October 12, 2010

Via e-mail

Division of Corporation Finance
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-7010

Re: Dodd-Frank Act – Section 1504: Disclosure of Payments by Resource Extraction Issuers

The American Petroleum Institute (API) is pleased to provide comments to the Securities and Exchange Commission on Section 1504 of the Wall Street Reform and Consumer Protection Act (i.e., the Dodd-Frank Act, or the Act) regarding disclosure of payments by resource extraction issuers, also referred to as payment transparency reporting. The API is a national trade organization representing over 400 companies involved in all aspects of the domestic and international oil and natural gas industry, including exploration, production, refining, marketing, distribution and marine activities.

The reporting of resource extraction payments information is very important to our member companies. The API commends the Commission for seeking public comment regarding regulatory initiatives related to the Dodd-Frank Act.

Executive Summary

As a result of the Dodd-Frank Act, the Commission must develop necessary rules to implement Section 1504 regarding payments by resource extraction issuers. The Commission will need to balance the requirements of Dodd-Frank with existing requirements under the Securities Exchange Act of 1934 to ensure the final rules are consistent with its overall mission to serve and protect investors. The API wants to share with the Commission our perspectives on Section 1504 and provide input that supports the Commission's overall mission. In particular, there are areas where we believe there could be unintended consequences to the detriment of shareholders and to the respective companies across the industry as a result of certain implementation decisions. We want to work closely with the Commission to provide industry expertise where needed to achieve practical solutions that meet the spirit of the Act, resulting in improved transparency while protecting shareholder interests.

The API member companies fully support the transparency objectives of the Extractive Industry Transparency Initiative (EITI) and the associated implementation process that has been underway for several years. Unfortunately, the transparency provisions in Section 1504, while purported to be aligned with EITI, differ in many material respects such as:

- requiring project level disclosure,
- failing to capture payments made by non-registrants, and
- imposing reporting rules without seeking participation by or input from host governments.

The industry's top priority concerns and recommendations regarding the transparency provisions of Section 1504 are recapped briefly as follows:

- Shareholder protection – Disclosure of project-level information, and in some cases country-level information, raises significant commercial, contractual and legal issues that could harm shareholder value while offering no benefits to most investors. It also raises important safety and security concerns. The industry recommends the final rules address these concerns by:

    - Limiting public disclosure of payment information to the country level, consistent with EITI practices.
    - Providing an exemption that allows companies not to disclose payments for countries that prohibit such disclosure.
    - Providing an exemption for situations where disclosure by country in effect provides disclosure of commercially sensitive information for a single project or field.

- Aggregation and materiality – The level of disaggregation stipulated in the Act creates practicality concerns due to the significant volume of data involved, the complexity of the data, and systems and accounting process issues. The industry recommends that the final rules address these concerns by:

    - Providing, to the extent that project level disclosures are required, a broad definition of the term "project" that allows the use of judgment in reporting material information to investors.
    - Relying on existing materiality guidance for the reporting of country, project, payment type and payee details.
    - Permitting registrants to aggregate individually immaterial amounts for any of these items under such headings as "other countries", "other projects", "other payments" or "other payees".
    - Aggregating payment types into three categories: "taxes and royalties", "production entitlements" and "other payments".
    - Permitting registrants to disclose all payment information in their consolidated reporting currency, typically U.S. dollars.
    - Requiring registrants to report all payment information on a "gross" basis rather than a "net" basis, consistent with EITI practice.

- Scope, auditing and presentation – The Act is not clear on the intended scope of reporting, audit requirements and exact timing and manner of disclosures. The industry believes that the Commission's decisions on these matters will have a significant impact on practicality, costs and resources required for implementation. For example, inclusion of payments made by downstream and equity affiliate operations would significantly complicate the implementation, as would an audit requirement. The industry recommends the following:

    - Scope of reporting should be limited to upstream activities consistent with the Commission's current oil and gas supplemental reporting requirements.
    - Scope of reporting should be limited to the registrant's consolidated subsidiaries only.
    - Payment disclosures should be made part of unaudited reporting, given the limited window for existing annual reporting and auditing and since the disclosures are not relevant to financial statements and notes.
    - Payment reporting should not be included in existing annual reporting on Forms 10-K and 20-F, or interim reporting on Form 10-Q, but be provided in a separate report with an annual deadline 150 days following the fiscal year-end.

These concerns and recommended solutions are discussed in more detail in the following sections.

Extractive Industry Transparency Initiative (EITI)

The API member companies fully support the goals of revenue transparency and improved government accountability. The industry has been at the forefront of efforts seeking improved transparency through its participation in EITI. We are concerned that, if not carefully implemented in a way compatible with EITI, Section 1504 of Dodd-Frank could fail in its objective to promote transparency and be harmful to investors.

EITI is a voluntary, multi-lateral, multi-stakeholder initiative begun in 2002 with extractive industries. EITI's main purpose is to establish global standards for companies to report payments made to host governments for extracting resources and for host governments to disclose revenues they receive for those resources. The key objective of EITI is to provide transparency to government leaders and citizens in resource-rich countries regarding the payments made by extractive industries. EITI provides a platform for companies, host governments, investors and civil society organizations to work together to improve transparency, with host governments taking the lead role – a key difference from Dodd-Frank's unilateral reporting requirement. Participants in the EITI process jointly agree on the level of disclosure appropriate for each country. EITI contains mechanisms for independent verification of the industry's reported payments through selection of an independent administrator. A key difference between Section 1504 and EITI is that governments must also provide receipts data to the independent verifier under EITI, which then reconciles the payments and receipts to international standards.

EITI includes participation by a large group of institutional investors listed in Attachment A. The investors group has published the following "Investors' Statement on Transparency in the Extractive Industries":

> *"We therefore encourage the development of mechanisms to promote payments transparency that respect the following principles:*
>
> - *Confidentiality: to ensure that existing contractual agreements and commercially sensitive information are respected;*
> - *Universality: to ensure that improved disclosure standards apply to all parties. This includes joint ventures, state-owned extractive companies and their host governments;*
> - *Comprehensiveness: ensuring that all relevant payments and revenues paid to governments are captured, and*
> - *Comparability: to enable data for different countries to be compared easily."*

The API member companies fully support these principles.

To date, 30 countries have pledged to follow EITI guidelines, three of which have achieved validation, and 27 countries are currently undertaking the EITI's external validation process to ensure that they are implementing the program according to agreed standards.

