

**SAMVAL
MINUTES OF THE SAMVAL RE-WRITE MEETING
HELD ON 26 JULY 2012 AT 8:00am
AT THE MILITARY MUSEUM, DELLVILLE WOOD MEETING ROOM**

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|-----------------------|---------------------------------|------------------------|
| Present: | A Macfarlane (Chairman) | |
| | M Nicholson | A Clay |
| | M Martinson | G Njowa |
| | G Njowa | K Redman |
| | R Becker | A Kinghorn |
| | J Upshall | V Clark-Mostert |
| | B Scott | D J van Niekerk |
| | A McDonald | A de Bruyn |
| | J McGill | J Luckmann |
| | A Thompson | |
| | | |
| Apologies: | V Duke | G Chunnnett |
| | H Bornman | R Davel |
| | M Mattera | R Croll |
| | V Bansi | T van Zyl |
| | A van Zyl | S Naicker |
| | | |
| In Attendance: | J Dixon (Manager, SAIMM) | |

1. Welcome

The chair welcomed all to the meeting. The pack of documents includes the agenda, the minutes, scope document, and the competent person and competent valuator independence paper. The values and principles and the definitions are in presentation format on the screen.

Definitions will be discussed as well as a presentation on principles. Independence was raised at the last meeting and a document has been emailed out. It may be discussed. The new group in terms of competent valuator and the Terms of Reference, membership etc will be discussed. The new IMVAL international group will be discussed.

2. Apologies

Apologies were noted in the register (noted above).

3. Confirmation Minutes of the previous meeting

The minutes of 28 June 2012 were tabled and approved. Clarification was added to the last paragraph on page 3 "*....remaining in the hands of the registered bodies*" – registered bodies meaning established statutory bodies.

4. Matters arising from the previous minutes

Any matters arising will be discussed under each agenda heading.

5. International Liaison.

4.1 IVSC

Initially the IVSC first sent through a draft of their discussion paper and requested feedback on questions in the paper. The SAMVAL group sent back feedback in general which was slightly premature. When the SAMVAL response was sent, it was done so under the erroneous notion that there was a short term deadline. The SSC committee was thereby not given an opportunity to view

the response before it was sent. This will all be remedied when a formal response to the questions is circulated to the SCC committee and then submitted to the IVSC.

The question has been asked as to how binding the IVSC is on the SAMVAL group – it is not binding on us at all at this stage, but we can take guidance from it if we want to.

4.2 Brisbane Group

The Brisbane group has changed its name to the IMVAL group – International Mineral Valuation Group.

6. Feedback from sub-groups

5.1 Scope

This paper is waiting for further papers to be concluded before it is tabled at SSC, then into the review process.

5.2 Definitions (work completed by the Definition Working Group)

Looking at the Excel spread sheet, based on the mandate established from the previous meeting, the DWG focused on specific definitions. Specifically those terms with the word value in its definition. The DWG looked at all the definitions of the other codes and then tried to develop a definition that brings in all the key aspects from the various definitions. The issue is that there is a rather wide list of terms, some of which may not be relevant.

The DWG then rated the definitions based on how much debate would be required. Only sections of debate were recorded in these minutes.

It was suggested that the DWG obtain information from the Royal Institute of Chartered Surveyors in the UK (definitions could not be obtained from the website as you need to be a member) and the SA Institute of Valuers.

Daren Herdman from the international group should be able to help with RICS and Hein Hartman from the SA Institute of Valuers who sits on this committee.

At this stage, the DWG cannot proceed with the process without more input from the larger SAMVAL working group. The work at present contains terms such as liquidation valuation that may not seem as relevant but cannot be excluded as there are ad hoc situations where such terms are requested/used.

A place to start is to look at the overarching value terms – as present there are two, namely. Fair value and fair market value. A second suggestion is to work on the definitions of the different assets, then after that, the valuation methods, and then valuation output.

It must be noted that terms falling within the areas of other juristic bodies, eg fair value, may mean different things across different bodies and fields. It would then be more beneficial if the DWG focussed on asset definitions first, then methodology and then outcomes. This will be influenced however on the reason for the valuation or activity. Purpose will drive the outcome, with guidelines to the process.

