Scheme Manager Information Sheet 1

Risk category allocation

Financial Provisioning Scheme

Queensland Government

Queensland Treasury

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Contents

1 Introduction

The *Mineral and Energy Resources (Financial Provisioning) Act 2018* (**the Act**) replaces the financial assurance requirements for resource activities under the *Environmental Protection Act 1994* (**the EP Act**). The Act establishes a financial provisioning scheme (scheme) to manage the financial risk to the State if the holder of an environmental authority for a resource activity or a small scale mining tenure does not comply with their environmental management and rehabilitation obligations. The scheme is managed by a scheme manager.

The scheme applies to:

- an environmental authority for a resource activity (**authority**); and
- a small scale mining tenure (**SSMT**).

For an authority with an estimated rehabilitation cost (**ERC**) amount equal to or more than the prescribed ERC amount (currently $100,000), the scheme manager must allocate the authority to one of four risk categories and then determine whether the holder is required to pay a contribution to the scheme fund or give a surety to the scheme manager (**risk category allocation framework**).

Surety is required to be given to the scheme manager by a holder of an authority with an ERC less than $100,000 in an amount equal to the ERC or by a holder of an SSMT in the amount prescribed under the EP Act.

2 Purpose of this information sheet

This information sheet provides information to assist mining, petroleum, and gas companies to understand the risk category allocation framework under Part 3 of the Act.

This information sheet:

- deals with an authority with an ERC equal to or more than $100,000.
- does not deal with an authority with an ERC less than $100,000 or an SSMT.

This information sheet should be read together with the scheme manager guidelines. The guidelines set out the basic rules that the scheme manager will have regard to. The scheme manager may also have regard to other factors that the scheme manager considers relevant.

Note: The ERC for an authority is a decision made by the administering authority under the EP Act and notice of the ERC decision is provided by the administering authority to the scheme manager.

3 Overview of the allocation decision

In making an allocation decision, the scheme manager must decide the following:

- **Risk Category:** allocating the authority to one of the following risk categories: very low, low, moderate or high.
- **Relevant Holder**: if there is more than one holder, assigning the authority to a relevant holder. (Assigning the authority to a relevant holder assists the scheme manager in deciding whether surety is required, see section 4.3).

The scheme manager may seek advice to assist in making the allocation decision.

Three types of allocation decisions
There are three types of allocation decisions for an authority:

1. Initial allocation decision (section 27 of the Act).

    - This is the first allocation decision for an authority and occurs after the administering authority notifies the scheme manager of the first ERC decision for the authority under section 300 of the EP Act.
    - This gives the authority its initial risk category allocation.

Notes:

1. For an existing authority on commencement of the Act, the initial allocation decision will occur during a three-year transitional time frame. The order in which authorities are transitioned will be determined by the scheme manager.
2. Aside from the transitional arrangements, the first ERC decision by the administering authority is the entry point into the risk category allocation process. Later ERC decisions made by the administering authority are relevant for other allocation decisions.
3. The administering authority under the EP Act gives notice of the ERC decision to the scheme manager.

2. Changed holder review decision (section 32 of the Act).

    - This applies to an authority that already has a current risk category allocation.
    - This decision may be made when there is a transfer of the resource tenure for the authority resulting in a change of holder of the authority or when there is a change in corporate control of the holder of the authority.

Note:

1. The use of the term 'change in corporate control' is being used in this information sheet to provide a general meaning. See section 32(1)(c)(ii) and s33(1)(c)(ii) of the Act for what is captured by this term.
2. The scheme manager has a discretion to review the risk category allocation of an authority in these circumstances, it is not a mandatory requirement. In addition, it is open to an authority holder, or the incoming holder, to ask the scheme manager for an indicative review of the risk category allocation before an application for transfer or change of control occurs.

3. Annual review decision (section 38 of the Act).

    - This applies to an authority that already has a current risk category allocation.
    - This decision is made annually from the date of the initial allocation decision, or if there has been a changed holder review decision for authority, annually from the date of the changed holder review decision.
    - The scheme manager must decide whether to confirm or change the risk category to which the authority is allocated.
    - Annual contribution to the scheme fund is based on the reviewed risk category allocation and the ERC at the time of the annual review. If the ERC amount has changed since the previous review, the contribution is based on this revised ERC amount.

Note: The ERC amount will change if either: the ERC period expires and a new ERC decision is made by the administering authority; or the administering authority directs the holder to re-apply for an ERC decision; or the holder must re-apply for an ERC decision (sections 302, 303 and 304 of the EP Act).

