

**SUPPORTING STATEMENT FOR PROPOSED RULES UNDER THE
SECURITIES EXCHANGE ACT OF 1934 AND DODD-FRANK WALL STREET
REFORM AND CONSUMER PROTECTION ACT**

This supporting statement is part of a submission under the Paperwork Reduction Act of 1995, 44 U.S.C. §3501, et seq.

A. JUSTIFICATION

**1. CIRCUMSTANCES MAKING THE COLLECTION OF
INFORMATION NECESSARY**

In Release No. 34-67717, (the “Adopting Release”)¹ the Commission adopted new Rule 13q-1 under the Securities Exchange Act of 1934 (“Exchange Act”) and amendments to Exchange Act Form SD to implement Section 13(q) of the Exchange Act. Section 13(q) was added by Section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”). Section 13(q) requires the Commission to issue rules requiring resource extraction issuers to include in an annual report information relating to certain payments made by the issuer, a subsidiary of the issuer, or an entity under the control of the issuer, to a foreign government or the federal government for the purpose of the commercial development of oil, natural gas, or minerals. Section 13(q) requires a resource extraction issuer to provide information about the type and total amount of certain payments made for each project related to the commercial development of oil, natural gas, or minerals, and the type and total amount of payments made to each government. In addition, Section 13(q) requires a resource extraction issuer to provide information regarding those payments in an interactive data format.

Exchange Act Section 13(q) provides definitions and descriptions of the terms “resource extraction issuer,” “commercial development of oil, natural gas, or minerals,” “foreign government,” and “payment.”

The final rules contain “collection of information” requirements within the meaning of the Paperwork Reduction Act of 1995. The Commission published a notice requesting comment on the collection of information requirements (the “Proposing Release”).² Although the Commission proposed to amend existing rules and forms, in response to comments received from the public, the Commission decided to include the disclosure requirements in a new disclosure form. The title for the collection of information impacted by the amendments is:

- “Form SD” (OMB Control No. 3235-0675).

¹ Disclosure of Payments by Resource Extraction Issuers, Release No. 34-67717 (Aug. 22, 2012) [77 FR 56365].

² Disclosure of Payments by Resource Extraction Issuers, Release No. 34-63549 (Dec. 15, 2010) [75 FR 80978].

2. PURPOSE AND USE OF THE INFORMATION COLLECTION

The purpose of the proposed new regulation is to implement Section 1504 of the Dodd-Frank Act, which added new Section 13(q) to the Exchange Act. As discussed above, Section 13(q) requires the Commission to issue rules requiring resource extraction issuers to include in an annual report information relating to any payment made by the issuer, a subsidiary of the issuer, or an entity under the control of the issuer, to a foreign government or the federal government for the purpose of the commercial development of oil, natural gas, or minerals. A primary goal of such transparency is to help empower citizens of those resource-rich countries to hold their governments accountable for the wealth generated by those resources. To accomplish this goal, in Section 1504 of the Dodd-Frank Act Congress created a disclosure regime in Exchange Act Section 13(q) that would support the commitment of the U.S. federal government to international transparency promotion efforts relating to the commercial development of oil, natural gas, or minerals.

3. CONSIDERATION GIVEN TO INFORMATION TECHNOLOGY

Form SD is filed electronically with the Commission using the Commission's Electronic Data Gathering and Retrieval (EDGAR) system.

4. DUPLICATION OF INFORMATION

We are not aware of any rules that conflict with or substantially duplicate the proposed rules.

5. REDUCING THE BURDEN ON SMALL ENTITIES

The final regulation applies to all issuers required to file annual reports with the Commission under Section 13(a) or Section 15(d) of the Exchange Act, and are engaged in the commercial development of oil, natural gas, or minerals. The requirements of the final regulation do not vary based on the size of the issuer. The Commission believes that the final rules will impact some small entities that meet the definition of resource extraction issuer under Section 13(q).

6. CONSEQUENCES OF NOT CONDUCTING COLLECTION

Congress elected to use the disclosure requirements in the securities laws to increase the transparency of payments made by oil, natural gas, and mining companies to governments for the purpose of the commercial development of their oil, natural gas, and minerals. A primary goal of such transparency is to help empower citizens of those resource-rich countries to hold their governments accountable for the wealth generated by those resources. To accomplish this goal, in Section 1504 of the Dodd-Frank Act Congress created a disclosure regime in Exchange Act Section 13(q) that would support the commitment of the U.S. federal government to international transparency promotion efforts relating to the commercial development of oil, natural gas, or minerals. The new

rule and amendment to Form SD implement Exchange Act Section 13(q) by setting forth the disclosure requirements for resource extraction issuers. Failure to require the collection of information would frustrate the statutory intent of Exchange Act Section 13(q) and Section 1504 of the Dodd-Frank Act.

