

United States Senate

WASHINGTON, DC 20510

February 28, 2012

The Hon. Mary L. Schapiro
Chairman, U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Dear Chairman Schapiro:

We understand the Securities and Exchange Commission (SEC) is in the process of finalizing regulations necessary to implement Section 1504 of the Dodd-Frank Wall Street Act (P.L. 111-203). As you know, Section 1504 requires reporting issuers engaged in the commercial development of oil, natural gas, or minerals to disclose certain payments made to the United States or a foreign government.

While we understand the goal of promoting payment transparency, we have concerns that the proposed rule does not protect U.S. companies, investors, and employees from unnecessary competitive harm. We are troubled that the current definition of "project" in the Commission's rule could result in U.S. listed companies disclosing information that would allow foreign, state-owned oil companies to gain an unfair competitive advantage for operations in the host country. We also question whether this is consistent with the SEC's obligation to issue a rule that promotes international transparency efforts such as the Extractive Industries Transparency Initiative (EITI).

The SEC has the authority under Section 1504, in conjunction with existing securities law, to define "project" in a way that promotes international transparency, while still protecting U.S. listed companies from competitive harm. A definition of "project" that allows companies to aggregate data from multiple agreements in a particular country, geologic basin or province would mitigate the potential for competitive harm, and would result in more granular payment disclosure than that required under EITI.

Additionally, to be consistent with the over-arching purpose of the law, it is imperative that the final rule require disclosure of payments only for "material" projects, which appears to be consistent with current SEC rules.

The final rule should also allow an exemption for operations in foreign countries that prohibit the disclosure of payment information. If the final rule were to lack this exemption, U.S. listed companies could be forced to shut down profitable operations, resulting in significant financial harm to the companies, investors, and U.S. employees. Moreover, the SEC-calculated cost estimates associated with implementing these rules appear vastly inconsistent with industry

projections that have been filed as public comments to the draft rulemaking, and thus require further verification.

In summary, the Commission has the authority and the ability to draft a final rule for Section 1504 that is faithful to Congress' intent to promote transparency, while still preserving the ability of American companies to operate competitively throughout the world. Only a rule that addresses the above concerns would be consistent with the Commission's obligation to consider the effect its rules will have on competition, efficiency, and capital formation.

We look forward to working with you to address these concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read "Joe Neuberger", written over a horizontal line.A handwritten signature in blue ink, appearing to read "John Cunniff", written over a horizontal line.

Cc:

The Hon. Elizabeth M. Murphy, Secretary

The Hon. Elisse B. Walter, Commissioner

The Hon. Luis A. Aguilar, Commissioner

The Hon. Troy A. Paredes, Commissioner

The Hon. Daniel M. Gallagher, Commissioner