PMAC
PORTFOLIO MANAGEMENT ASSOCIATION OF CANADA
Advancing Standards™

VIA EMAIL September 13, 2022

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Ontario Securities Commission
New Brunswick Superintendent of Securities
Department of Justice and Public Safety, Prince Edward Island
Nova Scotia Securities Commission
Office of the Superintendent of Securities, Service NL
Northwest Territories Office of the Superintendent of Securities
Office of the Yukon Superintendent of Securities
Nunavut Securities Office

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Re: CSA Consultation Paper 43-401 – Consultation on National Instrument 43-101 – Standards of Disclosure for Mineral Projects

OVERVIEW

The Portfolio Management Association of Canada (**PMAC**), through our Industry Regulation & Taxation Committee, is pleased to have the opportunity to submit the following comments regarding the CSA's Consultation Paper 43-401 – *Consultation on National Instrument 43-101 – Standards of Disclosure for Mineral Projects* (**NI 43-101** and the **Consultation**).

PMAC represents over 300 investment management firms registered to do business in Canada as portfolio managers (**PMs**) with the members of the Canadian Securities Administrators (**CSA**). In addition to this primary registration, 70% of our members are also registered as investment fund managers and/or exempt market dealers. Some member firms manage large mutual funds or pooled products, and others manage separately managed accounts on behalf of private clients or institutions, such as pension plans and foundations. PMAC's members encompass both large and small firms. Collectively, PMAC members manage assets for Canadian private and institutional investors in excess of $2.9 trillion.

IMPORTANT CONTEXT AND BACKGROUND

PMAC's members are fiduciaries entrusted to manage their clients' assets in the clients' best interests. As asset managers, our members are supportive of processes that increase transparency and that provide readily comparable information to assist them in meeting their clients' investment objectives.

We welcome modernizing NI 43-101 with measures that introduce more responsive, comparable, and consistent mineral project disclosure, as well as the work started by the Consultation to incorporate environmental, social, governance disclosure and disclosure around due diligence taken to respect Indigenous Peoples' Rights.

KEY RECOMMENDATIONS

1. **Prioritize enhanced environmental, social and Indigenous Peoples' Rights (ESG-I) due diligence disclosure by striking an ESG-I working group that is centered on Indigenous perspectives.** Mining issuers should be required to provide enhanced environmental, social and risk disclosure regarding their projects. We believe that these disclosures should reflect Indigenous Rights based on Indigenous perspectives. We applaud the CSA for including proposed disclosure on due diligence taken to respect the Rights of Indigenous People in this Consultation and believe that this work should be undertaken in a separate – but urgent – workstream from the more technical amendments to Form 43-101F1 (the **Technical Report**). Canada's colonial history and the complexity of disclosure required to convey the effectiveness of due diligence taken to respect the rights of Indigenous

Peoples merits a CSA working group of key stakeholders, focused on Indigenous partners, dedicated to developing a responsive, effective, and meaningful disclosure framework (**ESG-I Working Group**).

2. **Any ESG-I disclosure should be a stand-alone document from Form 43-101F1 (Technical Report) and should be designed with a view to adapting this disclosure for other reporting issuers in the future.** The ESG-I disclosure should be a stand-alone document, separate from the Technical Report. ESG-I disclosure requires reliance on experts with a variety of skills that are often separate from and in addition to the technical skills of a Qualified Person (**QPs**). QPs are unlikely to be best positioned to provide ESG-I[1] disclosure, to investors and, as such, we request that the CSA create a separate form under NI 43-101 for the disclosure of ESG-I matters, where Indigenous, environmental, legal, and other experts can be relied upon to provide this important information, as opposed to the QP. The CSA should design this disclosure to be adaptable for other industries in the future, such that all reporting issuers could leverage a similar ESG-I disclosure requirement.

