

Annex B

Text of Proposed National Instrument 43-101 *Standards Of Disclosure For Mineral Projects*

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Proposed National Instrument 43-101
Standards of Disclosure for Mineral Projects

PART 1 DEFINITIONS AND INTERPRETATION

Definitions

1. In this Instrument:

“CIM” means the Canadian Institute of Mining, Metallurgy and Petroleum;

“disclosure” means any oral statement or written disclosure made by or on behalf of an issuer and intended to be, or reasonably likely to be, made available to the public, but does not include written disclosure that is made available to the public only by reason of having been filed with a government or agency of government under a requirement of law other than securities legislation;

“effective date” means, with reference to a disclosure, the date of the most recent scientific or technical information included in the disclosure;

“exploration information” includes geological, geophysical, geochemical, sampling, drilling, trenching, analytical testing, assaying, mineralogical, metallurgical and other similar information concerning a mineral project that is derived from activities undertaken to locate, investigate, define or delineate a mineral prospect or mineral deposit;

“historical estimate” means an estimate of the quantity, grade or metal or mineral content of a deposit that an issuer has not verified as a current mineral resource or mineral reserve and prepared before the issuer acquired, or entered into an agreement to acquire, an interest in the mineral project that contains the deposit;

“initial deposit period” has the meaning ascribed to that term in section 1.1 of National Instrument 62-104 *Take-Over Bids and Issuer Bids*;

“mineral project” means an activity that involves or will involve exploration for, or development or production of, natural solid inorganic or natural fossilized organic material, or a royalty or similar interest in the activity;

“producing issuer” means an issuer with annual audited financial statements that disclose gross revenue derived from mining operations of

- (a) not less than \$55 million Canadian for the issuer’s most recently completed financial year, and
- (b) not less than \$165 million Canadian in the aggregate for the issuer’s 3 most recently completed financial years;

“professional association” means a self-regulatory organization of engineers, geoscientists or both that

- (a) is
 - (i) authorized or recognized under a statute in a jurisdiction of Canada, or
 - (ii) a foreign association the practices of which are generally accepted as reputable by the international mining industry,
- (b) admits an individual on basis of academic qualification, experience and ethical fitness,
- (c) requires or imposes an obligation on its members to satisfy professional standards of competence and ethics established by the organization,
- (d) requires, imposes obligations concerning or encourages continuing professional development, and
- (e) has the power or ability and applies the power or uses the ability to discipline, suspend or expel a member regardless of where the member practices or resides;

“qualified person” means an individual who is a professional geoscientist, professional engineer or equivalent of either and

- (a) has at least 5 years of experience as a professional geoscientist, professional engineer or the equivalent of either in mineral exploration, mine development, mine operation or mineral project assessment, or any combination of those,
- (b) has experience relevant to the subject matter of the mineral project,
- (c) is in good standing with a professional association, and
- (d) in the case of an individual who is a member of a foreign professional association, has a membership designation that
 - (i) requires or obligates the individual to have attained a position of responsibility in the individual’s profession that requires the exercise of independent judgment; and
 - (ii) requires or obligates
 - (A) a favourable confidential peer evaluation of the individual’s character, professional judgment, experience and ethical fitness, or

- (B) a recommendation for membership of at least 2 peers and demonstrated prominence or expertise in the individual's field of practice;

“quantity” means tonnage or volume based on the standard applied in the mining industry to the type of mineral;

“technical report” means a report prepared and filed in accordance with this Instrument;

“written disclosure” includes any writing, picture, map or other printed representation, whether produced, stored or disseminated on paper or electronically.

