

Resource Extraction Payment Disclosure Rules Vacated by United States District Court

July 5, 2013

The United States District Court for the District of Columbia has invalidated the resource extraction payment rules adopted by the Securities and Exchange Commission in August 2012. The rules would have required public companies engaged in the commercial development of oil, natural gas and minerals to file publicly with the SEC an annual report describing payments made to a foreign government or the United States federal government for the commercial development of oil, natural gas, or minerals.

The court rejected the SEC's argument that Section 1504 of the Dodd Frank Act mandated that it adopt rules that required public companies to make available to the public annual reports that described their resource extraction payments. The court read the statute to afford the SEC discretion to allow issuers to disclose payment information confidentially to the SEC which the SEC, to the extent practicable, could then compile and make an edited compilation available to the public.

Second, the court found that the SEC had denied, based on arbitrary and capricious reasoning, any exemption for foreign law that prohibits payment disclosure. The denial of such an exemption, the court noted, drastically increased the rule's burden on competition and cost to investors and was an abdication of its responsibility to investors.



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