



European Securities and  
Markets Authority

## **Feedback Statement**

Consultation Paper on proposed amendments to the ESMA update of the CESR recommendations for the consistent implementation of the Prospectuses Regulation regarding mineral companies



## Table of Contents

Executive Summary	5
I Background	6
II Results of the consultation	6
III Summary of the feedback and our responses	6
IV Full text of the new provisions	11



## Acronyms used

CESR	Committee of European Securities Regulators
CIM	Canadian Institute of Mining
COGE Handbook	Canadian Oil and Gas Evaluation Handbook
COM DR	Commission Delegated Regulation No 486/2012 of 30 March 2012 amending Regulation (EC) No 809/2004 as regards the format and the content of the prospectus, the base prospectus, the summary and the final terms and as regards the disclosure requirements, OJ L 150, 9.6.2012, p. 1
CPR	Competent Person's Report
CRIRSCO	Committee for Mineral Reserves International Reporting Standards
ESMA	European Securities & Markets Authority
EU	The European Union
2011 Feedback Statement	Feedback Statement - Consultation Paper on proposed amendments to CESR's recommendations for the consistent implementation of the Prospectuses Regulation regarding mineral companies, ref. ESMA/2011/67
GKZ	Russian Federal Government State Commission on Mineral Reserves
JORC	Joint Ore Reserves Committee
IPO	Initial Public Offering
MTF	Multi-lateral Trading Facility
NAEN	National Association for Subsoil Examination
NAEN Code	Russian Code for the Public Reporting of Exploration Results, Mineral Resources and Mineral Reserves, published by OERN
OERN	Society of Russian Experts on Subsoil Use
PERC	Pan-European Reserves and Resources Reporting Committee
PRMS	Petroleum Resources Management System
RPO	Recognised Professional Association
SAMREC	South African Mineral Resource Committee



SME	Society for Mining, Metallurgy, and Exploration
The CIMVAL	Standards and Guidelines for Valuation of Mineral Properties endorsed by the Canadian Institute of Mining, Metallurgy and Petroleum, as amended.
The Commission/EC	The European Commission
The PD/ Prospectus Directive	Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC as amended by Directive 2010/73/EU of the European Parliament and of the Council of 24 November 2010 and Directive 2010/78/EU
The PR /Prospectus Regulation	Commission Regulation (EC) No 809/2004 of 29 April 2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards information contained in prospectuses as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements
The Recommendations	ESMA update of the CESR recommendations for the consistent implementation of Commission Regulation (EC) No 809/2004 implementing the Prospectus Directive from March 2011, (ref. ESMA/2011/81), following consultation conducted by ESMA's predecessor organisation CESR, ESMA updated and revised paragraphs 131-133 of the CESR recommendations on the consistent implementation of Commission Regulation (EC) No 809/2004 implementing the Prospectus Directive
The SAMVAL Code	South African Code for the Reporting of Mineral Asset Valuation
The VALMIN Committee	The VALMIN Committee is a joint committee of The Australasian Institute of Mining and Metallurgy (AusIMM) and the Australian Institute of Geoscientists.

## **Executive Summary**

### **Reasons for publication**

In March 2011 ESMA updated and revised paragraphs 131-133 of the CESR Recommendations on the consistent implementation of Commission Regulation (EC) No 809/2004 implementing the Prospectus Directive (hereinafter the “Recommendations”) which address the information that should be disclosed by mineral companies in prospectuses.

The system established in March 2011 provided for a harmonised mineral reserves and resources disclosure regime, including the endorsement of an exclusive list of accepted internationally recognised mineral reserves and resources reporting codes. Since the update in March 2011, ESMA has been approached and asked to add additional reporting codes to that list. ESMA took this opportunity to also address a number of issues that have been brought to its attention by Member States since the entry into force of the revised Recommendations.

On 24 September 2012, ESMA published a Consultation Paper (Ref. ESMA/2012/607) requesting input from market participants on ESMA's proposals to assist in revising the Recommendations.

### **Contents**

This Feedback Statement discusses in detail the comments which emerged during the consultation process and sets out the final text of the revised Recommendations regarding mineral companies. ESMA has carefully considered all comments received during the consultation process and provides ESMA's position on these. The final text of the Recommendations reflects any amendments made in response to the feedback received.

