

**SUPPORTING STATEMENT FOR THE PAPERWORK REDUCTION ACT
INFORMATION COLLECTION SUBMISSION 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 Securities Exchange Act Release No. 34-87783 (the “Proposing Release”), the Commission proposed amendments to Form SD to implement Section 13(q) of the Securities Exchange Act of 1934 (the “Exchange Act”).¹ 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.

The amendments contain “collection of information” requirements within the meaning of the Paperwork Reduction Act of 1995. The title of the collection of information is:

- “Form SD” (OMB Control No. 3235-0697).

2. PURPOSE AND USE OF THE INFORMATION COLLECTION

Form SD is currently used by certain companies to disclose their use of conflict minerals if those minerals are “necessary to the functionality or production of a product” manufactured by those companies. This conflict minerals disclosure is required by Rule 13p-1 of the Exchange Act which implemented Section 1502 of the Dodd-Frank Act. The amendments do not affect the Form SD disclosure requirements that relate to conflict minerals.

The Proposing Release would amend Form SD to also accommodate disclosures required by proposed Rule 13q-1. The purpose of the proposed rule 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

¹ *Disclosure of Payments by Resource Extraction Issuers*, Release No. 34-87783 (Dec. 18, 2019) [85 FR 2522 (Jan. 15, 2020)].

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, 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

The Commission makes every effort to coordinate with other regulatory entities when necessary or appropriate in the public's interest and for the protection of investors and to streamline regulations to enhance the production of capital. We are not aware of any U.S. forms or rules that conflict with or substantially duplicate the requirements of Form SD. Although some foreign jurisdictions have adopted rules that require similar disclosure by resource extraction issuers, the proposed rule amendments would permit an issuer to submit such disclosure in satisfaction of the Commission's rules as long as the Commission has determined that the foreign jurisdiction's requirements are substantially similar to the amendment's requirements. Consequently, we believe that the proposed amendments would result in little duplication of information.

5. REDUCING THE BURDEN ON SMALL ENTITIES

Form SD applies to issuers that are required to file annual reports with the Commission under Section 13(a) or Section 15(d) of the Exchange Act, and that are engaged in the commercial development of oil, natural gas, or minerals. However, the proposed rules would exempt smaller reporting companies and emerging growth companies from the Section 13(q) requirements. Most small entities would fall within the scope of this exemption and, therefore, would not be subject to the proposed rules. Accordingly, the Commission believes that the proposed rules, if adopted, would not have a significant economic impact on a substantial number of small entities.

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, 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 proposed new rule and amendment to Form SD would 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 Section 1504 of the Dodd-Frank Act and Exchange Act Section 13(q).

7. SPECIAL CIRCUMSTANCES

There are no special circumstances.

8. CONSULTATIONS WITH PERSONS OUTSIDE THE AGENCY

The Commission issued Securities Exchange Act Release No. 34-87783 to solicit comment on the new “collection of information” requirements and associated paperwork burdens.² Issuers, investors, industry groups, civil society organizations, and other market participants may provide comments in response to the solicitation for comment in the Proposing Release. In addition, the Commission and staff may participate in ongoing dialogue with representatives of various interested parties through meetings, public conferences, and roundtables. Comments received on the proposal are available at: <https://www.sec.gov/comments/s7-24-19/s72419.htm>.

9. PAYMENT OR GIFT TO RESPONDENTS

No payment or gift to respondents.

10. CONFIDENTIALITY

The collection of information is a public document.

11. SENSITIVE QUESTIONS

The information collection collects Personally Identifiable Information (PII) of certain individuals. In accordance with Section 208 of the E-Government Act of 2002, the agency has conducted a Privacy Impact Assessment (PIA) of the EDGAR system, in connection with this collection of information. The EDGAR PIA, published on February 5, 2020, is provided as a supplemental document and is also available at <https://www.sec.gov/privacy>. The agency has determined that the information collection does not constitute a system of record for purposes of the Privacy Act. Information is not retrieved by a personal identifier.

12/13. BURDEN OF INFORMATION COLLECTION AND COSTS TO RESPONDENTS

The estimated burden hours and cost burden are made solely for the purposes of the Paperwork Reduction Act and represent the average burden for all issuers. The cost burden is

² See, e.g., Section IV of Release No. 34-87783.

not derived from a comprehensive or even a representative survey of the costs of Commission rules and forms.

The current paperwork burden estimates for Form SD include burden estimates associated with complying with the conflict mineral disclosure requirements that are not affected by the proposed amendments. We currently estimate for Form SD that there are 1,481 responses per year, and that 75% of the burden per response is prepared internally by the issuer and 25% of the burden per response is prepared by outside professionals retained by the issuer at a cost of \$400 per hour. We currently estimate that the preparation and filing of Form SD requires a total of 528,846 internal hours and outside professional costs of \$113,012,752 on average per year.

