



March 17, 2020

Vanessa A. Countryman  
Secretary, Securities and Exchange Commission  
100 F Street NE, Washington, DC 20549-1090.

CC:

Mr. William Hinman, Director, Division of Corporate Finance  
Mr. Barry Summer, Associate Director, Division of Corporation Finance  
Ms. Elizabeth Murphy, Associate Director, Division of Corporate Finance  
Mr. Elliot Staffin, Special Counsel, Division of Corporation Finance

**Re: Proposed rule implementing Section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Section 1504”); File Number S7-24-19**

**Dear Secretary Countryman,**

I am pleased to submit the following comment on behalf of the Publish What You Pay—United States coalition (“PWYP-US”) on the proposed rule published by the Securities and Exchange Commission (the “Commission”) to implement Section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”). We believe that a robust rule to implement Section 1504 that requires fully public, company-specific, project-level reporting with no exemptions is in the best interests of governments, shareholders, and citizens in resource-rich countries.

We are deeply concerned that the Commission’s current proposed rule, if implemented, would deviate significantly from the established global transparency standard, including the EITI Standard agreed to and adopted by the EITI Board in 2019, which includes members of several US-listed oil, gas, and mining companies that are currently supportive of and implementing the EITI. Most notably, the Commission’s draft rule proposes a definition of “project-level” reporting that would allow companies to artificially aggregate payments to the sub-national and national levels across multiple separate projects, rather than using the contract-based approach for defining project-level payments embedded in the EITI Standard and in complementary mandatory payment disclosure laws in place in Canada, the EU, Norway, and the UK.

If implemented as proposed, the Commission’s rule would establish dual-reporting standards for companies disclosing under Dodd-Frank 1504 and the EITI or mandatory disclosure laws in place in other countries, creating an uneven playing field across the oil, gas, and mining industries. In short, the Commission’s proposed rule, if adopted in its current form, would be a marked step backwards in the global movement to ensure that stakeholders have access to relevant information about the extraction and sale of their country’s natural resource wealth.

In February 2020, PWYP-US partnered with the Business and Human Rights Resource Centre to send a letter to US-listed EITI-supporting companies asking for their support in defending the global transparency standard in the context of the Commission's proposed rule.

BP, BHP, Eni, Gold Fields, Kosmos, Newmont, Rio Tinto, and Total submitted statements declaring support for a contract-level project definition in the EITI Standard and a project-level definition in the US's mandatory disclosure rule that aligns with the EITI Standard.

These reporting companies agree that a strong rule in line with those currently implemented in Canada and Europe would not cause an undue or substantial financial burden nor pose competitive harm risks on US-listed companies. In fact, companies assert that aligning US legislation with international best practice will not only help tackle corruption, but also allow companies to streamline their disclosure practices.

In explaining its support, Kosmos mentions the reputational benefits and competitive advantages arising from publicly available project-level disclosures. Further, Eni, Kosmos, and Rio Tinto emphasize in their responses the need for the US to harmonize its standards with leading global best practice in order to streamline reporting to ensure ease of compliance for cross-listed companies.

We have attached a selection of these letters here for you. We believe they constitute robust evidence from companies that have now been actively engaged in this type of reporting for the past several years. Notably, these statements illustrate important industry support for publicly-available project-level reporting. While certain commenters like the American Petroleum Institute may continue to express opposition to this reporting standard, the association obviously cannot claim to speak for all industry participants, or even for all of its members in voicing its position.

We appreciate the opportunity to comment and would welcome the chance to discuss our recommendations with you in further detail. As in previous years, we look forward to a carefully considered and thorough rulemaking. Please do not hesitate to contact us with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathleen Brophy". The signature is written in a cursive style with a vertical line to the left of the name.

Kathleen Brophy  
Director, Publish What You Pay—US



171 Collins Street  
Melbourne, Victoria 3000  
Australia  
T +61 3 9606 3333  
F +61 3 9609 3015  
bhp.com

21 February 2020

Kathleen Brophy  
US Director  
Publish What You Pay (PWYP) US  
1110 Vermont Ave NW #500  
Washington, D.C. 20005

Dear Ms. Brophy

Thank you for your letter of February 13, 2020 regarding the US Securities and Exchange Commission's (SEC) recently proposed rule to implement the extractives revenue transparency requirements of Section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act ('1504 rule').

As your letter references, BHP is a Founding Member of the Extractives Industry Transparency Initiative (EITI) and is committed to the EITI Principles. BHP has disclosed details of our tax and royalty payments for nearly 20 years. Since Fiscal Year 2015, we also annually release an Economic Contribution Report (ECR) to stakeholders.<sup>1</sup>

Regarding BHP's views on the SEC's proposed 1504 rule, please find responses to your questions below:

**PWYP Question 1:**

**Does your company support the EITI Standard's definition of project-level reporting?**

BHP supports the EITI Standard's definition of project-level reporting. We use that definition in developing our annual ECR disclosure, as we both support the Standard and are required to meet it under the European Union Accounting Directive and implementing regulations from the United Kingdom.

