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National Instrument 43-101: The Requirement to Disclose Complete and Transparent Exploration Results

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Exploration results are often the first glimpse investors and stakeholders have into the potential of a mineral project or the expansion thereof. Selective or incomplete disclosure, in particular with respect to drill results, can be misleading, distort expectations and undermine confidence. Issuers that disclose exploration information[1] in writing, including in news releases, must comply with Section 3.3 of National Instrument 43-101 – *Standards of Disclosure for Mineral Projects* (NI 43-101), which on its face requires that an issuer include the following in the disclosure:

a. material results of surveys and investigations regarding the property;
b. interpretation of the exploration information; and
c. quality assurance and quality control (QA/QC) measures applied during the work.

Alternatively, where the above-noted information is included in a document that has been previously filed on SEDAR+ by an issuer, NI 43-101 permits the issuer to include a cross-reference to the previously filed information rather than include it in the disclosure directly.

Where sample, analytical, or testing results are disclosed on a property material to the issuer, the following additional details are required:

a. location and type of samples;
b. drill hole location, azimuth, dip, and depth of intervals;
c. summary of analytical values, widths, and true widths (where known);
d. results of higher-grade intervals within lower-grade intersections;
e. factors affecting accuracy or reliability (e.g., recovery issues); and
f. description of analytical/testing procedures, sample size, laboratories used, and any issuer–lab relationships.

Although Section 3.3 of NI 43-101 refers to disclosure of “material” results, regulators believe balanced disclosure extends beyond just the material results, and generally expect issuers to provide complete disclosure from all drill holes when reporting drilling and assay results. Both positive and negative analytical results should be reported, including ‘no significant assay’ intervals. Providing “good news” only potentially results in selective disclosure, and is not permitted and disclosure that is not balanced can be potentially misleading. For instance, reporting only three high-grade holes out of 20 total holes may not provide investors with the complete picture, and could result in misleading disclosure. Complete and comprehensive disclosure ensures readers have the most accurate and comprehensive information regarding the exploration results. Thus, exploration results must be representative of the program as a whole, including both positive and negative information. Best practice is to include a **full table of drill results** in the news release itself or to insert a cross-reference to previously disclosed/filed information. Issuers are encouraged to post all drilling and assay results on their website.

Issuers are reminded that it is not sufficient to include certain drill results in the news release with a hyperlink to an external website for the complete list. Regulators have expressed a concern that hyperlinks can be broken over time, which potentially leaves future readers without critical context. If the information is important enough to be hyperlinked, it is important enough to be in the news release. For more details on hyperlink guidance, please see CSA Multilateral Staff Notice 51-361 – *Continuous Disclosure Review Program Activities for the fiscal years ended March 31, 2020 and March 31, 2019*.

Other common pitfalls for issuers disclosing exploration information include:

a. reporting only “headline” intersections without context;
b. omitting QA/QC procedures or laboratory details;
c. using technical jargon without explanation (e.g., failing to distinguish true width vs. apparent width);
d. failing to distinguish between new and previously disclosed results; and
e. failing to describe early exploration activities and results (i.e., soil or geophysical surveys) as preliminary in nature or failing to describe the results as not being conclusive evidence of the likelihood of an economic mineral deposit.

Complete disclosure helps investors by allowing them to evaluate exploration programs. Transparency builds trust, minimizes regulatory scrutiny, reduces risk of litigation, and enhances the credibility of issuers in the capital markets. Disclosure of exploration results must therefore always be balanced and be representative of the exploration program generally.

Issuers should remember to consult with legal counsel if not sure what to disclose with respect to their exploration results.

For more on National Instrument 43-101, find all our articles in this series here.

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[1] ***exploration information*** means geological, geophysical, geochemical, sampling, drilling, trenching, analytical testing, assaying, mineralogical, metallurgical, and other similar information concerning a particular property that is derived from activities undertaken to locate, investigate, define, or delineate a mineral prospect or mineral deposit.
