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Australian Securities &
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RIGHTS OF REVIEW

Persons affected by certain decisions made by ASIC under the Corporations Act and the other legislation administered by ASIC may have rights of review. ASIC has published **Practice Note 57 [PN57] Notification of rights of review** and Information Sheet [INFO 1100] **ASIC decisions – your rights** to assist you to determine whether you have a right of review. You can obtain a copy of these documents from the ASIC Digest, the ASIC website at www.asic.gov.au or from the Administrative Law Co-ordinator in the ASIC office with which you have been dealing.

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**Australian Securities and Investments Commission
Corporations Act 2001 - Paragraphs 741(1)(a), 911A(2)(l) and 1020F(1)(a) -
Exemption**

First Exemption

1. Under paragraphs 741(1)(a) and 1020F(1)(a) of the *Corporations Act 2001* (the "Act") the Australian Securities and Investments Commission ("ASIC") exempts:
 - (a) a person referred to in Schedule A from Parts 6D.2, 6D.3 (except section 736) and 7.9 where the person referred to in Schedule A:
 - (i) offers to arrange for the issue of financial products in connection the vesting or exercise of an Award;
 - (ii) issues a financial product under in connection with the vesting or exercise of an Award,that does not involve a contribution plan, on the conditions set out in Schedule B and for so long as the conditions are met; and
 - (b) a person (other than a person referred to in Schedule A covered by paragraph (a)) from Part 7.9 where the person makes a recommendation to acquire financial products in connection with the vesting or exercise of an Award, except where the person is aware, or ought reasonably to be aware, that any of the conditions set out in the Schedule have not been met.

Second Exemption

2. Under paragraph 911A(2)(l) ASIC exempts a person who is exempt from Part 6D.2 or Part 7.9 because of the First Exemption (other than because the person made a recommendation to acquire financial products) from the requirement to hold an Australian financial services licence for the provision of a financial service consisting of general advice reasonably given in connection with the vesting or exercise of an Award where the advice includes a statement to the effect that any advice given by the person in connection with the vesting or exercise of an Award is general advice only, and that employees should consider obtaining their own financial product advice from an independent person who is licensed by ASIC to give such advice.
3. Under paragraph 911A(2)(l) ASIC exempts:
 - (a) an issuer:
 - (i) who is exempt from Part 6D.2 or Part 7.9 because of the First Exemption; or

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- (ii) who has made an offer under a disclosure document or product disclosure statement; and

(b) Xstrata Guernsey,

from the requirement to hold an Australian financial services licence for the provision of the following financial services:

(c) the provision of a custodial or depositary service in connection with

- (i) an Award covered by the First Exemption;
- (ii) an offer made under a disclosure document or product disclosure statement,

where the provider of the service performs their duties in good faith and has sufficient resources to perform those duties; and

(d) dealing in a financial product in the course of providing a custodial or depositary service covered by paragraph (c); and

(e) dealing in a financial product in connection with an Award covered by the First Exemption where any acquisition by purchase or disposal of the product (by the issuer or an associate) occurs either:

- (i) through a person who holds an Australian financial services licence authorising the holder to deal in financial products or a dealers licence issued under the old Corporations Act authorising the holder to deal in securities; or
- (ii) outside this jurisdiction and through a person who is licensed or otherwise authorised to deal in financial products in the relevant place.

Schedule A

Xstrata plc ("Xstrata"), a public listed company registered in the United Kingdom
Xstrata Guernsey Limited ("Xstrata Guernsey"), a limited liability company registered in
Guernsey, Channel Islands

Schedule B

The following conditions apply:

1. In the case where the Plan may involve the issue of shares (including pursuant

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to units of shares or other rights in respect of shares), the issuer must take reasonable steps to ensure that the number of shares to be issued the subject of the offer or to which the offer relates when aggregated with:

- (a) the number of shares in the same class which would be issued were each outstanding offer with respect to shares or options to acquire unissued shares under the Plan or any other employee share scheme to be accepted, or exercised; and
- (b) the number of shares in the same class issued during the previous 5 years pursuant to the Plan or any other employee share scheme extended only to eligible employees of the issuer,

but disregarding any offer made, or option acquired or share issued by way of or as a result of:

- (c) an offer to a person situated at the time of receipt of the offer outside this jurisdiction; or
- (d) an offer that was an excluded offer or invitation within the meaning of the Corporations Law as in force before the commencement of Schedule 1 to the *Corporate Law Economic Reform Program Act 1999*; or
- (e) an offer that did not need disclosure to investors because of section 708; or
- (f) an offer that did not require the giving of a Product Disclosure Statement because of section 1012D; or
- (g) an offer made under a disclosure document or Product Disclosure Statement,

must not exceed 5% of the total number of issued shares in that class of the issuer as at the time of the offer; and

2. in the case where an offer of shares is made through a trust:
 - (a) the trustee must hold the shares on trust for each person (a "beneficiary") who acquires units of shares under an Award; and
 - (b) the trustee must cause proper written financial records to be maintained in respect of the activities of the trust and cause those records to be audited annually and made available for inspection by the beneficiaries at an office of the trustee or a place of business of the issuer during normal business hours or such other time as is agreed

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with beneficiaries; and

- (c) the trustee must ensure that each share to which a unit held by a beneficiary relates is identified in the written financial records as being held on account of that beneficiary; and
- (d) the trustee must not levy any fees or charges for operating and administering the trust, either payable directly by the beneficiaries or out of the assets of the trust; and
- (e) except as expressly provided by the trust deed, a beneficiary must have the capacity to authorise the trustee to sell at or above the current market price the shares to which he or she is entitled to under the deed; and
- (f) the trustee must provide a copy of the trust deed to ASIC; and
- (g) the issuer must ensure that the trust deed contains covenants binding the trustee and their agents, if any, to the effect that a beneficiary possesses substantially the same rights in respect of the shares to which the units of shares they hold relate as if they were the legal owner of the shares, including the right to:
 - (i) direct the trustee how the voting rights attaching to the shares shall be exercised, either generally or in any particular case; and
 - (ii) receive the income deriving from the shares, including dividends declared by the issuer in respect of those shares.

Interpretation

In this instrument:

1. except where otherwise stated, references to provisions are to provisions of the Act;
2. the Plan shall not be regarded as extended to a person other than an eligible employee only because such an employee may renounce an offer of financial products made to them under the scheme in favour of their nominee;
3. "Award" means a Share Award or a Market Value Option (as defined by the rules of the Plan) issued under the Plan;
4. "contribution plan" means a plan under which a participating eligible employee may save money by regular deductions from wages or salary (including through salary sacrifice arrangements) towards paying for shares

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offered for issue or sale under an employee share scheme where the terms and conditions of the contribution plan include terms and conditions to the effect that:

- (a) all deductions from wages or salary made in connection with participation in the contribution plan must be authorised by the employee on the same form of application which is used in respect of the offer, or on a form which is included in or accompanies the offer document;
 - (b) before transferring contributions to acquire shares, any contributions made by an employee as part of the contribution plan must be held by the issuer in trust for the employee in an account of an Australian ADI which is established and kept by the issuer only for the purpose of depositing contribution moneys and other money paid by employees for the shares on offer under the employee share scheme; and
 - (c) the employee may elect to discontinue their participation in the contribution plan at any time and as soon as practicable after that election is made all money deposited with the Australian ADI in relation to that employee, including any accumulated interest, must be repaid to that employee;
5. “eligible employee” means, in relation to an issuer, a person who is at the time of an offer under an Award, a full or part-time employee or director of Xstrata or Xstrata Guernsey;
 6. “financial product advice” has the meaning given by section 766B;
 7. “general advice” has the meaning given by section 766B;
 8. “issuer” means Xstrata plc, a public listed company registered in the United Kingdom;
 9. “offer” has a meaning affected by sections 700, 702 and 1010C;
 10. “old Corporations Act” has the meaning given by subsection 1410(1);
 11. “Plan” means each of the Xstrata plc 2002 and 2003 Long-Term Incentive Plan;
 12. “unit” in relation to a share means a legal or equitable right or interest in the share.

Commencement

This instrument comes into effect on gazettal.

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Dated this 9th day of May 2005



Signed by Eugene Kee Loong Foo
as a delegate of the Australian Securities and Investments Commission