The mandatory, unilateral approach to revenue transparency in Section 1504 of the Dodd-Frank Act could be counterproductive to work being done through EITI to improve transparency. A unilateral approach to revenue transparency works contrary to the efforts of the U.S. government, the World Bank and other private sector groups who are working through EITI to enhance host government engagement in revenue transparency. EITI commits both companies and countries to public disclosure of payments made and revenues received; Section 1504 only addresses the payments made. With EITI, it is the process of designing and implementing the accounting, disclosure and verification mechanisms that creates engagement and discourse among government, company and civil society stakeholders while protecting the sovereign rights of participating governments. The process helps foster a culture of public accountability. Section 1504 circumvents this process and simply requires SEC registrants to report payments to host governments. When only partial payment information and no government receipt information is available, civil society groups and citizens cannot verify that government expenditures and revenue sharing are just, which can lead to further mistrust and jeopardize political stability within a country. EITI captures these payments, improves transparency and reduces opportunities for corruption.

Characteristics of EITI Payments Disclosures

EITI does not require that disclosure of payments be published at either the company or project level. EITI allows countries to adopt varied levels of disclosure that best meet their needs. Most countries have elected not to disclose payments by company, but rather to aggregate disclosure at the country level. However, some countries have chosen to disclose total payments by company. To date, no countries have required disclosure at the project level. The EITI principle of confidentiality regarding project-level information helps ensure that existing company contractual agreements and commercially sensitive information are respected.

Countries have also varied in their approaches to disaggregation of payment types (also referred to as "benefit streams"). Generally, payment type or benefit stream information has not been disclosed at the company level, but rather in total for the country. However, a few countries have provided payment information disaggregated by both company and payment type.

Under any of these scenarios, EITI requires that all companies operating in the country are included in the reporting, so all are treated on an equal basis. The EITI principle of universality ensures that improved disclosure standards apply equally to all parties, including state-owned extractive companies and national oil companies (NOCs). When a country adopts EITI, the EITI rules require all extractive entities operating in that jurisdiction to comply with the agreed process. This is often done through national legislation or government mandate. In addition to supporting basic fairness across all extractive entities that are working in a country, this universal approach better ensures full transparency of host government revenues is achieved. It also eliminates any potential for unfair competitive or commercial advantage by non-reporting entities.

EITI provides a mechanism for disclosure of payments outside of normal financial reports. API member companies believe this approach is consistent with existing financial reporting standards and less likely to confuse investors. Financial reporting standards focus on material financial, economic, business and risk information that is useful to investors in making investment decisions. Including an excessive volume of payments information is likely to distract investors from more important disclosures. Investors may not appreciate that some current period payments are not necessarily reflected in the current period income statement. For example, under some joint venture arrangements the operator pays taxes to the government on behalf of all joint venture partners, while in other cases the joint venture partners pay their respective shares directly to the government. In the former case, no correlation exists between the gross payments disclosed by the operator (and zero payments disclosed by the non-operator partners) and net tax expense reflected in the financial statements. In addition, production entitlements and royalty volumes taken in-kind by the government or national oil company can represent a significant portion of a host government's commercial economics in an extractive project. Because the reporting entity has no legal right to production entitlements and royalty volumes taken in kind, they do not represent payments that are reflected in the reporting entity's records.

API member companies believe there are some misconceptions surrounding the requirements of the EITI, and those of the Dodd-Frank Act, for preventing corrupt payments, including the following:

- *That EITI's own "best practices" require disaggregated reporting by company and payment type.*

  In reality, EITI has no policy or requirement on the degree of disaggregation needed for final published EITI reports. EITI specifically states that the degree of disaggregation is left to the individual countries to decide.

- *That the Dodd-Frank transparency measure is based on the same principles as the EITI, which the API supports.*

  While the API fully supports the goals of transparency, we believe that EITI provides needed and reasonable flexibility on the degree of disaggregation by company and payment type.

EITI is multi-lateral, allowing the host governments to play a leadership role in determining the level of disclosure. Unlike Dodd-Frank, EITI clearly does not require disclosure of project level information. Moreover, EITI does not sanction reporting by only a subset of companies active in the country. Unlike EITI, Dodd-Frank creates a significant gap in transparency since it ignores the importance of receipt disclosures by the host governments.

- *That the measure will cover 90% of internationally operating extractive companies, that NOCs do not operate outside their home countries, and that the information will be complementary to information provided by other companies.*

  Many significant companies that are not U.S. SEC registrants will be exempt from reporting under this measure. These companies have significant influence on the global extractive industry as evidenced by their worldwide production and reserves summarized in Attachment B. Most NOCs are active on a global basis as demonstrated in Attachment C. Companies not covered by this measure include those listed in Attachments D and E.

- *That Section 1504 of Dodd-Frank is necessary to prevent fraudulent or corrupt payments and "creative accounting" by the industry.*

  U.S. registrants in all industries must comply with the Foreign Corrupt Practices Act (FCPA). The FCPA is vigorously enforced by the Department of Justice. API member companies employ robust compliance processes and internal controls, including those implemented in support of the Sarbanes-Oxley Act of 2002, that prevent corrupt payments and illegal actions related to resource extraction. Imposition of Section 1504 will not result in any improvement to reporting companies' compliance or internal controls activities.

Technical Perspectives

Shareholder Protection

The over-arching issue for the industry with respect to Section 1504 of the Dodd-Frank Act is shareholder protection and how project level disclosures could harm shareholder value while offering no benefit to most investors. While some might assert a strict reading of Section 1504 may appear to tie the Commission's hands with regard to requiring project-level disclosure, we believe such a strict reading may not be consistent with the requirements of Section 3(f) of the Exchange Act which states that *"…the Commission while engaged in rulemaking… is required to consider or determine whether an action is necessary or appropriate in the public interest…and that the Commission shall also consider, in addition to the protection of investors, whether the action will promote efficiency, competition and capital formation."*

In order to avoid significant harm to shareholder value, the rules must accommodate situations where disclosure of project level and, in some cases country level information, would:

1. put the registrant in breach of contracts or local laws and regulations,
2. be commercially harmful, or
3. introduce security or safety risks.

Regarding the first area of concern, project level disclosure could put the registrant in breach of contracts or host government laws or regulations. The Act makes no specific mention of how existing contractual confidentiality and non-disclosure requirements would affect the reporting of payments. A blanket requirement for disclosure of payments under all contracts would affect companies to differing degrees. Some companies could find themselves at a competitive disadvantage because their contracts already include a home country disclosure clause or securities law exception, while other companies' contracts do not.

Perhaps more important, there is no mention in the Act of the effects on reporting if sovereign nation laws and regulations prohibit such disclosure. In those instances, registrants' investments or personnel in those countries could be put at risk if the rules are written in such a way as to require such disclosure on a project level, or in some cases, country level basis.

Potential consequences of Section 1504 may be that host governments adopt new laws that make it illegal to disclose payments or other information, thus making compliance by registrants more difficult, or interpret the Act and final rules as undue interference in their internal affairs. Either situation could be more likely if the final rules are viewed as too onerous to host governments by pushing for excessive disaggregation at the project, payment and payee levels. The end result may actually be a setback for transparency. The likelihood of a setback increases substantially with project level disclosures given that they represent a significant step beyond country level reporting common to EITI.

