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## **Investors & Congress call on the SEC to swiftly deliver strong rules The US must maintain its leadership role in anti-corruption efforts**

WASHINGTON, DC – Senators and investor groups are urging the Securities and Exchange Commission (SEC) to act quickly in releasing a new rule for Section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Also known as the “Cardin-Lugar” provision, this law requires US-listed oil, gas and mining companies to publicly disclose payments to US and foreign governments on a country-by-country and project level basis.

In a letter to the SEC made public today, Senators Cardin (D-MD), Lugar (Ret. R-IN), Leahy (D-VT), Levin (D-MI) and Markey (D-MA) stated that the rule released last August was in line with Congressional intent and encouraged the SEC to write, “...an equally strong revised rule as soon as possible.” The Senators argued that, “[t]he new rule should continue to make all reports public and should not allow for host country exemptions,” and that the SEC “...has the discretion and authority to retain both of these key aspects.”

Last October, the American Petroleum Institute, US Chamber of Commerce, the Independent Petroleum Association of America and the National Foreign Trade Council brought a suit against the SEC seeking to overturn this groundbreaking provision. Despite a robust defense of the rule by the SEC, the DC District Court vacated it in July of this year. Although the rule was sent back to the SEC, the court made no stipulation that the components of the rule needed to be changed or weakened, but that they needed to provide further justification for parts of the rule relating to ‘no exemptions’ and ‘public disclosure’ (1).

In their letter, the Senators stressed the importance of Section 1504 to global anti-corruption and anti-tax evasion efforts, stating that there is a “...growing international consensus that investors, citizens, and governments around the world should have ready access to information about corporate payments to governments.” In June, the European Union (EU) adopted two directives, which go further than the US law, requiring *both public and large private* oil, gas, mining and *logging* companies in the EU to publish their payments in countries where they operate across the globe. The UK and France have made it a priority to fast track implementation of the EU directives. Canada’s Prime Minister Harper has made a commitment to develop mandatory disclosure rules within two years. Efforts are also underway in Norway, Australia and Switzerland.

Forty-four investor groups with more than \$5.6 trillion in assets under management also wrote to the SEC citing the importance of public disclosure to both citizens and investors. They state, “[t]he SEC’s leadership encouraged the development of a public global disclosure standard,” and that in light of the momentum in other markets the SEC should ensure, “...that the reporting obligations in these jurisdictions are as uniform as possible.” They note that consistent regulations across markets could lead to better disclosures and decreased compliance costs.

“Transparency is now the global standard, and if the US is to maintain its role as a leader in this movement the SEC must not cave to industry pressure,” said Jana Morgan, National Coordinator for Publish What You Pay US. “It is imperative that the SEC issue a strong rule that gives citizens all over the world information critical for holding their governments to account for the use of their natural resource wealth.”

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**Notes to editors:**

(1) The court stipulated that the SEC need only provide a more detailed justification relating to the SEC's decision to require public disclosure of payment information and to allow for no exemptions from the rule. Despite the clear legislative history and Congressional intent that the disclosures should be public and that no exemptions should be granted, the Court decided that the SEC had discretion to accommodate industry allegations regarding host country prohibitions, and therefore requested further rationalization from the SEC for its decision not to provide exemptions of this kind. Notably, in the nearly two year public consultation process initiated by the SEC, the oil and gas industry failed to identify a single law, contract or decree that would prohibit payment disclosures as outlined in the law. Consequently, if the SEC were to allow exemptions, it would significantly weaken the rule and provide non-transparent governments a loophole to circumvent US law.

- The Senate letter to the SEC can be found here - [http://pwypusa.org/Senate\\_SECLetter\\_Re-Issue\\_Rules\\_Aug2013](http://pwypusa.org/Senate_SECLetter_Re-Issue_Rules_Aug2013)
- The investor letter to the SEC can be found here – [http://pwypusa.org/Investor\\_SECLetter\\_Re-Issue\\_1504Rules\\_Aug2013](http://pwypusa.org/Investor_SECLetter_Re-Issue_1504Rules_Aug2013)
- A press release from the investors that sent the letter can be found here - [http://pwypusa.org/Investor\\_PressRelease\\_SECLetter\\_Re-Issue\\_Rules\\_28Aug2013](http://pwypusa.org/Investor_PressRelease_SECLetter_Re-Issue_Rules_28Aug2013)
- Notable signers of the investor letter include APG, the third largest pension fund in the world, UBS, the largest private wealth manager in the world, as well as ING IM International, the global asset management arm of the world's largest banking, financial services and insurance conglomerate.

**Background:**

- The SEC [strongly defended](#) the rules in oral arguments in the DC Circuit Court of Appeals.
- Congress ([Senate](#); [House](#)) and [Oxfam America](#) submitted briefs refuting industry arguments.
- Publish What You Pay [disagreed](#) with the court's ruling.
- A US Department of State [statement of support for Section 1504](#) said that “the rule directly advances our foreign policy interests in increasing transparency and reducing corruption, particularly in the oil, gas and minerals sectors.”
- The European Union [signed into law](#) its own rules in June 2013 to apply to its 27 member states, which specifically call for public reporting and no exemptions. Rules will cover cross-listed companies, including Shell, BP, BHP Billiton, Rio Tinto, Total and others.
- Mega-miner Newmont Mining says Section 1504 rules are [“not onerous” and that they plan to comply](#)

*[Publish What You Pay](#) is a global civil society coalition that believes that the wealth generated by oil, gas and mining industries can be a pathway to poverty reduction, stable economic growth and development in resource-rich countries. Founded in 2002, PWYP comprises over 650 organizations working from nearly 70 countries that advocate for revenue transparency as a necessary ingredient for accountability. In the U.S., PWYP comprises 35 members, including development, faith-based, human rights, environmental, financial reform and anti-corruption organizations representing over 2.5 million constituents spread through every state in the nation.*

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