3. **Update the ESG-I disclosure document as needed to reflect current standards and best practices.** PMAC encourages the creation of a stand-alone ESG-I disclosure document under NI 43-101, separate from the Technical Report, which accords with developing sustainability, governance and climate-related disclosure standards and best practices. We believe that this will achieve three key objectives:

   I. Allow the fast-tracking of technical amendments to NI 43-101 while consultation takes place to develop a framework for the ESG-I disclosure;

   II. Enable the CSA to more easily revise the stand-alone ESG-I document to reflect rapidly evolving domestic and global disclosure standards and expectations around ESG-I issues; and

   III. Focus key stakeholders on the ESG-I discussion without this information being buried in the highly technical nature of the mineral project report. Technical Reports can be difficult to comprehend, even for those immersed in the extractive industry. Creating a plain language ESG-I disclosure document separate from these technical disclosures may increase investor understanding and engagement with these issues.

4. **Leverage existing disclosure frameworks in the EU and the CSA's work to date on Proposed National Instrument 51-107 –**

[1] Where we refer to ESG disclosure in this submission, we are also always including a reference to the inclusion of the Rights of Indigenous People.

Disclosure of Climate-Related Matters (**Proposed NI 51-107**). We note the urgency of implementing measures across Canadian securities legislation that will give investors readily available and comparable climate-related disclosure, considering the timeframe for Canada's climate commitments and asset managers' own net zero commitments in the context of CSA's proposed NI 51-107 as well as the urgency of modernizing NI 43-101 to be more responsive to current investor needs. This could include mandatory human rights and environmental due diligence disclosure (**HREDD**) already established in many jurisdictions in the European Union (**EU**), which will be further augmented through the forthcoming Corporate Sustainability Reporting Directive (**CSRD**). This Consultation should be carefully considered alongside Proposed NI 51-107, as we believe that both these instruments will form a critical basis for improving the disclosure made to investors and that alignment across CSA and international requirements will increase the quality and utility of such disclosure.

5. **Improve the approach to disclosure in NI 43-101 and the Technical Report, including by doing the following:**

    a. Split early- and late-stage Technical Reports into separate documents
    b. Focus on plain language, transparency regarding assumptions, estimates and projections, avoidance of conflicts of interest, and third-party verification.
    c. Continue to require in-person site visits
    d. Specifically mandate disclosure with respect to carbon impacts, where applicable.

INDIGENOUS RIGHTS AND COMMITMENTS

We applaud the CSA for introducing the important question of disclosure and recognition of Indigenous Peoples' rights with respect to mineral properties. We believe that examining Indigenous Peoples' rights across all sectors of the Canadian economy is also warranted but appreciate starting with the extractive industry due to scale and scope of impact that mineral projects can have on Indigenous Peoples.

Indigenous Peoples' perspectives need to be centered in this discussion and we note that the framework developed under NI 43-101 may serve as a precedent for similar disclosure in other industries.

As such, we are asking the CSA to create a working group with impacted stakeholders, Indigenous partners, and organizations to more closely examine the ways in which disclosure of Indigenous Peoples' Rights can be effectively

and meaningfully implemented across various Canadian industry sectors. We also note that there are over 600 Indigenous communities across Canada and that the working group should include a wide diversity of Indigenous perspectives.

PMAC is not a subject matter expert on these issues, and we believe that inviting the correct people to the table for a wider policy-development discussion will be a critical and positive step forward for the CSA and for the Canadian capital markets. We acknowledge the many Indigenous and ESG experts in the Canadian market and invite the CSA to collaborate with such parties. We also acknowledge the existing protocol developed by the Mining Association of Canada to allow projects to evaluate their Indigenous and community relationships performance against Towards Sustainable Mining (**TSM**) indicators and which supports the implementation of the TSM Mining and Indigenous Peoples Framework. Leveraging such existing protocols may be beneficial. We await the 2022 public reporting on the TSM Indigenous and Community Relationships Protocol to better understand the impacts of this reporting.

