12. Investigating Accountants' Reports

PRICEWATERHOUSECOOPERS

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The Directors
WMC Limited
Level 16
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28 October 2002

Subject: Investigating Accountant's Report on Historical Financial Information

Dear Madam and Sirs

We have prepared this Investigating Accountant's Report ('Report') on the historical financial information for inclusion in a scheme booklet dated 28 October 2002 (the 'Scheme Booklet') relating to the demerger of WMC Limited ('WMC' or 'the Company') into two independent businesses, Alumina Limited ('Alumina Limited') and WMC Resources Ltd ('WMC Resources') (collectively the 'Demerged Businesses'), to be separately listed on the Australian Stock Exchange.

Expressions defined in the Scheme Booklet have the same meaning in this Report.

Scope

You have requested PricewaterhouseCoopers to prepare a Report for inclusion in the Scheme Booklet covering the following information:

Historical financial information

The pro forma historical financial information set out in Sections 6.6 and 7.12 of the Scheme Booklet (collectively, the 'Historical Financial Information'), consisting of:

(a) the pro forma consolidated historical results and cash flows of each of Alumina Limited (Sections 6.6.2(b) and 6.6.2(d)) and WMC Resources (Sections 7.12.2(b) and 7.12.2(d)) for the years ended 31 December 2001, 2000 and 1999; and

(b) the pro forma consolidated statements of net assets of each of Alumina Limited (Section 6.6.2(e)) and WMC Resources (Section 7.12.2(e)) as at 30 June 2002, which assume completion of the contemplated transactions disclosed in Sections 6.6.2(e)(i) and 7.12.2(e)(i) of the Scheme Booklet (the 'Pro Forma Transactions').

The Historical Financial Information has been prepared under Generally Accepted Accounting Principles in Australia ('A GAAP') on the basis that the Demerged Businesses have been operating independently for reporting purposes since 1 January 1999. In preparing the Historical Financial Information, the Directors of WMC considered the need for it to be adjusted to reflect the pro forma transactions in Sections 6.6.2(e)(i) and 7.12.2(e)(i) and to adjust for certain non-recurring items. Details of the non-recurring adjustments are set out in Section 6.6.2(b) and 7.12.3(a) of the Scheme Booklet.

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Compilation of historical financial information under US Generally Accepted Accounting Principles ('US GAAP')

The compilation of the historical financial performances of AWAC under US GAAP ('Combined Historical Results of AWAC under US GAAP') and the historical statement of net assets of AWAC under US GAAP ('Combined Statement of Net Assets of AWAC under US GAAP') set out in Sections 6.6.3(b) and 6.6.3(d) respectively of the Scheme Booklet (collectively, the 'Historical US GAAP Financial Information').

This Report has been prepared for inclusion in the Scheme Booklet. We disclaim any assumption of responsibility for any reliance on this Report or on the Historical Financial Information or the Historical US GAAP Financial Information to which it relates for any purposes other than for which it was prepared.

Scope of review of Historical Financial Information

The Historical Financial Information has been extracted from the audited financial statements of the Company for the years ended 31 December 2001, 2000 and 1999 and from the Half Year Report for 30 June 2002, and incorporates such adjustments as the Directors of the Company considered necessary to reflect the operations of each Demerged Business. The Directors of the Company are responsible for the preparation of the Historical Financial Information, including determination of the adjustments.

Although each of the entities included in the WMC group did not prepare separate audited financial statements during the financial periods under review, PricewaterhouseCoopers did conduct an audit of the consolidated financial statements of WMC for the years ended 31 December 2001, 2000 and 1999. These audits were conducted in accordance with Australian Auditing Standards to provide reasonable assurance as to whether the consolidated financial statements of WMC were free of material misstatement. An unqualified opinion was issued in respect of each year.

We have conducted our review of the Historical Financial Information in accordance with Australian Auditing Standard AUS 902 'Review of Financial Reports'. We made such inquiries and performed such procedures as we, in our professional judgement, considered reasonable in the circumstances, including discussions with the Directors and management of WMC.

These procedures do not provide all the evidence that would be required in an audit, thus the level of assurance provided is less than given in an audit. We have not performed an audit and, accordingly, we do not express an audit opinion on the Historical Financial Information.

Review statement on Historical Financial Information

Based on our review, which is not an audit, nothing has come to our attention which causes us to believe that:

- the pro forma consolidated statement of net assets of each Demerged Business included in the Historical Financial Information has not been properly prepared on the basis of the Pro Forma Transactions disclosed in Sections 6.6.2(e)(i) and 7.12.2(e)(i) of the Scheme Booklet;
- the Pro Forma Transactions disclosed in Sections 6.6.2(e)(i) and 7.12.2(e)(i) of the Scheme Booklet do not form a reasonable basis for the pro forma consolidated statement of net assets of each Demerged Business included in the Historical Financial Information; and
- the Historical Financial Information:
  - (a) does not present fairly:
  - (i) the pro forma historical consolidated results and cashflows of each Demerged Business for each of the years ended 31 December 2001, 2000 and 1999; and
  - (ii) the pro forma consolidated statements of net assets of each Demerged Business as at 30 June 2002; and
  - (b) has not been prepared in accordance with the recognition and measurement principles prescribed in Accounting Standards and other mandatory professional reporting requirements in Australia, and the accounting policies adopted by WMC.

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Compilation of the Historical US GAAP Financial Information

The Historical US GAAP Financial Information set out in Sections 6.6.3(b) and 6.6.3(d) of the Scheme Booklet has been extracted from the Historical Financial Information after making certain adjustments relating to the conversion of the Historical Financial Information from A GAAP to US GAAP (the 'Historical Adjustments'). The accounting principles applied to prepare the Combined Historical Results of AWAC under US GAAP and the Combined Statement of Net Assets of AWAC under US GAAP are outlined in Sections 6.6.3(a) of the Scheme Booklet. The Directors of the Company are responsible for the preparation of the Historical US GAAP Financial Information, including determination of the adjustments.

We have not performed an audit of the Historical US GAAP Financial Information and accordingly we do not express an audit opinion on the Historical US GAAP Financial Information. However, in our opinion the Historical US GAAP Financial Information has been properly compiled on the basis stated in Sections 6.6.3(a) of the Scheme Booklet and the Historical Adjustments are appropriate for the purpose of the Historical US GAAP Financial Information disclosed in Sections 6.6.3(b) and 6.6.3(d) of the Scheme Booklet.

Subsequent events

Apart from the matters dealt with in this Report, and having regard to the scope of our Report, to the best of our knowledge and belief there have been no material items, transactions or events subsequent to 30 June 2002 that have come to our attention that would require comment on, or adjustment to, the information referred to in our Report or that would cause such information to be misleading or deceptive.

Independence

PricewaterhouseCoopers does not have any interest in the outcome of the Demerger, other than in connection with the preparation of this report and participation in due diligence procedures for which normal professional fees are received.

Yours faithfully

PricewaterhouseCoopers

PricewaterhouseCoopers
Chartered Accountants

Paul Bendall
Partner

Jock O'Callaghan
Partner

PRICEWATERHOUSECOOPERS

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The Directors
WMC Limited
Level 16
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28 October 2002

Subject: Investigating Accountant's Report on Forecast Financial Information

Dear Madam and Sirs

We have prepared this Investigating Accountant's Report ('Report') on the forecast financial information for inclusion in a scheme booklet dated 28 October 2002 (the 'Scheme Booklet') relating to the demerger of WMC Limited ('WMC' or 'the Company') into two independent businesses, Alumina Limited ('Alumina Limited') and WMC Resources Ltd ('WMC Resources'), (collectively the 'Demerged Businesses') to be separately listed on the Australian Stock Exchange. This Report is prepared in accordance with ASIC Policy Statement 170 'Prospective financial information'.

Expressions defined in the Scheme Booklet have the same meaning in this Report.

The nature of this Report is such that it should be given by an entity which holds a dealer's licence under the Corporations Act 2001 (Cth). PricewaterhouseCoopers Securities Ltd is wholly owned by PricewaterhouseCoopers and holds the appropriate dealer's licence.

Scope

You have requested PricewaterhouseCoopers Securities Ltd to prepare a Report for inclusion in the Scheme Booklet covering the following information (collectively the 'Forecast Information'):

Forecast financial information

The forecast financial information set out in Appendix A to this Report and as contained within Sections 6.6 and 7.12 of the Scheme Booklet, consisting of the pro forma consolidated forecast results and cash flows of each of Alumina Limited and WMC Resources for each of the years ending 31 December 2002 and 2003 (the 'Forecasts'). In preparing the Forecasts, the Directors of WMC considered the need for them to be adjusted to reflect the pro forma transactions in Sections 6.6.2(c)(i) and 7.12.2(c)(i) and to adjust for certain non-recurring items. Details of the non-recurring adjustments are set out in Sections 6.6.2(b) and 7.12.2(c)(vii) of the Scheme Booklet.

Proforma forecast removing Olympic Dam production constraints

The pro forma forecast removing Olympic Dam production constraints set out in Appendix B to this Report and as contained within Section 7.12.2(b) of the Scheme Booklet ('Pro Forma Forecast Removing Olympic Dam Production Constraints '), consisting of the pro forma consolidated forecast results and cash flows of WMC Resources for the year ending 31 December 2003, adjusted to remove the impact of certain production constraints as described in Sections 7.12.2(b) and 7.12.2(c)(iv) of the Scheme Booklet.

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Compilation of forecast results under US Generally Accepted Accounting Principles ('US GAAP')

The compilation of the forecast combined results of AWAC under US GAAP ('Forecast Results of AWAC under US GAAP') set out in Section 6.6.3(b) of the Scheme Booklet.

This Report has been prepared for inclusion in the Scheme Booklet. We disclaim any assumption of responsibility for any reliance on this Report or on the Forecast Information to which it relates for any purposes other than for which it was prepared.

Scope of review of Forecasts

The Directors of the Company are responsible for the preparation and presentation of the Forecasts, including the best estimate assumptions, which include the contemplated transactions disclosed in Sections 6.6.2(c)(i) and 7.12.2(c)(i) of the Scheme Booklet (the 'Pro Forma Transactions'), on which they are based.

Our review of the Forecasts was conducted in accordance with Australian Auditing Standard AUS 902 'Review of Financial Reports'. Our procedures consisted primarily of enquiry and comparison and other such analytical review procedures we considered necessary so as to adequately evaluate whether the best estimate assumptions provide a reasonable basis for the Forecasts, including but not limited to:

(a) analytical review of the Forecasts and comparison to historical financial information;
(b) review of work papers, accounting records, contracts and other documents;
(c) review of the assumptions used to compile the Forecasts;
(d) comparison of consistency in application of Accounting Standards and other mandatory professional reporting requirements in Australia and the accounting policies of Alumina Limited and WMC Resources, as described in Sections 6.6.2(c)(i) and 7.12.2(c)(i) of the Scheme Booklet respectively; and
(e) discussions with the Directors and Management of WMC.

These procedures have been undertaken to form an opinion whether anything has come to our attention which causes us to believe:

(a) that the best estimate assumptions do not provide a reasonable basis for the preparation of the Forecasts; and
(b) whether, in all material respects, the Forecasts are properly compiled on the basis of the assumptions and are presented fairly on a basis consistent with the accounting policies of the Company and the recognition and measurement principles prescribed in Accounting Standards and other mandatory professional reporting requirements in Australia, so as to present a view of the Demerged Businesses which is consistent with our understanding of the Demerged Businesses' past, current and future operations.

The Forecasts have been prepared by the Directors to provide investors with a guide to the Demerged Businesses' potential future financial performance based upon the achievement of certain economic, operating, development and trading assumptions about future events and actions that have not yet occurred and may not necessarily occur. There is a considerable degree of subjective judgement involved in the preparation of the Forecasts. Accordingly, investors should have regard to the investment risks set out in Sections 4.5, 6.5 and 7.11 of the Scheme Booklet.

