

# Market disclosure protocol

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Ivanhoe Australia Limited ACN 107 689 878 (**Company**)

MinterEllison

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## 1. Introduction

- 1.1 The shares of the Company are quoted on ASX Limited (**ASX**) and the Toronto Stock Exchange (**TSX**).
- 1.2 A company must continuously disclose “price-sensitive information” (as defined below) to the market. Price-sensitive information is information that a reasonable person would expect to have a material effect on the price or value of a company's securities.
- 1.3 The various market disclosure obligations are given legislative force under the *Corporations Act 2001* (Cth), ASX Listing Rules and the Ontario Securities Act.
- 1.4 The Group is committed to complying with the continuous disclosure obligations contained in both jurisdictions.
- 1.5 This protocol embraces the principles contained in the ASIC guidance note, *Better Disclosure for Investors*, ASX Guidance Note 8, the *Principles of Good Corporate Governance and Best Practice Recommendations* published by the ASX Corporate Governance Council and TSX Guideline 1D *Corporate Governance: A Guide to Good Disclosure*.

## 2. Defined terms

In this protocol:

**Company Securities** includes shares in the Company or a Group member, options (warrants) over those shares and any other financial products of the Group traded on the ASX or TSX.

**Disclosure Officer** means the company secretary.

**Group** means the Company and its controlled entities.

**Exchanges** means the Australian Securities Exchange and the Toronto Stock Exchange.

**Price sensitive information** includes any information relating to the business and affairs of the Company that results in, or would reasonably be expected to result in a significant change in, or have a material effect on, the market price or value of the Company's securities or that would be expected to have a significant influence on a reasonable investor's investment decision.

**Reporting Legislation** includes *Corporations Act 2001* (Cth), ASX Listing Rules and the Ontario Securities Act.

## 3. Objective

The objective of this protocol is to:

- (a) ensure the Company immediately discloses all price-sensitive information to the Exchanges and the public in accordance with the Reporting Legislation;
- (b) ensure officers and employees are aware of the Company's continuous disclosure obligations; and
- (c) establish procedures for

- (i) the collection of all potentially price-sensitive information;
  - (ii) assessing if information must be disclosed to the Exchanges and the public under the reporting legislation;
  - (iii) releasing to the Exchanges and the public information determined to be price-sensitive information and required to be disclosed; and
  - (iv) responding to any queries from the exchanges.
- (d) ensure the Company complies with Toronto Stock Exchange *Policy Statement on Timely Disclosure*, the Ontario *Securities Act* and all applicable rules and policies of the Ontario Securities Commission and any other securities regulatory body having jurisdiction over the Company, including the requirements of *National Instrument 43-101*.

## 4. Disclosure Committee

4.1 The board has established the Disclosure Committee.

4.2 The Disclosure Committee is a management committee.

4.3 The Disclosure Committee comprises:

- (a) chief executive officer;
- (b) chief financial officer (or equivalent)
- (c) executive general manager - commercial;
- (d) manager – legal;
- (e) investor relations officer (or equivalent); and
- (f) company secretary.

4.4 The Disclosure Officer is the convenor of the Disclosure Committee.

4.5 The quorum for a meeting of the Disclosure Committee is 2 members.

4.6 Decisions of the Disclosure Committee are by simple majority vote of those members of the committee available when a decision is required. If the Disclosure Committee cannot reach consensus on a matter, the matter must be referred to the board.

## 5. Purpose and responsibilities of the Disclosure Committee

5.1 The purpose of the Disclosure Committee is to help the board achieve its objective to establish, implement and supervise a continuous disclosure system.

5.2 The Disclosure Committee is responsible for:

- (a) deciding if information should be disclosed to the exchanges in accordance with paragraph 7 and subject to any decision of the board;
- (b) ensuring compliance with continuous disclosure obligations;
- (c) establishing a system to monitor compliance with continuous disclosure obligations and this protocol;
- (d) monitoring regulatory requirements so that this protocol continues to conform with those requirements;

- (e) monitoring movements in share price and share trading to identify circumstances where a false market may have emerged in Company Securities; and
- (f) making decisions about trading halts.