**PWYP Question 2:**

**Do you agree that this definition should be adopted by the SEC in its final rule?**

BHP supports use of the EITI Standard's definition of project level reporting in all mandatory and voluntary disclosure regimes; this ensures globally consistent and harmonized financial reporting. BHP has publicly supported the use of the EITI Standard's definition in US disclosure regulations and we will be submitting comments to that effect with the SEC in response to its most recent 1504 rule proposal.<sup>2</sup>

Thank you for the opportunity to provide responses to these questions. Please direct further inquiries on this matter to me at [emma.roberts@bhp.com](mailto:emma.roberts@bhp.com).

Regards

**Emma Roberts**  
**Vice President**  
**International Relations & Public Policy**

<sup>1</sup> BHP's Economic Contribution Report 2019 is available online at <https://www.bhp.com/investor-centre/economic-contribution-report-2019/>.

<sup>2</sup> BHP submitted comments with the SEC on its proposal of December 11, 2015; they are available online at <https://www.sec.gov/comments/s7-25-15/s72515-9.pdf>.



BP plc  
Paul Jefferiss  
Head of Group Policy  
1 St James's Square  
London, SW1Y 4PD

28 February 2020

Paul.Jefferiss@uk.bp.com  
Office: +44 (0) 207 496 4000

Kathleen Brophy  
Director, PWYP-US

Dear Ms Brophy,

I write in connection with your open letter, dated 13<sup>th</sup> February, addressed to US-listed EITI supporting companies and as shared with BP via the Business and Human Rights Resource Centre, regarding the SEC's newly-proposed Rule 13q, to implement Section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. I am happy to respond on behalf of BP, in my capacity as Head of Group Policy.

BP's commitment to transparency of payments to governments is long-standing - we have been reporting our global payments at a contract level under EU rules since 2015 and we have been a member of the Extractive Industries Transparency Initiative since its establishment. As your letter notes, BP is an EITI supporting company and we recognise that the expectations of supporting companies include speaking up to promote transparency in our industry, in such a way as to foster public debate.

Our commitment is enacted on a daily basis through the constructive engagement of BP businesses around the world in support of EITI implementation, our membership of the EITI international Board and the disclosures BP makes in respect of payments to governments, both within the framework of the EITI and as a matter of compliance with national reporting obligations. This commitment is thus not merely a matter of principle, but of practice: through the EITI, we have worked with governments and civil society to help develop disclosure standards that are workable, proportionate and effective in improving accountability.

Our position is clear: convergence on a standard approach to reporting meaningful, material data across the different reporting jurisdictions - in a manner that avoids commercial harm to companies - would improve the quality and comparability of the information provided. In particular, we would welcome convergence on the definition of a 'project' for the purposes of disclosing project-level payments: defining extractive projects in a consistent manner across all countries would foster improved transparency and support accountability in practice.

Accordingly, BP believes that the adoption of an implementing Rule 13q under the Dodd Frank Act should aim to maintain a level playing field among oil and gas companies and encourage convergence on a standard approach by seeking alignment with EU rules and consistency with the new EITI Standard to the greatest extent possible. The 2019 EITI Standard embodies a global consensus - negotiated between governments, civil society and companies - on a consistent and workable approach to the disclosure of material payments (and other, relevant data) in respect of extractive activity. Regulatory alignment and convergence around the approach to project-level reporting already enshrined in the EITI Standard would be the most effective means of producing high-quality and comparable data.

Thank you again for your letter; BP will continue to engage constructively with public debate in this area, to support the EITI Principles and to promote transparency of payments to governments. Accordingly, we will respond directly to the SEC during the current public comment period, to give BP's view of the proposed Rule 13q.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'P. Jefferiss', with a long horizontal flourish extending to the right.

Paul Jefferiss  
Head of Group Policy

**R: Invitation to respond – Eni in our Weekly Update. From: Stephanie Eliane Regalia <regalia@business-humanrights.org> - 13/02/2020**

Eni considers transparency a corporate value and views its promotion as crucial for a more inclusive resource governance in communities' interest and benefit.

Our commitment to financial transparency is confirmed by our active participation to the voluntary multi-stakeholder initiative of EITI since 2005 and by our support to its efforts in promoting open and accountable management of natural resources.

Eni already complies with EU Directive 2013/34: it prepares and publishes a report on payments to governments for each financial year, reported on a project level. In this regard, Eni supports the definition of "project level reporting" as embodied in the EU Directive 2013/34 and in line with EITI standard. Eni also draws up its Country-by-Country Report (CbC Report), as recommended in Action 13 of the project "Base Erosion and Profit Shifting" (OECD), and it is among the very few companies to voluntarily publish its CbC Report.

