ASIC

Australian Securities & Investments Commission

Mining and resources - Forward-looking statements

It is common for investors in mining and resources companies to put a lot of emphasis on 'forward-looking statements' when considering an investment. In mining, these predictive statements generally include:

- production targets (i.e. projections or forecasts of the amount of minerals to be extracted from mining tenements for periods that extend past the current and forthcoming year.)
- forecast financial information
- income-based discounted cash flow valuations.

Companies that publish forward-looking statements that do not comply with the legal requirements take legal and reputational risks, and so care is needed.

This information sheet (INFO 214) aims to give stakeholders a better understanding of the existing rules that apply to forward-looking statements, thereby improving compliance and reducing any risk of litigation or regulatory action.

This guidance explains the existing reference sources that apply to forward-looking statements and gives practical advice and examples of how to comply with the existing legal obligations. In particular, it covers:

- the legal requirement that forward-looking statements must be based on reasonable grounds
- the application of relevant industry codes, ASX Listing Rules and ASIC guidance
- what constitutes a forward-looking statement, and how these are different from aspirational statements (which do not need to be based on reasonable grounds)
- how the legal requirement to have reasonable grounds applies to ore reserve and mineral resource estimations
- how the reasonable grounds requirement applies to the JORC Code's 'economic' modifying factor given that secured funding is not necessarily required for you to show reasonable grounds for production targets
- what the disclosure requirements are for forward-looking statements
- what you can disclose about a scoping study if you do not have reasonable grounds for forward-looking statements
- what the requirements are for updating forward-looking statements when your company's circumstances change or a project changes hands
- what areas ASIC focuses on when assessing forward-looking statements.

Reference sources

ASIC uses all of the existing reference sources listed in the appendix to assess whether publicly available forward-looking statements comply with the law. This information sheet is based on, and should be read together with, the sources listed.

See the Appendix for the short names used in this information sheet.

What are the existing obligations?

Legal requirements

Under sections 670A(2), 728(2) and 769C of the Corporations Act and section 12BB(1) of the ASIC Act (together the 'legal requirements'), a statement about future matters must be based on reasonable grounds at the date the statement is made or it will be misleading.

The test for reasonable grounds is an objective one and depends on the facts of each case.

If you do not have reasonable grounds for a forward-looking statement, cautionary language, qualifications or disclaimers are not sufficient to prevent it from being misleading. See:

RG 170.94

ASC v McLeod [2000] WASCA 101 at [32]–[39] (overturned by the High Court on unrelated grounds) and *Digi-Tech (Australia) Ltd v Brand* and Others [2004] NSWCA 58 at [97] and [117]–[121]

ASX FAQ 30 (PDF 303 KB)

An expert's disclaimer of liability (e.g. about forward-looking statements) defeats the purpose of an expert report, which is to give investors an assessment they can rely on. See:

RG 111.106–RG 111.107 and RG 170.30(c)

ASX FAQ 30 (PDF 303 KB)

Before making any disclosure, you first need to consider whether the statement is misleading and then, for forward-looking statements, also consider whether the statement has reasonable grounds.

Industry codes

The obligation to have reasonable grounds for forward-looking statements is a legal requirement separate to any industry code. However, because forward-looking statements – such as production targets, and forecast financial information or income-based cash flow valuations based on production targets – relate to exploration targets, exploration results, mineral resources or ore reserves, you must take into account the relevant professional and industry standards in assessing whether reasonable grounds exist. For mining and exploration reporting in Australia, the industry standard is the JORC Code (PDF 1.12 MB); and for technical expert reports, the VALMIN Code.

JORC Code

The JORC Code provides directors, shareholders, investors and their professional advisers with an internationally accepted standard to help assess and compare disclosure by different companies that is often highly technical. Disclosure under the JORC Code is governed by the principles of transparency, materiality and competence.

See clauses 4 and 9 of the JORC Code (PDF 1.12 MB)

The materiality principle requires disclosure of 'all the relevant information that investors and their professional advisers would reasonably require, and reasonably expect to find in the report, for the purpose of making a reasoned and balanced judgement'.

