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HOUSE OF REPRESENTATIVES
REPORT
115–500

AMENDING THE SECURITIES EXCHANGE ACT OF 1934 TO REPEAL CERTAIN DISCLOSURE REQUIREMENTS RELATED TO RESOURCE EXTRACTION, AND FOR OTHER PURPOSES

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JANUARY 9, 2018.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. HENSARLING, from the Committee on Financial Services, submitted the following

# R E P O R T

together with

## MINORITY VIEWS

[To accompany H.R. 4519]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 4519) to amend the Securities Exchange Act of 1934 to repeal certain disclosure requirements related to resource extraction, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

### PURPOSE AND SUMMARY

On December 1, 2017, Representative Bill Huizenga introduced H.R. 4519 to repeal Section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) (P.L. 111–203), which requires resource extraction issuers to disclose payments made to governments for the commercial development of oil, natural gas, or minerals.

### BACKGROUND AND NEED FOR LEGISLATION

The purpose of the federal securities laws and its 80-plus year disclosure regime is to provide material information to shareholders or potential investors so that they can make appropriately informed investment decisions. When Congress thwarts this purpose and mandates immaterial disclosures, these mandates force investors to read increasingly lengthy and complex periodic and an-

nual disclosures. As Congress cannot mandate disclosures for private companies or small businesses, politically motivated disclosures that do not effect a reasonable investor's investment decision, create a disparate disclosure regime for public companies.

As the Business Roundtable correctly noted in in its October 2015 paper entitled "The Materiality Standard for Public Company Disclosure: Maintain What Works" "the materiality principle has governed public company disclosure under the federal securities laws and has well served investors, the markets, capital formation and the broader economy." By requiring the Securities and Exchange Commission (SEC) to issue rulemakings about political and social issues that are not material to investor decisions and that fall outside of the SEC's expertise to effectuate its three-part statutory mission—to protect investors; maintain fair, orderly, and efficient markets; and facilitate capital formation—Congress forces the SEC to devote finite resources to implement misplaced policy and unnecessarily burdens companies with additional compliance costs.

Section 1504 of the Dodd-Frank Act requires public companies engaged in the commercial development of natural gas, minerals, or oil to report payments made to foreign governments or the federal government for these natural resources. These companies would have to report the type and total amount of payments made for each project as well as the type and total amounts of payments made to each government. These payments cover taxes, royalties, fees (including license fees), production entitlements, and bonuses. Further, the statute requires the SEC "to the extent practicable," to make publicly available a compilation of the submitted information. The purported rationale behind Section 1504 is that the disclosure of payments from resource extraction companies to governments may prevent the leaders of poor countries from embezzling money earned from oil and mineral sales—a foreign policy objective that bears no relation to the underlying purpose of the securities laws.

In 2010, the SEC first proposed its rule to implement Section 1504, with then-Commissioners Troy Paredes and Dan Gallagher dissenting. In August 2012, the SEC adopted a final rule implementing Section 1504. The SEC estimated that the initial cost of compliance across the industry would range from $44 million to $1 billion and that continuing compliance with the provision would cost between $200 and $400 million annually.

When the SEC adopted the final rule in 2012, Commissioner Gallagher again dissented, aptly observing:

> [The SEC is] charged with taking action to protect investors, and to "promote efficiency, competition, and capital formation. This rule will be a very indirect route to achieving any sort of global governmental accountability. Still, using U.S. influence to promote good government around the world is an unimpeachably good and legitimate congressional objective. Unfortunately, I do not think the SEC has any realistic prospect of achieving the desired result, although I am fully convinced that we will impose significant costs on issuers—and thereby shareholders—in the process. . . . [T]he SEC just isn't the right tool for this type of social policy exercise, as we should know from past experience. As [Chair Mary L. Shapiro] stated when pro-

> posing the "Conflict Minerals" rulemaking nearly two years ago, "expertise about these events does not reside within the Commission."

In October 2012, the American Petroleum Institute, the U.S. Chamber of Commerce, and other business groups challenged the SEC's final rule, arguing that the rule violated the First Amendment, the Administrative Procedure Act (APA), and the Exchange Act. The lawsuits alleged that the SEC grossly misinterpreted its statutory mandate to make a "compilation" of information available to the public, and that the regulation is incompatible with the First Amendment of the U.S. Constitution.

The District Court for the District of Columbia vacated the SEC's original Section 1504 rule in July 2013 due to "two substantial errors." Specifically, the SEC "misread [Section 1504] to mandate public disclosure of the reports" and arbitrarily and capriciously declined to provide an exemption for countries that prohibit disclosure. The Court admonished the Commission for "abdicat[ing] its statutory responsibility to investors" by pursuing an overly broad view of Section 1504's purpose "no matter the cost" to issuers.

Subsequently, on September 18, 2014, Oxfam America filed suit in the U.S. District Court to compel the SEC to promulgate a final rule to implement Section 1504. On September 2, 2015, the court issued an order that held that the Commission unlawfully withheld agency action in failing to finalize a rule under Section 1504. Pursuant to the court order, the SEC filed an expedited schedule for promulgating the final rule with the court on October 2, 2015.

Consistent with that schedule, the SEC re-proposed its rule in December 2015. In its economic analysis of the rule to implement Section 1504, the SEC estimated the ongoing compliance costs of the rule would range from $173 million to $385 million annually. The Commission itself has noted that Section 1504 is one of only three rulemaking provisions in the entirety of U.S. securities law (one of the other being Section 1502 of the Dodd-Frank Act) "that appear[s] designed primarily to advance U.S. foreign policy objectives," not investor protection or capital formation. Again the Business Roundtable in its October 2015 paper confirms the SEC's statements, "To the extent that societal concerns become material for a particular public company, disclosure of that information is already required. Recent efforts to abandon the materiality concept and use the federal securities laws to address general societal concerns are harmful to investors and must be stopped." This time, Commissioner Michael Piwowar dissented from the re-proposed rule and made several important points in his dissent, including:

> [T]his provision singles out publicly-traded companies for compliance and disclosure. What makes it appropriate to penalize shareholders of publicly-traded companies? Most Americans, including me, are not so-called 'accredited investors' and, therefore, do not have access to invest in the privately-held companies that will now have significant cost advantages. Hence, one of the primary beneficiaries of this proposal will be investors in privately-held resource extraction companies, whose equity holders tend to be the few and the privileged."

> Further, as the proposing release's economic analysis observes, resource extraction disclosure could put publicly-traded companies at a competitive disadvantage compared to private companies and foreign companies that are not subject to Commission reporting requirements and therefore would not have such an obligation. For example, such competitive disadvantage could result from preferencing by the government of the host country to avoid disclosure of covered payment information, or any ability of market participants to use the information disclosed by reporting issuers to derive contract terms, reserve data, or other confidential information. The fact that private and foreign companies would not be subject to the rule actually undercuts the transparency objectives of Section 1504.

Many commenters agreed with Commissioner Piwowar, including Nouveau Inc., a consulting firm that helps companies with compliance in regulations, which cautioned that:

> This rule remains significantly flawed in its current form and would be harmful to the investors that it is meant to benefit but also to the competitiveness of American industry and the regulatory framework by which it is bound. As written, however, the rule causes an unnecessary burden to businesses and sets a disturbing precedent, disclosing private and business sensitive information.

Despite these concerns, the SEC finalized a revised rule in June 2016, which was substantially similar to the original August 2012 rule and failed to strike the right balance between informing foreign citizens of government revenues and protecting the competitiveness of American companies. The SEC's final rule estimated cost for compliance to range from $239 million to $700 million in initial compliance costs and $96 million to $591 million in annual ongoing compliance costs.

On January 30, 2017, Representative Bill Huizenga introduced H.J. Res. 41, a resolution of disapproval pursuant to the Congressional Review Act (CRA) to nullify the SEC's final resource extraction rule. H.J. Res. 41 passed the House on February 1, 2017, by a vote of 235–187 and President Trump signed the measure into law on February 14, 2017. But while the Joint Resolution vacated the rule, it did not eliminate the SEC's authority for the SEC to promulgate a rule under Section 1504. In fact, Section 1504 specifically mandates that the SEC shall proscribe these rules, which means the Dodd-Frank Act still requires the SEC to issue these rules to implement this provision of the law. Thus, H.R. 4519 is necessary in order to eliminate the SEC's authority to issue another resource extraction rule and to free companies from unnecessary compliance costs that otherwise can be invested in expansion, growth, and jobs.

## HEARINGS

The Committee on Financial Services held hearings examining matters relating to H.R. 4519 on April 26, 2017, and April 28, 2017.

## COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on December 12, 2017, and December 13, 2017, and ordered H.R. 4519 to be reported favorably to the House without amendment by a recorded vote of 33 yeas to 27 nays (Record vote no. FC–123), a quorum being present.

## COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The sole recorded vote was on a motion by Chairman Hensarling to report the bill favorably to the House without amendment. The motion was agreed to by a recorded vote of 33 yeas to 27 nays (Record vote no. FC–123), a quorum being present.

