



PROSPECTORS &  
DEVELOPERS  
ASSOCIATION  
OF CANADA

October 12, 2016

BY EMAIL: [rule-comments@sec.gov](mailto:rule-comments@sec.gov)

Securities and Exchange Commission  
100 F Street, N.E.,  
Washington, D.C. 20549-0609  
Attention: Brent J. Fields, Secretary Street

**Re: Modernization of Property Disclosures for Mining Registrants  
File Number S7-10-16**

**Dear Sirs/Mesdames:**

This letter is submitted on behalf of the Prospectors & Developers Association of Canada (PDAC) in response to the invitation to comment on the proposal to modernize the property disclosure requirements for mining company of Property Disclosures for Mining Registrants set forth in the draft rule amendments published for comment on June 16, 2016 (the "Proposal").

The Prospectors & Developers Association of Canada (PDAC) is the leading voice of the mineral exploration and development community. With over 8,000 members around the world in all sectors of the mining industry, PDAC's mission is to promote a globally responsible, vibrant and sustainable minerals industry. As the trusted representative of the sector, PDAC encourages best practices in technical, operational, environmental, safety and social performance. PDAC is known worldwide for its annual PDAC Convention, regarded as the premier international event for mineral industry professionals. The PDAC Convention has attracted over 25,000 people from 125 countries in recent years and will next be held March 5-8, 2017 in Toronto. Please visit [www.pdac.ca](http://www.pdac.ca).

With respect to capital markets in Canada, PDAC is advocating for regulatory reforms that accomplish the following key policy goals:

1. Facilitate capital raising from a broadened base of investors
2. Reduce the costs of compliance (by, for example, reducing duplicative regulations, eliminating complexity, using simpler format etc.)



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3. Improve enforcement and criminal prosecution of fraud.

### **General Comments on the Proposal**

We have the following general comments on the Proposal:

- We support the goal of the Securities and Exchange Commission (Commission) to bring the mineral property disclosure requirements in the United States more in line with those jurisdictions that have adopted CRIRSCO-based codes. However, we respectfully submit that the Proposal will not achieve this goal, and may in many cases put U.S. mining companies, and foreign mining companies who are subject to U.S. securities laws, at a disadvantage.
- The Proposal may improve comparability of mining issuers, which would benefit investors, enhance confidence in this sector of the market and ultimately assist capital formation. However, the increased complexity necessary to improve comparability will impose a very substantial compliance burden on mining companies, particularly junior companies.
- We urge the Commission to examine those areas of the Proposal which deviate from the CRIRSCO-based rules adopted in other jurisdiction to ensure that they do not unnecessarily increase the compliance burden for issuers. We believe harmonization should be the goal with deviations only where there are jurisdiction specific concerns that need to be addressed.

### **Comments in response to specific areas of the Proposal**

PDAC will comment on certain areas of the Proposal, in no specific order, as follows:

1. *Mineral Resource Calculation– Metal Price*

The Proposal requires that mineral resources be determined using a commodity price which is not higher than the two-year trailing average commodity price. While we can understand the desire to legislate a set standard, we are of the view that this is not the best approach for the following reasons:

- It potentially and unnecessarily creates a distinction between how mineral resources will be calculated in the United States and in other jurisdictions, which could hamper comparability of mining projects and companies. This could cause confusion amongst



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investors that might undermine their confidence in the capital market and lead them to allocate their risk-tolerant capital elsewhere.

- Given the normal volatility in metal prices, a resource determined based on the two-year trailing average price may not correctly reflect the future price. While a two-year trailing average price ceiling may be appropriate for mineral reserves which are capable of being mined in the near future, in many cases it will not be an appropriate price ceiling for mineral resources. By their nature mineral resource are generally several years away from possible production, and the two-year trailing average price may not be the best available indicator of the long term price of the commodity.
- A “black market” of resource estimates based on more widely accepted current metal prices may develop that could effectively create selective disclosure concerns, jeopardizing investor protection and confidence in the marketplace.
- An alternative may be to keep the two year average as the base case but allow qualified persons to deviate from that standard if, in their professional judgement, it would provide a more reasonable and credible resource estimate. The qualified person would have to explain the basis for deviating from the standard and the basis of the new price assumption.

## 2. *Material Change in Exploration Results*

The Proposal would appear to require issuers to file a new technical report summary for any material change in previously disclosed exploration results. While we agree that any such material information should be reviewed by a qualified person and publicly disclosed, it would impose an unnecessary expense, and in some instances a significant financial burden, for issuers to be required to produce a new report following each material change. We recommend that the Proposal be amended to require the filing of new technical report summaries in the circumstances required under the CRICSCO-based codes.

## 3. *Content of Technical Report*

The differences between the Proposal and the CRICSCO-based codes on what and how project information needs to be reported would create an unnecessary compliance burden for inter-listed issuers. Ideally the disclosure requirements would be substantially the same, facilitating the ability to file the same report in multiple jurisdictions. An alternative would be to secure reciprocal recognition of reports prepared under different regimes to allow non-US foreign issuers to file their domestic reports in the US and for US domestic issuers to file US-compliant reports in satisfaction of foreign requirements. The former approach would be better and much easier to achieve as it is within the sole control of the Commission.



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4. *Reliance on Other Experts*

The Proposal does not permit qualified persons to disclaim responsibility for any portion of a technical report. We submit that qualified persons should be permitted to disclaim responsibility for those parts of a report that are not within the normal expertise of a qualified person and prepared based on information provided by experts that are not non-qualified person, such as disclosure regarding legal matters. This is particularly so given the potential for expert's liability under the *Securities Act*.

PDAC supports efforts that increase harmonization of the mineral property discloser regimes around the world. We therefore strongly encourage the Commission to look closely at those areas of the Proposal that diverge from standards accepted in other major mining jurisdictions in an effort to increase the overall level of harmonization.

PDAC appreciates this opportunity to provide our comments. If you have any questions regarding the foregoing, please do not hesitate to contact me.

Sincerely,

Robert (Bob) Schafer  
President  
Prospectors & Developers Association of Canada (PDAC)

Cc:

Jim Borland: Co-Chair, PDAC Securities Committee  
Michael Marchand: Co-Chair, PDAC Securities Committee and Member, PDAC Board  
Andrew Cheatle: Executive Director, PDAC

This submission was prepared with the support of James McVicar, Partner, Peterson McVicar LLP