Our review is substantially less in scope than an audit examination conducted in accordance with Australian Auditing Standards. A review of this nature provides less assurance than an audit. We have not performed an audit and we do not express an audit opinion on the Forecasts.

Review statement on the Forecasts

Based on our review of the Forecasts, which is not an audit, and based on an investigation of the reasonableness of the Directors' best estimate assumptions giving rise to the Forecasts, nothing has come to our attention which causes us to believe that:

(a) the Directors' best estimate assumptions set out in Sections 6.6.2(c) and 7.12.2(c) of the Scheme Booklet do not provide reasonable grounds for the preparation of the Forecasts; and
(b) the Forecasts are not properly compiled on the basis of the Directors' best estimate assumptions and presented fairly in accordance with the recognition and measurement principles prescribed in Accounting Standards and other mandatory professional reporting requirements in Australia, and the accounting policies of Alumina Limited and WMC Resources described in Sections 6.6.2(c)(i) and 7.12.2(c)(i) of the Scheme Booklet; and
(c) the Forecasts themselves are unreasonable.

The underlying assumptions are subject to significant uncertainties and contingencies often outside the control of the Company and the Demerged Businesses. If events do not occur as assumed, actual results and distributions achieved by the Demerged Businesses may vary significantly from the Forecasts. Accordingly, we do not confirm or guarantee the achievement of the Forecasts, as future events, by their very nature, are not capable of independent substantiation.

Scope of review of Pro Forma Forecast Removing Olympic Dam Production Constraints

The Directors of the Company are responsible for the preparation and presentation of the Pro Forma Forecast Removing Olympic Dam Production Constraints, including the determination of the financial impact of the production constraints described in Sections 7.12.2(b) and 7.12.2(c)(iv) of the Scheme Booklet and the 2003 Proforma Forecasts on which they are based.

Our review of the Pro Forma Forecast Removing Olympic Dam Production Constraints was conducted in accordance with Australian Auditing Standard AUS 902 'Review of Financial Reports'. Our procedures consisted primarily of enquiry and comparison and other such analytical review procedures we considered necessary in the circumstances, including discussions with the Directors and Management of WMC.

The Pro Forma Forecast Removing Olympic Dam Production Constraints has been prepared by the Directors to provide investors with a guide as to the impact on the Forecasts of certain production constraints which are expected to occur in 2003, as described in Sections 7.12.2(b) and 7.12.2(c)(iv) of the Scheme Booklet.

There is a considerable degree of subjective judgement involved in the preparation of the Pro Forma Forecast Removing Olympic Dam Production Constraints. Accordingly, investors should have regard to the investment risks set out in Sections 4.5, 6.5 and 7.11 of the Scheme Booklet.

Our review is substantially less in scope than an audit examination conducted in accordance with Australian Auditing Standards. A review of this nature provides less assurance than an audit. We have not performed an audit and we do not express an audit opinion on the Pro Forma Forecast Removing Olympic Dam Production Constraints.

Review statement on the Pro Forma Forecast Removing Olympic Dam Production Constraints

Based on our review, which is not an audit, nothing has come to our attention which causes us to believe that:

(a) the Pro Forma Forecast Removing Olympic Dam Production Constraints has not been properly prepared on the basis of the 2003 Pro Forma Forecasts, excluding the estimated financial impact of the production constraints described in Sections 7.12.2(b) and 7.12.2(c)(iv) of the Scheme Booklet;

(b) the estimated financial impact of the production constraints described in Sections 7.12.2(b) and 7.12.2(c)(iv) of the Scheme Booklet does not provide a reasonable basis for the preparation of the Pro Forma Forecast Removing Olympic Dam Production Constraints; and

(c) the Pro Forma Forecast Removing Olympic Dam Production Constraints has not been properly compiled and presented fairly in accordance with the recognition and measurement principles prescribed in Accounting Standards and other mandatory professional reporting requirements in Australia, and the accounting policies of WMC Resources described in Section 7.12.2(c)(i) of the Scheme Booklet.

Compilation of the Forecast Results of AWAC under US GAAP

The Forecast Results of AWAC under US GAAP set out in Section 6.6.3(b) of the Scheme Booklet have been compiled from the Alumina Limited Forecasts, after making certain adjustments relating to the conversion of the Forecasts from Generally Accepted Accounting Principles in Australia ('A GAAP') to US GAAP (the 'US GAAP Adjustments'). The accounting principles and assumptions applied to prepare the Forecast Results of AWAC under US GAAP are outlined in Section 6.6.3(a) of the Scheme Booklet. The Directors of the Company are responsible for the preparation of the Forecast Results of AWAC under US GAAP, including determination of the adjustments.

We have not performed an audit of the Forecast Results of AWAC under US GAAP and we do not express an audit opinion on the Forecast Results of AWAC under US GAAP. However, in our opinion the Forecast Results of AWAC under US GAAP have been properly compiled on the basis stated in Section 6.6.3(a) of the Scheme Booklet and the US GAAP Adjustments are appropriate for the purpose of the Forecast Results of AWAC under US GAAP disclosed in Section 6.6.3(b) of the Scheme Booklet.

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Subsequent events

Apart from the matters dealt with in this Report, and having regard to the scope of our Report, to the best of our knowledge and belief there have been no material items, transactions or events subsequent to 30 June 2002 that have come to our attention that would require comment on, or adjustment to, the information referred to in our Report or that would cause such information to be misleading or deceptive.

Independence

PricewaterhouseCoopers Securities Ltd does not have any interest in the outcome of the Demerger, other than in connection with the preparation of this Report and participation in due diligence procedures for which normal professional fees are received.

Yours faithfully

Paul Bendall
Authorised Representative of
PricewaterhouseCoopers Securities Ltd

Jock O'Callaghan
Authorised Representative of
PricewaterhouseCoopers Securities Ltd

Appendix A

Pro Forma Consolidated Results of Alumina Limited A GAAP ($A million)	PRO FORMA FORECAST Year ending 31 December	
	2002	**2003**
Equity share of profits after tax	263.0	375.9
Amortisation of equity goodwill	(17.7)	(17.7)
Corporate costs	(8.2)	(8.2)
Pro forma results before borrowing costs and tax	**237.1**	**350.0**
Net borrowing costs	(18.6)	(19.5)
Income tax (expense)/benefit	-	-
Pro forma net profit attributable to members of Alumina Limited	**218.5**	**330.5**

Pro Forma Consolidated Cash flows of Alumina Limited A GAAP ($A million)	PRO FORMA FORECAST Year ending 31 December	
	2002	**2003**
Dividends received from AWAC	256.4	375.9
Operating costs	(8.2)	(8.2)
Payment for purchase of MRN and Halco shares	(72.2)	-
Net cash flow before borrowing costs, tax and financing activities	**176.0**	**367.7**
Net borrowing costs	(18.6)	(19.5)
Income taxes paid	-	-
Net cash flow after tax and before financing activities	**157.4**	**348.2**

Pro Forma Consolidated Results of WMC Resources A GAAP ($A million)	PRO FORMA FORECAST Year ending 31 December	
	2002	**2003**
Sales revenue from operating activities		
Nickel Business Unit	1,361.6	1,528.7
Olympic Dam	771.7	839.5
Queensland Fertilizer Operations	426.0	447.7
Revenue from insurance claims	80.0	-
Other revenue from outside the operating activities	11.2	3.9
Revenue from continuing operations	**2,650.5**	**2,819.8**
EBITDA from continuing operations		
Nickel Business Unit	470.9	628.3
Olympic Dam	302.9	293.4
Queensland Fertilizer Operations	26.9	47.6
Corporate	(43.8)	(25.7)
Exploration, New Projects and Other	(73.5)	(60.0)
Total EBITDA (excluding currency & commodity hedging)	**683.4**	**883.6**
Amortisation	186.1	205.1
Depreciation	344.1	314.2
Amortisation and depreciation on fair value adjustment	9.1	9.1
EBIT from continuing operations		
Nickel Business Unit	247.0	378.9
Olympic Dam	45.8	77.4
Queensland Fertilizer Operations	(19.6)	(5.1)
Corporate	(53.5)	(35.4)
Exploration, New Projects and Other	(75.6)	(60.6)
Sub total (excluding currency & commodity hedging)	**144.1**	**355.2**
Net currency and commodity hedging gains/(losses)	(23.6)	32.6
Total EBIT (including currency & commodity hedging)	**120.5**	**387.8**
Net borrowing costs	(54.5)	(48.0)
Profit from continuing operations before income tax expense	**66.0**	**339.8**
Income tax benefit/(expense)	7.0	(78.9)
Net profit attributable to members of WMC Resources from continuing operations	**73.0**	**260.9**

Pro Forma Consolidated Cash flows of WMC Resources A GAAP ($A million)	PRO FORMA FORECAST Year ending 31 December	
	2002	**2003**
EBITDA from continuing operations (excluding currency and commodity hedging gains/(losses))	**683.4**	**883.6**
Movements in working capital	(98.3)	(11.8)
Currency & commodity hedging payments falling due	(157.2)	(94.9)
Non cash items	28.0	22.0
Capital expenditure	(454.4)	(593.5)
Other investing cashflows	7.7	0.3
Net cashflow before borrowing costs, tax and financing activities	**9.2**	**205.7**
Net borrowing costs	(58.1)	(55.5)
Interest rate swap	71.2	-
Income tax paid	(4.5)	(1.5)
Net cashflow before financing activities	**17.8**	**148.7**

Appendix B

WMC Resources Pro Forma Forecast Removing Olympic Dam Production Constraints A GAAP ($A million)	PRO FORMA FORECAST Year ending 31 December 2003
Sales revenue from operating activities Nickel Business Unit	1,528.7
Olympic Dam	966.9
Queensland Fertilizer Operations	447.7
Revenue from insurance claims	-
Other revenue from outside the operating activities	3.9
Revenue from continuing operations	**2,947.2**
EBITDA from continuing operations	
Nickel Business Unit	628.3
Olympic Dam	381.6
Queensland Fertilizer Operations	47.6
Corporate	(25.7)
Exploration, New Projects and Other	(60.0)
Total EBITDA (excluding currency & commodity hedging)	**971.8**
Amortisation	207.1
Depreciation	314.2
Amortisation and depreciation on fair value adjustment	9.1
EBIT from continuing operations	
Nickel Business Unit	378.9
Olympic Dam	163.6
Queensland Fertilizer Operations	(5.1)
Corporate	(35.4)
Exploration, New Projects and Other	(60.6)
Sub total (excluding currency & commodity hedging)	**441.4**
Net currency and commodity hedging gains/(losses)	32.6
Total EBIT (including currency & commodity hedging)	**474.0**
Net borrowing costs	(41.0)
Profit from continuing operations before income tax expense	**433.0**
Income tax benefit/(expense)	(106.9)
Net profit attributable to members of WMC Resources from continuing operations	**326.1**

WMC Resources Pro Forma Cash Flow Removing Olympic Dam Production Constraints A GAAP ($A million)	PRO FROMA FORECAST Year ending 31 December 2003
EBITDA from continuing operations (excluding currency and commodity hedging gains/(losses))	**971.8**
Movements in working capital	9.2
Currency & commodity hedging payments falling due	(94.9)
Non cash items	22.0
Capital expenditure	(380.5)
Other investing cashflows	0.3
Net cashflow before borrowing costs, tax and financing activities	**527.9**
Net borrowing costs	(48.5)
Income tax paid	(1.5)
Net cashflow before financing activities	**477.9**

13. US Tax Opinion

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Deloitte & Touche

October 28, 2002

To the Directors of WMC Limited
Level 16, IBM Centre
60 City Road Southbank VIC 3006

Re: United States Tax Consequences of WMC Limited Demerger

You have requested our opinion regarding the United States ("U.S.") federal income tax consequences of a proposed series of transactions in which WMC Limited ("WMC") will distribute all of the shares in WMC Resources Ltd. ("WMCR") *pro rata* to WMC's shareholders. For the reasons set forth below, it is our opinion that it is more likely than not that the distribution of WMCR shares to certain U.S. persons who hold beneficially WMC shares will be tax-free under section 355 of the Internal Revenue Code of 1986, as amended (the "Code"). As used in this opinion, "more likely than not" means that we believe there is a greater than 50% likelihood of the position being upheld, if it is questioned. Our opinion is not binding on the Internal Revenue Service (the "IRS" or "Service") or the courts, however, and there can be no assurance that the Service or the courts will agree with the conclusions expressed herein.