Record vote no. FC-123

| Representative | Yea | Nay | Present | Representative | Yea | Nay | Present |
|---|---|---|---|---|---|---|---|
| Mr. Hensarling | X | | | Ms. Maxine Waters (CA) | | X | |
| Mr. McHenry | X | | | Mrs. Carolyn B. Maloney (NY) | | X | |
| Mr. King | X | | | Ms. Velázquez | | X | |
| Mr. Royce (CA) | | X | | Mr. Sherman | | X | |
| Mr. Lucas | X | | | Mr. Meeks | | X | |
| Mr. Pearce | X | | | Mr. Capuano | | X | |
| Mr. Posey | X | | | Mr. Clay | | X | |
| Mr. Luetkemeyer | X | | | Mr. Lynch | | X | |
| Mr. Huizenga | X | | | Mr. David Scott (GA) | | X | |
| Mr. Duffy | X | | | Mr. Al Green (TX) | | X | |
| Mr. Stivers | X | | | Mr. Cleaver | | X | |
| Mr. Hultgren | X | | | Ms. Moore | | X | |
| Mr. Ross | X | | | Mr. Ellison | | X | |
| Mr. Pittenger | X | | | Mr. Perlmutter | | X | |
| Mrs. Wagner | X | | | Mr. Himes | | X | |
| Mr. Barr | X | | | Mr. Foster | | X | |
| Mr. Rothfus | X | | | Mr. Kildee | | X | |
| Mr. Messer | X | | | Mr. Delaney | | X | |
| Mr. Tipton | X | | | Ms. Sinema | | X | |
| Mr. Williams | X | | | Mrs. Beatty | | X | |
| Mr. Poliquin | X | | | Mr. Heck | | X | |
| Mrs. Love | X | | | Mr. Vargas | | X | |
| Mr. Hill | X | | | Mr. Gottheimer | | X | |
| Mr. Emmer | X | | | Mr. Gonzalez (TX) | | X | |
| Mr. Zeldin | X | | | Mr. Crist | | X | |
| Mr. Trott | X | | | Mr. Kihuen | | X | |
| Mr. Loudermilk | X | | | | | | |
| Mr. Mooney (WV) | X | | | | | | |
| Mr. MacArthur | X | | | | | | |
| Mr. Davidson | X | | | | | | |
| Mr. Budd | X | | | | | | |
| Mr. Kustoff (TN) | X | | | | | | |
| Ms. Tenney | X | | | | | | |
| Mr. Hollingsworth | X | | | | | | |

## COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

## PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee states that H.R. 4519 will facilitate capital formation for public companies by repealing the burdensome and immaterial disclosure requirements set forth in Section 1504 of the Dodd Frank Act.

## NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

## CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, December 20, 2017.*

Hon. JEB HENSARLING,
*Chairman, Committee on Financial Services,*
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4519, a bill to amend the Securities Exchange Act of 1934 to repeal certain disclosure requirements related to resource extraction, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Stephen Rabent.

Sincerely,

KEITH HALL,
*Director.*

Enclosure.

*H.R. 4519—A bill to amend the Securities Exchange Act of 1934 to repeal certain disclosure requirements related to resource extraction, and for other purposes*

Under the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Securities and Exchange Commission (SEC) was directed to complete a rulemaking to require companies engaged in the commercial development of oil, natural gas, or minerals that

file annual reports with the agency to include in those reports information related to payments they make to foreign governments for those purposes. The agency adopted a final rule to implement the requirement on June 27, 2016. House Joint Resolution 41 repealed that SEC rule on February 14, 2017. H.R. 4519 would repeal the statutory requirement for the SEC to complete that rulemaking.

CBO estimates that implementing H.R. 4519 would have no effect on the agency's costs or operations because, under current law, the agency is prohibited from reissuing a substantially similar rule.

Enacting H.R. 4519 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 4519 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 4519 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Stephen Rabent. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

## FEDERAL MANDATES STATEMENT

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995.

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

## ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

## APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of the section 102(b)(3) of the Congressional Accountability Act.

## EARMARK IDENTIFICATION

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

## DUPLICATION OF FEDERAL PROGRAMS

In compliance with clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public

Law 111–139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95–220, as amended by Pub. L. No. 98–169).

DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(i) of H. Res. 5, (115th Congress), the following statement is made concerning directed rulemakings: The Committee estimates that the bill requires no directed rulemakings within the meaning of such section.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

*Section 1. Repeal of resource extraction disclosure requirements*

This section repeals subsection (q) of section 13 of the Securities Exchange Act of 1934, and consequently amends the Dodd-Frank Act to strike section 1504, to eliminate that companies disclose to the SEC requirements related to resource extraction.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets and existing law in which no change is proposed is shown in roman):

## SECURITIES EXCHANGE ACT OF 1934

### TITLE I—REGULATION OF SECURITIES EXCHANGES

* * * * * * *

PERIODICAL AND OTHER REPORTS

SEC. 13. (a) Every issuer of a security registered pursuant to section 12 of this title shall file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate for the proper protection of investors and to insure fair dealing in the security—

(1) such information and documents (and such copies thereof) as the Commission shall require to keep reasonably current the information and documents required to be included in or filed with an application or registration statement filed pursuant to section 12, except that the Commission may not require the filing of any material contract wholly executed before July 1, 1962.

(2) such annual reports (and such copies thereof), certified if required by the rules and regulations of the Commission by independent public accountants, and such quarterly reports (and such copies thereof), as the Commission may prescribe.

Every issuer of a security registered on a national securities exchange shall also file a duplicate original of such information, documents, and reports with the exchange. In any registration statement, periodic report, or other reports to be filed with the Commission, an emerging growth company need not present selected financial data in accordance with section 229.301 of title 17, Code of Federal Regulations, for any period prior to the earliest audited period presented in connection with its first registration statement that became effective under this Act or the Securities Act of 1933 and, with respect to any such statement or reports, an emerging growth company may not be required to comply with any new or revised financial accounting standard until such date that a company that is not an issuer (as defined under section 2(a) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201(a))) is required to comply with such new or revised accounting standard, if such standard applies to companies that are not issuers.

(b)(1) The Commission may prescribe, in regard to reports made pursuant to this title, the form or forms in which the required information shall be set forth, the items or details to be shown in the balance sheet and the earnings statement, and the methods to be followed in the preparation of reports, in the appraisal or valuation of assets and liabilities, in the determination of depreciation and depletion, in the differentiation of recurring and nonrecurring income, in the differentiation of investment and operating income, and in the preparation, where the Commission deems it necessary or desirable, of separate and/or consolidated balance sheets or income accounts of any person directly or indirectly controlling or controlled by the issuer, or any person under direct or indirect common control with the issuer; but in the case of the reports of any person whose methods of accounting are prescribed under the provisions of any law of the United States, or any rule or regulation thereunder, the rules and regulations of the Commission with respect to reports shall not be inconsistent with the requirements imposed by such law or rule or regulation in respect of the same subject matter (except that such rules and regulations of the Commission may be inconsistent with such requirements to the extent that the Commission determines that the public interest or the protection of investors so requires).

(2) Every issuer which has a class of securities registered pursuant to section 12 of this title and every issuer which is required to file reports pursuant to section 15(d) of this title shall—

(A) make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer;

(B) devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that—

(i) transactions are executed in accordance with management's general or specific authorization;

(ii) transactions are recorded as necessary (I) to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria

applicable to such statements, and (II) to maintain accountability for assets;

(iii) access to assets is permitted only in accordance with management's general or specific authorization; and

(iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences; and

(C) notwithstanding any other provision of law, pay the allocable share of such issuer of a reasonable annual accounting support fee or fees, determined in accordance with section 109 of the Sarbanes-Oxley Act of 2002.

(3)(A) With respect to matters concerning the national security of the United States, no duty or liability under paragraph (2) of this subsection shall be imposed upon any person acting in cooperation with the head of any Federal department or agency responsible for such matters if such act in cooperation with such head of a department or agency was done upon the specific, written directive of the head of such department or agency pursuant to Presidential authority to issue such directives. Each directive issued under this paragraph shall set forth the specific facts and circumstances with respect to which the provisions of this paragraph are to be invoked. Each such directive shall, unless renewed in writing, expire one year after the date of issuance.

(B) Each head of a Federal department or agency of the United States who issues a directive pursuant to this paragraph shall maintain a complete file of all such directives and shall, on October 1 of each year, transmit a summary of matters covered by such directives in force at any time during the previous year to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(4) No criminal liability shall be imposed for failing to comply with the requirements of paragraph (2) of this subsection except as provided in paragraph (5) of this subsection.

(5) No person shall knowingly circumvent or knowingly fail to implement a system of internal accounting controls or knowingly falsify any book, record, or account described in paragraph (2).