Dirk van Niekerk: concerned that if the definitions start driving the process, then the DWG is moving backwards. The definitions should be supporting a process – if you are going to do a valuation and that is connected to a purpose then the definitions should support that process to explain that if this is the type of value being sort, then this is what is understood by it. You start with defining the assets, then look at the valuation process on the asset and you need to consider the purpose of what you are doing and the definitions should support that purpose.

Julian Upshall: supported the idea of developing a flow chat to show the process as a means of explanation.

Alastair MacFarlane: We started with harmonisation of the different codes, looking at the accounts, and the other originations etc. It is clear however, when looking at documents produce by the IVSC and RICS that there are signs of a convergence already in the US (old GARP and FSAB definitions) are now aligning to IFRS13 definitions. However, despite this, differences will arise because of the accounting or value purpose, that is, a prima facie common definition will differ from one organisation to another based on what that organisation's aim is in terms of the valuation and the uses in the particular arenas that the authoring body is working in – different levels and purposes.

Andy Clay: A common denominator to all the definitions may be the methods. Put the methods in place first, and based on the outcome, derive a definition. Then determine which assets that particular definition would apply to.

It was agreed that Book Value definition was put aside to be dealt with at a later stage. All definitions will be addressed but the DWG agreed to deal with the definitions in order of priority.

There is a differentiation between fair value and fair market value, subtle difference, and we need to see if we can find one definition there which is the trading value.

Market value: there is ultimately going to be a debate between market value, fair market value and fair value.

Essentially are we left with definitions: value, net asset value, market value intrinsic or fundamental value and fair value. Mandate: concentrate and compare these definitions, different uses of them, and different application to define or describe how they will be done and how they are set out. -

In terms of deadline, the WG wants to align their timeline with IVSC work, so hoping towards the end of 2012 or mid-2013. We need to draw up a project schedule. **Action DWG**

5.3 Principles (work completed by the Principles Working Group)

Breton Scott presented.

At the last meeting, various terms were tabled, talking to values and principles. The main PWG asked the PWG to split the terms into values vs principles.

The PWG has divided the terms into guiding principles and under them will fall underlying values. Values talk to the intent and principles talk to the action on how you going to achieve the intent.

Transparency and auditable methodology as a principle. Other principles include independence, objectivity, sound judgment.

Independence in the case is not independence like a third party doing an evaluation it is more about independence of thought, the way you do your evaluation and your approach.

The underlying value in this instance would be reasonableness and the three guiding principles talk to the Competent Valuator as in individual, then the process and ultimately the output. Most NB categories.

The other values like the valuator should be impartial. Ethics were not investigated at this time.

Andrew Kinghorn: In the matter of guidelines and rules, you have the first guiding principle but then say that the *Competent Valuator must* – this is in conflict. You can guide but you can't use the word must. Agreed that the word must will be replaced by the word should.

If we use *must*, it becomes a principle, not a guideline.

Kelly Redman: In terms of the second paragraph, “these should influence....based on fact” – we don’t base our value on fact. We don’t base things on fact, we base them on assumptions and estimates.

Breton Scott: the PWG is trying to get the concept across, not the actual wording. If fact is the wording, it can be amended, but the focus is the concept.

The process: materiality, aligned with purpose – this forms part of the guiding principle. The value underneath would be *must provide for faithful representation* as the intent.

Objection to the word “faithful” – that opens a variety of other problems. The word originally came from the JSE and other institutes like it, they prefer the word. If we use the word faithful, we would have to describe what we mean.

Alastair MacFarlane: When talking about materiality, transparency and competency, we should stick with the common definitions to SAMVAL and SAMREC. We should not abandon those things that are entrenched. Modify and adding is fine. Map against what is already there, taking into account the other codes.

Breton Scott – these are not definitions, they are just concepts.

The last one talks to the product or output. There is an element of materiality. From a value point of view you have balanced reporting and the correctness of the information. The principle (read from paper – the competent valuator must....). For the value – for balanced reporting, the outcome should be a faithful representation of the value of the entity under consideration.

Julian Upshall: We need to categorise in some way that suggests or dictates at what level the readers are at or the intended readers should be, make a distinction between them and the layman on the street.

Alastair Macfarlane: The PWG is asked to go back and compare this document to the existing principles that are in the code, and take into account reasonableness (which has been added).

