

SEC's Conflict Minerals Rule Challenged

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On October 19, 2012, the National Association of Manufacturers and the U.S. Chamber of Commerce petitioned the D.C. Circuit Court of Appeals to request that the SEC's scheme of disclosure related to so-called "conflict minerals" utilized in products of issuers "be modified or set aside, in whole or in part".

The disclosure scheme is embodied in new Rule 13p-1 and Form SD under the Securities Exchange Act of 1934, adopted by the SEC on August 22, 2012. (See our Client Alert dated August 27, 2012 for a summary of Rule 13p-1 and the disclosure scheme.)

The barebones Petition did not identify any substantive reason for the challenge to the Rule and the statutory provision pursuant to which it was adopted (Section 1502 of the Dodd-Frank Act).

It was widely expected that this Rule (and others promulgated and to be promulgated under Dodd-Frank) would be the subject of litigation seeking to overturn it or blunt its effects. However, the filing of the Petition should not be viewed as any assurance that this Rule will be invalidated, or even stayed while the matter is pending. Therefore, issuers affected by the Rule should continue to take steps toward timely compliance.

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