Canada has made some progress in recent years towards codifying respect for Indigenous inherent rights and title officially recognized by the Crown in 1763 through the Royal Proclamation[2] through the enactment of legislation such as the *Impact Assessment Act*, *2019* and the adoption of the *United Nations Declaration on the Rights of Indigenous Peoples Act* (**UNDRIP**) which came into force in Canada in June of 2021. While there remains much additional work to be done in support of reconciliation, we applaud the CSA for seizing this opportunity to modernize NI 43-101 disclosure in ways that are responsive to these developments and that support commitments to reconciliation.

UNDRIP provides Canada with a roadmap to enact rightful nation to nation relationships with Indigenous Peoples based on cooperation. UNDRIP has the potential to improve how Indigenous Peoples, communities and businesses participate in sustainable natural resources development with an emphasis on the importance of "free, prior and informed consent" (**FPIC**[3]). Recent decisions have highlighted the importance of FPIC and the potential fiscal impact that failure to obtain such consent for mineral projects may have, including the recent Skeena Resources Tahltan nation pact with the BC government in respect of the Skeena Resources' Eskay Creek project.

[2] https://indigenousfoundations.arts.ubc.ca/royal_proclamation_1763/

[3] "FPIC is a manifestation of Indigenous Peoples' right to self-determination and is about the effective and meaningful participation of Indigenous peoples in decisions that affect them, their communities and territories." https://www.justice.gc.ca/eng/declaration/bgnrcan-bgrncan.html

In addition to UNDRIP and investor demand for these disclosures, we also note Moody's 2020 comment that, as governments and corporations are increasingly focusing on obtaining and maintaining social license from Indigenous communities, Moody's is seeing the adverse effect that conflicts over social license can have on credit quality.[4]

While we believe the Consultation represents an excellent opening to this dialogue, further consultation and prioritization of these matters are warranted to create a workable, appropriate framework for the disclosure of Indigenous Peoples' rights and impacts.

Without a more fulsome discussion of how to create such a disclosure framework, PMAC fears the industry may misread the importance and relevance of certain issues, eroding commitments to reconciliation and obfuscating the very information the CSA wishes to bring to light.

ESG DISCLOSURE

The CSA should leverage existing mandatory human rights and environmental due diligence disclosure (**HREDD**) already established in many jurisdictions in the EU, which will be further augmented through the forthcoming Corporate Sustainability Reporting Directive (**CSRD**). We believe that mandatory disclosure on HREDD, including auditable processes for effective stakeholder engagement, mapping, and prioritization of the most salient actual or potential impacts and remediation processes would be a good benchmark for improving Canada's own disclosure standards and for the implementation and expansion of the forthcoming International Sustainability Standards Board standards.

PMAC believes that investors' needs would be better served by having a specific discussion of the impact of evolving ESG-I standards related to each specific mineral project, including regarding environmental and carbon impacts and remediation. We note the urgency of implementing measures across Canadian securities legislation that will give investors readily available and comparable climate-related disclosure, considering the timeframe for Canada's climate commitments and asset managers' own net zero commitments in the context of CSA's Proposed NI 51-107 as well as the urgency of modernizing NI 43-101 to be more responsive to current investor needs.

We believe that this Consultation should be carefully considered alongside Proposed NI 51-107, as we believe that both these instruments will form a critical basis for improving the disclosure made to investors. PMAC's response

[4] Moody's Investors Service Sector In-Depth Report 22 June 2020, ESG-Canada Focus on Indigenous rights increasingly vital for project execution, corporate activities.

to Proposed NI 51-107 is linked here. Moreover, PMAC believes that the ESG-I disclosure developed by the CSA should be adaptable for use by other reporting issuers.

While PMAC appreciates the need to balance regulatory burden with enhanced disclosure, there is no time to waste on these critical disclosure initiatives. Additionally, as investors increasingly scrutinize issuers' ESG-I programs and disclosures, issuers who adopt best ESG-I and other disclosure practices will have more funds available to them from such investors.

