



MINING STANDARDS TASK FORCE RELEASES INTERIM REPORT

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SUMMARY

The Mining Standards Task Force, formed in July 1997 as a joint initiative of the Ontario Securities Commission (OSC) and the Toronto Stock Exchange (TSE) to examine the need for higher standards relating to the conduct of mineral exploration and mining activities as well as the disclosure of results from those activities, released its interim report on June 8, 1998. The co-chairmen of the Task Force were Morley Cascallen, Vice-Chair of the Ontario Securities Commission, and John Carson, Senior Vice-President, Market Regulation of the TSE. Other members of the Task Force were drawn from diverse backgrounds such as mineral exploration, mining, law, accounting, the securities industry and regulatory fields. Following its receipt of oral and written comments and recommendations from numerous domestic and international parties, the Task Force prepared its interim report.

The Task Force's interim report, *Setting New Standards*, contains recommendations which, if implemented, will have a significant impact on geoscientists and mining engineers, public mineral exploration and mining companies, brokers and analysts.

The purpose of this summary is to highlight the impact of the Task Force's recommendations on mining professionals, companies, brokers and analysts. The first part of the summary relates to the role of the 'Qualified Person' and its effect on the qualifications, responsibilities and accountability of geoscientists and mining engineers. The second part of this summary describes the impact of the Task Force's recommendations on corporate governance, field practices and disclosure policies of mineral exploration and mining companies. Part three of the summary will be of interest to brokers and mining analysts and deals with recommendations regarding the manner in which these market participants convey their recommendations to investors.



HIGHLIGHTS

The Task Force recommends that:

- a 'Qualified Person' be responsible for producing technical reports, ensuring that the field practices of mineral exploration and mining companies follow generally accepted industry standards and reviewing all public disclosure relating to exploration and development programs, mining operations and resource/reserve estimates
- within two years all Qualified Persons be required to join self-regulatory organizations with entrance educational and licensing standards and disciplinary procedures
- the TSE publish interim guidelines outlining generally accepted industry standards relating to the conduct of mineral exploration programs until such time as nationally accepted standards are adopted
- assay laboratories be accredited
- the Canadian Institute of Mining, Metallurgy and Petroleum (CIM) definitions of resources and reserves be used in all technical reports and disclosure documents.
- the TSE publish disclosure standards governing: (i) the categories of information to be disclosed in continuous disclosure documents, (ii) the disclosure of exploration results, and (iii) the reporting of resources and reserves
- limited statutory liability be adopted for misleading continuous disclosure
- all regulatory authorities adopt consistent standards and cooperate in ensuring consistent enforcement of those standards



BACKGROUND AND INTRODUCTION

The Task Force began with two guiding principles: (i) the information reported by mineral exploration and mining companies to shareholders is only as good as the planning and execution of the related work program, the practices followed by the party carrying out the work and the integrity of the data produced; and (ii) shareholders are entitled to have access to the same information contained in technical reports although not necessarily at the same level of detail.

Following its review of the regulatory regime surrounding the mining industry, the Task Force found that there were few regulatory standards concerning the conduct of field practices by mineral exploration and mining companies, the variety of methods used to report exploration results and resource/reserve estimates made it difficult to compare the disclosure among various mineral exploration and mining companies, and the current funding available for regulatory oversight and law enforcement is inadequate.

The interim recommendations of the Task Force therefore include the implementation of such measures as formalizing a set of generally accepted industry standards for field practices, standardizing the classification of resources and reserves and reporting exploration results and requiring that a professional person be responsible and accountable for the information released by a mineral exploration or mining company to its investors.



THE ROLE OF THE QUALIFIED PERSON

1. What is a Qualified Person?

The Task Force defines a Qualified Person, whether such person is 'in-house' or an independent consultant, as being:

- an individual, corporation, partnership or other legal entity that has a director, partner or employee who is an engineer or geoscientist;
- possession of at least 5 years' experience in mineral exploration, mine development, operation or project assessment relevant to the subject matter of the report; and
- a member in good standing of a recognized professional association with educational, licensing and disciplinary procedures.

While the Task Force accepts the quality of the education and experience of Canadian mining engineers and geoscientists, it places great emphasis on the Qualified Person's accountability for the conduct of exploration activities and the technical content of continuous disclosure documents. In this regard, the Task Force recommends that professional self-regulatory organizations (SROs) be given jurisdiction over persons who act as Qualified Persons and that such SROs adopt primary responsibility for ensuring that Qualified Persons comply with their educational, licensing and disciplinary procedures.

