



JORC CODE: ASIC UPDATE

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ASIC

Australian Securities &
Investments Commission

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Wednesday 10 December 2008

Discussion Topics

1. History of JORC
2. ASIC's general approach in fundraising
3. ASX Companies Update 11/07 - Waivers of Listing Rule 5.6
4. ASIC's general approach in takeovers
5. Recent Takeovers Panel decision in Midwest Corporation Limited
6. ASIC Policy – RG 55, RG111, RG 112

History of JORC

Where we have come from?

Poseidon Boom

Rae Committee

JORC Code

What was the problem we were seeking to fix?

Rumours

Assumptions

Quality of geological reports

JORC and fundraising

- ASIC continues to monitor compliance with JORC.
- JORC compliant information is information that is reasonably required by investors i.e. information required to be disclosed under s710 of the Corporations Act.
- This applies equally to listed and unlisted entities.
- Non-JORC material may be allowed for listed entities where historical (pre JORC or competent person) or foreign report & ASX has granted waiver of LR 5.6.
- ASIC will consider disclosure issues on case by case basis for both listed (in consultation with ASX) and unlisted companies having regard to approach in ASX Companies Update 11/07.

JORC and takeovers

- ASIC continues to monitor compliance with JORC in takeover documents and schemes of arrangement.
- Foreign mining companies offering scrip required to provide JORC compliant information.
- ASIC may consider alternatives on case by case basis having regard to approach in ASX Companies Update 11/07.

JORC and takeovers

Midwest Corporation Limited [2007] ATP 33

- Production targets are forward looking statements.
- Important for the production targets that were made to comply with the spirit of JORC.
- Forward looking statements should not be used unless the aspirational nature and reasonable basis for the statements is clearly set out.
- In this case, additional disclosure was provided to shareholders.

RG 55

Disclosure documents and PDS: Consent to quote

- RG 55 sets out ASIC's policy on the requirement to obtain consent before citing a person in a disclosure document.
- The requirement triggers liability (see item 5 of s729).
- CO 07/428 gives relief to reference a historical geological report without consent if lodged with an Australian mines department or ASX.
- CO 07/428 does not extend to foreign geological reports therefore consent still required.
- ASIC will consider any 'consent' issues in consultation with ASX where ASX may have granted a waiver of LR 5.6 in relation to the foreign geological report.
- ASIC considers the same principles relevant in takeovers.

RG 111 Content of expert reports

- RG 111 gives guidance to experts on how to draft an expert report that satisfies the requirements of the Act.
- Principles relevant to independent expert reports prepared for transactions under Chapters 5, 6 and 6A.
- Principles are also relevant to geologists reports for inclusion in Ch 6D disclosure documents and Ch 7 product disclosure statements.
- Key requirement is disclosure of methodologies and assumptions.

RG 112 Independence of experts

- RG 112 gives guidance on the need for an expert to be independent.
- ASIC continues to monitor fundraising and takeovers disclosure for disclosure of relationships and interests.