### **Next steps**

ESMA addresses requests for endorsement of reporting codes on a continuous basis and any further proposals will be subject to public consultation.

---



## **I. Background**

1. The Consultation Paper published on 24 September 2012 set out ESMA's proposals for endorsement of a further reporting code, clarifications of and amendments to the Recommendations concerning mineral companies and alignment of the content with the amended prospectus disclosure regime which entered into force on 1 July 2012.

2. In particular it addressed the issue of endorsement of the NAEN Code as suitable for use in prospectuses, following its alignment with the CRIRSCO template. Additionally, it set out guidance on the materiality concept by introducing qualitative criteria to be included in the assessment and proposed changes to the Competent Person's Report (CPR) regime by changing the scope and structure of the exemption to produce CPRs and certain definitions. Lastly, it proposed clarifications on the application of Appendices II and III, on-site inspections, amendments to the thresholds and the relation to the section on risk factors in a prospectus.

## **II. Results of the consultation**

3. ESMA received 4 responses to the consultation document and these can be viewed on ESMA's website to the extent permission has been given for their publication. The responses came from two individual issuers and two international standard setters for reporting codes. Overall the response was positive regarding ESMA's proposals, however with regard to few rather selected issues ESMA received some more critical comments. In response ESMA has made some minor amendments to its proposal as set out in more detail in section III and as reflected in the final text of the Recommendations in section IV (marked up to show changes against the draft in the Consultation Paper).

## **III. Summary of the feedback and ESMA's response**

4. Set out below is a summary of the feedback ESMA received on its consultation proposals together with ESMA's responses. It is not intended to be an exhaustive account of every point made.

### **III.I Endorsement of the NAEN Code**

Q1 – Should the NAEN Code be added to the list in Appendix I of the Recommendations of mining reporting codes suitable for use in prospectuses? (Please provide reasons for your response)
--

5. All respondents agreed with ESMA's proposal to endorse the NAEN Code and add it to the list of suitable reporting codes in Appendix I of the Recommendations. This is in the light of the NAEN Code being recognised by CRIRSCO as being aligned with its template for mining reporting standards. One respondent in particular welcomed ESMA's approach to recognition previously outlined, agreeing that the proliferation of many different national mineral reporting codes is generally undesirable and that investors are better served by international convergence. Furthermore, this respondent supported ESMA's understanding that the CRIRSCO and PRMS codes are the most credible internationally and was therefore of the view that, given CRIRSCO's recognition, the endorsement of a major country's code is a step towards convergence.

6. However, two respondents (being large international operating issuers), while supportive of the approach of allowing only endorsed reporting codes, pointed to the possibility that a multinational company with projects in a range of jurisdictions in different regions of the world might wish to provide their reporting in one or more of the endorsed codes. It was suggested that it should be clarified in the Recommendations that this is acceptable.

**ESMA's response:**

7. In light of the responses received from stakeholders, ESMA is proceeding as proposed and including the NAEN Code in the list of mining reporting standards that are suitable for use in EEA prospectuses.

8. Regarding the point on the use of more than one of the endorsed codes, ESMA is of the view that this approach is perfectly acceptable. It was not the intention to prevent this and although it is not ESMA's understanding that the previous version of the Recommendations did this, ESMA is very happy to take the opportunity to make the small change suggested to make it clear. ESMA has therefore amended paragraphs 132 a), 133(i)(c) and 133(ii)(b) to make it clear that reporting should be in accordance with 'one or more' of codes set out in the appendices.

**III.II The materiality test**

Q2 – Do you agree with ESMA's proposed recommendations on how the materiality of mineral projects should be assessed?

9. Overall there was broad agreement from respondents with the proposed amendments on the materiality concept. Some respondents suggested however that the revised wording of the Recommendations should be further improved by specifying when a company fulfils the definition of paragraph 131 and has to provide the information required in paragraph 132 and, if applicable, a CPR.

10. Proposals have been submitted to specify that only the material mineral projects should be covered by the Recommendations. It has also been suggested to explicitly exclude large, diversified cement and aggregates companies from the presumption of materiality, as mentioned in paragraphs 14 and 15 of the consultation paper.

