

Form SD

Exchange Act of 1934 Forms
Federal Securities Law Reporter ¶34,188

[Click to open document in a browser](#)



The District of Columbia U.S. Circuit Court of Appeals has held in *National Association of Manufacturers v. SEC* (¶97.924) that Rule 13p-1's requirement that regulated entities disclose that any of their products are not "DRC conflict free" violates the First Amendment. The SEC has also stayed "those portions of the rule requiring the disclosures that the Court of Appeals held would impinge on issuers' First Amendment rights" (34-72079). In addition, the District Court for the District of Columbia vacated Rule 13q-1 and remanded to the Commission for further proceedings in *American Petroleum Institute v. SEC* (¶97.400). In *Oxfam America, Inc. v. SEC* (¶98.623), the District Court for the District of Massachusetts ordered the SEC to file a plan detailing an expedited schedule to rewrite the vacated resource extraction issuers rule. The SEC will vote on the rule on or before June 27, 2016



UNITED STATES SECURITIES AND EXCHANGE COMMISSION Washington, D.C. 20549

FORM SD Specialized Disclosure Report

(Exact name of registrant as specified in its charter)

(State or other jurisdiction of
incorporation or organization)

(Commission File Number)

(IRS Employer Identification No.)

(Address of principal executive offices)

(Zip Code)

(Name and telephone number, including area code, of the person to contact in connection with this report.)

Check the appropriate box to indicate the rule pursuant to which this form is being filed, and provide the period to which the information in this form applies:

___ Rule 13p-1 under the Securities Exchange Act (17 CFR 240.13p-1) for the reporting period from January 1 to December 31, ____.

___ Rule 13q-1 under the Securities Exchange Act (17 CFR 240.13q-1) for the fiscal year ended ____.

GENERAL INSTRUCTIONS

A. Rule as to Use of Form SD.

This Form shall be used for a report pursuant to Rule 13p-1 (17 CFR 240.13p-1) and Rule 13q-1 (17 CFR 240.13q-1) under the Securities Exchange Act of 1934 (the "Exchange Act").

B. Information to be Reported and Time for Filing of Reports.

- Form filed under Rule 13p-1. A report on this Form shall be filed on EDGAR no later than May 31 after the end of the is-suer's most recent calendar year.
- Form filed under Rule 13q-1.* File the information required by Section 2 of this form on EDGAR no later than 150 days after the end of the issuer's most recent fiscal year.
- If the deadline for filing this Form occurs on a Saturday, Sunday or holiday on which the Commission is not open for business, then the deadline shall be the next business day.

4. The information and documents filed in this report shall not be deemed to be incorporated by reference into any filing under the Securities Act or the Exchange Act, unless the registrant specifically incorporates it by reference into such filing.

C. Inapplicability to Registered Investment Companies.

The disclosures required in Form SD shall not apply to investment companies required to file reports pursuant to Rule 30d-1 (17 CFR 270.30d-1) under the Investment Company Act of 1940.

D. Preparation of Report.

This form is not to be used as a blank form to be filled in, but only as a guide in the preparation of the report meeting the requirements of Rule 12b-12 (17 CFR 240.12b-12). The report shall contain the number and caption of the applicable item, but the text of such item may be omitted, provided the answers thereto are prepared in the manner specified in Rule 12b-13 (17 CFR 240.12b-13). All items that are not required to be answered in a particular report may be omitted and no reference thereto need be made in the report. All instructions should also be omitted.

E. Application of General Rules and Regulations.

The General Rules and Regulations under the Act (17 CFR Part 240) contain certain general requirements which are applicable to reports on any form. These general requirements should be carefully read and observed in the preparation and filing of reports on this form.

F. Signature and Filing of Report

The report must be signed by the registrant on behalf of the registrant by an executive officer.

