

## Part A      General Information of the Respondent

All fields are mandatory, except the fields with an asterisk (\*) if you are an individual respondent.

<b>Name/ Company Name*</b>	:	Charltons on behalf of Anglo Chinese Corporate Finance, Limited and Somerley Limited (together, the “Respondents”)
<b>Contact Person*</b>	:	
<b>Title*</b>	:	
<b>Phone Number</b>	:	
<b>E-mail Address</b>	:	

If you **do not wish** to disclose the above information to the public, please check the box here:

☐ I do not wish to disclose the information above.

## Part B Consultation Questions

Please indicate your preference by checking the appropriate boxes. Please make your comments by replying to questions below against proposed changes discussed in the Consultation Paper at the hyperlink: [http://www.hkex.com.hk/consul/paper/cp200909m\\_e.pdf](http://www.hkex.com.hk/consul/paper/cp200909m_e.pdf)

Where there is insufficient space provided for your comments, please attach additional pages.

For ease of cross-referencing, please note the question numbers in this questionnaire correspond to the question numbers as they appear in the Consultation Paper.

### *Consultation Questions on Additional Eligibility Requirements for New Applicant Mineral and Exploration Companies*

- 3.1 Do you agree with the Exchange's proposal that new applicant Mineral and Exploration Companies must demonstrate that they have adequate rights to participate actively in the exploration or exploration and extraction of resources, either by having controlling interests in a majority (by value) of the assets in which they have invested or through other rights, which give them significant influence in decisions over the extraction of those resources?

☒ Yes

☐ No

Please provide specific reasons for your views.

Please refer firstly to the response to Question 8.5. The Respondents consider that the proposed definition of "Mineral and Exploration" companies needs to be revised to allow the listing under Chapter 18 of companies whose production activities (together with their exploration or exploration and extraction activities) constitute 25% of assets, gross revenue or operating expenses. Otherwise, companies whose extraction activities alone are less than 25% (by virtue of, for example, lower book values of mining rights relative to those of smelting/ production facilities) will not be able to rely on the track record waiver under Chapter 18.

The Respondents have also asked for clarity as to whether standalone production companies, which acquire ore under an offtake, will qualify as "Mineral and Exploration Companies". These could perhaps be dealt with under a supplementary rule. If standalone production companies will be allowed to list, then clearly they will not have to establish rights to explore or extract resources.

Subject to the above, the Respondents agree with the points made at paragraph 3.8 of the Consultation Paper in support of the adoption of a second limb to the control of assets test to ensure that companies involved in exploration under joint ventures, product sharing contracts or government mandates are eligible to list under Chapter 18. The Respondents would however like to see clarification of the meaning of "significant influence" and, if

this is to be interpreted in accordance with accounting standards, which in Hong Kong means over 20% of a company's voting power, consider that this should be stated. Consideration could also be given to allowing a company with less than a 20% stake, but which is the manager of the exploration and/or extraction project, to be regarded as having "significant influence".

- 3.2 Do you agree with our proposal that new applicant Mineral and Exploration Companies that have not yet obtained rights to extract relevant reserves must disclose details of how they plan to proceed to extraction and must state risks relevant to obtaining relevant rights?



Yes



No

Please provide specific reasons for your views.

The Respondents believe disclosure of details of plans to proceed to extraction and the risks relevant to obtaining the extraction rights will provide useful information relevant to assessing the mining project(s) of the new applicant. However, the Respondents would welcome guidance as to the level of disclosure required.

- 3.3 Do you agree that new applicant Mineral and Exploration Companies must demonstrate that they have sufficient working capital for 125% of their budgeted working capital needs for the next twelve months? Do you consider that the requirement for a working capital statement should be extended beyond a period of twelve months?



Yes



No

Please provide specific reasons for your views.

The Respondents agree with the proposed requirement for working capital for 125% of applicants' budgeted working capital needs for 12 months. They also agree that the period covered by the working capital statement should be capped at 12 months. The Respondents would further welcome guidance as to the broad assumptions that may be adopted in determining whether the applicant will have sufficient working capital for 125% its budgeted working capital needs.