The second area of concern for the industry is where the transparency provisions result in disclosure of commercially sensitive information. To our knowledge, no host government has ever agreed to or suggested that disclosure of payments at the project level is appropriate. In addition, the commercial sensitivity of project level data creates an unlevel playing field for U.S.-listed companies. The industry strongly believes that U.S.-listed companies could be disadvantaged relative to non-listed companies because the following could occur:

- Host governments could select business partners on future projects that do not have similar reporting requirements; or
- Host governments could remove U.S.-listed companies as operators of existing projects; or
- Competitors could utilize the project level information to gain an advantage in future bidding and contract negotiations.

The end result could be significant harm to U.S.-listed companies and their shareholders, which is clearly not Congress' intent.

The third area of concern for the industry is that project level disclosure could be detrimental to security or safety for the reporting company, its employees, joint venture partners and the host government. In countries where security is uncertain, such disclosure could provide significant information to aid organizations seeking to cause economic harm and destabilize a government by targeting economically important projects. This is especially true where payments from a certain project represent a significant portion of the host government's receipts.

In summary, the industry believes that project-level disclosures raise significant shareholder protection issues. Such detailed disclosures will be quite harmful to shareholders and are in direct conflict with the SEC's primary responsibility which is to protect the interest of investors. Moreover, the most critical level of transparency is at the level of total government receipts from extractive industries, as reported under EITI standards. By increasing host government resistance to the reporting of payment information, project-level detail could undermine achievement of the larger goal of increased transparency.

We provide the following three recommendations for resolving these shareholder protection issues:

1. **First, the final rules should limit public disclosure of payment information to the country level, consistent with EITI practices.** This would be the simplest and most practical solution for protecting shareholder interests in most situations that involve commercial sensitivity of project level information or safety and security concerns. The industry believes that Congress did not fully consider all of the implications or ramifications of project level disclosure. We respectfully submit that the Commission could use its general exemptive authority under Section 36 of the Exchange Act to exempt any provision(s) of this bill as necessary to protect investors, such as to permit aggregation of payment information

at the country level. Alternatively, the Commission could seek a limited technical correction from Congress to eliminate the project-level reporting requirement.

Finally, the Commission could elect to make public only a compilation of the data submitted by reporting companies, consistent with Section 13(q)(3)(A) of the Exchange Act as amended by the Dodd-Frank Act, to effectively limit public disclosure to the country level. Disclosure of a compilation closely parallels existing EITI practice. With this approach, more detailed project level information that might be submitted to the Commission under the final rules would thereby be protected from public disclosure by prior precedent under the Freedom of Information Act (FOIA) exemptions.

2. **Second, the final rules must be respectful of host government laws and regulations that prohibit payment disclosures. This could be achieved through including an exemption that permits exclusion of the prohibited information from public disclosure.** This would be similar to the exemption provided under the January 14, 2009 rules for oil and gas reporting, specifically that *"A registrant need not provide disclosure of reserves in a country containing 15% or more of the registrant's proved reserves if that country's government prohibits disclosure of reserves in that country."*

3. **Third, in the event that country level disclosure results in disclosure of commercially sensitive payment information for a single project or field, an exemption should be provided in the final rules that allows for aggregation of that country with other countries, or alternatively, allows for non-disclosure.** This would be similar to the exemption provided under the January 14, 2009 rules for oil and gas reporting that avoided "…*compelling a company to provide, in effect, field disclosure."*

Aggregation and Materiality

The industry is also concerned with the practical aspects of reporting payment information under Section 1504. Without appropriate aggregation of data and application of reasonable materiality concepts, significant costs would be incurred in obtaining and reporting information that is not meaningful to most investors.

The Act provides for disclosure for each project of the payments made to further commercial development of oil and natural gas, including taxes, royalties, license fees, production entitlements, and the like. The Act also stipulates that total payments be disclosed for each "foreign government" or "Federal government" payee, by payment type, by currency used, by business segment and by project. These very granular requirements raise significant practicality concerns for the industry given the very large amount of data involved with project level reporting, the many permutations of oil and gas project activities, and limitations with existing systems and accounting processes.

Project level disaggregation would significantly increase the amount of data that would need to be reported to the Commission. The sheer volume of producing projects and leases in the U.S. and Canada alone make it impractical to provide project-level data without some level of aggregation. Globally, some of the reporting companies have well over a thousand producing fields and tens of thousands of individual leases. Most registrants will have multiple, and in some cases many, project or contractual arrangements in one country. Disclosing that level of detail is not practical for the reporting companies or useful to investors.

The amount of project level data ultimately reported would be highly dependent on the definition of the term "project" in the final rules. There is no common definition of the term across the industry. For example, the term may refer to a plan of development, a capital investment, a production sharing contract (PSC), a concession agreement, an exploration license, a field or a lease. Many development activities span multiple leases and fields. Some projects are developed in large stages, with each development stage managed as an individual project that might span many years or even have different fiscal terms. In other staged development situations, later phases that were included in the original plan might be delayed or never approved due to changing economic conditions. If project level reporting is required in the final rules, these complexities point to the need for a broad definition of the term "project".

Project level reporting also raises some practical systems and accounting process issues for registrants as follows:

- Companies are required to account for their activities under the accrual method. Therefore, existing financial systems are designed to support accrual-based accounting at the legal entity level.
- Some payment information is not available at the project level since some payments are not determined or recorded at this level. For example, tax payments are typically based on the company's legal entity for a jurisdiction which may comprise numerous projects. Tax deductions resulting from one project may be utilized against the earnings from other projects, making reporting and interpretation of project level tax data very difficult. This would be even more difficult if a registrant's upstream and downstream operations are included in the same legal entity.
- There may be cross-field allowances or benefits that are recorded at a legal entity level or a point higher in the organizational hierarchy, requiring the use of allocations down to the project level. Processes for such allocations are not currently in place and would have to be developed by each company, and such allocation methodologies may not be comparable across all companies affected.
- Certain information, such as a partner's or host government's production entitlement, is not recorded at all in a company's ledger.
- Finally, when government payments are made by the operator on behalf of joint venture partners, the partners would reflect settlement payments made to the operator, but would not reflect a government payment in their own ledgers. In these situations, reporting of "gross" payments made directly by each registrant is the only practical basis for payment reporting, consistent with the EITI.

System modifications and accounting process changes necessary to capture and report data at the project-level would result in significant costs and time to implement, particularly if the reporting must be audited. Changes would be required to underlying enterprise resource planning (ERP) systems to satisfy such requirements since project level payment data is not available in consolidation systems used to support other financial disclosures.