(6) Where an issuer which has a class of securities registered pursuant to section 12 of this title or an issuer which is required to file reports pursuant to section 15(d) of this title holds 50 per centum or less of the voting power with respect to a domestic or foreign firm, the provisions of paragraph (2) require only that the issuer proceed in good faith to use its influence, to the extent reasonable under the issuer's circumstances, to cause such domestic or foreign firm to devise and maintain a system of internal accounting controls consistent with paragraph (2). Such circumstances include the relative degree of the issuer's ownership of the domestic or foreign firm and the laws and practices governing the business operations of the country in which such firm is located. An issuer which demonstrates good faith efforts to use such influence shall be conclusively presumed to have complied with the requirements of paragraph (2).

(7) For the purpose of paragraph (2) of this subsection, the terms "reasonable assurances" and "reasonable detail" mean such level of detail and degree of assurance as would satisfy prudent officials in the conduct of their own affairs.

(c) If in the judgment of the Commission any report required under subsection (a) is inapplicable to any specified class or classes of issuers, the Commission shall require in lieu thereof the submission of such reports of comparable character as it may deem applicable to such class or classes of issuers.

(d)(1) Any person who, after acquiring directly or indirectly the beneficial ownership of any equity security of a class which is registered pursuant to section 12 of this title, or any equity security of an insurance company which would have been required to be so registered except for the exemption contained in section 12(g)(2)(G) of this title, or any equity security issued by a closed-end investment company registered under the Investment Company Act of 1940 or any equity security issued by a Native Corporation pursuant to section 37(d)(6) of the Alaska Native Claims Settlement Act, or otherwise becomes or is deemed to become a beneficial owner of any of the foregoing upon the purchase or sale of a security-based swap that the Commission may define by rule, and is directly or indirectly the beneficial owner of more than 5 per centum of such class shall, within ten days after such acquisition or within such shorter time as the Commission may establish by rule, file with the Commission, a statement containing such of the following information, and such additional information, as the Commission may by rules and regulations, prescribe as necessary or appropriate in the public interest or for the protection of investors—

(A) the background, and identity, residence, and citizenship of, and the nature of such beneficial ownership by, such person and all other persons by whom or on whose behalf the purchases have been or are to be effected;

(B) the source and amount of the funds or other consideration used or to be used in making the purchases, and if any part of the purchase price is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding, or trading such security, a description of the transaction and the names of the parties thereto, except that where a source of funds is a loan made in the ordinary course of business by a bank, as defined in section 3(a)(6) of this title, if the person filing such statement so requests, the name of the bank shall not be made available to the public;

(C) if the purpose of the purchases or prospective purchases is to acquire control of the business of the issuer of the securities any plans or proposals which such persons may have to liquidate such issuer, to sell its assets to or merge it with any other persons, or to make any other major change in its business or corporate structure;

(D) the number of shares of such security which are beneficially owned, and the number of shares concerning which there is a right to acquire, directly or indirectly, by (i) such person, and (ii) by each associate of such person, giving the background, identity, residence, and citizenship of each such associate; and

(E) information as to any contracts, arrangements, or understandings with any person with respect to any securities of the issuer, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or

calls, guaranties of loans, guaranties against loss or guaranties of profits, division of losses or profits, or the giving or withholding of proxies, naming the persons with whom such contracts, arrangements, or understandings have been entered into, and giving the details thereof.

(2) If any material change occurs in the facts set forth in the statement filed with the Commission, an amendment shall be filed with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

(3) When two or more persons act as a partnership, limited partnership, syndicate, or other group for the purpose of acquiring, holding, or disposing of securities of an issuer, such syndicate or group shall be deemed a "person" for the purposes of this subsection.

(4) In determining, for purposes of this subsection, any percentage of a class of any security, such class shall be deemed to consist of the amount of the outstanding securities of such class, exclusive of any securities of such class held by or for the account of the issuer or a subsidiary of the issuer.

(5) The Commission, by rule or regulation or by order, may permit any person to file in lieu of the statement required by paragraph (1) of this subsection or the rules and regulations thereunder, a notice stating the name of such person, the number of shares of any equity securities subject to paragraph (1) which are owned by him, the date of their acquisition and such other information as the Commission may specify, if it appears to the Commission that such securities were acquired by such person in the ordinary course of his business and were not acquired for the purpose of and do not have the effect of changing or influencing the control of the issuer nor in connection with or as a participant in any transaction having such purpose or effect.

(6) The provisions of this subsection shall not apply to—

(A) any acquisition or offer to acquire securities made or proposed to be made by means of a registration statement under the Securities Act of 1933;

(B) any acquisition of the beneficial ownership of a security which, together with all other acquisitions by the same person of securities of the same class during the preceding twelve months, does not exceed 2 per centum of that class;

(C) any acquisition of an equity security by the issuer of such security;

(D) any acquisition or proposed acquisition of a security which the Commission, by rules or regulations or by order, shall exempt from the provisions of this subsection as not entered into for the purpose of, and not having the effect of, changing or influencing the control of the issuer or otherwise as not comprehended within the purposes of this subsection.

(e)(1) It shall be unlawful for an issuer which has a class of equity securities registered pursuant to section 12 of this title, or which is a closed-end investment company registered under the Investment Company Act of 1940, to purchase any equity security issued by it if such purchase is in contravention of such rules and regulations as the Commission, in the public interest or for the protection of investors, may adopt (A) to define acts and practices

which are fraudulent, deceptive, or manipulative, and (B) to prescribe means reasonably designed to prevent such acts and practices. Such rules and regulations may require such issuer to provide holders of equity securities of such class with such information relating to the reasons for such purchase, the source of funds, the number of shares to be purchased, the price to be paid for such securities, the method of purchase, and such additional information, as the Commission deems necessary or appropriate in the public interest or for the protection of investors, or which the Commission deems to be material to a determination whether such security should be sold.

(2) For the purpose of this subsection, a purchase by or for the issuer or any person controlling, controlled by, or under common control with the issuer, or a purchase subject to control of the issuer or any such person, shall be deemed to be a purchase by the issuer. The Commission shall have power to make rules and regulations implementing this paragraph in the public interest and for the protection of investors, including exemptive rules and regulations covering situations in which the Commission deems it unnecessary or inappropriate that a purchase of the type described in this paragraph shall be deemed to be a purchase by the issuer for purposes of some or all of the provisions of paragraph (1) of this subsection.

(3) At the time of filing such statement as the Commission may require by rule pursuant to paragraph (1) of this subsection, the person making the filing shall pay to the Commission a fee at a rate that, subject to paragraph (4), is equal to $92 per $1,000,000 of the value of securities proposed to be purchased. The fee shall be reduced with respect to securities in an amount equal to any fee paid with respect to any securities issued in connection with the proposed transaction under section 6(b) of the Securities Act of 1933, or the fee paid under that section shall be reduced in an amount equal to the fee paid to the Commission in connection with such transaction under this paragraph.

(4) ANNUAL ADJUSTMENT.—For each fiscal year, the Commission shall by order adjust the rate required by paragraph (3) for such fiscal year to a rate that is equal to the rate (expressed in dollars per million) that is applicable under section 6(b) of the Securities Act of 1933 for such fiscal year.

(5) FEE COLLECTIONS.—Fees collected pursuant to this subsection for fiscal year 2012 and each fiscal year thereafter shall be deposited and credited as general revenue of the Treasury and shall not be available for obligation.

(6) EFFECTIVE DATE; PUBLICATION.—In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code. An adjusted rate prescribed under paragraph (4) shall be published and take effect in accordance with section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)).

(7) PRO RATA APPLICATION.—The rates per $1,000,000 required by this subsection shall be applied pro rata to amounts and balances of less than $1,000,000.

(f)(1) Every institutional investment manager which uses the mails, or any means or instrumentality of interstate commerce in the course of its business as an institutional investment manager

and which exercises investment discretion with respect to accounts holding equity securities of a class described in section 13(d)(1) of this title having an aggregate fair market value on the last trading day in any of the preceding twelve months of at least $100,000,000 or such lesser amount (but in no case less than $10,000,000) as the Commission, by rule, may determine, shall file reports with the Commission in such form, for such periods, and at such times after the end of such periods as the Commission, by rule, may prescribe, but in no event shall such reports be filed for periods longer than one year or shorter than one quarter. Such reports shall include for each such equity security held on the last day of the reporting period by accounts (in aggregate or by type as the Commission, by rule, may prescribe) with respect to which the institutional investment manager exercises investment discretion (other than securities held in amounts which the Commission, by rule, determines to be insignificant for purposes of this subsection), the name of the issuer and the title, class, CUSIP number, number of shares or principal amount, and aggregate fair market value of each such security. Such reports may also include for accounts (in aggregate or by type) with respect to which the institutional investment manager exercises investment discretion such of the following information as the Commission, by rule, prescribes—

(A) the name of the issuer and the title, class, CUSIP number, number of shares or principal amount, and aggregate fair market value or cost or amortized cost of each other security (other than an exempted security) held on the last day of the reporting period by such accounts;

(B) the aggregate fair market value or cost or amortized cost of exempted securities (in aggregate or by class) held on the last day of the reporting period by such accounts;

(C) the number of shares of each equity security of a class described in section 13(d)(1) of this title held on the last day of the reporting period by such accounts with respect to which the institutional investment manager possesses sole or shared authority to exercise the voting rights evidenced by such securities;

(D) the aggregate purchases and aggregate sales during the reporting period of each security (other than an exempted security) effected by or for such accounts; and

(E) with respect to any transaction or series of transactions having a market value of at least $500,000 or such other amount as the Commission, by rule, may determine, effected during the reporting period by or for such accounts in any equity security of a class described in section 13(d)(1) of this title—

(i) the name of the issuer and the title, class, and CUSIP number of the security;

(ii) the number of shares or principal amount of the security involved in the transaction;

(iii) whether the transaction was a purchase or sale;

(iv) the per share price or prices at which the transaction was effected;

(v) the date or dates of the transaction;

(vi) the date or dates of the settlement of the transaction;

(vii) the broker or dealer through whom the transaction was effected;

(viii) the market or markets in which the transaction was effected; and

(ix) such other related information as the Commission, by rule, may prescribe.