4 Making the allocation decision

To allocate the authority to one of the four risk categories (very low, low, moderate or high) the scheme manager must consider:

1. the scheme manager's opinion of the probability of the State incurring costs and expenses because the holder of the authority has not prevented or minimised environmental harm, or rehabilitated or restored the environment, in relation to a resource activity carried out under, or to ensure compliance with, the authority; (***scheme manager's opinion of the financial risk to the State***);
2. relevant scheme manager guidelines;

> ***Note***: The Scheme Manager Guideline '*Forming the Scheme Manager's Opinion*' is relevant here.

3. submissions if any, made by the holder about the indicative risk category allocation; and
4. any other matter the scheme manager considers relevant.

4.1 Forming an opinion of the financial risk to the State

In forming an opinion of the financial risk to the State, the scheme manager:

(a) **must** consider:

- the financial soundness of the holder; and
- relevant guidelines.

(b) **may** consider:

- the resource characteristics of the resource project to which the authority relates; and
- any other matter the scheme manager considers relevant.

Financial soundness as a mandatory consideration reflects the importance of financial soundness to the scheme manager in forming his or her opinion.
To assist the scheme manager to form an opinion, the scheme manager may engage the services of a risk advisor with expertise relevant to the risk category allocation process.

4.1.1 Considering financial soundness of the holder

Assessing financial soundness of the holder seeks to manage the risk to the State of making a financial outlay due to the financial capacity of the holder, including the risk of the holder becoming insolvent resulting in non-compliance with their legal obligations under their authority.

The Scheme Manager Guideline 'Forming the Scheme Manager's Opinion' provides guidance to the scheme manager in exercising his/her discretion on which holder to consider, whether to consider the financial soundness of a parent of the holder and other financial soundness considerations.

> ***Note:*** It is important to note that the scheme manager is required to have regard to this guideline but retains a discretion as to the extent to which it guides the scheme manager's decision. The guideline provides guidance to the scheme manager in exercising his/her discretion on which holder to consider, considering the financial soundness of a parent of the holder and financial soundness considerations.

It is mandatory for the scheme manager to consider the financial soundness of the holder. If there is more than one holder, the scheme manager may consider the financial soundness of any or all the holders.

Which holder to consider – single or multiple holders
If there is a single holder of an authority:

- the scheme manager must consider the financial soundness of the holder.

Where there are multiple holders of an authority:

- The scheme manager need only consider the financial soundness of one of the holders.
- As a basic rule, the scheme manager could base their assessment on the operator of the resource tenure, provided the operator is a holder that holds not less than a 20% shareholding in the tenure or tenures relating to the authority.

- Otherwise the scheme manager could select a holder that holds a share of not less than 20% in the tenure or tenures relating to the authority.
- If there is no such holder, the scheme manager would select a holder having regard to the ownership structure for the authority and the roles of the holders.

It is also open to the scheme manager to consider a nomination from the authority holders for a different holder to be the assessed.

Having selected the holder to be assessed, the next step is for the scheme manager to undertake the assessment of financial soundness.

How is the parent corporation of the holder relevant?
The scheme manager has discretion to consider the financial soundness of a parent corporation of the holder or, if there is more than one, any of the holders.

In deciding whether to consider the parent corporation of a holder, the scheme manager's primary consideration is whether there may be an increased risk to the State. Factors which the scheme manager may take into account include:

- the parent company's country of domicile (enforcing obligations in a foreign jurisdiction may be more difficult);
- whether the parent company indemnifies or guarantees the obligations of the holder;
- whether the parent company has an acceptable credit rating (see below); or
- the composition of the scheme fund, including the level of the parent company's participation.

If the scheme manager chooses to consider the financial soundness of the parent corporation of the holder, that assessment is taken to be the assessment of the holder.

What is a 'parent corporation' of a holder?
A parent corporation of a holder is either of the following:

a) A corporation of which the holder is a 'subsidiary' within the meaning of section 46 of the *Corporations Act 2001*.

   A holder will be a subsidiary of a company if:

   i. the company controls the composition of the holder's board;
   ii. the company can cast or control the casting of more than 50% of the maximum number of votes that may be cast at a general meeting of the holder;
   iii. the company holds more than 50% of the issued share capital of the holder; or
   iv. the holder is a subsidiary of another company which is a subsidiary of the company.

b) A corporation that 'controls' the holder within the meaning of section 50AA of the *Corporations Act 2001*.

