

Mr Cheng Tang  
Senior Adviser  
Listings Compliance (Melbourne)  
ASX Limited

By email: [ListingsComplianceMelbourne@asx.com.au](mailto:ListingsComplianceMelbourne@asx.com.au)

6 June 2019

Dear Cheng

**ASX Aware Query**

We refer to the Aware Query forwarded by ASX to ViaGold Capital Limited (**Company** or **VIA**) on 4 June 2019.

We note the Aware Query relates specifically to the announcement made by VIA entitled 'Profit Guidance' lodged on the ASX Market Announcements Platform and released at 8:18 AM on 3 June 2019 (**Announcement**), disclosing that there has been an incident involving theft and damage to inventory of an associated company and, as a direct result, an adjustment would be made to the Company's consolidated statement of profit and loss for the year ended 31 March 2019 such that the Company would now record a loss from its operations for that financial year (compared to the profit made by the Company for the corresponding 12 months to 31 March 2018) (Information).

Please see the following responses to the specific questions asked by ASX:

- 1. Does VIA consider the Information contained in the Announcement to be information that a reasonable person would expect to have a material effect on the price or value of its securities?**

Yes.

- 2. If the answer to question 1 is "no", please advise the basis for that view.**

Not applicable.

- 3. When did VIA first become aware of the Information?**

Page 1

ME\_161018002\_1

VIA became aware of the Information, to the extent that there was an incident involving theft and damage to inventory of an associated company (Changzhou Hailin Mining Rare Earth Company Limited (**Changzhou Hailin**), which is 30.6% owned by VIA) on or about 25 April 2019.

To the extent that the auditor of VIA finally resolved that the total inventory of Changzhou Hailin ought to be treated as fully impaired and an adjustment made accordingly to the Company's consolidated statement of profit and loss for the year ended 31 March 2019, VIA became aware of that Information on or about 31 May 2019.

**4. If VIA first became aware of the Information before the Relevant Date, did VIA make any announcement prior to the Relevant Date which disclosed the Information?**

No.

**If so, please provide details. If not, please explain why this Information was not released to the market at an earlier time, commenting specifically on when you believe VIA was obliged to release the Information under Listing Rules 3.1 and 3.1A and what steps VIA took to ensure that the information was released promptly and without delay.**

The Information was neither released to the market prior to the Relevant Date, nor was it required to be released to the market before the Relevant Date, for the reason that, prior to the Relevant Date, the relevant facts disclosed in the Announcement were either "*information concerning an incomplete proposal or negotiation*" (refer to the exception in LR3.1.A.1) or facts which were not known to VIA or its Directors (e.g. its auditor's decision regarding the inventory write off).

To explain the above, please refer to the following facts and time line:

- At the end of March / very early April 2019, as a result of a dispute between two third parties, the rare earth inventory of Changzhou Hailin (30.6% owned by VIA) was moved by a third party, without Changzhou Hailin's permission, from the warehouse where it was being legitimately stored onto a sidewalk outside the warehouse. The root cause was a business dispute between the third party and the warehouse owner (which dispute had no connection with Changzhou Hailin or VIA). The dispute was a totally unexpected incident.
- While on the sidewalk, some of the inventory was stolen and the quality of other parts of the inventory were adversely affected by rain. Changzhou Hailin has taken action to recover the stolen inventory and to remediate the affected inventory. Its efforts to do so are continuing.
- VIA was first advised of the incident on or about 25 April 2019. Notification was by VIA's auditor following completion of its annual stocktake.
- Once notified by its auditor of the stolen and rain-affected inventory, in conjunction with Changzhou Hailin, VIA initiated an investigation to determine the extent of the inventory loss

and damage and, second, what, if anything, could be done to recover the stolen inventory and/or remediate the rain-affected inventory.

