

AN ALERT FROM THE BDO NATIONAL ASSURANCE PRACTICE

BDO FLASH REPORT

SEC MATTERS



► SUBJECT

SEC STAFF ISSUES STATEMENT ON RECENT US COURT OF APPEALS DECISION ON CONFLICT MINERALS RULE AND A SECOND SET OF FAQs ON CONFLICT MINERALS REPORTING

► SUMMARY

April proved to be an active month surrounding conflict minerals. Early in April, the SEC staff issued a second set of frequently asked questions, (Questions 13-21) to assist companies with the application of the rules covering their responsibilities under the Conflict Minerals Rules. The FAQs provide guidance related to reporting under Item 1.01 of Form SD, and supplement interpretations that the SEC staff issued in 2013 providing further direction for public companies that need to file their first special disclosure reports on Form SD by June 2, 2014. The FAQs can be accessed [here](#).

In mid-April, a US Court of Appeals issued a ruling which determined a portion of the conflict minerals rule to be an infringement of constitutional rights of free speech. Specifically, to the extent a company would have to report that any of their products "have not been found to be "DRC conflict free" would be a violation of their constitutional rights. The matter was sent back to a district court for further proceedings, the conclusion for which will not be known until after the June 2, 2014 filing due date for initial conflict minerals reports.

On April 29th, the SEC issued guidance on how companies should comply with the aspects of the conflict mineral rules which were not impacted by the court's decision. The SEC Statement can be accessed [here](#).

CONTACT:

WENDY KIM

National Assurance Director

415-490-3041

wkim@bdo.com

BDO is the brand name for BDO USA, LLP, a U.S. professional services firm providing assurance, tax, financial advisory and consulting services to a wide range of publicly traded and privately held companies. For more than 100 years, BDO has provided quality service through the active involvement of experienced and committed professionals. The firm serves clients through 49 offices and over 400 independent alliance firm locations nationwide. As an independent Member Firm of BDO International Limited, BDO serves multinational clients through a global network of 1,264 offices in 144 countries.

www.bdo.com

BDO USA, LLP, a Delaware limited liability partnership, is the U.S. member of BDO International Limited, a UK company limited by guarantee, and forms part of the international BDO network of independent member firms. BDO is the brand name for the BDO network and for each of the BDO Member Firms.

What hasn't changed?

- When required, a Form SD is to be filed no later than its due date of June 2, 2014.
- The Form SD would still describe the company's reasonable country of origin inquiry procedures and the results.
- Further, if required, a conflict minerals report should be filed as part of the Form SD and that report still needs to disclose the due diligence procedures undertaken.

What has changed?

- Within the conflict minerals report, there is no longer a requirement to describe any of the products as being "DRC conflict free", having "not been found to be 'DRC conflict free'", or "DRC conflict undeterminable".
- If any of the products would have been labeled in the latter two categories, a company should identify those products, the facilities used to produce the conflict minerals, the country of origin, and the company's efforts to determine the mine or location of origin.
- A company may voluntarily elect to describe its products as being "DRC conflict free" - provided that it has obtained an independent private sector audit. In the absence of such a description, an audit is not required.

Material discussed in this Flash Report is meant to provide general information and should not be acted on without professional advice tailored to your firm's individual needs.