INFORMATION TO BE INCLUDED IN THE REPORT

Section 1 —Conflict Minerals Disclosure

Item 1.01 Conflict Minerals Disclosure and Report

- (a) If any conflict minerals, as defined by paragraph (d)(3) of this item, are necessary to the functionality or production of a product manufactured by the registrant or contracted by the registrant to be manufactured and are required to be reported in the calendar year covered by the specialized disclosure report, the registrant must conduct in good faith a reasonable country of origin inquiry regarding those conflict minerals that is reasonably designed to determine whether any of the conflict minerals originated in the Democratic Republic of the Congo or an adjoining country, as defined by paragraph (d)(1) of this item, or are from recycled or scrap sources, as defined by paragraph (d)(6) of this item.
- (b) Based on its reasonable country of origin inquiry, if the registrant determines that its necessary conflict minerals did not originate in the Democratic Republic of the Congo or an adjoining country or did come from recycled or scrap sources, or if it has no reason to believe that its necessary conflict minerals may have originated in the Democratic Republic of the Congo or an adjoining country, or if based on its reasonable country of origin inquiry the registrant reasonably believes that its necessary conflict minerals did come from recycled or scrap sources, the registrant must, in the body of its specialized disclosure report under a separate heading entitled "Conflict Minerals Disclosure," disclose its determination and briefly describe the reasonable country of origin inquiry it undertook in making its determination and the results of the inquiry it performed. Also, the registrant must disclose this

information on its publicly available Internet website and, under a separate heading in its specialized disclosure report entitled "Conflict Minerals Disclosure," provide a link to that website.

- (c) Alternatively, based on its reasonable country of origin inquiry, if the registrant knows that any of its necessary conflict minerals originated in the Democratic Republic of the Congo or an adjoining country and are not from recycled or scrap sources, or has reason to believe that its necessary conflict minerals may have originated in the Democratic Republic of the Congo or an adjoining country and has reason to believe that they may not be from recycled or scrap sources, the registrant must exercise due diligence on the source and chain of custody of its conflict mineral, as discussed in paragraph (c)(1) of this item, that conforms to a nationally or internationally recognized due diligence framework, if such a framework is available for the conflict mineral. If, as a result of that due diligence, the registrant determines that its conflict minerals did *not* originate in the Democratic Republic of the Congo or an adjoining country or the registrant determines that its conflict minerals *did* come from recycled or scrap sources, a Conflict Minerals Report is not required, but the registrant must disclose its determination and briefly describe, in the body of its specialized disclosure report under a separate heading entitled "Conflict Minerals Disclosure," the reasonable country of origin inquiry and the due diligence efforts it undertook in making its determination and the results of the inquiry and due diligence efforts it performed. Also, the registrant must disclose this information on its publicly available Internet website and, under a separate heading in its specialized disclosure report entitled "Conflict Minerals Disclosure," provide a link to that website. Otherwise, the registrant must file a Conflict Minerals Report as an exhibit to its specialized disclosure report and provide that report on its publicly available Internet website. Under a separate heading in its specialized disclosure report entitled "Conflict Minerals Disclosure," the registrant must disclose that it has filed a Conflict Minerals Report and provide the link to its Internet website where the Conflict Minerals Report is publicly available.

The Conflict Minerals Report must include the following information:

- (1) *Due Diligence:* A description of the measures the registrant has taken to exercise due diligence on the source and chain of custody of those conflict minerals;
- (i) The registrant's due diligence must conform to a nationally or internationally recognized due diligence framework, if such a framework is available for the conflict mineral;
- (ii) Except as provided in paragraphs (c)(1)(iv), (c)(1)(v), and (c)(1)(vi) of this item, the due diligence measures shall include but not be limited to an independent private sector audit of the Conflict Minerals Report that is conducted in accordance with standards established by the Comptroller General of the United States and certified pursuant to paragraph (c)(1)(ii)(B) of this item, which shall constitute a critical component of the registrant's due diligence in establishing the source and chain of custody of the necessary conflict minerals.
- (A) The objective of the audit of the Conflict Minerals Report is to express an opinion or conclusion as to whether the design of the registrant's due diligence measures as set forth in, and with respect to the period covered by, the registrant's Conflict Minerals Report, is in conformity with, in all material respects, the criteria set forth in the nationally or internationally recognized due diligence framework used by the registrant, and whether the registrant's description of the due diligence measures it performed as set forth in the Conflict Minerals Report, with respect to the period covered by the report, is consistent with the due diligence process that the registrant undertook.

