

Appeals Court Rejects Bid to Stay Conflict Mineral Rules

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Yesterday, without explanation, the U.S. Court of Appeals for the District of Columbia denied the National Association of Manufacturers' emergency motion to stay the effectiveness of the SEC conflict minerals rules.

Our [discussion](#) on May 6 focused on issuer compliance and provided a status update, which referred to the appellants' initial emergency motion. The SEC issued a reply brief on May 9 arguing that the current rule, even without the invalidated portion, continues to fulfill Congress's objective of enhancing transparency and bringing public awareness to conflict minerals as it requires issuers to exercise due diligence on the source and chain of custody of their conflict minerals and disclose their efforts along those lines. The SEC disputed the notion, which was advocated by two of its Commissioners, that the rule could not operate effectively without the aspect that was struck down by the courts since the Commission had adopted explicit provisions allowing the rule to be severable, and the remaining portions continued to meet the purpose of the statute.

Appellants filed their final papers on Tuesday reiterating much of the same arguments they made in the motion and disagreeing with the SEC's characterization of legislative history and even the Commission's own prior statements in rulemaking, but the court made its decision swiftly following that reply.

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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