11. Respondents suggested that the Recommendations should also indicate how, and by whom, the materiality of a mineral project should be assessed. Some argued that the assessment should be done by the issuer itself, while one respondent was in favour of a competent person being responsible for such test.

12. As materiality should be assessed from an investor point of view, it was argued that the benchmark for the materiality test cannot be an investor who expects, prior to its investment decision, not only significant but also any insignificant information to be disclosed and therefore a reference to a "reasonable" investor in the Recommendations would be more appropriate.

13. With regard to the rebuttable presumptions introduced in paragraph 131 c) subparagraph 2, respondents noted that whereas "uncertainty as to either the existence of the resources in economic quantities or the technical feasibility of its economic recovery" is part of the requirements of the second presumption, the first presumption is already fulfilled when the mineral extraction is done solely with the purpose of reselling. It was argued that this element of "uncertainty" should also be taken into consideration in case of the first presumption.

14. Moreover, the respondents pointed out that the consultation paper does not clarify how, and by whom, the "uncertainty" criteria should be assessed. They considered that the "uncertainty" in both presumptions should be assessed by the issuer itself and the text of the Recommendations amended accordingly.

15. The participants in the consultation also indicated that a rebuttable presumption for the non-existence of material mineral projects at companies with a business model described in paragraph 14 of the consultation paper should be adopted besides the two rebuttable presumptions for the existence of material mineral projects.

**ESMA's response:**

16. ESMA confirms that information requested in paragraphs 132-133 is solely required for material mineral projects as defined in paragraph 131 c). A mineral project can be considered as material for a small sized company and, while conversely, non-material in cases where it belongs to a large diversified group. As the revised Recommendations indicate, “the materiality of mineral projects should be assessed having regard to all the company’s mineral projects relative to the issuer and its group taken as a whole”. ESMA does not consider further amendment of the Recommendations in this regard as necessary.

17. ESMA shares the view that the revised Recommendations do not apply to the large, diversified cement and aggregate companies due to the characteristics of their business models. Nevertheless, ESMA considers that the Recommendations are not intended to explicitly rule in or out either cement or aggregate companies nor any other specific type of company but establish principles which are applied on a case by case basis. Accordingly, the wording has not been modified in this regard in the final text of the Recommendations.

18. ESMA considers that the issuer has the responsibility to determine whether the mineral project is material, without prejudice to the powers of the competent authority which include, ultimately, the power to approve and (thereby accept the determination of the issuer) or not approve the prospectus (where it does not accept the determination of the issuer). In this regard the same principles apply to mineral companies making this particular determination as to any other issuer making any other determination. It is a general principle that in accordance with Article 5 (1) Prospectus Directive the issuer (or the person responsible for drawing up the prospectus) has the responsibility to ensure that the prospectus includes all material information necessary for an informed investment decision. ESMA will therefore proceed as proposed in the Consultation Paper.

19. As laid down in the paragraph above, ESMA is of the view that the materiality test proposed in paragraph 131 c) of the Recommendations reflects the basic principle laid down in Article 5 (1) Prospectus Directive, referring to what information is needed by an investor for an informed investment decision. There is no reference to a "reasonable investor" in the European prospectus regime. The test for mineral companies is in this regard the same as for any other issuer.

20. ESMA shares the view of market participants that “uncertainty” as to either the existence of the resources in the quantities required or the technical feasibility of their recovery applies to both rebuttable presumptions and will therefore amend the wording in paragraph 131 c) accordingly.

21. Moreover, ESMA confirms that it is firstly the issuer’s responsibility to assess the uncertainty about the existence of the raw material. However, ESMA does not consider it necessary to amend the text of the Recommendations in this regard, as this follows already from a general principle within the prospectus regime.

### **III.III Competent Person's Report**

#### ***III.III.I Requirement for a competent person's report for non-equity securities***

Q3 – Do you agree with the proposed approach to generally exempt non-equity securities (other than depositary receipts over shares) from the requirements to produce a competent person's report?
---

22. The respondents fully agreed with ESMA's proposal to exempt issuers of non-equity securities from the requirement to produce a CPR, based on the different investment objectives and criteria taken into account by equity investors and non-equity investors and that not necessarily the same extent of information is required in both situations.