(2) The Commission shall prescribe rules providing for the public disclosure of the name of the issuer and the title, class, CUSIP number, aggregate amount of the number of short sales of each security, and any additional information determined by the Commission following the end of the reporting period. At a minimum, such public disclosure shall occur every month.

(3) The Commission, by rule or order, may exempt, conditionally or unconditionally, any institutional investment manager or security or any class of institutional investment managers or securities from any or all of the provisions of this subsection or the rules thereunder.

(4) The Commission shall make available to the public for a reasonable fee a list of all equity securities of a class described in section 13(d)(1) of this title, updated no less frequently than reports are required to be filed pursuant to paragraph (1) of this subsection. The Commission shall tabulate the information contained in any report filed pursuant to this subsection in a manner which will, in the view of the Commission, maximize the usefulness of the information to other Federal and State authorities and the public. Promptly after the filing of any such report, the Commission shall make the information contained therein conveniently available to the public for a reasonable fee in such form as the Commission, by rule, may prescribe, except that the Commission, as it determines to be necessary or appropriate in the public interest or for the protection of investors, may delay or prevent public disclosure of any such information in accordance with section 552 of title 5, United States Code. Notwithstanding the preceding sentence, any such information identifying the securities held by the account of a natural person or an estate or trust (other than a business trust or investment company) shall not be disclosed to the public.

(5) In exercising its authority under this subsection, the Commission shall determine (and so state) that its action is necessary or appropriate in the public interest and for the protection of investors or to maintain fair and orderly markets or, in granting an exemption, that its action is consistent with the protection of investors and the purposes of this subsection. In exercising such authority the Commission shall take such steps as are within its power, including consulting with the Comptroller General of the United States, the Director of the Office of Management and Budget, the appropriate regulatory agencies, Federal and State authorities which, directly or indirectly, require reports from institutional investment managers of information substantially similar to that called for by this subsection, national securities exchanges, and registered securities associations, (A) to achieve uniform, centralized reporting of information concerning the securities holdings of and transactions by or for accounts with respect to which institutional investment managers exercise investment discretion, and (B) consistently with the objective set forth in the preceding subparagraph, to avoid unnecessarily duplicative reporting by, and mini-

mize the compliance burden on, institutional investment managers. Federal authorities which, directly or indirectly, require reports from institutional investment managers of information substantially similar to that called for by this subsection shall cooperate with the Commission in the performance of its responsibilities under the preceding sentence. An institutional investment manager which is a bank, the deposits of which are insured in accordance with the Federal Deposit Insurance Act, shall file with the appropriate regulatory agency a copy of every report filed with the Commission pursuant to this subsection.

(6)(A) For purposes of this subsection the term "institutional investment manager" includes any person, other than a natural person, investing in or buying and selling securities for its own account, and any person exercising investment discretion with respect to the account of any other person.

(B) The Commission shall adopt such rules as it deems necessary or appropriate to prevent duplicative reporting pursuant to this subsection by two or more institutional investment managers exercising investment discretion with respect to the same amount.

(g)(1) Any person who is directly or indirectly the beneficial owner of more than 5 per centum of any security of a class described in subsection (d)(1) of this section or otherwise becomes or is deemed to become a beneficial owner of any security of a class described in subsection (d)(1) upon the purchase or sale of a security-based swap that the Commission may define by ruleshall file with the Commission a statement setting forth, in such form and at such time as the Commission may, by rule, prescribe—

(A) such person's identity, residence, and citizenship; and

(B) the number and description of the shares in which such person has an interest and the nature of such interest.

(2) If any material change occurs in the facts set forth in the statement filed with the Commission, an amendment shall be filed with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

(3) When two or more persons act as a partnership, limited partnership, syndicate, or other group for the purpose of acquiring, holding, or disposing of securities of an issuer, such syndicate or group shall be deemed a "person" for the purposes of this subsection.

(4) In determining, for purposes of this subsection, any percentage of a class of any security, such class shall be deemed to consist of the amount of the outstanding securities of such class, exclusive of any securities of such class held by or for the account of the issuer or a subsidiary of the issuer.

(5) In exercising its authority under this subsection, the Commission shall take such steps as it deems necessary or appropriate in the public interest or for the protection of investors (A) to achieve centralized reporting of information regarding ownership, (B) to avoid unnecessarily duplicative reporting by and minimize the compliance burden on persons required to report, and (C) to tabulate and promptly make available the information contained in any report filed pursuant to this subsection in a manner which will, in the view of the Commission, maximize the usefulness of the information to other Federal and State agencies and the public.

(6) The Commission may, by rule or order, exempt, in whole or in part, any person or class of persons from any or all of the reporting requirements of this subsection as it deems necessary or appropriate in the public interest or for the protection of investors.

(h) LARGE TRADER REPORTING.—

(1) IDENTIFICATION REQUIREMENTS FOR LARGE TRADERS.—For the purpose of monitoring the impact on the securities markets of securities transactions involving a substantial volume or a large fair market value or exercise value and for the purpose of otherwise assisting the Commission in the enforcement of this title, each large trader shall—

(A) provide such information to the Commission as the Commission may by rule or regulation prescribe as necessary or appropriate, identifying such large trader and all accounts in or through which such large trader effects such transactions; and

(B) identify, in accordance with such rules or regulations as the Commission may prescribe as necessary or appropriate, to any registered broker or dealer by or through whom such large trader directly or indirectly effects securities transactions, such large trader and all accounts directly or indirectly maintained with such broker or dealer by such large trader in or through which such transactions are effected.

(2) RECORDKEEPING AND REPORTING REQUIREMENTS FOR BROKERS AND DEALERS.—Every registered broker or dealer shall make and keep for prescribed periods such records as the Commission by rule or regulation prescribes as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title, with respect to securities transactions that equal or exceed the reporting activity level effected directly or indirectly by or through such registered broker or dealer of or for any person that such broker or dealer knows is a large trader, or any person that such broker or dealer has reason to know is a large trader on the basis of transactions in securities effected by or through such broker or dealer. Such records shall be available for reporting to the Commission, or any self-regulatory organization that the Commission shall designate to receive such reports, on the morning of the day following the day the transactions were effected, and shall be reported to the Commission or a self-regulatory organization designated by the Commission immediately upon request by the Commission or such a self-regulatory organization. Such records and reports shall be in a format and transmitted in a manner prescribed by the Commission (including, but not limited to, machine readable form).

(3) AGGREGATION RULES.—The Commission may prescribe rules or regulations governing the manner in which transactions and accounts shall be aggregated for the purpose of this subsection, including aggregation on the basis of common ownership or control.

(4) EXAMINATION OF BROKER AND DEALER RECORDS.—All records required to be made and kept by registered brokers and dealers pursuant to this subsection with respect to transactions effected by large traders are subject at any time, or

from time to time, to such reasonable periodic, special, or other examinations by representatives of the Commission as the Commission deems necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title.

(5) FACTORS TO BE CONSIDERED IN COMMISSION ACTIONS.—In exercising its authority under this subsection, the Commission shall take into account—

(A) existing reporting systems;

(B) the costs associated with maintaining information with respect to transactions effected by large traders and reporting such information to the Commission or self-regulatory organizations; and

(C) the relationship between the United States and international securities markets.

(6) EXEMPTIONS.—The Commission, by rule, regulation, or order, consistent with the purposes of this title, may exempt any person or class of persons or any transaction or class of transactions, either conditionally or upon specified terms and conditions or for stated periods, from the operation of this subsection, and the rules and regulations thereunder.

(7) AUTHORITY OF COMMISSION TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any information required to be kept or reported under this subsection. Nothing in this subsection shall authorize the Commission to withhold information from Congress, or prevent the Commission from complying with a request for information from any other Federal department or agency requesting information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552.