Our opinion addresses only the U.S. federal income tax consequences of the distribution of WMCR shares and applies only to certain shareholders who are subject to U.S. federal income taxation. Our opinion does not address the U.S. federal income tax consequences to certain U.S. persons who are subject to special rules, including insurance companies, financial institutions, tax-exempt organizations, traders in securities, persons who acquired their WMC shares through the exercise of employee share options or otherwise as compensation, persons who hold the shares as part of a hedge, straddle, or conversion transaction, or holders of WMC share options. Our opinion does not address any non-U.S., or U.S. state or local, income tax consequences.

Our opinion is based on the Code, Treasury regulations, court decisions, and IRS rulings in effect on this date, all of which are subject to change, possibly with retroactive effect. In rendering this opinion, we undertake no obligation to advise you or your shareholders of any such changes occurring after the date of this letter.

Our opinion is based on the facts that you have provided to us, including the material facts summarized below, and on the following documents: the draft Schemes of Arrangement (Draft 12) between WMC and its Shareholders and WMC Optionholders in relation to the Demerger of WMC, dated October 28, 2002, including exhibits thereto; the Formation Agreement dated December 21, 1994, between and among Alcoa Inc. (formerly called Aluminum Company of America), Alcoa International Holdings Corporation, ASC Alumina, Inc., WMC (formerly called Western Mining Corporation Holdings Limited), Westminer International Holdings Pty Ltd (formerly called Westminer International Holdings Limited), and WMC Alumina (USA) Inc.; the Charter of the Strategic Council dated December 21, 1994; the HayGroup report on Business Benefits of a Possible Demerger dated September 2001; WMC's Form 20-F for the fiscal year ended December 31, 2001 as filed with the Securities and Exchange Commission; and the Representation Letter dated October 1, 2002. As our opinion is based on the facts presented as of the date of the opinion and as of the time of the proposed transaction, the Representation Letter will need to be reaffirmed by WMC and WMCR on the date of the distribution of the WMCR shares by WMC. Except as indicated herein, defined terms used in this opinion have the meaning given to them in the aforementioned documents. To the extent you provided drafts of such documents, our opinion assumes that there are no material changes to such drafts prior to consummation of the transaction, and the transactions are concluded in substantially the form and manner stated in the drafts.

Summary of Facts

Current Structure

WMC is an Australian company engaged indirectly through its subsidiaries in mineral and metals exploration, production, processing, and marketing in Australia and throughout the world. WMC was incorporated in Victoria, Australia, on April 28, 1970, under the name Westminer Investments Proprietary Ltd. as a subsidiary of WMCR. WMC changed its name to Westminer Investments Limited on April 6, 1979, and to Western Mining Corporation Holdings Limited on July 13, 1979. WMC was restructured on November 19, 1979, to become a listed company on the Australian Stock Exchange ("ASX") and parent company of WMCR. It became a listed company on January 17, 1980. WMC changed its name to WMC Limited on November 16, 1995.

As of December 31, 2001, WMC had issued and outstanding approximately 1.1 billion ordinary voting shares (excluding partly paid shares). No other shares (other than partly paid shares, which have since been paid up) were issued and outstanding on that date or will be outstanding on the date of the transactions described below. WMC ordinary shares are publicly traded on the ASX, the New York Stock Exchange (through American Depository Receipts), and the Frankfurt Stock Exchange. No single shareholder owns as much as 5% of the ordinary shares directly for its own account. Certain nominee companies hold more than 5% as registered (non-beneficial) owner for third parties. WMC believes that U.S. persons as defined in section 7701(a)(30) of the Code own beneficially approximately 22% of its ordinary shares.

The WMC group issued four series of bonds in the U.S. capital markets in 1993 and 1996. The bond issues include: $250 million USD at 6.50% coupon, maturing November 15, 2003; $200 million USD at 6.75% coupon, maturing December 2006; $150 million USD at 7.25%, maturing November 15, 2013; and $200 million USD at 7.35% coupon, maturing December 2026. The issuer was WMC Finance (USA) Limited, described below. WMC guaranteed all of the debt.

WMC does not file a U.S. federal income tax return, although several of its subsidiaries file U.S. returns. WMC is not a controlled foreign corporation within the meaning of section 957 of the Code.

WMC operates as a holding company for the shares of various subsidiaries. In the context of the transaction described below, the WMC group's businesses can be divided into two segments: (1) businesses related to the Alcoa World Alumina and Chemicals joint venture (referred to as the "AWAC Businesses"); and (2) all other mineral exploration and production activities (the "Non-AWAC Businesses"). Each segment is described in more detail below:

The AWAC Businesses.

The AWAC Businesses consist of WMC's interests in Alcoa World Alumina and Chemicals ("AWAC"), a joint venture between WMC and Alcoa Inc. ("Alcoa"), a U.S. corporation otherwise unrelated to WMC. WMC and Alcoa formed AWAC on January 1, 1995, by combining their respective bauxite, alumina, and alumina-based chemicals businesses and selected smelting operations.

AWAC is a leading producer of bauxite, alumina, and alumina-based chemicals, with its principal operations in Australia. WMC's interest in the AWAC joint venture consists of (1) a 39.25% shareholding in Alcoa of Australia Limited ("Alcoa of Australia"), an Australian company with integrated bauxite mining, alumina refining and aluminum smelting facilities; (2) a 40% interest in Alcoa World Alumina LLC ("AWA LLC"), a Delaware limited liability company organized on December 21, 1994, through which the joint venture conducts bauxite mining, alumina refining, aluminum smelting, and alumina-based chemical production businesses in the U.S. and throughout the world (outside of Australia); and (3) a 40% interest in European located companies which are predominantly alumina-based chemical production businesses. Alcoa owns the remaining 60% interest in Alcoa of Australia, AWA LLC and the European companies. AWA LLC has been classified as a partnership for U.S. federal income tax purposes continuously since its formation.

WMC owns its shareholding in Alcoa of Australia directly. Alcoa of Australia is an Australian company that owns and operates integrated aluminum facilities, including mining, refining and smelting facilities, and also has alumina-based chemicals operations. Alcoa of Australia was formed in 1961 and is currently owned 39.25% by WMC, 60% by Alcoa and .75% by an Australian institutional investor. Alcoa of Australia operates its alumina businesses directly and through wholly-owned and partly owned subsidiaries, including Alcoa Portland Aluminium, AFP PTRY Limited, Coala Insurance Co Ltd, Alcoa of Australia (Asia) Ltd, Hedges Gold Pty Ltd, ACAP Australia Pty Ltd, ACAP (Singapore) Pte. Ltd, Eastern Aluminium Pty Ltd, Eastern Aluminium (Portland) and Australian Fused Materials. Alumina produced in Australia by Alcoa of Australia is shipped either to its smelters at Point Henry and Portland in Victoria, Australia or to overseas customers principally in the U.S., Canada, the Middle East, Europe and South Africa. Bauxite is sourced from its 100% owned Huntly and Willowdale bauxite mines, each located in the Darling Ranges south of Perth, which supply Alcoa of Australia's three alumina refineries in Western Australia. Bauxite is transported to the Kwinana, Pinjarra and Wagerup refineries.

A storage and loading facility that handles the majority of shipping for the Pinjarra and Wagerup refineries is located at the port of Bunbury near Wagerup. Some Pinjarra production is also shipped through the shipping facility at Kwinana, south of Perth. The rights to operate bauxite mining and alumina refining operations in Western Australia are provided under agreements with the State Government of Western

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Australia. The mining leases granted by the Western Australian Government expire in 2044. Alcoa of Australia also produces primary aluminum in Victoria, Australia. The aluminum assets include an aluminum smelter at Point Henry, near Geelong, and a 55% controlling interest in an aluminum smelter at Portland.

WMC owns its interest in the European companies and AWA LLC indirectly as follows: WMC owns 100% of the shares in Westminer International Holdings Pty. Ltd., an Australian company ("WIH"). WIH has an LLC membership interest based on capital of 29.52% in AWA LLC based on its current capital account of $387,056,598 USD (U.S. dollars) as of December 31, 2000. WIH has a 40% profit and loss interest in AWA LLC's non-U.S. "Foreign" assets. WIH also owns 100% of the shares of Western Mining Corporation (USA), a Delaware corporation and a holding company with one of its significant assets being 100% of the shares of WMC Alumina (USA), Inc., a Delaware corporation and a holding company, which in turn has an LLC membership interest based on capital of 10.48% in AWA LLC based on its current capital account of $137,389,195 USD as of December 31, 2000. WMC Alumina (USA), Inc. has a 40% profit and loss interest in AWA LLC's U.S. "Domestic" assets. WIH also indirectly owns the European companies in AWAC. These include Westminer (Investments) BV, Alcoa Chemie Nederland BV, Alcoa Moerdijk BV, Alcoa Chemie GmbH and Alumina Espanola SA.

AWA LLC is engaged in the business of bauxite mining, alumina refining, aluminum smelting, and production of alumina-based chemicals in the U.S. and throughout the world (outside of Australia). AWA LLC is engaged in business (1) directly, (2) through four limited liability companies, which are treated as partnerships for U.S. tax purposes, and (3) through numerous subsidiary corporations.

AWA LLC owns directly and operates an alumina refinery at Point Comfort, Texas. The refinery was completed in 1960, expanded in 1997, and has a nominal capacity of 2.3 million tons per annum. AWA LLC obtains bauxite for the refinery from an AWAC affiliate in Guinea and purchases additional bauxite in the spot market from Jamaica and French Guiana. The Point Comfort refinery produces both smelter-grade alumina and alumina hydrates (chemical-grade alumina). AWA LLC employs approximately 700 persons at the Point Comfort refinery.

AWA LLC also is a major producer of alumina-based chemicals. It obtains most of its chemical-grade alumina needs from the Point Comfort refinery and from AWAC affiliate refineries in San Ciprian, Spain and Kwinana, Western Australia. AWA LLC sells industrial chemicals to a broad range of customers for use in refractories, ceramics, abrasives, polymer additives, chemicals processing, and other specialty applications. As of December 31, 2001, AWA LLC owned directly and operated six alumina chemicals plants at the following locations: Point Comfort, Texas; Fort Meade, Florida; Bauxite, Arkansas; Vidalia, Louisiana; Dalton, Georgia; and Leetsdale, Pennsylvania. AWA LLC employs over 1,000 persons at these plants.

Suriname Aluminum Company, L.L.C. ("Suralco"), is a Delaware limited liability company that owns and operates fully integrated aluminum facilities. AWA LLC owns 98% of Suralco, and an AWAC affiliate, Alcoa Caribbean Alumina Holdings LLC, owns the other 2%. Suralco has been treated as a partnership for U.S. federal income tax purposes since January 1, 1995. Suralco began operations in 1916 and currently has interests in an alumina refinery at Paranam, bauxite mines in northeast Suriname and south of Paranam, and hydroelectric facilities at Afobaka Lake. Suralco has over 1,000 employees, who are engaged in all aspects of its aluminum business activities. Suralco has bauxite mining rights in Suriname that expire in 2032, and its proven new bauxite reserves are expected to last at least through the year 2023. Alcoa Minerals of Jamaica, L.L.C. ("AMJ"), is a Delaware limited liability company that participates in a 50/50 unincorporated joint venture called Jamalco with Clarendon Alumina Production Limited, a Jamaican government company. AWA LLC owns 98% of AMJ and Alcoa Caribbean Alumina Holdings LLC owns the other 2%. AMJ has been treated as a partnership for U.S. federal income tax purposes since January 1, 1995. The Jamalco joint venture is governed by agreements with the Jamaican government and is managed by AMJ. The assets of the Jamalco joint venture comprise bauxite mines, an alumina refinery, and port facilities. The refinery, which was completed in 1972, is located west of Kingston, Jamaica. AMJ has approximately 500 employees. Great Lakes Minerals LLC ("Great Lakes") owns a refractory and abrasives business based in Wurtland, Kentucky. AWA LLC owns 50% of Great Lakes and an unrelated company owns the remaining 50% interest. The business operations of St. Croix L.L.C. are now dormant. Finally, AWA LLC has ownership interests in several other entities that are treated as corporations for U.S. federal income tax purposes.

