

An Indicator of the Conflict Mineral Appeals Case

August 29, 2013 | Client Update

A preliminary statement of issues filed by the National Association of Manufacturers, the Chamber of Commerce and the Business Roundtable on August 13 provided a glimpse of the arguments that will be made in their appeal of the district court decision to uphold the SEC conflict mineral rules, which we previously discussed [here](#).

The appellants plan to address several areas where they believe the Commission erred in its conclusions and acted in an arbitrary and capricious manner. This includes the SEC's conclusion that it lacked authority to adopt a de minimis exception, interpreting the statutory language "did originate" to mean "reason to believe, and including non-manufacturers who contract for the manufacture of products. In addition, the appellants intend to question the merits of providing a shorter transition period for larger companies, since larger companies will have to depend on smaller companies to comply with the rule. The adequacy of the economic analysis and free speech arguments also will be made.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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