(8) DEFINITIONS.—For purposes of this subsection—

(A) the term "large trader" means every person who, for his own account or an account for which he exercises investment discretion, effects transactions for the purchase or sale of any publicly traded security or securities by use of any means or instrumentality of interstate commerce or of the mails, or of any facility of a national securities exchange, directly or indirectly by or through a registered broker or dealer in an aggregate amount equal to or in excess of the identifying activity level;

(B) the term "publicly traded security" means any equity security (including an option on individual equity securities, and an option on a group or index of such securities) listed, or admitted to unlisted trading privileges, on a national securities exchange, or quoted in an automated interdealer quotation system;

(C) the term "identifying activity level" means transactions in publicly traded securities at or above a level of volume, fair market value, or exercise value as shall be fixed from time to time by the Commission by rule or regu-

lation, specifying the time interval during which such transactions shall be aggregated;

(D) the term "reporting activity level" means transactions in publicly traded securities at or above a level of volume, fair market value, or exercise value as shall be fixed from time to time by the Commission by rule, regulation, or order, specifying the time interval during which such transactions shall be aggregated; and

(E) the term "person" has the meaning given in section 3(a)(9) of this title and also includes two or more persons acting as a partnership, limited partnership, syndicate, or other group, but does not include a foreign central bank.

(i) ACCURACY OF FINANCIAL REPORTS.—Each financial report that contains financial statements, and that is required to be prepared in accordance with (or reconciled to) generally accepted accounting principles under this title and filed with the Commission shall reflect all material correcting adjustments that have been identified by a registered public accounting firm in accordance with generally accepted accounting principles and the rules and regulations of the Commission.

(j) OFF-BALANCE SHEET TRANSACTIONS.—Not later than 180 days after the date of enactment of the Sarbanes-Oxley Act of 2002, the Commission shall issue final rules providing that each annual and quarterly financial report required to be filed with the Commission shall disclose all material off-balance sheet transactions, arrangements, obligations (including contingent obligations), and other relationships of the issuer with unconsolidated entities or other persons, that may have a material current or future effect on financial condition, changes in financial condition, results of operations, liquidity, capital expenditures, capital resources, or significant components of revenues or expenses.

(k) PROHIBITION ON PERSONAL LOANS TO EXECUTIVES.—

(1) IN GENERAL.—It shall be unlawful for any issuer (as defined in section 2 of the Sarbanes-Oxley Act of 2002), directly or indirectly, including through any subsidiary, to extend or maintain credit, to arrange for the extension of credit, or to renew an extension of credit, in the form of a personal loan to or for any director or executive officer (or equivalent thereof) of that issuer. An extension of credit maintained by the issuer on the date of enactment of this subsection shall not be subject to the provisions of this subsection, provided that there is no material modification to any term of any such extension of credit or any renewal of any such extension of credit on or after that date of enactment.

(2) LIMITATION.—Paragraph (1) does not preclude any home improvement and manufactured home loans (as that term is defined in section 5 of the Home Owners' Loan Act (12 U.S.C. 1464)), consumer credit (as defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602)), or any extension of credit under an open end credit plan (as defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602)), or a charge card (as defined in section 127(c)(4)(e) of the Truth in Lending Act (15 U.S.C. 1637(c)(4)(e)), or any extension of credit by a broker or dealer registered under section 15 of this title to an employee of that broker or dealer to buy, trade, or carry securities, that

is permitted under rules or regulations of the Board of Governors of the Federal Reserve System pursuant to section 7 of this title (other than an extension of credit that would be used to purchase the stock of that issuer), that is—

(A) made or provided in the ordinary course of the consumer credit business of such issuer;

(B) of a type that is generally made available by such issuer to the public; and

(C) made by such issuer on market terms, or terms that are no more favorable than those offered by the issuer to the general public for such extensions of credit.

(3) RULE OF CONSTRUCTION FOR CERTAIN LOANS.—Paragraph (1) does not apply to any loan made or maintained by an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), if the loan is subject to the insider lending restrictions of section 22(h) of the Federal Reserve Act (12 U.S.C. 375b).

(l) REAL TIME ISSUER DISCLOSURES.—Each issuer reporting under section 13(a) or 15(d) shall disclose to the public on a rapid and current basis such additional information concerning material changes in the financial condition or operations of the issuer, in plain English, which may include trend and qualitative information and graphic presentations, as the Commission determines, by rule, is necessary or useful for the protection of investors and in the public interest.

(m) PUBLIC AVAILABILITY OF SECURITY-BASED SWAP TRANSACTION DATA.—

(1) IN GENERAL.—

(A) DEFINITION OF REAL-TIME PUBLIC REPORTING.—In this paragraph, the term "real-time public reporting" means to report data relating to a security-based swap transaction, including price and volume, as soon as technologically practicable after the time at which the security-based swap transaction has been executed.

(B) PURPOSE.—The purpose of this subsection is to authorize the Commission to make security-based swap transaction and pricing data available to the public in such form and at such times as the Commission determines appropriate to enhance price discovery.

(C) GENERAL RULE.—The Commission is authorized to provide by rule for the public availability of security-based swap transaction, volume, and pricing data as follows:

(i) With respect to those security-based swaps that are subject to the mandatory clearing requirement described in section 3C(a)(1) (including those security-based swaps that are excepted from the requirement pursuant to section 3C(g)), the Commission shall require real-time public reporting for such transactions.

(ii) With respect to those security-based swaps that are not subject to the mandatory clearing requirement described in section 3C(a)(1), but are cleared at a registered clearing agency, the Commission shall require real-time public reporting for such transactions.

(iii) With respect to security-based swaps that are not cleared at a registered clearing agency and which

are reported to a security-based swap data repository or the Commission under section 3C(a)(6), the Commission shall require real-time public reporting for such transactions, in a manner that does not disclose the business transactions and market positions of any person.

(iv) With respect to security-based swaps that are determined to be required to be cleared under section 3C(b) but are not cleared, the Commission shall require real-time public reporting for such transactions.

(D) REGISTERED ENTITIES AND PUBLIC REPORTING.—The Commission may require registered entities to publicly disseminate the security-based swap transaction and pricing data required to be reported under this paragraph.

(E) RULEMAKING REQUIRED.—With respect to the rule providing for the public availability of transaction and pricing data for security-based swaps described in clauses (i) and (ii) of subparagraph (C), the rule promulgated by the Commission shall contain provisions—

(i) to ensure such information does not identify the participants;

(ii) to specify the criteria for determining what constitutes a large notional security-based swap transaction (block trade) for particular markets and contracts;

(iii) to specify the appropriate time delay for reporting large notional security-based swap transactions (block trades) to the public; and

(iv) that take into account whether the public disclosure will materially reduce market liquidity.

(F) TIMELINESS OF REPORTING.—Parties to a security-based swap (including agents of the parties to a security-based swap) shall be responsible for reporting security-based swap transaction information to the appropriate registered entity in a timely manner as may be prescribed by the Commission.

(G) REPORTING OF SWAPS TO REGISTERED SECURITY-BASED SWAP DATA REPOSITORIES.—Each security-based swap (whether cleared or uncleared) shall be reported to a registered security-based swap data repository.

(H) REGISTRATION OF CLEARING AGENCIES.—A clearing agency may register as a security-based swap data repository.

(2) SEMIANNUAL AND ANNUAL PUBLIC REPORTING OF AGGREGATE SECURITY-BASED SWAP DATA.—

(A) IN GENERAL.—In accordance with subparagraph (B), the Commission shall issue a written report on a semiannual and annual basis to make available to the public information relating to—

(i) the trading and clearing in the major security-based swap categories; and

(ii) the market participants and developments in new products.

(B) USE; CONSULTATION.—In preparing a report under subparagraph (A), the Commission shall—

(i) use information from security-based swap data repositories and clearing agencies; and

(ii) consult with the Office of the Comptroller of the Currency, the Bank for International Settlements, and such other regulatory bodies as may be necessary.

(C) AUTHORITY OF COMMISSION.—The Commission may, by rule, regulation, or order, delegate the public reporting responsibilities of the Commission under this paragraph in accordance with such terms and conditions as the Commission determines to be appropriate and in the public interest.

(n) SECURITY-BASED SWAP DATA REPOSITORIES.—

(1) REGISTRATION REQUIREMENT.—It shall be unlawful for any person, unless registered with the Commission, directly or indirectly, to make use of the mails or any means or instrumentality of interstate commerce to perform the functions of a security-based swap data repository.

(2) INSPECTION AND EXAMINATION.—Each registered security-based swap data repository shall be subject to inspection and examination by any representative of the Commission.

(3) COMPLIANCE WITH CORE PRINCIPLES.—

(A) IN GENERAL.—To be registered, and maintain registration, as a security-based swap data repository, the security-based swap data repository shall comply with—

(i) the requirements and core principles described in this subsection; and

(ii) any requirement that the Commission may impose by rule or regulation.

(B) REASONABLE DISCRETION OF SECURITY-BASED SWAP DATA REPOSITORY.—Unless otherwise determined by the Commission, by rule or regulation, a security-based swap data repository described in subparagraph (A) shall have reasonable discretion in establishing the manner in which the security-based swap data repository complies with the core principles described in this subsection.

(4) STANDARD SETTING.—

(A) DATA IDENTIFICATION.—

(i) IN GENERAL.—In accordance with clause (ii), the Commission shall prescribe standards that specify the data elements for each security-based swap that shall be collected and maintained by each registered security-based swap data repository.