- 3.4 Do you agree that estimates of cash operating costs must include those of: (a) workforce employment; (b) consumables; (c) power, water and other services; (d) on and off-site administration; (e) environmental protection and monitoring; (f) transport of workforce; (g) product marketing and transport; (h) non-income taxes, royalties and other governmental charges; and (i) contingency allowances?

☒ Yes

☐ No

Please provide specific reasons for your views.

The Respondents query however whether product marketing (under item (g)) and non-income taxes, royalties and other governmental charges (under item (h)) should be included as operating costs.

- 3.5 Do you agree that producing new applicant Mineral and Exploration Companies must disclose their operating cash cost per appropriate unit for the mineral(s) and/or oil and gas produced?

☒ Yes

☐ No

Please provide specific reasons for your views.

- 3.6 Do you agree that a new applicant Mineral and Exploration Company must demonstrate that its board and senior management, taken together, have adequate experience relevant to the mining and/or exploration activity that the applicant is pursuing, unless it can meet the financial track record requirements under Listing Rule 8.05? Do you agree that individuals relied on must have a minimum of five years relevant experience?

☒ Yes

☐ No

Please provide specific reasons for your views.

The Respondents agree that requiring individual members of the board and senior management to have at least 5 years' relevant experience, instead of 3 years, will help boost the mining credentials of the issuer's management. However, it would be helpful if the Exchange could set out the level of disclosure required in relation to establishing "adequate experience" of an individual director or member of senior management. In particular, are specific duties and responsibilities of a particular director or member of senior management in a relevant mining position required to be disclosed?

**Consultation Questions on Disclosure (General) Obligations**

- 4.1 Do you agree with our proposal that technical reports and valuations required by the Listing Rules must be prepared by independent Competent Persons?

☒ Yes

☐ No

Please provide specific reasons for your views.

The Respondents agree that the Competent Person should be independent where the report is required in connection with a notifiable transaction requiring shareholders' approval.

However, in certain situations, a report prepared by a qualified geologist employed by the company should be acceptable, subject to disclosure that the Competent Person is a full-time employee of the company. For example, updates of details of reserves and resources in annual reports and details of exploration, mining production and development activities (as contemplated by questions 6.4 and 6.5 below) should be acceptable if prepared by the company's own qualified geologist.

In the case of technical reports and valuations included in listing prospectuses, the Respondents agree that the geological and valuation reports should be prepared by independent Competent Persons.

It is noted that in Australia, there is an additional concept of "independent expert" whose report is required *inter alia* on takeover bids, schemes of arrangement, compulsory acquisitions or buyouts, related party transactions and buy-backs. This raises the question of whether the requirement for Competent Persons' Reports should be extended to connected party transactions involving mineral or petroleum companies to support the independent financial adviser's advice as to whether the transaction is fair and reasonable etc. Although probably outside the scope of the present consultation, the Respondents would welcome consideration being given to wider application of the requirement for Competent Persons' Reports in Hong Kong, for example in relation to takeovers under the Takeovers Code.

- 4.2 Do you agree with our proposal that a Competent Person must be a member of a Recognised Professional Organisation?

☒ Yes

☐ No

Please provide specific reasons for your views.

The Respondents note however that the Exchange does not propose to produce a list of RPOs and will instead follow London's approach, which is to appoint an external expert to review prospectuses and circulars to ascertain whether a report has been properly prepared under the relevant Code by an independent Competent Person.

The Respondents would be interested to know the identity of the proposed expert and the proposed scope of its review. Will the review be limited to establishing that a report has been prepared by a person who is a member of an RPO to establish that the person is a "Competent Person" within the proposed definition at paragraph 4.2 of the Consultation Paper? Paragraph 4.8 of the Consultation Paper suggests that the role of the external expert could be much wider, namely "to establish that a report has been properly prepared under the relevant code by an independent Competent Person".

- 4.3 Do you agree that the Exchange should only accept Competent Persons' Reports (CPRs) prepared by Competent Persons who are registered in jurisdictions where the statutory securities regulator has adequate arrangements with the Securities and Futures Commission for mutual assistance and exchange of information for enforcing and securing compliance with relevant laws of each jurisdiction?