The competence principle requires disclosure on exploration targets, exploration results, mineral resources and ore reserves to be 'based on, and fairly reflect, the information and supporting documentation prepared by a competent person'. A competent person 'must have a minimum of five years relevant experience' and be a member of an appropriate professional organisation, such as the Australasian Institute of Mining and Metallurgy (AusIMM), Australian Institute of Geoscientists (AIG) or a recognised professional organisation as published by ASX.

The JORC Code does not specify an amount, type or quality of exploration or other work required to be done before a competent person assesses and estimates a mineral resource or ore reserve.

See clauses 24 and 32 of the JORC Code (PDF 1.12 MB)

Rather than taking a prescriptive approach, the JORC Code sets out relevant checklists (in Table 1) for public reporting under the code. These criteria should be addressed on an 'if not, why not' basis to 'ensure that it is clear to an investor whether items have been considered and deemed of low consequence or are not yet addressed or resolved'.

See clause 5 and Table 1 of the JORC Code (PDF 1.12 MB)

VALMIN Code

The preface to the VALMIN Code (2015 Edition) states, among other things, that the code 'provides a set of fundamental principles (competence, materiality and transparency), mandatory requirements and supporting recommendations accepted as representing good professional practice to assist in the preparation of relevant public reports on any technical assessment or valuation of mineral assets'.

See clause 8 of the VALMIN Code for guidance on the valuation of 'mineral assets'

ASX Listing Rules

If your company is listed on ASX, you must comply with the ASX Listing Rules.

ASX Listing Rule 5.6 requires public reports by listed mining companies to be prepared in accordance with the JORC Code.

You must also disclose to ASX all material assumptions on which a production target, or forecast financial information derived from a production target, is based.

See ASX Listing Rules 5.15–5.19 (PDF 120 KB)

Even if disclosure complies with ASX Listing Rules 5.15–5.19 and guidance, it must also be based on reasonable grounds existing at the date of disclosure or it will be taken to be misleading under the Corporations Act.

See ASX FAQ 24 (PDF 303KB)

ASIC guidance

ASIC regulatory guides RG 111 *Content of expert reports*, RG 112 *Independence of experts*, RG 170 *Prospective financial information* and RG 228 *Prospectuses: Effective disclosure for retail investors* contain statements about ASIC's policy on forward-looking statements and the disclosure of assumptions on which those statements are based.

See RG 111.74–RG 111.77 about the disclosure of material assumptions on which an expert report is based; and RG 111.100 about the disclosure of all information, including the matters set out in RG 111.100(a)–(g), that may be required for users of the report to assess the reasonableness of the methodology and assumptions used

See RG 112.62 about expert reports containing details of methodologies and material assumptions on which the report is based

See RG 170.60–RG 170.62 and RG 228.95 about the disclosure of assumptions used to prepare forward-looking statements

Companies listed on other securities exchanges and unlisted companies should also disclose underlying assumptions about forward-looking statements so that investors have the information they need to understand the basis on which the statements have been made.

Disclosure in documents lodged with ASIC needs to comply with the JORC Code and/or VALMIN Code, or it may be taken to be misleading. However, even if disclosure complies with these codes, it will not automatically comply with the legal requirements, or ASX Listing Rules 5.15–5.19 and guidance.

See RG 228.17

How can reasonable grounds be established?

What is a forward-looking statement?

A forward-looking statement is a statement about a future matter and is not just a statement about your company's present intention.

See RG 170.46–RG 170.47

For mining or exploration companies, production targets (i.e. projections or forecasts of the amount of minerals to be extracted from mining tenements for periods that extend past the current and forthcoming year), forecast financial information, and income-based valuations are forward-looking statements because they comprise, or are based on, statements about future matters.

The test for determining whether reasonable grounds exist is the same for each: see *ASC v McLeod*.

What is an aspirational statement?

Production targets and forecast financial information have a predictive nature because:

- production targets predict future mineral production
- forecast financial information generally predicts capital and operational costs and attaches net present discounted dollar values.