## 6. Disclosure Officer

6.1 The board has appointed the company secretary to act as the Disclosure Officer.

6.2 The Disclosure Officer is responsible for:

- (a) conducting all disclosure discussions with the Exchanges and securities commissions;
- (b) communicating with the Exchanges and securities commissions about general matters concerning the Reporting Legislation;
- (c) ensuring officers and employees are aware of and adequately understand:
  - (i) the continuous disclosure obligations;
  - (ii) their responsibilities in relation to the continuous disclosure obligations and to protect the confidentiality of information (including, when instructing advisers or conducting negotiations in relation to any matter that may give rise to price-sensitive information); and
  - (iii) this protocol; and
- (d) if the Disclosure Officer thinks it necessary, implementing training sessions for officers and employees in relation to the continuous disclosure obligations, their responsibilities in relation to those obligations and the protection of confidential information and this protocol.
- (e) implementing and supervising procedures for reporting potentially price-sensitive information; and
- (f) ensuring (using all reasonable endeavours) announcements are factual, do not omit material information and are expressed in a clear and objective manner that allows investors to assess the impact of the information when making investment decisions.

6.3 The Disclosure Officer must maintain a file (**Disclosure File**) of:

- (a) material disclosed to the Exchanges and the public;
- (b) communications with the Exchanges and securities commissions;
- (c) potentially price-sensitive information that has come to the Disclosure Officer's attention and has not been disclosed to the Exchanges or the public; and
- (d) reasons why any potentially price-sensitive information was not disclosed.

6.4 The Disclosure Officer must report the information referred to in paragraph 6.3 to:

- (a) the Disclosure Committee at each Disclosure Committee meeting; and
- (b) the board at each regular board meeting.

## 7. Deciding if information should be disclosed

7.1 The Disclosure Committee is responsible for deciding if information should be disclosed, in accordance with paragraphs 7.2 to 7.4. All potentially price-sensitive information must be given

to the Disclosure Officer or another member of the Disclosure Committee (if the Disclosure Officer is unavailable).

- 7.2 If the Disclosure Committee decides information is price-sensitive and must be disclosed, the Disclosure Officer must communicate the information to the Exchanges and publicly disclose the information.
- 7.3 If the Disclosure Committee cannot reach consensus as to whether information is price-sensitive or if it must be disclosed, the Disclosure Committee must refer the matter to the board who will, if necessary, seek external legal or financial advice. If the Disclosure Committee or the board decides that the information is price-sensitive, the Disclosure Officer must communicate the information to the Exchanges and publicly disclose the information.
- 7.4 If the Disclosure Committee decides information is not price-sensitive, or does not have to be disclosed, the Disclosure Officer must:
- (a) make careful notes setting out:
    - (i) how the information came to their attention; and
    - (ii) why it is not price-sensitive, or why it does not have to be disclosed; and
  - (b) place those notes on the Disclosure File.
- 7.5 If an officer or employee is in doubt about whether information is potentially price-sensitive, he or she must immediately give the information to the Disclosure Officer or another member of the Disclosure Committee (if the Disclosure Officer is unavailable).

## 8. Assessing if information is price-sensitive

- 8.1 The guiding principle of price sensitive information is that the Company must immediately disclose to the Exchanges and the public any information concerning the Group that a reasonable person would expect to have a material effect on the price or value of Company Securities. If information would, or would be likely to, influence persons who commonly invest in securities in deciding whether to acquire or dispose of Company Securities, it is material. However, information could be material in other ways. Price sensitive information consists of both material facts and material changes relating to the business and affairs of the Company.
- 8.2 Examples of the types of information that may need to be disclosed include:
- (a) a change in revenue, or profit or loss, forecasts;
  - (b) a change in asset values or liabilities;
  - (c) a change in tax or accounting policy;
  - (d) a change in the attitude of significant investors to investing in Company Securities;
  - (e) a decision of a regulatory authority in relation to the Group's business;
  - (f) a relationship with a new or existing significant customer or supplier;
  - (g) a formation or termination of a joint venture or strategic alliance;
  - (h) an entry into or termination of a major contract;
  - (i) a significant transaction involving the Company or any of its controlled entities;
  - (j) a labour dispute;

- (k) a threat, commencement or settlement of any material litigation or claim;
- (l) the lodging of a document containing price-sensitive information with an overseas exchange or other regulator so that it is public in that country;
- (m) an agreement between the Company and one of its directors or one of their related parties;
- (n) a director's health; or
- (o) significant exploration results.

8.3 There are many other types of information that could give rise to a disclosure obligation. For example, a development in a company affiliated with, but not controlled by, the Company may be price-sensitive when related to the Company itself. If there is any doubt, the information should be disclosed to the Disclosure Officer or another member of the Disclosure Committee (if the Disclosure Officer is unavailable).