PMAC supports the CSA's work on the Consultation to foster standardized sustainability-related disclosures to assist investors in making informed decisions. We also support the CSA's contemporaneous work on other ESG-I-related issues and guidance and applaud the CSA's participation in ESG-related initiatives at the International Organization of Securities Commission (**IOSCO**) level.

CONSULTATION QUESTIONS

PMAC has responded to certain, but not all, of the Consultation questions and, as such, the numbering of the questions may not be sequential.

A. Improvement and Modernization of NI 43-101

1. Do the disclosure requirements in the Form for a pre-mineral resource stage project provide information or context necessary to protect investors and fully inform investment decisions? Please explain.

Due to the highly speculative nature of a pre-resource stage project, the expectation that the Technical Report provide all information or context necessary to protect investors and fully inform investor decisions may not be the correct expectation. We suggest that the Technical Report should be focused on the information that is available for a pre-resource stage project versus a Technical Report for a more advanced mineral project. Bifurcating the Technical Report in this manner may decrease regulatory burden while improving investor understanding.

For a pre-mineral resource stage property, issuers do not have all the relevant information available to allow investors to make a fully informed decision. A standard format to discuss what information is not yet available and the associated risks would be a useful minimum requirement. While investors do look at the Technical Report for pre-resource stage companies, they primarily rely on sell-side geology analysts to determine the potential of the asset becoming economically viable in the future. The issuer should provide an overview that covers basic information and conclusions in plain language.

2. a) Is there an alternate way to present relevant technical information that would be easier, clearer, and more accessible for investors to use than the Form? For example, would it be better to provide the necessary information

in a condensed format in other continuous disclosure documents, such as a news release, annual information form or annual management's discussion and analysis, or, when required, in a prospectus?

Generally, members find the summary under Item 1 of the Technical Report to be a useful digest of the report and encourage this summary to be in plain language so that a reader of the document does not need to be a mining professional to understand the report's key features. We stress the importance of plain language disclosure and the need for the summary to cover basic information and conclusions while referencing a link to the complete report.

4. Paragraph 4.2(5)(a) of NI 43-101 permits an issuer to delay up to 45 days the filing of a technical report to support the disclosure in circumstances outlined in paragraph 4.2(1)(j) of NI 43-101. Please explain whether this length of time is still necessary, or if we should consider reducing the 45-day period.

Members believe that, absent practical and compelling reasons to maintain this delay, investors would be better served by filing the summary press release at the same time as the full Technical Report.

5. a) Can the investor protection function of the current personal inspection requirement still be achieved through the application of innovative technologies without requiring the qualified person to conduct a physical visit to the project?

Site visits are effective because they are less likely to be staged and to exclude certain people or information. While PMAC applauds regulatory burden, cost, and carbon-emission-reducing measures, we nonetheless have concerns that allowing QPs to remotely visit projects would put the issuer in sole control of what the QP sees and who they speak to. It would be preferable to maintain the personal inspection requirement and, while certain technologies may help to supplement and facilitate site visits, we do not believe that site visits should be replaced.

b) If remote technologies are acceptable, what parameters need to be in place in order to maintain the integrity of the current personal inspection requirement?

We reiterate our concerns with discontinuing in-person sight visits. However, were the CSA to move in this direction, requiring a person who is independent from the issuer to host the remote site visit and attest to the QP's access to the site via remote technologies without encumbrances, could provide some additional controls.

B. Data Verification Disclosure Requirements

7. How can we improve the disclosure of data verification procedures in Item 12 of the Form to allow the investing public to better understand how the qualified person ascertained that the data was suitable for use in the technical report?

An independent review of the data verification procedures by a party that is not compensated directly or indirectly by the issuer could improve this process.

8. Given that the current personal inspection is integral to the data verification, should we consider integrating disclosure about the current personal inspection into Item 12 of the Form rather than Item 2(d) of the Form?