You should therefore only make these statements if you have reasonable grounds for the underlying assumptions supporting the production target or forecast financial information.

Unforeseen macro-economic, micro-economic and certain company-specific factors (e.g. capital and operational expenditure, commodity prices and exchange rates) may result in outcomes that materially vary from a published production target or net present value. A variation in factors may have a significant impact on projects so that they either cease to be viable or do not go ahead unless additional funds are made available. The prospect of volatility does not in itself stop you from making forward-looking statements, as long as you have reasonable grounds to make the statement at the time.

What are the requirements for updating forward-looking statements?

ASX FAQ 23 (PDF 303KB)

Income-based discounted cash flow/net present value valuations (including those identified in Table 1 of RG 111) involve the use of forward-looking information such as predicted mineral production, capital costs, operational costs, commodity prices and exchange rates.

As set out in RG 111.98, a critical analysis of the forward-looking information used in applying a discounted cash flow methodology should be undertaken to ensure that this information is based on reasonable grounds.

What is an aspirational statement?

Aspirational statements do not have to be based on reasonable grounds because they are not predictive in nature.

Aspirational statements should be limited to high-level vision statements that do not refer, directly or by implication, to a production target or forecast financial information.

Examples of potential aspirational statements (hypothetical)

- X Ltd aims to be a global producer by [date].
- X Ltd aims to be a significant gold producer doubling production over the next five years.

Note: However, it should be clear that the statement is not referring to the company's existing mineral resources or advanced exploration targets based on existing exploration results.

- X Ltd aims to be a 500,000 plus ounces per annum gold producer in five years.

See section 8.3 of ASX Guidance Note 31 (PDF 162KB)

Aspirational statements may provide the market with information about what the hurdle rates are for a future operation to be potentially viable.

Examples of aspirational statements (hurdle rates)

- Y Ltd will not consider projects with less than 3 Moz of measured mineral resources or a production rate of 200 koz per year.
- To be viable, Y Ltd requires an ore reserve of 300m tonnes of haematite at an annual production rate of 10m tonnes.

To identify whether a statement is making a prediction or is purely aspirational, it needs to be read in the context of your company's project, taking into account the actual progress you have made in terms of exploration or mineral resource definition, or whether you are already a producer.

The more work already done on a project, the less likely the statement will be an aspirational statement. For example, you may consider the following:

Identifying whether a statement is aspirational or a production target

Q: Does the statement relate to mineral resources?

A: If yes, it is more likely to be a production target.

Q: Is the statement based on a historical or foreign estimate where the disclosed information provides a sense of certainty about the existing mineralisation?

A: If yes, it is more likely to be a production target. ASX Listing Rule 5.15(b) prohibits the use of this information to be used in support of a production target.

To help avoid market confusion between aspirational statements and forward-looking statements, you should:

- clearly identify an *aspirational statement*, and say upfront that you do not yet have reasonable grounds to believe the statement can be achieved
- avoid using words such as 'conceptual' and 'aspirational' in a *forward-looking statement*, such as a production target, and include a clear upfront statement that you have reasonable grounds for this information.

Just because a statement is labelled as aspirational, does not mean it is. The key will be the impression created in the market, rather than how the statement is labelled or what the company intends to communicate.

If you have any doubt about these issues, we encourage you to seek expert advice.

How can reasonable grounds be established?

As previously stated, in establishing reasonable grounds for forward-looking statements, you must take into account relevant professional and industry standards.

For production targets, and forecast financial information or income-based valuations based on production targets, this includes taking into account the reporting and estimation framework set out in Figure 1 of the JORC Code (PDF 1.12MB).

In Figure 1, estimates of mineralisation are defined as 'mineral resources' (inferred, indicated or measured) or 'ore reserves' (probable or proved), depending on the level of geological knowledge and confidence attached to them.

Figure 1 also sets out 'modifying factors'. These relate to the considerations used to convert mineral resources to ore reserves and include, but are not limited to, mining, processing, metallurgical, infrastructure, economic, marketing, legal, environmental, social and government requirements.

