

Practice Update

Division of Corporation Finance Releases Guidance on Conflict Minerals Rule

April 30, 2014

By [Kenneth G. Alberstadt](#)

The director of the SEC’s Division of Corporation Finance issued a public statement yesterday advising issuers to satisfy Form SD filing obligations on a timely basis notwithstanding the recent appellate ruling in *National Association of Manufacturers vs. SEC*, which invalidated a portion of the conflict minerals rule on First Amendment grounds. The statement provides guidance on how to satisfy the rule’s disclosure requirements pending further court proceedings or developments. The Division is not requiring issuers to use the labels “DRC conflict free,” “not found to be DRC conflict free,” or “DRC conflict undeterminable.” However, if an issuer is required to file a conflict minerals report as an exhibit to its Form SD and its due diligence would otherwise have required characterization of any of its products as “not found to be DRC conflict free” or “DRC conflict undeterminable,” the issuer will have to describe, for those products, the facilities used to produce the conflict minerals, the country of origin of the minerals, and the efforts to determine the mine or location of origin. Thus, a reader of the issuer’s Form SD will be able to readily determine that involvement of the issuer’s supply chain in armed conflict in the Democratic Republic of the Congo and adjoining countries was not ruled out during the due diligence process. We are continuing to evaluate the impact of the guidance.

Related People

[Kenneth G. Alberstadt](#)

Related Work

[Capital Markets](#)
[Corporate](#)

Related Offices

[New York](#)

This Akerman Practice Update is intended to inform firm clients and friends about legal developments, including recent decisions of various courts and administrative bodies. Nothing in this Practice Update should be construed as legal advice or a legal opinion, and readers should not act upon the information contained in this Practice Update without seeking the advice of legal counsel. Prior results do not guarantee a similar outcome.