

For Immediate Release: February 3, 2017

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Senate Republicans Urge SEC to Align U.S. Transparency Efforts With Existing Global Standard

Transparency Coalition Responds

On February 2, Senators Corker, Collins, Rubio, Isakson, Graham and Young [sent a letter to the Securities and Exchange Commission](#) (SEC) alerting the agency of their decision to vote to disapprove the SEC's anti-corruption rule to implement Section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The letter emphasized their commitment to combatting corruption and ensuring that a new SEC rule to implement Section 1504 aligns with an existing global standard adopted by 30 countries around the world.

While we welcome these Senators' commitment to increased transparency in the oil, gas and mining sectors, and look forward to working with them and others to achieve it, we are disappointed by the oil industry's reliance on long-debunked myths to mislead Congress into voiding this important rule. The reality is that the now-void rule did precisely what these Senators urge in their letter, and the inappropriate use of the Congressional Review Act in this instance only served to undermine the anti-corruption outcomes they - and we - desire.

The oil industry - led by the American Petroleum Institute - advanced two false arguments to deceive Congress, both of which have been invalidated by 31 governments, including in the U.S. during two SEC rulemakings on Section 1504. First, the oil industry alleged that the 1504 rule placed U.S. companies at a "competitive disadvantage" vis-a-vis other companies. That claim is easily discredited by the fact that the vast majority of direct competitors of U.S. oil, gas and mining companies are covered by U.S. or similar transparency rules in other countries. This includes the major state-owned oil companies from Russia, China, and Brazil. The reality is that the abrogation of the U.S. rule will enable the payments of three large U.S.-listed Chinese state-owned oil companies to remain hidden.

Secondly, the oil industry falsely claimed that host country laws exist that would prevent disclosure, thus forcing U.S. firms to stop doing business there. That argument too has been repeatedly debunked in robust regulatory rulemakings in the U.S., EU, and Canada, and the oil industry has yet to provide credible evidence to support its assertion.

The irony is that the act of invalidating the SEC's rule actually **does** place U.S. companies at a competitive disadvantage. A robust body of research concludes that corruption has negative financial impacts on companies. Corruption acts like a massive tax on the private sector and impedes broad-based economic growth. Estimates show that the cost of corruption equals more than 5 percent of global GDP (\$2.6 trillion), with over \$1 trillion paid in bribes each year. The cost of private sector corruption in developing countries alone is estimated to be more than \$500 billion per year. Furthermore, well-established evidence finds that increased transparency

lowers the cost of capital for firms, with positive impacts on both companies and their investors. Given these realities, U.S. companies and the investment community have been done a disservice by Congress's action this week to void the SEC's rule.

These facts were well-established, with considerable supporting evidence, in two lengthy SEC rulemaking processes to finalize a rule for Section 1504. Sadly, the inappropriate use of the Congressional Review Act failed to allow sufficient time or perspective for Congressional offices to understand and appreciate this evidence or the decade of Congressional legislative history of Section 1504. The Section 1504 rule was very clearly not a "midnight rule", which is the type of rule the Congressional Review Act is purportedly designed to undo. A self-interested oil lobby cynically took advantage of Congressional momentum and inexperience on this issue to misguide Congress into undermining U.S. leadership in the fight against global corruption in the oil, gas and mining sectors.

This inappropriate and rushed Congressional process stands in stark contrast to years of high-quality work by the SEC. It will result in a substantial waste of taxpayer dollars from unnecessarily mandating a new regulatory process to revisit points that have already been thoroughly vetted. Furthermore, in using the Congressional Review Act to unravel the rule, Congress failed to take into consideration the voices from the investor community, including investors with \$10 trillion assets under management who publicly supported the SEC's rule, or the many oil, gas and mining companies that supported the rule, including some of the world's largest mining companies (e.g. BHP Billiton, Newmont Mining), and oil companies (e.g. Total, ENI, StatOil, Kosmos Energy).

This week, Congress was misled by a small number of oil companies that placed their own short-sighted concerns ahead of long-term interests, the interests of their investors, U.S. national and energy security, and those impacted by corruption in some of the world's poorest countries.