We believe that the Act anticipated some of these issues by providing for the reporting of payments "to the extent practicable", suggesting that reasonable judgments on aggregation of data and materiality can be incorporated in the rules. The term "de minimis" referred to in the Act does not in any way limit the Commission's ability to include reasonable materiality guidance in the final rules. Consistent with EITI, the intent of the Act is for reporting of "material" payment types or benefit streams, specifically taxes, royalties, production entitlements and the like. Day-to-day operations also require many "de minimis" payments to governments for such things as vehicle license fees, work permits, visas, etc. that are not "material benefits" or "part of the commonly recognized revenue stream" for commercial development of oil and natural gas. "De minimis" as used in the Act therefore indicates these ancillary payments are out of scope, but does not prohibit the Commission from providing materiality or aggregation guidance for disclosure of country, project or payment information for those benefit streams that are in scope.

The industry believes that, to the extent possible, the definitions and rules should be principles-based, allowing companies to make reasonable judgments about the level of disclosure that best balances shareholder protection, materiality requirements and transparency objectives. Along these lines, **we provide the following recommendations for consideration:**

1. **In the event the final rules require some degree of project level reporting, the term "project" should be broadly defined as follows:**

> ***"An individually material oil and gas exploration, development or producing activity, or a group of such activities in the same country that are not individually material".***

This definition would allow for the use of judgment in reporting material individual project data and would help eliminate immaterial reporting. We acknowledge that it differs from the Commission's definition of "development project" under Question 108.01 of the oil and gas reserves Compliance and Disclosure Interpretations. We believe this existing definition of "development project" does not fit the purpose of payment reporting. First, it does not appear to address payments related to exploration and appraisal activity. In addition, we believe this definition would often result in disclosure at the field or, perhaps, AFE level. Our financial systems are not designed to separately capture incremental payments generated by every type of development project. This level of detail also raises significant commercial sensitivity concerns and would result in an impracticable amount of detail.

2. **Disclosure of project-level and country-level information, as well as payment type and payee detail, should be based on existing materiality guidance as defined in SEC Rule 12b-2, FASB Concept 2 and SAB 99. Materiality should be determined with reference to the reporting company's total worldwide government payments and other qualitative factors.** Existing materiality guidance is well understood by registrants and forms the basis for most financial disclosures. This guidance would allow for exercise of reasonable judgment by reporting companies to avoid excessive and potentially confusing disclosure. We believe this principles-based approach is better in this instance than use of specific materiality thresholds, such as the 15% threshold used in reserves reporting.

3. **Registrants need not separately disclose payments for a country, project, payment type or payee unless such payments, in total, are material with reference to the company's total worldwide government payments or other qualitative factors. Total payments for a country, project, payment type or payee that are not individually material can be aggregated under headings such as "other countries", "other projects", "other payments" or "other payees".**

4. **To the extent disclosure by payment type is required, the rules should provide for a sufficient level of aggregation to minimize concerns over commercial sensitivity of the data. To accomplish this, we recommend three groupings -- "taxes and royalties", "production entitlement" and "other payments".**

5. **Registrants should be permitted to disclose all payment information converted to their consolidated reporting currency, typically USD. We believe the reporting of actual currency of payment is of limited relevance and unnecessarily complicates data gathering and reporting.**

6. **Consistent with EITI practices, a registrant should disclose payments on a "gross" basis, i.e., only those made directly to the government regardless of whether or not they represent its own "net" share consistent with its working interest.**

<u>Scope, Audit and Presentation</u>

The Act is not completely clear on the intended scope of reporting. The headings in the law using the term, "Disclosure…by Resource Extraction Issuers," suggest it was Congress' intent to limit this to what is commonly referred to as “upstream” activities. In addition, the Act states that only “resource extraction issuers” are required to provide these disclosures, with such issuers defined as those engaging in “commercial development of oil, natural gas, or minerals”. Further, the Act refers to activities including “exploration, extraction, processing, export and other significant actions relating to oil, natural gas, or minerals, or the acquisition of a license for any such activity.” However, it is not clear what Congress’ intent is regarding the terms “processing” and “export”.

If the Commission were to require resource extraction issuers to disclose payments to governments related to refining and marketing activities based on the words “processing, export, and other significant actions”, it could lead to inconsistent disclosure of similar activities by registrants. For example, assume two registrants each operate a refinery in a given country, and both purchase their crude supply from the host government. If one company were defined as a “Resource Extraction Issuer” under the Act because it has upstream operations in that country and the other did not, then only the first company would be required to disclose its raw material purchases, since the second is not a “Resource Extraction Issuer”. There are any number of permutations of this example that could lead to inconsistent disclosure of similar activities unless the scope of disclosure is limited to upstream activities.

Practicality is also an important consideration in defining the scope of reporting. Inclusion of downstream activities such as refining, marketing, supply and trading would significantly complicate the disclosures for some entities. Systems infrastructure for downstream operations is often separate from upstream activities, adding a new dimension to data gathering and validation efforts. Moreover, there is not sufficient benefit to the objectives of the Act to include downstream operations in scope. In many developing countries, downstream operations are managed by national oil companies with limited industry participation. In such cases, government payments made by downstream operations of industry participants are a minor contributor to total government receipts, and are not paid by the extractive industry participants.

Therefore, we recommend that the Commission rely on its existing definition of oil and gas activities, which limits reporting to upstream activity only, including acquisition of mineral interests, exploration, development, production and certain processing activities such as upgrading of bitumen and heavy oil.

The industry also recommends that the disclosures should only include payments made by consolidated subsidiaries. We believe this is consistent with the phrase “an entity under the control” of the issuer contained in Section 1504. This approach would significantly simplify the reporting requirements. Equity affiliates are often partly owned by host governments, and owners may not be entitled to receive detailed payment information. We acknowledge that this recommendation differs in scope from the situation for oil and gas reserves reporting, which includes reserves of equity affiliates. Registrants routinely develop their own reserves estimates for equity affiliates based on available technical data, with only limited data provided by the equity affiliate. This approach also differs from the financial reporting required for significant equity affiliates. However, data required to support disclosure requirements for significant equity affiliates is much more limited than the detailed transaction-by-transaction data required to support payment disclosures.

Given the already tight SEC annual reporting deadline, it is not practical to make these disclosures part of audited financials. Due to the significant increase in audit resources required, it would be prohibitively expensive if this reporting is required to be part of audited financials. From the perspective of materiality, the threshold for audit testing required for this data would be much lower than auditors’ normal testing procedures for annual audits. Additional audit effort to review information in all countries where ‘extractive’ operations occur would also be required, further increasing audit costs.

A requirement to audit payment disclosures to a level consistent with other financial disclosures would be a significant difference from the existing EITI process. While the EITI process does include a reconciliation of data submissions by a third-party auditor, the scope of this reconciliation is much more limited than typically required by audit standards for financial reporting, and the cost is born by the host country government rather than by shareholders. We also note that public accounting firms have expressed auditing and cost/benefit concerns in their comments on the recent IASB Extractive Industries discussion paper, which proposed payment disclosure at the country level.

