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WRITTEN STATEMENT OF

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INTERNAL REVENUE SERVICE
HEARING ON COUNTRY-BY-COUNTRY REPORTING
IRS REG-109822-15

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Thank you for inviting testimony from the public on the proposed regulations that would require annual country-by-country reporting for some entities in the United States. My name is Porter McConnell, and I am the Director of the Financial Transparency Coalition, a global network of governments, nonprofit organizations, and experts working together to curtail illicit financial flows.

There are four key points I would like to make about the proposed rulemaking: 1) country-by-country reporting will be more effective if it's public, 2) public country-by-country reporting is good for the economy and reduces risk, 3) public country-by-country reporting already exists with support from the private sector, and 4) other markets like the European Union and the G20 are already committing to the measure.

1. To be effective, Country-by-Country Reporting needs to be public.

In a time with unprecedented pressure to reduce government spending, making country by country reports public increases efficiency of taxpayers' investment. Making the CBCR reports public would ensure that more eyes, with valuable perspectives, could help digest the massive amounts of data filed by companies and flag any indications of risk to appropriate tax authorities, in effect, "crowd sourcing" some of the work.

Requiring for the information to be disclosed would also have an important deterrent effect since presenting questionable numbers carries an inevitable reputational risk for companies. That deterrent effect would not be available in the case of closed country-by-country reporting.

Disclosing the information publicly would help researchers and experts better understand how companies are shifting large amounts of profits by using offshore secrecy jurisdictions, which could inform future policy decisions. For example, if it is determined that a majority of multi-national companies operating in the United States are deferring the taxes they incur indefinitely by shifting profits out of the United States and into low tax jurisdictions, this will have important implications for efforts to reform the U.S. tax code to make it more effective.

In addition, the public and authorities would have better means to detect corrupt activities, including but certainly not limited to trade mispricing and trade-based money laundering.

2. Public country-by-country reporting is good for the economy and reduces systemic risks.

Discouraging aggressive tax planning and tax evasion is one of the main arguments for making CBCR public. Making CBCR public would serve as a corrective to the global economy so competition can center on delivering the best products and services for the most competitive rate, rather than who can hire the savviest tax planners to create the most complex of corporate structures to escape from paying taxes on profits. Our conversations with private sector leaders suggest they would welcome the opportunity to spend less on lawyers, bankers and accountants and more on product development.

Currently, multi-national enterprises have an advantage over SMEs because they can engage in aggressive tax planning and jurisdiction-shopping. Competition that is based on tax planning distorts the functioning of markets and breeds unnecessarily complex and opaque business structures. Creating and maintaining these complex structures is resource-intensive, and it generates additional accounting, legal, and advisory costs. However, many small- and medium-sized enterprises (SMEs) operate solely in the US, and so effectively publish their financial information on a country-level basis. Filing annual financial statements is already considered good practice for these businesses. It is not surprising that a recent EU impact assessment found that public CBCR would serve to level the playing field between transnational enterprises and national companies.[1]

In addition to ensuring that multinationals would have to adhere to similar reporting requirements as our local small business owners, public CBCR would ease the market entry for new entrepreneurs. In other words, it would increase the competitiveness of the American economy and enable the next generation of innovators. This year's start-up could become a sizeable job creator five years from now, if given the opportunity.

3. Public Country-by-Country Reporting already exists with no detrimental effects on business, and with considerable support from the private sector.

Since 2015, all European banks have had to comply with public country-by-country reporting. This has not put them at a competitive disadvantage with their non-EU competitors, and many have reported becoming profitable again after the Great Recession. We have found concern about non-trivial additional costs to business to be limited.

You will be well aware of impending public reporting requirements in the U.S. for the extractive industries from Section 1504 of the 2010 Dodd-Frank Act, which requires any oil, gas, or mining company to file an annual report to the Securities and Exchange Commission to disclose their country and project-level payments to host governments each year. US-based Kosmos Energy, Norway's Statoil and UK-based Tullow Oil have already begun disclosing this information with no harm to their competitiveness. If in fact any competitive disadvantage does exist, US extractives companies already required to disclose this information might well note the advantage now held by other industries, and would likely support harmonizing those regulations to create a level playing field.

