

Corporate Communications Department
Hong Kong Exchanges and Clearing Limited
12th Floor, One International Finance Centre
1 Harbour View Street
Central
Hong Kong

Our ref: Patrick Wu
November 11, 2009

By Hand and email

Dear Sir / Madam:

Responses to HKEX's Consultation Paper on New Listing Rules for
Mineral and Exploration Companies ("the Consultation Paper")

American Appraisal China Limited ("We") is pleased to have the opportunity to respond to the Consultation Paper, and please see our detailed responses in the attached Consultation Paper Questionnaire. Given the space restriction in the reply format, our general comments and observations are separately set out below:

1. We fully support HKEX's desire to establish relevant listing guidance for companies from the extractive industries.
2. We believe it is important to address the very different risk characteristics of production and exploration companies, rather than treat them as a single industry-wide group of "Mineral and Exploration Companies" (i.e. separate commodity or market risk from risk of finding and economically producing minerals).
3. Given the industry risk profile, adequate and appropriate disclosure is critically important.
4. Due to wider reliance on economic metrics of value, it is important to properly introduce valuation requirements and value measurement bases (i.e. fair value, market value, etc).
5. It is important to distinguish common measurement bases (such as "current value" adopted by US SEC or equivalent) from valuation bases, such as fair/market value bases (IFRS/US GAAP).
6. It is important to reconcile geological and investor reporting for companies and properties with their financial reporting (i.e. IFRS or US GAAP).
7. As presently framed, the Consultation Paper appeared to have lumped together the quite different aspects of (a) resources confirmation/disclosure and (b) financial reporting valuation. Our view is that a range of experts/advisors (see 9 below) should be permitted to prepare reports depending on their nature and purpose rather than to restrict it to a single type, namely qualified geologists.
8. Due to the importance of independent third party opinion on quantity, quality and value of minerals that companies explore for or produce, it is important to distinguish roles of respective advisors or consultants and where value is concerned, introduce valuers as experts and their compliance requirement (i.e. International Valuation Standards Council or other).

9. We think it advisable to replace "Competent Person" terminology with terminology such as Technical Expert, Reserves Auditor, Geologist, Valuer, Auditor of Financial Reporting, etc as appropriate
10. Because of wider adoption of value based measures by IFRS and close cooperation between IFRS and International Valuation Standards Council ("IVSC"), it may be advisable to seek assistance of IVSC on matters related to valuation and IFRS on matters related to financial reporting of extractive companies.
11. We are willing to assist with HKEx's efforts in establishing application and reporting guidelines that are most relevant for companies from the extractive industries if you deem appropriate.

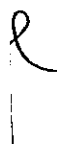
Again, we urge you to consider the work of the IVSC and their International Standards Board ("IVSB") prior to finalizing any new regulations.

The IVSC is an independent, non-profit organization headquartered in London. IVSC is recognized as the body which develops and promulgates globally recognized valuation standards, acceptable to the world's capital market organizations, regulators and market participants. IVSC acts as the global focus for the valuation profession. Their objectives are to protect the public interest by promoting strong ethical values, encouraging quality practice and supporting the development of all sectors of the valuation profession around the world.

The IVSC, in the current edition of the International Valuation Standards, has issued Guidance Note GN-14, which addresses Valuation of Properties in the Extractive Industries. The IVSB has a project underway to review, update and re-issue GN-14. We are sure the IVSC/IVSB would be pleased to answer any questions or consult with HKEx as regards your current Consultation Paper, or any other valuation matter.

Thank you for the opportunity to express our views on this important subject.

Yours faithfully,



American Appraisal China Limited

Part A General Information of the Respondent

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

Name/ Company Name*	:	American Appraisal China Limited
Contact Person*	:	
Title*	:	
Phone Number	:	
E-mail Address	:	

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

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.

In view of the risks involved in exploration it would make sense to only allow listing of exploration companies with controlling interests in such businesses. It could also make sense to adopt terminology that clearly separates exploration and production activities due to the different risk profile. The division into "Mineral" and "Exploration" is subject to interpretations.