- (B) The registrant's Conflict Minerals Report must include a statement that the registrant has obtained an independent private sector audit of the Conflict Minerals Report, which shall constitute an audit certification;
 - (C) As part of the Conflict Minerals Report, the registrant must identify the independent private sector auditor of the report, if the auditor is not identified in the audit report, and provide the audit report prepared by the auditor in accordance with standards established by the Comptroller General of the United States;
- (iii) Any registrant that manufactures products or contracts for products to be manufactured that are "DRC conflict undeterminable," as defined in paragraph (d) (5) of this item, must disclose the steps it has taken or will take, if any, since the end of the period covered in its most recent prior Conflict Minerals Report to mitigate the risk that its necessary conflict minerals benefit armed groups, including any steps to improve its due diligence.
 - (iv) For the temporary period specified in Instruction 2 to Item 1.01, following its exercise of appropriate due diligence, a registrant with products that are "DRC conflict undeterminable" is not required to obtain an independent private sector audit of its Conflict Minerals Report regarding the conflict minerals that the registrant is unable to determine did not originate in the Democratic Republic of the Congo or an adjoining country, or that the registrant is unable to determine did not directly or indirectly finance or benefit armed groups in the Democratic Republic of the Congo or an adjoining country.
 - (v) If a nationally or internationally recognized due diligence framework does not exist for a necessary conflict mineral, until such a framework is developed, the registrant is required to exercise appropriate due diligence in determining the source and chain of custody of the necessary conflict mineral, including whether the conflict mineral is from recycled or scrap sources, without the benefit of a due diligence framework. If a nationally or internationally recognized due diligence framework becomes available for the necessary conflict mineral prior to June 30 of a calendar year, the registrant must use that framework in the subsequent calendar year. If the due diligence guidance does not become available until after June 30 of a calendar year, the registrant is not required to use that framework until the second calendar year after the framework becomes available to provide a full calendar year before implementation. If no nationally or internationally recognized due diligence framework is available for a particular conflict mineral from recycled or scrap sources, the due diligence inquiry regarding the conflict mineral focuses on whether the conflict mineral is from recycled or scrap sources. In addition, an independent private sector audit will not be required for the section of the Conflict Minerals Report pertaining to the registrant's due diligence on that recycled or scrap conflict mineral.
 - (vi) If the registrant performs due diligence because it has a reason to believe that its conflict minerals originated in the Democratic Republic of the Congo or an adjoining country, and as a result of that due diligence it determines that its conflict minerals did not originate in the Democratic Republic of the Congo or an adjoining country (or it determines as a result of that due diligence that its necessary conflict minerals

did come from recycled or scrap sources), a Conflict Minerals Report and an audit is not required.

- (2) *Product Description:* Any registrant that manufactures products or contracts for products to be manufactured that have not been found to be "DRC conflict free," as defined in paragraph (d) (4) of this item, must provide a description of those products, the facilities used to process the necessary conflict minerals in those products, the country of origin of the necessary conflict minerals in those products, and the efforts to determine the mine or location of origin with the greatest possible specificity.
- (i) For the temporary period specified in Instruction 2 to Item 1.01, following its exercise of appropriate due diligence, any registrant that manufactures products or contracts for products to be manufactured that are "DRC conflict undeterminable" must provide a description of those products, the facilities used to process the necessary conflict minerals in those products, if known, the country of origin of the necessary conflict minerals in those products, if known, and the efforts to determine the mine or location of origin with the greatest possible specificity;
- (ii) A registrant is not required to provide the information in paragraph (c)(2) of this item if the necessary conflict minerals in its product are solely from recycled or scrap sources because those products are considered "DRC conflict free."

