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Ms. Mary L. Schapiro, Chairperson
c/o Elizabeth M. Murphy, Secretary
Securities and Exchange Commission
100 F. Street, NE.
Washington, DC 20549-1090

RE: Dodd-Frank Wall Street Reform Act, Section 1503(a) and (b)
Release Nos. 33-9164; 34-63548; File No. S7-41-10.

VIA E-Mail: rule-comments@sec.gov

RE: File No. S7-41-10

March 1, 2011

Dear Madam Chairperson:

These comments are being submitted to the Securities and Exchange Commission (the “**Commission**”), in connection with the Request for Comments to the proposed amendments to the Commission’s rules in 17 CFR Parts 229, 239 and 249, relating to the Dodd-Frank Wall Street Reform Act (the “**Dodd-Frank Act**”), as proposed on December 22, 2010, 75 Fed. Reg. 80374. These comments are being submitted with respect to Section 1503(a) and (b) of the Dodd-Frank Act, which contain certain reporting requirements applicable to an issuer that is an operator, or has a subsidiary that is an operator, of a coal or other mine, as defined in the Federal Mine Safety and Health Act of 1977 (the “**Mine Act**”), as administered by the U.S. Labor Department’s Mine Safety & Health Administration (“**MSHA**”).

I am submitting these comments on behalf of the dual listed company comprised of Rio Tinto plc, a London listed public company headquartered in the UK, and Rio Tinto Limited, which is listed on the Australian Stock Exchange, with executive offices in Melbourne, Australia (collectively, with its relevant subsidiaries and associated companies, “**Rio Tinto**”). Rio Tinto is a leading international mining group and is a ‘foreign private issuer’ in the United States with respect to securities listed on the New York stock exchange. Rio Tinto’s major extractive products include aluminum, copper, diamonds, energy products, gold, industrial minerals (borates, titanium dioxide, salt and talc), and iron ore. Rio Tinto’s world-wide activities include significant activities and operations in the United States. As a foreign private issuer, Rio Tinto uses the forms and rules designated for foreign private issuers when reporting to the Commission. These comments follow the numbering scheme proposed by the Commission in its December 22, 2010 request for comments.

Rio Tinto believes in establishing a strong culture of mine safety. Rio Tinto further supports enhancing disclosures that are material to the investor, add clarity and are relevant and do not pose an unnecessary burden on the reporting issuer. We thus welcome the Commission's rulemaking and/or interpretative guidance on each of these issues to facilitate, to the maximum extent possible, the foregoing aspirations.

Specific Request for Comments.

Request for Comment #1. This Request relates to Item 1-02(x) of Regulation S-X pertaining to the definition of 'subsidiary'. We believe that using the definition of 'affiliate' which requires control of the entity, is the appropriate standard and is consistent with the use of such term in other Commission Rules and thus have no further comment on this item. As many mines are operated under a joint venture arrangement, absent a standard requiring only the 'controlling' issuer to provide the mandated reports, there is the possibility of duplicative reporting and would potentially impose reporting on a non-controlled interest in a mine.

Request for Comment #2. This Request relates to whether the reporting should be limited to mines subject to the Mine Act, as administered by MSHA. We support the Commission's proposal to require reporting only as to mines subject to the Mine Act. It would be impractical, if not impossible, as well as inappropriate, to apply the Dodd-Frank Act provisions to mines in jurisdictions other than the United States. The reason for this is that there is no common mine safety regulatory approach that is directly comparable with the Mine Safety and the applicable MSHA regulations. Thus, attempting to apply disclosure standards that would approximate the MSHA regulatory regime would be guess work at best. That would yield inconsistent and confusing standards, both in terms of the application of the standard between companies that have international operations, as well as between each of the operating locations. The result would enormously increase the reporting work load of the issuers in attempting to track and to properly categorize those, without corresponding benefit to the investor. We, thus, strongly believe that the Dodd-Frank Act application should be limited to mines subject to the Mine Act and MSHA regulations, as contemplated in the Dodd-Frank Act.