The higher the level of geological knowledge and confidence, and the more that all the JORC Code modifying factors have been progressed, the greater the likelihood that you will have reasonable grounds for a forward-looking statement.

In all cases, having regard to Figure 1 of the JORC Code, there must have been a sufficient level of exploration and evaluation work done on a mining project, and on each of the JORC Code modifying factors, to provide reasonable grounds for publishing any production target for that project, or forecast financial information or income-based valuation based on a production target for that project.

Ore reserve estimations

An ore reserve, as defined in clause 29 of the JORC Code, is 'the economically mineable part of a measured and/or indicated mineral resource' at the time of reporting. The guidance to clause 29 states that 'the term "economically mineable" implies that extraction of the ore reserves has been demonstrated to be viable under reasonable financial assumptions'.

An up-to-date and correctly estimated ore reserve is sufficient to establish reasonable grounds for a forward-looking statement.

Mineral resource estimations

Where you do not have ore reserves that have been reported in compliance with the JORC Code, you need to consider carefully whether you have reasonable grounds for a forward-looking statement. This extends to considering not only the level of confidence in the mineralisation underpinning the statement, but also any assumptions about the 'modifying factors' in Table 1 of the JORC Code.

See ASX FAQ 24 (PDF 303KB)

For a production target, or forecast financial information or income-based valuation based on a production target, to have legitimacy, you need to have given proper consideration to the 'modifying factors' in the JORC Code.

For mineral resources, however, there is no requirement in Table 1 (section 3) of the JORC Code to extensively consider the modifying factors. Some of these modifying factors (e.g. infrastructure, economic, marketing, social and government) are not referred to in section 3 of the table and so do not need to be disclosed unless information is known about them and that information is considered material to the estimation of a mineral resource. Other factors (e.g. mining, metallurgical and environmental) require only a preliminary assessment, as shown in the example below.

Example of preliminary assessment

The 'mining' modifying factor requires consideration of 'potential mining methods, but the assumptions made regarding mining methods and parameters when estimating mineral resources may not always be rigorous'.

See JORC Code, Table 1 (section 3) (PDF 1.12MB).

A forward-looking statement based on mineral resources must disclose the extent to which the modifying factors have been analysed and progressed. Where they have not been fully analysed and progressed, you must disclose any material assumptions that have been made about the modifying factors. For the forward-looking statement not to be misleading, there must be objectively reasonable grounds for these assumptions.

Section 4 of Table 1 of the JORC Code provides a useful framework that you can use to disclose this information.

Guidance agreed by ASX, ASIC, JORC and VALMIN to establish reasonable grounds

ASX sets out guidance in its frequently asked questions (no. 24) about what constitutes reasonable grounds for production targets and forecast financial information. This is a critical piece of guidance and needs to be carefully considered.

See ASX FAQ 24 (PDF 303KB)

ASX, ASIC, the Joint Ore Reserves Committee (JORC) and the VALMIN Committee agree that the disclosure of production targets and forecast financial information based solely on exploration targets, or solely or partly on 'historical estimates' or 'foreign estimates' of mineralisation (as these terms are defined in the ASX Listing Rules), would not satisfy the test for reasonable grounds because this information is too conceptual, speculative and unreliable.

See ASX Listing Rule 5.15 (PDF 120KB)

ASX, ASIC, JORC and VALMIN also agree that all other production targets and forecast financial information, based on one or more of the outlined categories of mineral resources and exploration targets in ASX Listing Rules 5.15–5.19 and guidance, are in principle able to be disclosed, subject to the requirement to establish reasonable grounds for the mineral resources and verification of the modifying factors to be applied.

ASX FAQ 24 states, among other things, that 'Even where disclosure of a production target or forecast financial information derived from a production target is made in accordance with these listing rules, […] it must still be based on reasonable grounds existing as at the date of the disclosure or else it will be taken to be misleading under the Corporations Act. Reasonable grounds extend not only to the mineralisation underpinning the production target or forecast financial information but also to any assumptions regarding the "modifying factors" in Table 1 of the JORC Code'.