   An entity controls the holder if it can determine the outcome of decisions of the holder's financial and operating policies. Regard is had to the entity's practical influence over the holder.

Whether a company is a parent corporation is a question of fact. Documents which may assist to determine whether a company is a parent corporation include shareholders agreements, joint venture agreements, partnership agreements etc. **Appendix A** contains examples of parent corporations in common corporate structures.

Where the holder or the parent corporation has a credit rating
As a basic rule, where the holder or the holder's parent corporation has a credit rating, the scheme manager would assess the financial soundness of this entity based on this rating, if:

- the rating is from a credit rating agency approved by Queensland Treasury, and

- the rating is a long-term public credit rating or a private credit rating not more than 12 months old.

Where multiple acceptable credit ratings exist, the scheme manager should use the weakest rating.

Where the holder or the parent corporation does not have a credit rating
As a basic rule, where the holder or holder's parent corporation does not have a credit rating, the scheme manager would consider its financial soundness having regard to 3 years of audited financial statements and other factors that would ordinarily be considered by a credit rating agency such as the relevant industry sector and the domicile of the holder or the parent corporation.

Financial metrics that would typically be assessed include, but not limited to, debt serviceability, balance sheet position, gearing / leverage, profitability, and other relevant factors. Other factors may also be considered by the scheme manager where relevant to ensure appropriate understanding of the risk for each authority (e.g. a holder or the holder's parent corporation with a track record of not fully supporting unsuccessful resource projects).

Note: The financial soundness assessed by the scheme manager is limited to the purpose of allocating an authority to a risk category for the scheme under the Act and is not intended to be as detailed as an assessment normally undertaken by a credit rating agency, nor is it meant to represent a formal credit rating assessment.

Where the holder or the parent corporation does not have sufficient financial information
If the holder or the holder's parent corporation does not hold 3 years of audited financial statements, the scheme manager may not be able to satisfactorily assess the financial soundness.

4.1.2 Considering the characteristics of the resource project

The scheme manager has a discretion to consider the characteristics of the resource project.

The Scheme Manager Guideline 'Forming the Scheme Manager's Opinion' provides guidance to the scheme manager in exercising his/her discretion on whether to consider the characteristics of the resource project, and if so, what characteristics of the resource project to consider.

Note: It is important to note that the scheme manager is required to have regard to this guideline but retains a discretion as to the extent to which it guides the scheme manager's decision. The guideline provides guidance to the scheme manager in exercising his/her discretion on whether to consider resource characteristics, and if so, the minimum characteristics for consideration.

When will the scheme manager consider resource project characteristics?
The scheme manager will not ordinarily consider any resource project characteristics for a project that is not in production. For example, this may include resource projects in the exploration, care and maintenance, or decommission phases, or resource projects not in production for an extended duration due to other factors such as a major weather event.

The basic rule is the scheme manager will take a risk averse approach where a site is not in production. Therefore, it is reasonable for the scheme manager to form an opinion primarily based on the financial soundness of the holder.

However, it is open to the holder to make submissions to the scheme manager on why these factors should be taken into account in the particular circumstances for the authority.
In all other circumstances, the scheme manager will consider resource characteristics of the project that the scheme manager considers may affect the likelihood of sale of the resource project in the event of failure of the holder.

Resource project characteristics for consideration
The types of resource characteristics that may be considered include, but are not limited to, those listed below.

Resource Project Strength

Remaining Economic Life
An assessment of the remaining economic life of the project will be based on the size, certainty, and economic viability of the reserves of the resource project. Both probable and proven reserves, the annualised rate of production (historical and forecast), and other relevant factors may be considered in determining the strength of the project. The existence of reserves will be based on, amongst other things, relevant JORC reports or equivalent (for minerals and coal projects), and reports in accordance with SPE-PRMS guidelines or equivalent (for petroleum and gas projects).

Off-Take Agreements
Ordinarily the scheme manager will only consider off-take agreements where the scheme managers considers there is an incremental benefit to managing the financial risk to the State because of the improved saleability of the resource project.

This would generally include off-take agreements having regard to the following matters:

- unrelated and financially sound counterparties;
- the duration of the term of the agreement (must be 5 years or more);
- the aggregated quantum of total production must be 50% or more of the total production on the site; and
- declaration by holder that the price determined under the off-take agreement is likely to exceed the costs associated with operating the site for a minimum of 5 years.