7. SPECIAL CIRCUMSTANCES

None

8. CONSULTATIONS WITH PERSONS OUTSIDE THE AGENCY

The Commission issued a release (the “Proposing Release”) soliciting comment on the new “collection of information” requirements and associated paperwork burdens.³ Additionally, to facilitate public input on rulemaking required by the Dodd-Frank Act, members of the public interested in making their views known were invited to submit comment letters in advance of the official comment period for the proposed rules.⁴ These comments were received before the Commission published the Proposing Release. Many commentators provided comments at the pre-proposal stage, as well as after the Proposing Release was published. Also, in response to requests by some commentators that the Commission extend the comment period to allow the public additional time to thoroughly consider the Proposing Release, the Commission extended the original comment period for an additional 30 days.⁵ The Commission and staff also participated in an ongoing dialogue with representatives of various market participants and other government agencies through meetings and informal exchanges.

We received several comment letters that specifically addressed PRA-related costs.⁶ These letters are available to the public on the Commission’s website at <http://www.sec.gov/comments/s7-42-10/s74210.shtml>. The Commission considered all comments received prior to adoption of the final regulation. A copy of the Adopting Release is attached. The Commission adopted the final regulation with modifications in response to the comment letters it received.

9. PAYMENT OR GIFT TO RESPONDENTS

Not applicable.

³ See Release No. 34-63549 (Dec. 15, 2010).

⁴ The Commission provided a series of e-mail links, organized by topic, for these letters on its website at <http://www.sec.gov/spotlight/regreformcomments.shtml>.

⁵ See Release No. 34-63795 (Jan. 28, 2011).

⁶ See comment letters from Rio Tinto (March 2, 2011), Barrick Gold Corporation (Feb. 28, 2011), National Mining Association (March 2, 2011), Exxon Mobil Corporation (Jan. 31, 2011), Exxon Mobil Corporation (Oct. 25, 2011), Royal Dutch Shell plc (Jan. 28, 2011), Royal Dutch Shell plc (Aug. 1, 2011), American Petroleum Institute (Jan. 28, 2011), American Petroleum Institute (Aug. 11, 2011), EarthRights International (Sept. 20, 2011).

10. **CONFIDENTIALITY**

Not applicable.

11. **SENSITIVE QUESTIONS**

Not applicable.

12/13. **ESTIMATES OF HOUR AND COST BURDENS**

We are amending Form SD to contain disclosures required by Rule 13q-1, which will require resource extraction issuers to disclose information about payments made by the issuer, a subsidiary of the issuer, or an entity under the control of the issuer to foreign governments or the U.S. Federal Government for the purpose of the commercial development of oil, natural gas, or minerals. Form SD will be filed on EDGAR with the Commission.

The new rule and amendment to Form SD implement Section 13(q) of the Exchange Act, which was added by Section 1504 of the Act. Section 13(q) requires the Commission to “issue final rules that require each resource extraction issuer to include in an annual report of the resource extraction issuer information relating to certain payments made by the resource extraction issuer, a subsidiary of the resource extraction issuer, or an entity under the control of the resource extraction issuer to a foreign government or the Federal Government for the purpose of the commercial development of oil, natural gas, or minerals.” Section 13(q) also mandates the submission of the payment information in an interactive data format, and provides the Commission with the discretion to determine the applicable interactive data standard. The final rules require the information to be presented in an exhibit to Form SD formatted in XBRL.

As described above, Rule 13q-1 requires resource extraction issuers to file the payment information required in Form SD. The collection of information requirements are reflected in the burden hours estimated for Form SD. Therefore, Rule 13q-1 does not impose any separate burden.