CIM defined terms

- 2. In this Instrument, each of the following terms is listed in the order it appears and has the meaning ascribed to it in the CIM Definition Standards For Mineral Resources and Mineral Reserves adopted by CIM, as amended from time to time:
 - (a) exploration target;
 - (b) mineral resource;
 - (c) inferred mineral resource;
 - (d) indicated mineral resource;
 - (e) measured mineral resource;
 - (f) modifying factors;
 - (g) mineral reserve;
 - (h) probable mineral reserve;
 - (i) proven mineral reserve;
 - (j) scoping study;
 - (k) pre-feasibility study;
 - (l) feasibility study;
 - (m) life of mine plan.

Independence

3. In this Instrument, a qualified person is independent concerning a technical report if there is no circumstance that, in the opinion of a reasonable person aware of all relevant facts, could interfere with the qualified person's judgment concerning the preparation of the technical report.

PART 2 DISCLOSURE REQUIREMENTS

All disclosure

4. An issuer that discloses scientific or technical information concerning a mineral project must
 - (a) base the disclosure on information prepared by or under the supervision of a qualified person, or
 - (b) obtain prior approval of a qualified person to the disclosure.

Disclosure of mineral resources or mineral reserves

5. An issuer that discloses any information concerning a mineral resource or mineral reserve must
 - (a) use only the applicable mineral resource and mineral reserve categories set out in section 2,
 - (b) report each mineral resource and mineral reserve category separately and state whether mineral reserves are included in total mineral resources, and
 - (c) if the quantity of contained metal or mineral is included in the disclosure, state the grade or quality and the quantity for each category of the mineral resources and mineral reserves.

Restricted disclosure

6. (1) An issuer must not disclose the following:
 - (a) a deposit's quantity, grade or metal or mineral content unless categorized as an inferred mineral resource, an indicated mineral resource, a measured mineral resource, a probable mineral reserve or a proven mineral reserve;
 - (b) an economic analysis unless it is based on a pre-feasibility study, feasibility study or life of mine plan;

- (c) the gross value of metal or mineral in a sampled interval, drill intersection or deposit;
 - (d) a metal or mineral equivalent grade for a multiple commodity sampled interval, drill intersection or deposit unless the issuer discloses the grade, prices, recoveries and any other conversion factors used to estimate the equivalent of each metal or mineral.
- (2) Paragraph (1) (a) does not apply to an issuer that discloses an exploration target if the issuer discloses
- (a) with the same prominence as and proximate to the disclosure, that the potential range of quantity and range of grade is conceptual in nature, there has been insufficient exploration to define a mineral resource and it is uncertain if further exploration will result in the target being delineated as a mineral resource, and
 - (b) the basis on which the disclosed potential range of quantity and range of grade have been determined.
- (3) Paragraph (1) (b) does not apply to an issuer that discloses an economic analysis in a scoping study if the disclosure states
- (a) with the same prominence as and proximate to the disclosure, that the scoping study is based on low-level technical and economic analysis and is insufficient to support estimation of mineral reserves, and there is no certainty that the results or conclusions of the scoping study will be realized,
 - (b) with the same prominence as and proximate to the disclosure, if the scoping study includes inferred mineral resources,
 - (i) that the scoping study includes inferred mineral resources that have a lower level of confidence and may not be converted to mineral reserves,
 - (ii) the percentage of inferred mineral resources, and
 - (iii) that the issuer is not using the scoping study to justify proceeding directly to a feasibility study,
 - (c) the basis for and any assumptions in the scoping study, and
 - (d) the impact of the scoping study on any pre-feasibility study or feasibility study.
- (4) An issuer must not use “scoping study”, “pre-feasibility study”, “feasibility study” or “life of mine plan” in disclosure unless the study satisfies the criteria set out in the definition of the applicable term under section 2.

