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## **EXPLORATION DEVELOPMENT INITIATIVE**

Thank you for the opportunity to comment on the draft legislation establishing an Exploration Development Initiative (EDI). While we have not been able to make a detailed assessment of the provisions in the short consultation period provided, ASX offers the following comments on some elements of the legislation.

### **Greenfields mineral explorer**

ASX questions whether the current drafting of the definition of a 'greenfield mineral explorer' (s418-75) is too broad in that subsection (1)(d) states that the company is excluded if the entity or any connected entity "has carried on any mining operations of a mining property ....".

It is possible that in the life cycle of a company it may transition from being an explorer to a producer and then back to a pure explorer again. As currently drafted the provision may mean that such companies are excluded from ever accessing the EDI in the future even though, at that time they seek to claim it, they have no production related activity. ASX suggests that consideration be given to providing guidance, that such a restriction should only apply if the entity or associated entities had carried out mining operations in, say, the previous twelve months.

ASX notes that definition of 'greenfield mineral exploration' (s418-80) does not extend to a situation where the area under exploration is considered at least an "inferred resource" under the JORC Code.

While all listed companies are required to comply with the JORC Code the same standards for classifying resources are not necessarily followed by unlisted companies. This could create a situation where a listed company, held to a higher disclosure standard, becomes ineligible for the EDI while an unlisted company with a substantially equivalent mineral resource does not. One possible solution for addressing this unequal treatment would be to require that any company seeking to claim the EDI has to comply with JORC Code.

As a separate drafting point, ASX questions if it is superfluous to include the words “or an ore reserve that is at least probable” in s418-80 subsection (3)(c) given that a company would not declare an ore ‘reserve’ without having first declared a ‘mineral resource’.

### Issuing exploration credits

ASX notes that where a company proposes to limit the availability of the EDI to ‘new’ shareholders who hold equity interests issued after 1 July 2014 (s418-115) that this would require the creation of a new class of shares. This would be necessary in order to be able to effectively track the secondary trading in the shares with this entitlement attached from the day of issue until the record day for determining the issuing of exploration credits.

The Corporations Act requires that shareholder approval would be needed to issue a new class of shares and may also involve a prospectus being issued.

In addition, in order for the new class of securities to qualify for quotation on ASX they would need to and satisfy a number of minimum conditions designed to provide a foundation for liquid secondary trading. These are expressed in Listing Rule 2.5 (Condition 6) namely:

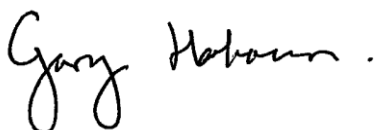
*If the securities are a class of equity securities, or other securities with rights of conversion to equity, that are not already quoted, there must be at least 100,000 securities and 50 holders with a marketable parcel (excluding restricted securities). This condition does not apply if either of the following requirements is met.*

- (a) The securities would be in the same class as the fully paid ordinary securities of the entity (ignoring the fact that they do not rank equally for the next dividend - in the case of a trust, distribution - and ignoring any right to participate in a concurrent offer) and there are at least 1 million securities.*
- (b) The securities are a class of partly paid securities, there are at least 1 million securities, they are paid to not less than 40% of their issue price and the uncalled amount is payable on a fixed date which is within 12 months after the issue date.*

The Corporations Act and ASX Listing Rule requirements may significantly affect the attractiveness of issuing a new class of security for many small mining explorers.

I hope the forgoing is of some assistance in developing the final legislation to establish the Exploration Development Initiative.

Yours sincerely



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