☒ Yes

☐ No

Please provide specific reasons for your views.

- 4.4 Do you agree that the CPR must have an effective date less than six months prior to the date of the publication of the prospectus or circular required under the Listing Rules?

☒ Yes

☐ No

Please provide specific reasons for your views.

4.5 Do you agree that CPRs must include an up to date no material change statement?

☒ Yes

☐ No

Please provide specific reasons for your views.

The Respondents would like guidance as to the extent of work the Exchange would expect to be carried out in order to give the no material change statement. Clearly, it would not be practicable for the Competent Person to re-do the various tests etc.

4.6 Do you agree that all Mineral and Exploration Companies must disclose in the CPR, where one is required, risk factors and provide a risk analysis in the format outlined in Appendix I to the Consultation Paper?

☒ Yes

☐ No

Please provide specific reasons for your views.

4.7 Do you agree with the Exchange's proposal that disclosure on risks must be provided as part of a Competent Person's Report?

☒ Yes

☐ No

Please provide specific reasons for your views.

4.8 Do you agree that data on reserves and resources must be presented in tables in a manner readily understandable to a non-technical person?

☒ Yes

☐ No

Please provide specific reasons for your views.

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***Consultation Questions on Disclosure (Technical Reporting) Standards***

- 5.1 Do you agree with the Exchange's proposal to accept the three main JORC-type codes for the presentation of information on resources and reserves, namely the JORC Code, NI 43-101 and the SAMREC Code?

☒ Yes

☐ No

Please provide specific reasons for your views.

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- 5.2 Do you agree with the Exchange's proposal to request reconciliation to one of the above codes where information is presented in accordance with Russian or Chinese standards, until such time as they achieve widespread recognition or efforts at convergence between these standards and JORC-type codes are sufficiently advanced?

☒ Yes

☐ No

Please provide specific reasons for your views.

<p>It is the respondents' understanding that comparisons of the Russian and Chinese standards with the JORC-type codes are available. They would therefore support allowing presentation of information under those standards if substantial convergence with the JORC-type codes can be established. This would be in line with the Exchange's proposal to allow the financial statements of PRC incorporated companies listed in Hong Kong to be prepared in accordance with PRC accounting and standards without any reconciliation to Hong Kong or International Financial Reporting Standards.</p>
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- 5.3 Do you agree with the Exchange's proposal to require that estimates of mineral reserves be supported at a minimum by a pre-feasibility study as defined in the SAMREC Code and NI 43-101?

☒ Yes

☐ No

Please provide specific reasons for your views.

- 5.4 Do you agree with the Exchange's proposal that information on mineral resources and mineral reserves must not be combined?

☒ Yes

☐ No

Please provide specific reasons for your views.

- 5.5 Do you agree with the Exchange's proposal that mineral resources must only be included in economic analyses if they are appropriately discounted for the probabilities of their conversion to reserves and the basis on which they are considered to be economically extractable is stated?

☒ Yes

☐ No

Please provide specific reasons for your views.

- 5.6 Do you agree with our proposal that Mineral and Exploration Companies must explain the methodology used to determine commodity prices used in pre-feasibility and feasibility-

level studies and valuations of reserves and resources, and state the basis on which such prices represent reasonable views of future prices?

☒ Yes

☐ No

Please provide specific reasons for your views.

5.7 Do you agree with our proposal that Mineral and Exploration Companies must present sensitivity analyses on price in their valuations of reserves and profit forecasts?

☒ Yes

☐ No

Please provide specific reasons for your views.

5.8 Do you consider that the requirement to state the methods used to determine prices and state the basis on which they are reasonable should extend to forecast prices of oil and gas?

☒ Yes

☐ No

Please provide specific reasons for your views.

5.9 Do you agree with our proposal to adopt the PRMS as the accepted reporting code for CPRs related to oil and gas resources?

☒ Yes

☐ No

Please provide specific reasons for your views.

- 5.10 Do you agree with the proposal that Proved and Proved plus Probable Reserves be presented as Net Present Values (“NPVs”) on a post-tax ‘unrisked’ basis at varying discount rates, including a reflection of the weighted average cost of capital or minimum acceptable rate of return applicable to the entity at the time of evaluation?

