

SEC Division of Corporation Finance Provides Update on Conflict Minerals Rule

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On April 7, the Securities and Exchange Commission Division of Corporation Finance (the Division) issued a statement regarding the effect of recent judicial action with respect to the SEC's conflict minerals rule. In its statement, the Division clarified that, in light of the uncertainty regarding the rule, subject to further review, the Division will not pursue enforcement actions against companies that do not comply with the "source and chain of custody" due diligence requirements and related disclosure in Item 1.01(c) of Form SD.

In August 2015, the US Court of Appeals for the District of Columbia Circuit held that the conflict minerals rule violates the First Amendment to the extent it requires companies to report to the SEC and disclose on their website that their products have not been found to be "DRC conflict free." On April 3, the US District Court of the District of Columbia entered a final judgment in accordance with the Court of Appeals' decision and remanded the rule to the SEC for further action. Acting SEC Chair Michael Pinowar noted that the due diligence requirements, which will not be enforced, were adopted to enable companies to make disclosures that have now been found to be unconstitutional. He also explained that he has instructed the SEC staff to commence work on a recommendation for future SEC action.

While companies are still required to comply with the remaining disclosure requirements under Form SD, the "source and chain of custody" requirements are widely regarded as the most onerous aspects of the rule. The courts' actions, the Division's statement and the remarks by acting Chairman Piowar raise questions as to the future of the conflict minerals rule.

The complete text of the updated statement from the Division is available [here](#). The complete text of Chair Pinowar's statement is available [here](#).

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