The Act is unclear on how and where the data should be presented. While the Act clearly requires annual reporting, it likewise allows for the consideration of practicality in implementation.

Because of the previously mentioned year-end time constraints and costs, the industry urges the SEC to not only keep this reporting outside of the audited financials, but also to keep it separate from current annual Forms 10-K and 20-F reporting, as well as separate from interim Form 10-Qs. We recommend a separate report with an annual deadline at 150 days following the fiscal year-end, which would put it well outside annual and interim reporting timeframes. This approach best addresses the industry's fundamental concern about the lack of relevance to most investors of this information by keeping it separate from critical financial information, while at the same time satisfying the law's objectives to provide transparency about these types of payments. This approach also addresses our concerns about practicality of completing this reporting during the already constrained 60-day annual reporting cycle or interim cycles.

In the event the Commission elects to make this reporting part of the Form 10-K and 20-F, it could be reported under Article 12 of Regulation S-X up to 30 days after the annual reporting deadline for the Form 10-K or 20-F as part of an amended filing. However, we do not support that approach since it would re-open all aspects of the filing for reviews and approval, would cause significant re-work and would confuse investors. In addition, we are concerned over a negative market reaction to an amended filing of the annual Form 10-K or 20-F.

The Act includes a requirement for electronic tagging of the payment data in an unspecified interactive data format. The tagged data elements are to include the total amounts by payment type, currency of payment, financial period, business segment, government payee, country and project. Tagging of all specified data elements also raises significant practicality and cost concerns for the industry, which can be mitigated by the recommendations provided in the Aggregation and Materiality section of this letter. **To the extent that electronic tagging is required in the final rules, the industry recommends using the Commission's XBRL standards for consistency with tagging of other financial disclosures.**

Timeline and Implementation Considerations

The Act indicates that reporting companies are "required to submit an annual report relating to the fiscal year of the resource extraction issuer that ends not earlier than one year after the date on which the Commission issues final rules". **Given the systems and accounting process changes that will be required even to support unaudited reporting, we recommend that first reporting be for the 2012 fiscal year in 2013.** We do not believe that it is feasible to make first reporting effective for the 2011 fiscal year. Doing so would require reliance on approximate, analytical reporting methods for the first year. As explained previously, modifications will be required to underlying ERP systems to identify all government payment transactions at a detailed level. Due to the transactional nature of the systems modifications, this work must be completed prior to the first day of the first year of reporting.

The API appreciates the Commission's efforts to seek public comment prior to drafting the proposed rules related to disclosure of payments by resources extraction issuers. We also appreciate the time that you made available to meet with us on September 27. Representatives of the API and its member companies would welcome the opportunity to discuss this response further with the Commission staff and are available to answer questions.

Sincerely,

Kyle Isakower
Vice President
Regulatory and Economic Policy

Patrick T. Mulva
Chairman
API Corporate Finance Committee

Attachments

cc:	Ms. Tamara Brightwell	SEC
	Mr. Wayne Carnall	SEC
	Mr. Jonathan Duersch	SEC
	Mr. Roger Schwall	SEC

EITI Institutional Investors

The EITI has won the support of over 80 global investment institutions that collectively managed over US$16trillion as of July 2009. Please see the factsheet on how to become a supporting investor. Their statement of support, the Investors' Statement on Transparency in the Extractives Sector, can be found here.

The supporting investors are:

Aberdeen Asset Managers Ltd (UK)
ABP Investments
AEGON Asset Management (UK)
Allianz Global Investors (France)
Amundi (France)
Association of British Insurers (UK)
Aviva Investors (UK)
Baillie Gifford & Co (UK)
Banco Fonder (Sweden)
Bâtirente (Canada)
Boston Common Asset Management (US)
Caisse de Dépôt et Placement du Québec (Canada)
CAAT Pension Plan (Canada)
CalPERS (US)
CalSTRS (US)
Calvert Group Ltd (US)
Canadian Labour Congress (Canada)
CCLA (UK)
Central Finance Board of the Methodist Church (UK)
Christian Brothers Investment Services (US)
Co-operative Insurance Society (UK)
CPP Investment Board (Canada)
DnB Nor Asset Management/Carlson Investment Management
Dexia Asset Management (Belgium/France)
Domini Social Investments (US)
Ecclesiastical Investment Management (UK)
Element Investment Managers (South Africa)
Ethical Funds (Canada)
Ethos Investment Foundation (Switzerland)
F&C Management (UK)
Fidelity Investments (UK)
Folksam Insurance Group (Sweden)
Fonds de Réserve pour les Retraites
Första AP-fonden (AP1) (Sweden)
Fourth Swedish National Pension Fund (AP4) (Sweden)
Gartmore Investment Management plc (UK)
Goldman Sachs Asset Management International (UK)
Governance for Owners (UK)
Guilé Foundation (Switzerland)
Henderson Global Investors (UK)
Hermes Investment Management Limited (UK)
Hospital of Ontario Pension Plan (HOOPP) (Canada)
HSBC (UK)
I.DE.A.M. – Integral Development Asset Management (France)
Illinois State Board of Investment (US)
Inspire Invest
ING Investment Management (The Netherlands)
Insight Investment Management (UK)
JPMorgan Asset Management (US)
Jupiter Asset Management (UK)
Legal & General Investment Management (UK)
Local Authority Pension Fund Forum (UK)
Mn Services (Netherlands)
Newton Asset Management Ltd (UK)
New York State Common Retirement Fund (US)
Norges Bank Investment Management (NBIM) (Norway)
Nottinghamshire County Council (UK)
Ohio Public Employees Retirement System (US)
Ontario Teachers' Pensions Plan (OTPP) (Canada)
PGGM (The Netherlands)

Railpen Investments (UK)
RCM (UK)
Rio Tinto Pension Investments Ltd (UK)
Robecco (The Netherlands)
Sarasin (Switzerland)
Schroders Investment Management (UK)
Scottish Widows Investment Partnership (SWIP)
Services Employees International Union (SEIU) (US)
SNSSNS Asset Management(The Netherlands)
Standard Life Investments (UK)
State of Conneticut (US)
State Street Global Advisors (US)
Stichting Pensioenfonds ABP (The Netherlands)
Storebrand (Norway)
Swiss Re Asset Management (Switzerland)
The Dreyfus Premier Third Century Fund Inc and the Dreyfus Socially Responsible Growth Fund Inc (US)
TIAA-CREF (US)
Trades Union Congress (UK)
Threadneedle Asset Management Ltd.
Trillium Asset Management (US)
UBS Global Asset Management (UK) Ltd
Universities Superannuation Scheme (UK)
Walden Asset Management (US)
York University Pensions Fund (Canada)

Attachment B

Top 75 Oil and Gas Companies
Oil and Gas Reserves and Production

Source: Energy Intelligence Group Top-100 annual publication covering the "top-100" oil/gas companies 2008