Historical estimates

7. An issuer that discloses a historical estimate using the terminology of the historical estimate must include the following in the disclosure:
- (a) the source and date of the historical estimate;
 - (b) the relevance of the historical estimate to the mineral project;
 - (c) the key assumptions, parameters and methods used to prepare the historical estimate;
 - (d) a statement indicating whether the historical estimate uses mineral resource or mineral reserve categories other than those listed in section 2 and, if so, an explanation of any differences;
 - (e) any updated estimates or data available to the issuer;
 - (f) a description of the work required to upgrade or verify the historical estimate as current mineral resources or mineral reserves;
 - (g) with the same prominence as and proximate to the disclosure, statements that
 - (i) a qualified person has not completed sufficient work to classify the historical estimate as current mineral resources or mineral reserves, and
 - (ii) the issuer is not treating the historical estimate as current mineral resources or mineral reserves.

Limitation on disclaimers

8. An issuer must not disclose scientific or technical information that contains a disclaimer of responsibility for, or limits any reliance by a person or company on, all or a part of the disclosure.

PART 3 ADDITIONAL REQUIREMENTS FOR WRITTEN DISCLOSURE

Name of qualified person

9. If an issuer makes written disclosure of scientific or technical information concerning a mineral project, the issuer must include in the disclosure the name and the relationship to the issuer of the qualified person who
- (a) prepared, or supervised the preparation of, the information that forms the basis for the written disclosure, or
 - (b) approved the written disclosure.

Data verification

- 10.** If an issuer makes written disclosure of scientific or technical information concerning a mineral project, the issuer must include in the disclosure the following:
- (a) a statement indicating whether a qualified person verified data disclosed including, for greater certainty, sampling, analytical and other data underlying the information;
 - (b) steps taken by the qualified person to confirm that the data was generated using standards applied in the mining industry, was accurately transcribed from the original source, and is suitable for use in and for the purposes of the disclosure;
 - (c) any limitation on the process used by the qualified person to verify the data and an explanation of any failure to verify the data;
 - (d) the qualified person's opinion on the adequacy of the data for the purposes used in the disclosure.

Exploration information

- 11. (1)** If an issuer makes written disclosure of exploration information concerning a mineral project, the issuer must include in the disclosure a summary of the following:
- (a) material results of surveys and investigations;
 - (b) an interpretation of the information;
 - (c) any quality assurance programs and quality control measures applied during the execution of work disclosed in the information.
- (2)** If an issuer makes written disclosure of a sample, analytical or testing result concerning a mineral project, the issuer must include in the disclosure the following:
- (a) the location and type of each sample;
 - (b) the location, azimuth and dip of each drill hole and the depth of each sample interval;
 - (c) a summary of each relevant analytical value, each width and, to the extent known, the true width of each mineralized zone;
 - (d) each result of any significantly higher-grade interval within a lower grade intersection;

- (e) any sampling, drilling, recovery or other factors that could materially affect the accuracy or reliability of the sample, analytical or testing result;
 - (f) a summary description of the type of analytical or testing procedures used, sample size and the name and location of each analytical or testing laboratory used and any relationship of the laboratory to the issuer.
- (3) If an issuer makes written disclosure of information concerning mineralization of a mineral project in which the issuer does not have an interest, the issuer must include in the disclosure with the same prominence as and proximate to that disclosure a statement that the information is not necessarily indicative of the mineralization of the issuer's mineral project.

Disclosure of mineral resources or mineral reserves

12. If an issuer makes written disclosure of mineral resources or mineral reserves, the issuer must include in the disclosure the following:
- (a) the effective date of each estimate of mineral resources and mineral reserves;
 - (b) the quantity and grade or quality of each category of mineral resources and mineral reserves;
 - (c) the key assumptions, parameters and methods used to estimate the mineral resources and mineral reserves;
 - (d) any known legal, political, environmental or other risks that could materially affect the potential development of the mineral resources or mineral reserves;
 - (e) if the disclosure includes an economic analysis of mineral resources, a statement, with the same prominence as and proximate to the disclosure, that mineral resources that are not mineral reserves do not have demonstrated economic viability.

Exception for written disclosure already filed

13. Sections 10 and 11 and paragraphs 12(a), (c) and (d) do not apply to an issuer if the issuer includes in the written disclosure the title and date of a document previously filed by the issuer in accordance with those provisions.

