



March 2, 2017

Chairman Michael S. Piwowar
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: Dodd-Frank Act, Sections 1502 Conflict Minerals Rule and 953(b) CEO Pay Ratio Rule

Dear Chairman Piwowar:

BorgWarner is a global product leader in clean and efficient technology solutions for combustion, hybrid and electric vehicles. As a U.S.-headquartered company, we employ over 6,300 people in 16 manufacturing and technical centers in eight states across the U.S. We are a top 30 automotive supplier and our products deliver innovative propulsion technologies that improve fuel economy, emissions and performance in vehicles globally.

We value your leadership and the SEC's mission of protecting investors, maintaining fair, orderly, and efficient markets, and facilitating capital formation. The SEC's critical role in regulating the financial markets is vital to our nation's economy and we respect the requirements of the Dodd-Frank Act as essential measures of corporate transparency and accountability. We recognize the importance of corporate sustainability to the nation's economic growth and prosperity.

I am writing in response to your request for input regarding the Conflict Minerals Rule (Section 1502 of the Dodd-Frank Act). We also want to express our concerns with regard to the CEO Pay Ratio Rule (Section 953(b) of the Dodd-Frank Act).

Conflict Minerals Rule

BorgWarner is committed to continuing to operate in a socially responsible manner and expects suppliers throughout its supply chain to supply products and materials from socially responsible sources. To that end, we developed a conflict minerals statement that has been provided to all suppliers.¹

BorgWarner belongs to an internationally-complex manufacturing supply chain, which supports the automotive industry's global production of nearly 77 million vehicles annually. Our production requires robust and specialized tiers of suppliers to meet the ever-evolving, technology-- advancing demands of the industry. While we applaud the meaningful social ambitions behind the effort, compliance with the Conflict Minerals ("CM") Rule has been an onerous burden to our company. Since the adoption of the Rule, we have made substantial efforts internally and with our suppliers to support its compliance. As a result of adding

additional processes to support this rule, we have been negatively impacted in the following ways:

- 1. Increased costs to support compliance:** Staying informed of and compliant with this rule required us to add subscriptions and to contract external services for advice on filings, and assistance for creating and implementing new processes. Focus on this issue has reduced productivity. Maintaining compliance required our company to integrate new processes for supply chain management and reporting. Representatives from each of our internal departments, including Supply Chain Management, Finance, Sales and Marketing, Information Technology and Law devote time to the new process demands. BorgWarner supplies to all major automakers globally and providing CM information to our customers is a daunting task. For one customer alone, we surveyed and provided the CM information for each of the forty plants that supply to the customer. In total, this rule translates to a cost impact of \$170,000 annually for BorgWarner. Our experience is not unique: It is estimated that companies spent roughly \$709 million and six million staff hours to comply with rules to disclose “conflict minerals” in their supply chains.ⁱⁱ This figure does not include the costs related to the auditing process. In total, this SEC regulation could cost manufacturers \$9 to \$16 billion to implement.ⁱⁱⁱ This costly, burdensome regulation places U.S. companies in a less competitive position in the global marketplace.
- 2. Tracking supply chains is a Herculean effort with little results:** Our industry is made up of a multi-tiered, complex supply chain system. The CM Rule ignores the accuracy and practicality of tracking and reporting through the many layers of production. In 2015, it was estimated that 90% of the 1,262 companies that filed conflict-mineral reports couldn’t determine whether their products are conflict-free.^{iv} It is an onerous and costly process to survey our hundreds of relevant suppliers to comply with the CM Rule and provide information to our customers to enable their compliance.
- 3. Reporting demands hurt supplier relationships:** The laborious, time-consuming reporting process jeopardized relationships with our suppliers. Surveying hundreds of suppliers demands dedicated internal resources for oversight of coordination and cooperation from our suppliers. Suppliers also review their multi-layered supply chains to determine if their vendors contribute to the BorgWarner supply chain. This process was damaging to our relationships, as we received resistance from some suppliers, especially those suppliers located outside of the U.S. who argued they are not subject to the SEC requirements. Often times, our team contacted suppliers multiple times, requesting and demanding a response to our survey request. In several instances, collecting the information had to be escalated to upper management at the supplier. Because regulatory compliance is a serious and important matter to us, in several instances, we even had to threaten suppliers with new business holds or quality demerits in order to receive an adequate response.
- 4. The CM Rule is difficult to comply with in merger, acquisition and divestiture situations:** Throughout its history, the automotive industry’s growth involved mergers and acquisitions. Assuring past and continuing compliance by acquired companies requires additional information collection, analyses, and coordination between the two organizations, which adds to integration complexity, administrative costs and loss of productivity.

