



Dodd-Frank Wall Street Reform and Consumer Protection Act

Section 1504: Disclosure of Payments by Resource Extraction Issuers

Section 1504 requires companies registered with the Securities and Exchange Commission (SEC) to report, on an annual basis, payments made to a foreign government or the federal government relating to the commercial development of oil, natural gas and minerals.

API supports transparency. However, the current structure of Section 1504 undermines the transparency effort, places SEC-listed companies at a competitive disadvantage, raises conflict of laws concerns and could increase security risks for U.S. citizens working abroad for reporting companies.

Section 1504 places U.S.-listed companies at a competitive disadvantage versus their foreign competitors.

- Many national oil companies (NOCs) are not covered. NOCs compete with U.S.-listed companies for contracts and energy resources around the globe. NOCs operate in their own countries as well as internationally and control 78% of the world's oil reserves.
- Required disclosures pertain to project-level payments sufficient to publicly disclose confidential terms of negotiated contracts to NOCs and other foreign competitors. Disclosure places U.S.-listed companies at a competitive disadvantage and could also negatively impact shareholders.
- Thousands of jobs support the overseas operations of U.S.-listed companies.

Section 1504 creates conflict of laws issues and creates risks for U.S. citizens abroad.

- Requiring publication of detailed information could cause U.S. registrants to violate the laws of the countries where they operate as well as binding contracts stipulating non-disclosure.
- Requirements for detailed information would disclose the exact size and importance of particular projects, thereby increasing safety and security risks for U.S. registrants and host governments.

The best, most effective way to promote transparency is through EITI.

- The Extractive Industries Transparency Initiative (EITI) is a multi-lateral, multi-stakeholder global initiative comprised of energy companies, civil society organizations and host governments.
- EITI principles provide for aggregation at the country level, thereby protecting commercially sensitive project level data.
- EITI applies equally to all companies operating in a country, including NOCs, ensuring a level playing field for all companies.
- EITI provides mechanisms for independent verification and reconciliation of the reported payments with the host government's receipts. Section 1504 does not.
- Currently, there are 32 EITI implementing countries; five are in compliance, with a number of others expected.

Solutions for promoting transparency and global competitiveness:

- Raise the level of public disclosure of payment information to the country level.
- Provide an exemption from disclosing payments when foreign laws, regulations and orders prohibit such disclosure.
- Provide an exemption where disclosure by country in effect provides disclosure of commercially sensitive information for a single project or field.