

Policy Alert

February 3, 2017

Key Points

- Congress acts to repeal the SEC's Resource Extraction Payments Disclosure Rule.
- Full repeal is subject to President Trump's signature.
- Once enacted, all future administrations would be prohibited from issuing similar regulations until Congress directs them to do so.



Congress Approves Resolution to Rescind SEC's Resource Extraction Payments Disclosure Rule

On February 2, 2017, the U.S. Senate passed, 52-48, a Joint Resolution provided under the Congressional Review Act (CRA), disapproving of the Securities and Exchange Commission's (SEC) Final Rule titled "Disclosure of Payments by Resource Extraction Issuers." The CRA provides for expedited consideration in the Senate, eliminating the threat of a filibuster and requiring only a simple majority for final passage. The Senate's action comes one week after the House of Representatives approved the same resolution of disapproval along party lines, 231-191. President Trump is expected to quickly sign the resolution, effectively vacating the SEC's Final Rule and prohibiting the agency from issuing any rule on the same subject matter without explicit direction from Congress.

The SEC adopted the rule requiring disclosure of resource extraction payments on June 27, 2016, after it had been originally promulgated in 2012 and subsequently vacated by the U.S. District Court for the District of Columbia in 2013. The rule requires that certain producers of oil, natural gas and minerals publicly disclose information regarding payments to the U.S. federal government, as well as to foreign governments, to further the commercial development of such resources. The SEC was required to issue the rule under Section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Under the CRA, 5 U.S.C. § 8, Congress has 60 days from the beginning of the 115th Congress to initiate a congressional review of any of the regulations promulgated by the Obama administration after May 2016. If the final rule is repealed under the CRA procedure, the rule is not only immediately nullified, but it restricts all future administrations from promulgating rules on the same subject matter. Since the law was enacted in 1996, it has been used only once to nullify a rule promulgated by the Clinton administration related to ergonomics when Senate Republicans initiated the resolution of disapproval, and it was signed by President George W. Bush.

President Trump has not taken a public position on the joint resolution, but he is expected to sign the resolution into law.

Contact Information

If you have any questions regarding this alert, please contact:

James Romney Tucker Jr.

jtucker@akingump.com

+1 202.887.4279

Washington, D.C.

Christine B. LaFollette

clafollette@akingump.com

+1 713.220.5896

Houston

Ryan Thompson

thompsonr@akingump.com

+1 512.499.6268

Houston

Henry A. Terhune

hterhune@akingump.com

202.887.4369

Washington, D.C.

Daniel F. Feldman

dfeldman@akingump.com

+1 202.887.4035

Washington, D.C.

Lars-Erik A. Hjelm

lhjelm@akingump.com

+1 202.887.4175

Washington, D.C.

Christopher T. Timura

ctimura@akingump.com

+1 202.887.4597

Washington, D.C.

Christopher A. Treanor

ctreanor@akingump.com

+1 202.887.4551

Washington, D.C.