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Via Electronic Mail: rule-comments@sec.gov

Ms. Elizabeth M. Murphy
Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1090

Re: Securities and Exchange Commission Proposed Rules on
Pay Ratio Disclosure issued on September 18, 2013
Release No. 33-9452; 34-70443; File No. S7-07-13

Dear Ms. Murphy:

Freeport-McMoRan Copper & Gold Inc. (FCX) appreciates the opportunity to respond to the request for comments on the Securities and Exchange Commission's (the Commission) proposed rules on the "pay ratio" disclosure requirement of Section 953(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act). Our comments focus on possible improvements to lessen the burden on affected companies while ensuring investors receive accurate and useful information.

FCX is a premier U.S.-based natural resource company with an industry leading global portfolio of mineral assets, significant oil and gas resources and a growing production profile. FCX has operations in 20 different countries and approximately 34,000 employees worldwide, with 65% employed outside the U.S.

While we appreciate the Commission's provision of flexibility in the proposed rules, we believe that the definition of "all employees" is too broad and will result in increased compliance costs for multi-national companies. In addition, we believe the flexible approach is incongruous with the "filed" rather than "furnished" aspect of the proposed rules. We believe a more limited definition of employee and a revision to make all disclosure furnished rather than filed would reduce the cost of compliance. Accordingly, we respectfully submit these comments for the Commission's consideration.

Definition of “All Employees”

Section 953(b) of the Dodd-Frank Act requires companies to disclose in certain periodic filings the median of the annual total compensation of all employees of the company (excluding the CEO), the annual total compensation of the CEO, and the ratio comparing the two amounts. Section 953(b) does not delineate the parameters of “all employees,” and we respectfully request that the Commission use its rulemaking discretion to exclude non-U.S.-based employees from the definition of “all employees” in the final pay ratio disclosure rules.

Particularly for large, multi-national companies, the inclusion of non-U.S. employees in the median employee compensation calculation presents several issues and significant data-collection burdens. Further, the comparison of U.S.-based CEO compensation to median employee compensation is rendered less meaningful to investors by incorporating dissimilar non-U.S. workforce data.

We employ approximately 34,000 employees in 20 different countries and we have 15 different payroll systems that are not centralized. Our payroll systems are not integrated and are not comparable across the multiple locations of our global operations due to differences in format, automation, payroll periods, and other legal requirements. As a result, calculating the median employee compensation will require substantial costs and extensive staff hours to manually consolidate data from our multiple payroll systems worldwide. Considerable resources would be required first to analyze the legal and practical differences in the compensation reporting of each payroll system, and then to amass the necessary data and formulate a compatible, integrated report to then analyze. The precise costs of such a task are difficult to estimate but there is little doubt that they would be significant, with minimal return to investors for the expenditure. In contrast, we have one centralized payroll system in the U.S.

Workforce and pay structure variances from country to country, along with currency exchange rate fluctuations would make consistent comparison in worldwide employee compensation difficult. Similarly, pay practices and compensation components vary from country to country, depending on local laws and customs, making it difficult to compare the relative value of compensation among employees in different countries. For example, at different sites, we may have allowances for transportation, food, housing, wedding, birth, or a child’s education. Cost of living also varies widely across jurisdictions, as do corresponding wage rates. In addition, significant variances in each country’s retirement and welfare benefits would further complicate the compilation of compatible compensation information. We would also need to navigate through more restrictive data privacy laws in other nations, which, as the Commission acknowledged in its proposed rulemaking release, restrict the transmission of certain employee data across borders, further hindering a comprehensive collection of the necessary information.

In the proposed rulemaking release, the Commission suggests that companies could potentially reduce the significant costs of compliance by determining the median employee from a statistical sampling of all employees or a reasonable estimate of the median. However, additional costs and complications arise in developing methodologies to utilize these options,

and obtaining an accurate and representative sample would require analysis of the overall global employee workforce, thereby imposing the same expenses sought to be reduced.

Our understanding is that the pay ratio disclosure stems from the public concern surrounding the perceived inequities in pay between the average U.S. worker and the executives at the same company. The addition of non-U.S. employees into the metric would compare pay between a U.S.-based employee and global employees rendering the information less meaningful and useful for the reasons stated above, which include the fact that compensation components and practices vary greatly across different countries. As other commentators have noted, the Dodd-Frank Act is silent as to whether this rule applies to international employees, and there is no pre-enactment legislative history that we are aware of supporting the inclusion of such employees in the calculation.

Considering the practicalities of compliance, we respectfully recommend that the Commission use its rule-making discretion to clarify that the definition of "all employees" includes only U.S.-based employees.

Status as "Filed" not "Furnished"

We recognize the flexibility the Commission provided in the proposed rules. However, under the proposed rules, the pay ratio disclosure required by Section 953(b) will be considered "filed," not "furnished," which mandates compliance with the certification requirements under Section 302 of the Sarbanes-Oxley Act of 2002. If the pay ratio disclosure is filed rather than furnished, we would not likely be comfortable availing ourselves of the granted flexibility, at least initially, because our executives would be asked to certify an inherently inexact estimate or sample figure without established procedures. The substantial risk of error associated with an estimate or sample renders it nearly impossible to validate the pay ratio disclosure. Thus, we would instead expend extensive resources to compile the information necessary to produce the required calculation. Consequently, the flexibility offered to alleviate the compliance burdens of the proposed rule will be effectively negated by the "filed not furnished" status. We respectfully encourage the Commission to deem the pay ratio disclosure to be furnished rather than filed.

We appreciate the Commission's consideration of our views and would be pleased to discuss these matters further should you have any questions.

Respectfully submitted,



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