The provision of information about off-take agreements in sufficient detail to allow the scheme manager to assess the matters above is entirely voluntary at the holder's election.

The scheme manager will not draw an adverse inference about the saleability of the project if there is no relevant off-take agreement information provided.

Rehabilitation
Rehabilitation that has already been undertaken improves the saleability of the resource project, including demonstration of the ability of the site to be rehabilitated consistent with conditions of the authority for the resource project.

The scheme manager may consider the extent of certified rehabilitation completed under the authority. The scheme manager may also consider closure planning for the project and measured progress towards the post closure land use including a holder's progressive rehabilitation and closure plan (PRC plan), when approved by the administering authority. Closure planning requires the establishment of a performance framework for closure that facilitates a consistent approach and enables success in closure to be measured.

Compliance Record
The scheme manager may consider relevant compliance issues relating to the authority and the resource tenure to which it relates but it is not anticipated the scheme manager will be considering instances of all compliance issues.

The types of compliance issues will depend on the circumstance in each case, however, the scheme manager is not required to consider the full compliance history. For example, it may be relevant to the issue of saleability that there is statutory enforcement or prosecution activity relevant to the site.

4.1.3 Other considerations of the scheme manager

In making a risk category allocation decision, the scheme manager may consider any other matter the scheme manager considers relevant to forming an opinion on the authority.

4.2 Risk allocation methodology

Appendix B sets out the methodology that will usually be used by the scheme manager to determine a holder's:

- financial soundness assessment (no credit rating);
- resource project characteristics assessment; and
- overall risk category assessment.

4.3 Assigning an authority to a relevant holder

The scheme is predicated on the basis that the scheme fund will not be overexposed to risk from one particular entity or corporate group. For this reason, there is a prescribed fund threshold (currently $450 million) which represents the level of acceptable risk. The threshold has initially been calculated as $450 million, representing approximately 5% of the total ERC in Queensland.

The ERC for an authority is recorded against the holder for purpose of calculating that holder's potential exposure to the scheme fund. However, where there is more than one holder, the ERC will only be assigned to one of the holders to avoid double counting of the ERC.

Therefore, where there is more than one holder, the scheme manager must, at the same time as making an allocation decision, assign the authority to one of the holders – the relevant holder. The ERC for the authority then forms part of the relevant holder's total ERC.

***Note**: The Scheme Manager Guideline *'Assigning an Authority to a Relevant Holder'* gives guidance to the scheme manager on assigning the authority to the relevant holder.

The basic rule for selecting the relevant holder is that it can be any holder, including a holder nominated by the authority holders, provided that the scheme manager has assessed the financial soundness of that holder and the financial soundness assessment has been taken into account by the scheme manager in the allocation decision for the authority.

Where the total ERC for the relevant holder (as well as the total ERC for any holder in the relevant holder's corporate group) is likely to exceed the fund threshold (currently $450 million), the scheme manager may require the holder to give a surety to preserve the financial viability of the scheme fund. (This is explained further in section 5 below).

***Note:** The assigning of a relevant holder does not affect the joint and several obligations of each holder to pay a contribution to the scheme fund or give a surety to the scheme manager.*

4.4 Allocating the authority to a risk category and if more than one holder, assign the authority to a relevant holder

The scheme manager having considered his or her opinion of the financial risk to the State, any applicable guidelines and any other matters the scheme manager considers relevant, the scheme manager will allocate the authority to one of the following risk categories:

- very low,
- low,
- moderate, or
- high.

If there are multiple holders, the scheme manager will also assign the authority to a relevant holder.

4.5 Holder input into the allocation decision

Providing information to the scheme manager
The scheme manager may, before making an allocation decision, require the holder to give the scheme manager further information or a document the scheme manager reasonably requires to make the decision.

For an initial risk category allocation, the scheme manager may require the holder to give information or a document at any time after the holder has applied for an ERC decision under the EP Act in relation to its authority.

Information the scheme manager will have access to, and use for undertaking the risk category allocation assessment includes, but is not limited to:

- relevant information that the authority holder has provided to the scheme manager, as well as any relevant information provided under its regulatory obligations to the Department of Natural Resources Mines and Energy (DNRME) and the Department of Environment and Science (DES); and
- relevant publicly available information, for example, financial information.

In practice, when an ERC decision for an authority is made, notice of the ERC decision is given to the holder and the scheme manager. The scheme manager will send a notice to the holder stating that the scheme manager intends to start the process to make an indicative risk category allocation decision for the authority and make an initial request for information from the holder.

