

Proxy Access Strikedown Could Impact Other Dodd Frank Rulemaking Across Many Agencies

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The DC Circuit's vacating of the SEC's proxy access rule has wider applications for the possible challenge of regulations under the Dodd Frank Act on the grounds that they fail to analyze the economic impact. Even though we all know that the DC circuit is especially hard on the SEC, other agencies could also find themselves in a similar position given the fact that the speed of deadlines under the Dodd Frank Act has essentially forced a very minimal economic review of hundreds of regulations. The court's view that the SEC "inconsistently and opportunistically framed the costs and benefits of the rule; failed adequately to quantify the certain costs or to explain why those costs could not be quantified; neglected to support its predictive judgments; contradicted itself; and failed to respond to substantial problems raised by commenters" is a warning shot across the bow of Dodd Frank implementation.

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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