



Whistleblower Policy

1. Objective and purpose of this policy

- 1.1 Our whistleblower policy is an important tool for helping ViaGold Rare Earth Resources Holdings Limited (VIA) to identify wrongdoing that may not be uncovered unless there is a safe and secure way to disclose wrongdoing.
- 1.2 VIA is committed to the highest standards of integrity and conduct. If you are aware of possible wrongdoing we encourage you to disclose this information and will support you in doing so.
- 1.3 VIA is committed to encouraging the reporting of any instances of suspected unethical, illegal, fraudulent or undesirable conduct involving VIA's business and provides protections and measures so that people who make a report can do so confidentially and without fear of intimidation, disadvantage or reprisal.
- 1.4 The *Corporations Act 2001* (Cth) and the *Taxation Administration Act 1953* (Cth) provide for protections for whistleblowers (**Whistleblower Protection Scheme**).
- 1.5 The purpose of this Policy is to set out information relating to the Whistleblower Protection Scheme, including information about:
 - (a) the types of disclosures that qualify for protection;
 - (b) the protections available to whistleblowers;
 - (c) who disclosures can be made to and how they can be made;
 - (d) how VIA will support whistleblowers and protect them from detriment;
 - (e) how VIA will investigate disclosures;
 - (f) how VIA will ensure fair treatment of employees who are the subject of or are mentioned in disclosures; and
 - (g) how this Policy is to be made available to officers and employees of VIA.
- 1.6 This Policy applies to ViaGold Rare Earth Resources Holdings Limited.

2. Scope of the Whistleblower Protection Scheme

What disclosures are protected?

- 2.1 A disclosure will 'qualify' for protection under the Whistleblower Protection Scheme if:
 - (a) it is a disclosure by an 'eligible whistleblower' (see paragraph 3) to:
 - (i) ASIC, APRA, the Commissioner of Taxation (in relation to tax matters), a prescribed Commonwealth authority or a legal practitioner (to obtain legal advice or legal representation about the operation of the Whistleblower Protection Scheme); or
 - (ii) an 'eligible recipient' (see paragraph 5); and
 - (b) the eligible whistleblower has 'reasonable grounds' to 'suspect' that the disclosed information concerns a disclosable matter (see paragraph 4).
- 2.2 Public interest and emergency disclosures also qualify for protection – see paragraphs 5.7 and 5.8.

3. Who is an 'eligible whistleblower'?

- 3.1 The following persons are capable of being 'eligible whistleblowers':
- (a) an officer or employee of VIA (this includes current and former employees who are permanent, part-time, fixed-term, casual or temporary, practical legal training students, volunteers, secondees, and directors);
 - (b) an individual who is an associate of VIA (for example, a director or company secretary of VIA); and
 - (c) an individual who supplies goods or services to VIA (whether paid or unpaid) or an employee of a supplier (this could include current and former volunteers, contractors, consultants, service providers and business partners).
- 3.2 An 'eligible whistleblower' also includes an individual who previously held any of the above positions or functions or who is a relative of the individuals set out above or a dependant of one of those individuals or of the spouse of such an individual.

4. What information will be a disclosable matter?

What is a 'disclosable matter'?

- 4.1 A disclosable matter is information that:
- (a) concerns misconduct or an improper state of affairs or circumstances in relation to VIA; or
 - (b) indicates VIA or one of its employees has engaged in conduct that:
 - (i) constitutes an offence against, or a contravention of, the:
 - (A) *Corporations Act 2001* (Cth);
 - (B) *Australian Securities and Investments Commission Act 2001* (Cth);
 - (C) and any instrument made under these Acts;
 - (ii) constitutes an offence against any other law of the Commonwealth punishable by imprisonment for 12 months or more; or
 - (iii) represents a danger to the public or the financial system.
- 4.2 The misconduct or an improper state of affairs can also be in respect of tax affairs.
- 4.3 Disclosable matters do not necessarily involve a contravention of a law. For example, '*misconduct or an improper state of affairs or circumstances*' could involve conduct that, whilst not unlawful, indicates a systemic issue of concern that the relevant regulator should know about to properly perform its functions. It may also relate to business behaviour and practices that may cause consumer harm. Also, information that indicates a significant risk to public safety or the stability of, or confidence in, the financial system is a disclosable matter, even if it does not involve a breach of a particular law.
- 4.4 Further examples of disclosable matters include:
- (a) illegal conduct, such as theft, dealing in, or use of illicit drugs, violence or threatened violence, and criminal damage against property;
 - (b) fraud, money laundering or misappropriation of funds;
 - (c) offering or accepting a bribe;
 - (d) financial irregularities;
 - (e) failure to comply with, or breach of, legal or regulatory requirements; and
 - (f) engaging in or threatening to engage in detrimental conduct against a person who has made a disclosure or is believed or suspected to have made, or be planning to make, a disclosure.