See further:

section 8 of ASX Guidance Note 31 (PDF 162KB)

ASX FAQ 24 (PDF 303KB)

Secured funding is not necessarily required to show reasonable grounds for production targets

You do not necessarily need to have secured funding to show reasonable grounds for production targets, but you must have (and disclose) reasonable grounds for any assumptions that you make about your funding sources.

Irrespective of where the funding comes from, all start-up projects, including mineral projects, will only go into operation or production and become income producing if they have adequate capital and operational finance as and when required by development and production schedules.

Any assumptions you make about the scheduling of development and production – or about the availability of project finance underpinning a production target, or forecast financial information or income-based valuation based on a production target – are material assumptions that must be disclosed under ASX Listing Rules 5.16.1 and 5.17.1.

For the production target, forecast financial information or income-based valuation not to be misleading, there must be objectively reasonable grounds for these assumptions.

There is flexibility about how to establish reasonable grounds for forward-looking statements. However, ASIC will be concerned, and consider regulatory options, if no objectively reasonable grounds have been disclosed that support the assumptions made about funding.

When you disclose a production target for a mining project, or forecast financial information or income-based valuation based on a production target, you need to be careful that you do not mislead investors about your financial capacity to deliver those results. If project finance (debt or equity) will be required to achieve the stated outcomes, this should be clearly disclosed, together with an estimation of the amount needed. It will also be appropriate to warn investors if this requirement for project finance is likely to result in a dilution of the value of their existing shares, if this is the case.

Some factors that could be relevant in assessing whether you have reasonable grounds for any assumptions made about the availability of project finance are set out in the examples below.

Examples of factors to consider in assessing reasonable grounds when funding is not yet secured

- the company's size and capitalisation relative, in particular, to the upfront capital expenditure requirement
- the company's financial position, including its gearing and revenues (if any)
- the company's debt/equity financing track record and support
- the company's support from substantial holders or other large offtake or joint venture partners, including by heads of agreement
- the project's financial, economic and marketing metrics
- the overall state of relevant economies, demand/supply curves for your proposed mineral production, and current debt/equity capital funding markets.

What are the disclosure requirements?

Hypothetical net present values and third-party funding

Forward-looking statements based on hypothetical assumptions are likely to be misleading and provide little information value to investors or others.

RG 170.18

This is irrespective of whether these statements are made by companies in a fundraising or control transaction context, or whether they are incorporated by an independent expert in income-based valuations.

Statements made in a fundraising or control transaction context

Companies often publish studies that include net present values based on discounted cash flows. These statements are sometimes designed to encourage investment to fund further exploration or development.

At RG 170.11 and RG 170.18–RG 170.19, we state that the general test for whether prospective financial information (i.e. forward-looking statements) must be disclosed is whether the information is relevant and reliable. Information that is speculative, or merely based on subjective opinion, will not be material to investors and their advisers.

This means that the material assumptions underlying forward-looking statements need to be specific (i.e. relevant) and not speculative or hypothetical (i.e. reliable).

Publication of hypothetical net present values of a project's worth based on a mere assumption that the project will be fully funded by a third party is an example of a forward-looking statement that is likely to be misleading. The fact that a mining project can be financed by a third party (most commonly the case) does not mean the third party will go ahead with the project in preference to other available opportunities.

Many companies often carry on exploration activities and mineral resource definition work with a view to selling the project or entering into a joint venture. They would generally be marketing their projects to third parties they think would be interested in acquiring the projects.

Interested third parties would generally have sufficient expertise to identify a project and conduct their own due diligence without needing to use hypothetical or unreliable net present values. In any case, it is likely that prospective purchasers would need to consider their own circumstances in valuing any project (e.g. their own funding and corporate finance hurdle rates).

Where companies publish production targets or net present values, these are commonly converted to per share values. These values may significantly exceed the company's fully discovered portfolio share price because the dilutionary effect of future funding requirements is not taken into account.

Income-based independent expert valuations

Independent experts valuing companies and bidders offering bid consideration generally take these effects into account. The valuations and control premiums offered and accepted by target shareholders are generally materially lower than the 'unfunded' hypothetical net present values that target entities publish.

