

Consultation on the UK Implementation of the EU Accounting Directive: Chapter 10 Extractive industries reporting

Response form

The closing date for this consultation is 16/05/2014

Name:

Organisation (if applicable):

Address:

Please return completed forms to:

Vickie Wood
 Consultation Responses (Extractive Industries)
 Alternatives to Regulation Team
 Department of Business, Innovation and Skills
 3rd Floor, Spur 2
 1 Victoria St
 London SW1H 0ET

Email: extractivesconsultation@bis.gsi.gov.uk

	Business representative organisation/trade body
	Central government
	Charity or social enterprise
	Individual
X	Large business (over 250 staff)
	Legal representative
	Local Government
	Medium business (50 to 250 staff)
	Micro business (up to 9 staff)
	Small business (10 to 49 staff)
	Trade union or staff association
	Other (please describe)

Extractive Companies

The following information will help us to better understand the impact of this reporting requirement on your company or group of companies:

	Oil	Minerals	Gas	Logging of primary forests
Please indicate in which of the extractive industries your company is engaged (NB: this question is relevant only to those companies actively engaged in extraction and not to those providing support or ancillary services)	X		X	

Is your company listed on:	Yes	No
• the London Stock Exchange?		
• AIM?		
• another recognised exchange within the EU? (if yes, please state which)		
• another international exchange? (if yes, please state which)		
• are any of your subsidiaries listed on an exchange? (If yes, please provide details)		

	Yes	No
Will your company be responsible for the preparation of the consolidated report on payments to governments for your group?	X (until implemented by the group's Italian parent)	

	Micro	Small	Medium	Large
Please indicate the number of subsidiaries within your group that are active in the extractive industries			3+ (UK only)	18+ (UK only)

(1) We propose that the first report should be prepared in respect of financial years commencing on or after 1 January 2015 (Para 5.3 – 5.4)

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 ☐ No ☐ Not sure

If no, please indicate:

(a) The minimum period you think should be provided between the regulations coming into force and the date from which reporting of payments made to governments commences:

Minimum period.....

and (b) How information from a partial year report will be used and the benefits that would arise from this approach.

Please provide comments on any difficulties/cost that might arise from requiring a partial report for 2014.

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

☒ Yes ☐ No ☐ Not sure

If no, please indicate your preference for the date from which reports should be required and provide an explanation for your preference. (Please note that UK-registered large extractives companies must report on in respect of financial years commencing on or after 20 July 2015 i.e. the deadline for transposition of the Directive.)

Preferred date.....

Reasons for preferred date:

(2) We propose that UK registered companies are required to publish the extractive report no later than 11 months after the end of their financial year. (Para 5.5 – 5.7)

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?

☒ Yes ☐ No ☐ Not sure

If no, please indicate:

(a) The maximum period, if any, you think should be permitted after the (financial) year end for companies to prepare and publish their extractive reports:

Maximum period.....

and (b) Indicate the benefits that would arise from this approach below.

Question 2.2 If a shorter period for reporting was imposed, what impact would this have on UK-registered extractives companies?

Question 2.3 If this approach would impose costs on business, please provide an estimate of the costs with an explanation of how these are derived.

We have not yet fully quantified the costs of this work but clearly these will be additional costs as there is no current requirement to produce a similar report. The expected costs will also depend for example on whether the report will need to be audited independently before filing.

Would such costs be recurring costs or transitional costs in the first year only?

☒ Recurring ☐ Transitional ☐ Not sure

(3) Comments are invited on any issues, such as changes to costs or benefits, that may arise from a later transposition deadline for the Transparency Directive. (Para 5.8)

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.

(4) Subsidiaries of overseas-registered companies will be unable to take advantage of the exemption until their parent company fulfils the obligation to report in either the UK or another EU Member State. Comments are invited on any issues that may arise from this approach. Comments are particularly welcome from subsidiaries of overseas registered companies which may not be able to take advantage of this exemption until their parent companies are obliged to produce a consolidated report under rules imposed by another Member State. (Para 5.9 – 5.10)

Question 4.1 Please provide information on any issues that arise for UK-registered subsidiaries of EU-registered companies. If appropriate please provide details of any costs that arise as a consequence of being unable to (fully) exercise the exemption in 2015. (All EU Member States are required to implement the reporting requirements by July 2015.) Please use this space for any general comments that you may have, comments on the layout of this consultation would also be welcomed.

When the exemption is used the costs will likely be very similar whether reporting the information directly to the UK or indirectly through our Italian holding company. The only additional cost is likely to be those related to the filing at Companies House.

(5) We propose that extractive reports should be published (filed) electronically with Companies House in a format which complies with industry developed best practice (to be determined as part of the systems development). (Para 5.11 – 5.14)

Question 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 ☐ No ☒ Not sure

If no, please provide supporting reasons for your view.

Currently there is no requirement for e-filing at Companies House of large businesses financial statements

E-filing for Companies House is currently in XBRL format (however at this stage only for small companies). It would be useful if the production of extractive reports were implemented using iXBRL format as this is required currently for HMRC filing.

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?

☒ Yes ☐ No ☐ Not sure

If no, please provide supporting reasons for your view.

(6) We propose that the penalty regime for non-compliance with the obligation placed on large extractive companies to prepare and publish annually reports on the payments they make to governments should reflect that in place for failure to prepare and file statutory annual reports.