- 4.5 An eligible whistleblower who makes a disclosure must have 'reasonable grounds to suspect' the information to qualify for protection. This means that even if a disclosure turns out to be incorrect, the protections will still apply, provided the eligible whistleblower had 'reasonable grounds to suspect'.
- 4.6 Disclosures that are not about a disclosable matter are not covered by this Policy and do not qualify for protection under the Whistleblower Protection Scheme. However, such disclosures may be protected under other legislation, such as the *Fair Work Act 2009* (Cth), for example, personal work-related grievances (see paragraph 4.9 below).

Deliberate false reports not tolerated

- 4.7 VIA will treat all reports of disclosable matters seriously and endeavour to protect anyone who raises concerns in line with this Policy. An eligible whistleblower can still qualify for protection under this Policy where their disclosure turns out to be incorrect.
- 4.8 However, deliberate false or vexatious reports will not be tolerated. Anyone found making a deliberate false claim or report will be subject to disciplinary action, which could include dismissal.

Personal work-related grievances

- 4.9 A disclosure does not qualify for protection under the Whistleblower Protection Scheme to the extent that the information disclosed:
- (a) concerns a personal work-related grievance of the eligible whistleblower; and
 - (b) does not concern a contravention, or an alleged contravention of the detriment provisions referred to in paragraph 7.15 or 7.16 of this Policy.
- 4.10 A disclosure is a 'personal work-related grievance' if:
- (a) the information concerns a grievance about a matter relating to the eligible whistleblower's employment, or former employment, having (or tending to have) implications for the eligible whistleblower personally; and
 - (b) the information:
 - (i) does not have significant implications for VIA, or another regulated entity, that do not relate to the eligible whistleblower; and
 - (ii) does not concern conduct, or alleged conduct, referred to in paragraph 4.1(b)(i), 4.1(b)(ii), or 4.1(b)(iii) of this Policy.
- 4.11 However, a personal work-related grievance may still qualify for protection if:
- (a) it relates to a disclosable matter and a personal work related grievance (ie, it is a mixed disclosure); or
 - (b) the eligible whistleblower seeks legal advice or legal representation about the operation of the whistleblower protections under the Corporations Act.
- 4.12 Examples of personal work-related grievances include:
- (a) an interpersonal conflict between the eligible whistleblower and another employee;
 - (b) a decision relating to the engagement, transfer or promotion of the eligible whistleblower;
 - (c) a decision relating to the terms and conditions of engagement of the eligible whistleblower; or
 - (d) a decision to suspend or terminate the employment of the discloser, or otherwise to discipline the eligible whistleblower.

5. Who can receive a disclosure?

- 5.1 For the protections under the Whistleblower Protection Scheme to apply, a disclosure must be made directly to an 'eligible recipient'. These people are detailed below. An eligible whistleblower's disclosure qualifies for protection from the time it is made to an eligible recipient, regardless of whether the eligible whistleblower or the recipient recognises that the disclosure qualifies for protection at that time.

