



Future trends in the international Reporting Codes based on SEC's Regulations SK-1300

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Synopsis

In June 2016, the US Securities and Exchange Commission (SEC) 'proposed a revision to its disclosure requirements-related guidance under the Securities Act and Exchange Act for properties owned or operated by mining companies'. On 31 October 2018, the SEC released its adopted final rules for property disclosures for mining registrants – 'Modernization of Property Disclosures for Mining Registrants'. The amendments are aimed at providing investors with a more comprehensive understanding of a registrant's mining properties, which should help them make more informed investment decisions. The new rules replace the SEC's Industry Guide 7 as of January 1, 2021. This paper investigates how the new subpart 1300 of Regulation S-K may affect future updates to the Committee for Mineral Reserves International Reporting Standards (CRIRSCO) International Reporting Template, as well as international Reporting Codes. Critical changes such as the reporting of Mineral Resources exclusive of Mineral Reserves are discussed, the impact of third-party reporting regarding reducing Section 11 liability is considered, as is the trend of utilizing multiple qualified persons for technical reports. This paper highlights areas in the CRIRSCO and international Reporting Codes that may require consideration by Qualified and Competent Persons providing technical report summaries and Competent Persons Reports (CPRs).

Keywords

SEC, 1300 of Regulation S-K, international Reporting Codes, CRIRSCO, Qualified/Competent Person, mineral reporting.

Introduction

On 16 June 2016, the US Securities and Exchange Commission (SEC) announced and published proposed changes to the reporting requirements for mining and mineral exploration companies. The final document, Release No. 33-10570, was published on 31 October 2018 and replaces Industry Guide 7 in subpart 229.1300 of Regulation S-K (SK-1300). Reporting under the new rules is required by the first fiscal year beginning on or after 1 January 2021. The replacement of Industry Guide 7 was brought about as it was found to be outdated; it only recognized Mineral Reserves based on a Feasibility Study, failed to acknowledge the full mining value chain of Exploration Results or Mineral Resources, and did not require Competent Persons to sign off on Company Technical Disclosures (Parsons *et al.*, 2019).

For this paper, the author has chosen to use the term 'Competent Person' rather than the SEC's and Canadian term of 'Qualified Person' as this is more familiar to the intended audience. For the purposes of this paper one should take the terms 'Competent Person' and 'Qualified Person' as synonymous.

Alignment with other international Reporting Codes

The proposed changes are intended to bring the US reporting requirements in line with other international Reporting Code requirements and are based on the Committee for Mineral Reserves International Reporting Standards (CRIRSCO) documents. The revised SK-1300 makes requirements for reporting of Exploration Results, Mineral Resources, and Mineral Reserves in the USA similar to those in other major mining jurisdictions such as Canada, Australia, South Africa, and Chile. The format for reporting is now similar to South Africa's SAMREC Code, Australasia's JORC Code, and Canada's National Instrument (NI) 43-101. It is also in line with the European PERC and the codes of Chile, Peru, and the Philippines, in which several US companies have operations.

The justification for the change from the SEC Industry Guide 7 to the revised SEC SK-1300 is to remove previous requirements that may have placed US mining registrants at a competitive disadvantage with non-US companies listed on the same exchanges. Also, the revised SK-1300 is intended to aid investors or potential investors (the public) 'by providing them with a more

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comprehensive understanding of a registrant's mining properties' so that the public can make more informed investment decisions (SEC, 2018, p. 6).

Type of study required to support a Mineral Resource or Mineral Reserve declaration

International Reporting Code requirements and SK-1300 revisions

Technical report summaries are required to support the disclosure of Mineral Resources and Mineral Reserves, with the option for disclosure of Exploration Results. CRIRSCO, as well as other international Reporting Codes, provide definitions for the various types of studies, *i.e.* Scoping, Pre-Feasibility, and Feasibility. These definitions are essential as they provide the level of confidence associated with the study and, as per reporting requirements for a Pre-Feasibility or a Feasibility Study, allow the disclosure of a Mineral Reserve.

