

116TH CONGRESS  
1ST SESSION

# S. 1609

To amend the Securities Act of 1934 to require country-by-country reporting.

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## IN THE SENATE OF THE UNITED STATES

MAY 22, 2019

Mr. VAN HOLLEN (for himself, Ms. KLOBUCHAR, Ms. DUCKWORTH, and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To amend the Securities Act of 1934 to require country-by-country reporting.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Disclosure of Tax Ha-  
5 vens and Offshoring Act”.

6 **SEC. 2. COUNTRY-BY-COUNTRY REPORTING.**

7 (a) COUNTRY-BY-COUNTRY REPORTING.—Section 13  
8 of the Securities Exchange Act of 1934 (15 U.S.C. 78m)  
9 is amended by adding at the end the following new sub-  
10 section:

1       “(s) DISCLOSURE OF FINANCIAL PERFORMANCE ON  
2 A COUNTRY-BY-COUNTRY BASIS.—

3           “(1) DEFINITIONS.—In this subsection—

4               “(A) the term ‘constituent entity’ means,  
5 with respect to a covered issuer, any separate  
6 business entity of the covered issuer;

7               “(B) the term ‘covered issuer’ means an  
8 issuer who—

9                   “(i) is a member of a multinational  
10 enterprise group; and

11                   “(ii) the multinational enterprise  
12 group of which the issuer is a member has  
13 annual revenue for the preceding calendar  
14 year of not less than an amount deter-  
15 mined by the Commission to conform to  
16 United States or international standards  
17 for country-by-country reporting; and

18               “(C) the term ‘tax jurisdiction’—

19                   “(i) means a country or a jurisdiction  
20 that is not a country but that has fiscal  
21 autonomy; and

22                   “(ii) includes a territory or possession  
23 of the United States that has fiscal auton-  
24 omy.

25           “(2) DISCLOSURE.—

1           “(A) IN GENERAL.—Each covered issuer  
2 shall file a report with the Commission that in-  
3 cludes information described in subparagraph  
4 (B), and any other information required by the  
5 Commission, with respect to the reporting pe-  
6 riod described in subparagraph (C).

7           “(B) INFORMATION REQUIRED.—The in-  
8 formation described in this subparagraph is as  
9 follows:

10           “(i) CONSTITUENT ENTITY INFORMA-  
11 TION.—Information on the constituent en-  
12 tity, including the following:

13           “(I) The complete legal name of  
14 the constituent entity.

15           “(II) The tax jurisdiction, if any,  
16 in which the constituent entity is resi-  
17 dent for tax purposes.

18           “(III) The tax jurisdiction in  
19 which the constituent entity is orga-  
20 nized or incorporated (if different  
21 from the tax jurisdiction of residence).

22           “(IV) The tax identification num-  
23 ber, if any, used for the constituent  
24 entity by the tax administration of the

1 constituent entity's tax jurisdiction of  
2 residence.

3 “(V) The main business activity  
4 or activities of the constituent entity.

5 “(ii) TAX JURISDICTION.—Informa-  
6 tion on each tax jurisdiction in which one  
7 or more constituent entities is resident,  
8 presented as an aggregated or consolidated  
9 form of the information for the constituent  
10 entities resident in each tax jurisdiction,  
11 including the following:

12 “(I) Revenues generated from  
13 transactions with other constituent  
14 entities.

15 “(II) Revenues not generated  
16 from transactions with other con-  
17 stituent entities.

18 “(III) Profit or loss before in-  
19 come tax.

20 “(IV) Total income tax paid on a  
21 cash basis to all tax jurisdictions.

22 “(V) Total accrued tax expense  
23 recorded on taxable profits or losses.

24 “(VI) Stated capital.

1                   “(VII) Total accumulated earn-  
2                   ings.

3                   “(VIII) Total number of employ-  
4                   ees on a full-time equivalent basis.

5                   “(IX) Net book value of tangible  
6                   assets, which, for purposes of this sec-  
7                   tion, does not include cash or cash  
8                   equivalents, intangibles, or financial  
9                   assets.

10                  “(iii) SPECIAL RULES.—The informa-  
11                  tion listed in clause (ii) shall be provided,  
12                  in aggregated or consolidated form, for any  
13                  constituent entity or entities that have no  
14                  tax jurisdiction of residence. In addition, if  
15                  a constituent entity is an owner of a con-  
16                  stituent entity that does not have a juris-  
17                  diction of tax residence, then the owner’s  
18                  share of such entity’s revenues and profits  
19                  will be aggregated or consolidated with the  
20                  information for the owner’s tax jurisdiction  
21                  of residence.

22                  “(C) REPORTING PERIOD.—The reporting  
23                  period covered by this paragraph is the period  
24                  of the covered entity’s applicable financial state-  
25                  ment prepared for the 12-month period that

1 ends with or within the taxable year of the cov-  
2 ered issuer. If the covered issuer does not pre-  
3 pare an annual applicable financial statement,  
4 then the reporting period covered by this para-  
5 graph is the 12-month period that ends on the  
6 last day of the taxable year of the covered  
7 issuer.

8 “(D) FILING DEADLINE.—Each covered  
9 issuer shall submit to the Commission a report  
10 required under this section on or before the due  
11 date (including extensions) for filing that cov-  
12 ered issuer’s tax return in the tax jurisdiction  
13 in which the covered issuer’s multinational en-  
14 terprise group is resident.

15 “(E) REGULATION.—The Commission  
16 shall promulgate regulations carrying out this  
17 section that conform to United States or inter-  
18 national standards for country-by-country re-  
19 porting, including regulations promulgated by  
20 the Internal Revenue Service.”.

21 (b) RULEMAKING.—

22 (1) DEADLINES.—The Securities and Exchange  
23 Commission (in this section referred to as the “Com-  
24 mission”) shall—

1           (A) not later than 270 days after the date  
2           of enactment of this Act, issue a proposed rule  
3           to carry out this section and the amendment  
4           made by this section; and

5           (B) not later than 1 year after the date of  
6           enactment of this Act, issue a final rule to  
7           carry out this section and the amendment made  
8           by this section.

9           (2) DATA FORMAT.—The information required  
10          to be provided by this section shall be provided by  
11          the issuer in a report in a machine readable format  
12          prescribed by the Commission, and such report shall  
13          be made available to the public online, in such ma-  
14          chine readable format as the Commission shall pre-  
15          scribe.

16          (3) EFFECTIVE DATE.—Subsection (s) of sec-  
17          tion 13 of the Securities Exchange Act of 1934, as  
18          added by this section, shall become effective 1 year  
19          after the date on which the Commission issues a  
20          final rule under this section.

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