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Disclosures on tax and payments to government

Project Proposal

Approved by the Global Sustainability Standards Board (GSSB) on 24 May 2017

Project background

The global discussion around tax transparency has gained momentum in recent years, with leading intergovernmental organizations, civil society groups, and investors calling for increased disclosure on corporate tax and payments to governments. Currently, many companies publicly disclose very limited information on their tax structure or taxes paid at a country-by-country level. For example, a survey of tax reporting amongst FTSE 100 companies showed that most report only very generic information on their tax strategy, with an emphasis on the fact that their practices are 'legally compliant'.[1] Another recent study by RobecoSAM indicated that only 17% out of 830 companies surveyed were currently reporting publicly on tax payments at a country level, and most of these were only operating in a single country.[2]

Greater transparency can be one tool to help ensure public and stakeholder confidence that companies employ fair tax strategies and demonstrate their contributions to society in the regions where they operate. This issue is closely linked to the sustainable development agenda, since corporate tax payments can play an important role in helping governments to address issues such as poverty and wealth inequality. Although the exact scale of the impact is difficult to determine, recent research shows that greater transparency in tax is correlated with reductions in 'tax dodging' practices (such as base erosion and profit shifting) and this in turn leads to governments having more revenue to put towards development programs. Recent reports from the OECD attest that in developing regions, domestic revenues provide by far the greatest share of financing for development, including programs designed to make progress towards the Sustainable Development Goals.[3] At the same time, the total tax revenue lost due to practices such as base erosion and profit shifting is estimated to be between 100-240 billion USD annually, with developing countries suffering the greatest share of losses.[4]

To help increase transparency and accountability on corporate tax, a number of new international and regional policy initiatives have emerged in recent years. Under the OECD/ G20 Base Erosion and Profit Shifting (BEPS) Package,[5] large multinational enterprises are required to report detailed, country-by-country tax information to tax authorities, although not publicly. The Action Plan on BEPS was first introduced by the OECD in 2013 and it has since been adopted by 94 countries or jurisdictions, with the first exchanges taking place early in 2017.[6] It is expected that an estimated 10,000 large companies (with annual consolidated group revenues over 750 million euros) will be impacted by the BEPS legislation.

The EU has also proposed new legislation that would require large companies based in and operating in the EU to *publicly report* on tax payments on a country-by-country basis. This proposal

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[1] Maya Forstater, 'Publishing Corporate Tax Strategies'. *Tax Journal*, 5 August 2016.

[2] RobecoSAM, '*The Sustainability Yearbook 2015'*, January 2015.

[3] UNA-UK, 'Can tax regimes underpin the SDGs?', http://www.sustainablegoals.org.uk/can-tax-regimes-underpin-sdgs/ (accessed 03 April 2017). See also the OECD Secretary General Report to G20 Finance Ministers, March 2017, page 5.

[4] OECD/G20 Base Erosion and Profit Shifting Project (March 2015), https://www.oecd.org/ctp/beps-reports-2015-information-brief.pdf (accessed 30 March 2017)

[5] OECD, 'BEPS Actions', Available at: http://www.oecd.org/tax/beps/beps-actions.htm (accessed 30 March 2017)

[6] OECD, Inclusive Framework on BEPs Coalition, March 2017, http://www.oecd.org/tax/beps/inclusive-framework-on-beps-composition.pdf (accessed 05 April 2017)

to amend the existing EU Directive 2013/34/EU[7] was developed following a 2015 public consultation on corporate tax transparency requirements, and is part of the Commission's overarching 'Action Plan for Fair and Efficient Corporate Taxation in the EU.' However, according to experts working in the tax disclosure field, there is no indication at the moment that this proposal is likely to be approved by the EU in the near term.

Public country-by-country tax reporting requirements currently apply mainly to two specific sectors – financial institutions and extractives. The EU's Capital Requirements Directive IV covers much of the financial sector (mainly banks), and includes a country-by-country tax reporting obligation. Similarly, the Extractive Industry Transparency Initiative (EITI) Standard applies to the extractives sector and is implemented in 51 countries around the world. It requires applicable companies to publicly disclose all material taxes and payments to governments in their countries of operation. However, the tax information required under these initiatives is less detailed than the information reported to tax authorities under the OECD BEPS legislation.

Considering the limitations of current policy instruments, and the growing demand from investors and civil society for greater transparency on this issue, the GRI Standards could play an important role in encouraging more voluntary disclosure on corporate tax.

Project objectives and scope

The primary objective of this project is to develop new, specific disclosures related to tax and payment to governments, which will be considered for incorporation into the GRI Standards. The aim of this work is to help promote greater transparency on a reporting organization's approach to taxes, including potential elements such as tax strategy, governance, and information on actual taxes paid or payments to governments.

Wherever possible, this project will consider and seek to align with existing frameworks and methodologies for reporting on tax and payment to governments.

The outcomes of this project could take several forms. It could lead to new overarching disclosures to be included in the universal GRI Standards (most likely *GRI 102: General Disclosures*), additional disclosures on tax to be included in existing economic topic-specific Standards, and/or a new standard focused specifically on tax and payments to governments.

This project will be carried out in parallel to the GSSB's review of several standards in the economic (200) series: *GRI 201: Economic Performance, GRI 202: Market Presence, and GRI 203: Indirect Economic Impacts*. Due to the strong linkages between tax and socio-economic development, it is also possible that outcomes from this project could be integrated into these revised economic standards.

[7] Available at: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52016PC0198

Proposed next steps

This project will follow the GSSB's standard-setting process as set out in its Due Process Protocol. Given the specific technical expertise required on tax and payments to governments, the GSSB has proposed to form a dedicated Technical Committee to develop initial draft content on this topic. A detailed Terms of Reference for the Technical Committee will be developed, including the objectives, scope, and timeline for their work. The Technical Committee will be asked to produce recommendations on the following areas:

- the benefits and considerations of including tax disclosure within the universal GRI Standards (i.e. as an overarching disclosure for all companies), as new disclosures within existing economic standards, and/or as a new dedicated standard
- the specific recommended disclosures related to tax and payments to governments (including associated guidance and recommendations, where appropriate)
- additional contextual information that may be required for users to accurately understand/ analyze disclosure on tax and payments to government. This information could be contained already within other GRI Standards.

The findings of the Committee will then be shared back with the GSSB for consideration. Based on the outcomes of this initial phase of work, the GSSB will then also determine whether further Technical Committee or Project Working Group input is required, or whether to move ahead with developing an Exposure Draft for public consultation.