The SEC has aligned itself with the same requirements as CRIRSCO and other international Reporting Codes in that either a Pre-Feasibility Study or a Feasibility Study is required for the declaration of a Mineral Reserve. The SK-1300 requirements for declaring a Mineral Reserve have been reduced from the Industry Guide 7 approach, which previously required a Mineral Reserve declaration to be based on a Feasibility Study – a Preliminary Feasibility Study was not sufficient to declare a Mineral Reserve.

The basis of the new rules requires three types of technical report summary:

- A technical report summary for the disclosure of Exploration Results (optional unless material to investors)
- An initial (qualitative) assessment on the reasonable prospects for economic extraction is required for the declaration of Mineral Resources, must be prepared by a Competent Person
- A Preliminary Feasibility Study or Feasibility Study, which is the minimum study level required to establish a Mineral Reserve.

The option of reporting Exploration Results is slightly different from CRIRSCO and other international Reporting Codes, which require public reports for all material information relating to Exploration Targets, Exploration Results, Mineral Resources, and Mineral Reserves (CRIRSCO, 2019).

Study types and definitions

Similar to other international Reporting Codes, SK-1300 provides definitions of the various technical studies, as well as the level of accuracy and level of contingency required for each study. The provision of definitions is important – the author has observed that some Competent Persons are declaring Mineral Reserves based on Scoping Studies (initial assessments). Future trends will see more scrutiny of the actual work conducted in technical reports or CPRs to support the declaration of Mineral Reserves.

The SEC's SK-1300 states that 'factors to be considered in a Pre-Feasibility Study are typically the same as those required for a Feasibility Study, but considered at a lower level of detail or an earlier stage of development' (SEC, 2018, p. 205). Also, SK-1300 requires the Pre-Feasibility Study to identify sources of uncertainty that require further refinement in a final Feasibility Study, noting that it is the Competent Person's responsibility to assess risk in a Pre-Feasibility Study. Further, the Competent Person must make a reasonable effort to identify any obstacles to

obtaining permits and entering into the necessary sales contracts, and reasonably believe that the chances of obtaining such approvals and contracts in a timely manner are highly likely. It may be appropriate for international Reporting Codes to provide further guidance around the current terminology, that 'there is a reasonable basis to believe all permits required will be obtained', especially as environmental, social, and governance issues are becoming more relevant to these Codes.

The SK-1300 regulation observes that a preliminary market study may be required where a mine's product cannot be traded on an exchange, there is no other established market for the product, and no sales contract exists (SEC, 2018, p. 209). Further guidance regarding the reporting of the marketing aspects of a mineral project may be necessary, as this aspect of technical reports often falls short of what the international Reporting Codes require

Minimum level of study requirements

It is noteworthy that the SEC has reduced the minimum requirement for the declaration of a Mineral Reserve from a Feasibility Study (Industry Guide 7) to a Pre-Feasibility Study (SK-1300, p. 406). Previously, the SEC was of the opinion that a 'comprehensive technical and economic study', which includes detailed assessments of all relevant modifying factors together with any relevant operational factors (SEC, 2018, p. 406) was the cut-off point. The SEC implied that Pre-Feasibility Studies still contain some uncertainties related to shortcomings that would be investigated in the Feasibility Study. International Reporting Codes such as the JORC Code 2012 and SAMREC Code 2016 (Table 2) have incorporated guidelines to technical studies.

CRIRSCO and the international Reporting Codes should require improved disclosure regarding the level and accuracy of the technical study used to support the declaration of a Mineral Reserve. Inclusion of the executive summary of the technical study should be considered as a minimum requirement, and it may be prudent for the authors of the said study to also 'sign off' on the level of study. The above, although more prescriptive, will ensure that Competent Persons are not mistakenly using a study at a level lower than that of a Pre-Feasibility Study.

It remains a concern to the author that the definitions of a Scoping Study and Pre-Feasibility Study are being abused by some Competent Persons and registrants who use studies at less than a Pre-Feasibility level to support the declaration of a Mineral Reserve.