Over 30 countries have adopted laws requiring public CBCR for extractives projects following the US Dodd-Frank Act, among them European Union, Canada and Norway.

And in fact, we have seen that private sector actors are increasingly expressing support for public country-by-country reporting.

- Representatives of HSBC and Barclays both voiced support for public CBCR in testimony to the European Parliament.[2]
- Jane McCormick, KPMG Head of Tax for Europe, Middle East and Africa, has stated publicly that public CBCR is inevitable, and KPMG is taking the necessary internal steps to implement the new rules.[3]
- Price Waterhouse Coopers did a study in 2014 for the European Commission on country-by-country reporting for financial institutions (Article 89) in which it concluded: "…our stakeholder survey suggests that the respondents expect Article 89 to have some positive impact on the transparency and accountability of, and on the public confidence in, the financial services sector in the EU. Furthermore, the balance of opinion and the work we performed suggest this improvement is likely to be obtained without the public disclosure of such information having noticeable negative economic consequences, including the impact on competitiveness, investment and credit availability and the stability of the financial system."[4]
- We commissioned an anonymous survey of FTSE 100 companies with coalition member Christian Aid, and it revealed that a large majority of companies would not actively oppose the introduction of a legal requirement for them to make their country-by-country reports public, while some would even actively support it.[5]
- Investors looking to minimize systemic risks in the financial system see financial transparency measures as a tool to prevent the next big bubble. With some suggesting that oil exploration loans might be the next bubble to

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[1] See http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52016SC0117
[2] See http://audiovisual.europarl.europa.eu/Assetdetail.aspx?ref=I111845
[3] See https://www.devex.com/news/the-future-of-development-finance-live-from-addis-86527
[4] See PwC, *General assessment of potential economic consequences of country-by-country reporting under CRD IV, Final report September 2014*. See p.9, available at http://www.pwc.com/gx/en/eu-institutions-services/pdf/pwc-cbcr-report-en.pdf
[5] See http://www.christianaid.org.uk/images/country-by-country-survey-sept-15.pdf

burst, they are right to be worried if massive losses can be so easily hidden offshore. We have heard from institutional investors like Eumedion in Europe that they support public CBCR because it would allow shareholders the opportunity for more analysis and dialogue with the board.[6]

4. Other international markets like the European Union and the G20 are already committing to the measure.

Just yesterday at an Anti-Corruption Summit held in London, twelve governments expressed their support for a global commitment for large multinational enterprises to publicly disclose tax information on a country-by-country basis. (They are Afghanistan, Australia, France, Georgia, India, Italy, Mexico, the Netherlands, Nigeria, Russia, Spain, and the United Kingdom.)

As you know, last fall the G20 agreed to recommendations from the OECD to implement a fairly weak country-by-country reporting standard that would be available only to the authorities. While the OECD standard is at best only a foundation, G20 nations represent over 80% of the world economy, and the U.S. was a party to the agreement. India started to implement the standard last month. Whether the U.S. decides to implement this commitment fully and in multilateral partnership is crucial to its effectiveness, as you will hear from my colleagues.

EU countries have recently reached a political agreement to introduce OECD-style CBCR. The first reports will be in the current fiscal year, starting from 1 January 2016. Meanwhile, the European Commission has proposed new rules for making some of the reporting public. With the momentum created by Panama Papers it is likely that this proposal will gain support, leading to increased public reporting for *all* (including American) companies operating in the European market.

Finally, public CBCR is an important vehicle for transparency of financial activity happening in developing countries and whether citizens fully benefit from it. This is especially true for developing countries unable to participate in a confidential CBCR system that is being built by the OECD for its members. Accessing this information through public reports would give developing country governments the tools to mobilize more domestic resources that could be used to invest in healthcare, education, infrastructure, and other critical public services that those of us here in the U.S. sometimes take for granted.

Thank you for the opportunity to share perspectives from civil society groups, governments, and experts on illicit financial flows from around the world. I hope you will take them into consideration.

Sincerely,

Porter McConnell
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[6] See http://www.eumedion.nl/en/public/knowledgenetwork/position-papers/2016-01-srd---statement-triloog.pdf