The Task Force noted two significant problems in requiring geoscientists to belong to SROs. First, in provinces where the legislation does not provide an existing SRO with jurisdiction over geoscientists, geoscientists cannot become Qualified Persons until legislation is passed to create a new SRO or amendments are made to existing legislation to provide an existing SRO with jurisdiction over geoscientists. Second, the international scope of the mining industry will require the relevant SRO in each province to recognize Qualified Persons who are members of corresponding bodies in other provinces and countries. In the absence of such recognition, the locally-trained technical staff of mineral exploration and mining companies with foreign projects may not qualify as Qualified Persons.

Having regard to the problems described above, the Task Force recommends a two year

transition period during which securities authorities waive the membership requirement in a recognized professional association for any person who has previously filed a technical report that has been accepted by the OSC or the TSE, provided that the person meets all other requirements of a Qualified Person.



2. What are the Responsibilities of a Qualified Person?

The central recommendation of the Task Force is to formalize the role and responsibility of the Qualified Person in: [\(i\) the preparation of technical reports](#); [\(ii\) the design, implementation and assessment of exploration and development programs](#); and [\(iii\) the preparation and review of information disclosed to the public](#).

(i) Technical Reports

The Task Force recommends that a Qualified Person who prepares a technical report be required to verify the integrity of the data relied upon, give an opinion on the quality of such data and disclose the source of the data (including whether independent samples have been taken).

While the Task Force recommends that technical reports be prepared by independent (i.e. not owning any securities of the company or its parents or subsidiaries) Qualified Persons in certain circumstances (such as a company becoming a reporting issuer, filing a prospectus, or listing on an exchange), the Task Force is satisfied that, once Qualified Persons become regulated by an SRO with disciplinary powers, the benefits of independent status may not outweigh the costs, provided that the technical report discloses any relationship between the Qualified Person and the company.

The Task Force recommends the development of national exploration reporting guidelines and suggested that, at a minimum, technical reports on exploration results include:

- results of all surveys and investigation on the property; and
- details of the interpretation of exploration information and plans for future work on the property.

In respect of technical reports on material sample or assay results, the Task Force recommends that technical reports include:

- a description of the geology, mineral occurrences and nature of mineralization found;
- mineral distribution, rock types, structural controls, the cutting criteria used to establish the sampling interval and the identification of any significantly higher grade section within a lower grade interval;
- details of the location, number, type, nature, spacing or density of samples collected and the area covered;
- identification of any drilling, sampling or recovery problems that could materially affect the accuracy and reliability of the results;
- details of the type of assaying or analytical procedures used, sample size and name

- and location of the assay or analytical laboratory used and its accreditation; and
- the true width of individual samples, to the extent known.

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(ii) The Design, Implementation and Assessment of Exploration and Development Programs

The Task Force concluded that minimum industry standards should be applied to field activities and recommends that the relevant SROs cooperate in formulating appropriate guidelines. The Task Force recommends that Qualified Persons be responsible for designing programs most suitable for the specific needs of the project and ensuring that these programs are carried out in accordance with the industry standards described in the guidelines. Any failure by a Qualified Person in the discharge of these responsibilities would make him or her subject to disciplinary action by the governing SRO.

Until such industry standard guidelines are promulgated, a recommended "Best Practices Guide" provides, in part, that:

- every mineral exploration program, carried out by a Canadian reporting entity, the results of which will be disclosed publicly, should be under the management of a Qualified Person who will be responsible and accountable for all planning, the conduct of all exploration activity and the reporting of the results;
- the Qualified Person may base the exploration program on such geological premise and/or interpretation of existing information as he or she may decide, and select such exploration methodologies and tools as he or she may judge to be appropriate, within the parameters and constraints set by management; and
- in planning and carrying out any exploration work, the Qualified Person should ensure that the practices followed are based on sound theoretical and practical considerations that are generally accepted in the industry and can reasonably be justified on scientific grounds.

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(iii) Public Disclosure

The Task Force recommends that the Qualified Person be responsible for all public disclosure relating to exploration results, estimates of resources and reserves and feasibility studies. The Qualified Person will be required to satisfy himself or herself as to the integrity of the technical data being reported upon and will also be required to ensure that all reporting (a) complies with the requirements of securities regulators and (b) provides the public with the same information (if not at the same level of technical detail) as contained in the technical reports underlying the disclosure.

While the Task Force stressed the importance of SRO disciplinary procedures in governing the conduct of Qualified Persons, it noted that, the "responsibility for the disclosure will be, in part, in the hands of the Qualified Person" and went on to endorse the recommendations of the TSE Committee on Corporate Disclosure relating to limited statutory liability for

misleading continuous disclosure. In this regard, mining professionals should note that a draft proposal recently circulated by the OSC provides for limited statutory liability for experts whose reports are referenced in misleading continuous disclosure documents and who consented to the use of their reports therein. Qualified Persons will therefore be subject to both professional discipline and statutory liability under securities legislation.