As a final comment, the SK-1300 regulation requires the registrant to compare Mineral Resources and Mineral Reserves as of the end of the last fiscal year with the Mineral Resources and Mineral Reserves of the end of preceding fiscal year (SEC, 2018, p. 244). Notably, the net difference between the last two fiscal years should be disclosed as a percentage and an explanation provided regarding the difference and the cause of any discrepancy between the two reporting periods. Although the above is in line with other international Reporting Codes, providing the net change as a percentage should be considered for inclusion of the reporting template by CRIRSCO and further guidance provided on how to improve the explanation as to the causes of discrepancies. Currently, far too many Competent Persons fail to address these differences in a transparent or material manner, often failing to provide meaningful commentary or information on how future risk can be mitigated when the differences are material and not associated with mining depletion.

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Geotechnical and hydrogeology

The SEC, through the SK-1300, specifically requires geotechnical and hydrogeology aspects to be discussed when considering the Modifying Factors to convert Mineral Resources to Mineral Reserves. The SEC views the reporting of the geotechnical and hydrogeology aspects as providing insight into the adequacy and appropriateness of the mine design. For the international Codes, mining factors are highlighted. Geotechnical and hydrogeology are not explicitly highlighted, and although most technical studies typically cover these aspects, some Mineral Reserve declarations are void of geotechnical and hydrogeology aspects. In the opinion of the author, this requirement will strengthen the quality of reporting and therefore should be considered by CRIRSCO and international Reporting Codes when updating the individual Codes. In addition, the aspects of ventilation should also be considered as a reporting requirement for underground mining projects declaring a Mineral Reserve.

Cut-off grade

The final rules require that a Competent Person includes in the initial assessment a cut-off grade estimation based on assumed unit costs for surface or underground operations and estimated mineral prices. The SEC is of the opinion that a discussion of cut-off grade is an appropriate requirement for a technical study that supports a Mineral Resource estimate because, by definition, a Mineral Resource estimate is not just an inventory of all mineralization. It is an estimate of that part of the deposit that has reasonable prospects of economic extraction.

The discussion of cut-off grade in technical reports or ongoing reporting is often overlooked by the Competent Person. The SEC provides further guidance to ensure appropriate disclosure, especially in the area of price information, which is material to an investor's understanding of the Mineral Resource and Mineral Reserve estimate.

New technologies

Where new technologies are to be used in extraction or mineral processing and are still in a testing (beta) stage, Mineral Reserves will not be allowed to be declared if viability depends on these technologies. It is not uncommon for mineral projects to encounter cash flow constraints due to mine plans that were reliant on new technology but were unable to meet planned productivity. In South Africa, the Burnstone gold mine provides an example of a project that failed due to the unsuccessful implementation of narrow reef longhole stoping. Based on the SEC's reluctance to allow Mineral Reserves to be declared based on new technology, it may prove prudent for international Reporting Codes to provide guidance as to how new technology is used to justify Reasonable Prospects for Eventual Economic Extraction for Mineral Resources and the declaration of Mineral Reserves. There is some uncertainty as to how the SEC will treat new technologies that have been tested and proven to work, but are not yet implemented commercially. This question regarding new technologies is also relevant to international Reporting Codes and should be included in the risk section.

Reporting Mineral Resources and Mineral Reserves

Threshold materiality standard

SK-1300 requires a registrant to 'provide additional disclosure

about individual mining properties when those individual properties themselves are material to the company's business or financial condition' (Hogan Lovells, 2019). The Hogan Lovells (2019) communiqué stresses that a mining operation will be considered material if there is 'a substantial likelihood that a reasonable investor would attach importance to the information about the mining operations when deciding whether to buy, hold, or sell the company's securities'. Although this disclosure alone will not provide all relevant information about the property, its assets, or revenues, detailed disclosure regarding material properties is necessary to provide investors with a comprehensive understanding of a mining company's operations (Body and Rupprecht, 2019). Body and Rupprecht (2019) further comment that the SK-1300 'final rules include a provision that establishes guidelines for classifying the current stage of a property as exploration, development, or production'.

