



SEC Proposes Rules for Resource Extraction Issuers Under Dodd-Frank Act

Dec 17, 2015

Reading Time : **3 min**

Issuers Subject to the Proposed Rules

The proposed rules would apply to a domestic or foreign issuer that made payments to the U.S. federal government or a foreign government if:

- the issuer is required to file an annual report with the SEC under the Securities Exchange Act of 1934 (“Exchange Act”)
- the issuer engages in the commercial development of oil, natural gas or minerals.

In addition, a resource extraction issuer would be required to disclose payments made by a subsidiary or another entity controlled by the issuer. For purposes of the rule, control would be determined by reference to financial consolidation principles that the issuer applies to the audited financial statements in its Exchange Act annual reports.

Payments Triggering Disclosure

The proposed rules provide that a resource extraction issuer would be required to disclose payments that are:

- made to further the “commercial development of oil, natural gas, or minerals,” defined in the proposed rules to include exploration, extraction, processing and export, or the acquisition of a license for any such activity
- “not *de minimis*,” defined in the proposed rules as any payment, whether a single payment or a series of related payments, which equals or exceeds \$100,000 during the same fiscal year
- within the specified types of “payments,” e.g., taxes, royalties, fees (including license fees), production entitlements, bonuses, dividends and payments for infrastructure

improvements.

Disclosure Requirements

The proposed rules would require a resource extraction issuer to provide the following information about payments made to further the commercial development of oil, natural gas or minerals:

- type and total amount of such payments made for each project of the resource extraction issuer relating to the commercial development of oil, natural gas or minerals
- type and total amount of such payments for all projects made to each government
- total amounts of the payments by category
- currency used to make the payments
- financial period in which the payments were made
- business segment of the resource extraction issuer that made the payments
- the government that received the payments, and the country in which the government is located
- the project of the resource extraction issuer to which the payments relate
- the particular resource that is the subject of commercial development
- the subnational geographic location of the “project,” defined in the proposed rules as an approach that is focused on the legal agreement that forms the basis for payment liabilities with a government and which could include operational activities governed by multiple legal agreements.

The proposed rules also clarify the types of taxes, fees, bonuses and dividends that are required to be disclosed and how they should be disclosed. This list of payment types would be consistent with the requirements of the European Union, Canada and the Extractive Industries Transparency Initiative.

The proposed rules note that the SEC could provide exemptive relief from the requirements of the proposed rules on a case-by-case basis using its existing authority under the Exchange Act. Also, in light of international developments, as well as the progress made by the U.S. Extractive Industries Transparency Initiative (USEITI), the proposed rules would allow issuers to use a report prepared for foreign regulatory purposes or for the USEITI to comply with the proposed rules if the SEC determines the requirements are substantially similar to the proposed rules.

Filing Requirements

The proposed rules would require a subject issuer to publicly disclose the above-described information annually using Form SD, which would be filed with the SEC no later than 150 days after the end of its fiscal year. Form SD is already used for specialized disclosure not included within a subject issuer's periodic or current reports, such as the conflict minerals disclosure required by Section 1502 of the Dodd-Frank Act. The information would be included in an exhibit and electronically tagged using the eXtensible Business Reporting Language (XBRL) format.

Timing for Implementation

The SEC is providing two comment periods for this proposal. Initial public comments are due by January 25, 2016. Reply comments, which may respond only to issues raised in the initial comment period, are due on February 16, 2016.

Additional Information

A copy of the proposing release for Rule 13q-1 is available [here](#), a copy of the press release issued by the SEC regarding the proposed rules is available [here](#) and a copy of Chair Mary Jo White's statement about the rules is available [here](#).

For more on this topic, please click [here](#).

Categories

Capital Markets

Compliance

© 2025 Akin Gump Strauss Hauer & Feld LLP. All rights reserved. Attorney advertising. This document is distributed for informational use only; it does not constitute legal advice and should not be used as such. Prior results do not guarantee a similar outcome. Akin is the practicing name of Akin Gump LLP, a New York limited liability partnership authorized and regulated by the Solicitors Regulation Authority under

number 267321. A list of the partners is available for inspection at Eighth Floor, Ten Bishops Square, London E1 6EG. For more information about Akin Gump LLP, Akin Gump Strauss Hauer & Feld LLP and other associated entities under which the Akin Gump network operates worldwide, please see our Legal Notices page.