WMC and Alcoa have been engaged in the AWAC joint venture since January 1995. Under the joint venture agreements, Alcoa, as majority owner, is responsible for providing day-to-day operating management of the joint venture business, in Alcoa of Australia, the European companies and AWA LLC. As the holder of a significant minority interest in the AWAC Businesses, however, WMC management and employees participate regularly in the management of those businesses. These activities are

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described in the discussion of the section 355(b) active trade or business requirement later in this opinion.

The objective of the transaction described below is to divide WMC into two publicly traded companies. Following the transactions, WMC will continue to own the AWAC Businesses. WMC represents that, at the time of the distribution of WMCR shares by WMC (as deemed for U.S. federal tax law purposes, as discussed below), the gross assets of the AWA LLC businesses relied on to satisfy the active trade or business requirement of section 355(b) will have a fair market value that is approximately 5% of the total fair market value of all of its gross assets.

The Non-AWAC Businesses.
WMC's interests in all other mineral and metals businesses are referred to as the Non-AWAC Businesses. The following are the principal subsidiaries engaged in these businesses.

WMCR is an Australian company that was incorporated on March 2, 1933, under the name of Western Mining Corporation Limited, and has been continuously engaged in the mineral business since that time. WMC has owned 100% of the shares in WMCR at all times since November 19, 1979. WMCR's name was changed to WMC Resources Ltd. on May 30, 1996. WMCR currently is engaged directly in the mining, processing, and sales of nickel. It has been engaged in the nickel business since 1967, when it discovered significant nickel ore reserves at Kambalda, Western Australia. It currently mines nickel at Kambalda, Leinster, and Mount Keith, all of which are located in Western Australia. It has operated a nickel smelter at Kalgoorlie, Western Australia, since 1972, and a refinery at Kwinana, Western Australia, since 1970. WMCR's nickel metal sales are made to a large number of customers in Europe, North America, and Asia. WMCR also was active in the mining, processing, and marketing of gold from 1933 through September 2001, at which time it sold its gold operations. WMCR employs approximately 1,000 persons directly in its mining businesses. It uses outside contractors in some aspects of its activities.

WMC (Olympic Dam Corporation) Pty. Ltd. ("ODC") is an Australian company that was incorporated on June 28, 1977, under the name Foxground Pty. Ltd. ODC changed its name to Roxby Mining Corporation Pty. Ltd. on August 6, 1979, and to its current name on July 18, 1989. WMC has owned all of the shares in ODC at all times since June 28, 1977. ODC is engaged in the mining of copper and uranium at the Olympic Dam mine in South Australia.

WMC Fertilizers Pty. Ltd. ("WMC Fertilizers") is an Australian company that was incorporated on June 9, 1972, under the name Queensland Phosphate Pty. Limited. WMC Fertilizers changed its name to Queensland Phosphate Limited on June 18, 1974, to WMC Fertilizers Ltd. on October 18, 1996 and to its current name on December 24, 1998. WMC acquired control of WMC Fertilizers in March 1980 through the acquisition of BH South, and WMC has directly or indirectly owned 100% of WMC Fertilizers since November 1990. WMC Fertilizers owns the Queensland Fertilizer Project and its fertilizer distribution arm, Hi-Fert Pty. Ltd.

WMC Resources International Pty. Ltd. ("WMCRI") is an Australian company that was incorporated on December 15, 1986, under the name Tilson Pty. Ltd. WMCRI changed its name to WMC International Pty. Ltd. on December 10, 1987, and to its current name on June 28, 1994. WMC has owned 100% of the shares in WMCRI at all times since December 15, 1986. WMCRI is a holding company for the majority of WMC's interests in overseas companies, other than companies engaged in the AWAC Businesses.

WMC Finance Limited ("WMC Finance") is an Australian company that was incorporated on October 12, 1981. WMC has owned 100% of its shares at all times since that date. WMC Finance's principal activities are the borrowing and lending of money and other financing activities including commodity and currency hedging and the selling of gold and silver purchased from related entities.

WMC Finance (USA) Limited is an Australian company that was incorporated on September 17, 1993. WMC has owned 100% of its shares at all times since that date. WMC Finance (USA) Limited's principal activity is associated with the aggregate $800 million USD of Yankee Bonds that it issued in the 1993-94 and 1996-97 financial years.

Following the transaction, WMCR will be a publicly traded company. It will continue to operate directly its nickel mining operations, described above, and it will own the shares in ODC, WMC Fertilizers, and various other subsidiaries engaged in the Non-AWAC Businesses. WMCR represents that, at the time of the distribution of WMCR shares, the gross assets of its directly operated mining businesses relied on to satisfy the active trade or business requirement of section 355(b) will have a fair market value that is more than 5% of the total fair market value of all of its gross assets.

Business Reasons for the Transaction

The management of WMC believes that a separation of the two main business groups – the AWAC Businesses and the Non-AWAC Businesses – will have significant business benefits in allowing the respective managements of the two companies to direct greater focus on the specific needs of the underlying businesses, to provide greater incentives for

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both companies to retain and attract the best possible management personnel, to pursue more focused financial policies, to provide both companies with the financial flexibility to manage its capital structure and to permit WMCR to access the U.S. debt markets for future financing and refinancing needs. The transaction also is expected to enhance shareholder value. WMC's independent management consultants - the HayGroup - also performed an analysis of the business benefits of the proposed transaction. The HayGroup's report concurs with WMC management's assessment and expectations of benefits from the proposed separation of the two businesses. The company's legal and financial advisors have commented on the proposed transaction's expected effect on WMCR's financing needs.

Management Focus

WMC management believes that the current corporate structure, which since 1995 has combined WMC's wholly owned mineral businesses and its joint ventured interests in the alumina businesses, makes it more difficult for the company to respond to the challenging environment facing international mining companies. Under the current structure, key WMC executives spend part of their time and significant energies participating in the overall supervision and management of the AWAC Businesses. Although WMC does not control this business segment, it entered into the joint venture with a view to continuing to have a significant voice in the growth, development, and success of the business. Consequently, WMC continues to exert a significant management and operational interest in the business consistent with its approximate 40% minority interest. WMC management and the HayGroup believe that each business can benefit from a separate, more-focused management team.

The current management structure has been developed to support a large company with diverse interests and responsibilities. In addition, it has been suggested that some executives may regard their responsibilities toward the AWAC Businesses as secondary, inasmuch as WMC is a minority partner in that business. This may lead to a lack of intensity and focus on these valuable business interests. Management believes that a separate company structure will enable each company to develop a management team with the skills required for its particular business. The AWAC Businesses require a focused core group of executives with skills related to the alumina business and the interpersonal skills and sensitivities required to operate effectively as a significant minority partner in that business. The Non-AWAC Businesses require more operational mining management skills. This business will have a more cyclical earnings pattern, which will require a different set of commercial and financial skills to manage and protect future income streams.

In the current structure, the cash flow from the generally profitable AWAC Businesses provides a significant cash flow to WMC and has been the largest contributor to its corporate profits in recent years. This cash flow leads to cross-subsidization issues, whereby the cash flow from the AWAC Businesses permits other business segments to continue to survive and grow in a less rigorous environment that would exist otherwise. In general, this reduces the discipline on capital allocation that would exist if the allocation choices were linked more directly to the success of the particular business segment. Further, separated businesses would be more transparent from a financial standpoint, thereby creating a greater focus on individual business segment performance.

WMC management believes that, in addition to the significant energies diverted in participating in the overall operational supervision and management of the AWAC Businesses as described above, significant energies are also diverted to the management of its on-going relationship with Alcoa. Specifically, strategic decisions both inside and outside the AWAC Businesses must be made with an eye to maintaining this relationship and to the potential impact such decisions may have in view of the agreements under which WMC and Alcoa formed AWAC ("AWAC Agreements"). The AWAC Agreements provide that WMC and Alcoa each have a pre-emptive right in the event the other sells its interest in AWAC, and the AWAC enterprise is to be the exclusive vehicle for the bauxite, alumina, and industrial chemicals businesses of both WMC and Alcoa.

Over the last three years, there has been an unprecedented level of consolidation within the global metals and mining industry, and with that, additional scrutiny by competition authorities. In the context of this consolidation, WMC has considered the possibility of business combinations or alternative transactions regarding WMC and its businesses with other parties. Following the recent expansion of WMCR's business operations, the WMC Board has recognized that WMC's non-AWAC assets held by WMCR have now achieved sufficient size and maturity to represent a viable standalone business, independent of WMC's interest in AWAC. The AWAC Agreements, however, create an added responsibility in analyzing potential opportunities for both WMC and WMCR. The WMC Board has formed the view that the ability to independently achieve the strategic goals of WMC and WMCR may be unduly impacted by management's concerns arising from the AWAC arrangements. A separate WMCR management team, after the proposed Demerger, will free WMCR from these real and perceived encumbrances. Similarly, a separate WMC management will be free from the concerns its ongoing Alcoa relationship and agreements may have on WMCR.

WMC's relationship with Alcoa has, in other ways, absorbed its limited management resources. In October 2001, Alcoa made a confidential approach to WMC to acquire all the outstanding ordinary shares in WMC at a price the WMC Board determined, after evaluation of independent valuation reports from Grant Samuel and JP Morgan, not to be fair and reasonable. For these reasons, the WMC Board could not recommend Alcoa's proposal to WMC's shareholders. The WMC Board was particularly mindful that Alcoa's primary interest in WMC was WMC's 40% interest in AWAC. As a consequence, the WMC Board believes Alcoa may retain an ongoing interest in WMC's alumina assets and an interest in WMC's other business activities. The management of WMC believes that this continued interest supports the view that the creation of separate businesses and management teams proposed under the Demerger is the best solution to free each respective company to independently pursue its own objectives and opportunities, including acquisitions or expansions.

For the reasons presented, the relationship between WMC and Alcoa and the underlying AWAC Agreements introduce an ever-present consideration in an increasing number of WMC's business decisions. Once the Demerger Proposal is implemented, WMCR will be separated from WMC's interest in AWAC, and will therefore no longer be subject to the impediments and distractions as described. The WMC Board believes that the Demerger will enable WMCR's management to operate independently. WMC's separate management will similarly be free to pursue its business objectives without concern for the bearing such objectives may have on WMCR's operations.

Employee Incentives

The HayGroup has advised that the proposed separation of businesses should enable each company to better tailor its employee incentive programs. This ability, which should particularly benefit the WMCR group, is expected to enable the companies to attract and retain the employees needed for success in today's competitive international mining businesses.

The HayGroup report concludes that the programs operating within WMC at present are consistent with community and competitive practice and are well designed. The existing structure presents some issues, however, that can be better addressed under the proposed structure. The HayGroup observes that the "line of sight" between an employee and his or her incentive rewards is a critical factor in good incentive plan design. The introduction of an incentive plan is aimed at encouraging and reinforcing desired behavior that is expected to lead to increased company performance and increased returns to shareholders. Where the link between the employee's activity and the measured business performance is weak, the impact of the incentive is significantly reduced and any rewards resulting from the plan tend to be regarded by the employee as a windfall gain, rather than an earned reward.

The current WMC plan rewards managers and executives based on the achievement of individual performance targets as well as the overall corporate performance. Although WMC has ultimate responsibility to its shareholders for the performance of the AWAC Businesses, only a limited number of WMC managers have any influence over these returns due to WMC's minority status in the joint venture. Under the separated structure, however, the incentives for the staff in both entities can be linked more directly to the corporate results over which they have direct influence and accountability. This will strengthen the "line of sight" for the executives and lead to an increased focus of attention on the agreed objectives. Given the significance of the AWAC Businesses' income to WMC, this is seen as a major benefit of a separate structure.

