

## **Consultation on the UK Implementation of the EU Accounting Directive: Chapter 10 Extractive Industry Reporting.**

As discussed with Vickie Wood, Assistant Director of Accounting Policy at the Department of Business, Innovation and Skills, the All Party Parliamentary Group for the Extractive Industry (APPG EI) is happy to put forward the following response to the consultation via email.

### *Summary:*

The APPG EI is broadly supportive of the goals and objectives of the EU Accounting Directive Chapter 10, Extractive Industry Reporting. The Group has in the past demonstrated full support for the objectives of the Extractive Industry Transparency Initiative. We believe that only through greater transparency and more open governance of the extractive industry will the people of extractive host nations benefit from their minerals, oil and gas. Greater openness enables stakeholders and local communities to track payments from business to governments and ensure the money raised by mineral extraction finds its way to the people.

The APPG EI believes the UK still plays a central role in the global extractive industry and hopes that greater support to the industry will help Britain maintain its place as the centre for extractive industry finance. We hope that the Chapter 10 of the EU Accountancy Directive can help in the UK's ambition to be the world leader in extractive industry transparency and make the FTSE 100 and Aim more attractive to extractive investors.

The APPG EI hopes that a successful EU Accounting Directive can act as a foundation for a global standard on extractive industry accountancy, transparency and governance. We are mindful that the UK needs to ensure that in reaching for greater openness the Directive does not put UK based companies in a short-term disadvantaged position when competing against companies registered in foreign stock exchanges that have weaker extractive industry accounting standards.

Finally, when speaking to the industry we have found that the majority of mid-sized and smaller firms were not aware of the EU Accounting Directive and feel they have not been given an opportunity to engage whilst Chapter 10 was being developed. We recognise that talking to an industry that has over 6000 companies, many of which are one or two people who are remote global locations is hard; we simply want to state a desire for information and opportunities to engage on future legislation to be more widely marketed to mid-sized British firms.

Please find direct responses to questions within the consultation that the APPG EI, as a stakeholder, but not extractive company, feel able to respond to.

**Question 1.1** - *Do you agree that companies should only be required to produce whole year reports and should not be required to provide a partial year report for the period between the regulations coming into force and 31 December 2014?*

Yes - The APPG EI believes that despite the huge differences in size between companies operating in the extractive industry, it is important that Chapter 10 of the EU Accounting Directive be developed to encompass the entire industry and take

into account individual companies ability to compile data . Whilst six month reports would allow for greater scrutiny of payments, we believe it is unrealistic to ask a company such as BHP Billiton or Rio Tinto to develop reports every six months. The APPG EI believes that properly implemented yearly reports would allow companies to provide the very best information they have which in turn would enable deeper scrutiny by stakeholders. This will help communities in host countries to more rigorously hold their politicians and Government to account.

**Question 1.2 -** *Do you agree that the first reports should relate to financial years commencing on or after 1 January 2015?*

The EU Accountancy Directive Transposition is required by 20th July 2015. We are supportive of the Government in its aim to make the UK a leader in extractive industry transparency.

By being the first EU country to apply the standards set out in Chapter 10 of the EU Accounting Directive we would demonstrate that our country and by association all extractive companies who list here, are dedicated to the transparency agenda. All large extractive companies and all companies, regardless of size, listed on a UK regulated market would abide by these rules. Global investors would therefore be safe in the knowledge that they are investing in companies who actively seek to benefit communities who are impacted by their operations and companies who are openly paying the correct level of tax to host nations. The investor certainty levied by the quicker transposition of the Chapter 10 should make UK based companies a more attractive investment opportunity.

. In saying this, we hope the BIS Department will be flexible should the consultation demonstrate reasons for a delay in date of reporting.

**Question 2:1 -** *Do you agree that UK registered companies should be allowed a maximum of 11 months after the end of their financial year in which to prepare and publish their extractive reports?*

Uk based extractive companies are vastly different in size and scope. Whilst the parameters of Chapter 10 reduces the difference of size in these companies, we cannot expect a company the size of Anglo American to be able to report as quickly as a 10 man operation. Therefore, to ensure that the rules governing UK based companies are equal to all, we accept the need for a maximum of 11 months for the publishing of extractive reports.

