
D.C. Circuit Rejects Effort to Invalidate SEC Conflict Minerals Rules While Limiting Disclosure Requirement on First Amendment Grounds

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On April 14, 2014, in *National Association of Manufacturers v. Securities and Exchange Commission*, the U.S. Court of Appeals for the D.C. Circuit rejected an effort to invalidate the rules adopted by the SEC requiring public reporting companies to investigate and report on whether their products contain “conflict minerals” originating in the Democratic Republic of the Congo (“DRC”). While allowing the regulatory framework adopted by the SEC, pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank”) to remain in force, the court held that the provision in the rule requiring public companies to report to the SEC, and on their websites, that any of their products have “not been found to be DRC conflict free” violated the free speech guarantee of the First Amendment. The appellate court dismissed all other challenges by plaintiff-appellants and remanded to the district court for further proceedings. The opinion was authored by Senior Circuit Judge Randolph, with Judge Srinivasan concurring in part.

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