(d) For the purposes of this item, the following definitions apply:

- (1) *Adjoining country.* The term *adjoining country* means a country that shares an internationally recognized border with the Democratic Republic of the Congo.
- (2) *Armed group.* The term *armed group* means an armed group that is identified as a perpetrator of serious human rights abuses in annual Country Reports on Human Rights Practices under sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d) and 2304(b)) relating to the Democratic Republic of the Congo or an adjoining country.
- (3) *Conflict mineral.* The term *conflict mineral* means:
- (i) Columbite-tantalite (coltan), cassiterite, gold, wolframite, or their derivatives, which are limited to tantalum, tin, and tungsten, unless the Secretary of State determines that additional derivatives are financing conflict in the Democratic Republic of the Congo or an adjoining country; or
- (ii) Any other mineral or its derivatives determined by the Secretary of State to be financing conflict in the Democratic Republic of the Congo or an adjoining country.
- (4) *DRC conflict free.* The term *DRC conflict free* means that a product does not contain conflict minerals necessary to the functionality or production of that product that directly or indirectly finance or benefit armed groups, as defined in paragraph (d)(2) of this item, in the Democratic Republic of the Congo or an adjoining country. Conflict minerals that a registrant obtains from recycled or scrap sources, as defined in paragraph (d)(6) of this item, are considered DRC conflict free.
- (5) *DRC conflict undeterminable.* The term *DRC conflict undeterminable* means, with respect to any product manufactured or contracted to be manufactured by a registrant, that the registrant is unable to determine, after exercising due diligence as required by paragraph (c) (1) of this item, whether or not such product qualifies as DRC conflict free.

- (6) *Conflict Minerals from Recycled or Scrap Sources.* Conflict minerals are considered to be from recycled or scrap sources if they are from recycled metals, which are reclaimed end-user or post-consumer products, or scrap processed metals created during product manufacturing. Recycled metal includes excess, obsolete, defective, and scrap metal materials that contain refined or pro-cessed metals that are appropriate to recycle in the production of tin, tantalum, tungsten and/or gold. Minerals partially processed, unprocessed, or a bi-product from another ore will not be included in the definition of recycled metal.
- (7) *Outside the Supply Chain.* A conflict mineral is considered *outside the supply chain* after any columbite-tantalite, cassiterite, and wolframite minerals, or their derivatives, have been smelted; any gold has been fully refined; or any conflict mineral, or its deriva-tives, that have not been smelted or fully refined are located outside of the Democratic Republic of the Congo or an adjoining country.
- (8) *Nationally or internationally recognized due diligence framework.* The term "nationally or internationally recognized due diligence framework" means a nationally or internationally recognized due diligence framework established following due-process procedures, including the broad distribution of the framework for public comment, and is consistent with the criteria standards in the Government Auditing Standards established by the Comptroller General of the United States.

Item 1.02 Exhibit

Registrants shall file, as an exhibit to this Form SD, the Conflict Minerals Report required by Item 1.01.

Instructions to Item 1.01

- (1) A registrant that mines conflict minerals would not be considered to be manufacturing those minerals for the purpose of this item. The specialized disclosure report on Form SD shall cover a calendar year, regardless of the registrant's fiscal year, and be due annually on May 31 for the prior calendar year.
- (2) During the first two calendar years following November 13, 2012 for all registrants and the first four calendar years for any smaller reporting company, a registrant will not be required to submit an audit report of its Conflict Minerals Report prepared by an independent private sector auditor with respect to the conflict minerals in any of its products that are "DRC conflict undeterminable." Beginning with the third or fifth reporting calendar year, as applicable, a registrant with products manufactured or contracted to be manufactured that are "DRC conflict undeterminable," must describe those products as having not been found to be "DRC conflict free" and must provide the information required in paragraph (c) of this item including the audit report.
- (3) A registrant that acquires or otherwise obtains control over a company that manufactures or contracts to manufacture products with conflict minerals necessary to the functionality or production of those products that previously had not been obligated to provide a specialized disclosure report with respect to its conflict minerals will be permitted to delay reporting on the products manufactured by the acquired company until the end of the first reporting calendar year that begins no sooner than eight months after the effective date of the acquisition.
- (4) A registrant is not required to provide any information regarding its conflict minerals that, prior to January 31, 2013, are located outside of the supply chain, as defined by paragraph (d)(7) of this item.
- (5) A registrant must provide its required conflict minerals information for the calendar year in which the manufacture of a product that contains any conflict minerals necessary to the functionality or

production of that product is completed, irrespective of whether the registrant manufactures the product or contracts to have the product manufactured.