We are not rewriting anything that already exists. In fact, an update is more accurate a description.

The IVSC have a document defining principles. The question is – do what extent do we want to align to this, is there useful stuff that we can use in our own work in terms of principles.

Dirk van Niekerk: The presentation dealing with principles that we want to apply to the valuation- this would be used to test if you valuation conforms to certain standards. And that is a different issue to saying there is a code of ethical principles for the professional. Because of that you will notice that the principles included in this document really talks about what the person should be doing, how you would consider the professional behaviour of the person, It is different to the principles put up in the presentation for how would you judge if a valuation has been done or addressed all the important things. There is an overlap. Some of the principles in the IVSC document are the same as the presentation. There others in the document that deals with the person. Must not confuse the two issues. It is a valuable document if you looking at it from a point of view of how would you judge if a person is behaving professionally. That is different to what is on the screen. We must not confuse them.

Kelly Redman: We are not trying to confuse them. We are asking if there is merit in putting something like the code of ethics into the code. We are not changing the principles in the code.

Dirk van Niekerk: the debate between competency and people behaving professionally. If we have a situation where we have people registered with certain statutory bodies there is a code of ethics or conduct for those people, which is stated in very generic terms. Not specifically from a valuation perspective. Most of those codes deal with most of what is in here anyway. This document goes further than the principles and tries to explain to the person what they mean by some of the principles. If we are going to consider a code of ethics connected with people registered with a certain statutory body, then the question is why would we need this.

The question is how do we deal with the question of ethical behaviour of the professionals or competent persons who are registered with statutory bodies.

7. Working Group on qualification and registration :competency sub-group

We had positive responses from:

Alastair Macfarlane (Chairman).
John Luckmann
Andrew Kinghorn
Breton Scott
Rolf Becker
Dirk van Niekerk
Rob Croll
Vaughn Duke
Gordon Chunnnet
Andrew van Zyl
Hannes Bornman
Andy Clay

The group has a draft Terms of Reference and these can be amended in light of the discussion held on ethics and dealing with ethics. In the meantime the group will meet. If there are any additional comments on this, members of the WG are urged to send them in soon. **Action: WG**

This process must not interfere with the progress of the review of the code.

8. Independence

The WG will not discuss Independence at present. The only issues on independence was the commentary on independence from Chris Thorne. The WG has decided that it will not go in as one of the principles but there will be a definition of it in the code. Maybe what is required in the code is to say that under certain circumstances there is a requirement for independence to be demonstrated.

Andy Clay: We could insert a closure statement. The establishment of the SAMVAL paper/rules/guidelines means that independence is not an absolute necessity and that we are seeking that the requirements of independence are regulated through the commissioning entity or regulatory body.

Kelly Redman: Independence is a misnomer and you can never be truly independent. It is a completely irrelevant issue. The thing that has to be ensured is that the outcome is unbiased and not unduly influenced and we already have that in the code. Independence has two meanings. You can be independent in terms of distance from an organisation or independence of mind. What we are trying to do is the independence of mind which is being unbiased and not being unduly influenced. We have to already in the code.

Andy Clay: It is enshrined in the rules of the regulators in other jurisdictions. It won't be part of our code either and will be cured by the insistence of the regulator under whom you fall. It is the regulators' issue.

Andrew Kinghorn: can't we solve the problem but indicating if the person is an internal or external valuator?

Kelly Redman: a person can never be truly external, they will always work for a company.

The issue is not going to go away. We will leave it to the regulators the issue of independence or the commissioning entity who may demand some sort of disclosure of material interest but we are not putting it upfront in the code at the moment. This is a problem with all the other international groups. It is not going to go away but we may have to come back to it at some point and determine a way to deal with it in our jurisdiction.

9. IMVAL

A meeting was held on the 5th of July. Each representative would secure a letter of support from their organisation. **Manager to draft letter to say we support this initiative.**

The Terms of Reference have been recirculated and awaiting final feedback. CIMVAL have helped with some of the logistics. The current draft discussion papers was discussed, this draft paper has been submitted to the board of the IVSC and then opened for public comment.

SAMVAL needs to put together a consolidated view on the questions that the paper raises. Members need to submit their comments by mid-August on this. Action Working Group.

