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August 10, 2016

The Honorable Richard Shelby
Chairman
The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Jeb Hensarling
Chairman
The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
House of Representatives

Subject: *Securities and Exchange Commission: Disclosure of Payments by Resource Extraction Issuers*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Securities and Exchange Commission (Commission) entitled “Disclosure of Payments by Resource Extraction Issuers” (RIN: 3235-AL53). We received the rule on June 29, 2016. It was published in the *Federal Register* as a final rule on July 27, 2016. 81 Fed. Reg. 49,360.

The final rule implements section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act relating to the disclosure of payments by resource extraction issuers.¹ This rule requires resource extraction issuers to report annually 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. The rule requires a resource extraction issuer to provide information about the type and total amount of such 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, it requires a resource extraction issuer to provide information about those payments in an interactive data format.

Enclosed is our assessment of the Commission’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the procedural steps taken indicates that the Commission complied with the applicable requirements.

¹ 15 U.S.C. § 78m(q).

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Brent J. Fields
Secretary, Securities and
Exchange Commission

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
SECURITIES AND EXCHANGE COMMISSION
ENTITLED
“DISCLOSURE OF PAYMENTS BY
RESOURCE EXTRACTION ISSUERS”
(RIN: 3235-AL53)

(i) Cost-benefit analysis

The Securities and Exchange Commission (Commission) included an economic analysis in the final rule which discussed benefits and costs of this final rule. The Commission stated that the rule is intended to help advance the important U.S. foreign policy objectives of combatting global corruption and help promote accountability, thereby potentially improving governance in resource-rich countries around the world. The Commission also stated that investors and other market participants, as well as civil society in countries that are resource-rich, may benefit from any increased economic and political stability and improved investment climate that such transparency promotes.

The Commission recognized that the final rule could impose a burden on competition, but it believes that any such burden that might result would be necessary and appropriate. As part of its analysis, the Commission stated that it quantified the potential economic effects of the final rule wherever possible. Given both the nature of intended benefits and the lack of data regarding the benefits and the costs, the Commission was unable to provide a quantified estimate in some cases. The Commission estimated lower and upper bounds of initial compliance costs assuming no fixed costs and fixed costs of \$500,000. The respective lower bounds were \$128,787 for an average issuer (\$54,734,640 in total) and \$561,932 for an average issuer (\$238,820,900 in total). The respective upper bounds were \$1,352,268 for an average issuer (\$74,713,700 in total) and \$1,547,437 for an average issuer (\$700,160,800 in total). The Commission also estimated lower, average, and upper bounds for annual ongoing compliance costs under the assumption of no fixed costs and under the assumption of \$200,000 in fixed costs. The respective lower bounds were \$51,515 for an average issuer (\$21,893,860 in total) and \$224,773 for an average issuer (\$95,528,370 in total). The respective averages were \$508,710 for an average issuer (\$216,201,800 in total) and \$628,380 for an average issuer (\$267,061,300 in total). The respective upper bounds were \$1,287,874 for an average issuer (\$547,346,400 in total) and \$1,389,882 for an average issuer (\$590,699,900 in total).

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

The Commission prepared a Final Regulatory Flexibility Analysis for this final rule. This analysis included statements on (1) the need for the rule; (2) significant issues raised by public comments; (3) small entities subject to the rule; (4) reporting, recordkeeping, and other compliance requirements; and (4) agency action to minimize effects on small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, the Commission is not subject to title II of the Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

On December 11, 2015, the Commission published a proposed rule. 80 Fed. Reg. 80,057. The Commission received 369 letters (including one form letter submitted 308 times and a petition with 116,923 signatures). The Commission responded to comments in the final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

The Commission determined that this final rule contains information collection requirements under the Act. The title for the collection of information is "Form SD" and it has Office of Management and Budget (OMB) Control Number 3235-0697. The Commission estimates the IT compliance costs to be \$28,987,820 and the other professional costs to be \$42,500,000, which total to \$71,487,820 in professional costs for all issuers.

Statutory authorization for the rule

The Commission promulgated this final rule under the authority of sections 3(b), 12, 13, 15, 23(a), and 36 of the Securities Exchange Act of 1934. 15 U.S.C. §§ 78c(b), 78l, 78m, 78o, 78w, 78mm.

Executive Order No. 12,866 (Regulatory Planning and Review)

As an independent regulatory agency, the Commission is not subject to the review requirements of the Order.

Executive Order No. 13,132 (Federalism)

As an independent regulatory agency, the Commission is not subject to the review requirements of the Order.