Request for Comment #3. This Request relates to exceptions for smaller reporting companies. In general, we believe that there should be a consistent standard applicable to all issuers, regardless of size. We believe, however, that any reporting requirement should pose the minimum burden necessary on issuers, such that only significant matters of interest to an investor are disclosed, which is consistent with the general tenor of other disclosures required under the US securities acts.

Request for Comment #4. This Request relates to whether there should be an exception to the reporting requirements for foreign private issuers. While we would favor an exception for foreign private issuers, and while we have further comments on certain substantive matters as noted below, we do recognize our responsibility in this regard and believe that the rules as currently proposed by the Commission, in

having the matters reported as an exhibit to the annual Form 20-F, strike a suitable balance and are required by the Dodd-Frank Act.

Request for Comment #5. This Request relates to whether the reporting should be on a mine-by-mine basis, or some other broader basis. We are concerned that the reporting on a mine-by-mine basis erodes the concept of materiality that should underlie disclosures in general. Also, while reporting on a general geographic basis may not be feasible, where an operator has multiple MSHA numbers related to common facilities subject to the Mine Act, we believe it would be more efficient to group those enforcement actions and to report on a combined basis. Other than on such common related operations, we accept that the disclosure should be on a mine-by-mine basis. However, at any particular mine, there may be contractors with a separate MSHA number and an enforcement action against that contractor may not always result in an enforcement action against the mine owner itself. We would suggest that the proposed regulations make it clear that only enforcement actions directed against the mine owner would need to be reported. We note, however, that there are certain peculiarities in each mine that are largely outside of the control of the operator, due to topography, geology, location, or other natural conditions and that despite the highest emphasis on safety, this leads to the potential of greater safety concerns than would be the case in other mines. Thus, absent explanatory information from the issuer on the peculiarities of safety issues in any given mine, the investor may not have an accurate picture of the safety experience of the issuer. We would also suggest that the burden on the issuer could be substantially lessened, and the materiality issue made of far less concern, if, rather than having to disclose, in the Annual report, information that is already publicly available, a methodology could be implemented that directed the investor to the public MSHA site where the information can be found. Such methodology would eliminate much duplication and would streamline the Dodd-Frank Act reporting to information regarding proceedings before the Commission. We suggest that the Commission could work with MSHA to make the MSHA data more user-friendly and to more fully conform to the Dodd-Frank Act requirements and reduce the administrative burden arising from duplicative reporting.

Request for Comment #6. This Request relates to certain 10-K and 10-Q issues. As a foreign private issuer, Rio Tinto does not file 10-K or 10-Q's and thus has no comment on this item.

Request for Comment #7. This Request relates to whether reporting should be on a quarterly basis in the case of reports on Form 10-Q, or annual reporting. As a foreign private issuer, Rio Tinto does not file quarterly reports on Form 10-Q and thus, has no comment on this aspect. However, we believe that annual reporting should suffice for all issuers and would generally make reporting more consistent.

Request for Comment #8. This Request relates to the form of the presentation of the information. If, notwithstanding our comments in our response to Question 5, the Commission favours the reporting in the annual report, rather than simply referencing the public MSHA site where the information is readily available, then we believe that presentation of the information in chart or tabular form is

sufficient and is more readily comparable with the existing MSHA reporting information. However, we believe that certain of the disclosures will require explanatory comment, including those that have been dismissed or are no longer relevant. We also believe that the reporting of Significant and Substantial (“S&S”) citations should be clarified so as not to give the illusory impression of additional citations. For example, a Section 107(a) citation that is deemed S&S is only one citation; however, it would potentially be reported as a Section 107(a) and as an S&S citation giving the misleading view that two citations have been given. Either limiting the reporting to only those citations that have been designated S&S or a tabular format that shows (i) the type of citation and (ii) whether that citation was deemed S&S would prevent the risk of this misconception.

Request for Comment #9. This Request relates to whether the information should be included in the actual report, or as an exhibit. As explained in our response to Question 5, we propose a methodology where investors are directed to the MSHA site, where the information is already currently disclosed, which would eliminate much duplication. If disclosure is still required in the Annual report, we believe that presentation of the material in an exhibit is appropriate. Presentation in the body of the annual report itself would potentially be overly confusing and detailed, depending on the number of mines included and the number of MSHA related matters referenced. Furthermore, presentation in an exhibit would enhance the useful explanatory commentary on the status of the various matters.