10. Implementation of the new SAIMM and GSSA clause

There have been concerns about people signing off Competent Persons/Valuators reports when in fact they are not necessarily qualified to do so. Questions have been raised by organisations in other countries asking what measures do we have in place to ensure that a CP and CV is in fact qualified to sign off on a report.

The GSSA and SAIMM then decided to put a clause in their respective constitutions to protect the institutions. The idea is to have a committee that can check that the person signing off the report is in fact legitimate and able to sign off the report.

Annalie de Bruyn: we can't do it unless we have it in the JSE listing requirements. The JSE does not check the membership of people purporting to have membership.

Andy Clay: Serious concerns. Firstly, the codes were put together in a very consultative process and this clause seems to have been rushed – hence a problem with the process. Secondly, the way this is written, it is very much geological and mining engineer jargon. The legal effect of this wording has not been thought out. The clause does not stipulate what a ruling is, or details on the review process. It is possible that the kickback with this is not truly understood.

Dirk van Niekerk: Support previous comments. If it is so important that we include this, then all we need is an enabling clause in the constitution, possibly connect it to a code of ethics/conduct and then complete the process in the by-laws.

Secondly, this is the issue that goes to the new task team. They should be tasked with devising a strategy and discussing the issues. The enabling clause is still feasible but that is where it should stop.

Godknows Njowa: the people who put this together, what they put together was done without fully understanding the implications and what is happening. The idea is noble but the implementation is not sound. Secondly, the SAIMM and GSSA should look at the process of how to do this, as it is, it is impractical.

Essentially the SAIMM and GSSA are trying to protect themselves; the question therefore is what the WG recommend be done to do this.

Godknows Njowa: The AusIMM has two requirements for signing off. For you to sign off the report you have to be a member of the AusIMM and you have to be a chartered professional. For you to be a chartered professional you have to submit your cv and state in what commodity you are qualified. We should have that here.

Kelly Redman: The outcome of this is a restriction on someone carrying out work. We have to be very careful if we make this prescriptive. We cannot restrict other members of the GSSA/SAIMM from doing their working. Your membership of SAIMM/GSSA requires that you submit your CV, that should be enough. Frankly it is the regulators job.

Jeanette McGill: this clause is in the by-laws of the GSSA and has been with the members since the AGM on the 5th of July, with feedback requested by the first week in August.

Julie Dixon: The people who can best advise on this matter are the members of the WGs. The reason for the apparent rush to include this clause was because the SAIMM and GSSA were both in the process of amending their respective constitutions and the process would conclude at their AGMs in August and July respectively. By including an enabling clause in the body of the constitution with the content of the clause in the by-laws, it enables the institutions to keep the door open in terms of its inclusion but the process and content can be amended with the help of the WGs, after discussion and vigorous debate.

Response from WG: Understand the need for the clause but it cannot be supported at this point as it has not been developed from principles and the legal aspects have not been clarified.

Andy Clay: You could remedy the problem by making a direct link between signing off as a member of the GSSA/SAIMM and being a member of a statutory body.

Annalie de Bruyn: the problem with that and the reason why the GSSA and SAIMM was included way back then was the disciplinary process. If you really want to discipline someone and you go to SACNASP or ECSA, you will find that it takes a long time for the process to play out.

WG considered the matter and did not think due process was followed and the unintended consequences are not fully understood. The recommendation is that clause be rejected, including the enabling clause.

Julie Dixon: All member of the WG are invited to attend the Special General meeting to voice their concerns and vote against the clause. The meeting will be held on the 15th of August. The WG will have to address this matter at a later stage.

11. Valuation of inferred

We will discuss this at the next meeting.

SAMVAL needs to put together a consolidated view on the questions that the paper raises. **General.**

Next meeting – 09:00 on the 30th of August 2012.

| SUMMARY OF KEY ACTION ITEMS |
|---|
| Definition Working Group: |
| Draw up a project schedule for when the definitions paper. |
| Entire Working Group |
| The Competency Working Group is modifying the Term of Reference pertaining to their work. If there are any additional comments on this, members of the WG are urged to send them in soon. |
| SAMVAL needs to put together a consolidated view on the questions that the IVSC paper raises. Members need to submit their comments by mid-August on this. |