ISSUES IN CANADIAN GEOSCIENCE

A report card on the implementation of the Mining Standards Task Force recommendations: Where are we one year later?

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Here we are, little more than 1 year after the February 1999 release of the Mining Standards Task Force (MSTF) report (TSE [Toronto Stock Exchange], 1999a) and it is time for a check up or "report card" on progress.

Although much has been said and written about the Mining Standards Task Force report and its recommendations (*e.g.*, Jensen, 1998), many people still ask why the Task Force was established and why we need its recommendations. A number of incidents relating to the securities of mineral exploration and mining companies served as an impetus to the formation of the joint Mining Standards Task Force by the Ontario Securities Commission (OSC) and the Toronto Stock Exchange (TSE). Public confidence in the securities of such companies was shaken by these incidents, and the industry as a whole suffered a major setback. While the most talked about incident was, of course, the failure of Bre-X in 1997, there were many other problems that started the public questioning whether this was really an industry worth risking capital on. Since access to capital is one of the core needs of the mining business, public disenchantment with the industry created a dire risk to the future of Canadian mining and exploration companies. There is no question that the loss of investor confidence has been devastating for the Canadian mining industry. For the past 3 years the industry has had a very difficult time accessing capital. Without significant changes to industry standards investors do not seem to be prepared to begin investing once again. Part of this disinterest reflects the state of commodity markets, but some disinterest is due to investors simply not believing in the industry. Without essential capital, exploration will decline, exploration departments will close, and companies will look to other countries for their next development prospect. Thus the Canadian mining industry needs to do everything it can to win back the trust of the investing public.

The final MSTF Report, released on 2 February 1999 (TSE, 1999a), contained recommendations for review, discussion and implementation by the industry. The Task Force concluded that given the size, scope and complexity of an increasingly global mining industry, a number of improvements to current practices should be implemented. The Task Force put forth 66 recommendations to improve the standards governing operating activities and public disclosure in the mining industry. These recommendations do not mandate specific methodologies or impose intrusive over-regulation on the industry, but have been proposed to help craft a regulatory environment that will yield significant returns in terms of market integrity and investor trust.

The MSTF recommendations can be grouped into four key areas as follows:

1. Formalization and enhancement of the role of the Qualified Person (QP) concept in the Canadian mining industry;
2. Establishment of national standards in the mining industry, including exploration "best practices guidelines" based on industry standards in mining exploration;
3. Adoption of higher disclosure standards by exploration and mining companies, as well as development of national standards for all analysts who report their recommendations to the marketplace;
4. The establishment of national uniformity in regulation, and improved application/supervision.

To implement these recommendations, changes were needed in the national securities rules to encourage development of a common process and a common set of rules and guidelines right across Canada. Securities rules also had to recognize the QP concept in all provincial and territorial jurisdictions of Canada. Perhaps most fundamentally, stock exchanges across Canada also needed to make changes in their rules and policies to recognize the MSTF recommendations and to harmonize their processes, especially for companies active in many parts of Canada. Publicly listed mining companies needed to change their practices of disclosure as well as involving QPs in technical reporting. These companies also needed to recognize that their sharehold-

ers deserve better public reporting of technical results. Governments and professional organizations needed to work towards the licensing of geoscientists across Canada to ensure that all jurisdictions have the ability to regulate the practice of engineering *and* geoscience. With respect to mining analysts, a committee needed to be struck to discuss and determine what changes are required to ensure that investors understand whether analysts' recommendations are the result of detailed analysis, or simply a restatement of company information. There needed to be increased monitoring of company disclosure and compliance to ensure that the new rules have a positive effect on disclosure. Finally there needed to be co-operation on the investigation and enforcement of all rules affecting mining companies operating in the public marketplace. A "report card" has been prepared to assess progress to date in these areas (Table 1). The progress on each of these recommendations has been rated on a scale from A to D, to identify what progress has been made and, if so, how this has changed practice since the release of the MSTF report just over 1 year ago.

QUALIFIED PERSON CONCEPT

The Qualified Person (QP) concept is based on the Australian "Competent Person" concept. The MSTF expanded this concept to include the implementation of "best practice guidelines for exploration," outlining the need for independent reporting at different key points in a company's progress.

Essentially the QP concept means that mining and exploration companies will be expected to have qualified, experienced and licensed professionals involved in their projects where results are reported to the public. In some cases these professionals will have to be independent of the company, rather than employees. In most jurisdictions in Canada the QP concept can be implemented today, because both engineers and geoscientists are already licensed or

Table 1 A report card on implementation of the Mining Standards Task Force Recommendations (1999) to April 2000. Highest grade A+, lowest grade D. See text for discussion.