If the holder would like to bring to the attention of the scheme manager information which the holder knows will not be in the possession of the scheme manger (ie. it has not been requested, is not held by DES/DNRME and is not publicly available) the holder may provide this information voluntarily to the scheme manager.

If there is more than one holder of an authority, the letter will be sent to all the holders. When responding to the scheme manager's initial request for information, the holders may nominate one holder to be the relevant holder for the purposes of the decision under section 27(5)(c) of the Act.

Making submissions on indicative allocation decision
There is a two-step process for making an allocation decision. The scheme manager must, before deciding the risk category allocation, give the holder a notice of indicative decision which states the following:

- the risk category the scheme manager intends to allocate the authority
- reasons for the indicative risk category allocation
- the relevant holder if there are multiple holders
- requirement for a contribution to the scheme fund or giving of a surety.

The holder may make submissions to the scheme manager about the above matters or give notice accepting the indicative risk category allocation.

This first step gives the holder an opportunity to make submissions to the scheme manager before a final decision is made, or accept the indicative decision as the allocation decision.

5 Liability for contribution or surety

An allocation decision by the scheme manager allocates the authority to one of the four risk categories (very low, low, moderate or high) and determines whether the holder of the authority will be required to pay a contribution to the scheme fund or give a surety to the scheme manager.

Subject to limited exceptions outlined below:

- The holder of an authority allocated to the very low, low or moderate risk category will be required to pay a contribution to the scheme fund in an amount calculated by multiplying the ERC for the authority and the prescribed percentage for the risk category.
- The holder of an authority allocated to the high risk category will be required to give a surety to the scheme manager in an amount equal to the ERC for the authority.

When a holder of an authority that is allocated to very low, low and moderate risk category is required to give surety

<u>Exception 1: To preserve the financial viability of the scheme fund</u>

- Under section 53(c)(ii) of the Act, the scheme manager has a discretion to require a surety for an authority allocated to the very low, low or moderate risk category to preserve the financial viability of the scheme fund. This is necessary to protect the scheme fund from overexposure to one particular entity or corporate group.
  - *For example, the scheme manager may require a surety for an authority (Authority C) where the holder or relevant holder (and its corporate group) already hold authorities for which a contribution to the scheme fund is payable (Authorities A and B), and where the total ERC for Authorities (A, B and C) is likely to be more than the fund threshold of $450 million. In such a case, surety is payable in respect of the whole ERC of Authority C.*
- A key concept for this exception is the ‘total ERC’. The total ERC for a holder, or if there is more than one, the relevant holder, is the sum of the ERC for each authority held by the holder or assigned to the relevant holder for which a contribution to the scheme fund is payable.
- If the scheme manager exercises this discretion, the scheme manager may aggregate the total ERC of the entities in relation to the holder or relevant holder as set out in section 54.
- The entities mentioned in section 54(2) are:
  - The holder of the authority, or if there is more than one holder, the relevant holder
  - Any parent corporation of the holder or the relevant holder of the authority (parent corporation)
  - Any subsidiary corporation of a parent corporation
  - A corporation controlled by a parent corporation
- The approach the scheme manager could take in exercising a discretion is as follows:
  - A surety should be required if the sum of the total ERC of the entities exceeds the fund threshold (see above example)
  - A surety should be required if the scheme manager considers that the sum of the total ERC of the entities is likely to exceed the fund threshold before the next annual review of the authority. The scheme manager could take account of factors like – any likely change to the authorities held by a group entity; any likely change to the ERC for any authority held by a group entity and any likely change to a group entity.
- **Note:** Section 54 does not limit the scheme manager’s discretion to require surety. There may be other circumstances where the scheme manager considers it necessary to require surety to maintain the financial viability of the scheme fund.

Note: The Scheme Manager Guideline ‘*Requiring Surety to Preserve the Financial Viability of the Scheme Fund’* is relevant for this component of the scheme manager’s allocation decision.

Exception 2: For a single authority with an ERC more than the scheme fund threshold

- The holder of a single authority with an ERC more than the fund threshold will be required to pay both a contribution to the scheme fund (calculated based on the ERC equivalent to the fund threshold) and give a surety to the scheme manager for the amount of ERC that exceeds the fund threshold.