Eligible recipients within VIA

- 5.2 VIA encourages that disclosures be made internally to VIA (referred to as **Whistleblower Protection Officer**) – who has relevant experience to deal with such matters. The Whistleblower Protection Officer can be contacted in the following ways:

- (a) in person;
- (b) via email at mulei_shi@viagold.ws;
- (c) via phone on +86 756 3320 271;
- (d) via mobile on *[insert]*; or
- (e) via post to the attention of "The Whistleblower Protection Officer" at Floor 7, 53 Bailian Road, Jida, Zhuhai, Guangdong, China.

- 5.3 While VIA encourages disclosures to the Whistleblower Protection Officer, if it relates to the CEO or a director of VIA, it should be raised directly with the Chairman of the Company – Mr. Changyuan Liao, who can be contacted in the following ways

- (a) in person

(b) via post to the attention of "the Chairman" at Room 509, Glassbuilding, Nanhai Oil (Zhuhai) Hotel, 368 Shuiwan Road, Zhuhai, Guangdong, China.

- 5.4 If an eligible whistleblower does not feel comfortable raising their disclosure with the Whistleblower Protection Officer, they could also raise it with any of the following:

- (a) a Board member of VIA or a member of VIA's Organisational Leadership Team; or
- (b) the external auditors of VIA (including a member of an audit team conducting an audit).

Disclosure to external regulatory bodies

- 5.5 While VIA encourages eligible whistleblowers to make disclosures internally, an eligible whistleblower may choose to raise disclosable matters outside of VIA with:

- (a) ASIC; or
- (b) APRA; or
- (c) a Commonwealth authority prescribed in the Corporations Regulations.

Disclosure to a legal practitioner

- 5.6 A report of a disclosable matter will also be protected if it is to a qualified legal practitioner for the purpose of taking legal advice or legal representation in relation to the operation of the whistleblower provisions in the Corporations Act.

Public interest disclosures

- 5.7 There is an additional category of disclosures called 'public interest disclosures' that qualify for protection. These can be made to journalists and members of Parliament, but only if the eligible whistleblower complies with the following strict requirements:

- (a) the eligible whistleblower must have first made a qualifying disclosure to ASIC, APRA, or a prescribed Commonwealth authority;
- (b) at least 90 days has passed since the qualifying disclosure was made;

- (c) the eligible whistleblower does not have reasonable grounds to believe that action is being, or has been, taken to address the matters to which the qualifying disclosure related;
- (d) the eligible whistleblower has reasonable grounds to believe that making a public interest disclosure would be in the public interest;
- (e) after 90 days has passed, the eligible whistleblower must give the body to which the qualifying disclosure was originally made, a written notification that:
 - (i) includes sufficient information to identify the qualifying disclosure; and
 - (ii) states that the eligible whistleblower intends to make a public interest disclosure; and
- (f) the extent of the information disclosed in the public interest disclosure is no greater than to inform the journalist or member of Parliament of the misconduct or improper state of affairs or circumstances, or other conduct falling within the scope of the Whistleblower Protection Scheme.

Emergency disclosures

- 5.8 There is an additional category of disclosures called 'emergency disclosures' that qualify for protection. These can be made to journalists and members of Parliament, but only if the eligible whistleblower complies with the following strict requirements:
- (a) the eligible whistleblower must have first made a qualifying disclosure to ASIC, APRA or a prescribed Commonwealth authority;
 - (b) the eligible whistleblower has reasonable grounds to believe that information concerns a substantial and imminent danger to the health or safety of one or more persons or to the natural environment;
 - (c) the eligible whistleblower gave notice to the body to which the qualifying disclosure was made that states:
 - (i) that they intend to make an emergency disclosure; and
 - (ii) includes sufficient information to identify the qualifying disclosure; and
 - (d) the extent of the information disclosed in the emergency disclosure is no greater than is necessary to inform the journalist or member of Parliament of the substantial and imminent danger.
- 5.9 Before making a public interest or emergency disclosure, it is important that an eligible whistleblower understands the criteria for protection under the relevant legislation. Eligible whistleblowers should obtain independent legal advice prior to making any disclosure.

