

## Federal District Court Upholds the SEC's Conflict Minerals Rules

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As we previously reported, in August 2012, the Securities and Exchange Commission adopted controversial rules requiring public companies to attempt to determine if they use any of four “conflict minerals” – tantalite, tungsten, tin and gold – associated with armed conflict in the Democratic Republic of Congo or adjacent countries, where those minerals are “necessary to the functionality or production” of their products, and to report the results of their inquiry in public filings.

Last October, the National Association of Manufacturers, the U.S. Chamber of Commerce and the Business Roundtable filed suit in the U.S. Court of Appeals for the D.C. Circuit, challenging the SEC’s conflict minerals rules, which we reported here. Due to a jurisdictional problem, the plaintiffs voluntarily transferred the case to the U.S. District Court for the District of Columbia.

On July 23, 2013, United States District Judge Robert L. Wilkins upheld the SEC’s conflict minerals rules, rejecting numerous arguments by the plaintiffs that the SEC’s adoption of particular aspects of the rules were “arbitrary and capricious” under the federal Administrative Procedure Act. Judge Wilkins also rejected First Amendment claims of the plaintiffs to the effect that mandatory disclosure violated their rights.

As a result, the conflict minerals rules remain in effect and affected issuers must comply with them and make appropriate disclosures as required by the SEC, although the ruling of the District Court is expected to be appealed.

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