For listed companies, the relevant stock exchange will provide disclosure requirements highlighting the reporting requirements for non-mineral companies with mineral assets, exploration companies, and mineral companies. In the case of South African companies listed on the JSE, Section 12.11 of the JSE Listing Requirements guides the ongoing reporting requirements. However, for non-listed companies using an international Reporting Code, the definition of materiality may not be sufficient. In terms of materiality and the international Reporting Codes, it may be time that further guidance is provided to Competent Persons on what information should be provided to the public to enhance understanding. For example, if the registrant's Mineral Resources have been reduced due to unexpected geological losses, the public would anticipate transparent and material commentary regarding geological setting and why and how the geology has impacted on the mineral asset. There are still too many examples in the public domain where the Competent Person has failed to report on activities that have had a material impact on the mineral asset or where quantitative and qualitative information is lacking.

Future addenda to international Reporting Codes must provide further guidance around technical reports that 'help to educate the investor as to the likely range of outcomes for a project' (Fairfield, 2016).

Level of detail in the summary technical report

Technical reports are increasing in size and technical detail, as Competent Persons feel the need to protect themselves from compliance and associated personal and reputational risk (Fairfield, 2016).

Technical reporting is further complicated, as highlighted by Fairfield (2016), by many investors viewing compliance with an international Reporting Code as implying precision and accuracy, with investors often only interested in chasing returns. Although this latter provision is consistent with the transparency principle under the CRIRSCO standards and will help investors better understand a registrant's mining operations, there are still too many technical reports that fail to report material information in a transparent manner.

Often the information provided is not in plain English, as called for by SK-1300 ('plain English principles'). In addition, reporting requires registrants to include only geological information that is brief and relevant to property disclosure rather than an extensive description of regional geology. Body and Rupprecht, 2019)

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Classification of Mineral Resources and Mineral Reserves

The new regulations have brought the SEC in line with the other international classification systems in that the SK-1300 classifications are now the same as for SAMREC, JORC, (NI 43-101 and similar international Reporting Codes.

Inclusive and exclusive Mineral Reserves

The debate regarding whether Mineral Resources should be reported inclusive or exclusive of Mineral Reserves has been ongoing for years, and circa 2012 it was classified as a 'parked issue' by the SAMREC Working Group as no consensus was reached. Thus, the SAMREC Code 2016 (Clause 42) continued to comment that 'in some situations, there are reasons for reporting Mineral Resources inclusive of Mineral Reserves. In other situations, there are reasons for reporting Mineral Resources additional to Mineral Reserves. It should be made clear which form of reporting has been adopted.'

The SEC has indirectly resolved the debate in that SK-1300 requires that Mineral Resources to be reported exclusive of Mineral Reserves as the SEC believes that disclosure of Mineral Resources exclusive of Mineral Reserves reduces the risk of investor confusion. SK-1300 further allows a Competent Person to disclose Mineral Resources inclusive of Mineral Reserves, however, the Competent Person must also report the Mineral Resources exclusive of Mineral Reserves.

Admittedly, the reporting of Mineral Resources exclusive of Mineral Reserves will make it easier for the public to value mineral assets provided one fully understands the excluded Mineral Resources and their reasonable potential for eventual economic extraction. One must note that the Mineral Resources outside (excluded from) the Mineral Resources that are converted to a Mineral Reserve by adding a mine plan and extraction schedule will have a different value to those converted to a Mineral Reserve.

In terms of the SK-1300 requirements, many companies that have traditionally reported Mineral Resources on an inclusive basis will now be required to report on an exclusive basis. The author proposes that international Reporting Codes consider preparing guidelines for the estimating of the Mineral Resources exclusive of Mineral Reserves, as there will be several nuances the Competent Person must consider for this declaration, and not simply a subtraction of the Mineral Resources used in the estimation of the Mineral Reserve.

Inferred Mineral Resources

Inferred Mineral Resources remain an enigma in that the JORC 2012 and NI 43-101 Codes do not allow Inferred Mineral Resources to be included in Pre-Feasibility and Feasibility Studies. For example, the JORC Code 2012 states in its guidelines of Clause 21 that 'Confidence in the estimate of Inferred Mineral Resources is not sufficient to allow the results of the application of technical and economic parameters to be used for detailed planning in Pre-Feasibility or Feasibility Studies' (JORC, 2012, p. 13). The NI 43-101 instrument prohibits the disclosure of an economic analysis that includes Inferred Mineral Resource except in the case of Preliminary Economic Assessments. At the same time, the 2019 CRIRSCO template warns that 'Caution should be exercised if this category [*i.e.* Inferred Mineral Resources] is considered in technical and economic studies' (CRIRSCO, 2019). While the SAMREC Code (2016) accepts that 'mine design and

planning may include a portion of Inferred Mineral Resources', the Code does add that if a material amount of Inferred Mineral Resources is used in the mine plan the technical study should compare the results obtained with and without the Inferred Mineral Resources.