6. Anonymous Disclosures

- 6.1 An eligible whistleblower can choose to make a disclosure anonymously and to remain anonymous over the course of the investigation and after the investigation is finalised – they may also decide not to answer questions that they feel could reveal their identity at any time, including during follow-up conversations. For example, they may do so because of concerns about their identity becoming known. If such concerns exist, an eligible whistleblower may prefer to adopt a pseudonym for the purposes of their disclosure (not their true name) – or to create an anonymous email address to submit their disclosure to the Whistleblower Protection Officer. Regardless, anonymous disclosures are still capable of being protected under the Whistleblower Protection Scheme.
- 6.2 Reporting anonymously may hinder our ability to fully investigate a reported matter. For this reason, we encourage anonymous eligible whistleblowers to maintain ongoing two-way communication with us (such as via an anonymous email address), so that we can ask follow-up questions or provide feedback.

7. Protections

- 7.1 Important protections relating to confidentiality and detriment apply to eligible whistleblowers who report disclosable matters in accordance with the Whistleblower Protection Scheme outlined in this Policy. The protections apply not only to internal disclosures, but to disclosures to legal practitioners, regulatory and other external bodies, and public interest and emergency disclosures that are made in accordance with the Corporations Act.
- 7.2 VIA takes contraventions of these protections very seriously and will take disciplinary action against anyone for doing so. If an eligible whistleblower has any particular concerns about this, they can raise them with the Whistleblower Protection Officer.
- 7.3 Civil and criminal sanctions also apply for breaches of these protections.

Confidentiality

- 7.4 Strict confidentiality obligations apply in respect of any disclosures that qualify for protection under the Whistleblower Protection Scheme.
- 7.5 Unless the eligible whistleblower consents, it is against the law for a person to disclose an eligible whistleblower's identity or any information that may lead to their identification (subject to the exceptions set out below).
- 7.6 If an eligible whistleblower's disclosure qualifies for protection set out in this Policy, it is likely that the eligible whistleblower will be asked to provide consent to the disclosure of their identity or information that is likely to lead to their identification. This would be to facilitate any investigation and/or resolution of the matter. If consent is withheld, it may not be possible to adequately investigate and respond (if at all) to the disclosure.
- 7.7 If an eligible whistleblower does not consent to their identity being disclosed, it will still be lawful to disclose their identity to:
- (a) ASIC, APRA, the AFP or the Commissioner of Taxation (in relation to tax matters);
 - (b) a legal practitioner for the purposes of obtaining legal advice or legal representation about the disclosure; or
 - (c) to a body prescribed by the Corporations Regulations.
- 7.8 It will also be lawful to disclose information in a disclosure without the eligible whistleblower's consent if this is reasonably necessary for the purpose of investigating the disclosure (provided the information does not include the eligible whistleblower's identity and VIA takes all reasonable steps to reduce the risk that the eligible whistleblower will be identified as a result of the disclosure).
- 7.9 ASIC, APRA or the AFP can disclose the identity of an eligible whistleblower, or information that is likely to lead to the identification of the eligible whistleblower, to a Commonwealth, State or Territory authority to help the authority in the performance of its functions or duties.
- 7.10 Once a report is received, the Eligible Recipient will make sure immediate steps are taken to protect the identity of the Eligible Whistleblower. This will include redacting the name and position of the Eligible Whistleblower from any written record of the report, and making sure appropriate document security is implemented.
- 7.11 In practice, it is important to recognise that an eligible whistleblower's identity may still be determined if the eligible whistleblower has previously mentioned to other people that they are considering making a disclosure, the eligible whistleblower is one of a very small number of people with access to the information or the disclosure related to information that an eligible whistleblower has previously been told privately and in confidence.
- 7.12 If there is a breach of confidentiality, an eligible whistleblower can lodge a complaint with the Whistleblower Protection Officer or a regulator such as ASIC or APRA for investigation.
- VIA cannot pursue action against the eligible whistleblower*
- 7.13 An eligible whistleblower is protected from any civil liability, criminal liability and/or administrative liability (including disciplinary action) for making a qualifying disclosure in accordance with the

Whistleblower Protection Scheme, and no contractual or other remedy may be enforced or exercised against the eligible whistleblower on the basis of a qualifying disclosure.