Worldwide Liquids & Gas Reserves and Production

(million boe)

Company	Rank	SEC Registrant	Reserves *	Production
National Iranian Oil Company	1	N	311,883	6,202
Saudi Aramco	2	N	308,650	12,106
Iraq Nation Oil Company	3	N	133,650	2,454
Petroleos de Venezuela	4	N	128,713	3,042
Qatar Petroleum	5	N	118,216	1,879
Gazprom	6	N	116,613	9,695
Kuwait Petroleum Corporation	7	N	111,983	2,991
Abu Dhabi National Oil Company	8	N	73,050	2,007
Turkmengas	9	N	46,833	907
Nigerian National Petroleum Corporation	10	N	40,020	1,640
Libya NOC	11	N	39,073	1,547
China National Petroleum Corporation	12	N	37,691	3,847
Sonatrach Petroleum Corporation	13	Y	35,661	3,106
Petronas	14	N	27,020	1,796
Exxon Mobil	15	Y	22,986	3,921
Rosneft	16	N **	22,309	2,320
BP	17	Y	17,888	3,790
Lukoil	18	Y	15,467	1,787
Pemex	19	Y	13,982	3,849
Royal Dutch Shell	20	Y	11,663	3,199
Chevron	21	Y	11,196	2,530
Petrobras	22	Y	11,191	2,400
Surgutneftegas	23	N	10,565	1,463
ConocoPhillips	24	Y	10,224	2,422
Total	25	Y	10,065	2,262
Uzbekneftegas	26	N	8,654	1,062
Egyptian General Petrolem Company	27	N	8,383	835
Eni	28	Y	6,757	1,763
Petrodar	29	N	6,361	680
Oil and Natural Gas Company	30	N	6,298	1,101
Socar	31	N	6,049	308
Tatneft	32	N	5,833	520
Kazmunaigas	33	N	5,547	460
StatoilHydro	34	Y	5,238	1,751
Pertamina	35	N	4,617	327
Novatek	36	N	4,512	546
Sonangol	37	N	4,233	589
SPC	38	N	4,167	285
TNK-BP	39	N	4,045	818
Sinopec	40	N	4,001	945

Company	Rank	SEC Registrant	Reserves *	Production
Canadian Natrual Resources	41	Y	3,906	484
EnCana	42	Y	3,286	774
Occidental	43	Y	2,977	603
YPFB	44	N	2,701	140
Suncor	45	Y	2,573	256
CNOOC	46	Y	2,521	526
BG	47	Y	2,459	619
Devon Energy	48	Y	2,429	649
Bashneft	49	N	2,413	237
Apache	50	Y	2,401	535
XTO	51	Y	2,310	390
Anadarko	52	Y	2,277	563
Petroecuador	53	N	2,145	274
Repsol YPF	54	Y	2,126	918
Chesapeake	55	Y	2,009	384
Inpex	56	N **	1,598	405
Marathon	57	Y	1,583	405
Mangistaumunaigas	58	N	1,546	120
EOG	59	Y	1,448	332
Hess	60	Y	1,432	381
Reliance	61	N **	1,394	42
BHP Billiton	62	N **	1,382	376
Petrovietnam	63	N	1,364	153
Wintershall	64	N	1,298	357
Russneft	65	N	1,235	307
Talisman	66	Y	1,207	352
OMV	67	N **	1,167	306
Ecopetrol	68	Y	1,114	443
Petro-Canada	69	Y	1,091	351
PTT	70	Y	996	253
Pioneer	71	Y	960	114
Nexen	72	Y	926	210
Noble Energy	73	Y	864	214
Woodside	74	N **	835	144
Husky Energy	75	Y	789	284

* Worldwide Liquids & Gas Reserves
** Voluntary Filer

Attachment C

National Oil Companies' Foreign Operations

Saudi Aramco: U.S., Egypt, UK, Netherlands, Singapore, China, Hong Kong, Japan, South Korea, UAE, Italy, Malaysia, India

National Iranian Oil Company (NIOC) – UK, Germany, Senegal, Azerbaijan, India, Malaysia, Indonesia, Syria

Oil and Natural Gas Corporation Ltd. (ONGC – India) - Venezuela, Russia, Brazil, Myanmar, Colombia, Sudan, Vietnam, Syria, Egypt, Iran, Nigeria, Sao Tome and Principe, Libya, Cuba, Republic of Congo, Bermuda, Cyprus, Iraq

Petroleos de Venezuela S.A. (PDVSA) - Ecuador, Curacao, Dutch Antilles, China, Sweden, Germany, U.S., U.S. Virgin Islands, Brazil, Belgium, UK

Petrobras - Angola, Argentina, Bolivia, Chile, Colombia, Ecuador, India, Iran, Japan, Libya, Mexico, Mozambique, Nigeria, Pakistan, Paraguay, Peru, Portugal, Senegal, Tanzania, Turkey, Uruguay, U.S., Cape Verde, Cuba, Guinea Bissau, Niger, Mali, Togo

Petroleos Mexicanos (PEMEX – Mexico) - United States

GAZPROM (Russia) - Algeria, Bolivia, India, Venezuela, Vietnam, Kazakhstan, Uzbekistan, Kyrgyzstan, Tajikistan, Turkey, Hungary, Greece, Serbia, Belarus, Germany, China, Italy, Libya, Solvenia

ROSNEFT (Russia) - Kazakhstan, Belarus, Poland, Algeria

CNPC - Chad, Equatorial Guinea, Libya, Mauritania, Niger, Nigeria, Sudan, Tunisia, Oman, Iran, Syria, Mongolia, Myanmar, Indonesia, Thailand, Russia, Kazakhstan, Turkmenistan, Uzbekistan, Azerbaijan, Canada, Ecuador, Peru, Venezuela, Iraq, Algeria

CNOOC - Australia, Equatorial Guinea, Nigeria, Kazakhstan, Canada, Iran, Brazil (preliminary interest only)

Sinopec - Ecuador, Nigeria, Angola, Canada, Russia, Venezuela, Sudan, Algeria, Congo-Grazzaville, Kazakhstan, Australia, Saudi Arabia, Papua New Guinea, Kuwait

Petronas - Algeria, Argentina, Australia, Benin, Cambodia, Cameroon, Chad, China, Egypt, Equatorial Guinea, Ethiopia, India, Indonesia, Iran, Japan, Morocco, Mozambique, Myanmar, Nigeria, Pakistan, Philippines, Russia, South Africa, Sudan, Thailand, Timor Leste, Turkmenistan, UK, Uzbekistan, Vietnam

Inpex - Kazakhstan, Indonesia, Australia, Canada, Venezuela, Brazil, U.S., UAE, Democratic Republic of Congo, Egypt, Algeria, Azerbaijan, Turkey,

State Oil Corporation of Azerbaijan (SOCAR) - Ukraine, Georgia, Turkey, Romania, Switzerland

STATOILHYDRO (Norway) - Denmark, Germany, U.S., UK, Latvia, Singapore, Poland, Lithuania, Estonia, Sweden, Canada, Cuba, Venezuela, Brazil, Ireland, Algeria, Libya, Egypt, Nigeria, Angola, Mozambique, Iran, Iraq, Azerbaijan, Russia, India, China

Qatar General Petroleum Corporation (QGPC) - Australia, Bahrain, Egypt, India, Kuwait, Libya, Saudia Arabia, United Arab Emirates

Kuwait Petroleum Corporation - Belgium, Denmark, Italy, Kuwait, Luxembourg, Netherlands, Spain, Sweden, U.S.; KPC also owns U.S.-based exploration services firm Santa Fe International.