☒ Yes

☐ No

Please provide specific reasons for your views.

- 5.11 Do you agree with the proposal that Proved Reserves and Proved plus Probable Reserves must be analysed separately and the principal assumptions must be stated in all cases?

☒ Yes

☐ No

Please provide specific reasons for your views.

- 5.12 Do you agree with the proposal that companies must present estimates of NPVs of reserves using a forecast price as a base case but must also provide a sensitivity analysis including a constant price, to be represented by the unweighted arithmetic average of the closing price on the first day of each month in that 12 month period? Please note the possible variation in this proposed rule applicable for companies that may be subject to the SEC’s Oil and Gas Disclosure Standards in paragraph 5.59 of the Consultation Paper.

☒ Yes

☐ No

Please provide specific reasons for your views.

- 5.13 Do you agree with the Exchange's proposal that disclosures about estimated volumes of oil and gas resources should be allowed, provided relevant risk factors are clearly stated?

☒ Yes

☐ No

Please provide specific reasons for your views.

- 5.14 Do you agree with our proposal that Mineral and Exploration Companies should not be permitted to attach economic values to Contingent or Prospective Resources?

☒ Yes

☐ No

Please provide specific reasons for your views.

- 5.15 Do you agree with the Exchange's proposed definition of 'Competent Person' for oil and gas reporting?

☒ Yes

☐ No

Please provide specific reasons for your views.

- 5.16 Do you agree with the Exchange's proposal that CPRs must be prepared by independent Competent Persons and deal with the list of items in Appendix II to the Consultation Paper?

Yes



No

Please provide specific reasons for your views.

As mentioned in the response to question 4.1 above, Australia has a separate concept of "independent expert" who, in certain situations, is required to prepare a report involving a technical assessment and/or valuation of mineral or petroleum assets or securities. The report is prepared by the independent expert who may employ independent specialists to report on aspects of the technical assessment and/or valuation in which the independent expert is not personally competent. In situations such as a takeover, the independent expert will very often be the financial adviser (usually accountants) (as would be the case under the Hong Kong Takeovers Code). While the independent expert is required to take overall responsibility for the report, it will rely on the technical assessment and the valuation report in respect of the mineral or petroleum assets/project and the geologists and valuers preparing those reports accept responsibility for their sections of the report.

The Consultation Paper appears to envisage that there will be different Competent Persons to (i) report on the extent of reserves and resources (for whom the definition of Competent Person is set out at paragraph 5.79 of the Consultation Paper); and (ii) perform the valuation of those reserves and resources (for whom the definition of Competent Person is set out at paragraph 5.85 of the Consultation Paper). Appendix II, however, suggests that findings as to reserves/resources and valuations should be included in the same report. Could this please be clarified.

The Respondents' understanding is that the valuation expert will often rely on the technical report of the Competent Person who reports on the extent of reserves and resources (who is contemplated at paragraph 5.79 of the Consultation Paper) and the valuer will do the financial modelling on the basis of the technical report's findings. They therefore consider that the amendments to the Listing Rules will need to make clear that each Competent Person (whether geologist or valuer) will need to take responsibility for their own report.

The Respondents would welcome clarification as to the exact requirements in relation to Competent Persons' Reports.

- 5.17 Do you agree with the Exchange's proposal to accept the VALMIN, CIMVAL and SAMVAL valuation codes for the valuation of natural resources properties?

☒ Yes

☐ No

Please provide specific reasons for your views.

5.18 Do you agree with the Exchange's proposed definition of 'Competent Person' for valuation purposes?

Yes

☒ No

Please provide specific reasons for your views.

The Respondents consider that the requirements for Competent Persons' Reports need to be clarified. Firstly, it is not clear how the requirements will interact with the existing requirement for an accountants' report for notifiable transactions which are major above. In those cases the accountants will report on the entire business or company the subject of the transaction and not just the mining assets/projects. Is it the intention of the Exchange that the accountants should rely on the technical report (prepared by a geologist or mining industry consultant) in relation to resources and reserves and the valuation report which, in reliance on the technical report, will ascribe a value to the mining assets/project?