The Task Force did not comment on the liability for misrepresentation imposed by securities laws on authors of technical reports filed in connection with prospectus offerings. Accordingly, authors of technical reports will continue to be liable under securities legislation to purchasers of securities pursuant to a prospectus where their reports, or the portions of the prospectus derived therefrom, contain misrepresentations.

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MINERAL EXPLORATION AND MINING COMPANIES

Not surprisingly, the recommendations of the Task Force will most affect companies engaged in exploration and development activities. In particular, such companies will be required to evaluate their practices in the areas of: [\(i\) corporate governance and staffing](#); [\(ii\) the classification and reporting of resources and reserves](#); and [\(iii\) the nature and content of their public disclosure](#).

1. Corporate Governance and Staffing

While the TSE reviews a company's in-house mining expertise at the time of original listing, the Task Force observed that the TSE has historically not conducted follow up reviews to ensure that listed companies continue to retain appropriate in-house mining expertise. The Task Force noted that all stock exchanges should require listed companies to have, on a continuous basis, management which has the appropriate depth and expertise in the company's operations. Such persons need not, however, fall within the definition of Qualified Person.

The Task Force recommends that the TSE require the directors of mineral exploration and mining companies to establish corporate systems which: (i) identify and manage the risks relating to material projects; (ii) engage Qualified Persons when necessary; (iii) establish corporate policies for the conduct of exploration and mining programs; and (iv) ensure adherence with generally accepted industry standards.

The Task Force recommends that all public mineral exploration and mining companies (whether or not listed on the TSE) adopt the TSE's general corporate governance guidelines and report to shareholders when they depart from them.

In light of the Task Force's recommendations concerning the responsibilities of Qualified Persons, such companies will be obliged to ensure that the geoscientist or engineer with responsibility for each of its major projects worldwide is a member of a "recognized" SRO and is familiar with the CIM classification system as well as Canadian regulatory standards relating to continuous disclosure.

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2. Uniform Classification and Reporting of Resources and Reserves

In an effort to standardize the reporting of resources and reserves so that investors and analysts can compare the relative merits of mineral projects, the Task Force recommends a uniform classification system. In the absence of an internationally recognized classification system, the Task Force recommends that regulatory authorities require mineral exploration and mining companies to classify and report their resources and reserves using the definitions promulgated by the Canadian Institute of Mining, Metallurgy and Petroleum (CIM guidelines). However, Canadian companies which are obliged to report "other mineralized material" in filings with the United States Securities and Exchange Commission, will be permitted to reconcile this category with its reported resources.

The Task Force recommends that foreign companies which use reporting systems that are substantially similar to the CIM guidelines be permitted to report their resources and reserves in accordance with those systems without having to reconcile their classifications with the CIM guidelines. Examples of such reporting systems are:

- the Australasian Code for Reporting of Identified Mineral Resources and Ore Reserves (JORC Code);
- Principles of a Resource/Reserve Classification for Minerals, U.S. Geological Survey Circular 831; and
- Definitions of Resources and Reserves Approved by the Council of the Institution on 12 December, 1991, the Institution of Mining and Metallurgy of the U.K.

The Task Force recommends that disclosure relating to the reporting and disclosure of resources and reserves clearly describe the relationship between the reported categories and state whether the resources include the reserves or are reported separately. The disclosure must also state that only the reserves have demonstrated economic viability.

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3. The Nature and Content of Public Disclosure

The Task Force's views regarding public disclosure obligations are contained partly in its own recommendations and partly in its endorsement of the draft TSE policy entitled *Disclosure Standards for Companies Engaged in Mineral Exploration, Development & Production* (Appendix E of the Task Force Report). The intent of the Task Force's recommendations and the draft TSE policy is to create a public record of each mineral exploration and mining company's material properties from the date of acquisition or discovery, which record will be updated upon occurrence of material events, and in any event, on an annual basis.

The Task Force recommends that upon acquisition or discovery of a material property, a mineral exploration or mining company must describe, in an initial news release,

- the security of its tenure and legal nature of its mineral rights;
- the nature of its right to produce and market the minerals;

- the impact of any applicable environmental legislation;
- the nature of property surveys carried out and
- a description of political or legal risks relating to the property.

As a project progresses and exploration results are released, the Task Force recommends that additional information in respect of material projects be disseminated via news releases which are based upon technical reports as prepared and certified by Qualified Persons. These news releases must contain an adequate summary of the information contained in a technical report and must be reviewed and approved by a Qualified Person.