- The investigation is continuing. VIA is not yet in a position to finally determine the likely quantum of its share of the loss incurred by Changzhou Hailin (and, therefore, the potential write off appropriately attributable to VIA (as a minority shareholder of Changzhou Hailin)). While it acknowledges that some stock has been stolen and other stock damaged, VIA believes it likely that part or all of the stolen stock will be recovered, that some of the damaged stock can be remediated and that there is a reasonable prospect of compensation from the third party and/or warehouse owner for the loss incurred as a result of the illegal removal of the stock from the warehouse.
- Until such time as VIA was advised by its auditor on or shortly prior to 31 May 2019 that it was going to insist on a full writing down of the inventory of Ch
- Changzhou Hailin, as the investigation into the incident had not been completed and the actual loss not capable of being reasonably determined, VIA was intending to address the issue by including appropriate disclosures and noting a contingent liability in its FY19 Financial Statements, with the notes likely to be included in the section headed 'Significant Post Balance Date Events'.
- After advice of the auditor's final decision on the write off, the Directors of VIA resolved to accept the view of its auditor and to finalise its FY19 accounts accordingly. As such, VIA made an immediate announcement to ASX about the profit downgrade, which, as noted in the announcement, was largely attributable to the inventory write off.

In practical terms, the delay in the announcement of the profit downgrade was the result of:

- the fact that VIA was not made aware of the incident involving the stolen and damaged inventory until on or about 25 April 2019;
- the investigation to determine the extent of the loss, and its materiality (if any) to VIA's FY19 financial statements, is still continuing; and
- the auditor's decision to take an approach to the outcome of the incident (i.e. by requiring the write off of the total inventory), which approach was inconsistent with the approach that VIA believed ought to be taken and that dispute about the accounting treatment not being resolved until on or about 31 May 2019.

As such, VIA does not believe that it has acted in a manner inconsistent with its disclosure obligations under ASX Listing Rule 3.1.

**5. Please confirm that VIA is complying with the Listing Rules and, in particular, Listing Rule 3.1.**

Yes, VIA confirms that it is complying with the Listing Rules and, in particular, Listing Rule 3.1.

- 6. Please confirm that VIA's responses to the questions above have been authorised and approved in accordance with its published continuous disclosure policy or otherwise by its board or an officer of VIA with delegated authority from the board to respond to ASX on disclosure matters.**

Yes, VIA can confirm that its responses above to the questions directed to it in ASX's Aware Query have been authorised by VIA's Board of Directors.

Yours faithfully,



Peter Leung  
Director and Company Secretary  
ViaGold Capital Limited



4 June 2019

Mr Peter Leung  
Company Secretary  
Viagold Capital Limited  
53 Bilian Road  
Jida District, Zhuhai  
GUANG DONG, CHINA

By email only

Dear Mr Leung

**Viagold Capital Limited ('VIA'): Aware Query**

ASX refers to the following:

- A. VIA's announcement entitled "Profit Guidance" lodged on the ASX Market Announcements Platform and released at 8:18 AM on 3 June 2019 (the 'Announcement'), disclosing that there has been an incident of illegal moving of inventory by a third party which has resulted in an adjustment to the inventory of VIA's Associate in the Rare Earth Refinery and Separation Sector for the year ended 31 March 2019 and that VIA may record a loss from operation for the year ended 31 March 2019 ('Information').
- B. Listing Rule 3.1, which requires a listed entity to immediately give ASX any information concerning it that a reasonable person would expect to have a material effect on the price or value of the entity's securities.
- C. The definition of "aware" in Chapter 19 of the Listing Rules, which states that:

*"an entity becomes aware of information if, and as soon as, an officer of the entity (or, in the case of a trust, an officer of the responsible entity) has, or ought reasonably to have, come into possession of the information in the course of the performance of their duties as an officer of that entity" and section 4.4 in Guidance Note 8 Continuous Disclosure: Listing Rules 3.1 – 3.1B "When does an entity become aware of information."*

- D. Listing Rule 3.1A, which sets out exceptions from the requirement to make immediate disclosure, provided that each of the following are satisfied.