In relation to the Competent Person's Report to be included in a prospectus on listing, it seems that it will not be mandatory for a valuation report to be included (see Question 5.19 below), although this may be market practice if required in order to support a valuation. However, where a valuation report is included, the definition of Competent Person for valuation purposes will need to be wide enough to include mineral industry consultants (who are essentially geologists) who may outsource the valuation part of the report. In that situation, the valuation report prepared should be accepted if the valuer and mining industry consultant together satisfy the two limbs of the test (e.g. if the valuer has 5 years' experience of valuing mining or petroleum assets or securities and the mining industry consultant has 10 years' general mining or petroleum experience).

It is noted in the VALMIN Code that it is unlikely that an expert will be personally competent in all areas required by a report under that code, in which case it is the expert's responsibility to ensure that specialists are engaged to prepare and be responsible for appropriate inputs to the report (paragraph 21 of the VALMIN Code).

- 5.19 Do you agree with the Exchange's proposal that company management and the relevant independent expert must determine whether a valuation report is required?

☐ Yes

☒ No

Please provide specific reasons for your views.

It is not clear from the Consultation Paper who the "relevant independent expert" will be. Is this a reference to an independent financial adviser which is required to be appointed under Listing Rules 13.39(6)(b) and 19.05(6)(a)(iii) and under the Codes on Takeovers and Mergers and Share Repurchases? The Respondents wonder whether by "relevant independent expert", the Consultation Paper in fact means the Competent Person preparing the relevant report or, in the context of notifiable transactions that are major or above, the Accountants' report. It also seems that Appendix 2 of the Consultation Paper, which sets out requirements for inclusion of "Economic Evaluation" in Competent Persons' Reports, in fact already requires inclusion of a valuation report. In any event, the Respondents would prefer to adopt the Australian and Canadian approach of including express provisions as to when valuation reports are required.

If, however, the Exchange adopts the proposal to require a company's management and the relevant independent expert to determine whether a valuation report is required, would this require the company to state that it has been determined that a valuation report is not necessary?

***Consultation Questions on Continuing Obligations (for companies treated as Mineral and Exploration Companies and existing listed issuers engaging in mineral and/or exploration activity)***

- 6.1 Do you agree with our proposal that Mineral and Exploration Companies must produce CPRs on transactions for the acquisition or disposal of resources and/or reserves, which require shareholder approval (i.e. transactions which are classed as 'major' or above)?

☐ Yes

☒ No

Please provide specific reasons for your views.

CPRs should not be required for disposals which constitute major transactions as this would be inconsistent with the major transactions requirements under Chapter 14 of the Listing Rules. In relation to a disposal which is a major transaction, the circular need only contain the information specified in Rule 14.70 as to the intended application of the sale proceeds and the excess or deficit of the consideration over or under net book value of the assets.

- 6.2 Do you agree with our proposal that listed issuers which enter into acquisitions for resources and/or reserves classed as major or above must also comply with the requirement to produce CPRs? Do you consider that such companies should be granted a short grace period for relevant transactions that have already been entered into and announced on implementation of the new rules?

☒ Yes

☐ No

Please provide specific reasons for your views.

- 6.3 Do you agree with our proposal that, we may dispense with the requirement for CPRs on relevant transactions if detailed information on reserves and resources, in accordance with our approved mineral and/or oil and gas codes, is already in the public domain?

☒ Yes

☐ No

Please provide specific reasons for your views.

- 6.4 Do you agree listed issuers that have previously published details of reserves and resources must update such statements once a year in their annual reports?

☒ Yes

☐ No

Please provide specific reasons for your views.

- 6.5 Do you agree with our proposal that Mineral and Exploration Companies must provide details of exploration, mining production and development activities and details of expenditure incurred on these three activities in their interim (half-yearly) and annual reports?

☒ Yes

☐ No

Please provide specific reasons for your views.

- 6.6 Do you agree with the Exchange's proposal to prohibit blanket disclaimers in technical reports?

☒ Yes

☐ No

Please provide specific reasons for your views.

- 6.7 Do you agree with the Exchange's proposal to disallow material indemnities in favour of the Competent Person or entity that prepared the report?