(ii) REQUIREMENT.—In carrying out clause (i), the Commission shall prescribe consistent data element standards applicable to registered entities and reporting counterparties.

(B) DATA COLLECTION AND MAINTENANCE.—The Commission shall prescribe data collection and data maintenance standards for security-based swap data repositories.

(C) COMPARABILITY.—The standards prescribed by the Commission under this subsection shall be comparable to the data standards imposed by the Commission on clearing agencies in connection with their clearing of security-based swaps.

(5) DUTIES.—A security-based swap data repository shall—

(A) accept data prescribed by the Commission for each security-based swap under subsection (b);

(B) confirm with both counterparties to the security-based swap the accuracy of the data that was submitted;

(C) maintain the data described in subparagraph (A) in such form, in such manner, and for such period as may be required by the Commission;

(D)(i) provide direct electronic access to the Commission (or any designee of the Commission, including another registered entity); and

(ii) provide the information described in subparagraph (A) in such form and at such frequency as the Commission may require to comply with the public reporting requirements set forth in subsection (m);

(E) at the direction of the Commission, establish automated systems for monitoring, screening, and analyzing security-based swap data;

(F) maintain the privacy of any and all security-based swap transaction information that the security-based swap data repository receives from a security-based swap dealer, counterparty, or any other registered entity; and

(G) on a confidential basis pursuant to section 24, upon request, and after notifying the Commission of the request, make available security-based swap data obtained by the security-based swap data repository, including individual counterparty trade and position data, to—

(i) each appropriate prudential regulator;

(ii) the Financial Stability Oversight Council;

(iii) the Commodity Futures Trading Commission;

(iv) the Department of Justice; and

(v) any other person that the Commission determines to be appropriate, including—

(I) foreign financial supervisors (including foreign futures authorities);

(II) foreign central banks;

(III) foreign ministries; and

(IV) other foreign authorities.

(H) CONFIDENTIALITY AGREEMENT.—Before the security-based swap data repository may share information with any entity described in subparagraph (G), the security-based swap data repository shall receive a written agreement from each entity stating that the entity shall abide by the confidentiality requirements described in section 24 relating to the information on security-based swap transactions that is provided.

(6) DESIGNATION OF CHIEF COMPLIANCE OFFICER.—

(A) IN GENERAL.—Each security-based swap data repository shall designate an individual to serve as a chief compliance officer.

(B) DUTIES.—The chief compliance officer shall—

(i) report directly to the board or to the senior officer of the security-based swap data repository;

(ii) review the compliance of the security-based swap data repository with respect to the requirements and core principles described in this subsection;

(iii) in consultation with the board of the security-based swap data repository, a body performing a function similar to the board of the security-based swap data repository, or the senior officer of the security-based swap data repository, resolve any conflicts of interest that may arise;

(iv) be responsible for administering each policy and procedure that is required to be established pursuant to this section;

(v) ensure compliance with this title (including regulations) relating to agreements, contracts, or transactions, including each rule prescribed by the Commission under this section;

(vi) establish procedures for the remediation of noncompliance issues identified by the chief compliance officer through any—

(I) compliance office review;

(II) look-back;

(III) internal or external audit finding;

(IV) self-reported error; or

(V) validated complaint; and

(vii) establish and follow appropriate procedures for the handling, management response, remediation, retesting, and closing of noncompliance issues.

(C) ANNUAL REPORTS.—

(i) IN GENERAL.—In accordance with rules prescribed by the Commission, the chief compliance officer shall annually prepare and sign a report that contains a description of—

(I) the compliance of the security-based swap data repository of the chief compliance officer with respect to this title (including regulations); and

(II) each policy and procedure of the security-based swap data repository of the chief compliance officer (including the code of ethics and conflict of interest policies of the security-based swap data repository).

(ii) REQUIREMENTS.—A compliance report under clause (i) shall—

(I) accompany each appropriate financial report of the security-based swap data repository that is required to be furnished to the Commission pursuant to this section; and

(II) include a certification that, under penalty of law, the compliance report is accurate and complete.

(7) CORE PRINCIPLES APPLICABLE TO SECURITY-BASED SWAP DATA REPOSITORIES.—

(A) ANTITRUST CONSIDERATIONS.—Unless necessary or appropriate to achieve the purposes of this title, the swap data repository shall not—

(i) adopt any rule or take any action that results in any unreasonable restraint of trade; or

(ii) impose any material anticompetitive burden on the trading, clearing, or reporting of transactions.

(B) GOVERNANCE ARRANGEMENTS.—Each security-based swap data repository shall establish governance arrangements that are transparent—

(i) to fulfill public interest requirements; and

(ii) to support the objectives of the Federal Government, owners, and participants.

(C) CONFLICTS OF INTEREST.—Each security-based swap data repository shall—

(i) establish and enforce rules to minimize conflicts of interest in the decision-making process of the security-based swap data repository; and

(ii) establish a process for resolving any conflicts of interest described in clause (i).

(D) ADDITIONAL DUTIES DEVELOPED BY COMMISSION.—

(i) IN GENERAL.—The Commission may develop 1 or more additional duties applicable to security-based swap data repositories.

(ii) CONSIDERATION OF EVOLVING STANDARDS.—In developing additional duties under subparagraph (A), the Commission may take into consideration any evolving standard of the United States or the international community.

(iii) ADDITIONAL DUTIES FOR COMMISSION DESIGNEES.—The Commission shall establish additional duties for any registrant described in section 13(m)(2)(C) in order to minimize conflicts of interest, protect data, ensure compliance, and guarantee the safety and security of the security-based swap data repository.

(8) REQUIRED REGISTRATION FOR SECURITY-BASED SWAP DATA REPOSITORIES.—Any person that is required to be registered as a security-based swap data repository under this subsection shall register with the Commission, regardless of whether that person is also licensed under the Commodity Exchange Act as a swap data repository.

(9) RULES.—The Commission shall adopt rules governing persons that are registered under this subsection.

(o) BENEFICIAL OWNERSHIP.—For purposes ofthis section and section 16, a person shall be deemed to acquire beneficialownership of an equity security based on the purchase or sale of asecurity-based swap, only to the extent that the Commission, by rule,determines after consultation with the prudential regulators and the Secretaryof the Treasury, that the purchase or sale of the security-based swap, or classof security-based swap, provides incidents of ownership comparable to directownership of the equity security, and that it is necessary to achieve thepurposes of this section that the purchase or sale of the security-based swaps,or class of security-based swap, be deemed the acquisition of beneficialownership of the equitysecurity.

(p) DISCLOSURES RELATING TO CONFLICT MINERALS ORIGINATING IN THE DEMOCRATIC REPUBLIC OF THE CONGO.—

(1) REGULATIONS.—

(A) IN GENERAL.—Not later than 270 days after the date of the enactment of this subsection, the Commission shall promulgate regulations requiring any person described in

paragraph (2) to disclose annually, beginning with the person's first full fiscal year that begins after the date of promulgation of such regulations, whether conflict minerals that are necessary as described in paragraph (2)(B), in the year for which such reporting is required, did originate in the Democratic Republic of the Congo or an adjoining country and, in cases in which such conflict minerals did originate in any such country, submit to the Commission a report that includes, with respect to the period covered by the report—

(i) a description of the measures taken by the person to exercise due diligence on the source and chain of custody of such minerals, which measures shall include an independent private sector audit of such report submitted through the Commission that is conducted in accordance with standards established by the Comptroller General of the United States, in accordance with rules promulgated by the Commission, in consultation with the Secretary of State; and

(ii) a description of the products manufactured or contracted to be manufactured that are not DRC conflict free ("DRC conflict free" is defined to mean the products that do not contain minerals that directly or indirectly finance or benefit armed groups in the Democratic Republic of the Congo or an adjoining country), the entity that conducted the independent private sector audit in accordance with clause (i), the facilities used to process the conflict minerals, the country of origin of the conflict minerals, and the efforts to determine the mine or location of origin with the greatest possible specificity.

(B) CERTIFICATION.—The person submitting a report under subparagraph (A) shall certify the audit described in clause (i) of such subparagraph that is included in such report. Such a certified audit shall constitute a critical component of due diligence in establishing the source and chain of custody of such minerals.

(C) UNRELIABLE DETERMINATION.—If a report required to be submitted by a person under subparagraph (A) relies on a determination of an independent private sector audit, as described under subparagraph (A)(i), or other due diligence processes previously determined by the Commission to be unreliable, the report shall not satisfy the requirements of the regulations promulgated under subparagraph (A)(i).

(D) DRC CONFLICT FREE.—For purposes of this paragraph, a product may be labeled as "DRC conflict free" if the product does not contain conflict minerals that directly or indirectly finance or benefit armed groups in the Democratic Republic of the Congo or an adjoining country.

(E) INFORMATION AVAILABLE TO THE PUBLIC.—Each person described under paragraph (2) shall make available to the public on the Internet website of such person the information disclosed by such person under subparagraph (A).