**ESMA's response:**

23. Given the unanimous support of the respondents ESMA will proceed as proposed.



### **III.III.II Proposed Changes to the paragraph 133 (ii) CPR exemption**

Q4 – Do you agree with our proposed revision of the paragraph 133 (ii) exemption regime?

Q5 – Do you agree with the proposal to replace the term 'equivalent overseas market' with the definition of 'equivalent third country market'?

Q6 – Do you agree with the proposal to apply the same equivalence assessment regime for third country markets as in Article 4.1 (e) of the amended PD which requires any equivalence assessment to be performed by the European Commission beforehand?

Q7 – Do you agree with the proposal to replace the term 'appropriate multi-lateral trading facility' with a definition based on the new Article 26a of the Prospectus Regulation?

24. Respondents agreed with the revision of the exemption regime in paragraph 133 (ii), which allows issuers that were only considered mineral companies following the March 2011 update of the Recommendations to benefit from the exemption in case they adopt a mineral reporting regime in accordance with the Codes in Appendix I and publish these reporting results over a period of at least three years.

25. Respondents also supported ESMA's proposal to clarify and harmonise the terminology and concepts regarding 'equivalent overseas markets' and 'appropriate multilateral trading facility' with the respective ones used in the Prospectus Directive and the Prospectus Regulation.

#### **ESMA's response:**

26. Based on the responses received, ESMA will proceed as proposed.

### **III.IV Other issues in need of clarification or amendment**

#### **III.IV.I Further clarification that the model content in Appendices II and III is not compulsory**

Q8 - Do you agree with the proposed amendments to paragraph 133(i)(d) and Appendices II and III?

27. There was agreement from respondents with ESMA's analysis and the proposed amendments to paragraph 133(i)(d) in order to eliminate any remaining ambiguity due to the wording that the CPR should 'contain as a minimum' the information in Appendices II and III.

28. However, additional feedback from respondents indicated that these amendments might still be incomplete and the Recommendations might still be insufficiently clear in stating that the CPR content in Appendices II and III is not compulsory when it comes to the valuation of reserves. Whereas one respondent argued that the disclosure of information on reserves and resources prepared by a competent person is of limited use to investors unless information on the current value of those reserves and resources is included, other respondents have pointed out that valuation of reserves might be not relevant at least in cases of low cost and abundant minerals where the added value of these is predominantly created in the subsequent industrial production processes.

29. Furthermore, one respondent raised the point that the suggested addition of the wording 'segmented using a unit of account appropriate to the scale of operations of the issuer' with regard to 'Historic Production/Expenditures' in paragraph vi) of Appendix II could be misinterpreted in the sense that an aggregation of various material mineral projects would not be acceptable in the sections of a competent person's report which are drawn up pursuant to the other paragraphs of Appendix II.

**ESMA's response:**

30. Given this support, ESMA is broadly proceeding as proposed in the consultation, subject to a small number of specific changes aimed to further clarify that valuation of reserves (like the rest of the model content set out in Appendices II and III) is not compulsory taking into account the prevailing feedback from respondents. These changes can be found in paragraph 133(i)(c), paragraph 1 of Appendix I and paragraph (iv) of Appendices II and III outlined below.

31. Furthermore, ESMA agrees that the added wording "segmented using a unit of account appropriate to the scale of operations of the issuer" in Appendix II can be omitted in order to prevent any misinterpretation, given that such wording is already contained in paragraph 133(i)(d) where it refers to the entire Appendices II and III. The respective change can be found in paragraph (vi) of Appendix II outlined below.

***III.IV.II Further clarification that on-site inspections are not compulsory for the purposes of the CPR***

Q9 - Do you agree with the proposed clarification for on-site inspections?
--

32. Respondents unanimously agreed with the proposed alignment of the wording in paragraph iii), item (7) of Appendix II to the respective wording used in Appendix III in order to clarify that on-site inspections by the competent persons are also not compulsory in the case of mining projects, leaving it to the discretion of the competent persons to decide whether they consider on-site inspections necessary.

**ESMA's response:**

33. Given the unanimous feedback of respondents in favour of the proposed amendment, ESMA is proceeding as proposed.

#### IV. Full text of the new provisions

This section sets the text of the proposed new provisions. For ease of comparison between consultation draft text and final draft text, new text introduced following consultation is underlined and text struck out is shown in strike through.