The Task Force expressed concern over the reporting of exploration results as being the area most vulnerable to inaccuracy, misinformation and abusive disclosure practices. A general guide to the content of news releases is provided by the Task Force as follows:

"Reports of exploration information must be factual. However, the reports may include geological interpretations, projections and extrapolations provided that these are based on the factual information being reported and are reasonable and in conformity with generally accepted geological theory and practice. The information must be complete and not selective, that is, both positive and negative results must be reported to permit reasoned assessment by investors and others."

The Task Force acknowledges that the content of news releases which follow the completion of major stages or events, such as the completion of a field season or a stage of work, will reflect comprehensive technical reports while news releases which relate to occasional matters such as reporting on additional results need not provide as much background or historical information about the project.

In connection with the disclosure of material results from exploration surveys, the Task Force recommends that news releases include a summary of the interpretation of exploration and plans for future work on the property.

In connection with the disclosure of material sample or assay results, the Task Force recommends that news releases disclose, to the extent that such information has not changed from previous news releases:

- a description of the geology, mineral occurrences and nature of mineralization found;
- identification of any significantly higher grade section within a lower grade interval;
- a summary of the sample location, number, type and spacing;
- identification of any drilling, sampling or recovery problems that could materially affect the accuracy and reliability of the results;
- a summary of assaying or analytical procedures and the name and accreditation of the primary laboratories used; and
- the true width of individual samples, to the extent known.

While the Task Force intends that Qualified Persons bear some of the responsibility for the contents of continuous disclosure materials, it recommends that the directors and officers of

mineral exploration and mining companies be legally liable to shareholders for the company's continuous disclosure. In endorsing the recommendations of the TSE Committee on Corporate Disclosure, the Task Force expressed the view that mineral exploration and mining companies, their principals and promoters should be held more accountable by the regulatory system for misleading continuous disclosure.

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BROKERS AND ANALYSTS

The Task Force noted that the role of the mining analyst is to interpret corporate disclosure in light of industry trends, international developments, commodity price trends, management capabilities and market conditions. Given the importance of evaluation and opinion in an analyst's work, the Task Force recommends that analyst's reports disclose the following:

- the basis for statements, recommendations, calculations or opinions contained in the report;
- a statement of the risks associated with the securities discussed; and
- a clear delineation between information provided by the company and the analyst's own opinions and projections.

In respect of the conduct of analysts, the Task Force recommended that they comply with the Standards of Professional Conduct established by the Association for Investment Management and Research, whether or not they are members of that body.

As well, the Task Force noted the duty of the mining analyst to ensure the integrity of the market and recommends that analysts advise the TSE's Market Surveillance department of any material breaches of disclosure standards by mineral exploration and mining companies or Qualified Persons.



CONCLUSION

The formation of the Task Force was, most obviously, a response to the controversy surrounding Bre-X Minerals Ltd. However, the Task Force's mandate and recommendations foreshadow the introduction of a new national instrument to be published by Canadian Securities Administrators which will set the terms and references for technical reports on mining properties as well as new provisions relating to the disclosure of the contents of those reports. As well, the recommendations constitute an attempt to standardize the practices of mineral exploration and mining companies from the field to the public marketplace and to establish a regulatory framework which is applied consistently across Canada and in respect of companies whose operations are truly global.

Geoscientists and mining engineers, both in-house and independent, will be required to join and meet the educational and licensing standards of SROs in order to become Qualified

Persons. Geoscientists, for whom there is currently no SRO in Ontario and several other provinces, must await regulatory amendments which will enable them to join an established SRO or create a new one. For all Qualified Persons, the Task Force's recommendations impose significantly higher levels of responsibility and liability for the conduct of exploration and mining programs as well as the public disclosure about them.

Mineral exploration and mining companies will be obliged to follow standardized procedures in activities ranging from their field practices to the manner in which they disclose information to the public. Corporate officers and directors will have to establish systems for the conduct of exploration and mining programs, the preparation of technical reports, and the subsequent public disclosure of information contained in those reports. Officers and directors who fail to discharge their duties will face limited statutory liability for the misleading continuous disclosure of their public companies.

Brokers and mining analysts will be obliged to differentiate between their opinions and information provided by mineral exploration and mining companies as well as provide the basis for any conclusions, opinions or calculations contained in their reports.

The Task Force has invited interested parties to submit their comments on the interim report by August 10, 1998. The Prospectors and Developers Association of Canada will be delivering its comments on the interim report in early August. If you would like to participate in the preparation of the PDAC's submissions, please contact Saley Lawton at the PDAC office, telephone 416 362-1969; fax 416 362 0101; email slawton@pdac.ca.

Copies of the Task Force's interim report, which costs \$15.00 (including GST), may be obtained from:

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