115TH CONGRESS
1ST SESSION

H. R.  _____

To amend the Internal Revenue Code of 1986 to limit the interest deduction for excessive interest of members of financial reporting groups and to terminate the deferral of active income of controlled foreign corporations, and to amend the Securities Exchange Act of 1934 to require the disclosure of total corporate tax paid by a corporation in each annual report required to be filed under such Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. POCAN introduced the following bill; which was referred to the Committee on ______

A BILL

To amend the Internal Revenue Code of 1986 to limit the interest deduction for excessive interest of members of financial reporting groups and to terminate the deferral of active income of controlled foreign corporations, and to amend the Securities Exchange Act of 1934 to require the disclosure of total corporate tax paid by a corporation in each annual report required to be filed under such Act, and for other purposes.

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

This Act may be cited as the “Tax Fairness and Transparency Act”.

SEC. 2. LIMITATION ON INTEREST DEDUCTION FOR EXCESSIVE INTEREST OF MEMBERS OF FINANCIAL REPORTING GROUPS.

(a) In General.—Section 163 of the Internal Revenue Code of 1986 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following:

“(n) LIMITATION ON EXCESSIVE INTEREST OF MEMBERS OF FINANCIAL REPORTING GROUPS.—

“(1) LIMITATION.—

“(A) In General.—If this subsection applies to any corporation for any taxable year, no deduction shall be allowed under this chapter for the taxable year for interest expense to the extent that such expense exceeds the sum of—

“(i) the amount of interest on indebtedness of the corporation includible in the corporation’s gross income for the taxable year, plus

“(ii) the corporation’s proportionate share of the financial reporting group’s net interest expense for the taxable year com-
puted under United States income tax principles.

“(B) PROPORTIONATE SHARE OF NET INTEREST EXPENSE.—For purposes of subparagraph (A)(ii)—

“(i) IN GENERAL.—A corporation’s proportionate share of the financial reporting group’s net interest expense means the amount equal to the percentage of the group’s net interest expense which bears the same percentage as the corporation’s earnings bears to the group’s earnings.

“(ii) EARNINGS.—For purposes of clause (i), earnings shall be the sum of net earnings plus net interest expense, taxes, depreciation, and amortization.

“(iii) DETERMINATIONS RELATING TO EARNINGS.—For purposes of clause (ii), earnings, net interest expense, taxes, depreciation, and amortization with respect to a financial reporting group shall be as reflected on the financial reporting group’s financial statements for the taxable year ending in the taxable year of the corporation.
“(C) ALTERNATIVE DETERMINATION.—In lieu of the limitation in subparagraph (A), if—

“(i) a corporation fails to substantiate the corporation’s proportionate share of the financial reporting group’s net interest expense for a taxable year, or

“(ii) a corporation so elects,

no deduction shall be allowed under this chapter for the taxable year for interest expense to the extent that such expense exceeds 10 percent of the corporation’s adjusted taxable income (as defined under subsection (j)(6)(A)).

“(2) CORPORATIONS TO WHICH SUBSECTION APPLIES.—

“(A) IN GENERAL.—This subsection shall apply to any corporation for any taxable year if the corporation is a member of a financial reporting group.

“(B) CERTAIN CORPORATIONS NOT INCLUDED.—This subsection shall not apply to any corporation which—

“(i) is a corporation predominantly engaged in the active conduct of a banking, financing, or similar business, or
“(ii) has less than $5,000,000 of net interest expense for the taxable year.

“(C) FINANCIAL REPORTING GROUP.—For purposes of subparagraph (A), the term ‘financial reporting group’ means a group that prepares consolidated financial statements in accordance with United States generally accepted accounting principles, international financial reporting standards, or other method authorized by the Secretary of the Treasury under regulations. Such term shall not include any corporation described in subparagraph (B)(i).

“(D) SUBGROUPS.—For purposes of this subsection, all members of an expanded affiliated group (as defined in section 7874(c)(1)) shall be treated as 1 corporation.

“(3) NET INTEREST EXPENSE.—The term ‘net interest expense’ has the meaning given such term by subsection (j)(6)(B).

“(4) CARRYFORWARD.—

“(A) DISALLOWED INTEREST.—Any amount disallowed under subparagraph (A) or (C) for any taxable year shall be treated as an interest expense in the next taxable year, and such amount shall not be taken into account for
purposes of applying subsection (j)(2)(A)(ii) for such taxable year.