- 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.

Reserves are key assets of mineral exploration and production companies. Given that in some jurisdictions exploration license does not automatically allow production of minerals, proper disclosure of related risks is critically important.

- 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.

Working capital availability is important, however capital coverage ratio is always arbitrary. An alternative could be some kind of a statement about or disclosure of capital sufficiency of the project.

- 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.

It is important to have a meaningful breakdown of costs with a minimal detail requirement.

- 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.

Such disclosure doesn't provide information incremental to that available from production schedule and operating costs.

- 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.

Companies with experienced management usually have less problems attracting financing or they attract financing on better terms. The disclosure of management experience is required. However any requirement of minimum year of experience would be arbitrary and discriminatory, unless it is only a recommendation rather than application requirement.

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.

Competent Person renders other consultants "Incompetent". Hence other terminology might be preferable. Another important issue is the basis of value such reports will use. Please also refer to the comments in our covering letter.

- 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.

Provided other terminology is used since there is hardly a professional organization that calls its members Competent Persons.

- 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.

Not clear what such limitation will help to enforce.

- 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.

An update on a date within 3 months prior to issue of prospectus would be beneficial.

- 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.

Updated report is a preferred way of acheiveing the same.

- 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.

We also believe identification of risks and their impact should be responsibility of the applicant, not technical experts. In that context the phrase "Do you agree that all Mineral and Exploration Companies must disclose in the CPR" may confuse the reader as it doesn't clearly distinguish technical person, e.g. author of CPR, and the company.

- 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.

Investment risks disclosure is a prerogative of the applicant, not a consultant (third party). Reliance on third parties is both dangerous and may result in conflicts between consultants and applicants.

- 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.

It is difficult to understand what "readily understandable" could mean.

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.

UNICTAD code mentioned in the IFRS and International Valuation Standards should be admitted.

- 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.

Provided rules of reconciliation and its presentation are established and accepted.

- 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.

Yes. Other reserves and resources reporting requirements should also be considered.

- 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.

Yes, they represent different kinds of risks and should be reported separately.

- 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.

Economic analysis is poorly defined and may confuse valuation with disclosure requirements. Resources should be part of valuation, but may or may not be part of disclosure of standardized measure.

- 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.

Commodity price risk is a key risk and should be adequately disclosed and supported.

- 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.

It is desirable that sensitivity analysis is presented in some standardized manner.

- 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.

Price risk (market risk) is key risk in extractive industries, hence assumptions about expected future markets need to be disclosed and well supported.

- 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.

PRMS is a credible and well respected framework. Ideally, PRMS framework needs to be reconciled with valuation bases such as market or fair value.

- 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.

Yes, provided it is clearly disclosed that any such estimates may or may not render market or fair value of reserves. Alternatively, fair values of reserves could be the reporting basis.

- 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.

The differences between US SEC and IFRS on which reserves (i.e. 1P or 2P) should be included in financial reporting may need to be addressed to make such separate analysis meaningful.

- 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.

We believe it is important to first clearly separate valuation (fair value or market value bases) and other measurements (so called "current value" or other standardized measures). Once it is done, then a variety of metrics or measurement bases may be introduced provided objective of such measurement is clearly stated.

We agree that once reporting/measurement basis is defined, sensitivity test needs to be performed. It may be desirable to establish a framework within which sensitivity is tested and reported.

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.

Given consistency of disclosure such information is very useful.

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.

Yes, if such values are arrived at using supportable and acceptable valuation procedures, such as valuation codes and IVSC/IFRS. It however makes sense to request separate reporting of reserves and resources and Contingent and Prospective Resources.

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.

Yes, provided terminology of *Competent Person* is replaced with *Technical Expert* for Technical Reports (Quality and Quantity of Reserves and Resources) and *Valuer* for Valuation Reports (Market Value or Fair Value).