The SK-1300 regulation states 'The level of uncertainty associated with an Inferred Mineral Resource is too high to apply relevant technical and economic factors likely to influence economic extraction in a manner useful for the evaluation of viability' (SEC, 2018, p. 136). This statement is provided with a footnote that further clarifies that 'an Inferred Mineral Resource may not be considered when assessing the economic viability of a mineral project' (SEC, 2018, p. 136).

It is time for CRIRSCO and the international Reporting Codes to address the issues of Inferred Mineral Resources and their use in mine planning. Some Inferred Mineral Resources have 'Reasonable Prospects for Eventual Economic Extraction' (RPEEE) and are important to an investor's understanding, as they may be converted to Indicated or Measured Mineral Resources with further exploration (SEC, 2019).

Perhaps it is time for CRIRSCO to provide further guidance around the use of Inferred Mineral Resources in mine planning. In cases where only Inferred Mineral Resources exist, then one may agree that there is insufficient geological verification to support the use of an Inferred Mineral Resource on its own for mine planning purposes. However, it may be appropriate to include Inferred Mineral Resources in mine plans in conjunction with Indicated and Measured Mineral Resources. Further conditions could be considered, such as inferred Mineral Resources should not be used before the payback period is ended, or similar to the SAMREC Code, where the financial analysis should be reported based on a mine plan with and without Inferred Mineral Resource so that the public can see the impact that Inferred Mineral Resources have on the economic viability of the mining project. There may be several potential solutions to the inconsistency of how Inferred Mineral Resources are used in mine planning, but for certain, it is time for clarity on the matter.

Liability and professional responsibility

Continuing professional development and RPOs

The SEC's definition of a Competent Person is in alignment with the CRIRSCO definitions. SK-1300 stresses that Competent Persons should have 'sufficient experience', which means that a Competent Person should have adequate experience to be able to 'identify with substantial confidence, problems that could affect the reliability of data and issues associated with processing' (SEC, 2018, p. 84). Furthermore, the Competent Person must 'have both sufficient knowledge and experience in the application of [the modifying factors] to the mineral deposits under consideration, as well as experience with geology, geostatistics, mining, extraction, and processing that is applicable to the type of mineral and mining under consideration' (SEC, 2018, p. 88).

The above discussion around a Competent Person's experience is more detailed than what is typically portrayed. In the author's opinion, the above suggests the use of specialists in several technical areas, since finding a single or even two Competent Persons with such a vast range of knowledge will be extremely difficult. Thus one or two Competent Persons authoring a technical report is no longer acceptable. SK-1300 indicates that technical reports need to draw upon expertise in a number

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of areas so that sufficient expertise is used to ensure reliable reporting. CRIRSCO and international Reporting Codes should provide guidance on the use of technical experts in technical reports and who should be responsible for the respective sections of the report. Areas such as exploration geology and sampling, geological modelling, Mineral Resource estimation, geotechnical, ventilation, engineering, processing, cost estimation, financial analysis, risk, and environmental, social, governmental, and other areas should be supported by technical specialists identified in the technical report. This increase in the number of technical specialists will increase human resource requirements for the technical report but will also ensure that the process is multidisciplinary, with specialists reporting on material issues in a competent and transparent manner.

The new SK-1300 regulation also discusses continuing professional development. The SEC encourages professional development as one of the defining criteria of a recognized professional organization (RPO). In South Africa, this would include the Engineering Council of South Africa (ECSA), SACNASP, and the Geological Society of South Africa (GSSA) but would exclude the Southern African Institute of Mining and Metallurgy (SAIMM). Based on the SEC's interpretation, it is the author's opinion that continuing professional development will need to be inclusive of learned societies and not just professional bodies.