“(B) EXCESS LIMITATION.—The excess (if any) of the sum determined under paragraph (1)(A) (i) and (ii) for a taxable year over the amount of interest expense deducted under this subsection for the taxable year shall be added to the limitation determined under paragraph (1) for the next taxable year (determined without regard to this subparagraph). No excess limitation may be carried to more than 3 taxable years.

“(5) ELECTION.—The election under paragraph (1)(C)(ii) shall be made at such time and in such manner as the Secretary may prescribe by regulations.

“(6) REGULATIONS.—The Secretary shall prescribe such regulations and other guidance as may be necessary to carry out the purposes of this subsection, including regulations to—

“(A) coordinate the application of this subsection with other interest deductibility rules,

“(B) define financial services entities,

“(C) permit financial reporting groups to compute the group’s non-United States net in-
terest expense without making certain adjust-
ments required under United States income tax
principles,

“(D) provide for the treatment of pass-
through entities, and

“(E) allow the use of financial statements
prepared under other countries’ generally ac-
cepted accounting principles in appropriate cir-
cumstances where a financial reporting group
does not prepare financial statements under
United States generally accepted accounting
principles or international financial reporting
standards.”.

(b) COORDINATION WITH 163(j).—Section
163(j)(2)(A) of the Internal Revenue Code of 1986 is
amended by adding at the end the following flush sen-
tence: “This subsection shall not apply to any corporation
which is a member of a financial reporting group to which
subsection (n) applies.”.

(c) EFFECTIVE DATE.—The amendments made by
this section shall apply to taxable years beginning after
December 31, 2017.
SEC. 3. TERMINATION OF DEFERRAL OF ACTIVE INCOME OF CONTROLLED FOREIGN CORPORATIONS.

(a) IN GENERAL.—Section 952 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(e) SPECIAL APPLICATION OF SUBPART.—

“(1) IN GENERAL.—For taxable years beginning after December 31, 2017, notwithstanding any other provision of this subpart, the term ‘subpart F income’ means, in the case of any controlled foreign corporation, the income of such corporation derived from any foreign country.

“(2) APPLICABLE RULES.—Rules similar to the rules under the last sentence of subsection (a) and subsection (d) shall apply to this subsection.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2017.

SEC. 4. REQUIREMENT TO DISCLOSE TOTAL CORPORATE TAXES PAID.

(a) IN GENERAL.—Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following new subsection:

“(s) DISCLOSURE OF TOTAL CORPORATE TAXES PAID.—
“(1) Issuer Disclosure Requirement.—
Each issuer required to file an annual or quarterly report under subsection (a) shall disclose in that report—

“(A) the total pre-tax profit of the issuer during the period covered by the report;

“(B) the total amount paid by the issuer in State taxes during the period covered by the report;

“(C) the total amount paid by the issuer in Federal taxes during the period covered by the report; and

“(D) the total amount paid by the issuer in foreign taxes during the period covered by the report.

“(2) Disclosure of Country-by-Country Reporting Information.—Each issuer required to file an annual or quarterly report under subsection (a) shall disclose in that report, for each of its subsidiaries and aggregated on a country-by-country basis—

“(A) revenues generated from transactions with other constituent entities;

“(B) revenues not generated from transactions with other constituent entities;
“(C) profit or loss before income tax;

“(D) total income tax paid on a cash basis
to all tax jurisdictions, and any taxes withheld
on payments received by the constituent enti-
ties;

“(E) total accrued tax expense recorded on
taxable profits or losses, reflecting only oper-
ations in the relevant annual period and excluding deferred taxes or provisions for uncertain
tax liabilities;

“(F) stated capital, except that the stated
capital of a permanent establishment must be
reported in the tax jurisdiction of residence of
the legal entity of which it is a permanent es-
tablishment unless there is a defined capital re-
quirement in the permanent establishment tax
jurisdiction for regulatory purposes;

“(G) total accumulated earnings, except
that accumulated earnings of a permanent es-
tablishment must be reported by the legal entity
of which it is a permanent establishment;

“(H) total number of employees on a full-
time equivalent basis; and

“(I) net book value of tangible assets,
which, for purposes of this section, does not in-
clude cash or cash equivalents, intangibles, or financial assets.

“(3) Availability of Information.—The Commission shall make the information filed with the Commission pursuant to this subsection publicly available through the Commission website in a manner that is searchable, sortable, and downloadable.”.

(b) Effective Date.—The amendment made by this section shall apply to disclosures made after the date of the enactment of this Act.