Section 2 —Resource Extraction Issuer Disclosure

Item 2.01 Resource Extraction Issuer Disclosure and Report

(a) *Required Disclosure.* A resource extraction issuer must file an annual report on Form SD with the Commission, and include as an exhibit to this Form SD, information relating to any payment made during the fiscal year covered by the annual report by the resource extraction issuer, a subsidiary of the resource extraction issuer, or an entity under the control of the resource extraction issuer, to a foreign government or the Federal Government, for the purpose of the commercial development of oil, natural gas, or minerals. The resource extraction issuer is not required to have the information audited. The payment information must be provided on a cash basis. The resource extraction issuer must provide a statement in the body of the Form SD that the specified payment disclosure required by this Form is included in such exhibit. The resource extraction issuer must include the following information in the exhibit, which must present the information in the eXtensible Business Reporting Language (XBRL) electronic format:

- (1) The type and total amount of such payments, by payment type listed in paragraph (d)(8)(iii) of this Item, made for each project of the resource extraction issuer relating to the commercial development of oil, natural gas, or minerals;
- (2) The type and total amount of such payments, by payment type listed in paragraph (d)(8)(iii) of this Item, for all projects made to each government;
- (3) The total amounts of the payments, by payment type listed in paragraph (d)(8)(iii) of this Item;
- (4) The currency used to make the payments;
- (5) The fiscal year in which the payments were made;
- (6) The business segment of the resource extraction issuer that made the payments;
- (7) The governments (including any foreign government or the Federal Government) that received the payments and the country in which each such government is located;
- (8) The project of the resource extraction issuer to which the payments relate;
- (9) The particular resource that is the subject of commercial development; and
- (10) The subnational geographic location of the project.

(b) *Delayed Reporting.* (1) A resource extraction issuer may delay disclosing payment information related to exploratory activities until the Form SD filed for the fiscal year immediately following the fiscal year in which the payment was made. For purposes of this paragraph, payment information related to exploratory activities includes all payments made as part of the process of (i) identifying areas that may warrant examination, (ii) examining specific areas that are considered to have prospects of containing oil and gas reserves, or (iii) as part of a mineral exploration program, in each case limited to exploratory activities that were commenced prior to any development or extraction activities on the property, any adjacent property, or any property that is part of the same project.

- (b)(2) A resource extraction issuer that has acquired (or otherwise obtains control over) an entity that has not been obligated to provide disclosure pursuant to Rule 13q-1 or another "substantially similar" jurisdiction's requirements in such entity's last full fiscal year is not

required to commence reporting payment information for such acquired entity until the Form SD filed for the fiscal year immediately following the effective date of the acquisition. A resource extraction issuer must disclose that it is relying on this accommodation in the body of its Form SD filing.