The SEC does not support the publishing of a list of RPOs as it is of the opinion that the list would become outdated as circumstances change, which could adversely affect the quality of disclosure (SEC, 2018, p. 90). The SEC does specify the minimum competencies and requires professional registration of all Competent Persons. 'In practice, the designation of Competent Persons does not change for most foreign companies operating in countries which require reporting to CRIRSCO standards. In the USA, as well as South Africa, environmental practitioners, geologists, engineers, and financial, legal, and other experts are generally required to hold professional registration in the jurisdiction in which they operate and would automatically qualify in terms of the new regulations' (Body and Rupprecht, 2018).

Third-party reporting and Section 11 liability

The final rules of the SK-1300 regulation allows for 'third-party firms comprising of mining experts, such as professional geologists or mining engineers, to sign off on the technical summary report instead of, and without naming, its employee, member, or other affiliated persons who prepared the summary' (SEC, 2018, p. 71). The SEC states that the third-party signatures and written consent provision will reduce some of the concerns in connection with Section 11 liability of Competent Persons. As the firm is not required to name individual employees, members, or other affiliated persons 'thus, the third-party firm will incur potential liability under Section 11 rather than the unnamed individual' (SEC, 2018, p. 72).

However, it should be noted that Competent Persons who are employed by third-party firms are not entirely exempt from expert liability under Section 11 of the Securities Act as 'not imposing Section 11 liability would be a departure from the current requirement that imposes such liability on the named person that prepares the reserve estimate' (SEC, 2018, p. 72). The SK-1300 regulation further explains that providing total exemption to the Competent Person(s) 'would be at odds with the express design

of the statute, which specifically suggests engineers or any person whose profession gives authority to a statement made by him [or her] as potentially subject to Section 11 liability, and would greatly diminish the protection afforded investors under the Securities Act' (SEC, 2018, p. 73).

Regarding modifying factors, the SEC enables the Competent Person to indicate in the technical report summary that he/she has 'relied on information provided by the registrant in preparing their findings and conclusions regarding the modifying factors' (SEC, 2018, 74).

The final SK-1300 rules also provide that, in a separately captioned section of the technical report entitled 'Reliance on Information Provided by the Registrant', the [Competent Person] must:

- Identify the categories of information provided by the registrant
- Identify the particular portions of the technical report summary that were prepared relying on information provided by the registrant
- State the extent of that reliance
- Disclose why the Competent Person considers it reasonable to rely upon the registrant for any of the information.

The SEC states that 'this disclosure will help investors and other interested persons understand the source and reliability of the information pertaining to those factors. [The SEC] also notes that this disclosure is consistent with the disclosure recommended when a qualified or competent person relies on information provided by the registrant under the CRIRSCO standards' (SEC, 2018, pp. 74–75).

Furthermore, the SEC states that 'where the registrant has provided the information relied upon by the [Competent Person] when addressing these modifying factors, we believe that it would be appropriate for the registrant, rather than the Qualified Person, to be subject to potential Section 11 liability. The registrant remains liable for the contents of the registration statement and consequently will be incentivized to exercise due care in the preparation of information' (SEC, 2018, p. 75).

Finally, regarding reliance on other 'third-party specialists who are not a [Competent Person], such as an attorney, appraiser, and economic or environmental consultant, upon which the [Competent Person] has relied in preparing the technical report summary', 'the final rules provide that the Competent Person 'may not disclaim responsibility for any information and documentation prepared by a third-party specialist upon which the [Competent Person] has relied, or any part of the technical report summary based upon or related to that information and documentation' (SEC, 2018, p. 76). 'Doing so could undermine the quality of the technical report summary, as neither the [Competent Person] nor the third-party specialist would be accountable for material misstatements or omissions in such information and documentation' (SEC, 2018, p. 76). Interesting to note, a Competent Person working for the registrant must provide written consent on an individual basis. The author is already aware of employees of companies who have indicated their reluctance to sign off as a qualified person due to concerns of potential Section 11 liabilities.