When a holder of an authority that is allocated to high risk category is required to pay contribution

Exception 1: Authority previously allocated to very low, low or moderate risk category

- The scheme manager has a discretion to require contribution for an authority allocated to the high risk category if:
  - prior to an authority being allocated to high risk category, the authority was previously allocated to very low, low or medium risk category for each of the 4 years immediately preceding the decision; and
  - before making the allocation, the scheme manager is reasonably satisfied that the holder is not able to obtain a surety within the necessary timeframe.
- In these circumstances, the holder will be required to pay a contribution as if the authority is allocated to the risk category of moderate for working out the amount of contribution payable.
- This exception allows for a holder of an authority allocated to the high risk category to continue to pay contribution, for that year.

6 Amount of contribution or surety

Amount of contribution payable to the scheme fund
The amount of contribution payable to the scheme fund is calculated by reference to the prescribed percentage and the ERC for the authority.

The prescribed percentage is set out in the regulation under the Act and refers to a specific percentage for an authority allocated to the very low, low or moderate risk category.

The prescribed percentages are as follows:

Risk Category Allocation	Prescribed Percentage
An authority allocated to risk category of very low	0.5%
An authority allocated to risk category of low	1.0%
An authority allocated to risk category of moderate	2.75%

For example, if an EA has an ERC of $10 million and the relevant holder is allocated to the low category the prescribed percentage would be 1.0% and the contribution amount would be 1.0% x $10 million = $100,000.

In addition to the contribution amount, the holder will also pay an assessment fee noted below.
The assessment fee is as follows based on the ERC for the authority being assessed:

Type of allocation decision	ERC for the Authority	Assessment Fee
Initial allocation decision Changed holder review decision Annual review decision	$100,000 - $999,999	$250
Initial allocation decision Changed holder review decision Annual review decision	$1,000,000 - $9,999,999	$1,250

Type of allocation decision	ERC for the Authority	Assessment Fee
Initial allocation decision Changed holder review decision Annual review decision	\$10,000,000 - \$49,999,999	\$5,000
Initial allocation decision Changed holder review decision Annual review decision	\$50,000,000 - \$99,999,999	\$22,500
Initial allocation decision Changed holder review decision Annual review decision	\$100,000,000 and greater	\$45,000

Amount of surety required to be given to the scheme manager
The amount of surety required to be given to the scheme manager is an amount equal to the ERC for the authority.

In addition to the surety amount, the holder will also need to pay an assessment fee in the amount noted above.

7 Providing surety

Surety must be given in the one or more of the approved forms under section 56 of the Act – a bank guarantee, an insurance bond or a payment of a cash amount.

The holder may decide which form of surety will be provided. A combination of any of the approved forms of surety can be provided to achieve the total surety amount.

However, the scheme manager determines the approved form or terms and conditions for bank guarantees and insurance bonds. The scheme manager also determines the terms and conditions for cash surety, known as the cash surety deed. The scheme manager will only accept the surety once it is satisfied that the surety is as per the applicable approved form and/or the terms and conditions. Appendix 1 of the Scheme Manager Guideline 'Forms of Surety' provides the approved form of undertaking, for a bank guarantee or insurance bond, and Appendix 2 provides the approved terms and conditions for a cash surety deed.

For cash surety less than \$100,000 the scheme manager does not require the payment to meet the terms and conditions of the cash surety deed. However, when the total of the cash sureties given by that holder exceeds \$100,000, the scheme manager may require the individual cash sureties to satisfy the terms and conditions of the cash surety deed.

Note: The Scheme Manager Guideline '*Forms of Surety*' is relevant for this decision of the scheme manager.

8 Consequences of not paying assessment fee or contribution to the scheme fund or not giving a surety to the scheme manager

Assessment fees
Unpaid assessment fees may be recovered as a debt payable to the State (section 62 of the Act).

Scheme contributions and sureties
Unpaid contribution fees may be recovered as a debt payable to the State (section 51 of the Act).

Holders of authorities cannot lawfully carry out resource activities if payment of a contribution to the scheme fund has not been made or a surety has not been given as required under the Act. This requirement is a condition of an authority (section 297 of the EPA).

Section 430 of the EP Act imposes penalties for contravention of a condition of an authority.

