

SEC Reporting & Compliance Alert

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SEC Acting Chairman Directs Reconsideration of Conflict Minerals Rule

The acting chairman of the U.S. Securities and Exchange Commission (SEC), Michael S. Piwowar, yesterday released two public statements (available [here](#) and [here](#)) concerning the conflict minerals rule applicable to companies that file Exchange Act reports with the SEC. Those statements indicate that the acting chairman has directed the SEC staff to consider whether 2014 interim guidance issued by the SEC's Division of Corporation Finance remains appropriate and whether additional relief should be made available to companies pending resolution of litigation concerning the rule that began shortly after it was adopted in August 2012. Acting Chairman Piwowar also has requested comments from the public on those questions.

Despite a 2014 ruling by the U.S. Court of Appeals for the District of Columbia Circuit that declared the conflict minerals rule partially unconstitutional, the requirements under the rule to conduct due diligence and file conflict minerals disclosures have remained in place, subject to additional proceedings that have yet to occur at the trial court level. Pending further developments in the litigation, companies have relied on the 2014 interim guidance issued by the Division of Corporation Finance. That guidance, available [here](#), provides that companies are not required to describe their products as "DRC conflict free," having "not been found to be 'DRC conflict free'" or "DRC conflict undeterminable," as those terms are defined in the rules. The guidance also indicates that, pending further action, only companies that voluntarily describe one or more of their products as "DRC conflict free" — meaning that the conflict minerals contained in such products have not directly or indirectly benefited or financed armed groups in the Democratic Republic of the Congo region — would be obligated to obtain an independent private sector audit as originally required by the rules.

The next round of conflict minerals disclosures is due on May 31, 2017. It is unclear what, if any, impact Acting Chairman Piwowar's statements and request for comments will have on those required disclosures. We will continue to monitor these developments and provide additional information as it becomes available.

Meanwhile, for additional information concerning the conflict minerals rule's requirements, the related litigation and the Division of Corporation Finance's 2014 interim guidance, please see our previous client alerts [here](#), [here](#) and [here](#), respectively.

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