We believe that the enhancement of transparency over payments to Governments in the extractive sectors risks being jeopardized by the development of different disclosure obligations and asymmetric reporting requirements; for these reasons – as already highlighted in Eni 2016 communication on the rule proposed by the SEC for resource extraction issuers - we support the definition of a "global, consistent standard on transparency for all companies" as "it goes in the direction of levelling the field in the industry and addresses the issue of multiple reporting obligations and the associated compliance costs" (Letter from Eni CEO Claudio Descalzi to the SEC, Comments on Proposed Rule, File number S7-25-15, 31th January 2016).

24/02/2020



**GOLD FIELDS**

Monday, 24 February, 2020

Gold Fields Limited  
Reg. 1968/004880/06  
150 Helen Road, Sandown,  
Sandton, 2196

Postnet Suite 252  
Private Bag X30500  
Houghton, 2041  
South Africa

Tel +27 11 562-9763  
Fax +27 11 562-9838  
[www.goldfields.com](http://www.goldfields.com)

To

Stephania Regalia and Marti Flacks

Business & Human Rights Resources Centre

**Re.: Gold Fields response in support of the global transparency standard**

24 February 2019

Dear Stephania and Marti

See below Gold Fields' publishable responses to the questions posed by Publish What You Pay:

*Does your company support the EITI Standard's definition of project-level reporting?*

As an EITI supporting company, and as a member of the International Council on Mining & Metals (ICMM), Gold Fields supports the EITI Standard's definition of project-level reporting.

*Do you agree that this definition should be adopted by the SEC in its final rule?*

We support a broadly consistent and workable approach to the disclosure of payments and revenues by mining companies to governments at all levels, which is simple to undertake and to use. The EITI Standard meets those criteria.

Kind regards

Sven Lunsche  
VP Corporate Affairs  
Gold Fields Ltd



*Mike Anderson*  
*Senior Vice President, External Affairs,*  
*Government Relations and Security*

February 18, 2020

**By E-Mail:**  
Kathleen Brophy  
PWYP-US Director

Publish What You Pay US  
1110 Vermont Ave NW #500  
Washington, D.C. 20005

**Re:** Section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act

Dear Ms. Brophy:

Thank you for your open letter dated February 13, 2020, regarding global transparency standards and Section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

In light of the Securities and Exchange Commission's (SEC's) work to develop a rule for implementation of Dodd-Frank 1504, we refer all parties to Kosmos Energy's long-held position on transparency around payments to governments in the extractive industries.

Kosmos Energy is an oil and gas exploration and production firm listed on the New York and London Stock Exchanges. We believe resource revenues are more likely to be managed in the best interests of a country if payments and receipts are made transparently, and if accountability measures are in place for the use of these revenues. Ideally, this process is underpinned by a national dialogue in which industry plays its part as a partner with government and civil society. Kosmos is committed to advocating for transparency in our dealings with host governments.

Kosmos is also a Supporting Company of the Extractive Industries Transparency Initiative (EITI), a leading global standard that strengthens governance by promoting transparency and accountability in the oil, gas, and mining industries. We are committed to meeting or exceeding EITI requirements and have resolved to report and publish annually material payments to governments.

In 2014, prior to our London listing, we made a policy decision to disclose payments to governments at the project level as defined in the European Union Accounting Directive. We believe that this type of disclosure is beneficial to investors, civil society, and local communities, and reflects evolving international expectations.

We therefore support the EITI Standard's definition of project-level reporting. In addition, now that we have a secondary listing in London, and therefore reporting obligations in both the US and the UK, it would be helpful and more cost-efficient if there was substantial international alignment on this definition and on payments-to-government reporting requirements more broadly.

We believe our approach to transparency helps us to manage social and political issues, establishing Kosmos as a partner of choice and mitigating barriers to growth. We are also encouraged that civil society is committed to using payments to governments data constructively – an essential element in ensuring that transparency policies achieve the aim of strong resource governance.

For more information, please refer to page 11 of our [2018 Corporate Responsibility Report](#). Our disclosures can also be found on our website using this link: <https://www.kosmosenergy.com/transparency/>.

If you have any questions, please do not hesitate to contact me.

Yours sincerely,



Mike Anderson

February 25, 2020  
Honorable Jay Clayton  
Chairman  
U.S. Securities and Exchange Commission  
100 F Street, N.E.  
Washington  
DC 20549-1090

Dear Mr. Chairman,

This letter is submitted on behalf of Newmont Corporation ("Newmont") as an expression of Newmont's support and commitment to extractive industry revenue transparency and disclosure. Newmont is a U.S. based gold and copper producer with significant mining operations in the United States, as well as Australia, Suriname, Peru, Canada, Mexico, Argentina, and Ghana. As you may be aware, Newmont has been an active and vocal supporter of revenue transparency and an original signatory to the Extractive Industry Transparency Initiative (EITI).