	REPORT CARD	
Subject	**Progress**	**Comments**
1. QP Concept into National Rules	A	• NI 43-101 in draft
2. QP Concept into Stock Exchange Rules	B	• In TSE rules, applied by CDNX
3. Country-wide Licensing of Geoscientists	B+	• Ontario moving to licensure • Quebec thinking about right to title
4. More Resources for Enforcement	B	• Working to share and maximize resources
5. New Mining Disclosure Standards	A+	• TSE companies mandatory • CDNX disclosure rules • Valuation committee underway
6. Adoption of CIM Resource and Reserve Definitions	A+	• In 43-101, TSE rules and guidelines, CDNX applies
7. Best Practice Guidelines for Exploration and Reporting	A	• Under development by industry • Released in draft for comment
8. Standard Reporting Format for Reports	A	• In 43-101 • TSE and CDNX guidelines
9. Standardize Production Reporting	C	• Not applied • Only gold guidelines available
10. Higher Standards for Mining Analysts	B+	• Committee underway • Interim report mid 2000
11. Strengthen Regulatory Oversight	B+	• TSE and CDNX strengthen review of press releases • New disclosure unit at OSC • NI 43-101 applies to all disclosure
12. Co-ordinate Regulatory Supervision	D	• Separate review • Difficult to share information • Working to use same data base
13. Educate the Public about Mining	B+	• Mining matters • Short courses, seminars, publications
Average	B+	**Remarkable progress in just 1 year**

licensing is underway. There are, however, two provinces that do not license geoscientists at present: Ontario and Quebec. Thus the QP concept requirement for membership in a self-regulating profession is not yet possible to implement in those two provinces. Because the QP concept is included in draft NI (National Instrument) 43-101 (Canadian Securities Administrators, 2000) that is expected to be implemented later this year, it is necessary that geoscientists be licensed everywhere in Canada by 2002. The recent commitment by the Ontario government to license geoscientists (Ontario government news release, 7 March 2000) leaves only the Province of Quebec yet to consider licensing geoscientists. Once Quebec does this, the entire country will have a common professional standard, backing the QP concept that will be enforced by NI 43-101 and by Canadian stock exchanges.

EXPLORATION BEST PRACTICE GUIDELINES

A draft set of best practice guidelines for exploration has been developed by the mining industry. These guidelines outline the basic steps necessary in a well-run exploration program, and have been developed to assist explorationists in planning quality programs. Most practitioners will already be following these guidelines; however, the guidelines have been developed to ensure that at least a minimum standard is applied in all programs from which results are reported to the public. The guidelines were published for comment in 1999 (PDAC [Prospectors and Developers Association], 1999) and it is expected that the final guidelines will be published in the summer of 2000, by the PDAC and by the Canadian Institute of Mining, Metallurgy and Petroleum (CIM).

HIGH DISCLOSURE STANDARDS

The release of NI 43-101 and the TSE Disclosure Standards for Mining Companies (TSE, 1999b) has set a new benchmark for reporting mining technical information in the public marketplace. These new standards will provide investors with enough information to understand the context of most quantitative analytical results and to be able to compare quantitative analytical results from different companies. Implementation of these standards will ensure that good reporting replaces the race to "over-promotion."

UNIFORMITY IN REGULATION AND BETTER REGULATORY SUPERVISION

The large number of jurisdictions in Canada has always thwarted the co-ordination of legislation across Canada. The formation of the Canadian Securities Administrators group (CSA) has moved us closer to one "virtual securities commission" than ever before. The publication and implimentation of the new NI 43-101 document requires all mining companies to report technical information to one standard across the country.

Co-ordinated enforcement and regulatory supervision have not moved as quickly, however. Exchanges and securities commissions across Canada are now working hard to co-ordinate investigations and enforcement actions. The next few years should see great improvement in the form of a co-ordinated response by regulators.

IMPLEMENTATION OF MSTF RECOMMENDATIONS

Implementation of the MSTF recommendations by mining companies, mining professionals, professional associations, stock exchanges, securities commissions, consulting groups, mining analysts, investor relations professionals, analytical laboratories, and police enforcement agencies is going extremely well. Currently 35 of the 66 proposed MSTF recommendations have been implemented. The TSE has adopted all of the TSE-focussed recommendations, and, as noted above, has produced a new set of disclosure standards for the mining industry (TSE, 1999b). The TSE also has changed the company manual, listing application, and listing standards, and is currently working on mining analyst standards with the Investment Dealers Association and the Calgary-based Canadian Venture Exchange (CDNX). The Canadian Securities Administrators group (CSA) has produced a final draft of the new National Instrument 43-101 that implements many of the recommendations across Canada, including the QP concept. The CIM is working on several recommendations concerning resource and reserve definitions and valuation practice. As also noted above, an industry committee has produced a set of best practice guidelines for exploration and reporting in co-operation with many industry associations.

CONCLUSIONS

Implementation of the MSTF recommendations has already had the reward of much better disclosure in the public marketplace, as well as better understanding of the need for professionals to encourage the use of higher standards of disclosure. We need to continue to work at winning back investor confidence, ensuring that the Canadian industry does not put its head in the sand and say "nothing needs to change." It is abundantly clear that the lack of delivery of quality results in a transparent marketplace would continue to drive investors away from investment in the mining industry.

Mining will continue to need access to capital and therefore new investors. All players in the mining industry must ensure that we deliver value in the form of good professional work, clear reporting standards, and positive market returns. The changes recommended by the MSTF are a key aspect of the ongoing process of re-invigoration of the dynamic Canadian mining industry.

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