

# Securities Regulation Daily Wrap Up, DODD-FRANK ACT

## —U.S.: High court allows more time for conflict minerals appeal, (Feb. 2, 2016)

By [Mark S. Nelson, J.D.](#)

The government will get extra time to think about whether it will appeal the D.C. Circuit's latest decision in the ongoing row with business groups over the agency's conflict minerals rule. According to an order, Supreme Court Chief Justice John G. Roberts, Jr. granted a late January request to extend the time to file a petition for a writ of certiorari from February 7 to March 9 ([SEC v. National Association of Manufacturers](#), February 1, 2016, Roberts, J.).

The [conflict minerals rule](#), a product of Dodd-Frank Act conference negotiations that put new emphasis on socially-themed public company disclosures, requires firms to report to the SEC on their supply chains for minerals that originate in the Democratic Republic of the Congo. Business groups lost their challenge to much of the SEC's final rule, but they did win a reprieve on the posting of some information when a D.C. Circuit panel twice held that the agency's rule ran afoul of the First Amendment to the extent the statute and rule require regulated entities to report to the Commission and to state on their website that any of their products have "not been found to be 'DRC conflict free'" ([August 18, 2015](#); [April 14, 2014](#)).

The second panel opinion was needed so the judges could recalibrate their views in light of the full D.C. Circuit's intervening [AMI](#) decision, which interpreted the scope of Supreme Court precedent on commercial speech. This May will mark the third year in which companies will make specialized conflict minerals disclosures with the SEC despite the D.C. Circuit's opinion striking part of the rule. Companies likely will continue to follow [guidance](#) from the SEC's Division of Corporation Finance issued shortly after the first panel decision.

The case is [No. 15A792](#).

Attorneys: Donald Verrilli, Solicitor General, United States Department of Justice, for the SEC.

Companies: National Association of Manufacturers

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