We derived our burden estimates by estimating the average number of hours it would take an issuer to prepare and file the required disclosure. In deriving our estimates, we recognize that the burdens will likely vary among individual issuers based on a number of factors, including the size and complexity of their operations. We believe that some issuers will experience costs in excess of this average in the first year of compliance with the rules, and some issuers may experience less than these average costs. When determining these estimates, we assumed that 75% of the burden of preparation is carried by the issuer internally and 25% of the burden of preparation is carried by outside professionals retained by the issuer at an average cost of \$400 per hour. The portion of the burden carried by outside professionals is reflected as a cost, while the portion of the burden carried by the issuer internally is reflected in hours. As

discussed in the Adopting Release, we received estimates from some commentators expressed in burden hours and estimates from other commentators expressed in dollar costs. For purposes of this analysis and consistent with our approach with respect to the estimates provided in burden hours, we assume 25% of the dollar costs provided by commentators relate to costs for outside professionals. We expect that the rules' effect will be greatest during the first year of their effectiveness and diminish in subsequent years. To account for this expected diminishing burden, we believe a three-year average of the expected burden during the first three years is a reasonable estimate.

For purposes of the PRA, we estimated that 1,101 issuers will be subject to Rule 13q-1. Based on the comments we received, we estimated the total annual compliance burden for all affected issuers to comply with the collection of information in our final rules to be approximately 332,123 hours of company personnel time and approximately \$144,967,250 for the services of outside professionals, as discussed in detail below.

Some commentators estimated implementation costs of tens of millions of dollars for large filers, and millions of dollars for smaller filers. These commentators did not describe how they defined "small" and "large" filers. One large company provided a comment letter estimating \$50 million in implementation costs. We believe that the estimate it provided may be representative of the costs to companies of similar large size, though it is likely not a representative estimate of the burden for resource extraction issuers that are smaller than this commentator. While we received estimates for smaller filers and an estimate for one of the largest filers, we did not receive data on companies of varying sizes in between the two extremes.

As explained in the economic analysis in the Adopting Release, to account for the range of issuers who will be subject to the final rules, for purposes of this analysis, we have used the cost estimates provided by these issuers to calculate different cost estimates for issuers of different sizes based on either assets or market capitalization. We have estimated costs for small issuers (issuers with less than \$75 million in market capitalization) and larger issuers (issuers with \$75 million or more in market capitalization). We believe that initial implementation costs will be lowest for the smallest issuers and incrementally greater for larger issuers. Based on a review of market capitalization data of Exchange Act registrants filing under certain Standard Industry Classification codes, we estimate that there are approximately 699 small issuers and 402 large issuers.

As described more fully in the Adopting Release, we used one company's estimate of 1,000 hours for compliance (500 hours for initial changes to internal books and records and 500 hours for initial compliance) as the starting point of the analysis. This company is a large accelerated filer and we used their estimate as the basis for our 1,000 hours burden estimate for large issuers. In order to determine the number of hours for a small issuer, we scaled the company's estimate of the number of hours by the relative size of a small issuer. As explained in greater detail in the release, the ratio of all small issuer total assets, \$353 billion ($\$509,000,000 \times 63\% \times 1,101$), to all large issuer total assets, \$1,835 billion ($\$4,504,000,000 \times 37\% \times 1,101$), is 19%. In order to be

conservative, rather than using 19%, we estimated that the number of burden hours for small issuers will be 25% of the burden hours of large issuers, resulting in 250 hours.

We received comments and estimates on the PRA analysis both in hours necessary to comply with the rules and dollar costs of compliance, as discussed above. We assumed that the commentators' estimates represent total implementation costs, including both internal costs and outside professional costs. For purposes of this PRA analysis, we assume, as we have throughout the analysis, that 25% of this burden of preparation represents the cost of outside professionals.

We believe that the burden associated with this collection of information will be greatest during the implementation period to account for initial set up costs, but that ongoing compliance costs will be less than during the initial implementation period once companies have made any necessary modifications to their systems to capture and report the information required by the rules. Two commentators provided estimates of ongoing compliance costs, with one commentator providing an estimate of 5,000 – 10,000 burden hours for ongoing compliance, while another estimated 500 burden hours for ongoing compliance. We believe that, because of the size of the commentator which estimated 5,000 – 10,000 hours, the estimate it provided may be representative of the burden for resource extraction issuers of a similar size, but may not be a representative estimate for resource extraction issuers that are smaller than this commentator. We believe that the commentator that estimated 500 burden hours is more similar to the average large issuer and as such, we believe that its estimate is a conservative estimate of the ongoing compliance burden hours because a comparison of the average total assets of a large issuer to this commentator's total assets is 18% ($\$4,504,000,000/\$25,075,000,000$).