We welcome views on whether the proposed penalty scheme is effective, proportionate and dissuasive. In particular, we would welcome views on:

- **the imposition of an offence for filing a report containing misleading, false or deceptive information,**
- **on how the penalty regime should apply in cases where external factors affect the preparation of a report or prevent a company from filing a report.**

Question 6.1 Do you agree that it is appropriate for the penalty regime here to reflect that in place for failure to prepare and file statutory annual reports?

☒ Yes ☐ No ☐ Not sure

If no, please indicate your preferred option and provide an explanation for your suggested approach.

Question 6.2 Do you consider that the proposed penalty regime is effective, proportionate and dissuasive?

☒ Yes ☐ No ☐ Not sure

If no, please explain why you do not consider the regime would be effective, proportionate and dissuasive. Please provide any suggestions you may have as to how the regime could be improved.

If your suggestions relate to an existing regime, please provide appropriate references.

Question 6.3 Are there any special circumstances that the Government should take in to account when determining the penalty regime?

☒ Yes ☐ No ☐ Not sure

If so what are they, and do you have any suggestions about how these might be dealt with within the penalty regime?

Currently the draft legislation says that if the report is not delivered within the time frame an offence is committed by every person who was a director of the undertaking immediately before the period allowed for delivery. This could mean multiply penalties being paid rather than one director being assigned responsibility.

The definition is broad and would include non-executive directors as well as any body acting as a director.

Question 6.4 Are there any other issues that the Government should consider in developing the penalty regime?

☐ Yes ☒ No ☐ Not sure

If yes, please provide an explanation and supporting evidence where appropriate.

(7) A copy of the draft regulations implementing Chapter 10 has been included within the consultation document.

Question 7.1 Do you have any comments on the draft regulations included at Annex 4?

☐ Yes ☒ No ☐ Not sure

If yes, please provide details. Please note that the UK does not have the discretion to amend the requirements set out in the Directive. As such comments should relate to matters of understanding or those areas where the UK has discretion in determining an option e.g. the timeframe within which an annual report must be published.

(8) The Government would like to gather information which is directly relevant to UK registered companies on the anticipated costs of implementing this reporting requirement. (Para 7.1)

Question 8.1 We would welcome views on the impacts (costs and benefits) arising on business from this new reporting obligation. It would be particularly helpful if you could provide monetised information relating to any additional costs or benefits you identify. Where possible, please indicate if these additional costs are transitional or recurring costs.

In responding to this question, please note:

- (i) *where a company voluntarily produces a similar or related report already*, the costs identified for this purpose should represent only the additional costs necessary to comply with this requirement and not the total cost of production.
- (ii) BIS is happy to receive information considered to be commercially sensitive separately from the consultation response or, if requested, to remove such information from a response prior to its publication on the consultation website.

We have not quantified the costs of this work but it would be in addition as we have no similar report. However with the Extractive Industries Transparency Initiative also being implemented at around the same time, it would be helpful if the same or very similar information is requested as this will reduce time and costs.

We believe although there will be initial costs in deciding how the payments to government should be reported the main costs would be recurring as the information will need to be obtained each year and confirmation that there were no new sources of payments to government.

The benefits to UK companies/investors would include greater transparency for companies of the contributions that such companies make to the economies of the countries they operate in.

Question 8.2 Please describe any other issues associated with this requirement that you would like to draw to our attention.

How would the 'project' based nature of the reporting be interpreted?

It is not clear what "project" means as it could be different for different countries. For example:

- (i) Currently payments of petroleum revenue tax in the UK for example would be allocated to field projects as could licence payment to licence areas however corporation tax, indirect taxes, employment taxes and business rate do not easily lend themselves to a project basis in the same way.
- (ii) Some overseas jurisdictions have corporate taxes that are project based but would there be a similar problem in how employment taxes etc should be allocated?

(9) The same reporting requirements apply to listed extractives companies under the amended *Transparency Directive*. The Government would like to gather information which is directly relevant to these companies on the anticipated costs of implementing this reporting requirement.

Question 9.1 Please outline any quantifiable costs and benefits specifically relating to the following issues:

- Economic impact
- Legal implications
- Practical implications
- Competitiveness impact including the position of the UK as a centre for international listings

Economic impacts: There may be a reluctance for certain jurisdictions to engage with UK companies (or EU companies when the directive has been adopted EU wide) because they may feel more under scrutiny.

Legal implications: There may be issues of confidentiality in certain overseas countries which may prevent disclosing some or all of the required information.

Practical implications:

Would the reporting include non UK registered companies that have a UK tax residence?

Competitiveness impact including the position of the UK as a centre for international listings

At the present time, the only other major competition for international listings is the US however they also have similar reporting requirements eg Dodd Frank.

(10) The Government would welcome any other comments on the implementation of Chapter 10 within the scope of this consultation

Do you have any other comments that might aid the consultation process as a whole?

Please use this space for any general comments that you may have, comments on the layout of this consultation would also be welcomed.

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the box below.

Please acknowledge this reply ☐

At BIS we carry out our research on many different topics and consultations. As your views are valuable to us, would it be okay if we were to contact you again from time to time either for research or to send through consultation documents?

☐ Yes

☐ No

© Crown copyright 2014

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. Visit www.nationalarchives.gov.uk/doc/open-government-licence, write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email psi@nationalarchives.gsi.gov.uk.

This publication is available from www.gov.uk/bis

Any enquiries regarding this publication should be sent to:

Department for Business, Innovation and Skills
1 Victoria Street
London SW1H 0ET
Tel: 020 7215 5000

If you require this publication in an alternative format, email enquiries@bis.gsi.gov.uk, or call 020 7215 5000.

BIS/14/622RF