- 7.14 However, the protections do not grant immunity for any misconduct an eligible whistleblower has engaged in that is revealed in their disclosure.

Detriments and threats of detriment prohibited

- 7.15 The protections also make it unlawful for a person to engage in conduct against another person that causes or will cause a detriment:
- (a) in circumstances where the person believes or suspects that the other person or a third person made, may have made, proposes to make or could make a qualifying disclosure; and
 - (b) if the belief or suspicion held by that person is the reason or part of the reason for their conduct.
- 7.16 Threats of detriments will also be unlawful if the person making the threat intended to cause fear that a detriment would be carried out or was reckless as to whether the person against who it was directed would fear the threatened detriment being carried out.
- 7.17 Threats may be express or implied, conditional or unconditional. An eligible whistleblower (or another person) who has been threatened in relation to a disclosure does not have to actually fear that the threat will be carried out.
- 7.18 The meaning of 'detriment' is very broad and includes:
- (a) dismissing an employee;
 - (b) injuring an employee in their employment;
 - (c) altering an employee's position or duties to their disadvantage;
 - (d) discriminating between an employee and other employees;
 - (e) harassing or intimidating a person;
 - (f) harming or injuring a person;
 - (g) damaging a person's property, reputation, business or financial position; and
 - (h) any other damage to a person.
- 7.19 It may be necessary during the course of an investigation to take reasonable administrative action to protect an eligible whistleblower from detriment (e.g. changing the whistleblower's reporting line if the disclosure relates to a manager). Such conduct will not be detrimental conduct. A disclosure will also not prohibit VIA from managing (in the ordinary way) any separate performance issues that may affect the work of an eligible whistleblower.
- 7.20 A whistleblower may be subject to disciplinary action if, in the course of investigating a disclosure, VIA determines that the eligible whistleblower was complicit in the misconduct or improper state of affairs or has otherwise acted in an improper way.
- 7.21 Information about what VIA will do to provide support to and protect an eligible whistleblower is set out in paragraph 9. However, if an eligible whistleblower believes they have suffered detriment they can lodge a complaint with the Whistleblower Protection Officer or a regulator such as ASIC or APRA for investigation.

Court orders

- 7.22 Courts are given broad scope to make orders remedying a detriment or threatened detriment. These include injunctions, compensation orders (including against individual employees and their employer), reinstatement, exemplary damages and the making of apologies. Civil and criminal sanctions also apply to breaches of the Whistleblower Protection Scheme. VIA encourages

eligible whistleblowers to seek independent legal advice in regards to seeking compensation or other remedies.

Are there any other protections that are available?

- 7.23 Disclosures may also amount to the exercise of a workplace right by an employee or contractor. VIA and its employees are prohibited under the *Fair Work Act 2009* (Cth) from taking adverse action against employees or contractors because they exercised or propose to exercise any workplace rights.

8. Further steps and investigation of disclosures

- 8.1 VIA will acknowledge receipt of a disclosure within a reasonable period, assuming the 'eligible whistleblower' can be contacted (including through anonymous channels). VIA will assess disclosures to determine whether:
- (a) they fall within the Whistleblower Protection Scheme; and
 - (b) an investigation is required – and if so, how that investigation should be carried out.
- 8.2 Generally, if an investigation is required, the Whistleblower Protection Officer
- 8.3 , in consultation with the Board of VIA, will determine:
- (a) the nature and scope of the investigation;
 - (b) who should lead the investigation – including whether an external investigation is appropriate;
 - (c) the nature of any technical, financial or legal advice that may be required to support the investigation; and
 - (d) the anticipated timeframe for the investigation. Each investigation will be different which will impact the applicable timeframe. However, VIA's intent is to complete an investigation as soon as practicable.
- 8.4 Where practicable, VIA will keep the eligible whistleblower informed of the steps taken or to be taken (or if no action is to be taken, the reason for this), and provide appropriate updates, including about the completion of any investigation. However, the extent of the information provided, or whether it will be provided at all, will be subject to applicable confidentiality considerations, legal obligations and any other factors VIA considers relevant in the particular situation.
- 8.5 VIA may not be able to undertake an investigation, or provide information about the process etc, if it is not able to contact the eligible whistleblower, for example, if a disclosure is made anonymously and has not provided a means of contact.
- 8.6 Where practicable, whistleblowers will receive updates about when the investigation has begun, while the investigation is in progress and after the investigation has been finalised. The frequency and timeframe of any updates may vary depending on the nature of the disclosure. VIA will also have regard to confidentiality considerations when providing updates.

