

MEMORANDUM

November 30, 2010

To: File (Specialized Disclosures: Title XV Provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act)

From: Zachary S. May
Office of Commissioner Luis A. Aguilar

Re: Meeting with Representatives of The American Petroleum Institute

On Friday, November 19, 2010, Smeeta S. Ramarathnam and Zachary S. May, counsels to Commissioner Luis A. Aguilar, met with the following representatives of The American Petroleum Institute (“API”): Messrs. Marty Durbin, Executive Vice President (API), Con Lass, Senior Director of Federal Relations (API), Pat Mulva, Vice President and Controller (ExxonMobil), James Parsons, Coordinator of Corporate Securities & Finance (ExxonMobil), Brian Malnak, Vice President of Government Relations America (Shell), and Ms. Misty McGowen, Director of Federal Relations (API). The participants discussed Commission implementation of Section 1504 of the Dodd Frank Wall Street Reform and Consumer Protection Act, titled Disclosure of payments by resource extraction issuers.

At the meeting, the representatives of API provided the attached document.

Dodd-Frank Act – Section 1504: Disclosure of Payments by Resource Extraction Issuers

Summary: API member companies support greater transparency of financial payments to governments and have long supported the objectives of the Extractive Industries Transparency Initiative (EITI), a voluntary, multi-lateral, multi-stakeholder initiative comprised of all mineral resource stakeholders - governments, investors, civil society organizations, and the extractive industries.

Consistent with this view, we appreciate the objective of Section 1504 to further these transparency efforts. However, if not implemented properly, Section 1504 could cause substantial harm to U.S. registrants and their shareholders and end up undermining, rather than promoting, the goal of transparency.

Specific areas of concern which we believe are relevant for purposes of SEC rulemaking include:

- Disclosure of commercially sensitive information. Section 1504 could provide competitors with commercially sensitive contractual information and insight into bidding strategies, placing U.S. listed companies at a competitive disadvantage.
- Conflict with foreign law. Public disclosure of certain detailed information could cause U.S. registrants to violate the laws of the countries where they operate or breach existing contracts with host governments.
- Excessive disclosure of immaterial information would require U.S. registrants to bear significant compliance costs related to systems modifications and accounting process changes, particularly if the reporting must be audited, and would overwhelm shareholders with extraneous data.

As discussed in the consensus law firm letter recently submitted to the staff, we believe the SEC has the discretion to implement Section 1504 in a manner that is both consistent with the statutory language and consistent with the SEC's mission of investor protection and other provisions of the Exchange Act. Specific rulemaking actions we recommend to reduce the potential harmful effects of Section 1504 include:

1. Provide an exemption from disclosing payments when foreign laws, regulations, and orders prohibit such disclosure, or where such disclosure would result in breach of an existing government contract.
2. Provide an exemption from disclosing information that would result in competitive harm to a registrant.
3. Limit disclosure to material projects.
4. Create a separate, non-audited annual reporting form for Section 1504 information that would not be due until 150 days after the end of a registrant's fiscal year.
5. Aggregate payment data into broader financial categories.