<u>Addendum to comments submitted by the FACT Coalition on the proposed Disclosure Update and Simplification Rule</u>

Submitted November 2, 2016

In our original comment submitted on October 3, 2016, we urged the Securities and Exchange Commission to adopt rules that require multinational entities to report certain information on a country by country basis. Following is further clarification on why those categories were included and are necessary for investors to determine, in today's global markets, the likelihood and magnitude of risks as well as the valuation of the company itself.

We also note that any single category in and of itself is not sufficient. Rather, it is the total mix of information that provides a reasonable investor with the necessary data to evaluate for themselves the risk.

Content to report	**Definition (if needed)**	**Why we need it?**
profit or loss before tax	The sum of the profit (loss) before income tax for all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction. The profit (loss) before income tax should include all extraordinary income and expense items	The presence of significant profit in locations where most purchases and / or sales are intra-group or where the corporation has few or no employees, tangible assets, or capital investments (see below) might indicate artificial relocation of profits. The absence of profits in locations where they would be expected may indicate the use of transfer pricing, lending, or other mechanisms to artificially reduce revenues or inflate costs. Both anomalies provide useful indicators of tax risk. This was central to decisions regarding Apple's recent problems with the European Union.
income tax accrued (current year)		Information is needed to learn how much <u>corporate tax</u> the multinational corporation has yet to pay in each country where it operates (as opposed to taxes that have already been paid). This is important because some companies avoid taxes by postponing their tax payments indefinitely exposing them to potential risk This information must be provided with information about how much tax has actually been paid and how much is owed but has not yet been paid ("accrued" tax). These tax figures provide critical indicators of tax risk.
Revenue from related parties, unrelated		Investors need to be able to determine whether there is a disconnect between the amount of profits being booked to a jurisdiction and the amount of revenue being earned in that jurisdiction and whether the booked income is derived primarily from related or unrelated parties.

parties and total		
income tax paid (on a cash basis)		Investors need information regarding how much corporate tax the multinational corporation has paid in each country where it operates. This information must be provided with information about how much tax has actually been paid and how much is owed but has not yet been paid ("accrued" tax). This is important because some companies avoid taxes by postponing their tax payments indefinitely. These two tax figures provide critical indicators of tax risk.
Effective tax rate		Recent tax investigations have shown there is often a large gap between a jurisdiction's statutory rate and the tax rate a particular corporation actually pays. Currently, analysts attempt to calculate a corporation's effective tax rate using information in its financial reports. A better approach would be to establish a standard procedure for calculating effective tax rates, and require the corporations – rather than outside analysts – to provide them. Effective tax rates should be provided on a country-by-country basis to enable analysts to determine whether a corporation is paying a suspiciously low rate in a particular jurisdiction, thereby risking a tax investigation and enforcement action.
stated capital	The amount of capital that a company must hold in order to pay dividends and other payouts. Stated capital usually equals a stock's stated value times the amount of outstanding stock.	Stated capital levels, when provided on a country-by-country basis, serve as an indicator of the extent to which a corporation has moved funds to or invested funds in a particular jurisdiction. High amounts of stated capital may help to indicate profit shifting. If a corporation's subsidiary is over-capitalized it may be acquiring assets such as intellectual property from related companies which are then made available to operating companies for a charge to shift profit from a high to a low tax jurisdiction. Low levels of stated capital may mean a high level of debt financing, with the interest cost being paid to related firms in lower tax jurisdictions. High levels of profit shifting could trigger an investigation and result in significant tax liability.
accumulated earnings	The sum of a company's profits, after dividend payments, since the company's inception. It can also be called retained	If a company is accumulating a lot of money in a given country, but the taxes paid in that country do not appear proportionate, this figure could be an indication of, not only the corporation's cash management practices or the country's tax haven status, but also the

	earnings, earned surplus, or retained capital.	possible presence of special arrangements with the government not to tax the accumulated funds or other arrangements that merit inquiry and analysis. A sizable disconnect between a corporation's accumulated earnings and tax payments provides a useful indicator of tax risk.
number of employees, not FT equivalent basis		Employee data is the lynchpin to identifying whether a corporation is a "letterbox" company with few or no employees whose raison d'etre is engaging in ledger entries and profit-shifting, or an actual physical company engaged in business activities that add real value to an enterprise. Employee data is also a good indicator of whether the corporation has a taxable presence in the jurisdiction. .
number of employees, FT equivalent basis		Number of employees should be reported on a full -time (FT) equivalent basis so that companies cannot artificially inflate their headcount by including part-time employees to disguise a "letterbox" company.
tangible assets other than cash or cash equivalents	Tangible assets include both fixed assets, such as machinery, buildings and land, and current assets, such as inventory.	Tangible assets are the clearest proof of a company's physical presence and level of investment in a specific jurisdiction. They also provide a good indicator of whether a corporation has a taxable presence in the country. Without an indication of the tangible assets dedicated by a multinational corporation to a specific country, it is not possible to assess whether those assets justify the level of profit reported for that country or to calculate and compare the rate of return on capital across subsidiaries and countries to assess profit shifting. The more tangible assets, the more "real" business operations a corporation is likely to have in the country.
list of subsidiaries operating in each Member State or third country alongside the relevant data		Tax investigations have disclosed that some multinational corporations have established extensive networks of subsidiaries in multiple countries, including tax havens, without informing shareholders or investors. A complete list of a corporation's subsidiaries, by name, structure, purpose and location is critical to assess its cash management practices, related party transactions, transfer pricing practices, and tax risks.