We believe that the proposed amendments relating to Form SD would increase the current estimated paperwork burden of the form by adding the estimated burden associated with complying with Section 13(q). For purposes of the Paperwork Reduction Act, we estimate that the burden to prepare and file Form SD for purposes of the rules would be 500 burden hours per respondent for the 236 issuers that we estimate would bear the full costs of compliance with the rules, for an aggregate of 88,500 hours,³ and approximately 25 burden hours per respondent for the 109 issuers that we estimate would bear some, but not the full, costs of compliance due to their compliance with similar rules in foreign jurisdictions, for an aggregate of 2,044 hours.⁴ Thus, for purposes of the Paperwork Reduction Act, we estimate that the proposed rules would result in an incremental increased internal burden of 90,544 hours.⁵ We also estimate that the overall number of Form SD filings would increase from the current estimate of 1,481 per year to 1,826 per year.⁶

We estimate that an issuer bearing the full costs of the proposed rules would incur outside professional costs of \$11,800,000.⁷ We also estimate that those issuers would incur additional initial compliance costs for IT consulting, training and travel of \$75,000 per respondent, for an aggregate of \$17,700,000.⁸ Thus, issuers bearing the full costs of compliance would incur incremental outside costs of \$29,500,000.⁹ We estimate that issuers subject to similar rules in foreign jurisdictions would incur outside professional costs of \$272,500.¹⁰ We do not believe that those issuers would incur additional initial compliance costs because those issuers should already have IT systems in place to comply with the foreign regimes. Accordingly, we estimate

³ $236 \times 500 \text{ hrs.} = 118,000 \text{ hrs.}$ $118,000 \text{ hrs.} \times 0.75 = 88,500 \text{ hrs.}$

⁴ $109 \times 25 \text{ hrs.} = 2,725 \text{ hrs.}$ $2,725 \text{ hrs.} \times 0.75 = 2,044 \text{ hrs.}$

⁵ $88,500 \text{ hrs.} + 2,044 \text{ hrs.} = 90,544 \text{ hrs.}$

⁶ $1,481 + 236 + 109 = 1,826.$

⁷ $118,000 \text{ hrs.} \times 0.25 = 29,500 \text{ hrs.}$ $29,500 \text{ hrs.} \times \$400/\text{hr.} = \$11,800,000.$

⁸ $236 \times \$75,000 = \$17,700,000.$

⁹ $\$11,800,000 + \$17,700,000 = \$29,500,000.$

¹⁰ $2,725 \text{ hrs.} \times 0.25 = 681.25 \text{ hrs.}$ $681.25 \text{ hrs.} \times \$400/\text{hr.} = \$272,500.$

that affected issuers would incur an aggregate of \$29,772,500 in outside professional costs as a result of the proposed rules.¹¹

The table below illustrates the incremental change to the annual compliance burden of the affected form, in hours and in costs, together with the total requested reporting burden and costs, under the proposed amendments.

Table 1. Requested Paperwork Burden under the Proposed Amendments

Form	Current Burden			Program Change			Requested Change in Burden		
	Current Annual Responses	Current Burden Hours	Current Cost Burden	Number of Affected Responses	Number of Company Hours (Internal)	Professional (External) Costs	Annual Responses	Burden Hours	Cost Burden
	(A)	(B)	(C)	(D)	(E)	(F)	(G) = (A) + (D)	(H) = (B) + (E)	(I) = (C) + (F)
SD	1,481	528,846	\$113,012,752	+345	+90,544	+\$29,772,500	1,826	619,390	\$142,785,252

14. COSTS TO FEDERAL GOVERNMENT

The annual cost of reviewing and processing disclosure documents, including registration statements, post-effective amendments, proxy statements, annual reports and other filings of operating companies amounted to approximately \$103,479,690 in fiscal year 2019, based on the Commission's computation of the value of staff time devoted to this activity and related overhead.

15. REASON FOR CHANGE IN BURDEN

As explained in further detail in Items 12 and 13 above, the increase in burden for Form SD corresponds 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. As discussed above, the estimated 345 additional issuers required to file on Form SD annually would increase the current internal paperwork burden under Form SD from 528,846 hours to 619,390 hours, an increase of 90,544 hours. There would be a corresponding increase of \$29,772,500 in outside cost burden, resulting in total professional costs of \$142,785,252.

16. INFORMATION COLLECTION PLANNED FOR STATISTICAL PURPOSES

The information collection does not planned for statistical methods.

¹¹ \$29,500,000 + \$272,500 = \$29,772,500.

17. APPROVAL TO OMIT EXPIRATION DATE

We request authorization to omit the expiration date on the electronic version of Form SD for design and scheduling reasons. Including the expiration date on the electronic version of the form will result in increased costs, because the need to make changes to the form may not follow the EDGAR application's scheduled version release dates. The OMB control number will be displayed.

18. EXCEPTIONS TO CERTIFICATION FOR PAPERWORK REDUCTION ACT SUBMISSIONS

There are no exceptions to certification for Paperwork Reduction Act submissions.

B. STATISTICAL METHODS

The information collection does not employ statistical methods.

Form SD Short Statement

Form SD is the specialized disclosure form that is currently used to file Conflict Minerals Reports pursuant to Rule 13p-1 of the Exchange Act. The Proposing Release would amend Form SD to also accommodate the disclosures required by resource extraction issuers under Section 13(q) of the Exchange Act pursuant to proposed Rule 13q-1. For purposes of the Paperwork Reduction Act, we estimate that the proposed amendments would result in an increase in internal burden hours of 90,544 hours and an increase in outside professional costs of \$29,772,500 for this collection of information.