Yes, we believe it makes sense to include the results of site visits in Item 12 of the Technical Report.

C. Historical Estimate Disclosure Requirements

10. Do the disclosure requirements in section 2.4 of NI 43-101 sufficiently protect investors from misrepresentation of historical estimates? Please explain.

Historical estimates are only of very limited use and should be presented alongside explanatory notes as well as with current and future pricing, where relevant.

D. Preliminary Economic Assessments

11. Should we consider modifying the definition of preliminary economic assessment to enhance the study's precision? If so, how? For example, should we introduce disclosure requirements related to cost estimation parameters or the amount of engineering completed?

Members note that preliminary economic assessments (**PEAs**) can be optimistic and that capital expenditures and operating expenditures, in particular, are often understated. Commodity price assumptions should be clearly stated instead of buried in the text and should be conservative as opposed to aggressive. Additionally, as with commodity price assumptions, cost estimates should also be provided under different scenarios.

We believe that enhanced disclosure about costs warrant better definition in PEAs. Additional transparency around the assumptions used to arrive at the PEA, whether those be from comparable projects, engineering studies or otherwise, would be helpful. Robust disclosure regarding the resource estimates and mineablity of the property are important, as is a discussion of how such estimates usually relate to actual project development costs.
PMAC also believes that issuers should be required to consider their projects' impacts on carbon emissions at a design level and that, as such, there should be a discussion of whether a carbon-neutral mine plan has been considered, what

ultimate decisions were made in respect of carbon neutrality and why. We believe that using comparable projects to discuss and assess this decision would be instructive. We query whether this disclosure would be best suited to the stand-alone ESG-I document or in the Technical Report itself (allowing the QP to rely on third party experts for the carbon emissions disclosure portion).

13. Subparagraph 5.3(1)(c)(ii) of NI 43-101 triggers an independence requirement that may not apply to significant changes to preliminary economic assessments. Should we introduce a specific independence requirement for significant changes to preliminary economic assessments that is unrelated to changes to the mineral resource estimate? If so, what would be a suitable significance threshold?

In the case of material changes to PEAs, there may be a need for an updated Technical Report to address the amendments. In this case, we believe that the independence requirement remains an important control.

14. Should we preclude the disclosure of preliminary economic assessments on a mineral project if current mineral reserves have been established?

Members believe that disclosure as to the issuer's current level of confidence in the economic assessments would provide helpful context.

15. Should NI 43-101 prohibit including by-products in cash flow models used for the economic analysis component of a preliminary economic assessment that have not been categorized as measured, indicated, or inferred mineral resources? Please explain.

If the by-products are not at resource stage, we do not believe they should be included in the economic analysis of the PEA.

E. Qualified Person Definition

17. Should paragraph (a) of the qualified person definition be broadened beyond engineers and geoscientists to include other professional disciplines? If so, what disciplines should be included and why?

To appropriately address ESG-I-related disclosure, other disciplines may be required to provide this expertise. The definition of "qualified person" – not just subsection (a) - may need to be expanded to reflect the individual's qualifications and experience in ESG-I or mining-adjacent undertakings and not strictly related to mineral exploration, mine development or operation, or mineral project assessment.

19. Should directors and officers be disqualified from authoring any technical reports, even in circumstances where independence is not required?

Disqualifying directors and officers from authoring Technical Reports would support best practice and the avoidance of, or appearance of, conflicts of interest with respect to this highly material disclosure document.

F. Current Personal Inspections

20. Should we consider adopting a definition for a "current personal inspection"? If so, what elements are necessary or important to incorporate?

Other than stressing that the on-site personal inspection of the mineral property is critical to uncovering relevant information, PMAC does not have any additional definitional comments.

21. Should the qualified person accepting responsibility for the mineral resource estimate in a technical report be required to conduct a current personal inspection, regardless of whether another report author conducts a personal inspection? Why or why not?