The primary purpose of an independent expert report is to help security holders make informed decisions about transactions. When considering the fairness of a transaction, an independent expert focuses on the fair value of a company's securities. In arriving at the fair value of a company's securities, the expert considers the value of all the company's assets and liabilities. When considering the fair value of an asset to a company's security holders, the expert takes into account whether a company will continue to explore or develop and operate the project, or will derive value for shareholders from selling all or part of the project.

Where a project is sufficiently advanced, an independent expert will consider the company's ability to fund the initial and sustaining capital and operational expenditure. If there are reasonable grounds to believe that the company can fund the project as and when required, the expert may value the project using income-based discounted cash flow valuations. In arriving at the fair value of the company's securities, the expert takes into account the funding required, such as the increase in the number of shares on issue. This reflects that the value of the project must be shared between existing security holders and new security holders who will assist in funding the project's development.

Other valuation methodologies that are used by the independent expert assume that the value of the project to the company's security holders, whether or not the project is sold, will benefit existing security holders.

Forward-looking statements underpinned by ore reserves provide the greatest comfort to an independent expert providing a valuation, and the least risk that the valuation will be misleading.

In some instances, even ore reserves estimates have not been used as the basis for income-based discounted cash flow valuations – for example, if commodity price assumptions in the ore reserve estimates are no longer appropriate. In these cases, other valuation methodologies, such as market-based methodologies, have been used. See also:

- What can you disclose without reasonable grounds?
- RG 170.20–RG 170.22
- RG 111 – in particular, RG 111.95–RG 111.101

Scoping studies that include preliminary forward-looking statements

Some companies have queried whether they are obliged to disclose – under the ASX Listing Rules, or under the disclosure requirements in the Corporations Act (e.g. the prospectus provisions) – scoping studies that include preliminary forward-looking statements, such as production targets, forecast financial information and income-based valuations, on the grounds that these statements are market sensitive.

Unless you have reasonable grounds for making these forward-looking statements, they should not be disclosed in the scoping study. The Corporations Act prohibits disclosure of misleading statements – that is, statements without reasonable grounds.

See further ASX FAQ 27 and ASX FAQ 29 (PDF 303KB)

What can you disclose about a scoping study without reasonable grounds for forward-looking statements?

ASX FAQ 25 states that 'entities develop or engage others to develop scoping studies (or studies of a more preliminary nature) for internal management purposes and, in particular, to help inform a decision on whether to commit the entity to the next stage of exploration or development'.

These preliminary studies sometimes contain forward-looking statements such as production targets, forecast financial information and income-based valuations. This is common and acceptable practice.

However, unless you can establish reasonable grounds for such forward-looking statements, these statements should not be publicly disclosed.

You can, however, still make aspirational statements, announce exploration targets or disclose parts of the study that do not contain production targets, forecast financial information or income-based valuations.

For example, as set out in ASX FAQ 25, you can 'publish a summary of the preliminary study that does not mention the production target or forecast financial information' or you can say, if this is the case, that 'the results of the preliminary study were positive and that the results justify the entity to commit to the next stage of exploration and development'.

For parts of the study that do not contain production targets, forecast financial information or income-based valuations, you should still disclose reliable, relevant information of a technical nature to ensure that the market is properly informed of your company's prospects. This includes information arising from a preliminary study that addresses the information required to be disclosed on an 'if not, why not' basis under sections 3 and 4 of Table 1 of the JORC Code.

See ASX FAQs 25–27 (PDF 303KB)

What are the requirements for updating forward-looking statements?

All material assumptions on which a forward-looking statement is based must be disclosed. See:

- Corporations Act (prospectus disclosure in sections 710 and 713 and income-based valuations)
- ASX Listing Rules 5.16.1 and 5.17.1 (production targets and forecast financial information).

You should check periodically whether the underlying mineral resource estimates of your project and the modifying factors remain unchanged and continue to be sufficient to support your forward-looking statement.