Request for Comment #10. This Request relates to whether the information should be included in registration statements. We do not believe that the inclusion of the information in registration statements meets the Dodd Frank Act requirements for information to be included in ‘periodic’ reports, because registration statements by their nature are not ‘periodic’ reports. Thus, we do not believe the registration statements should contain such information and that requiring the same would be an inappropriate expansion of the Dodd-Frank Act requirements.

Request for Comment #11. This Request relates to whether the issuer should include interactive data format. We believe that requiring an interactive data format would significantly increase the burden on the issuer and its subsidiaries, in both the assembly and presentation of such information, and particularly for issues with multiple mines subject to the Dodd-Frank Act, with little if any corresponding benefit to the investor. Furthermore, where a foreign private issuer is involved, the mandated use of such interactive format may be an excessive burden requiring more specialised personnel to assemble and present the information than would otherwise be the case in reporting in the home jurisdiction of the issuer.

Request for Comment #12. This Request relates to reporting on Form 10-K. As a foreign private issuer, we do not file annual reports on Form 10-K, but in general, believe that the reporting should be on an annual basis for all relevant orders, violations and citations received by the issuer, on or before the relevant cut-off date for the annual report. See also Request for Comment #7. On a related note, only such orders, violations and citations that have actually been made known to the

issuer should be reported, not those that may have been initiated by MSHA, but not yet brought to the attention of the issuer.

Request for Comment #13. This Request relates to the reporting of all orders, violations and citations received, whether or not the same have been resolved prior to the filing of the annual report. It neither advances safety, nor aids investors, to report items that have occurred during the relevant period, but that have been dismissed, reduced or are no longer valid. Consequently, we strongly believe that the reporting should be limited to outstanding enforcement actions only. The issuance of enforcement actions is often at the discretion of the individual MSHA inspector. At times, enforcement actions are subject to error, differing interpretations, or can actually be at odds with applicable law including the Mine Act. Where those matters have been challenged, overruled, or found invalid, disclosure of those items does not foster sound investor decision-making, and in fact, may portray the issuer improperly or, potentially mislead the investor. Enforcement actions that have been withdrawn prior to the reporting period, or have otherwise been modified to fall below the reporting threshold, do not further either the purposes of the Dodd-Frank Act to report material safety issues, or the purposes of the Securities Acts to provide material information to investors. Thus inclusion of those types of enforcement actions is, we believe, inappropriate and such enforcement actions should be excluded from the report. Furthermore we would recommend that, where the enforcement actions have not been withdrawn or modified, but the issuer believes they are not supported by the facts or that there are other explanatory circumstances warranting further commentary by the issuer, the issuer should be broadly entitled to provide suitable explanatory commentary.

Request for Comment #14. This Request concerns limiting disclosure to S&S enforcement actions only. We believe that it is consistent with Dodd-Frank Act to limit the reporting to S&S enforcement actions only. Going further and reporting all MSHA enforcement actions would be an expansion of the Dodd-Frank Act and would include a level of detail that would not be helpful to the investment decision. Many enforcement actions may involve an extremely granular level of detail involving small operating errors. Also, if an investor wishes to obtain additional information concerning other enforcement actions, those are readily available on the MSHA website.

Request for Comment #15. This Request concerns the disclosure of penalty assessments and the cumulative total of all proposed assessments outstanding as of the date of the report. There are a number of issues relating to the reporting of assessments, which are usually made separately from the enforcement action itself. While these are more critical for those issuers who must report on a quarterly basis, even for foreign private issuers reporting annually, the timing has implications. The date of assessment, or period of time between the issuance of an enforcement action and the assessment, is not consistent and can vary for every enforcement action. For those reasons, we believe that the penalty assessments should be limited to only those that have been received by the issuer prior to the relevant cut-off date for the annual report, and that otherwise only relate to enforcement actions that have to be

reported under the Dodd-Frank Act. The reporting of every penalty assessment for non S&S citations, for instance, would require a level of detail and granularity that would be of little assistance to investors and would appear to expand the scope of the Dodd-Frank Act by effectively including non S&S citations in the report. Furthermore, it should be recognized that actual penalty assessments often come later than the date of the order, violation or citation to which it relates. Hence, at the time of the cut-off date for the annual report, an S&S citation may be included, but the penalty assessment may not be known at the time of the report. Also, we strongly urge that penalty assessments related to orders, violations or citations that, prior to the relevant cut-off date for the report, have been reduced to non-reportable matters, should NOT be included. Finally, we believe that expanding the reporting to include all ‘outstanding’ penalties is a significant broadening of the Dodd-Frank Act requirements and should thus be avoided.