(c) *Alternative Reporting.*

- (1) A resource extraction issuer that is subject to the resource extraction payment disclosure requirements of an alternative reporting regime that has been deemed by the Commission to be substantially similar to the requirements of Rule 13q-1 (17 CFR 240.13q-1) may satisfy its disclosure obligations under paragraph (a) of this Item 2.01 by including, as an exhibit to this Form SD, a report complying with the reporting requirements of the alternative jurisdiction.
- (2) The alternative report must be the same as the one prepared and made publicly available pursuant to the requirements of the approved alternative reporting regime, subject to changes necessary to comply with any conditions to alternative reporting set forth by the Commission.
- (3) The resource extraction issuer must: (i) State in the body of the Form SD that it is relying on the alternative reporting provision; (ii) identify the alternative reporting regime for which the report was prepared; (iii) describe how to access the publicly filed report in the alternative jurisdiction; and (iv) specify that the payment disclosure required by this Form is included in an exhibit to this Form SD.
- (4) The alternative report must be provided in XBRL format.
- (5) A fair and accurate English translation of the entire report must be filed if the report is in a foreign language. Project names may be presented in their original language, in addition to the English translation of the project name, if the resource extraction issuer believes that such an approach would facilitate identification of the project by users of the disclosure.
- (6) Unless the Commission provides otherwise in an exemptive order, a resource extraction issuer may follow the submission deadline of an approved alternative jurisdiction if it files a notice on Form SD-N on or before the due date of its Form SD indicating its intent to file the alternative report using the alternative jurisdiction's deadline. If a resource extraction issuer fails to file such notice on a timely basis, or files such a notice but fails to file the alternative report within two business days of the alternative jurisdiction's deadline, it may not rely on this Item 2.01(c) for the following fiscal year.
- (7) Resource extraction issuers must also comply with any additional requirements that are provided by the Commission upon granting an alternative reporting accommodation, as well as subsequent changes in such requirements.

(d) *Definitions.* For purposes of this item, the following definitions apply:

- (1) *Business segment* means a business segment consistent with the reportable segments used by the resource extraction issuer for purposes of financial reporting.
- (2) *Commercial development of oil, natural gas, or minerals* means exploration, extraction, processing, and export of oil, natural gas, or minerals, or the acquisition of a license for any such activity.
- (3) *Control* means that the resource extraction issuer consolidates the entity or proportionately consolidates an interest in an entity or operation under the accounting principles applicable to the financial statements included in the resource extraction issuer's periodic reports filed

pursuant to the Exchange Act (i.e., under generally accepted accounting principles in the United States (U.S. GAAP) or International Financial Reporting Standards as issued by the International Accounting Standards Board (IFRS), but not both). A foreign private issuer that prepares financial statements according to a comprehensive set of accounting principles, other than U.S. GAAP or IFRS, and files with the Commission a reconciliation to U.S. GAAP must determine control using U.S. GAAP.

- (4) *Export* means the movement of a resource across an international border from the host country to another country by a company with an ownership interest in the resource. Export does not include the movement of a resource across an international border by a company that (i) is not engaged in the exploration, extraction, or processing of oil, natural gas, or minerals and (ii) acquired its ownership interest in the resource directly or indirectly from a foreign government or the Federal Government. Export also does not include cross-border transportation activities by an entity that is functioning solely as a service provider, with no ownership interest in the resource being transported.
- (5) *Extraction* means the production of oil and natural gas as well as the extraction of minerals.
- (6) *Foreign government* means a foreign government, a department, agency, or instrumentality of a foreign government, or a company at least majority owned by a foreign government. As used in this Item 2.01, foreign government includes a foreign national government as well as a foreign subnational government, such as the government of a state, province, county, district, municipality, or territory under a foreign national government.
- (7) *Not de minimis* means any payment, whether made as a single payment or a series of related payments, which equals or exceeds \$100,000, or its equivalent in the resource extraction issuer's reporting currency, during the fiscal year covered by this Form SD. In the case of any arrangement providing for periodic payments or installments, a resource extraction issuer must use the aggregate amount of the related periodic payments or installments of the related payments in determining whether the payment threshold has been met for that series of payments, and accordingly, whether disclosure is required.
- (8) *Payment* means an amount paid that:
- (i) Is made to further the commercial development of oil, natural gas, or minerals;
 - (ii) Is not de minimis; and
 - (iii) Is one or more of the following:
 - (A) Taxes;
 - (B) Royalties;
 - (C) Fees;
 - (D) Production entitlements;
 - (E) Bonuses;
 - (F) Dividends;
 - (G) Payments for infrastructure improvements; and (H) Community and social responsibility payments that are required by law or contract.