##### ***1b MINERAL COMPANIES***

131. Considering the specific features of minerals and Article 23 of the Regulation, ESMA proposes that mineral companies, when preparing a prospectus for a public offer or admission to trading of equity securities, debt securities with a denomination of less than EUR 100,000, depository receipts issued over shares with a denomination of less than EUR 100,000 or derivative securities with a denomination of less than EUR 100,000, should include the information set out in paragraphs 132-133.

For the purposes of these recommendations:

a) ‘mineral companies’ means companies with material mineral projects.

b) ‘mineral projects’ means exploration, development, planning or production activities (including royalty interests) in respect of minerals including: metallic ore including processed ores such as concentrates and tailings; industrial minerals (otherwise known as non-metallic minerals) including stone such as construction aggregates, fertilisers, abrasives, and insulants; gemstones; hydrocarbons including crude oil, natural gas (whether the hydrocarbon is extracted from conventional or unconventional reservoirs, the latter to include oil shales, oil sands, gas shales and coal bed methane), oil shales; and solid fuels including coal and peat.

c) Materiality should be assessed from an investor point of view: such projects will be material where evaluation of the resources (and, where applicable, the reserves and/or exploration results) the projects seek to exploit is necessary to enable investors to make an informed assessment of prospects of the issuer.

Evaluation of mineral projects is presumed to be necessary for an informed assessment of the prospects of the issuer in a number of instances:

- where the projects seek to extract minerals for their re-sale value as commodities and there exists uncertainty as to the quantities of economically recoverable resources or the technical feasibility of their recovery; or
- where the minerals are extracted to supply (without re-sale to third parties) an input into an industrial production process and there exists uncertainty as to either the existence of the resources in the quantities required or the technical feasibility of their recovery.

The materiality of mineral projects should be assessed having regard to all the company’s mineral projects relative to the issuer and its group taken as a whole.

d) ‘appropriate multi-lateral trading facility’ means a multi-lateral trading facility with rules as set out in Article 26a(2)(a)-(c) of Regulation (EC) No 809/2004 as amended by Art 1(13) of Regulation (EU) No 486/2012.

e) 'equivalent third country market' means a third country market which has been recognised by the Commission as equivalent in accordance with Article 4.1 e) of Directive 2003/71/EC as amended by Directive 2010/73/EC (Prospectus Directive).

132. All prospectuses within the scope set out in paragraph 131 by mineral companies should include the following up to date information segmented using a unit of account appropriate to the scale of its operations:

- a) details of mineral resources, and where applicable reserves (presented separately) and exploration results/prospects in accordance with one or more of the reporting standards that is acceptable under the codes and/or organisations set out in Appendix I;
- b) anticipated mine life and exploration potential or similar duration of commercial activity in extracting reserves;
- c) an indication of duration and main terms of any licenses or concessions and legal, economic and environmental conditions for exploring and developing those licenses or concessions;
- d) indications of the current and anticipated progress of mineral exploration and/or extraction and processing including a discussion of the accessibility of the deposit;
- e) an explanation of any exceptional factors that have influenced (a) to (d) above;

If the transaction the prospectus describes includes the acquisition of a mineral company or of reserves and/or resources and the acquisition (or acquisitions in aggregate) constitutes a significant gross change (as defined in the 9th Recital of Regulation EC 809/2004 and in item 6 of Article 4a of Regulation EC 211/2007) then the issuer should in addition include the information above on the assets being required. The new assets should be clearly segmented from the existing assets.

If information is included pursuant to this paragraph and it is inconsistent with corresponding information already put into the public domain by the issuer, the inconsistency should be explained in the prospectus.

133. i). In addition, all prospectuses for a public offer or admission to trading of equity securities, and depositary receipts issued over shares with a denomination per unit of less than EUR 100,000 by mineral companies within the scope set out in paragraph 131 should (except where the exemption in paragraph 133(ii) applies) contain a competent person's report which should:

- a) be prepared by an individual who:
  - i) either:
    - (1) possesses the required competency requirements as prescribed by the relevant codes/organisation (listed in Appendix I); or
    - (2) if such requirements are not prescribed by the code/organisation, then:
      - (a) is professionally qualified and a member in good standing of an appropriate recognised professional association, institution or body relevant to the activity being undertaken, and who is subject to the enforceable rules of conduct;
      - (b) has at least five years' relevant professional experience in the estimation, assessment and evaluation of the type of mineral or fluid deposit being or to be exploited by the company and to the activity which that person is undertaking; and
  - ii) is independent of the company, its directors, senior management and its other advisers; has no economic or beneficial interest (present or contingent) in the company or in any of the mineral assets being evaluated and is not remunerated by way of a fee that is linked to the admission or value of the issuer;

b) be dated not more than 6 months from the date of the prospectus provided the issuer affirms in the prospectus that no material changes have occurred since the date of the competent person's report the omission of which would make the competent person's report misleading;

c) report mineral resources and where applicable reserves and exploration results/prospects in accordance with one or more of the reporting standards that is acceptable under the codes and/or organisations set out in Appendix I (Mining Reporting or Oil and Gas Reporting);

d) contain information on the company's mineral projects segmented using a unit of account appropriate to the scale of its operations and prepared:

i) in the case of a company with mining projects – having regard to Appendix II;

ii) in the case of a company with oil and gas projects – having regard to Appendix III;

133.ii) An issuer is exempt from including the competent person's report required by paragraph 133(i) if the issuer can demonstrate that:

a) its equity securities are already admitted to trading on either a regulated market, an equivalent third country market, or an appropriate multi-lateral trading facility; and

b) it has reported and published annually details of its mineral resources and where applicable reserves (presented separately) and exploration results/prospects in accordance with one or more of the reporting standards set out in Appendix I for at least three years.

If an issuer has not reported on three financial years since its equity securities were admitted to trading and it is admitted to trading on a regulated market or an equivalent third country market then the condition in paragraph 133(ii)(b) will be deemed to be met if it has met the criteria in paragraph 133(ii)(b) for each annual reporting period since first admission of its equity securities.

If an issuer has not reported on three financial years since its equity securities were admitted to trading and it is admitted to trading on an appropriate multi-lateral trading facility, then the condition in paragraph 133(ii)(b) will be deemed to be met if:

- it published in connection with its admission a competent person's report by a suitably qualified and experienced independent expert which measured its mineral resources and, where applicable, reserves (presented separately) and exploration results/prospects; and
- it has reported and published annually details of its mineral resources and where applicable reserves (presented separately) and exploration results/prospects in accordance with one of the reporting standards set out in Appendix I for each annual reporting period since the first admission to trading.

If annual reporting of all classes of mineral resources and where applicable reserves and exploration results/prospects has not been possible because it has been prohibited by third country securities laws or regulations then the condition in paragraph (b) can be deemed to be met by the annual reporting of those classes that can be reported.

133.iii). Information on mineral resources and where applicable reserves and exploration results/prospects as well as other information of a scientific or technical nature included in prospectuses outside of the competent person's report (if one is included) must not be inconsistent with the information contained in the competent person's report.

133.iv). Information required by any of these recommendations may be omitted if disclosure is prohibited by third country securities laws or regulations provided the issuer identifies the information omitted and laws/regulations that prohibit disclosure.



## **APPENDIX I - Acceptable Internationally Recognised Mineral Standards**

For the purposes of meeting the exemption in paragraph 133(ii) above, predecessors of these following reporting standards (Mining Reporting and Oil and Gas Reporting) are acceptable.

### *Mining Reporting*

- The Australasian Code for Reporting of Exploration Results, Mineral Resources and Ore Reserves published by the Joint Ore Reserves Committee of the Australasian Institute of Mining and Metallurgy, Australian Institute of Geoscientists and Minerals Council of Australia, as amended ('JORC');
- The South African Code for the Reporting of Exploration Results, Mineral Resources and Mineral Reserves published by the South African Mineral Resource Committee under the joint auspices of the Southern African Institute of Mining and Metallurgy and the Geological Society of South Africa, as amended ('SAMREC');
- The various standards and guidelines published and maintained by the Canadian Institute of Mining, Metallurgy and Petroleum ('CIM Guidelines'), as amended;
- A Guide for Reporting Mineral Exploration Information, Mineral Resources and Mineral Reserves prepared by the US Society for Mining, Metallurgy and Exploration, as amended ('SME');
- The Pan European Resources Code jointly published by the UK Institute of Materials, Minerals, and Mining, the European Federation of Geologists, the Geological Society, and the Institute of Geologists of Ireland, as amended ('PERC');
- Certification Code for Exploration Prospects, Mineral Resources and Ore Reserves as published by the Instituto de Ingenieros de Minas de Chile, as amended; or
- Russian Code for the Public Reporting of Exploration Results, Mineral Resources and Mineral Reserves prepared by the National Association for Subsoil Examination (NAEN) and the Society of Russian Experts on Subsoil Use (OERN) (The 'NAEN Code')