*"3.1A Listing rule 3.1 does not apply to particular information while each of the following is satisfied in relation to the information:*

*3.1A.1 One or more of the following applies:*

- *It would be a breach of a law to disclose the information;*
- *The information concerns an incomplete proposal or negotiation;*
- *The information comprises matters of supposition or is insufficiently definite to warrant disclosure;*
- *The information is generated for the internal management purposes of the entity; or*
- *The information is a trade secret; and*

*3.1A.2 The information is confidential and ASX has not formed the view that the information has ceased to be confidential; and*

*3.1A.3 A reasonable person would not expect the information to be disclosed."*

- E. ASX's policy position on the concept of "confidentiality", which is detailed in section 5.8 of Guidance Note 8 *Continuous Disclosure*: Listing Rules 3.1 – 3.1B. In particular, the Guidance Note states that:

*"Whether information has the quality of being confidential is a question of fact, not one of the intention or desire of the listed entity. Accordingly, even though an entity may consider information to be confidential and its disclosure to be a breach of confidence, if it is in fact disclosed by those who know it, then it ceases to be confidential information for the purposes of this rule."*

#### **Request for Information**

Having regard to the above, ASX asks VIA to respond separately to each of the following questions and requests for information:

1. Does VIA consider the Information to be information that a reasonable person would expect to have a material effect on the price or value of its securities?
2. If the answer to question 1 is "no", please advise the basis for that view.
3. When did VIA first become aware of the Information?
4. If the answer to question 1 is "yes" and VIA first became aware of the Information before the relevant date, did VIA make any announcement prior to the relevant date which disclosed the information? If so, please provide details. If not, please explain why this information was not released to the market at an earlier time, commenting specifically on when you believe VIA was obliged to release the information under Listing Rules 3.1 and 3.1A and what steps VIA took to ensure that the information was released promptly and without delay.
5. Please confirm that VIA is complying with the Listing Rules and, in particular, Listing Rule 3.1.
6. Please confirm that VIA's responses to the questions above have been authorised and approved in accordance with its published continuous disclosure policy or otherwise by its board or an officer of VIA with delegated authority from the board to respond to ASX on disclosure matters.

#### **When and where to send your response**

This request is made under Listing Rule 18.7. Your response is required as soon as reasonably possible and, in any event, by no later than **9:30 AM AEST Friday, 7 June 2019**.

You should note that if the information requested by this letter is information required to be given to ASX under Listing Rule 3.1 and it does not fall within the exceptions mentioned in Listing Rule 3.1A, VIA's obligation is to disclose the information "immediately". This may require the information to be disclosed before the deadline set out in the previous paragraph and may require VIA to request a trading halt immediately.

If you wish to request a trading halt, you must tell us:

- the reasons for the trading halt;
- how long you want the trading halt to last;
- the event you expect to happen that will end the trading halt;
- that you are not aware of any reason why the trading halt should not be granted; and
- any other information necessary to inform the market about the trading halt, or that we ask for.

We require the request for a trading halt to be in writing. The trading halt cannot extend past the commencement of normal trading on the second day after the day on which it is granted.

---

You can find further information about trading halts in Guidance Note 16 *Trading Halts & Voluntary Suspensions*.

ASX reserves the right to release a copy of this letter and your response on the ASX Market Announcements Platform under Listing Rule 18.7A. Accordingly, your response should be in a form suitable for release to the market.

Your response should be sent to me by e-mail at [ListingsComplianceMelbourne@asx.com.au](mailto:ListingsComplianceMelbourne@asx.com.au). It should not be sent directly to the ASX Market Announcements Office. This is to allow me to review your response to confirm that it is in a form appropriate for release to the market, before it is published on the ASX Market Announcements Platform.

#### **Listing Rules 3.1 and 3.1A**

In responding to this letter, you should have regard to VIA's obligations under Listing Rules 3.1 and 3.1A and also to Guidance Note 8 *Continuous Disclosure: Listing Rules 3.1 – 3.1B*. It should be noted that VIA's obligation to disclose information under Listing Rule 3.1 is not confined to, nor is it necessarily satisfied by, answering the questions set out in this letter.

#### **Suspension**

If you are unable to respond to this letter by the time specified above ASX will likely suspend trading in VIA's securities under Listing Rule 17.3.

#### **Enquiries**

If you have any queries or concerns about any of the above, please contact me immediately.

Yours sincerely

---

**Cheng Tang**  
Senior Adviser, Listings Compliance (Melbourne)