As discussed above, commentators' estimates on the burdens associated with initial implementation and ongoing compliance varied widely, with commentators noting that the estimates varied based on the size of issuer. We note that some estimates may reflect the burden to a particular commentator, and, as such, may not be a representative estimate of the burden for resource extraction issuers that are smaller or larger than the particular commentator. Accordingly, our estimate uses an average of the figures provided to produce a reasonable estimate of the potential burden associated with the rules, recognizing they would apply to resource extraction issuers of different sizes. We are using 500 burden hours (based on one commentator's estimate) for our estimate of ongoing compliance costs for large issuers and 125 ($25\% \times 500$) for small issuers. Thus, we estimate that the incremental collection of information burden associated with the final rules and form amendment will be 667 burden hours per large respondent $[(1000 + 500 + 500)/ 3 \text{ years}]$ and 250 per small respondent $[(500 + 125 + 125)/ 3 \text{ years}]$. We estimate the final rules and form amendment will result in an internal burden to small resource extraction issuers of 131,063 hours ($699 \text{ forms} \times 250 \text{ hours/form} \times .75$) and to large resource extraction issuers of 201,101 hours ($402 \text{ forms} \times 667 \text{ hours/form} \times .75$) for a total incremental company burden of 332,164 hours. Outside professional costs will be \$17,475,000 ($699 \text{ forms} \times 250 \text{ hours/form} \times .25 \times \400) for small resource extraction issuers and \$26,813,400 ($402 \text{ forms} \times 667 \text{ hours/form} \times .25 \times \400). As discussed above, one commentator indicated that its initial compliance costs also would include \$100,000

for IT consulting, training, and travel costs. To account for these costs, we have used this commentator’s estimate and applied the same 25% factor to derive estimated IT costs of \$100,000 for large issuers and \$25,000 for small issuers. Thus, we estimate total IT compliance costs for small issuers to be \$17,475,000 (699 issuers x \$25,000) and for large issuers to be \$40,200,000 (402 issuers x \$100,000). We have added the estimated IT compliance costs to the cost estimates for other professional costs discussed above to derive total professional costs of \$34,950,000 for small issuers and \$67,013,400 for large issuers. The estimated overall professional cost for PRA purposes is \$101,963,400.

As a result of the new rule and amendment to Form SD arising under Section 13(q), we estimate the form, which already includes burden estimates for complying with Section 13(p), will be filed by a total of 7,095 respondents. Also, as a result of the new rule and amendment to Form SD, the estimated burden for Form SD will be 2,557,436 hours. These changes will result in a decrease in the hours per response because the respondents filing Form SD in compliance with Rule 13q-1 are expected to have a lower average annual response burden than the respondents that file Form SD pursuant to the rules promulgated under Section 13(p) of the Exchange Act.

a. Summary of final changes to annual burden compliance in Collection of Information

Form	Current Annual Responses	Proposed Annual Responses	Current Burden Hours	Increase in Burden Hours	Proposed Burden Hours	Current Professional Costs	Increase in Professional Costs	Proposed Professional Costs
Form SD	5,994	1,101	2,225,273	332,164	2,557,437	\$1,178,378,167	\$101,963,400	\$1,280,341,567

14. COSTS TO FEDERAL GOVERNMENT

The Commission estimates that the cost of preparing the final regulation and amendment to the form will be approximately \$150,000.

15. REASON FOR CHANGE IN BURDEN

As explained in further detail in Items 12 and 13 above, the rules in Release No. 34-67717 implement the requirements of Section 13(q) of the Exchange Act as added by Section 1504 of the Dodd-Frank Act.

The changes in burden to Form SD relate to new disclosure requirements for resource extraction issuers. These disclosure requirements implement Section 13(q) by requiring resource extraction issuers to include in an annual report information about certain payments made to foreign governments and the U.S. federal government. The change in burden to Form SD corresponds to this new disclosure requirement.

16. **INFORMATION COLLECTION PLANNED FOR STATISTICAL PURPOSES**

Not applicable.

17. **APPROVAL TO OMIT OMB EXPIRATION DATE**

We request authorization to omit the expiration date on the electronic version of this form for design and scheduling reasons. The OMB control number will be displayed.

18. **EXCEPTIONS TO CERTIFICATION FOR PAPERWORK REDUCTION ACT SUBMISSIONS**

Not applicable.

B. STATISTICAL METHODS

Not applicable.