The SK-1300 regulation raises a number of points. The use of one or two qualified persons may no longer be the norm, with more reliance being applied to technical experts to sign off under their areas of speciality. The requirement for additional

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technical specialists to support Competent Persons Reports may result in larger professional organizations being used to produce technical reports. Future reporting codes may require a more formal approach of technical specialists being used to sign off on technical reports. Environmental, social, and governmental (ESG) reporting is already covered as a guide, but may transform into a reporting code in itself. South Africa has published a guide for reporting ESG issues – the SAMEG Guideline 2017. Other technical areas, such as tailings storage facilities may follow suit in the future.

The author welcomes the idea of the Competent Person reporting on the 'Reliance on Information Provided by the Registrant' as this places the onus on the registrant to provide all material information in a transparent manner. Furthermore, the registrant is also subject to potential Section 11 liability for information provided by the registrant. The author would like to see the reporting of information supplied by the registrant to the Competent Person become a standard requirement for CPRs, thus promoting due care in the preparation of information by registrants.

The introduction of third-party sign-off in order to limit the risk of Section 11 liability may impact on the international Reporting Codes. The use of third-party sign-off may provide some comfort to individual Qualified Persons and may also increase the costs of producing Competent Persons Reports for companies listed in the USA. From an international perspective, third-party sign-off moves away from the concept that Competent Persons need to 'face their peers and demonstrate competence in the commodity, type of deposit and situation under consideration' (SAMREC, 2016). It is the author's position that professional bodies and learned societies can take disciplinary measures in cases of non-compliance. It is preferred that professional organizations generally handle the cases of non-deliberate material misstatements and omissions, and only deliberate misrepresentation or fraud would be covered by other regulations, laws, and litigation.

The appetite for risk of individuals or owners of small consulting companies is still to be determined. Risk-averse persons will most likely move away from signing off on technical reports for companies listed in the USA. How companies handle this issue is yet to be determined. Will this result in only high-level executives signing off or a move to third-party reporting to limit individual liability? Most likely a consultant will need to increase charge-out fees to cover liability insurance.

Conclusion

SK-1300 provides insight into how the USA perceives Property Disclosure for Mining Registrants. Although the new rules are mainly aligned with CRIRSCO, the SK-1300 regulations highlight some of the future trends that may affect CRIRSCO and other international Reporting Codes, such as the SAMREC Code.

Some of the SK-1300 regulations that CRIRSCO and the international Reporting Codes should consider are as follows.

- The reporting of Mineral Resources exclusive of Mineral Reserves as required, and preparing guidelines for the estimating of the Mineral Resources exclusive to Mineral Reserves, as there will be several nuances that the Competent Person must consider for this declaration.
- Technical Reports require Competent Persons with sufficient knowledge and experience, alluding to the use of technical specialists to ensure that the full mining process or value

chain is adequately reported. Guidance for the formal use of technical experts should be provided in updated international Reporting Codes.

- Based on the SEC's reluctance to allow Mineral Reserves to be declared on the basis of new technology, it may prove prudent for international Reporting Codes to provide guidance on how new technology may be used to justify Reasonable Prospects for Eventual Economic Extraction for Mineral Resources and the declaration of Mineral Reserves.
- The SK-1300 regulation requires Competent Persons to include geotechnical and geohydrological aspects in technical reports. This requirement, as well as ventilation aspects for underground operations, should be investigated as a reporting requirement.
- Continuous professional development is a requirement for a certain recognized professional organization. Hence, continuing professional development will need to be inclusive of learned societies, e.g. the SAIMM, and not just professional bodies.
- Allowing third-party firms to sign off technical reports to reduce the risk of Section 11 liability. Third-party sign-off will be of particular interest, and if adopted by other international Reporting Codes may prevent complaints from being lodged against individual Competent Persons.

The author has provided a number of suggestions to be considered when updating CRIRSCO and international Reporting Codes. In many situations, the author suggests best-practice commentary or guidance notes as the overall goal of the Reporting Codes is to provide guidance towards the minimum reporting standards rather than becoming prescriptive. In the end, the Competent Persons must use their professional judgement in providing adequate disclosure of all material aspects, bearing in mind that the 'Competent Person must be clearly satisfied in their own minds that they are able to face their peers and demonstrate competence' (SAMREC, 2016).

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