9 Appendices

Appendix A: Examples of Parent Corporations in common corporate structures
Appendix B: Risk Category Allocation Methodology

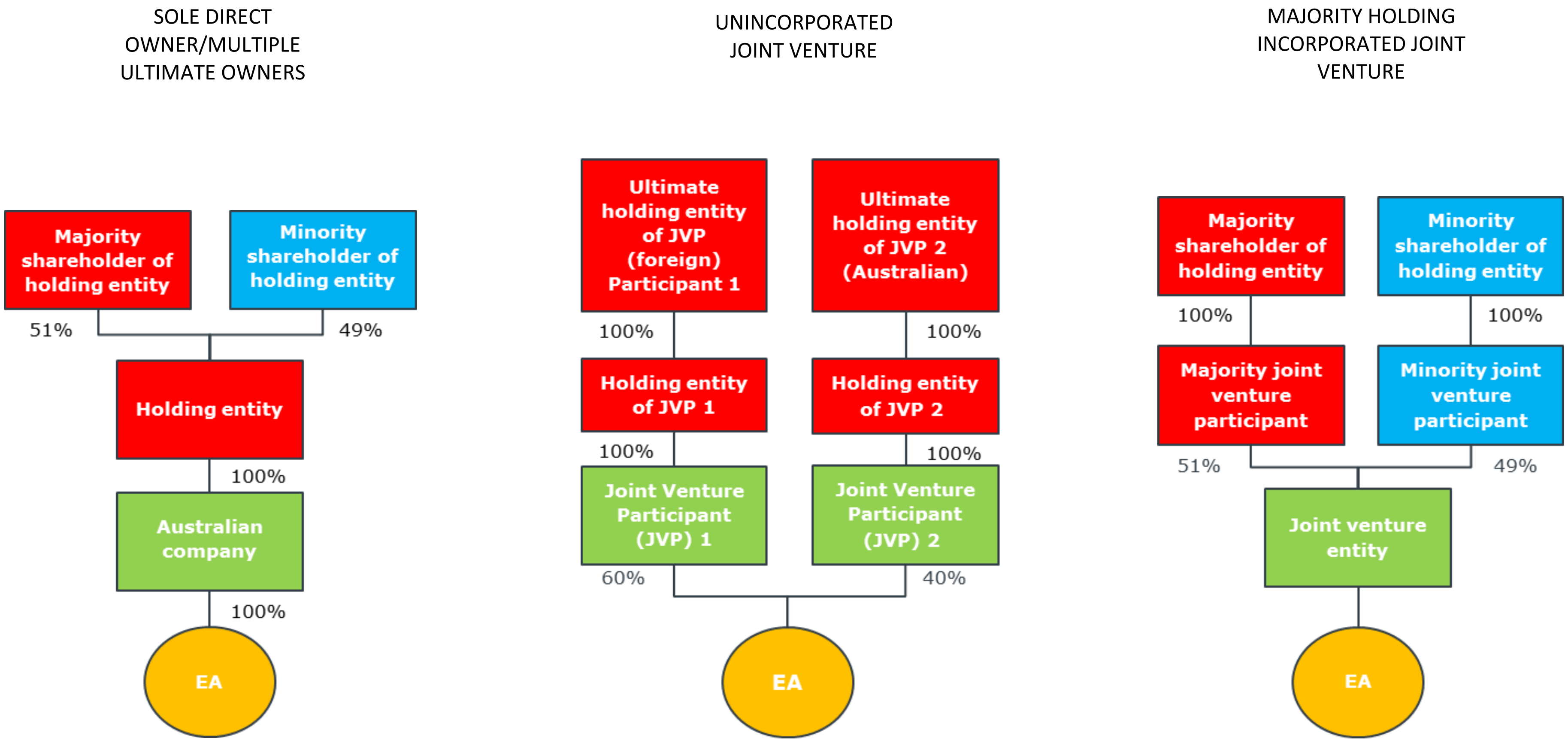
10 Date of effect

This Information Sheet takes effect from 5 April 2019.