Yes, we believe that each expert involved in each section of the Technical Report should make a site visit to fulfil their obligations. For example, a mining engineer cannot verify geological matters.

22. In a technical report for an advanced property, should each qualified person accepting responsibility for Items 15-18 (inclusive) of the Form be required to conduct a current personal inspection? Why or why not?

We believe that other than ESG-I, legal or carbon-experts (who may be able to rely on secondary data), each expert involved in each section of the Technical Report should make a personal visit to fulfill their obligations and provide a safeguard to investors.

23. Do you have any concerns if we remove subsection 6.2(2) of NI 43-101? If so, please explain.

PMAC does not have concerns about the potential deletion of subsection 6.2(2) of NI 43-101 in the list of conditions in which the current personal inspection does not apply to an issuer, provided that the issuer discloses in the risk factors that a current personal inspection under subsection 6.2(1) was not conducted.

H. Mineral Resource / Mineral Reserve Estimation

25. Should Item 14: Mineral Resource Estimates of the Form require specific disclosure of reasonable prospects for eventual economic extraction? Why or why not? If so, please explain the critical elements that are necessary to be disclosed.

Yes, these estimates are critical disclosures for investors and there should be transparency with respect to assumed mining costs, as well as the method of

mining and metal price to provide additional context and bolster understanding of these estimates.

26. a) Should the qualified person responsible for the mineral resource estimate be required to conduct data verification and accept responsibility for the information used to support the mineral resource estimate? Why or why not?

PMAC believes that data verification and accountability by the QP for material information in the report, such as the mineral resource estimate, should be required.

b) Should the qualified person responsible for the mineral resource estimate be required to conduct data verification and accept responsibility for legacy data used to support the mineral resource estimate? Specifically, should this be required if the sampling, analytical, and quality assurance/quality control information is no longer available to the current operator. Why or why not?

Legacy data should be verified by the QP and they should accept a degree of responsibility for such data and/or disclose their level of confidence in this data. This is even more critical for legacy data that pre-dates the implementation of NI 43-101. Moreover, PMAC believes that the current project operator must have access to and verification of data regarding sampling, analytical and QA/QC to properly rely on such data.

27. How can we enhance project specific risk disclosure for mining projects and estimation of mineral resources and mineral reserves?

PMAC believes that project specific risk disclosure should include Scope 1 and 2 GHG emissions (please refer to PMAC's submission to the CSA on Climate Disclosure for Issuers), water consumption and management as well as disclosure about waste rock and tailings management. There are additional issues that PMAC would like to see included in the risk disclosure, such as taxes, socio-economic factors such as workforce diversity, Indigenous partnerships, community relationships and support, controls around poisonous substance control and marketing risks, though we acknowledge that these are outside the scope of expertise of a QP and would require other experts to opine on such risks, as is permitted in Item 3 of the Technical Report.

If the CSA does not create a stand-alone disclosure document for ESG-I matters and adds this type of disclosure to the Technical Report, we believe that the issuer should provide opinions by relevant experts in these matters upon which the QP can then rely. To this end, Item 3(a) of Form 43-101F1 should be expanded as follows to go beyond the current list of "reports, opinions or statements of another expert who is not a qualified person, or on information provided by the issuer concerning legal, political, environmental, social, Indigenous, governance, risk, or tax matters relevant to the technical report".

I. Environmental and Social Disclosure

28. Do you think the current environmental disclosure requirements under Items 4 and 20 of the Form are adequate to allow investors to make informed investment decisions? Why or why not?

As currently drafted, Items 4 and 20 do not require sufficient environmental disclosures to allow investors to make informed investment decisions. We believe these items merit a separate but equally urgent workstream than the technical amendments to the Technical Report to determine what existing disclosure frameworks can be adopted and to respond readily to the rapidly evolving nature of environmental disclosure and investor demands.