PART 4 OBLIGATION TO FILE TECHNICAL REPORT

On becoming a reporting issuer

14. (1) On becoming a reporting issuer, an issuer must file a technical report for each mineral project that is material to the issuer.

- (2) Subsection (1) does not apply to an issuer if the issuer is a reporting issuer in another jurisdiction of Canada and previously filed a technical report for the mineral project in that jurisdiction.
- (3) Subsection (1) does not apply to an issuer if the following apply:
 - (a) the issuer previously filed a technical report for the mineral project;
 - (b) on the date on which the issuer becomes a reporting issuer, there is no new material scientific or technical information concerning the mineral project that was not included in the previously filed technical report;
 - (c) the previously filed technical report meets the requirements for a report filed under section 21, if applicable.

In connection with mineral project disclosure

- 15. (1)** An issuer must file a technical report to support scientific or technical information concerning a mineral project material to the issuer in any of the following documents filed or made available to the public:
- (a) a preliminary prospectus, other than a preliminary short form prospectus filed in accordance with National Instrument 44-101 *Short Form Prospectus Distributions*;
 - (b) a preliminary short form prospectus filed in accordance with National Instrument 44-101 *Short Form Prospectus Distributions* that discloses for the first time either of the following:
 - (i) mineral resources, mineral reserves or an economic analysis of a mineral project that constitute a material change in relation to the issuer;
 - (ii) a change in mineral resources, mineral reserves or an economic analysis from the most recently filed technical report if the change constitutes a material change in relation to the issuer;
 - (c) an information or proxy circular concerning a direct or indirect acquisition of the mineral project;
 - (d) an offering memorandum, other than an offering memorandum delivered solely to an accredited investor, as defined in section 1.1 of National Instrument 45-106 *Prospectus Exemptions*;
 - (e) an annual information form;
 - (f) a valuation required to be prepared and filed under securities legislation;

- (g) a take-over bid circular, or a notice of change or variation of a take-over bid circular, that discloses mineral resources, mineral reserves or an economic analysis of the mineral project if securities of the offeror, as defined in National Instrument 62-104 *Take-Over Bids and Issuer Bids*, are being offered in exchange under the circular or notice of change or variation;
 - (h) any written disclosure made by or on behalf of an issuer, other than in a document referred to in paragraphs (a) to (g), in which the issuer discloses for the first time either of the following:
 - (i) mineral resources, mineral reserves or an economic analysis of the mineral project that constitute a material change for the issuer;
 - (ii) a change in mineral resources, mineral reserves or an economic analysis from the issuer's most recently filed technical report if the change constitutes a material change for the issuer.
- (2) Subsection (1) does not apply to an issuer that discloses a historical estimate in a document referred to in paragraph (1) (h) if the disclosure is made in accordance with section 7.
- (3) If an issuer files a technical report under paragraph (1) (a) or (b), and there is new material scientific or technical information concerning the mineral project before the filing of the final prospectus or short form prospectus, the issuer must file with the final prospectus or short form prospectus a revised technical report including the new information.
- (4) An issuer must file the technical report referred to in subsection (1) not later than the issuer files or makes available to the public the applicable document under subsection (1).
- (5) Despite subsection (4), an issuer must
- (a) file a technical report concerning the disclosure under paragraph (1) (h) not later than
 - (i) if disclosed in a preliminary short form prospectus or shelf prospectus supplement, the earlier of 45 days after the date of the disclosure and the date of filing of the prospectus or prospectus supplement,
 - (ii) if disclosed in a directors' circular, the earlier of 45 days after the date of the disclosure and 3 business days before the expiry of the initial deposit period, and
 - (iii) if disclosed other than under paragraphs (i) and (ii), 45 days after the date of the disclosure, and