National Oil Company (Libya) - Chad, Cyprus, Egypt, Germany, Italy, Kenya, Libya, Mali, Malta, Monaco, Netherlands, Niger, Senegal, Spain, Switzerland, Uganda

Sonangol (Angola) – Gabon, Republic of the Congo, China subsidiary (China Sonangol International Holding Limited), Cape Verde, Democratic Republic of the Congo, Portugal, Sao Tome e Principe, U.S., UK, Singapore

Source: BMI
Updated - March 16, 2010

	A	B	C	F
1			**Companies operating in each country**	**Attachment D**
2	**Country**	**EITI Implementing Countries**	**Companies that report to the SEC**	**Companies that do not report to the SEC**
3	**Algeria**		Amerada Hess, Anadarko, ConocoPhillips, BHP Billiton, BP, ENI, Gaz de France, Petrobras, Repsol-YPF, StatoilHydro, Talisman, Total (3/07)	ABB, Cepsa, CNODC, CNPC, Enagas, Endesa, Enel, Maersk, Petrofac, Wintershall, Woodside
4	**Angola**		BP, Chevron, Devon Energy, Eni, ExxonMobil, Marathon, Occidental, Petrobras, ConocoPhillips, Sinopec, StatoilHydro, Total (03/08)	Maersk, Petrogal, Roc Oil
5	**Azerbaijan**	X	BP, Chevron, StatoilHydro, ExxonMobil, Devon Energy, Amerada Hess, Total, Chevron, Royal Dutch Shell, ConocoPhillips, BMB	Lukoil, Inpex, TPAO, Itochu, Wintershall, Alberta Energy, JAOC, Teikoku, Itochu Rafi Oil, CNPK of China, Arawak Energy of Canada, Russneft, Caspian Energy Group (UK),
6	**Bahrain**		Chevron, ExxonMobil (3/08)	
7	**Bolivia**		BP, Chevron, Petrobras, Repsol-YPF, Total (12/07)	BG, Pluspetrol,
8	**Brunei**		Shell, Total (4/07)	Mitsubishi
9	**Cameroon**	X	ExxonMobil, Chevron, Total, Shell, and	Petronas, Perenco
10	**Chad**		ExxonMobil, Chevron, Total, Shell, and	Petronas, Perenco
11	**Colombia**		BP, Occidental Petroleum, Nexen (Canada), Chevron (9/07)	Petrobank Energy and Resources (Canada)
12	**Congo, Rep. of (Brazzaville)**	X	Anadarko, Chevron, ExxonMobil, Murphy Oil, Sasol, Shell, Total (5/07)	Energy Africa, Heritage Oil, Maurel and Prom, Perenco, Tacoma
13	**Cote d' Ivoire**	X	Canadian Natural Resources, Chevron, ENI, ExxonMobil, Devon Energy, PanCanadian Petroleum, Shell, Total (7/08)	Addax, Afren Energy, Dana Petroleum, Energy Africa, Gentry, Gulf Canada, Mondoil, Pluspetrol, Stratic Energy, Tullow, Vanco Energy
14	**Ecuador**		Repsol-YPF	Andes Petroleum
15	**Equatorial Guinea**	X	Amerada Hess, Chevron, Devon Energy, ExxonMobil, Marathon Oil, Noble Affiliates, CNOOC (10/07)	Energy Africa, Petronas, Tullow, Petro SA, BG Gas Marketing LTD
16	**Gabon**	X	Shell, Total, Vaalco (11/07)	Addax Petroleum, Tullow Oil, Maurel et Prom
17	**Ghana**	X	Anadarko, ExxonMobil	Tullow, Kosmos Energy, Ghana National Petroleum Corp., Sabre Oil & Gas, EO Group
18	**Indonesia**		BP, Chevron, CNOOC, ConocoPhillips, ExxonMobil, PetroChina, Total (1/07)	Inpex, KG, Mitsubishi, Nippon Oil, Petronas, Vico
19	**Iran**		BHP, Bow Valley, Eni, Total, Royal Dutch Shell, Sinopec, Sheer Energy, StatoilHydro (10/07)	BG, Indian Oil Company, Gazprom, Lukoil, OMV, Petronas
20	**Iraq**		Ivanhoe, ConocoPhillips, Total, Royal Dutch Shell, Repsol YPF, (8/07)	Petoil, Prime Natural Resources, Calibre Energy, Taq Taq Operating Company, Addax Petroleum, Genel Enerji, DNO ASA, KRG, Western Oil Sands, Sterling Energy, Heritage Oil Corporation, Inpex, Petrel Resources, Crescent Petroleum, Reliance Industries, Soyuzneftgaz, Chinese National Petroleum Company (CNPC), Korean National Oil Company, Lukoil, Petrovietnam, TPAO, Indonesia's PT Pertamina, OGI, DanaGas, Gulfsands Petroleum, Botas, Tekfen
21	**Kazakhstan**	X	Chevron, Total, ExxonMobil, Shell, ENI, StatoilHydro, LG International Corp, Repsol, MOL Rt, ConocoPhillips, (2/08)	CNPC, BG Group, Lukoil, Korean National Oil Corp (KNOC), Vertom, Vegyepszer (Hungary), Inpex, Rosneft, Gazprom, Oman Oil Company
22	**Kuwait**		BP, Chevron, Total, ExxonMobil, Shell, Fluor Corp (11/06)	Arabian Oil Company, Parsons Corp.,
23	**Libya**		Amerada Hess, Canadian Occidental, Chevron, Eni, Husky Oil, Occidental, PetroCanada, Repsol, Shell, StatoilHydro, Total (7/07)	CNPC, Indian Oil Corp., Liwa (UAE), Medco Energy (Indonesia), Naftogaz Ukrainy, Nimr Petroleum (Saudi Arabia), OMV, ONGC, Pedco (South Korea), Petrobras (Brazil), Petronas (Malaysia), Red Sea Oil Corp. (Canada), Verenex (Canada), Wintershall (Germany), Woodside (Australia)
24	**Mauritania**	X	Repsol	China National Petroleum Co., Woodside Petroleum, Hardman Resources
25	**Mexico**			
26	**Niger**	X		CNPC, Petronas
27	**Nigeria**	X	BP, Chevron, ConocoPhilips, ENI, ExxonMobil, Nexen, Petrobras, Shell, Sinopec, StatoilHydro, Sun Oil, Tenneco, Total (4/07)	British Gas, Deminex
28	**Norway**	X	BP, Chevron, ConocoPhillips, ExxonMobil, Marathon, StatoilHydro	Norsk Hydro
29	**Oman**		BP, Occidental Petroleum, Shell, Total (4/07)	BG, CNPC, Indago Petroleum, Partex, PTTEP