As referenced above in this submission, both Canada and Canadian asset managers have made a commitment to net zero and require information about greenhouse gas emissions, etc. to meet these commitments. Additionally, investors increasingly require more in-depth analysis of issues around environmental studies, permitting, social or community impact and mine remediation plans. We believe these issues merit their own disclosure document, signed off on by subject-matter experts.

29. Do you think the current social disclosure requirements under Items 4 and 20 of the Form are adequate to allow investors to make informed investment decisions? Why or why not?

PMAC believes that the CSA should strike an ESG-I Working Group to determine which social disclosure requirements should be included for mining issuers. We do not feel adequately informed of the current status of social disclosure requirements with respect to mineral projects to make any recommendations in this submission and acknowledge the many groups who are better positioned to consult on these issues.[5]

30. Should disclosure of community consultations be required in all stages of technical reports, including reports for early-stage exploration properties?

Disclosure of community consultations is material disclosure to investors, even for early-stage exploration properties. Without community engagement and social license, a property faces significant risks that investors should be aware of. Investors routinely ask issuers about community engagement when deciding to

[5] For example, the roundtable hosted by Millani Inc. and the Mining Association of Canada (MAC) and ensuring discussion paper titled "The Value in Indigenous Relations" features a list of experts in this space that the CSA may wish to reach out to: Mark Podlasly**,** Director of Economic Policy and Initiatives, First Nations Major Projects Coalition, Chair of the First Nations Limited Partnership; Matthew Pike, Aboriginal Affairs Superintendent, Vale (not at Vale anymore); Theresa Baikie, Impact and Benefit Agreement Coordinator, Nunatsiavut Government; Ekaterina Hardin, Analyst, Sector Lead, Extractives and Minerals Processing, Value Reporting Foundation; Tara Shea, Senior Director, Regulatory and Indigenous Affairs, The Mining Association of Canada.

invest and we believe that written, public disclosure of this issue would benefit all stakeholders, including explicit steps taken to engage the under-represented perspectives of Indigenous women and gender-diverse people at the earliest stages of mineral exploration and negotiations, as underscored in the Native Women's Association of Canada's Gender Based Analysis of Canada's Mining and Metals Plan. The more detailed content of this disclosure can be ascertained through consultation with the ESG-I Working Group.

J. Rights of Indigenous Peoples

31. What specific disclosures should be mandatory in a technical report in order for investors to fully understand and appreciate the risks and uncertainties that arise as a result of the rights of Indigenous Peoples with respect to a mineral project?

PMAC requests that the CSA strike an ESG-I Working Group to respond to this critical question. Despite the extension provided for comments, we are nonetheless concerned that the Consultation was published during a critically busy time for many stakeholders and that, as a result of the primary focus on the Consultation being technical, the critical and wider questions of Indigenous Peoples' Rights disclosure has not received the attention that it merits and requires in order to be properly developed.

Moreover, as previously stated, we feel that this disclosure should not be mandated in the Technical Report, but rather, should be part of a separate ESG-I disclosure document. We believe that issuers should be disclosing additional relevant data about the following topics as well as more ESG-I data for each site (for example, methods used to communicate, engage and establish social license, including how actual or potential impacts on Indigenous communities have been detected, plans for mitigating impacts and the community's involvement in developing mitigation strategies) to help assess which mining operations may be at risk of being halted due to lack of social acceptance or breach of regulatory requirements.

PMAC would like to support the ESG-I Working Group in any way that is appropriate.

Ideas for inclusion raised by PMAC members at this early stage include the following: 1) names and location of any Indigenous communities around the mine site[6]; 2) history of the issuer's (or previous operators'?) engagement with these Indigenous communities; 3) current engagement; 3) key issues of concern with these Indigenous communities, for example, any land-access issues, any

[6] This geographic boundary could be defined by way of understanding the traditional practices related to the adjacent groups. For example, the migratory routes of caribou that could be impacted by any development and which would subsequently impact the rights of Indigenous communities that rely on these migratory caribou as part of their traditional practices might be included. Similar thinking around watersheds and other natural systems would be adopted, all subject to the detailed feedback provided by the CSA ESG and Indigenous Peoples Rights Working Group.

environmentally, culturally or traditionally sensitive areas at or around the project; any water issues; agreements to employ, train and retain Indigenous service providers and workers; the existence of any Impact Benefit Agreements (**IBAs**) and their material disclosable terms; toxic emissions and waste management; water stress; and biodiversity and land use.

