AMCHAM EU
AMERICAN CHAMBER OF COMMERCE TO THE EUROPEAN UNION
SPEAKING FOR AMERICAN BUSINESS IN EUROPE

POSITION STATEMENT

23 October 2013

AmCham EU supports tax transparency, but believes Country by Country Reporting could harm European economy

As representatives of businesses with a long-standing commitment to investment in the European Union, AmCham EU supports complete transparency by fully disclosing all required information to fiscal authorities.

- **However, AmCham EU does not support country by country (CBCR) within the public sphere. The following outlines our concerns:**
  - Such information is commercially sensitive, and can be easily misinterpreted.
  - The challenge is to ensure it provides stakeholders – including the general public – with useful information that provides clarity rather than complexity.
  - There is no evidence that CBCR on tax would increase the amount of useful information available to tax authorities, investors, or the public. In addition, an impact assessment has not been undertaken.
  - A project is also already being undertaken by the EU relating to Automatic Exchange of Information between tax authorities (EU FATCA).
  - Existing EU rules under the Accounting and Transparency Directive (ATD), accounting standards and unilateral reporting rules (e.g. iXBRL tax return and accounts reporting in the UK) already provide tax authorities with very significant amounts of data. Tax authorities also have the opportunity to request specific information. There is evidence that developing countries are finding it difficult to examine the volume of information that are already prepared by businesses.
  - Better ways of sharing information between EU member governments and developing country governments should instead be considered. Investors already receive a substantial quantity of information and we are not aware of any that are calling for CBCR.

American Chamber of Commerce to the European Union – Avenue des Arts/Kunstlaan 53, B-1000 Brussels, Belgium
Telephone 32-2-513 68 92 – Fax 32-2-513 79 28 – info@amchameu.eu– www.amchameu.eu

- **Additional costs would put companies operating in Europe at a competitive disadvantage relative to international competitors, harming growth and investment at precisely the time when Europe needs more of both.**
    - In 2011, the European Commission made two legislative proposals in an attempt to align European reporting with the US Dodd-Frank Act. Proposals included changes to AD and the Capital Requirements Directive IV (CRD4) in relation to financial institutions.
    - In 2013, the CBCR proposals in the US Dodd-Frank Act were rejected by a US District judge and have been sent back to the SEC for further review. It is unclear if or in what form revised US proposals will be put forward.
    - The burden that the proposed disclosure requirements would place on business should not be underestimated.Arguments that reporting a limited number of key pieces information would not be costly should not be accepted without further evidence; if the disclosure is to be made in the annual accounts (as under the Capital Requirements Directive), then they must be audited.
    - The proposals will therefore place significant additional cost burden on businesses even if the proposals only require certain key numbers to be disclosed. Estimates for the extractive and primary forestry industry, (who already have to comply with the AD) range from tens to hundreds of millions per group.

AmCham EU calls on the European Union to:

1. **Undertake a thorough impact assessment:**

Whilst CBCR has been implemented through CRD4 (financial institutions) and AD (extractive and logging), impact assessments have not been undertaken in other sectors. If such obligations are to be imposed on European businesses, then a full impact assessment should be undertaken to clarify which of the purported benefits would be achieved, how best they could be achieved, and what the cost would be.

The impact and benefits of these two similar CBCR requirements has not yet been assessed. Further, recent amendments to the review clause of the AD will allow scope-extension to other sectors in five years. This time should be used to examine the effectiveness and impact of the rules already in force.

The inclusion of a revision on CBCR on tax in NFD at this late stage cannot possibly allow sufficient time to properly assess the impact of the proposals before its introduction.

Allowing time for a full impact assessment to be undertaken through the NFD would not result in an opportunity missed, but it would demonstrate a consistent

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and proportionate approach to policy making and allow time for the impact to be thoroughly assessed.

2. **Focus on an international solution that will not harm European competitiveness**

As adopted by the G20, the G8 Lough Erne Declaration called for multilateral action to establish a template for multinationals to report to tax authorities on tax.

The OECD has prioritised developing such a solution and the template is expected by September 2014.

The NFD proposals promote a unilateral approach which will lead to fragmentation and place EU businesses at a significant competitive disadvantage in comparison to non-EU businesses through the disclosure of commercially sensitive information and the cost of having to comply with both global and EU standards.

The EU should work closely with the OECD to ensure that its objectives are met without forcing additional compliance burden and competitive disadvantage on EU businesses.

3. **Apply rules through an appropriate vehicle**

We do believe that there is scope to explore a voluntary reporting standard on the "total economic contribution" of companies, similar to the way in which reporting standards have evolved in the field of corporate social responsibility. We would be happy to work with decision-makers to shape the format of such a reporting standard.

However, the NFD was not developed to require the disclosure of financial information. It is a non-financial dossier and hence is inappropriate for the introduction of CBCR on tax with similar provisions to those included in CRD4.

In conclusion, we believe the critical focus should be on transparency with Tax Authorities and between Tax Authorities. AmCham EU members manage and report their tax affairs in a manner which ensures compliance with all fiscal obligations and is consistent with international best practice guidelines.

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AmCham EU speaks for American companies committed to Europe on trade, investment and competitiveness issues. It aims to ensure a growth-orientated business and investment climate in Europe. AmCham EU facilitates the resolution of transatlantic issues that impact business and plays a role in creating better understanding of EU and US positions on business matters. Aggregate US investment in Europe totalled €1.9 trillion in 2012 and directly supports more than 4.2 million jobs in Europe.

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