(2) PERSON DESCRIBED.—A person is described in this paragraph if—

(A) the person is required to file reports with the Commission pursuant to paragraph (1)(A); and

(B) conflict minerals are necessary to the functionality or production of a product manufactured by such person.

(3) REVISIONS AND WAIVERS.—The Commission shall revise or temporarily waive the requirements described in paragraph (1) if the President transmits to the Commission a determination that—

(A) such revision or waiver is in the national security interest of the United States and the President includes the reasons therefor; and

(B) establishes a date, not later than 2 years after the initial publication of such exemption, on which such exemption shall expire.

(4) TERMINATION OF DISCLOSURE REQUIREMENTS.—The requirements of paragraph (1) shall terminate on the date on which the President determines and certifies to the appropriate congressional committees, but in no case earlier than the date that is one day after the end of the 5-year period beginning on the date of the enactment of this subsection, that no armed groups continue to be directly involved and benefitting from commercial activity involving conflict minerals.

(5) DEFINITIONS.—For purposes of this subsection, the terms "adjoining country", "appropriate congressional committees", "armed group", and "conflict mineral" have the meaning given those terms under section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

[(q) DISCLOSURE OF PAYMENTS BY RESOURCE EXTRACTION ISSUERS.—

[(1) DEFINITIONS.—In this subsection—

[(A) the term "commercial development of oil, natural gas, or minerals" includes exploration, extraction, processing, export, and other significant actions relating to oil, natural gas, or minerals, or the acquisition of a license for any such activity, as determined by the Commission;

[(B) the term "foreign government" means a foreign government, a department, agency, or instrumentality of a foreign government, or a company owned by a foreign government, as determined by the Commission;

[(C) the term "payment"—

[(i) means a payment that is—

[(I) made to further the commercial development of oil, natural gas, or minerals; and

[(II) not de minimis; and

[(ii) includes taxes, royalties, fees (including license fees), production entitlements, bonuses, and other material benefits, that the Commission, consistent with the guidelines of the Extractive Industries Transparency Initiative (to the extent practicable), determines are part of the commonly recognized revenue stream for the commercial development of oil, natural gas, or minerals;

[(D) the term "resource extraction issuer" means an issuer that—

[(i) is required to file an annual report with the Commission; and

[(ii) engages in the commercial development of oil, natural gas, or minerals;

[(E) the term "interactive data format" means an electronic data format in which pieces of information are identified using an interactive data standard; and

[(F) the term "interactive data standard" means standardized list of electronic tags that mark information included in the annual report of a resource extraction issuer.

[(2) DISCLOSURE.—

[(A) INFORMATION REQUIRED.—Not later than 270 days after the date of enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Commission shall issue final rules that require each resource extraction issuer to include in an annual report of the resource extraction issuer information relating to any payment made by the resource extraction issuer, a subsidiary of the resource extraction issuer, or an entity under the control of the resource extraction issuer to a foreign government or the Federal Government for the purpose of the commercial development of oil, natural gas, or minerals, including—

[(i) the type and total amount of such payments made for each project of the resource extraction issuer relating to the commercial development of oil, natural gas, or minerals; and

[(ii) the type and total amount of such payments made to each government.

[(B) CONSULTATION IN RULEMAKING.—In issuing rules under subparagraph (A), the Commission may consult with any agency or entity that the Commission determines is relevant.

[(C) INTERACTIVE DATA FORMAT.—The rules issued under subparagraph (A) shall require that the information included in the annual report of a resource extraction issuer be submitted in an interactive data format.

[(D) INTERACTIVE DATA STANDARD.—

[(i) IN GENERAL.—The rules issued under subparagraph (A) shall establish an interactive data standard for the information included in the annual report of a resource extraction issuer.

[(ii) ELECTRONIC TAGS.—The interactive data standard shall include electronic tags that identify, for any payments made by a resource extraction issuer to a foreign government or the Federal Government—

[(I) the total amounts of the payments, by category;

[(II) the currency used to make the payments;

[(III) the financial period in which the payments were made;

[(IV) the business segment of the resource extraction issuer that made the payments;

[(V) the government that received the payments, and the country in which the government is located;

[(VI) the project of the resource extraction issuer to which the payments relate; and

[(VII) such other information as the Commission may determine is necessary or appropriate in the public interest or for the protection of investors.

[(E) INTERNATIONAL TRANSPARENCY EFFORTS.—To the extent practicable, the rules issued under subparagraph (A) shall support the commitment of the Federal Government to international transparency promotion efforts relating to the commercial development of oil, natural gas, or minerals.

[(F) EFFECTIVE DATE.—With respect to each resource extraction issuer, the final rules issued under subparagraph (A) shall take effect on the date on which the resource extraction issuer is required to submit an annual report relating to the fiscal year of the resource extraction issuer that ends not earlier than 1 year after the date on which the Commission issues final rules under subparagraph (A).

[(3) PUBLIC AVAILABILITY OF INFORMATION.—

[(A) IN GENERAL.—To the extent practicable, the Commission shall make available online, to the public, a compilation of the information required to be submitted under the rules issued under paragraph (2)(A).

[(B) OTHER INFORMATION.—Nothing in this paragraph shall require the Commission to make available online information other than the information required to be submitted under the rules issued under paragraph (2)(A).

[(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this subsection.]

(r) DISCLOSURE OF CERTAIN ACTIVITIES RELATING TO IRAN.—

(1) IN GENERAL.—Each issuer required to file an annual or quarterly report under subsection (a) shall disclose in that report the information required by paragraph (2) if, during the period covered by the report, the issuer or any affiliate of the issuer—

(A) knowingly engaged in an activity described in subsection (a) or (b) of section 5 of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note);

(B) knowingly engaged in an activity described in subsection (c)(2) of section 104 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8513) or a transaction described in subsection (d)(1) of that section;

(C) knowingly engaged in an activity described in section 105A(b)(2) of that Act; or

(D) knowingly conducted any transaction or dealing with—

(i) any person the property and interests in property of which are blocked pursuant to Executive Order No. 13224 (66 Fed. Reg. 49079; relating to blocking property and prohibiting transactions with persons who commit, threaten to commit, or support terrorism);

(ii) any person the property and interests in property of which are blocked pursuant to Executive Order No. 13382 (70 Fed. Reg. 38567; relating to blocking of property of weapons of mass destruction proliferators and their supporters); or

(iii) any person or entity identified under section 560.304 of title 31, Code of Federal Regulations (relating to the definition of the Government of Iran) without the specific authorization of a Federal department or agency.

(2) INFORMATION REQUIRED.—If an issuer or an affiliate of the issuer has engaged in any activity described in paragraph (1), the issuer shall disclose a detailed description of each such activity, including—

(A) the nature and extent of the activity;

(B) the gross revenues and net profits, if any, attributable to the activity; and

(C) whether the issuer or the affiliate of the issuer (as the case may be) intends to continue the activity.

(3) NOTICE OF DISCLOSURES.—If an issuer reports under paragraph (1) that the issuer or an affiliate of the issuer has knowingly engaged in any activity described in that paragraph, the issuer shall separately file with the Commission, concurrently with the annual or quarterly report under subsection (a), a notice that the disclosure of that activity has been included in that annual or quarterly report that identifies the issuer and contains the information required by paragraph (2).

(4) PUBLIC DISCLOSURE OF INFORMATION.—Upon receiving a notice under paragraph (3) that an annual or quarterly report includes a disclosure of an activity described in paragraph (1), the Commission shall promptly—

(A) transmit the report to—

(i) the President;

(ii) the Committee on Foreign Affairs and the Committee on Financial Services of the House of Representatives; and

(iii) the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(B) make the information provided in the disclosure and the notice available to the public by posting the information on the Internet website of the Commission.

(5) INVESTIGATIONS.—Upon receiving a report under paragraph (4) that includes a disclosure of an activity described in paragraph (1) (other than an activity described in subparagraph (D)(iii) of that paragraph), the President shall—

(A) initiate an investigation into the possible imposition of sanctions under the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note), section 104 or 105A of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, an Executive order specified in clause (i) or (ii) of paragraph (1)(D), or any other provision of law relating to the imposition of sanctions with respect to Iran, as applicable; and

(B) not later than 180 days after initiating such an investigation, make a determination with respect to whether sanctions should be imposed with respect to the issuer or the affiliate of the issuer (as the case may be).

(6) SUNSET.—The provisions of this subsection shall terminate on the date that is 30 days after the date on which the President makes the certification described in section 401(a) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8551(a)).

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## DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Dodd-Frank Wall Street Reform and Consumer Protection Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

* * * * * * *

TITLE XV—MISCELLANEOUS PROVISIONS

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[Sec. 1504. Disclosure of payments by resource extraction issuers.]