The delivery vehicle used for long-term incentives in Australia has overwhelmingly been a share option incentive structure. The current trend, however, is moving toward restricted share purchase plans. WMCR proposes to implement such a share plan for its senior executives. While equity based rewards can reflect variations in performance through variations in the size of allocations, the major factor driving the relative value of the reward to the employee is usually the changes in share price. By tying the reward to the share price, an equity-based reward plan provides a focus for participants on enhancing shareholder value and growing share price. Because the income and share price of WMC is so strongly influenced by the AWAC Businesses' returns, over which most of the employees have very limited control, the current structure distorts the individual performance-reward relationship.

WMCR's need to attract and retain key employees with the highly technical skill sets, knowledge, and experience in nickel and copper mining is a high priority. Employee shares and share options are key components of employee compensation in today's marketplace. The employees WMCR must attract are more often demanding an equity interest in the organization they are helping to succeed. In addition, these employees do not want their equity compensation to be subject to the vagaries of business units over which individually they have no control. By being able

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to offer an equity interest in a company that only operates the business in which a key employee is involved, WMCR can recruit the intellectual capital it needs without the concern that key employees will shy away from WMCR because of its ties to other WMC businesses.

The HayGroup supports management's assessments and expectations of the benefits from the proposed transaction. The HayGroup is a consultancy with a specific focus on human resource issues, including the structure and value of work, clarification of accountability for results, individual and work team performance management, executive development and compensation and benefits management. The HayGroup's report was based on interviews with senior executives of WMC and various outside advisors.

As indicated above, following the Demerger, each company's executives will be only directly involved in their respective businesses, be it WMC or WMCR, to which their incentives will relate. Incentive programs provided by WMCR and WMC can be much more specific, and as a consequence, more effective in attracting, incenting and rewarding executives.

Corporate flexibility

The Demerger will enable each company to operate independently and pursue financial and dividend policies appropriate to their underlying businesses and circumstances. Each entity will be better able to manage its capital structure and have debt ratings more appropriate to their particular businesses over time.

Access to U.S. Capital Markets

Finally, WMC's U.S. legal advisors have stated that WMC has devoted substantial resources in recent years to monitoring the value of its investment in the AWAC Businesses for purposes of the Investment Company Act of 1940 (the "1940 Act"). There is a degree of uncertainty regarding WMC's status under the 1940 Act, and this uncertainty has made it impractical in recent years for WMC to raise new debt or equity capital in the U.S. The inability to access U.S. capital markets is a significant problem for WMC because the U.S. markets would provide WMC with additional sources of capital particularly longer term financing. Potentially Australian markets cannot support offerings of the size required for WMC's ongoing business needs. WMCR will not have the impediments that WMC has in accessing debt in the U.S. market and potentially the U.S. market at this time is the preferred source of large volume, long-term indebtedness of the type required for these needs.

Proposed Transaction

To achieve the business purposes described above, the following transactions are proposed, which will occur pursuant to a Scheme of Arrangement (the "Plan of Reorganization" or "Plan"). The Plan of Reorganization must be approved by an affirmative vote of a majority of the shareholders of WMC who vote on the proposal, where those approving shareholders account for 75% or more of the votes cast, and by an Australian superior court. The Plan will include (or be associated with) the following steps:

1. WMC will elect to treat WIH as a disregarded entity for U.S. federal income tax purposes.
2. Before the transfers detailed below become effective, WMCR will be admitted to listing on the ASX.
3. WMC will transfer to WMCR all of the shares of Non-AWAC subsidiaries, including ODC, WMC Fertilizers, WMCRI, WMC Finance, WMC Finance (USA) Limited and (directly or indirectly through other transfers) various other subsidiaries engaged in the Non-AWAC Businesses to WMCR in exchange for additional WMCR ordinary shares. WMC will continue to own 100% of WMCR at this point.
4. WMC will undertake a notional "cash" return of capital to shareholders, as well as declare a notional "cash" dividend, equal in aggregate to the purchase price of WMCR (which will directly and indirectly own the Non-AWAC Businesses). The capital and dividend entitlements of shareholders will be automatically applied (in step 5) pursuant to the Plan to acquire 100% of the shares in WMCR.
5. Pursuant to the Plan, the WMC shareholders will agree to purchase all of the shares in WMCR from WMC, utilizing as consideration their capital and dividend entitlements obtained in step 4. Each shareholder will be required to purchase the WMCR shares and thus will have no right to retain any of the notional "cash".
6. WMC may determine that the distribution of WMCR shares to some shareholders (Ineligible Overseas Shareholders) would be prohibited, unduly onerous or unduly impractical under the laws of the jurisdictions in which those shareholders are resident. Shares allocable to such shareholders will be retained by WMC or transferred to a sale agent, and then sold by WMC or the sale agent (as relevant) within 20 business days of the time of the distribution and the sales proceeds remitted to the shareholders.

In summary, except for the Ineligible Overseas Shareholders, upon completion of the transactions, the WMC shareholders will own one share in each of WMC and WMCR for each WMC share held immediately prior to the transactions. No WMC shareholder (other than Ineligible Overseas Shareholders who will receive cash) will retain or receive any property other than shares in WMC and WMCR as a result of the transactions. WMC will own the AWAC Businesses. WMCR will be engaged directly and through the subsidiaries described above in the Non-AWAC Businesses.

Virtually all of the WMC group's debt has been borrowed since 1993 and has been used to fund Non-AWAC Businesses' expenditures. Consequently, it is planned that the WMCR group will carry most of the existing WMC group's debt following the transactions and, to the extent the debt is repaid and refinanced, it will be refinanced by the WMCR group. Approximately 25% of the WMC group's current debt will remain with WMC to ensure prudent capital structures for each entity. In the case of the four series of U.S. debt securities described above, WMC Finance (USA) Limited will offer to pay a fee for the purposes of obtaining the holders' consent to the novation of the existing guarantee of the securities by WMC to WMCR. If consents for greater than 50.1% of any series of U.S. debt securities are not received, then WMC's guarantee of that series will continue in place and WMC and Alumina Limited will be indemnified by WMCR for any liability arising under the guarantee.

In connection with the Plan, WMC and WMCR will make a separate proposal to holders of WMC share options ("Option Proposal"). The intent of the Option Proposal is to preserve (to the extent possible) the existing position of WMC optionholders after the transactions described above have been implemented. If the Option Proposal is adopted, WMC has agreed that the exercise price to each WMC Optionholder of each WMC Option will be reduced in proportion to the value distributed in respect of each WMC share under the Demerger. Additionally, WMC has agreed to grant to each WMC Optionholder one WMCR Option for each WMC Option they hold on the Option Scheme Record Date. Each WMCR Option will entitle the holder to subscribe for one WMCR Share. This opinion does not address any U.S. tax consequences of the Option Proposal.

As stated in the Discussion and Analysis section of this opinion, the transactions described above will be treated for U.S. federal tax law purposes as (a) a transfer by WMC of certain assets related to its Non-AWAC Businesses to WMCR, and (b) a distribution by WMC of all of the WMCR shares to the WMC shareholders. For purposes of the following representations and discussion, the deemed transaction described in (b) above will be referred to as the "Distribution."

Representations

Each of WMC and WMCR has made the following representations (in relation to itself and its subsidiaries only) regarding the proposed transactions:

a. Except for short-term indebtedness, no intercorporate debt will exist between WMC and any of its subsidiaries, on the one hand, and WMCR and any of its subsidiaries, on the other hand, at the time of, or subsequent to, the Distribution. WMC may continue to guarantee pre-existing group debt allocated to WMCR if the necessary consents for novation or release cannot be obtained, although WMC will be indemnified by WMCR for any liability arising under those guarantees.
b. No part of the WMCR shares to be distributed by WMC will be received by a shareholder as a creditor, employee, or in any capacity other than that of a shareholder of WMC.
c. The 5 years of financial information submitted on behalf of WMC and WMCR is representative of each company's present operation, and with regard to each company, there have been no substantial operational changes since the date that the last financial statements were submitted.
d. Following the Distribution, the WMC group and the WMCR group will each continue the active conduct of the prior activities of the WMC group in the AWAC Businesses and the Non-AWAC Businesses, respectively, independently and with its separate employees (after an appropriate transition period).
e. Following the Distribution, and after an appropriate transition period, the WMC group will have its own separate directors and officers, who will not also be directors and officers of WMCR and who will manage the group's AWAC Businesses.
f. At the time of the Distribution, the gross assets of WMCR's directly operated mining businesses relied on to satisfy the active trade or business requirement of section 355(b) will have a fair market value that is more than 5% of the total fair market value of all of its gross assets.
g. At the time of the Distribution, the gross assets of the AWA LLC businesses relied on to satisfy the active trade or business requirement of section 355(b) will have a fair market value that is approximately 5% of the total fair market value of all of its gross assets.
h. The Distribution is motivated, in whole or substantial part, by one or more of the following corporate business purposes:

   To improve the focus of WMCR and WMC management, as described above. Given the WMC management's concerns arising out of its relationship with Alcoa, the Distribution will enable WMC and WMCR to establish dedicated management for their ongoing operations and for the pursuit of independent business opportunities. The Distribution removes the negative impact of cross-subsidization between the companies. The Distribution provides both companies with financial flexibility to manage their own capital structure.

   To better provide more effective equity incentive programs to key WMCR group employees in order to incentivize, retain, and attract such employees.

   To provide WMCR access to U.S. debt markets.

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i. The managements of WMC and WMCR, to their best knowledge, are not aware of any plan or intention on the part of any shareholder of WMC to sell, exchange, or otherwise dispose of any shares received by them under the Plan in WMC or WMCR following the Distribution, other than as contemplated by the Plan.

j. There is no plan or intention by either WMC or WMCR, directly or through any subsidiary company, to purchase any of its outstanding shares after the Distribution, other than through purchases meeting the requirements of section 4.05(1)(b) of Rev. Proc. 96-30, 1996-1, C.B. 696. Section 4.05(1)(b) permits share purchases where: (1) there is a sufficient business purpose for the share purchase; (2) the shares to be purchased are widely held; (3) the share purchases will be made in the open market; and (4) there is no plan or intention that the aggregate amount of share purchases will equal or exceed 20% of the outstanding shares of the company.

k. There is no plan or intention to liquidate either WMC or WMCR, to merge either company with any other company after the Distribution, or to sell or otherwise dispose of the assets of either company after the Distribution, except in the ordinary course of business.

l. As of the date of this opinion and as of the time of the Distribution, the management of WMC is not, and will not be, in discussions or negotiations with any other person regarding an acquisition or possible acquisition of all or part of any of the AWAC shares or AWAC assets of WMC, other than as contemplated by the Plan.

m. The managements of WMC and WMCR do not expect any significant and long-term continuing transactions between the two companies or groups following the Distribution (other than the proposed option arrangements, to be implemented as part of the Option Proposal, described above). WMCR expects to provide certain administrative services, including general corporate services, accounting and finance services, building services, and computer and human resource services, to WMC for a brief transition period following the Distribution. Payments made in connection with all continuing transactions, if any, between the WMC group and the WMCR group will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.

n. No two parties to the transaction between WMC and WMCR are investment companies as defined in section 368(a)(2)(F)(iii) and (iv) of the Code. The term investment company in this context means a company 50% or more of the value of whose total assets are shares and securities and 80% or more of the value of whose total assets are assets held for investment. In making the 50% and 80% determinations under the preceding sentence, shares and securities in any subsidiary company shall be disregarded and the parent company shall be deemed to own its ratable share of the subsidiary's assets. A company is a subsidiary of any company owning directly or indirectly 50% or more of (1) the total combined voting power of all classes of the company's voting shares or (2) the total fair market value of all of its outstanding shares. Further, a company's indirect ownership of a lower-tier subsidiary is determined by multiplying the percentage of shares owned in each company in the chain of ownership. In general, for purposes of this representation, an asset is held for investment if it is held for gain from appreciation in value or for production or collection of passive income (including but not limited to rents, royalties, dividends, interest, and annuities), or both, and it is not held primarily for sale to customers in the ordinary conduct of a trade or business.