### *Oil and Gas Reporting*

- The Petroleum Resources Management System jointly published by the Society of Petroleum Engineers, the World Petroleum Council, the American Association of Petroleum Geologists and the Society of Petroleum Evaluation Engineers, as amended;
- Canadian Oil and Gas Evaluation Handbook prepared jointly by The Society of Petroleum Evaluation Engineers and the Canadian Institute of Mining, Metallurgy & Petroleum ("COGE Handbook") and resources and reserves definitions contained in National Instrument 51-101 Standards of Disclosure for Oil and Gas Activities; or
- Norwegian Petroleum Directorate classification system for resources and reserves.

### *Valuation*

- The Code for Technical Assessment and Valuation of Mineral and Petroleum Assets and Securities for Independent Expert Reports, prepared by a joint committee of the Australasian Institute of Mining and Metallurgy, Australian Institute of Geoscientists and the Mineral Industry Consultants Association, as amended ('VALMIN');
- The South African Code for the Reporting of Mineral Asset Valuation, prepared by the South African Mineral Valuation Committee under the joint auspices of the Southern African Institute of Mining and Metallurgy and the Geological Society of South Africa, as amended ('SAMVAL');
- Standards and Guidelines for Valuation of Mineral Properties endorsed by the Canadian Institute of Mining, Metallurgy and Petroleum, as amended ('CIMVAL')

## APPENDIX II - Mining Competent Person's Report – recommended content

ESMACESR recommends that competent persons should provide competent person's reports structured in accordance with either the model content recommended under the code, statute or regulation the company is reporting under (see Appendix I) or, where there no such model content is set out in the code, ESMACESR recommends the competent person should address the information set out in this appendix. The competent person may, with the agreement of the relevant member state's competent authority, adapt these contents where appropriate for the circumstances of the issuer.

i) Legal and Geological Overview – a description of:

- (1) the nature and extent of the company's rights of exploration and extraction and a description of the properties to which the rights attach, with details of the duration and other principal terms and conditions of these rights including environmental obligations, and any necessary licences and consents including planning permission;
- (2) any other material terms and conditions of exploration and extraction including host government rights and arrangements with partner companies;

ii) Geological Overview – a description of the geological characteristics of the properties, the type of deposit, its physical characteristics, style of mineralisation, including a discussion of any material geotechnical, hydro-geological/hydrological and geotechnical engineering issues;

iii) Resources and reserves

- (1) a table providing data on (to the extent applicable): exploration results inclusive of commentary on the quantity and quality of this, inferred, indicated/measured resources, and proved/probable reserves and a statement regarding the internationally recognised reporting standard used;
- (2) a description of the process followed by the competent person in arriving at the published statements and a statement indicating whether the competent person has audited and reproduced the statements, what additional modifications have been included, or whether the authors have reverted to a fundamental re-calculation;
- (3) a statement as to whether mineral resources are reported inclusive or exclusive of reserves;
- (4) supporting assumptions used in ensuring that mineral resource statements are deemed to be 'potentially economically mineable';
- (5) supporting assumptions including commodity prices, operating cost assumptions and other modifying factors used to derive reserve statements;
- (6) reconciliations between the proposed and last historic statement;
- (7) a statement of when and for how long a competent person last visited the properties (or a statement that no visit has been made if that is the case);
- (8) for proved and probable reserves (if any) a discussion of the assumed:
  - (a) mining method, metallurgical processes and production forecast;
  - (b) markets for the company's production and commodity price forecasts;
  - (c) mine life;
  - (d) capital and operating cost estimates;

iv) Valuation of reserves – taking consideration of internationally recognised valuation codes as set out in Appendix I a valuation of reserves comprising:

- (1) an estimate of net present value (or a valuation arrived at on an alternative basis, with an explanation of the basis and of the reasons for adopting it) of reserves;
- (2) the principal assumptions on which the valuation of proved and probable reserves is based including those relating to discount factors, commodity prices, exchange rates, realised prices, local fiscal terms and other key economic parameters;
- (3) information to demonstrate the sensitivity to changes in the principal assumptions;

(or a statement that the valuation of reserves is omitted).

v) Environmental, Social and Facilities – an assessment of



- (1) environmental closure liabilities inclusive of biophysical and social aspects, including (if appropriate) specific assumptions regarding sale of equipment and/or recovery of commodities on closure, separately identified;
- (2) environmental permits and their status including where areas of material non-compliance occur;
- (3) commentary on facilities which are of material significance;

vi) Historic Production/Expenditures – an appropriate selection of historic production statistics and operating expenditures over a minimum of a three year period ~~segmented using a unit of account appropriate to the scale of operations of the issuer;~~

vii) Infrastructure – a discussion of location and accessibility of the properties, availability of power, water, tailings storage facilities, human resources, occupational health and safety;

viii) Maps etc. – maps, plans and diagrams showing material details featured in the text; and

ix) Special factors – if applicable a statement setting out any additional information required for a proper appraisal of any special factors affecting the exploration or extraction businesses of the company (for example in the polar regions where seasonality is a special factor).



### **APPENDIX III - Oil and Gas Competent Person's Report – recommended content**

ESMACESR recommends that competent persons should provide competent person's reports structured in accordance with either the model content recommended under the code, statute or regulation the company is reporting under (see Appendix I) or, where there no such model content is set out in the code, ESMACESR recommends the competent person should address the information set out in this appendix. The competent person may, with the agreement of the relevant member state's competent authority, adapt these contents where appropriate for the circumstances of the issuer.

i) Legal Overview – a description of:

- (1) the nature and extent of the company's rights of exploration and extraction and a description of the properties to which the rights attach, with details of the duration and other principal terms and conditions of these rights including environmental and abandonment obligations, and any necessary licences and consents including planning permission;
- (2) any other material terms and conditions of exploration and extraction including host government rights and arrangements with partner companies;

ii) Geological Overview – a description of the geological characteristics of the properties, the type of deposit, its extent and the nature of the reservoir and its physical characteristics;

iii) Resources and reserves

- (1) a table providing data on (to the extent applicable): exploration prospects, prospective resources, contingent resources, possible reserves, probable reserves and proved reserves in accordance with either deterministic or probabilistic techniques of determination and an explanation of the choice of methodology;
- (2) a statement as to whether mineral resources are reported inclusive or exclusive of reserves;
- (3) reconciliations between the proposed and last historic statement;
- (4) a statement of when and for how long a competent person last visited the properties (or a statement that no visit has been made if that is the case);
- (5) statement of production plans for proved and probable reserves (if any) including:
  - (a) a timetable for field development;
  - (b) time expected to reach peak production;
  - (c) duration of the plateau;
  - (d) anticipated field decline and field life;
  - (e) commentary on prospects for enhanced recovery, if appropriate;

iv) Valuation of reserves – taking consideration of internationally recognised valuation codes as set out in Appendix I a valuation of reserves comprising

- (1) an estimate of net present value (or a valuation arrived at on an alternative basis, with an explanation of the basis and of the reasons for adopting it) of reserves;
- (2) the principal assumptions on which the valuation of proved and probable reserves is based including those relating to discount factors, commodity prices, exchange rates, realised prices, local fiscal terms and other key economic parameters;
- (3) information to demonstrate the sensitivity to changes in the principal assumptions;

(or a statement that the valuation of reserves is omitted).

v) Environmental and Facilities – commentary on facilities such as offshore platforms which are of material significance in the field abandonment plans and associated environmental protection matters;

vi) Historic Production/Expenditures – an appropriate selection of historic production statistics and operating expenditures over a minimum of a three year period;

vii) Infrastructure – a discussion of location and accessibility of the properties, availability of power, water, human resources, occupational health and safety;

viii) Maps, plans and diagrams showing material details featured in the text; and



ix) Special factors – if applicable a statement setting out any additional information required for a proper appraisal of any special factors affecting the exploration or extraction businesses of the company (for example in the polar regions where seasonality is a special factor)