Request for Comment #16. This Request relates to the reporting of assessments that are being contested. We believe that, in the first instance, it would be preferable to exclude assessments that are being contested, particularly where the underlying citation is being contested as non-S&S. However, if the total amounts of proposed assessments are reported, fair disclosure would necessitate that the issuer has the ability – like any other litigation or environmental violation or other similar matters – to provide explanatory commentary on the fact that the assessments are being challenged and that the issuer have the ability to fully and fairly describe the same.

Request for Comment #17. We are very cognizant of fatalities in our global mining operations and are keenly focused on global mine safety. We do not, however, believe that the Dodd-Frank Act reporting requirements are the proper forum to include those statistics and believe that the reporting requirements under the Dodd-Frank Act should be limited to mines subject to the Mine Act jurisdiction. This is due to the potential for differing standards between a facility that is subject to the Mine Act, and the standards that may apply in a foreign jurisdiction that may take a broader or narrower view of what constitutes a ‘mine’ related fatality, which would result in inconsistency of reporting and mischaracterization of the statistics. Furthermore, while not directly subject to the Request for Comment, where mining operations have related operations that are subject to Occupational Safety & Health Administration (“OSHA”) oversight or similar state programs, we believe that we should retain the Dodd-Frank Act focus on mines subject to the Mine Act, and not expand the concepts. We are also concerned that opening fatality reporting to a global standard results in an expansion of the Dodd Frank Act reporting to improperly adventuring into extraterritorial applications, with uncertain standards and lack of conformity in reporting criteria.

Request for Comment #18. This Request relates to which fatalities should be reported. We do not believe that the definition of fatality should be expanded beyond what is contemplated under the Mine Act and MSHA rules. Hence, if it is “non-chargeable”, we do not believe it should be included. Also, because the determination of when a fatality is “chargeable” is often made some time after the

actual fatality, the reporting should only include those as to which a determination has thus been made. Otherwise, the definition becomes amorphous, inconsistent and not useful. There needs to be clarity and consistency of reporting both in terms of the collection of the data, as well as in the presentation of the same. While any particular company may take a broader view of what constitutes a mine-related fatality, that determination should properly be part of the company's employee well-being programs, rather than part of the useful disclosure under Dodd-Frank Act.

Request for Comment #19. This Request relates to which standards should apply if expansion of the reporting requirements to non-US jurisdictions is undertaken. We believe that the reporting requirements should be limited to mines subject to the Mine Act jurisdiction and not expanded beyond that. We do not believe it would be useful to attempt to overlay the MSHA categories for 'mine related fatalities' in non-US jurisdictions and as the Request for comment suggests, the development of workable standards would be complex and difficult. That expansion of the reporting requirements would essentially lead to needing the relevant mine safety personnel in each foreign jurisdiction essentially trained in MSHA fatality reporting, the second guessing by US personnel of foreign operators, issuer guess work in attempting to determine whether or not any particular foreign reporting requirement would be a reportable event under MSHA rules, which in turn would likely lead to further confusion on the part of the investor and the likelihood of inconsistent reporting requirements by multinational issuers. We believe in the first instance that the reporting under the Dodd-Frank Act should be limited to reportable matters for mines subject to MSHA jurisdiction, but if extraterritorial expansion is adopted by the Commission, then it should be done in the simplest manner possible, giving the issuer the widest degree of discretion in this instance.