o. Immediately after the Distribution, the shareholders of WMC (either individually or in the aggregate) will not own an amount of shares of WMC or WMCR that (i) was acquired by purchase (under U.S. federal income tax principles) during the five-year period ending on the date of, and prior to, the Distribution, and (ii) constitutes 50% or more of the total voting power or value of WMC or WMCR. This representation excludes the purchases of shares to which WMC was not a party where the purchase occurred on a recognized stock exchange and both purchaser and seller held less than 5% of the company's shares both before and after the purchase.

p. Immediately after the Distribution, the shareholders of WMCR (either individually or in the aggregate) will not own an amount of shares of WMCR that (i) was received in the Distribution to the extent attributable to distributions on WMC shares that were acquired by purchase (under U.S. federal income tax principles) during the five year period ending on the date of the Distribution, and (ii) constitutes 50% or more of the total voting power or value of WMCR. This representation excludes the purchases of shares to which WMC was not a party where the purchase occurred on a recognized stock exchange and both purchaser and seller held less than 5% of the company's shares both before and after the purchase.

q. The Distribution is not part of a plan (or series of related transactions) pursuant to which one or more persons will acquire directly or indirectly shares possessing at least 50% of the total combined voting power of all classes of WMC or WMCR shares entitled to vote, or at least 50% of the total value of all classes of WMC or WMCR shares. For the purposes of this representation, the acquisition by a person of WMCR shares by reason of holding shares in WMC shall not be taken into account.

r. At the time of the Distribution, neither the WMC group nor the WMCR group will have accumulated liquid assets in excess of the its ordinary working capital needs of its businesses.

s. The WMC shareholders will pay their own expenses, if any, incurred in connection with the Distribution.

t. Neither WMC nor WMCR is under the jurisdiction of a court in a Title 11 or similar case within the meaning of §368(a)(3)(A) of the Code (relating to bankruptcy or similar transactions).

Applicable Law

Section 368(a)(1)(D) of the Code defines the term reorganization to include a transfer by a corporation of some or all of its assets to another corporation if immediately after the transfer the transferor, or one or more of its shareholders (including persons who were shareholders immediately before the transfer), or any combination thereof, is in control of the corporation to which the assets are transferred; but only if, in pursuance of the plan, shares or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 354, 355, or 356. Control for purposes of section 368(a)(1)(D) is defined in section 368(c), as modified by section 368(a)(2)(H). Section 368(c) control means the ownership of shares possessing at least 80% of the total combined voting power of all classes of shares entitled to vote and at least 80% of each other class of shares. Section 368(a)(2)(H)(ii) provides that, for purposes of determining whether a transaction qualifies under section 368(a)(1)(D), the fact that shareholders of the distributing corporation dispose of part or all of the distributed shares, or the fact that the corporation whose shares were distributed issues additional shares, shall not be taken into account.

Section 355(a)(1) provides, in pertinent part, that if a corporation (referred to as the "Distributing Corporation") distributes to a shareholder solely shares of a corporation (the "Controlled Corporation") which it controls immediately before the distribution, and various requirements (listed below) are satisfied, then no gain or loss shall be recognized to (and no amount shall be includible in the income of) such shareholder on the receipt of such shares. Section 355 uses section 368(c) control, as defined in the preceding paragraph without application of the section 368(a)(2)(H) rule. Section 355(a) imposes four requirements for tax-free treatment. Under section 355(a)(1)(A), the Distributing Corporation must control the Controlled Corporation immediately before the distribution. Control for this purpose is defined in section 368(c). Under section 355(a)(1)(B), the transaction must not be used principally as a device for the distribution of the earnings and profits of the Distributing Corporation or the Controlled Corporation, or both. Under section 355(a)(1)(C), the Distributing and Controlled Corporations must satisfy the active business requirements of section 355(b). Under section 355(a)(1)(D), the Distributing Corporation generally must distribute all of the shares held by it immediately before the distribution.

Treasury Regulations impose additional requirements on corporate reorganizations, including section 355 distributions. Treas. Reg. §1.355-2(b) provides that section 355 requires that a transaction be carried out for one or more corporate business purposes. Reg. §1.355-2(c) states that section 355 requires a continuity of shareholder interest, through which one or more persons who were the owners of the enterprise prior to the distribution own, in the aggregate, an amount of shares establishing a continuity of interest in each of the modified corporate forms in which the enterprise is conducted after the separation. Both the business purpose and shareholder continuity requirements are said to be independent of the other section 355 requirements. Finally, the regulations also state that section 355 contemplates the continued operation of the business or businesses existing prior to the separation. This requirement, which appears similar to the continuity of business enterprise requirement found in Treas. Reg. §1.368-1(d) (applicable to certain section 368 reorganizations), may be inherent in the section 355(b) active business requirements.

Discussion and Analysis

Structure of the Transaction

Among other things, the transaction is being structured to comply with Australian corporate and income tax laws. The facts set forth above indicate that the steps by which WMC will undertake a notional "cash" return of capital to WMC shareholders, and declare a notional "cash" dividend, and the WMC shareholders will immediately use their resulting capital and dividend entitlements to "purchase" the WMCR shares are steps in an integrated transaction. As such, under U.S. federal income tax principles, we believe that these steps more likely than not will be disregarded as transitory and circular, and the transaction more likely than not will be treated as if WMC merely distributed the WMCR shares to the WMC shareholders. This treatment is supported by well-accepted, long-standing IRS positions.

In Rev. Rul. 83-142, 1983-2 C.B. 68, for example, the Service held that where a cash payment by a domestic parent to a first tier foreign subsidiary to purchase shares of its subsidiary, is followed by the first tier subsidiary distributing to its domestic parent an amount of money greater than the cash payment, an amount equal to the cash payment is disregarded and has no tax effect on the domestic parent's basis in the shares of the first-tier subsidiary. The ruling states that "[t]his circular flow of cash is a transitory step that has no federal income tax consequences." Likewise, in Rev. Rul. 78-397, 1978-2 C.B. 150, the Service applied step

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transaction principles to disregard circular cash flows, quoting from the Supreme Court's decision in *(Helvering v. Alabama Asphaltic Limestone Co).*, 315 U.S. 179 (1942), 1942-1 C.B. 214, as follows:

> "Yet, the separate steps are integrated parts of a single scheme. Transitory phases of an arrangement frequently are disregarded under these sections of the revenue acts where they add nothing to the completed affair. *(Gregory v. Helvering)*, 293 U.S. 465; *(Helvering v. Bashford)*, 302 U.S. 454. Here they were no more than intermediate procedural devices utilized to enable the new corporation to acquire all of the assets of the old one pursuant to a single reorganization plan."

In the ruling, the circular flow of cash was undertaken to comply with state banking capitalization requirements. At the conclusion of the transaction, the cash returned to the party in which it originally resided, and the parties were returned to a position identical to that which would have existed if the transitory cash flow had not occurred. The same is true here. The transfer of cash to the WMC shareholders and their mandatory use of the cash to acquire WMCR shares returns them to the same position that would have existed if the transitory cash flow had not occurred, and WMC had merely distributed the WMCR shares to them. Under these circumstances, it is our opinion that it is more likely than not that the transaction should be treated as a distribution of the WMCR shares to the WMC shareholders in their capacity as such.

Application of Sections 368(a)(1)(D) and 355

WMC's transfer of assets to WMCR, and the distribution of the WMCR shares to the WMC shareholders, follow the form generally described in sections 368(a)(1)(D) and 355 of the Code, set forth above. The various requirements of those sections are discussed below.

D-Type Reorganization.

A section 368(a)(1)(D) reorganization involves a transfer of assets from one corporation to another, and a distribution of shares of the transferee that qualifies under section 354, 355, or 356. The transferor corporation's shareholders must control the transferee immediately after the distribution. Control for this purpose is modified by section 368(a)(2)(H) of the Code. Inasmuch as the transaction involves a *pro rata* distribution of the WMCR shares by WMC to its shareholders, resulting in 100% ownership of WMCR by the transferor's shareholders immediately after the Distribution, the transaction will qualify as a section 368(a)(1)(D) reorganization if the Distribution qualifies under section 354, 355, or 356 of the Code. The transaction described herein is a divisive transaction to which section 354 cannot apply, so the following discussion focuses on the section 355 requirements.

Control and Distribution of Control.

WMC will be in control of WMCR within the meaning of section 368(c) through the ownership of 100% of WMCR's outstanding shares, and (for U.S. federal tax law purposes, but not as a matter of legal form) it will distribute all of the WMCR shares to the WMC shareholders in the transaction. None of the WMCR shares were acquired in a taxable transaction within the preceding five years.

Device.

The proposed transaction is not being used as a device for the distribution of the earnings and profits of the distributing corporation or the controlled corporation, or both, within the meaning of section 355(a)(1)(B) of the Code. The transaction has been structured to achieve the specified business purposes in accordance with Australian law. U.S. tax considerations played little or no role in the transaction planning, because WMC and WMCR are Australian companies not generally subject to U.S. taxation.

The Treasury regulations identify several factors that represent evidence of device and several other non-device factors. The non-device factors associated with the facts presented in this transaction outweigh the device factors. In our view, the transaction does not present any significant device issues.

The regulations list three device factors: pro rata distributions, sales or exchanges of shares, and the nature and use of assets. Under the regulations, all pro rata distributions present some evidence of device. We believe this is the only evidence of device in the proposed transaction. Neither WMC nor WMCR holds, or will hold, substantial non-business assets. WMC's shareholding in Alcoa of Australia is not regarded as an "active business" asset, as discussed below, but it is not a liquid or investment-type asset. WMC management has represented that no sale of that shareholding is planned or being negotiated or discussed.

The slight evidence of device in this transaction is outweighed by several non-device factors, including the business purposes for the transaction, the public ownership of WMC shares, and the fact that WMC management is unaware of any plan or intention on the part of the WMC shareholders to sell or otherwise dispose of any of the WMCR shares received under the Plan following the transaction, other than as contemplated by the Plan.

Active Trade or Business.

Section 355(b)(1)(A) requires that the distributing and controlled corporation each must be engaged in the active conduct of a trade or business immediately after the distribution. The active business must have been actively

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conducted throughout the five-year period prior to the distribution, and cannot have been acquired in a transaction in which gain or loss was recognized in whole or in part during that period. Under section 355(b), a corporation may meet the active business requirement by either directly engaging in the active conduct of trade or business immediately after the Distribution or, under a rule designed for holding companies, if substantially all of its assets consist of shares or securities in controlled companies immediately before the Distribution, and each of the controlled companies satisfies the active trade or business requirement immediately after the Distribution.

WMCR has been directly engaged in the mining exploration and production business for more than five years. It has approximately 1,000 employees who perform all of the operational and managerial activities related to its businesses. Following the Distribution, WMCR will continue its business and also will operate all of the other Non-AWAC Businesses through subsidiaries. The fair market value of the directly owned mining businesses exceeds the IRS's 5% test used for advance ruling purposes (see section 4.01(31) of Rev. Proc\. 2002-3, I.R.B. 2002-1, 117 (Jan. 6, 2002), and representation (f) above) (the IRS ordinarily will not issue a private letter ruling unless the gross assets of the trades or businesses relied on to satisfy the active trade or business requirement have a fair market value of 5% or more of the total fair market value of the gross assets of the corporation directly conducting the trades or business).

