemented and made public to ensure the independence and integrity of the process.

- (10) The LBMA should publish the communications, policies and procedures relevant to the Incident Review Process.** There is a significant body of documentation relating to the IRP that is not available publicly. This includes the procedures governing the IRP and Compliance Panel, the materials produced under the Public Disclosure and LBMA Communication referred to in steps 9 and 11 of the IRP for previous Incident Reviews, the Sanctions and Whistleblowing Policies referred to on the LBMA’s [website](#), and the Due Diligence Policy referred to in the LBMA’s Annual Review.

RAID’s request for copies of these materials (or the status of those which are not available) has been outstanding since October 2019.

- (11) Initiate a thorough and far-reaching independent review into systemic failures of the LBMA’s responsible supply chain certification scheme.** Such a review should confront the central issue of how a GDL refiner could receive Responsible Gold Certification for seven years when the mine in question was at the centre of publicly reported systematic and widespread human rights abuses, including two group claims brought by victims to the British High Court. Cross-recognition under the RGG of self-assessed due diligence and assurance provided by African Barrick Gold/Acacia Mining should also be examined.

Such a review is in line with Step 10 of the Incident Review Process and the onus upon the LBMA to learn lessons from what appears to be a systemic failure.

¹⁵ MKS PAMP Group also [states](#) that it “led the drafting” of the RGG, was “a founding member of the working group that drew up the Gold Supplement” to the OECD Guidance and is a member of the Multi Stakeholders Steering Group that oversees the OECD Guidance.