PMAC also believes that Technical Reports should include reconciliation-relevant disclosure that is aligned with Truth & Reconciliation Commission Recommendation #92 on economic reconciliation and with UNDRIP. Investors are increasingly looking for such alignments in ESG and Sustainability reports.

32. What specific disclosures should be mandatory in a technical report in order for investors to fully understand and appreciate all significant risks and uncertainties related to the relationship of the issuer with any Indigenous Peoples on whose traditional territory the mineral project lies?

Please see response to Question 31 above.

33. Should we require the qualified person or other expert to validate the issuer's disclosure of significant risks and uncertainties related to its existing relationship with Indigenous Peoples with respect to a project? If so, how can a qualified person or other expert independently verify this information? Please explain.

To have confidence in the issuer's disclosure, we believe that a third party's validation should be included in the report. While PMAC believes that this verification is likely out of the sphere of knowledge and qualification of a QP, there may be other parties that are able to independently verify this information. PMAC would support the independent verification of this disclosure in an issuer's stand-alone ESG-I disclosure document by a person with the appropriate expertise.

K. Capital and Operating Costs, Economic Analysis

34. Are the current disclosure requirements for capital and operating costs estimates in Item 21 of the Form adequate? Why or why not?

Investors perceive cost estimates to be frequently optimistic and it would be ideal if investors could rely on cost assumptions in a Technical Report. We believe that prescribing a methodology to disclose cost estimates would increase reliability.

35. Should the Form be more prescriptive with respect to the disclosure of the cost estimates, for example to require disclosure of the cost estimate classification system used, such as the classification system of the Association for the Advancement of Cost Engineering (AACE International)? Why or why not?

A robust, auditable, and prescriptive method of cost estimate disclosure would be useful for investors and would increase the reliability of cost estimates.

36. Is the disclosure requirement for risks specific to the capital and operating cost assumptions adequate? If not, how could it be improved?

Investors cite numerous cost overruns in mining projects, which suggests that the risks in these assumptions are inadequate. Methods to arrive at more accurate estimates and/or increasing estimates by a certain factor based on a historical percentage overrun should be considered.

37. Are there better ways for Item 22 of the Form to require presentation of an economic analysis to facilitate this key requirement for the investing public? For example, should the Form require the disclosure of a range of standardized discount rates?

PMAC members have suggested the following as ways to present the economic analysis: disclosure of the range of discount rates; the range of commodity prices of particular importance in a volatile market, range of capital expenditure outcomes, range of timing and impact on the internal rate of return (**IRR**) and net present value (**NPV**) used in the scenarios would be of assistance. Both buy- and sell-side investors would normally conduct that sensitivity analysis as well, but it would be instructive for the issuer to disclose its range of IRR and NPV forecasts. Additional transparency around assumptions made by the issuer and how such assumptions compare to similar projects in production would be very helpful to investors.

CONCLUSION

We thank the CSA for taking this important first step to revise NI 43-101. In addition to the more technical feedback in this letter on NI 43-101, we urge the CSA to prioritize the creation of an ESG-I working group centered on Indigenous perspectives and to create ESG-I disclosure that is separate from the Technical Report. The EGS-I disclosure should be updated to reflect current standards, best practices and future learnings as the industry grows in this space. Where possible, the CSA should leverage existing human rights and environmental due diligence disclosure frameworks.

Sincerely,

PORTFOLIO MANAGEMENT ASSOCIATION OF CANADA

"*Katie Walmsley*"	"*Margaret Gunawan*"
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