- (9) *Project* means operational activities that are governed by a single contract, license, lease, concession, or similar legal agreement, which form the basis for payment liabilities with a government. Agreements that are both operationally and geographically interconnected may be treated by the resource extraction issuer as a single project.
- (10) *Resource extraction issuer* means an issuer that:
- (i) Is required to file an annual report with the Commission pursuant to Section 13 or 15(d) of the Exchange Act (15 U.S.C. 78m or 78o(d)); and (ii) Engages in the commercial development of oil, natural gas, or minerals.
- (11) *Subsidiary* means an entity controlled directly or indirectly through one or more intermediaries.

Instructions to Item 2.01*Disclosure by Subsidiaries and other Controlled Entities*

- (1) If a resource extraction issuer is controlled by another resource extraction issuer that has filed a Form SD disclosing the information required by Item 2.01 for the controlled entity, then such controlled entity is not required to file the disclosure required by Item 2.01 separately. In such circumstances, the controlled entity must file a notice on Form SD indicating that the required disclosure was filed on Form SD by the controlling entity, identifying the controlling entity and the date it filed the disclosure. The reporting controlling entity must note that it is filing the required disclosure for a controlled entity and must identify the controlled entity on its Form SD filing.

- (2) *Currency Disclosure and Conversion*

A resource extraction issuer must report the amount of payments made for each payment type, and the total amount of payments made for each project and to each government, during the reporting period in either U.S. dollars or the resource extraction issuer's reporting currency. If a resource extraction issuer has made payments in currencies other than U.S. dollars or its reporting currency, it may choose to calculate the currency conversion between the currency in which the payment was made and U.S. dollars or the resource extraction issuer's reporting currency, as applicable, in one of three ways: (a) By translating the expenses at the exchange rate existing at the time the payment is made; (b) using a weighted average of the exchange rates during the period; or (c) based on the exchange rate as of the resource extraction issuer's fiscal year end. When calculating whether the de minimis threshold has been exceeded, a resource extraction issuer may be required to convert the payment to U.S. dollars, even though it is not required to disclose those payments in U.S. dollars. For example, this may occur when the resource extraction issuer is using a non-U.S. dollar reporting currency. In these instances, the resource extraction issuer may use any of the three methods described above for calculating the currency conversion. In all cases a resource extraction issuer must disclose the method used to calculate the currency conversion and must choose a consistent method for all such currency conversions within a particular Form SD filing.

- (3) *Geographic Location Tagging*

When identifying the country in which a government is located, a resource extraction issuer must use the code provided in ISO 3166 if available. When identifying the "subnational geographic location of the project," as used in Item 2.01(a)(10), a resource extraction issuer must include the subdivision code provided in ISO 3166 if available and must also include

sufficiently detailed additional information to permit a reasonable user of the information to identify the project's specific, subnational, geographic location. In identifying the project's specific location, resource extraction issuers may use subnational jurisdiction(s) (e.g., a state, province, county, district, municipality, territory, etc.) and/or a commonly recognized, subnational, geographic or geological description (e.g., oil field, basin, canyon, delta, desert, mountain, etc.). More than one descriptive term may be necessary when there are multiple projects in close proximity to each other or when a project does not reasonably fit within a commonly recognized, subnational geographic location. In considering the appropriate level of detail, resource extraction issuers may need to consider how the relevant contract identifies the location of the project.

(4) *Entity Level Disclosure and Tagging*

If a government levies a payment obligation, such as a tax or a requirement to pay a dividend, at the entity level rather than on a particular project, a resource extraction issuer may disclose that payment at the entity level. To the extent that payments, such as corporate income taxes and dividends, are made for obligations levied at the entity level, a resource extraction issuer may omit certain tags that may be inapplicable (e.g., project tag, business segment tag) for those payment types as long as it provides all other electronic tags, including the tag identifying the recipient government.

(5) *Payment Disclosure*

When a resource extraction issuer proportionately consolidates an entity or operation under U.S. GAAP or IFRS, as applicable, the resource extraction issuer must disclose its proportionate amount of the payments made by such entity or operation pursuant to this Item and must indicate the proportionate interest.