WMC will continue to own and manage the AWAC Businesses following the Distribution. The application of section 355(b) to this business requires a multi-step analysis. Since January 1, 1995, WMC has been engaged in the alumina businesses through its AWAC joint venture with Alcoa. In general, WMC is a 40% partner in these businesses, with Alcoa owning the remaining 60%. The joint venture has three principal components: (1) ownership of Alcoa of Australia, an Australian company, (2) ownership of European corporations, and (3) ownership of AWA LLC, which is treated as a partnership for U.S. federal income tax purposes (and which, in turn, owns interests in the Suralco, AMJ and Great Lakes LLCs, also treated as partnerships for U.S. federal income tax purposes). AWA LLC, Suralco, AMJ, and Great Lakes are collectively referred to as the "Operating AWA LLCs". WMC may meet the active business requirement by either directly engaging in the active conduct of trade or business or under the holding company rule described above. Because WMC's ownership of 39.25% of the shares in Alcoa of Australia does not constitute control, the holding company test is not available here. Thus, we focused on whether WMC is directly engaged in the conduct of the AWAC businesses. Under some circumstances the ownership of a partnership interest may result in a partner being engaged in an active business through its participation in the management of the partnership business. Consequently, we analyzed WMC's business activities with respect to AWA LLC by applying the Service's approach in Rev. Ruls. 92-17, 1992-1 C.B. 142 and 89-27, 1989-1 C.B. 106.

Rev. Rul. 92-17 describes a limited partnership (LP) that owns several office buildings and leases them to unrelated persons. LP employees provide day-to-day upkeep and maintenance services for the buildings, advertise for new tenants, negotiate leases, handle tenant complaints, collect rent and pay all expenses, and maintain financial and accounting records for the business. Corporation D has owned a 20% general partnership interest in LP for more than five years, and the partnership agreement requires that D provide management services to LP. D's officers make decisions with respect to significant renovations of partnership properties, the purchase and sale of properties, and significant financings and refinancings. In addition, D's officers regularly participate in the overall supervision, direction and control of LP's employees in their performance of LP's operational functions. The ruling concludes that D's performance of active and substantial management functions for the partnership is sufficient to satisfy the requirements of section 355(b). The ruling does not appear to attribute the business of the partnership to D, as partner; rather, it concludes that D is engaged in the active conduct of a trade or business through its active participation in the management of the partnership business. In subsequent private letter rulings, however, the Service appears to have adopted an attribution approach. See PLR 200044017 (Aug. 2, 2000); PLR 200033042 (May 23, 2000). Further, the Service has extended the same approach to limited liability companies that are treated for tax purposes as partnerships. Rev. Rul. 2002-49, 2002-32 I.R.B. (Jul. 19, 2002).

Rev. Rul. 92-17 stresses that it is necessary to focus on the business of the partnership as well as the partner. In considering whether it is appropriate to apply the Rev. Rul. 92-17 approach to this transaction, therefore, we first established that AWA LLC itself is engaged in an active business under section 355(b) standards. The Operating AWA LLCs are engaged directly in the bauxite, alumina-based chemicals and alumina businesses, as described above. They have over 2,000 employees and operate all aspects of these businesses, including mining, processing, and sale in the U.S. and several Caribbean countries. They have generated income and incurred expenses in each of the past five years, as established by financial statements provided to us. In addition, the AWA LLC owns the shares of several corporations engaged in similar businesses. We did

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not consider the activities conducted in these corporations, because the management of corporate subsidiaries will not satisfy the requirements of section 355(b).

Second, we considered WMC's minority ownership position in AWA LLC. In Rev. Rul. 92-17, the general partner held a 20% general partnership interest in a limited partnership and was designated as the managing partner under the partnership agreement. The ruling does not discuss the significance of the 20% figure or otherwise suggest that there is a minimum interest requirement for purposes of this analysis. In dealing with businesses conducted through partnerships, the continuity of business enterprise regulations under section 368 require either ownership of a "significant interest" in the partnership or active and substantial management functions as a partner. Even if the partner performs active and substantial management functions, however, the COBE requirements will not be satisfied if the partner owns a very small interest in the partnership. Treas. Reg. §1.368-1(d)(4)(iii); §1.368-1(d)(5), example 8 (1% interest is not sufficient). Here, the WMC group owns a 40% interest in AWA LLC, an interest that cannot be considered to be *de minimis*. More importantly, nothing in Rev. Rul. 92-17 suggests that only one partner can be regarded as contributing significant management services to a partnership. The ruling states "[t]he determination of whether a partner is considered to engage in the active conduct of a trade or business must be made with reference to the activities of the partner as well as the partnership, and must be based on the requirements of section 355 and the regulations thereunder." This indicates that more than one partner may be actively involved in managing the partnership in appropriate circumstances. Rev. Ruls. 2002-49 and 89-27 further supports this conclusion.

Rev. Rul. 2002-49 describes a corporation, D, that owns a 20% profit/loss and capital interest in LLC, a limited liability company. D has no other business assets. X, an unrelated corporation, also owns a 20% interest in LLC, and the ruling states that D and X jointly manage the LLC's business. After examining the quality and quantity of D's officers' management functions, the ruling concludes that D satisfies the section 355(b) active business requirement. Although there is no discussion of X, the co-manager, it seems clear that X's participation in management does not prevent D from satisfying the test.

In Rev. Rul. 89-27, the IRS considered whether a nonoperator owner of working interests in oil and gas properties satisfies the section 355(b) active trade or business requirement. Corporation Y, the owner of the working interests, is engaged in the oil and gas business. It is constantly searching for new properties and, in prior years, it acquired certain nonoperator working interests. As an owner of a working interest, Y participates in deciding whether to develop the property. This requires extensive gathering and analyzing of technical data. Once the property is acquired, however, one working interest owner (other than Y) is designated as the operator, who generally supervises the daily activities with respect to the property. As a nonoperator, Y participates in certain management decisions, inspects the drilling site, and analyzes data obtained from drillsite activities. The working interest agreement permits Y to take its share of production in kind, but typically it does not. Y authorizes an agent to sell its share of the production on its behalf. The ruling concludes, similar to Rev. Rul. 92-17, that Y satisfies the section 355(b) active business requirement through its participation in management of the working interest property. We believe that this ruling confirms that more than one person can be "active" with respect to the same business or property. The ruling focuses on a nonoperator owner, because it presents a more interesting issue than the operator. Applying the standards set forth in the ruling, however, there appears little doubt that the operator likewise is "active" under a straightforward reading of section 355(b) and the regulations.

Under these circumstances, we next examined the WMC group's activities with regard to the businesses conducted directly in the Operating AWA LLCs. We first considered the way in which the Operating AWA LLCs' businesses are managed. Each limited liability company has a Board of Directors, as required for legal purposes. Nevertheless, overall supervision and management of the Operating AWA LLCs' businesses has been vested in a Strategic Council (the "Council"), which is a form of partner's managing committee between Alcoa and WMC for the entire AWAC joint venture. This Council works with the Operating AWA LLCs to manage all aspects of their various businesses. The Council has five members, who function as the management body for the Operating AWA LLCs. The Council makes all key management decisions, including acquisitions, investments, expansion in capacity, and long-term contracts. Alcoa appoints three members of the Council, and WMC appoints two. Most Council decisions require a majority vote, although some more significant actions require 80% favorable vote. The designated matters include changes in the scope of AWAC, dividend policies, the sale of all or a majority of the AWAC assets, and equity requests in excess of $1 billion USD in any year. Ad hoc technical committees, made up of individuals with specific mining expertise essential to operations of the business, support the Council.

The WMC group's officers and employees participate in the management of the Operating AWA LLCs' businesses through the Council and directly at other various levels. WMC's CEO and former CFO are members of the Council

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and, in that capacity, they have regular discussions with their Alcoa counterparts to decide on issues pertaining to general operational, financing, treasury, and tax issues. WMC's Executive General Manager attends regular meetings to discuss business performance and operational issues. In May 2002, WMC's CFO/Strategic Council member resigned his CFO position to become WMC's Executive Officer and designated Chairman of the Board for WMC immediately after the Distribution. The Executive Officer will remain on the Council until the time of the Distribution.

WMC receives and reviews monthly updates for AWAC's principal business segments, including the Operating AWA LLCs' businesses. WMC personnel participate in management decisions stemming from these reports. In addition, WMC provides operational advice to Operating AWA LLCs in areas in which it has extensive experience, including technology, business opportunities, operations, maintenance, and industrial relations. Following the Distribution, WMC will continue to focus on all these areas and will seek to extend its involvement in these operational matters as the interests in the AWAC Businesses will be its primary asset.

WMC group employees also assist in reviewing operations at the various locations and have input into operational activities, such as mining, maintenance, and supply initiatives. Through these meetings and site consultations, WMC contributes its particular mining and processing experience to AWAC. In this regard, it is important to note that in excess of 50% of AWAC's alumina production is in Australia, where WMC's local mining and processing experience, contacts with Federal, State and local governments, relationships with local suppliers, and general knowledge of local business and regulatory conditions, are particularly relevant. WMC employees also perform reviews of operating production results and capacities of the AWAC plants and participate in decisions regarding changes in production, budgeting, and strategic forecasting. WMC has been active in the determination of bauxite reserves, and a number of WMC's geologists have provided technical assistance regarding project exploration strategies. WMC has participated in a project to develop a methodology to estimate the bauxite tonnage of certain project areas around the world. WMC's diverse mining expertise has been especially useful for these types of projects.

WMC advises AWAC on gold mining in Suriname and recently provided direction and review regarding projects in Guinea. WMC contributes its expertise to sale and purchase contract negotiations, such as gas purchase contracts, and in mining negotiation, such as in Jamaica where new bauxite mines are currently being opened. Where appropriate, WMCR employees review contracts - in particular, long-term contract renewals. WMC has had extensive experience negotiating individual staff contracts or workplace agreements with unions and staff. WMC has provided this expertise to AWAC and this has assisted AWAC in putting in place individual staff contracts in Jamaica.

WMCR officers and employees perform various other functions related to management of the joint venture businesses, including participation in all functional areas essential to the operation of the business. These include tax, treasury, legal, accounting, and commercial functions. WMC's personnel have played a key role in AWAC cash management. This includes WMC's personnel working closely with both Alcoa and AWAC personnel on the determination of AWAC cash flow needs for on-going operations, amounts reinvested for expansion and improvements and efficient repatriation of cash to WMC and Alcoa.

There are specific provisions in the AWAC constituent documents that permit the WMC to second to AWAC employees whose skills or experience will support the operation of AWAC. This structure provides an avenue for the WMC to place personnel within the operating groups of AWAC. WMC has made secondments into the AWAC finance/treasury section in accordance with these provisions. Following the Distribution, WMC will seek to increase the use of these arrangements for seconding personnel to AWAC and continue the same and expand the level of participation in AWAC's operations that WMC has enjoyed in the past.

Finally, we considered the value of WIH's interests in AWA LLC, as a percentage of the WMC AWAC Businesses assets. WMC has represented that it believes that the Operating AWA LLCs' businesses represent approximately 5% of the total fair market value of all of those assets. In Rev. Rul. 73-44, 1973-1 C.B. 182, the Service considered whether a spin-off could qualify under section 355 even though less than half of the controlled corporation's total assets were utilized in the active conduct of a trade or business as defined in section 355(b). The ruling makes two points. First, it states that there is "no requirement in section 355(b) that a specific percentage of the corporation's assets be devoted to the active conduct of a trade or business." Second, it states that the percentage of a corporation's assets that are devoted to an active business is "a relevant factor . . . in determining whether the transaction is used principally as a device to distribute earnings and profits." *Accord* G.C.M. 34238 (Dec. 15, 1969) (business assets representing approximately 5% of the net book value of the corporation's assets can satisfy the active business requirement, but must be examined for "device"). Until recently, the Service would issue private letter rulings based

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on active businesses that represented only a small percentage of a corporation's assets. Current ruling policy requires a 5% representation, as noted above. Rev. Proc. 2002-3, section 4.01(31). The facts here indicate that the value of WMC's Operating AWA LLCs' interests represent approximately 5% of the fair market value of all of its AWAC Businesses assets. Even if the value were somewhat less than five percent, however, under the authorities summarized above, that fact by itself would not prevent WMC from satisfying the active business requirement and, as discussed elsewhere in this opinion, there is little evidence of device in the proposed transaction.

