



**Alliance Policy Update:
US Oil, Mining Payment Law (SEC Section 1504)**
9 January 2020

Issue: On December 18, 2019, the Securities and Exchange Commission approved new draft rules to implement Section 1504 of the Dodd-Frank Act. *Section 1504 mandates that individual oil and mining companies registered with the SEC publicly report the payments they make to the governments where they operate in a manner consistent with the Extractive Industries Transparency Initiative (EITI).* The draft rules replace those that the SEC finalized in June 2016, but were voided in February 2017 through the Congressional Review Act. The Section 1504 law remains in place but awaits these implementing rules to take effect.

View: The draft rules issued on December 18 fall short of international norms and would place the U.S. outside of oil and mining payment data disclosure standards through EITI and EU and Canadian laws, as well as creating data that is of limited use to investors. These rules, in the words of SEC Commissioner Allison Lee, *"deviate widely from existing international disclosure regimes and severely limit the utility of the required disclosure."*

Opportunity for Action: The SEC is about to open a 60-day comment period and is seeking input on how the draft rules may be changed to best serve investors and advance the objectives of the law. Investors have supported strong rules for Section 1504 unanimously and this will be the last chance to influence the implementation of this important advance in transparency.

Investors can take action by calling the SEC, signing a letter to the SEC, or participating in a meeting with the SEC in Washington, DC. The Alliance is organizing the following initiatives to facilitate investor input during the comment period:

Investor Education:

- (1) *Seminars to Educate Investors:* Planned for week of February 3rd in New York and the week of Feb 10-12th in Boston.
- (2) *Follow-up conference call:* this will take place after the seminars, most likely in mid-February.

Actions Items:

- (3) *Trip to DC to meet with the SEC:* 10:30am Thursday, January 23rd. Let us know ASAP if you are interested in joining.
- (4) *Phone Calls to SEC:* We can provide briefing materials on request.
- (5) *Letter to SEC for Investor Signature:* Reach out to sign on to this.

Please contact us if you are interested in undertaking any of the above.

Background. Since Dodd-Frank Section 1504 was passed in July 2010, several countries have passed complementary laws. Unlike Section 1504, those laws are in effect and *more than \$800 billion in payments made to 152 countries have been disclosed publicly to investors by more than 850 public, private and state-owned companies. These disclosures are happening without revealing commercially sensitive data or causing undue burdens, competitive harm or conflicts with existing laws.*



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Research summarized in a December 10 Columbia Center for Sustainable Investment (CCSI) submission to the SEC used payment data generated under a Canadian law modeled after Section 1504 in routine securities analysis. The researchers found that the data is very useful in accounting for changes in fiscal policy in oil and mining securities valuation, adjusting cash flows for tax deferments, and in sovereign credit analysis in resource-dependent countries. Slow and flawed implementation of the U.S. version of these transparency laws is denying investors in U.S. markets useful data available through EU and Canadian laws and Wood Mackenzie's Fiscal Service, for example.

Since the beginning of the first Section 1504 rulemaking comment period in late 2010, investors with more than \$10 trillion in assets under management have shown unanimous support for implementation that creates public, project-level data to optimize its usefulness in securities analysis. The new rules undermine those objectives.

The review period provides the opportunity to urge the SEC to reclaim U.S. leadership in oil and mining payment transparency and to provide material data for the analysis of these vital industries.

Please contact Andrew Howell (andrew.howell@eminvestorsalliance.org), Alexander Schay (aschay@eminvestorsalliance.org) or Paul Bugala (pbugala@gmail.com) to get involved.