

Douglas Upton of Capital Group, responding as an individual and not on behalf of Capital Group

Global Tailings Review draft – comments

First let me thank the ICMM for reaching out for my input. And let me commend the Tailings Review Board for collating this excellent draft report.

I want to provide my comments as an investor under two organising thoughts.

First, I think that the industry faces an immediate task to convince investors that it has its tailings dams under control.

This is, first and foremost, an engineering and management task. The most important thing I want to know is that all existing dams are safe. It is the old dams that worry me. How best to build new ones is less important and likely quite mundane in any case. How to deal with the consequences of dam failure, outside of questions around immediate response, are even less important to me.

To be a little more specific, for me the priorities are:

1. Make sure there is a full knowledge, for each dam, of the original dam foundations and construction, and subsequent dam management history. Amend and repair as necessary.
2. Ensure that there is an appropriate monitoring system for each dam.
3. Ensure that there is continuity in dam management and oversight for every dam.
4. Ensure discipline in dam inspection and reporting procedures.

Everything else is in the “nice to have” category for me, at least at this stage.

And some parts might not even be nice to have. Human rights surveys, socio-economic surveys, and engaging with local populations is appropriate for any mining enterprise and is especially appropriate at the front end of a new project whether it includes a tailings dam or not. But it has very little to do with resolving the mining industry’s current tailings dam challenges.

I don’t think it is appropriate to piggy-back this agenda onto what is a serious and urgent issue for the mining industry, where the existing tailings dams are the real problem. It doesn’t belong and might slow down progress. I would understand if companies were concerned that some elements of the draft Standards conflict with their existing efforts at managing relationships with local populations.

My second organising thought is that investment organisations involved in public equity and debt markets have neither the skills nor the resources to assess a company’s performance and compliance with the recommendations.

An anecdote might serve to illustrate this point. In the immediate aftermath of the Brumadinho disaster, pretty much every mining company that I met wanted to spend time explaining how their dam management was superior to Vale’s and superior to the industry median. Investors were shown charts illustrating lines of defence, the credentials of external advisors and so on. In aggregate, the message was that every company was superior to the median. What should an investor do with that?

It doesn't feel right for investors to rely on company self-reporting. Principle 17 aims to deal with this but is not prescriptive. I think it could be.

As an aside here, I would find it useful if there was a global standard for categorising dams by risk and severity. I am aware that there are some national databases organised like this, but it would be helpful to see a global standard and a global inventory, collated by an independent body.

But even if the dams were categorised in this way, investors would still be largely reliant on self-reporting with regards to the quality ongoing management and monitoring systems.

In thinking about how to deal with this challenge, my own thoughts turned to two areas where financial market regulators have intervened to help investors:

1. Financial statements must include an audit opinion from an external audit firm.
2. Ore reserves statements are, in many jurisdictions, supported by verifications by named senior geologists. Australia's JORC, Canada's 43-101 come to mind.

I believe most investors would find published third-party audits opinions of tailings dams and related management systems, in a format similar to current financial audit opinions, to be the superior alternative. Further, I think this might be easy to deliver, considering that companies already rely on independent experts in the oversight of their dams.