## 9. Principles of Disclosure of Material Information

9.1 The Company will adhere to the following basic disclosure principles:

- (a) Material information will be publicly disclosed as soon as practicable via news release.
- (b) In certain circumstances, it may be determined that complete disclosure would be unduly detrimental to the Company. For example, if release of the information would prejudice negotiations in a corporate transaction. In such cases the information will be kept confidential until the Committee determines that it is appropriate to publicly disclose it.
- (c) Disclosure must be made in terms that can be clearly understood by the reasonable investor and should include a full description of the material information, how it positively or negatively impacts the Company and any information the omission of which would make the rest of the disclosure misleading.
- (d) Unfavorable material information must be disclosed as promptly and completely as favourable information.
- (e) Previously undisclosed material information must not be disclosed to selected individuals, for example, in an interview with an analyst or in a telephone conversation with an investor. If previously undisclosed material information has been inadvertently disclosed to an analyst or any other person not bound by an express confidentiality obligation, such information must be broadly disclosed as soon as practicable via news release.
- (f) Disclosure on the Company's website alone does not constitute adequate disclosure of material non-public information.
- (g) Disclosure must be corrected as soon as practicable if the Company subsequently learns that earlier disclosure by the Company contained a material error at the time it was given.

## 10. Exception to disclosure

The Company does not have to give the Exchanges information or publicly disclose information if:

- (a) a reasonable person would not expect the information to be disclosed;
- (b) the information is confidential and the Exchanges have not formed the view that the information has ceased to be confidential; and
- (c) one or more of the following conditions applies:
  - (i) it would be a breach of the law to disclose the information;
  - (ii) the information concerns an incomplete proposal or negotiation;
  - (iii) the information comprises matters of supposition or is insufficiently definite to warrant disclosure;
  - (iv) the information is generated for internal management purposes; or
  - (v) the information is a trade secret.

## 11. False markets, market speculation and rumours

11.1 Market speculation and rumours, whether substantiated or not, have the potential to impact on the Company. Speculation may also contain factual errors that could materially affect the Company.

11.2 The Disclosure Committee will monitor movements in the price or trading of Company Securities to identify circumstances where a false market may have emerged in Company Securities.

11.3 If the Exchanges ask the Company to give it information to correct or prevent a false market, the Disclosure Officer is responsible for giving the information to the exchanges after following the procedure in paragraph 7.

11.4 The Group's general policy on responding to market speculation and rumours is that it does not respond to market speculation or rumours. However, the Disclosure Committee may decide to make a statement in response to market speculation or rumours if:

- (a) it considers it is obliged at that time to make a statement to the market about a particular matter; or
- (b) the Exchanges asks for information,

to prevent or correct a false market occurring in Company Securities.

## 12. Public release of disclosed information

12.1 The Company will publicly release all information disclosed to the exchanges under this protocol by placing it on its website.

12.2 The Disclosure Officer must confirm that the Company has received confirmation from the exchanges that the information has been released to the market, before publicly releasing the information.

## 13. Trading halts

- 13.1 The Company may ask the Exchanges to halt trading in Company Securities to:
- (a) maintain orderly trading in its securities; and
  - (b) manage disclosure issues.
- 13.2 The Disclosure Committee will make all decisions about trading halts.
- 13.3 Employees may only ask the Exchanges for a trading halt if the Disclosure Committee approves.

## 14. Authorised spokespersons

- 14.1 Only the following persons may speak on behalf of the Group to institutional investors, stockbroking analysts and the media:
- (a) the chief executive officer;
  - (b) the executive general manager – commercial;
  - (c) the chairman; and
  - (d) Peter Meredith for so long as he is a director of both the Company and Ivanhoe Mines Ltd.
- 14.2 Those persons may only clarify information that the Company has publicly released and must not comment on price-sensitive information that has not been released to the market.
- 14.3 The Group will not expressly or implicitly give institutional investors or stockbroking analysts earnings forecast guidance that has not been released to the market.
- 14.4 If other employees are asked to comment by an external investor, stockbroking analyst or the media in relation to any matter concerning the Group they must:
- (a) say that they are not authorised to speak on behalf of the Company; and
  - (b) refer the investor, stockbroking analyst or media to the Disclosure Officer.
- 14.5 Before any media release can be issued to the media the Disclosure Officer must:
- (a) review it;
  - (b) disclose it to the Exchanges; and
  - (c) confirm that the Company has received confirmation from the exchanges that the information in the media release has been released to the market.