Documenting and reporting the findings of an investigation

- 8.7 Where appropriate, VIA will report findings of an investigation to the Board of VIA. The method for documenting and reporting the findings of an investigation will depend on the nature of the disclosure – but may include a summary report of the findings. Any reporting of findings will have regard to applicable confidentiality requirements. There may be circumstances where it may not be appropriate to provide details of the outcome to the eligible whistleblower.

9. Support and fair treatment

- 9.1 VIA is committed to transparency and to building an environment in which people feel free to raise legitimate issues relating to VIA's operations. VIA is also committed to protecting eligible whistleblowers from detriment.

- 9.2 When a qualifying disclosure under the Whistleblower Protection Scheme is made, VIA will reiterate the requirements of this Policy to relevant individuals to ensure the protections are not undermined.
- 9.3 Disciplinary action up to and including dismissal may be taken against any person who causes or threatens to cause any detriment against an eligible whistleblower.
- 9.4 In addition, VIA's usual EAP services will be available to all whistleblowers and other employees affected by the disclosure, should they require that support. To speak to a professional qualified psychologist or social work, please phone 1300 361 008. For further information visit <https://www.lifeworks.com/solution/employee-assistance-program-eap/> or speak to HR.
- 9.5 VIA may also consider a range of other matters to protect an eligible whistleblower from the risk of suffering detriment and to ensure fair treatment of individuals mentioned in a disclosure. Steps it will take to help achieve this may include:
 - (a) make an assessment of the risk of detriment against an eligible whistleblower as soon as possible after receiving a disclosure of a disclosable matter;
 - (b) make sure VIA management are aware of their responsibilities to maintain the confidentiality of an eligible whistleblower, address the risks of detriment and ensure fairness when managing the performance of, or taking other management action relating to, an eligible whistleblower; and
 - (c) take practical action, as necessary, to protect an eligible whistleblower from the risk of detriment and intervene if detriment has already occurred.
- 9.6 If the disclosure mentions or relates to employees of VIA other than the eligible whistleblower, VIA will take steps to ensure that those individuals are treated fairly. Typically, this would include giving those persons an opportunity to respond to the subject matter of the disclosure having regard to principles of procedural fairness. In addition, action would only be taken against such a person if there is cogent evidence of wrongdoing.

10. Vexatious or false disclosures

- 10.1 An eligible whistleblower will only be protected if they have objectively reasonable grounds to suspect that the information that they disclose concerns misconduct or an improper state of affairs or circumstances or other conduct falling within the scope of the Whistleblower Protection Scheme.
- 10.2 The protections under the Whistleblower Protection Scheme will not extend to vexatious or deliberately false complaints. If any investigation of a disclosure demonstrates that it was not made on objectively reasonable grounds, it will not be protected.
- 10.3 Depending on the circumstances, it may be appropriate for VIA to take disciplinary action against any person who does not have objectively reasonable grounds for their disclosure. Such action may include the termination of employment.

11. Other matters

- 11.1 This Policy will be made available to VIA's employees and officers via VIA's intranet.
- 11.2 This Policy is not intended to go beyond the legislation. This Policy is not a term of any contract, including any contract of employment and does not impose any contractual duties, implied or otherwise, on VIA. This Policy may be varied by VIA from time to time, including as part of any review.

Review of the Policy

- 11.3 VIA will periodically review, at least every two years, this Policy and VIA processes and procedures with a view to ensuring that it is operating effectively.

CHANGE HISTORY – AMENDMENTS AUTHORISED BY CEO	
DATE	30 December,2021