The APPG believes that as companies become more accustomed to the reporting system this maximum date should be able to be reduced. However at the time of this consultation we do not believe any less than 11 months would be advisable. We want the rules to attract extractive companies to base themselves in the UK, not scare them away because of tight initial time limits on reporting.

**Question 3.1** - *What issues might arise from a later transposition of the Transparency Directive? Please describe any possible impacts and, if appropriate, provide details of any costs or benefits that might result from this.*

The APPG EI believes that the UK should aim to be a global leader on the transparency agenda. As a global centre of excellence for the extractive industry we have a requirement to demonstrate industry wide best practice. In turn, it is hoped that by demonstrating best practice, the UK based extractive industry will become not only a more attractive investment opportunity for global investors but also a trusted partner to host nations.

Therefore we broadly support the earlier transposition of Chapter 10 of the Accounting Directive. If the consultation provides information that suggests we move the date of transposition back towards the 20th July 2015 then we must balance that information rigorously against the objective of being a global leader on transparency.

**Questions 5.1** - *Do you agree that it is appropriate that industry should be encouraged to lead in the production of best practice guidance to support the production of extractive reports and encourage consistency?*

Yes - The industry are best placed to demonstrate how business does and can work. Best practice must be based on the reality of what can be achieved, not on the objectives of what we want to achieve in a perfect world. UK based extractive companies often work in remote locations and are dealing with circumstances that are often different from their peers. The APPG EI believes that the parameters for all extractive companies under Chapter 10 should be equal and encompass this wide ranging set of operating environments.

Therefore the APPG EI thinks that the industry ahead of all other stakeholders should proactively engage to develop the most ambitious, industry best practice that can realistically be achieved. Otherwise, the ambitions of non-industry stakeholders for best practice will take precedence over what can work realistically. In quantifying this statement the APPG EI wants it to be noted that non-industry stakeholders have a central role to play in outlining best practice ambitions for the industry.

**Question 5.2** - *Do you agree that reports should be published (filed) electronically with Companies House only i.e. the submission of paper reports is not required or permitted?*

The APPG EI believes that companies should actively seek to publish reports electronically. However, we do not believe that paper reports should be banned in the initial stages. As companies become better accustomed to the reporting system they should seek to use online reporting more and paper reporting could be phased out - perhaps by 2018 (three year period to become accustomed to the reporting system).

**Question 6.2** - *Do you consider that the proposed penalty regime is effective, proportionate and dissuasive? (BIS propose that the penalty regime for non-compliance reflect that in place for failure to prepare and file statutory annual reports.)*

We believe this is a proportionate level of penalty for non-compliance. The APPG EI believes the UK should use the EU Accounting Directive Chapter 10 as well as future domestic regulations to attract extractive industry companies to base themselves in the UK. It may be suggested that direct action against Directors could damage the attractiveness of the UK as a place to base a company, however these are well recognised penalties and have not had that impact already. Therefore, we see no issue with this penalty system.

**Question 10** - *The Government would welcome any other comments on the implementation of Chapter 10 within the scope of this consultation*

The UK is a global centre of excellence for the extractive industry. As a whole, companies based or listed in the UK have a good reputation. Often, when in remote parts of developing countries, UK based extractive companies are the first representation of the UK that local communities see. They are our flag bearers and as a Government we should be supporting them to do what is right, and do it to the highest global standards.

The APPG EI supports the EU Accounting Directive Chapter 10. We hope that it can be seen as a potential starting point for a global standard that includes every stock exchange. This would level the playing field when it comes to winning contracts in host nations where corruption and poor business practice are endemic.

The APPG EI hopes that by being quick to transpose the Directive, the UK Government and UK based extractive companies can proactively demonstrate their commitment to being global leaders of transparency.

We would have hoped for greater engagement with all of the industry during the creation of Chapter 10 however we recognise that reaching some of the UK industry can be difficult. We hope that lessons can be learnt and future opportunity for industry engagement will use all available avenues for dialogue.

Overall, we look forward to the successful and speedy implementation of the EU Accountancy Directive and the positive role UK extractive companies can play in promoting good governance, transparency and the end of the so-called 'Dutch Disease'.

Best wishes,

Jeff

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