(6) Although an entity providing only services to a resource extraction issuer to assist with exploration, extraction, processing or export would generally not be considered a resource extraction issuer, where such a service provider makes a payment that falls within the definition of "payment" to a government on behalf of a resource extraction issuer, the resource extraction issuer must disclose such payment.

(7) "Processing," as used in Item 2.01, would include, but is not limited to, midstream activities such as the processing of gas to remove liquid hydrocarbons, the removal of impurities from natural gas prior to its transport through a pipeline, and the upgrading of bitumen and heavy oil, through the earlier of the point at which oil, gas, or gas liquids (natural or synthetic) are either sold to an unrelated third party or delivered to a main pipeline, a common carrier, or a marine terminal. It would also include the crushing and processing of raw ore prior to the smelting phase. It would not include the downstream activities of refining or smelting.

(8) A resource extraction issuer must disclose payments made for taxes on corporate profits, corporate income, and production. Disclosure of payments made for taxes levied on consumption, such as value added taxes, personal income taxes, or sales taxes, is not required.

(9) Royalties include unit-based, value-based, and profit-based royalties. Fees include license fees, rental fees, entry fees, and other considerations for licenses or concessions. Bonuses include signature, discovery, and production bonuses.

(10) Dividends paid to a government as a common or ordinary shareholder of the resource extraction issuer that are paid to the government under the same terms as other shareholders

need not be disclosed. The resource extraction issuer, however, must disclose any dividends paid in lieu of production entitlements or royalties.

- (11) If a resource extraction issuer makes an in-kind payment of the types of payments required to be disclosed, the resource extraction issuer must disclose the payment. When reporting an in-kind payment, a resource extraction issuer must determine the monetary value of the in-kind payment and tag the information as "in-kind" for purposes of the currency. For purposes of the disclosure, a resource extraction issuer must report the payment at cost, or if cost is not determinable, fair market value and must provide a brief description of how the monetary value was calculated. If a resource extraction issuer makes an in-kind production entitlement payment under the rules and then repurchases the resources associated with the production entitlement within the same fiscal year, the resource extraction issuer must report the payment using the purchase price (rather than at cost, or if cost is not determinable, fair market value). If the in-kind production entitlement payment and the subsequent repurchase are made in different fiscal years and the purchase price is greater than the previously reported value of the in-kind payment, the resource extraction issuer must report the difference in values in the latter fiscal year (assuming the amount of that difference exceeds the de minimis threshold). In other situations, such as when the purchase price in a subsequent fiscal year is less than the in-kind value already reported, no disclosure relating to the purchase price is required.

- (12) *Interconnected Agreements*

The following is a non-exclusive list of factors to consider when determining whether agreements are "operationally and geographically interconnected" for purposes of the definition of "project": (a) whether the agreements relate to the same resource and the same or contiguous part of a field, mineral district, or other geographic area; (b) whether the agreements will be performed by shared key personnel or with shared equipment; and (c) whether they are part of the same operating budget.

Section 3 —Exhibits

Item 3.01 Exhibits

List below the following exhibits filed as part of this report:

Exhibit 1.01—Conflict Minerals Report as required by Items 1.01 and 1.02 of this Form.

Exhibit 2.01—Resource Extraction Payment Report as required by Item 2.01 of this Form.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the duly authorized undersigned.

(Registrant)

By (Signature and Title) [\[1\]](#)

(Date)

[Added by [Release No. 34-67716](#) (¶80,136), effective November 13, 2012, 77 F.R. 56274; as amended by [Release No. 34-67717](#) (¶80,137), effective November 13, 2012, 77 F.R. 56365; [Release No. 34-78167](#) (¶81,423), 81 F.R. 49360, effective September 26, 2016. A resource extraction issuer must comply with the final rule and form for fiscal years ending on or after September 30, 2018. An order recognizing the resource extraction payment disclosure requirements of the European Union, Canada and the U.S. Extractive Industries Transparency Initiative was issued in [Release No. 34-78169](#) (¶81,424), 81 F.R. 49163, effective July 27, 2016.]

Footnotes

- * Print name and title of the registrant's signing executive officer under his or her signature.