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But Investors Voice Concern over Invalidation of Key Requirement

The U.S. Court of Appeals for the D.C. Circuit issued an opinion yesterday in *National Association of Manufacturers v. SEC*, an industry-led lawsuit challenging the Securities and Exchange Commission (SEC) conflict minerals reporting rule for Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The court supported the SEC's analysis and rationale for requiring robust corporate disclosure about the presence of conflict minerals in the products that companies produce and sell. Significantly, the opinion did not strike companies' obligation to conduct conflict mineral supply chain due diligence and report on findings to the SEC by May 31.

Sustainable and responsible investors commend the court's preservation of the conflict minerals reporting rule and its general support for the SEC's authority to apply regulatory discretion in advancing congressional intent under Section 1502. We applaud the companies that are already implementing comprehensive due diligence to abide by the 1502 rule and call on all covered issuers to continue preparing the required disclosures, which remain essentially unaltered by the court's opinion.

We are nonetheless concerned by the potential impact of yesterday's opinion on the ability of Congress and the SEC to ensure that all investors have access to the breadth of material information that is critical to their investment decision-making. In particular, we are troubled by the court's treatment of First Amendment protections against compelled speech and its invalidation of the SEC requirement for companies to designate whether or not their products are "DRC conflict-free". If applied broadly, this approach could block Congress from passing laws requiring disclosure of corporate information in the public interest. This outcome could have a potentially damaging impact on shareholder access to information that is fundamental to brand valuation and risk assessment.

Statement signatories:

Boston Common Asset Management

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