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.

Yes, provided differences between *standardized measures* (such as NPV arrived by using certain pre-defined assumptions, rather than market valuation assumptions) and *valuation bases* (such as market value or fair value) are clearly disclosed and applied.

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.

Yes, provided these are reconciled with IVSC standards and IFRS, as these presently use different bases of value.

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.

But it would make sense to clearly distinguish between (a) technical reports, that cover availability and quantity of minerals and (b) valuation reports that report fair value or market value of the minerals or the business that owns right to explore and extract them.

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.

Valuation report, which in our view should cover all assets and operations (business) and not just real estate as presently is the requirement under the Listing Rules, is a good way to obtain independent opinion on assets and liabilities of the applicant. Valuations performed by professional valuers in accordance with IVSC will tie nicely into following IFRS financial reporting. This is in contrast with the proposed CPRs which do not follow fair value basis.

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.

Yes, reserves and resources are their core assets and are critically important for their operations and valuations.

- 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.

Yes, reserves and resources are their core assets and are critically important for their operations and valuations.

- 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.

Yes, provided the acquiring company confirms that resources and reserves previously disclosed publicly were the basis of establishing price of the transaction and/or the company believes that such reserves and resources are correct.

- 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.

Yes, reserves and resources are their core assets and are critically important for their operations and valuations.

- 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.

Yes, to the extent it is feasible and not unnecessarily burdensome.

- 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.

Yes, provided that consultants including so called CPs (we suggest to adopt a different terminology), are not understood to guarantee achieving value of certain performance targets, but are qualified providers of opinions. It is critically important to achieve consistency of standards (financial, valuation, geological/technical, etc.) and definition in terms of financial reporting, disclosure and basis of value. Responsibility for technical reports should be on issuers of securities.

- 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.

Yes, provided that consultants including so called CPs (we suggest to adopt a different terminology), are not understood to guarantee achieving value of certain performance targets, but are qualified providers of opinions. It is critically important to achieve consistency of standards (financial, valuation, geological/technical, etc.) and definition in terms of financial reporting, disclosure and basis of value.

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.

This is a very important issue critically important to companies longer term sustainability.

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.

Such decision should follow strategy of the stock exchange. The exchange may opt to establish two tier listing structure as LSE/AIM, or limit itself to listing of only established companies with acceptable risk characteristics. We agree that if a single listing pool is maintained, early exploration companies may not be admitted. However we do not feel it appropriate to advise HKEx on such selection.

- 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.

Such decision should follow strategy of the stock exchange. The exchange may opt to establish two tier listing structure as LSE/AIM, or limit itself to listing of only established companies with acceptable risk characteristics. We agree that if a single listing pool is maintained, early exploration companies may not be admitted. However we do not feel it appropriate to advise HKEx on such selection.

- 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.

This disclosure is or should be in place for near-production companies as part of their feasibility study and/or Competent Person or valuation report, hence it is effectively available at the time of application. The only problem will be purely exploration companies that may not have such plans yet because they have no resource properties and are at very early stages of exploration.

- 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.

In terms of risk characteristics, both near-production companies and exploration companies are not yet having started production and hence different in their risk profiles and type of activities. Market capitalization may not correctly reflect size of a company , but rather a level of debt assumed by the company.

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.

This definition confuses two apparently different types of activities and attributes of risks, i.e. *mineral companies* (we are not sure that this is the best class name for companies engaged in extraction of natural resources), and *exploration companies* - which are essentially more risky.

A Mineral and Exploration Company will be defined as one whose "principal activity (whether directly or through its subsidiaries) involves the exploration for or extraction of natural resources (including minerals, oil and gas or solid fuels)."

Principal activity should be determined by whether the activity represents 25% or more of assets, gross revenue or operating expenses. Existing listed issuers engaged in the resources sector will not be automatically treated as Mineral and Exploration Companies unless they complete a major transaction (or above) to acquire mineral or exploration assets after our proposals take effect.

- End -