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# TITLE XV—MISCELLANEOUS PROVISIONS

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**[SEC. 1504. DISCLOSURE OF PAYMENTS BY RESOURCE EXTRACTION ISSUERS**

[Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), as amended by this Act, is amended by adding at the end the following:

["(q) DISCLOSURE OF PAYMENTS BY RESOURCE EXTRACTION ISSUERS.—

["(1) DEFINITIONS.—In this subsection—

["(A) the term 'commercial development of oil, natural gas, or minerals' includes exploration, extraction, processing, export, and other significant actions relating to oil, natural gas, or minerals, or the acquisition of a license for any such activity, as determined by the Commission;

["(B) the term 'foreign government' means a foreign government, a department, agency, or instrumentality of a foreign government, or a company owned by a foreign government, as determined by the Commission;

["(C) the term 'payment'—

["(i) means a payment that is—

["(I) made to further the commercial development of oil, natural gas, or minerals; and

["(II) not de minimis; and

[“(ii) includes taxes, royalties, fees (including license fees), production entitlements, bonuses, and other material benefits, that the Commission, consistent with the guidelines of the Extractive Industries Transparency Initiative (to the extent practicable), determines are part of the commonly recognized revenue stream for the commercial development of oil, natural gas, or minerals;

[“(D) the term ‘resource extraction issuer’ means an issuer that—

[“(i) is required to file an annual report with the Commission; and

[“(ii) engages in the commercial development of oil, natural gas, or minerals;

[“(E) the term ‘interactive data format’ means an electronic data format in which pieces of information are identified using an interactive data standard; and

[“(F) the term ‘interactive data standard’ means standardized list of electronic tags that mark information included in the annual report of a resource extraction issuer.

[“(2) DISCLOSURE.—

[“(A) INFORMATION REQUIRED.—Not later than 270 days after the date of enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Commission shall issue final rules that require each resource extraction issuer to include in an annual report of the resource extraction issuer information relating to any payment made by the resource extraction issuer, a subsidiary of the resource extraction issuer, or an entity under the control of the resource extraction issuer to a foreign government or the Federal Government for the purpose of the commercial development of oil, natural gas, or minerals, including—

[“(i) the type and total amount of such payments made for each project of the resource extraction issuer relating to the commercial development of oil, natural gas, or minerals; and

[“(ii) the type and total amount of such payments made to each government.

[“(B) CONSULTATION IN RULEMAKING.—In issuing rules under subparagraph (A), the Commission may consult with any agency or entity that the Commission determines is relevant.

[“(C) INTERACTIVE DATA FORMAT.—The rules issued under subparagraph (A) shall require that the information included in the annual report of a resource extraction issuer be submitted in an interactive data format.

[“(D) INTERACTIVE DATA STANDARD.—

[“(i) IN GENERAL.—The rules issued under subparagraph (A) shall establish an interactive data standard for the information included in the annual report of a resource extraction issuer.

[“(ii) ELECTRONIC TAGS.—The interactive data standard shall include electronic tags that identify, for any payments made by a resource extraction issuer to a foreign government or the Federal Government—

[“(I) the total amounts of the payments, by category;

[“(II) the currency used to make the payments;

[“(III) the financial period in which the payments were made;

[“(IV) the business segment of the resource extraction issuer that made the payments;

[“(V) the government that received the payments, and the country in which the government is located;

[“(VI) the project of the resource extraction issuer to which the payments relate; and

[“(VII) such other information as the Commission may determine is necessary or appropriate in the public interest or for the protection of investors.

[“(E) INTERNATIONAL TRANSPARENCY EFFORTS.—To the extent practicable, the rules issued under subparagraph (A) shall support the commitment of the Federal Government to international transparency promotion efforts relating to the commercial development of oil, natural gas, or minerals.

[“(F) EFFECTIVE DATE.—With respect to each resource extraction issuer, the final rules issued under subparagraph (A) shall take effect on the date on which the resource extraction issuer is required to submit an annual report relating to the fiscal year of the resource extraction issuer that ends not earlier than 1 year after the date on which the Commission issues final rules under subparagraph (A).

[“(3) PUBLIC AVAILABILITY OF INFORMATION.—

[“(A) IN GENERAL.—To the extent practicable, the Commission shall make available online, to the public, a compilation of the information required to be submitted under the rules issued under paragraph (2)(A).

[“(B) OTHER INFORMATION.—Nothing in this paragraph shall require the Commission to make available online information other than the information required to be submitted under the rules issued under paragraph (2)(A).

[“(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this subsection.”.]

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## MINORITY VIEWS

H.R. 4519 would repeal section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank"), which requires companies listed on U.S. exchanges to publicly disclose payments they make to governments for oil, gas and mining resources. Section 1504 is a crucial anti-corruption provision of U.S. law that has a long legislative history and reflects our country's desire for transparency in the extractives sector, which helps protect American companies and investors, democratic interests, and the rule of law around the globe.

Pursuant to Dodd-Frank, in June 2016 the Securities and Exchange Commission (SEC) adopted a rulemaking to require companies engaged in the commercial development of oil, natural gas, or minerals, and file annual reports with the agency, to include in those reports information related to payments they make to governments for those purposes.

At the outset of this Congress, however, Republican leadership in both chambers made it a priority to undermine U.S. efforts to combat global corruption by repealing the SEC's rulemaking. Congressional Republicans used the Congressional Review Act, to prohibit the SEC from issuing a rule that is "substantially similar" to the one that was struck; however, the SEC is required to propose a new regulation by February 14, 2018.

H.R. 4519 would repeal section 1504 altogether, eliminating the authority of the SEC to issue another resource extraction rule at any point in the future. We strongly oppose this legislation.

Section 1504, as implemented by the SEC rule, sought to increase transparency and integrity in the extractive payment and revenue systems, which is a fundamental step to improving governance, curbing corruption, safeguarding capital investments through the rule of law, and allowing citizens to demand greater accountability from their governments. Congress and the SEC have had good reason to devote so much time and energy requiring corporate disclosures—increased disclosure goes to the very heart of the SEC's mission to protect investors and the markets. Undisclosed payments are corrosive to free enterprise. They destroy trust and transparency. They obscure valuations and penalize sensible business practices. Investors and the public need to be able to fully evaluate whether a company has properly addressed the commercial, political, and legal risks it faces when operating around the globe in environments where corruption is rife and the rule of law is weak.

Section 1504 enjoys the support of investors with nearly $10 trillion of assets under management, who understand that mandatory disclosures can help diminish political instability caused by opaque governments, which is a clear threat to investment. Transparency of payments also helps deter corruption in the extractives sector,

reduce business risk, and enhance companies' social license to operate, fostering a more stable investment climate and helping to improve the long-term commercial prospects of the extractive companies in which they invest.

Just weeks after the SEC issued its initial rule in 2012 to implement section 1504, the American Petroleum Institute (API) struck back, filing suit to strike down both the SEC's rule and the statute itself. ExxonMobil, under the leadership of now-Secretary of State Rex Tillerson, strongly opposes Section 1504 and publicly backed API's court case, with the company attacking the "misguided SEC transparency laws" and claiming that the law would put U.S. companies at a competitive disadvantage by placing a burden on American public companies that is not applied to many of their foreign competitors.

The truth is that U.S. companies are not at a competitive disadvantage because they are not the only ones required to make these disclosures. Many foreign companies must report under the U.S. rules, including a number of state-owned oil companies, such as China's PetroChina and Sinopec, and Brazil's Petrobras.

Also, after the SEC issued its rule in 2012, much of the rest of the world followed our lead and adopted disclosure laws modeled on the SEC's rule, transforming the SEC's approach into a global standard. Now, over 30 countries have adopted their own rules that cover the vast majority of oil, gas and mining companies that compete with American firms.

This includes all EU member states, such as the UK. Leading global oil companies are already reporting, including BP, Shell, BHP Billiton, Rio Tinto, and Total—all of which are entering their second year of reporting under EU rules without any negative impact. Russia's state-owned companies, Gazprom, Rosneft, and Lukoil, are entering their second year of reporting their payments publicly since they are listed on the London Stock Exchange and are covered by the UK rules. Norwegian state-owned company Statoil is now entering its third year of reporting under the Norwegian law.

A number of lawmakers have also claimed that rolling back these disclosure requirements is about jobs. However, repealing Section 1504 is not going to bring back any jobs, for the simple fact that not a single job has ever been lost to this law—as a matter of fact, companies aren't required to even begin to comply with the law until next year. Moreover, oil and gas giants like Shell, Total, BP, Statoil, and some of the biggest mining companies like Rio Tinto and Newmont, have already disclosed over $150 billion in payments under mandatory transparency rules. None has reported the loss of any jobs, nor any financial losses as a result of disclosure.

Section 1504 is strongly supported by faith-based, anti-corruption, human rights, labor, development and transparency groups in the U.S. and around the world. Numerous companies and industry associations also support this law, such as Newmont Mining, BHP Billiton, Rio Tinto, Kosmos Energy, Total and Statoil.

A vote to repeal the resource extraction disclosure requirements of Section 1504 of Dodd-Frank is a vote to abandon U.S. leadership in the fight against global corruption. We strongly oppose H.R. 4519.

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DANIEL KILDEE.
AL GREEN.
CAROLYN B. MALONEY.
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