	A	B	C	F
2	**Country**	**EITI Implementing Countries**	**Companies that report to the SEC**	**Companies that do not report to the SEC**
30	**Peru**	X	Empresa de Energia de Bogota, Hunt Oil, Petrobas, ConocoPhillips, Repsol-YPF, SK Energy, Technit, (6/08)	Hyundai, Interconexion Eletrica, Maple Production, Perenco, Petro-Tech, Pluspetrol, Sapet, Sonatrach, Tractebel, Transel ca
31	**Qatar**		Anadarko Petroleum, BP, Chevron, ExxonMobil, Mitsui, Occidental Petroleum, Shell, Total (5/07)	Maersk Oil, Marubeni
32	**Russia**		ExxonMobil, Shell, ConocoPhillips, BP, Chevron	Novatek, Itera, and Northgaz
33	**São Tomé and Príncipe**	X	Chevron, ExxonMobil, Sinopec	Addax Petroleum
34	**Saudi Arabia**		Royal Dutch Shell, Total, ConocoPhillips, Sinopec, Eni, Repsol, Chevron (3/08)	Lukoil, Sumitomo Chemical
35	**Sudan**		Total SA, Marathon Oil Corporation (4/07) [important note: Marathon is listed because it believes it has rights to production under an old lease (1980ish?) in partnership with Total, but it is not exercising its rights and no production is occurring on the lease pending Marathon's attempts to a) get clarification of its rights and b) sell said rights]	China National Petroleum Corporation (CNPC), India's Oil and Natural Gas Corporation (ONGC), Petronas, Kuwait Foreign Petroleum Company
36	**Syria**		Shell Oil, Total, Petro-Canada	Stroytransgaz, Soyuzneftegaz, ONCG, CPNC, INA Naftaplin
37	**Timor-Leste**	X	N/A	
38	**Trinidad & Tobago**		BHP Billiton, BP, and Repsol-YPF, Chevron	Petrotrin, BG
39	**Turkmenistan**		Eni	Petronas, Dragon Oil, Maersk Oil (Denmark), Wintershall (Germany), ONGC (India)
40	**Uganda**			Tullow
41	**United Arab Emirates**		ExxonMobil	
42	**Uzbekistan**			Soyuzneftegaz, CNPC, Petronas
43	**Venezuela**		BP, Chevron, Repsol-YPF, Royal Dutch Shell, StatoilHydro, Total (10/07)	CNPC
44	**Vietnam**		BP, Chevron, ConocoPhillips, ExxonMobil, Nexen, StatoilHydro, Talisman, Total (7/07)	Idemitsu Kosan, KNOC, Mitsubishi, Nippon Oil, ONGC Videsh, Petronas Carigali, Premier Oil, PTTEP, Santos, Zarubezhneft
45	**Yemen**	X	ExxonMobil, Nexen, Hunt Oil, Total, Occidental,SK Corporation, Sinopec (10/07)	Cepsa, Korea National Oil Company, Kufpec, DNO, Safer E&P Operation, Dove Energy, Calvally, VICOM, Oil Search, OMV, PanCanadian, Soco, Vintage Oil
46				
47	**Source: www.eia.doe.gov**			
48	**Updated 10/16/09**			

Attachment E

Foreign companies covered and not covered by Dodd-Frank Act

An initial legal assessment indicates that foreign companies would only be covered if they have securities listed on a US stock exchange, or have made a public offering of their securities in the US, or are otherwise required to file periodic reports (annual/quarterly) with the SEC. This would pick up a foreign issuer whose ADRs are traded on a stock exchange, but would NOT pick up a foreign issuer with ADRs traded in the US over-the-counter market (these companies are mostly exempt from the requirement to file periodic reports with the SEC). In addition, most national oil companies, which operate globally and currently control almost 80 percent of world oil reserves, would not be covered by Dodd-Frank Act.

Oil and Gas Companies with ADRs on the NYSE (**covered** by Issuers language)

BP
China National Offshore Oil Company (CNOOC)
China Petroleum & Chemical
Ecopetrol
Eni
Petrobras Energia
PetroChina
Petroleo Brasileiro – Com &
Petroleo Brasileiro – Pref
Repsol YPF
Royal Dutch Shell - A Shares &
Royal Dutch Shell - B Shares
Sasol
Statoil Hydro
TOTAL
YPF

Oil and Gas Companies with ADRs on the OTC markets (**NOT covered** by Issuers language)

Amadeus Energy
Aygas A.S.
Basic Consolidated
Cairn Energy
Caltex Australia
CNPC (Hong Kong) Ltd
Cue Energy Resources
Det Norske Oljeselskap
DNO International ASA
First Australian Resources
Galp Energia SGPS SA
Gazprom
Greenvale Mining
Grupa Lotos
Idemitsu Kosan
INPEX
JKX Oil & Gas
Jutal Offshore Oil Services
LUKOIL
Lundin Petroleum AB
Melrose Resources
MOL Magyar Olaj-ES Gazipari
New Zealand Oil and Gas
Nighthawk Energy
Norse Energy
OGX PETROLEO E GAS PARTICIPACOES
Oil Search
OMV
Origin Energy
OSAKA GAS
Petrol Ofisi A.S.
Petron
Petrolplus Holding
Petsec Energy
Polski Koncern Naftowy Orlen
Polski Gronictwo Naftowe i Gazownictwo SA
Premier Oil
Prosafe Production
PT Energi Mega Persada Tbk
PTT Exploration and Production
Range Resources
S-Oil – Com and S-Oil Pref
Saipem Spa
Salamander Energy
Santos
SBM Offshore
Sevan Marine
Singapore Petroleum
Sinopec Kantons
Sol Petroleo
Southern Pacific Petroleum
Surgutneftegaz and Surgutneftegaz – Pref
Tatneft
Teekay Petrojarl
TGS NOPEC Geophysical Co
The New Zealand Refining
TomCo Energy
TONENGENERAL SEKIYU
Tullow Oil
Ukmafta
Vallourec
Venture Production
Victoria Petroleum
Westralian Gas and Power
Wilmar
Woodside Petroleum
WorleyParsons
Xinao Gas Holdings
BG Group
Gazprom Neft
Linc Energy
Pryme Oil & Gas

Source: Bank of NY Mellon, 2009, updated 2010