## 15. Open briefings to institutional investors and stockbroking analysts

- 15.1 The Company may hold open briefings with institutional investors or stockbroking analysts to discuss information that has been released to the market.
- 15.2 For the purposes of this protocol:
- (a) public speeches and presentations by the chief executive officer or chief financial officer are open briefings; and
  - (b) any meeting that is not an open meeting is a one-on-one briefing.
- 15.3 Price-sensitive information that has not been released to the market must not be disclosed at open briefings.

- 15.4 If a question raised in a briefing can only be answered by disclosing price-sensitive information, employees must:
- (a) decline to answer the question; or
  - (b) take the question on notice and wait until the Company releases the information to the market through the exchanges.
- 15.5 If an employee participating in a briefing thinks that something has been raised that might be price-sensitive information that has not been publicly released, he or she must immediately inform the Disclosure Officer or another member of the Disclosure Committee (if the Disclosure Officer is unavailable).
- 15.6 Before any open briefing, the Company will inform the market about the briefing through the Exchanges and on the Company's website.

## 16. One-on-one briefings with institutional investors and stockbroking analysts

- 16.1 It is in the interests of shareholders that institutional investors and stockbroking analysts have a thorough understanding of the Group's business, operations and activities.
- 16.2 The Company may hold one-on-one briefings with institutional investors and stockbroking analysts. At these briefings, the Company may give background and technical information to help institutional investors and stockbroking analysts better understand its business operations and activities.
- 16.3 For the purposes of this protocol, a one-on-one meeting includes any communication between the Company and an institutional investor or a stockbroking analyst.
- 16.4 Price-sensitive information that has not been released to the market must not be disclosed at one-on-one briefings.
- 16.5 File notes must be made of all one-on-one briefings and kept for a reasonable period.
- 16.6 If an employee participating in a one-on-one briefing thinks that something has been raised that might be price-sensitive information that has not been publicly released, he or she must immediately inform the Disclosure Officer or another member of the Disclosure Committee (if the Disclosure Officer is unavailable).
- 16.7 Before any series of one-on-one meetings, the Company will inform the market about the one-on-one briefings through the exchanges and on its website.

## 17. Presentational and briefing materials

Any presentational or briefing materials for open or one-on-one briefings must be given to the Disclosure Officer before the briefing to determine if they contain any price-sensitive information that has not been released to the market.

## 18. 'Blackout' periods

To protect against inadvertent disclosure of price-sensitive information, the Company will not hold one-on-one and open briefings (except to deal with matters subject to an announcement through the exchanges) between:

- (a) the end of its financial reporting periods and the announcement of results to the market;
- (b) sending notice of an annual general meeting to shareholders and the holding of the meeting; and
- (c) any other period during which employees, officers or directors are prevented from trading securities of the Company pursuant to the Share Trading Policy.

## 19. Review of reports by analysts

- 19.1 The Group is not responsible for, and does not endorse, reports by analysts commenting on the Company.
- 19.2 The Group does not incorporate reports of analysts in its corporate information, including its website (this also extends to hyperlinks to websites of analysts).
- 19.3 If an analyst sends a draft report to the Group for comment:
  - (a) employees must immediately send it to the Disclosure Officer;
  - (b) any response to it will not include price-sensitive information that has not been disclosed to the market;
  - (c) it will only be reviewed to correct factual inaccuracies on historical matters; and
  - (d) no comment will be made on any profit forecasts contained in it.
- 19.4 Any correction of a factual inaccuracy does not imply that the Group endorses a report.
- 19.5 A standard disclaimer will be made in any response to an analyst.

## 20. Informing employees

- 20.1 This protocol or a summary of it will be distributed to employees to help them understand the Company's continuous disclosure obligations, their individual reporting responsibilities and the need to keep the company's information confidential.
- 20.2 The Group's share trading policy will also be distributed to the employees. That policy also relates to the treatment of price-sensitive information.

## 21. Protocol breaches

If an employee breaches this protocol, he or she may face disciplinary action, including dismissal in serious cases.

## 22. Questions

Any questions about the Company's continuous disclosure obligations or this protocol should be referred to the Disclosure Officer.

## 23. Review and changes

- 23.1 The Disclosure Committee will review this protocol as often as it considers necessary.
- 23.2 The board may change this protocol from time to time by resolution.

## 24. Approved and adopted

This protocol was approved and adopted by the board on 21 December 2010.