US Responsible Investment Reporting Requirements
Summary of CSO comments

Business & Human Rights Resource Centre

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3 November 2014, Yangon, Myanmar

Points of criticism:

- **Failure to answer essential questions about human rights due diligence policies and procedures**
  - Reflects a failure to conduct due diligence to uncover the actual and potential impacts of companies' investments
- **Failure to identify local suppliers and partners – as well as how companies undertook due diligence to select these partners and manage actual and potential impacts of contracts with these partners**
  - Undermines the ability of the US Government and of civil society to monitor the human rights impacts of key parts of investments
- **Failure to mention activities in areas where there is on-going or a recent history of conflict**
  - Reflects a failure to conduct human rights due diligence to identify the potential impacts of investment in conflict areas

Points of criticism (continued):

- **Arguing that they have no responsibility to respond because their investments are “passive”**
  - Reporting Requirements require disclosures regardless of the nature of an investment, the percentage equity stake held, or whether the investor has operations in Myanmar
  - Under the UN Guiding Principles, “The responsibility to respect human rights is a global standard of expected conduct for <u>all business enterprises</u> wherever they operate.”
  - Statements from the National Contact Points in the Netherlands, Norway, Sweden and UK under the OECD Guidelines for Multinational Enterprises support these

Reporting that has received positive feedback

- **Thorough reports detailing most due diligence processes and providing copies and summaries of policies and procedures**
- **Electing to publish all findings rather than withholding some information for a confidential report to the government**
- **Revealing both successes and areas for improvement in its business conduct**
- **Reporting in detail about the due diligence measures a company undertook before entering into a contract with a local Myanmar service provider or business partner**
    - Principle 17 of the UN Guiding Principles: companies are responsible for conducting heightened due diligence in contexts that pose higher risks of human rights abuses

Common recommendations

- Publicly report identified risks and impacts, and any preventative or mitigating steps taken
- Disclose activities in areas where there is on-going or a recent history of conflict; and mention related due diligence efforts taken
- Include detailed disclosures on business partners, related entities and supply chains
- Report on all aspects of “new investment(s)” in Burma regardless of its/their form or makeup – including “passive” investment

Useful resources

- Coca-Cola's December 2013 report: http://photos.state.gov/libraries/burma/895/pdf/TCCCStateDepartmentResponsibleInvestment%20in%20MyanmarReport121213.pdf
- Gap's voluntary report, August 2014: http://photos.state.gov/libraries/burma/895/pdf/Gap_Inc_Myanmar_Public_Report-8_25_14FINAL.pdf
- Report card by US Campaign for Burma: http://uscampaignforburma.org/press-release-tab/6267-press-release.html
- More commentaries and examples:
- http://business-humanrights.org/en/us-govt%E2%80%99s-burma-responsible-investment-reporting-requirements-reports-comments-guidelines-company-responses

Thank you.

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