ARLINGTON, VA -- Three non-governmental organizations have filed a brief with the US Court of Appeals in a suit that challenges the final **SEC** rule implementing the so-called Dodd-Frank Wall Street Reform and Consumer Protection Act, commonly referred to as the “conflict minerals rule.”

Dodd-Frank mandates disclosure and reporting of the use of certain minerals sourced from the Democratic Republic of the Congo (DRC) and adjoining countries.

The trio of trade groups are taking a broad attack against the rule, arguing it does everything from impose an excessive burden on the affected companies to violating First Amendment rights of speech.

In their Jan. 16 brief, the petitioners argue that the court should strike down the conflict minerals rule for the following reasons: (1) the SEC failed to conduct a proper cost-benef it analysis and, in particular, did not determine whether the rule would achieve the intended benefit for the DRC and underestimated the rule’s costs to issuers; (2) the SEC misconstrued the statute in concluding that it could not adopt a *de minimis* exception to the rule; (3) the rule wrongly requires due diligence and a Conflict Minerals Report from companies that merely have a “reason to believe” their minerals “may have originated” in the covered region (rather than limiting the rule’s application to companies whose minerals “did originate” in the region); (4) the SEC failed to justify its decision to require companies to trace minerals back to the smelter or refiner, even though commenters suggested the far less burdensome approach to use “flow-down” clauses in contracts to require suppliers not to source conflict minerals from the covered countries; (5) the SEC mistakenly interpreted the statute to apply to companies that do not manufacture any products and merely contract for the manufacture of products; (6) the rule is internally inconsistent because it gives smaller issuers four years to create the infrastructure necessary to trace conflict minerals in their supply chain, while giving larger issuers only two years, despite acknowledging that many large issuers cannot meet their obligations under the rule without obtaining information from smaller companies; and (7) the rule compels speech in violation of the First Amendment by requiring companies to describe their products as “not DRC conflict free,” even in circumstances in which a company is simply unable to trace their supply chains to determine their minerals’ origins, thereby forcing companies to associate themselves falsely with groups engaged in human rights violations.