The WMC group structure differs from the ownership structure described in Rev. Rul. 92-17. The group's interests in AWA LLC are owned by two subsidiaries, WIH and WMC Alumina (USA), Inc. For the past five years, however, much of the business activity related to the AWAC joint venture has been conducted by officers and employees of WMCR, a sister company to WIH and a wholly owned subsidiary of WMC. (Some of the officers also are officers of WMC, the parent company.) We believe that the Service's position in Rev. Rul. 79-394, 1979-2 C.B. 141, supports the view that the activities of these related corporation officers and employees are properly taken into account for section 355(b) purposes.

The Service considered the following facts in Rev. Rul. 79-394. Four individuals owned the shares of P. P owned all of the shares of X and Y for more than five years and was a holding company with no other assets. X was engaged in a general contracting business. Y was engaged in renting commercial and residential real estate to unrelated parties. Y had no employees of its own. Employees of X performed all operational activities in connection with Y's rental business. Y had three officers, who were also officers of P and X, and who supervised and directed the activities of the X employees. Despite the absence of its own employees, the Service concluded that Y is considered to be engaged in an active trade or business, because in a qualitative sense its rental business required considerable day-to-day management and operational activity.

The Service also observed that there would be no difference in the conduct of the rental business after the proposed distribution, other than that Y would now have employees of its own to conduct the business activities. Based on *Rafferty*, the Service concluded that all of the facts and circumstances must be considered in evaluating an active business question. It found that the only factor tending to prove the lack of a business prior to the distribution was the use of borrowed salaried employees, and it concluded that the presence or absence of employees was only one factor to be considered in making the section 355(b) determination. On the facts, it concluded that Y was engaged in the active conduct of a trade or business. In Rev. Rul. 80-181, 1980-2 C.B. 121, the Service confirmed that intercompany payment arrangements, or the lack of such arrangements, are irrelevant to the section 355(b) determination described in Rev. Rul. 79-394. *See* PLR 200044017 (Aug. 2, 2000)(applying Rev. Rul. 79-394 principles in a Rev. Rul. 92-17 context).

Rev. Rul. 79-394 thus supports the view that it is critical to examine the quality of the activities that comprise the business activity, and that within a group of related corporations the source of the employees who are utilized in that business is less important. We believe that the facts submitted establish that the WMC group is not a passive investor in the AWAC Businesses. It actively participates in the management of the business, particularly in the businesses conducted through the Operating AWA LLCs. The quality and quantity of the activities meets the section 355(b) standards. Under these circumstances, the use of borrowed employees should be given little weight.
The WMC group has not attempted to charge WMC or WIH for the costs associated with WMCR officers' and employees' activities in managing the Operating AWA LLCs' businesses. WMC management has stated that WMC, WIH, and WMCR consolidate their financial accounts and such intercompany services would be eliminated under accounting principles. We understand that the same is true for Australian tax purposes. A consolidation concept previously did not exist under Australian tax law, but the related companies were entitled to offset the losses of one entity with the income of another. Under the Service position in Rev. Rul. 80-181, however, the absence of intercompany payments or reimbursements is irrelevant to the section 355(b) determination.

In summary, an examination of the quality and quantity of the WMC group's activities in managing the Operating AWA LLCs' businesses confirms that these activities satisfy the criteria outlined in Rev. Rul. 92-17 and are sufficient to qualitatively distinguish its operations from mere investments. See *Rafferty v. Commissioner*, 452 F.2d 767 (1st Cir. 1971); Rev. Rul. 86-125, 1986-2 C.B. 57. Based on the foregoing, in our opinion it is more likely than not that WIH will be treated as engaged in the active conduct of the AWAC Businesses conducted through the AWA LLC. In the proposed transaction, WIH will be deemed to be liquidated into WMC for U.S. federal income tax purposes by means of an election under Treas. Reg. Section 301.7701-3(c) (commonly referred to as a "check-the-box" election). The deemed liquidation of WIH should satisfy all of the requirements of section 332(b), and WIH should be treated as distributing all of its assets to WMC under sections 337 and 332. For section 355(b) purposes, therefore, because section 332 applies, WMC should succeed to WIH's business activity and history. *See* Rev. Rul. 74-79, 1974-1 C.B. 81 (parent holding company liquidates an active subsidiary and is treated as succeeding to the subsidiary's business). On the effective date of the Distribution, therefore, it is more likely than not that WMC will be engaged in the active conduct of a trade or business within the meaning of section 355(b).

Continuity of Proprietary Interest.
The IRS takes the position that continuity of shareholder or proprietary interest is required in all section 355 transactions. Treas. Reg. §1.355-2(c). In general, this requires that the shareholders of the distributing corporation receive an equity interest in the controlled corporation in the transaction, and it may require that the shareholders retain the equity interest in the controlled corporation. In the proposed transaction, the WMC shareholders will receive 100% of the equity interest in WMCR. Further, to the best knowledge of WMC's management, there will not be any significant changes in the shareholders of WMC or WMCR prior to the transaction, and management is unaware of any plan or intention on the part of the WMC shareholders to sell or otherwise dispose of any of shares in WMC or WMCR received under the Plan afterwards, other than as contemplated by the Plan.

Continuity of Business Enterprise.
The IRS also takes the position that there must be a continuity of business enterprise following a section 368(a)(1)(D)-355 transaction. In general, this requirement is seldom problematic in a section 355 transaction because of the strict active trade or business rules discussed above. Here, the businesses of WMC and WMCR will be continued in a substantially unchanged manner following the Distribution.

Business Purpose.
Treas. Reg. §1.355-2(b) states that section 355 applies to a transaction only if it is carried out for one or more corporate business purposes. In general, the business purpose must be a substantial motivation for the transaction. This requirement is intended to ensure that section 355 is limited to corporate transactions that are required by business exigencies and that effect only readjustments of continuing interests in property under modified corporate forms. The IRS recognizes several common valid corporate business purposes in its advance ruling guidelines in Rev. Proc. 96-30, Appendix A ("Appendix").

The separation is intended to enhance the success of the AWAC Businesses and the Non-AWAC Businesses by enabling the corporation to address various management, systemic, and other problems, discussed in detail above, that arise in the current structure. These corporate business purposes have been explained in detail and are supported by a report of the company's outside advisors. We believe that these materials demonstrate why the Distribution will lessen or eliminate the problems that exist in the current structure. This is recognized as a "fit and focus" business purpose in section 2.05 of the Appendix.

In addition to WMC's activities in managing the Operating AWA LLCs' businesses and its relationship with Alcoa, other AWAC entities' businesses, such as Alcoa of Australia and the European subsidiaries, which are not taken into account for purposes of the active business test for WMC, also require the attention of WMC management. WMC views the management of these activities, either directly or through the Strategic Council, as an integral part of its responsibilities and inseparable from its management of the Operating AWA LLCs' businesses. The Distribution is motivated not just by the corporate business purpose benefits expected to be derived from the separation of the Operating AWA LLCs' businesses, but also by the benefits expected to be derived from the separation of *all* AWAC activities.

WMC has no "significant shareholder" as defined in section 2.05(3) of the Appendix. Furthermore, there will be minimal continuing relationships between the two companies following the transaction. Each company will have its own separate directors and officers, and each will conduct its business separately and with its own employees. The contemplated transitional services arrangements will be short-term. Under these circumstances, we believe that the business purpose satisfies the criteria specified in Rev. Proc. 96-30.

The transaction also will enable WMCR, in particular, to fashion employee incentive programs that are focused on the success of its minerals business. The company and its advisors believe that this will enable WMCR to attract and retain the quality employees necessary to succeed in its competitive business environment. Finally, the Distribution will enable WMCR to access U.S. debt markets, free of concerns that it may be an investment company subject to regulation under the 1940 Act. WMCR faces significant refinancing needs in the next few years, and the company and its advisers believe that it needs access to U.S. debt markets to satisfy these needs on favorable terms.

Sections 355(d) and (e).
The U.S. Congress enacted sections 355(d) and (e) in 1990 and 1997, respectively, to prevent the avoidance of its 1986 repeal of the *General Utilities* doctrine and to prevent the use of section 355 in transactions that have significant characteristics of a sale. Where applicable, each provision results in corporate-level gain recognition by a distributing

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corporation in an otherwise tax-free section 355 distribution, including a section 368(a)(1)(D)-355 reorganization. These sections have no relevance to the proposed transaction, because WMC is an Australian corporation not generally subject to U.S. federal income taxation.

Other Issues.
Section 368(a)(2)(F) of the Code limits the application of section 368 in the case of certain transactions, including section 368(a)(1)(D) reorganizations, involving investment companies, as defined in sections 368(a)(2)(F)(iii) and (iv). This provision may, therefore, apply to the transfer of assets from WMC to WMCR. It is presently unclear whether WMC is an investment company for tax purposes, but it may be an undiversified investment company due to the value of the Alcoa of Australia shareholding. It appears that WMC might be an undiversified investment company under the Code definitions following the transaction, because the Alcoa of Australia shareholding will represent more than 90% of the total value of all of its assets. However, it also appears that WMCR will not be an investment company and, therefore, no two parties to the transaction between WMC and WMCR will be investment companies within the meaning of sections 368(a)(2)(F)(iii) and (iv).

In summary, in our opinion it is more likely than not that the distribution of WMCR shares to the WMC shareholders will satisfy the requirements of section 355.

Conclusions

Based on the foregoing, in our opinion, it is more likely than not that:

1. The transactions will be treated for U.S. federal tax law purposes, notwithstanding their actual legal form, as a transfer by WMC of certain assets related to its Non-AWAC Businesses to WMCR, and a distribution by WMC of all of the WMCR shares to the WMC shareholders. The notional receipt of cash via a return of capital and dividend, followed by the mandatory reinvestment of the cash in WMCR shares, will be disregarded. Rev. Ruls. 83-142 and 78-397. This treatment is assumed for the purposes of our other opinions below.
2. The transfers by WMC to WMCR described in 1., above, will constitute a reorganization within the meaning of section 368(a)(1)(D) of the Code, followed by a distribution of the WMCR shares to the WMC shareholders, as described in section 355 of the Code. WMC and WMCR will each be a party to the reorganization within the meaning of section 368(b).
3. No gain or loss will be recognized to the WMC shareholders upon the receipt of WMCR shares (sections 355(a)(1) of the Code).
4. The aggregate basis of the WMC shares and WMCR shares owned by a WMC shareholder will be equal to the basis in the WMC shares held immediately before the distribution, allocated between the WMC shares and the WMCR shares in proportion to their fair market values at the time of the Distribution, and increased by any gain recognized to a shareholder (sections 358(a)(1) and (b) of the Code and section 1.358-2(a)(2) of the Treasury Regulations).
5. The holding period of the WMCR shares received by a WMC shareholder will include the period the WMC shares were held (which will include the period the WMC shares were held under 4., above). Section 1223(1).

This opinion is based solely upon:

a. The representations, information, documents, and facts that we have included or referenced in this opinion letter;
b. Our assumption (without independent verification) that all of the representations and all of the originals, copies, and signatures of documents reviewed by us are accurate, true, and authentic;
c. Our assumption (without independent verification) that there will be timely execution and delivery of and performance as required by the representations and documents;
d. The understanding that only the specific Federal income tax issues and tax consequences opined upon herein are covered by this tax opinion, and no other federal, state, or local taxes of any kind were considered;
e. The law, regulations, cases, rulings, and other tax authority in effect as of the date of this letter. If there are significant changes in or to the foregoing tax authorities, such changes may result in our opinion being rendered invalid or necessitate (upon your request) a reconsideration of the opinion;
f. Your understanding that this opinion is not binding on the IRS or the courts and should not be considered a representation, warranty, or guarantee that the IRS or the courts will concur with our opinion; and
g. Your understanding that this opinion letter is solely for your benefit, is limited to the described transaction, and may not be relied upon by any other person or entity, without prior written consent or as otherwise described herein.

Yours sincerely,

DELOITTE & TOUCHE LLP

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