Kirsten Vagne
Acting Scheme Manager

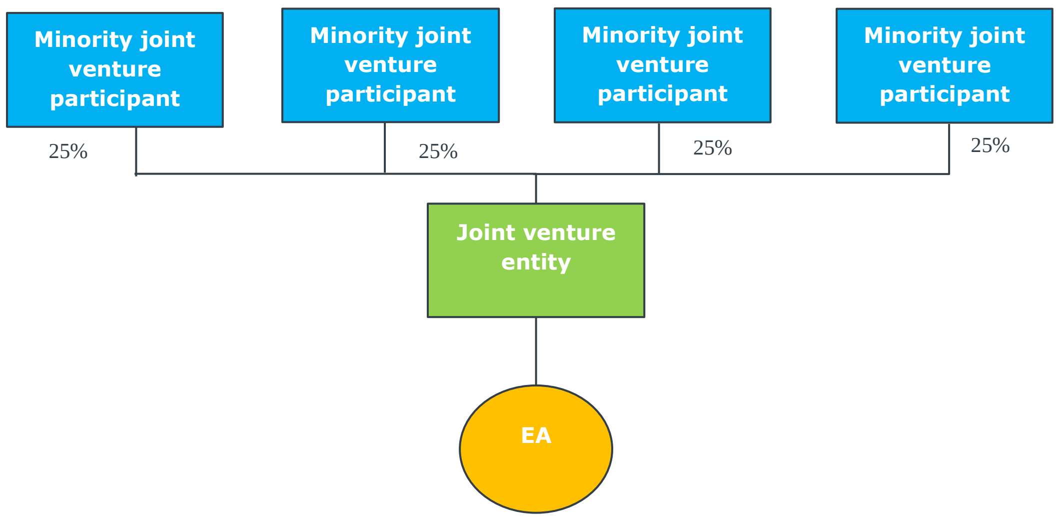
Appendix A

Examples of Parent Corporations in common corporate structures



KEY
Green = Holder **Red = Parent** **Blue = Not a Parent**

MINORITY HOLDING
INCORPORATED JOINT
VENTURE



KEY
Green = Holder **Red = Parent** **Blue = Not a Parent**

Note
The Holder is the JV entity. Following the basic rule, the scheme manager will consider the financial soundness of the JV entity.

In considering the financial soundness of the JV entity, the scheme manager may consider the financial soundness of a parent corporation of the JV entity.

Based on shareholdings, none of the JV participants are parent corporations as none have more than a 50% shareholding.

In this scenario, a JV participant will only be a parent if it meets the definition of 'parent corporation' as set out in paragraph 4.1.1 of this Information Sheet (eg. controls the board of the JV entity, controls the voting of the JV entity, can determine the outcome of decisions of the JV entities financial and operating policies). It will be up to the corporation to satisfy the scheme manager that it is a parent corporation of the holder.

Appendix B

Risk Category Allocation Methodology

Financial soundness assessment (no credit rating)
The risk advisor has compiled a Global Resources Company Database (GRCD). The GRCD is a unique repository of credit rating, financial and other information of selected companies operating in the global resource industry. A holder's financial data is measured against financial characteristics and external ratings included in the GRCD. This produces an assessment of the holder that has a high probability of alignment with rating agency methodology. The GRCD will continue to be updated through the life of the Scheme to remain current and valid.

While the financial soundness assessment follows similar principles to a credit rating, its purpose is to assess the risk to the State of having to rehabilitate a resource project should the holder default. It is important to note that the financial soundness assessment is not, and should not be considered to be, a proxy credit rating.

The Scheme Manager will consider the financial soundness assessment and if it represents a High, Moderate or Low risk to the State..

Resource project characteristics assessment
The resource project characteristics assessment includes measuring the remaining economic life of the EA, including assessing the value of any off-take agreements. Additionally, progressive rehabilitation and severity of compliance issues are also used to inform the risk to the State.

The RPCA is weighted:

- Project strength (remaining economic life and off-take agreements) 80%
- Progressive rehabilitation 15%
- Compliance 5%

The Scheme Manager will assign each RPC category a rating of Very Strong, Strong, Moderate or Poor.

<u>Remaining Economic Life</u>
Ordinarily, sites with a remaining economic life of less than 5 years will receive no score and sites with a remaining economic life of 25 years or more will receive the maximum score.

<u>Off-take agreements</u>
Where details of acceptable off-take agreements are provided, a supplementary 10% (maximum) of the project strength may be awarded, but not to exceed the maximum 80% assigned to project strength.

<u>Progressive rehabilitation</u>
Under the current model, certified rehabilitation is rated significantly higher than uncertified rehabilitation. This is an interim measure. The model will be updated to align the scoring of rehabilitation with PRCP requirements, once PRCP transition period is complete.

<u>Compliance</u>
Scoring for compliance will depend on the seriousness of any violations.

Overall risk category assessment
The FSA and RPCA are reviewed against the risk allocation table (see below). The risk allocation table is a measure of FSA and RPCA on an average weighting of 75%/25% respectively. The distribution of risk categories in the risk allocation table has been determined by the risk advisor on a range of qualitative and quantitative factors.

The above weightings are a general guide only. Quantitative results are reviewed and qualitative and/or overriding factors are applied where warranted to ensure the recommended risk category allocation is appropriate, taking into account all relevant matters.

Risk Allocation Table