Newmont has built transparency and reporting into our global governance and social responsibility policy and performance, and we currently utilize regular independent auditing mechanisms to assure conformance. Similarly, Newmont was one of the few corporations that testified before the U.S. Congress in favor of U.S. extractive companies reporting payments to governments. We were also an active participant of the U.S. EITI Multi-stakeholder Group when the U.S. was a candidate country applying for status as an EITI compliant country prior to its decision to exit the process. It is our view that responsible development of mineral resources can bring great benefit to a country and its people, but only when good governance is in place to monitor the distribution of those benefits.

Newmont actively advocates for the EITI Standard and serves as an industry member on the Multi-Stakeholder Group in Suriname directly and via industry associations in other jurisdictions. We believe that Dodd-Frank Section 1504 can complement the EITI and its requirements should be closely aligned with the EITI Standard. This will ensure companies can develop a consistent approach to project-level reporting across multiple jurisdictions and broaden and deepen the transparency agenda globally. Alignment will also reduce onerous reporting obligations while advancing efficient and consistent reporting requirements.

Newmont will continue to support efforts towards transparency and reporting related to our industry and business. We encourage stakeholders to work constructively through the rule-making process to ensure an efficient, and globally consistent regulatory framework is established that broadly meets all stakeholder needs while ultimately ensuring the overall goal of increased transparency and reporting of revenues.

We appreciate the opportunity to express our perspective and ultimate position towards revenue transparency and reporting, which we believe is not only good for our business, but good for our shareholders and communities that host our operations.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen P. Gottesfeld".

Stephen P. Gottesfeld  
EVP Chief Sustainability and External Affairs Officer  
Newmont Corporation

The RioTinto logo consists of the word "RioTinto" in white, sans-serif font, centered within a solid red rectangular background.

Rio Tinto plc  
6 St James Square  
London  
SW1Y 4AD  
United Kingdom  
T +44 20 7782 2000

Kathleen Brophy  
Publish What You Pay US  
1110 Vermont Ave NW #500  
Washington, D.C. 20005  
United States

28 February 2020

Dear Kathleen

**Project-level reporting**

We refer to your letter dated 13 February 2020 regarding Rio Tinto's commitment to the principles of the Extractive Industries Transparency Initiative (EITI) in the context of the U.S. Securities & Exchange Commission's proposed rule to implement Section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Rio Tinto is a founding member of the EITI, a supporter of the EITI Principles and has played an active role in this global standard since 2003.

Rio Tinto supports the EITI's position on project-by-project reporting. Our annual taxes paid report discloses country-by-country data on taxes and payments to government, as well as project-by-project disclosures. We also file additional reports to disclose payments to governments connected with extractive activity to meet requirements in the UK and Canada (Chapter 10 of EU Accounting Directive 2013/34 and the Extractive Sector Transparency Measures Act respectively). These reports include the project-by-project information disclosed in our annual taxes paid reports.

Further, Rio Tinto encourages the harmonisation of reporting obligations aligned with global best practice. We believe that the creation of a consistent standard by which companies can report their contributions with integrity and responsibility is essential to promoting confidence in business. Accordingly, we support the harmonisation of the section 1504 proposal with the requirements under the UK and Canadian mandatory disclosure regimes.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Simone Niven".

Simone Niven  
Group Executive Corporate Relations

24 February 2020

*Total's response re Publish What You Pay's open letter*

21 February 2020

*Business & Human Rights Resource Centre invited Total to respond to Publish What You Pay's (PWYP) open letter urging companies committed to the principles of the Extractive Industries Transparency Initiative (EITI) to comment on the U.S. Securities and Exchange Commission's (SEC) recently proposed rule to implement Section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.*

*Total sent us the following response:*

As part of the public consultation opened by the SEC regarding the proposed rule on Disclosure of Payment by Resource extraction issuers, Total has already submitted its comments to the SEC.

Total considers that the re-introduction of Rule 13q1 under the Dodd Frank Act should enhance transparency for the benefit of the whole industry and its stakeholders and, to this end, restore a level playing field among major publicly listed oil and gas companies.

As a result, the Group strongly supports that the SEC align the Proposed Rule with the European Directive 2013/34/EU, more stringent mainly on two key points : (i) the threshold above which payment to foreign governments must be presented in the report and (ii) the definition of the term "project".

Our detailed position is available on the SEC website : <https://www.sec.gov/comments/s7-24-19/s72419-6791650-208331.pdf>