- (b) issue a news release at the time the issuer files the technical report disclosing the filing of the technical report and reconciling any material difference, in the mineral resources, mineral reserves or economic analysis, between the technical report and the issuer's disclosure under paragraph (1) (h).
- (6) Subsection (4) and paragraph (5) (a) do not apply to an issuer if the following apply:
- (a) the mineral resources, mineral reserves or economic analysis
 - (i) were prepared by or on behalf of another issuer that holds or previously held an interest in the mineral project,
 - (ii) were disclosed by the issuer referred to in subparagraph (i) in a document referred to in subsection (1), and
 - (iii) were disclosed in a technical report filed by the issuer referred to in subparagraph (i);
 - (b) the issuer, in its disclosure under subparagraph (1) (h) (i), includes the following:
 - (i) the title and effective date of the previous technical report and the name of the issuer referred to in subparagraph (a) (i) that filed it;
 - (ii) the name of each qualified person who reviewed the technical report on behalf of the issuer;
 - (iii) with the same prominence as and proximate to the disclosure, a statement that, to the best of the issuer's knowledge, information and belief, there is no new material scientific or technical information that would make the disclosure of the mineral resources, mineral reserves or economic analysis inaccurate or misleading;
 - (c) the issuer files a technical report concerning its disclosure of the mineral resources, mineral reserves or economic analysis
 - (i) if disclosed in a preliminary short form prospectus or prospectus supplement, on the earlier of 180 days after the date of the disclosure and the date of filing of the final short form prospectus or prospectus supplement, and
 - (ii) if disclosed other than under subparagraph (i), before or on the 180th day after the date of the disclosure.
- (7) Subsection (1) does not apply to an issuer if the following apply:
- (a) the issuer previously filed a technical report for the mineral project;

- (b) on the date the document is filed by the issuer, there is no new material scientific or technical information concerning the mineral project that is not included in the issuer's previously filed technical report;
- (c) the previously filed technical report meets the requirements for a report filed under section 21, if applicable.

PART 5 PREPARATION OF TECHNICAL REPORT

Required form

- 16.** An issuer that files a technical report must file a report prepared
- (a) by or under the supervision of one or more qualified persons;
 - (b) in English or French, and
 - (c) in accordance with Form 43-101F1 *Technical Report*.

Addressed to issuer

- 17.** A qualified person who prepares a technical report must address the report to the issuer.

All relevant data

- 18.** A qualified person who prepares a technical report must base the report on all available data relevant to the disclosure that the technical report supports.

Current personal inspection

- 19.** Before an issuer files a technical report, at least one qualified person responsible for preparing or supervising the preparation of all or part of the technical report must complete a current inspection, in person, of the mineral project that is the subject of the technical report.

Execution

- 20.** Each qualified person responsible for preparing or supervising the preparation of all or a part of a technical report must date, sign and, if the qualified person has a seal, seal the report.

Independent technical report

- 21. (1)** Each qualified person responsible for preparing or supervising the preparation of all or part of a technical report must be independent in accordance with section 3 if the report is required to be filed under any of the following:

- (a) section 14;
- (b) paragraph 15 (1) (a);
- (c) paragraph 15 (1) (b), (c), (d), (e), (g) or (h), if the document discloses either of the following:
 - (i) for the first time, mineral resources, mineral reserves or an economic analysis of a mineral project material to the issuer;
 - (ii) a 100 % or greater change in the total mineral resources, the total mineral reserves or the results of economic analysis of a mineral project material to the issuer since the issuer's most recently filed independent technical report concerning the mineral project.
- (2) A qualified person referred to in subsection (1) must be independent on the effective date of the technical report and the date of filing of the technical report.
- (3) Subsection (1) does not apply to a qualified person if the technical report is required to be filed by
 - (a) a producing issuer, or
 - (b) an issuer in a joint venture with a producing issuer concerning a mineral project, if each qualified person responsible for preparing or supervising the preparation of all or part of a technical report is an employee or consultant of the producing issuer.