☒ Yes

☐ No

Please provide specific reasons for your views.

The Respondents would also like to raise with the Exchange the question of the extent of a sponsor's responsibility under Rule 3A.16(1) and paragraph (c)(i) of the Sponsor's Declaration in Appendix 19 to the Listing Rules. For example, a valuation report will normally rely on information as to the extent of reserves and resources given in the geologist's report. The valuer would not then carry out any verification of the factual information in the geologist's report on which it relies for the purposes of its report. The Respondents would therefore like assurance that, in that situation, a sponsor would not be required to carry out verification of matters covered in the geologist's report which have been relied upon, but not verified by, the valuer.

***Consultation Question on Social and Environmental Standards***

- 7.1 Do you agree with the Exchange's proposal to encourage Mineral and Exploration Companies to consider and provide disclosure on the social and environmental matters described in paragraph 7.1 of the Consultation Paper, where material to their business operations?

☒ Yes

☐ No

Please provide specific reasons for your views.

The Respondents note that disclosure of environmental matters will generally be more straightforward than disclosure of social matters and agree that disclosure of such matters should be encouraged, but not made mandatory. To the extent that any such matters are material, the listing applicant will, of course, be required to disclose them in its listing document.

***Consultation Questions on Eligibility of exploration companies***

- 8.1 Do you agree that Chapter 18 should be amended to allow Mineral and Exploration Companies that have mineral or oil and gas resources to apply for listing?

☒ Yes

☐ No

Please provide specific reasons for your views.

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- 8.2 Do you agree that it is not appropriate to list early stage exploration companies in the interests of investor protection, i.e. those that have not yet determined the existence of resources?

☒ Yes

☐ No

Please provide specific reasons for your views.

It might however be appropriate, at some stage, to consider establishing a separate board for early stage exploration companies.

- 8.3 Do you agree that new applicant Mineral and Exploration Companies that have not yet commenced production must disclose their plans to proceed to production with indicative dates and costs?

☒ Yes

☐ No

Please provide specific reasons for your views.

The Respondents would however welcome guidance as to the level of disclosure required to be made in relation to the plans to proceed to production in addition to the disclosure of indicative dates and costs, in particular if the implementation plans involve the construction of smelting/production facilities.

- 8.4 Do you consider that new applicant Mineral and Exploration Companies which have not yet commenced production should be subject to any additional eligibility requirements, such as a requirement to have a minimum market capitalisation?

☐ Yes

☒ No

Please provide specific reasons for your views.

8.5 Do you agree with the Exchange's proposed definition for 'Mineral and Exploration Companies'?

☐ Yes

☒ No

Please provide specific reasons for your views.

It is stated in paragraph 1.1 of the Consultation Paper that the update of Chapter 18 relates to companies engaged in the exploration for, extraction or production of natural resources. The proposed definition of "Mineral and Exploration Companies" however only includes companies whose exploration or extraction activities (but not production activities) account for 25% or more of assets, gross revenue or operating expenses.

The Respondents' view is that the definition needs to be clarified to cover the following:

1. Whether standalone production companies will be eligible to list under Chapter 18 and gain the benefit of the waiver from the track record requirements. The proposed definition would seem to exclude a company which is involved solely in production and acquires ore under an off take. Is it the Exchange's intention that standalone production companies should be required to meet the financial track record requirements of Chapter 8.05 rather than be allowed the waiver available under Chapter 18?
2. To ensure that a company is eligible to list under Chapter 18 where it is engaged in both extraction and production activities, but the production activities constitute the greater part of its total activities. This will require that production of natural resources (e.g. smelting) is included as a "principal activity". Otherwise, if a company's production activities (either alone or with its extraction activities) meet the 25% threshold, but the extraction activities alone do not, the company would not be able to list under Chapter 18. This could very well be the case for companies whose extraction activities relate to low-grade ore which they then process into something far more valuable.
3. Leading on from the above points, it should be made clear whether transportation costs are eligible to be included as "operating expenses". For example, if a company extracts ore, or acquires it under an off-take, and incurs costs in transporting it to the production site, could the transportation costs qualify as "operating expenses"?

- End -