CEO Pay Ratio Disclosure

BorgWarner recognizes and rewards our employees' contributions with market-competitive pay and benefits. Our compensation and benefits plans are created to attract, motivate, reward and retain the performance of a highly qualified, globally diverse workforce. While our benefit plans may vary depending on geographical location, wherever our employees are located, our benefits are designed to help support the health, professional development and training, and longer term financial success of our employees.

Income inequality is an important issue and BorgWarner appreciates our government leaders' interest in elevating the topic publicly. While the intention of this rule is admirable, the disclosure of the CEO Pay Ratio in SEC filings is not the appropriate avenue for addressing the issue. CEO compensation is a controversial subject, but it is not the primary driver of income inequality and has been unfairly targeted. The wage gap is the result of a number evolving economic complexities, including globalization, automation and technology advancements. Instead of improving income inequality, this required disclosure creates a number of problems that will hurt our corporation and other publicly traded U.S.-based companies. This rule negatively affects BorgWarner because:

- 1. The rule is extremely burdensome and will place U.S. companies at a disadvantage in the competitive global market:** This rule requires companies to calculate the median wage of its workers from across the globe. While the rule allows for some samplings and exclusion of 5% of employees who are not located in the U.S., the time and effort involved with collecting, analyzing, and reporting this data makes it a daunting initiative. BorgWarner employs 27,000 people in with 62 locations across 17 countries. With our international footprint, we use twenty-five different payroll systems; this rule demands substantial efforts internally and results in the loss of productivity. The ruling applies to about 3,800 large U.S. companies, exempting small businesses and foreign-based firms. For the companies that meet the requirement to comply with this regulation, the initial compliance costs is estimated to be \$1.3 billion,^v which places American companies at a competitive disadvantage in the world marketplace.
- 2. The Ratio disclosure creates unnecessary human resources issues and will hurt employee morale:** Whether employee or executive pay, a position's compensation is driven by talent, geography, business structure, and competition. This Ruling requires companies to factor in salaries, not just of full-time staff, but all part-timers, temps, and seasonal workers, including all employees in the U.S. and abroad. The SEC's guidance on calculating the median income and CEO pay ratio is an inaccurate way in reflecting regional wages and can lead to misinformation and misinterpretation to employees. For example, if a company's employee population distribution is higher in low labor rate countries, the median wage would be skewed toward the levels of those countries. In this example, the inaccurate representation would result in a lower median wage rate and greater CEO Pay Ratio figure that is applied to the U.S. market. This "median wage" reflects a distinctive line in which half the employees make more and half make less and could be taken out of context. Sharing this type of information so publicly is unnecessary and will hurt morale and create awkward tensions in workplaces. BorgWarner anticipates future costs related to employee communications and external consulting services to address these foreseeable and inevitable problems.

3. **The Ratio has no relevance to our investors and creates additional consulting costs:** Because the final wage median number is to be included in a company's proxy statements, we have to ensure its accuracy. The additional expenses related to consulting fees to verify these figures is yet to be determined. Moreover, this information is irrelevant to our investors and is not indicative of the performance of the company as a whole.

BorgWarner believes in taking responsibility for the communities where we live and work. We are committed to supporting our communities and protecting the environment. The social issues that the Dodd-Frank Act aims to eradicate is commendable, however, it is negatively impacting our company, our suppliers, and customers. The Conflict Minerals Rule and CEO Pay Ratio Rule are hurtful to U.S. companies like ours and we urge you to consider eliminating these two provisions of the Dodd-Frank Act. Thank you for this opportunity to share with you the impact of these rulings our company and our industry.

Sincerely,



Erika Nielsen
Director, Global Government Affairs
BorgWarner Inc.

[Redacted]

Tel: [Redacted]

ⁱ BorgWarner Conflict Minerals Statement: There is increased awareness of violence and human rights violations in the mining of certain minerals (gold, tantalum, tin and tungsten) from an area in central Africa including the Democratic Republic of the Congo and surrounding countries. BorgWarner is committed to continuing to operate in a socially responsible manner and expects suppliers throughout our supply chain to supply products and materials from socially responsible sources. We have informed our suppliers on the Conflict Minerals Rule and reporting requirements. Suppliers have been directed that they must continually undertake practical due diligence within their supply chains to identify the sources of these minerals contained in the products they supply to us. If we learn that supplied products contain conflict minerals, we will report in accordance with the law and work with our suppliers and customers to determine the best course of action.

ⁱⁱ Emily Chasan. U.S. Firms Struggle to Trace 'Conflict Minerals. Wall Street Journal. August 3, 2016.

ⁱⁱⁱ National Association of Manufacturers

^{iv} Emily Chasan. U.S. Firms Struggle to Trace 'Conflict Minerals. Wall Street Journal. August 3, 2016.

^v Jana Kasperkevic. Companies forced to disclose CEO-workforce pay gap. The Guardian. August 5, 2015.