PART 6 CERTIFICATES AND CONSENTS

Certificate of qualified person

- 22. (1)** An issuer that files a technical report must file with the technical report a certificate, of each qualified person responsible for preparing or supervising the preparation of all or part of the technical report that is dated, signed and, if the qualified person has a seal, sealed by the qualified person and states all of the following:
- (a) the name, address and occupation of the qualified person;
 - (b) the title and effective date of the technical report to which the certificate applies;
 - (c) the qualified person's qualifications, the name and designation of all professional associations to which the qualified person belongs, a brief summary of the qualified person's experience relevant to the subject matter of the mineral project and that the qualified person is a qualified person in accordance with section 1;
 - (d) whether the qualified person has completed a current inspection, in person, of the mineral project and, if so, the date and duration of the inspection;

- (e) each item of the technical report for which the qualified person is responsible;
- (f) whether the qualified person is independent in accordance with section 3;
- (g) any prior involvement of the qualified person with the mineral project that is the subject of the technical report;
- (h) that the qualified person has read this Instrument and Form 43-101F1 *Technical Report* and that the technical report, or part for which the qualified person is responsible, has been prepared in accordance with this Instrument;
- (i) that, on the effective date of the technical report, to the best of the qualified person's knowledge, information, and belief, the technical report, or part of the technical report for which the qualified person is responsible, contains all scientific and technical information that is required to be disclosed under Form 43-101F1 *Technical Report* to make the technical report not misleading.

Consent of qualified person

- 23. (1)** An issuer that files a technical report must file with the technical report a consent of each qualified person responsible for preparing or supervising the preparation of all or part of the technical report that is dated and signed by the qualified person and contains a statement
- (a) consenting to the public filing of the technical report,
 - (b) identifying the document that the technical report supports,
 - (c) consenting to the use of extracts from, or a summary of, the technical report in the document, and
 - (d) confirming that the qualified person has read the document, and that the document fairly and accurately represents the information in the technical report for which the qualified person is responsible.
- (2)** Paragraphs (1) (b), (c) and (d) do not apply to an issuer that files a consent with a technical report filed under section 14.
- (3)** If an issuer has filed a consent under subsection (2) and the issuer is not required under subsection 15 (7) to file a new technical report to support disclosure in a document subsequently filed or made public under subsection 15 (1), the issuer must file a new consent of each qualified person responsible for preparing or supervising the preparation of all or part of the technical report that contains the statements referred to in paragraphs (b) to (d) of subsection (1).

PART 7 EXEMPTIONS AND ADDITIONAL APPLICATION PROVISIONS

Authority to grant exemption

- 24. (1)** The regulator or the securities regulatory authority may, on application, grant an exemption from this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption in response to an application.
- (2)** Despite subsection (1), in Ontario, only the regulator may grant such an exemption.
- (3)** Except in Ontario, an exemption referred to in subsection (1) is granted under the statute referred to in Appendix B to National Instrument 14-101 *Definitions* opposite the name of the local jurisdiction.

Royalty or similar interest

- 25.** Subsection 15 (1) does not apply to an issuer if the issuer's only interest in a mineral project is a royalty or similar interest.

Certain SEC issuer filings

- 26.** This Instrument does not apply to written disclosure of scientific and technical information filed by an issuer if the written disclosure is disclosure material filed only to comply with paragraph 11.1 (1) (b) of National Instrument 51-102 *Continuous Disclosure Obligations*.

PART 8 REPEAL AND EFFECTIVE DATE

Repeal

- 27.** National Instrument 43-101 *Standards of Disclosure for Mineral Projects* is repealed.

Effective date

- 28. (1)** This Instrument comes into force on ●.
- (2)** In Saskatchewan, despite subsection (1), if this Instrument is filed with the Registrar of Regulations after ●, this Instrument come into force on the day on which it is filed with the Registrar of Regulations.