Request for Comment #20. This Request relates to whether updates of reported matters should be included. We believe it is essential for investor decision-making to be able to periodically update material developments in pending legal actions that are reported under Dodd-Frank, just as would be the case in any other material legal action. We also believe that non S&S citations or matters that have been reduced below an S&S citation prior to the filing of the report, should not be included as such matters are not material to an investor. See Also response to Request # 13. We also believe that the Commission should discuss with MSHA how proceedings before MSHA are docketed, inasmuch as multiple enforcement actions for unrelated conditions in one docket may occur. Absent some clarity on what should be reported and how that conforms to the MSHA proceedings, there is a possibility of confusion on the part of both the issuer and the investor.

Request for Comment #21. This Request relates to whether the contextual information the Commission is proposing for pending legal actions is appropriate. In general, we believe that the issuer should be able to provide all necessary explanatory information that would be material to the investor or would aid in deciding the relevance of the required disclosure, would be critical for the issuer and should be within the discretion of the issuer.

Request for Comment #22. This Request relates to the usefulness of having a brief description of the category of violations, orders and citations. Some description of the nature and purpose of the MSHA violations and how that mechanism actually works in practice would be a useful addition to the required disclosures. Otherwise, an investor who is not familiar with the MSHA rules may form an unwarranted view from the disclosures themselves, rather than the understanding that often by itself an enforcement action, does not represent a serious safety issue. We would also highly recommend that the Commission work with MSHA to bring the MSHA reporting into conformity with the Dodd-Frank Act requirements, to both streamline and consolidate the reporting standards and requirements.

Request for Comment #26. This Request relates to whether foreign private issuers should be subject to 8-K reporting equivalents. We do not believe that application of 8-K requirements is warranted for Dodd-Frank Act disclosures. There are many areas outside of the Dodd-Frank Act where it could be alleged that having 8-K requirements apply to foreign private issuers would be potentially warranted. However, the purpose of establishing the regime for foreign private issuers was to attract foreign issuers into the US and the domestic capital markets by minimizing the reporting burden and essentially having parallel disclosures to the issuer's home jurisdiction. If that regime should be changed, it should be addressed in the broader context, rather than in the context of the Dodd-Frank Act reporting only.

Additional Matters.

The Commission has also inquired as to the burden and cost estimate related to the proposed amendments. The Commission has estimated the collection of information requirements to be approximately 1,677 hours of company personnel time and approximately \$263,500 for the services of outside professionals, in the aggregate, and with respect to foreign private issuer filing, such as Rio Tinto, the Commission estimates that the proposed rule and form amendments would add 5 burden hours to the total burden hours required to produce each Form 20-F. We believe based on our own experience that those estimates are on the very low end of the scale. The reason we believe this is low, and the reason for our own experience in seeing much higher burdens, arises from the number and variety of operations that must be included in the actual reports, and the corporate structure and segregation of responsibilities that are required in a multinational organisation with a number of individual operating subsidiaries to manage, assemble, track, verify and finally to prepare the actual reports. Not all mines are alike or have similar issues. A borate mine is different from a coal mine which is different from a hard rock mine. Each operation will have slightly different organizational structures, and different issues and violation experience. At the same time, for an issuer that has several operating subsidiaries, the centralized functions responsible for preparation of the annual reports is not directly linked to the actual operation and significant amounts of internal coordination is thus required. Generally, the basic MSHA information is obtained by the site operator mine safety department. That in turn is forwarded to global or regional mine health and safety personnel for review of the information and to ensure compliance with the relevant regulatory requirements. In turn that is then

forwarded to the department that is responsible for preparation of the relevant annual report, which in turn requires further review and often the consultation of outside professionals. Further, at almost every step one or more persons from the internal legal department may be involved, which will require consultation and discussion to determine the facts and the status of the citation, order, or violation and to properly characterize it for reporting purposes and to ensure that the reporting was accurate and in compliance with applicable law. It would, thus, be our experience that the necessary internal procedures and controls to accurately assemble, track and report the Dodd-Frank Act safety issues and actual hourly burden alone, would be 10 to 15 times the estimate made by the Commission, and the outside professional burden would likewise be several orders of magnitude greater than the burden estimated by the Commission.

Finally, we appreciate the opportunity to provide these comments in the Commission's rulemaking process. We are further open to meet with the SEC staff to discuss any of these matters in greater detail.

Yours faithfully,



Ben Mathews
Company Secretary
Rio Tinto plc