

## **Advocacy Recommends that the SEC Should Publish an Amended IRFA for its Conflict Minerals Proposed Rule**

The Office of Advocacy (Advocacy) filed a comment letter with the Securities and Exchange Commission (SEC) on its proposed rule that would require SEC filers to provide certain disclosures about the use of specified conflict minerals originating in the Democratic Republic of Congo (DRC). Advocacy urged the SEC to publish in the *Federal Register* an amended initial regulatory flexibility analysis (IRFA).

- On December 23, 2010, the SEC issued the proposed rule to implement section 1502 of the Dodd-Frank Act. The proposed rule would require businesses that file with the SEC and manufacture products that require tin, tantalum, tungsten, and gold to report whether the minerals originated in the DRC or a neighboring country.
- In the proposed rule's IRFA, the SEC estimated that approximately 793 small entities would be subject to the proposal. The proposed rule stated that the costs of compliance are "difficult to assess but are likely insignificant."
- Small business stakeholders have been in contact with Advocacy to express concern with the proposed rule. Small businesses contend that the SEC underestimates both the costs that the proposed rule will impose and the number of small businesses that will be impacted.
- Most small businesses that would be subject to the proposed rule participate in a complex supply chain that is comprised of numerous other businesses. The proposed rule would affect most manufacturers of electronics, aerospace, automotive, jewelry, health care devices, and industrial machinery. Even businesses that don't necessarily file with the SEC may be impacted if they are part of the supply chain for these metals to SEC filing companies. Because the SEC does not take into account the complexity of supply chains and the number of small businesses that are part of those supply chains, Advocacy believes that the SEC has underestimated the number of small businesses that would be impacted by the proposed rule.
- On October 25, 2011, Advocacy filed a comment letter in which Advocacy recommended that the SEC publish an amended IRFA. The amended IRFA should more accurately describe the costs and burdens of the proposed rule, and should also more accurately detail the number of small entities that would be impacted by the proposed rule. Amending the IRFA will help the SEC gain valuable insight into the effects of the proposed rule on small entities, and will require that the SEC consider less burdensome alternatives to the proposed rule. <http://www.sba.gov/advocacy/816>.

For more information, visit Advocacy's Web page at <http://www.sba.gov/advocacy/816> or contact Assistant Chief Counsel Dillon Taylor by email at [dillon.taylor@sba.gov](mailto:dillon.taylor@sba.gov) or by phone at (202) 401-9787.