

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: **Chevron North Sea Limited**

Organisation (if applicable):

Address: **Registered Office 9 Cavendish Square, London, W1G 9DF**

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
✓	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)	✓		✓	

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? <i>Chevron North Sea Limited is not listed, however, it is a UK subsidiary of Chevron Corporation which is listed on the New York Stock Exchange</i>			✓	
• 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? <i>Chevron North Sea Limited will be responsible only for reporting on activities conducted by Chevron North Sea Limited in the UK</i>	N/A		N/A	
	Micro	Small	Medium	Large
Please indicate the number of subsidiaries within your group that are active in the extractive industries <i>N/A</i>				

(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.

We believe that the administrative burden involved in publishing a report for part years in terms of time, effort and resources, is disproportionate to any perceived benefit. Moreover the numbers reported would not give a meaningful picture of the full annual payments to government.

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.....**January 2016**.....

Reasons for preferred date:

Chevron North Sea Limited believes that a workable revenue transparency scheme must involve recognising equivalent reporting requirements in other jurisdictions in order to avoid the burdens and costs (to governments, companies, civil society, and the public) of multiple reporting regimes. In the case of the UK, no equivalence finding has yet been made with respect to The United States' Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) Section 1504 (Dodd-Frank), which will lead to companies having to report similar information under two regimes – indeed three if one includes EITI. A later start for the first payment reporting period creates a window for a finding of equivalence to be made.

(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?

A shorter period would be out of alignment with normal corporate filing requirements at Companies House and could well create difficulties for government as well as industry. For industry, part year reporting would impose additional costs in terms of time and people diverted from other work

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.

That would depend on the complexity of the reporting required but a rough estimate would be the equivalent of four weeks of full time professional accountancy services at the prevailing market rate.

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

☐ Recurring ☐ Transitional ☐ Not sure

There would be a both a transitional cost, as above, as well as additional costs commensurate to the amount of additional work required.

(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.

A later transposition of the Transparency Directive would result in a number of companies not being required to comply with the revenue transparency disclosure requirements until some future point in time. This would create a competitive disadvantage for those companies covered by the Accounting Directive, causing them to incur costs to comply and disclose potentially competitively sensitive information ahead of those companies only covered by the Transparency Directive. Additionally, the limited information provided by a subset of companies under the Accounting Directive will result in an incomplete and misleading picture of government revenues. Chevron North Sea Limited suggests both the Accounting and Transparency Directives are transposed and become effective at the same time, consistent with our response to Question 1.2.

(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.

N/A

(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.

Provided that best practice development focuses on simplicity and clarity, and does not add layers of complexity and therefore create time and cost challenges.

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.

Chevron North Sea Limited supports the UK government establishing a common reporting mechanism for the UK which meets the relevant Chapter 10 requirements, overseen by Companies House. This must be user-friendly and not over-engineered or over-designed, as this would create unnecessary cost.

Relatively few companies in the UK will be in scope to submit reports to Companies House as part of this process, and as those companies are expected to meet part of the cost, it is important that the filing fee be proportionate and not subject to increase year-on-year.

(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.

The underlying purpose of Chapter 10 of the EU Accounting Directive is to tackle the problem of corruption in the extractive sector of resource-rich countries. This purpose is quite distinct from statutory filing designed to protect creditors and investors and the sanctions should not be in the same terms. The penalty regime should take into account the materiality of any reporting errors.

Chevron North Sea Limited believes that failure to deliver reports to Companies House carries the threat of reputational damage which ultimately is likely to prove more of a deterrent than other forms of sanction.

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.

As above

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?

As above

Chevron North Sea Limited believes the Government should also take into account potential conflict of law issues, as current provisions run the risk of leading UK listed or registered companies to break host-government law, with unknown consequences for locally based employees.

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.

The Government should take into account the materiality level of the reporting error and also the fact that the purpose of filing these returns is different to statutory obligations.

(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 x 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.

With equivalence yet to be declared between Dodd-Frank and Chapter 10 of the Accounting Directive, there will be less benefit not only for industry but for governments, civil society, and the public as a whole, because all stakeholders would have to deal with the confusion of multiple reports with different frameworks and requirements.

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

(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:

Legal implications:

Practical implications:

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

(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.

Clarity is needed on a number of key issues including –

- ***Payments by non-operators in a joint venture – should these be reported by the operator only or in equity by each participator?***
- ***Whether voluntary disclosures or enhancement can be submitted to Companies House as part of the process***
- ***How to apply the disclosure threshold***
- ***Whether reporting is on a cash paid/repaid basis or by liability for the period.***

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

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