Material changes to these matters over time may require disclosure to the market under continuous disclosure obligations. For example, there may be material socio-economic or political changes in jurisdictions where your project is located that have affected its viability. See:

- ASX Listing Rule 3.1
- ASX Guidance Note 8 and section 2.3 of ASX Guidance Note 31
- clause 14 of the JORC Code (PDF 1.12MB)

What if a project changes hands?

If a buyer automatically republishes or relies on the initial publication of the vendor's forward-looking statements such as production targets, without reassessing what may have changed, the statements may be misleading.

You should reassess the underlying assumptions supporting the forward-looking statements made by a vendor for any changed circumstances that may mean the statements are no longer reasonable.

For example, previous statements may no longer have reasonable grounds where the buyer, unlike the vendor, has insufficient stand-alone financial capacity or reasonable grounds to fund the project.

Equally, using a third party's net present valuation for the same project may not be appropriate if the valuation relies on the third party's funding position and corporate financial hurdle rates.

If in doubt about whether or when there is an obligation to update the market, we recommend you seek expert advice.

What does ASIC focus on when assessing forward-looking statements?

Forward-looking statements not only have a predictive nature, but they are also often designed to induce investment.

Investment-inducing statements generally fall into three broad categories:

- statements made in a prospectus or on a securities exchange either as part of, or preceding, fundraising activities
- statements in relation to control transactions by either a bidder in a scrip bid or by a target if a bid is unwelcome
- statements made under the continuous disclosure regime.

To establish reasonable grounds for your relevant forward-looking statement the JORC mineral resource estimates used must be based on a sufficient level of geological knowledge and confidence, and all JORC modifying factors must be sufficiently progressed.

We give examples below of cases where we have not been satisfied about the existence of reasonable grounds for a forward-looking statement.

We consider there to have been insufficient consideration of the level of geological knowledge and confidence of the underlying *mineral resources*, in the following examples:

Example 1: A company has sought to base forward-looking statements solely on inferred mineral resources where these do not comply with ASX Listing Rule 5.16.6 and the first bullet point of section 8.7 of ASX Guidance Note 31.

Example 2: The proportion of inferred mineral resources to indicated mineral resources is too high and does not comply with section 8.5 of ASX Guidance Note 31, including that:

> '…the reporting entity must be satisfied that the respective proportions of inferred mineral resources and the exploration target are not the determining factors in project viability. In addition, the inferred mineral resources and exploration target should not feature as a significant proportion early in the mine plan'.

See also ASX FAQ 24 (second last bullet point) (PDF 303KB).

We consider there to have been insufficiently advanced consideration of the JORC Code *modifying factors* in the following examples:

Example 3: Speculative assumptions are made about the JORC Code economic modifying factor in relation to capital and operational finance availability as and when required.

See What if secured funding is not yet in place?

Example 4: Speculative assumptions are made about the mining, metallurgical and infrastructure modifying factors that are adequate to satisfy the JORC Code definition of a mineral resource but are not adequate to establish reasonable grounds under the legal requirements.

See How can reasonable grounds be established?

Appendix

Reference sources that apply to forward-looking statements

Name in full	Short name
Australian Securities and Investments Commission Act 2001	ASIC Act
Corporations Act 2001	Corporations Act
ASIC regulatory guides: • RG 111 *Content of expert reports* • RG 112 *Independence of experts* • RG 170 *Prospective financial information* • RG 228 *Prospectuses: Effective disclosure for retail investors*	• RG 111 • RG 112 • RG 170 • RG 228
ASX Listing Rules 5.15–5.19 and associated guidance about these rules in sections 8.1–8.8 of ASX Guidance Note 31	ASX Listing Rules 5.15–5.19 and guidance
Questions 22–30 of the ASX Mining Reporting Rules for Mining entities: Frequently asked questions	ASX FAQs
Provisions of the Australasian Code for Reporting of Exploration Results, Mineral Resources and Ore Reserves (2012)	JORC Code
Provisions of the Australasian Code for Reporting of Technical Assessments and Valuations of Mineral Assets (2015)	VALMIN Code

This is **Information Sheet 214 (INFO 214)**, issued in October 2016. Information sheets provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.