MINING

Continued uncertainty fuels creativity in mining sector transactions

Although 2019 started off with significant fanfare with two of the largest Canadian mining M&A deals in recent memory (Barrick/Randgold and Newmont/Goldcorp), ultimately these deals did not serve as a catalyst for additional deal making and capital raising.

Amid an environment of global economic uncertainty, capital has not returned to the mining industry despite a strong gold price which traditionally benefits the Canadian mining sector. Public financings in 2019 were generally limited to capital raising by producing issuers or royalty/streaming issuers. Exploration companies, in particular, had limited financing opportunities, either publicly or through private financing. In addition, for much of the year global M&A activity for the year was materially down compared to prior years and the anticipated mid-tier consolidation remained elusive, despite a pick up in gold activity late in the year. In such a challenging market environment, issuers had to consider other alternatives to public capital and traditional M&A activity. Creativity was often critical to getting deals done.

Several market themes were evident in some of the more creative and innovative transactions we saw this year.

Preserving optionality

One key theme involved positioning issuers for future opportunities, whether they be triggered by stronger commodity prices or stronger operating conditions. A number of transactions enabled issuers to realize their near-term objectives while also maintaining optionality going forward that will (hopefully) enable them to benefit from improved market conditions in the future. Two such transactions are

- **TMAC Resources and Maverix Metals:** TMAC increased its existing net smelter return (NSR) royalty owing to Maverix from 1% to 2.5% in consideration for a payment of US$40 million. Maverix also completed a US$3-million private placement of equity. The royalty amendment included buyback rights for the increased royalty that locked in a return for Maverix and provided certainty for TMAC. The structure allowed TMAC to repay the increased NSR in shares such that, if TMAC's share price improves in a higher gold price environment, the dilution to take out the royalty through an equity raise could potentially be significantly less than the dilution from an equity offering at the time of the transaction. (Osler acted for Maverix Metals.)
- **Pretium Resources and Osisko Gold Royalties:** Although Pretium had an option to reduce its offtake obligations owing to Osisko, its repurchase right was limited to 75% of its outstanding refined gold obligations. Following negotiations, the parties agreed to a buyout of the entire offtake obligation for the same price as under the buyout right. The transaction eliminated a low market offtake for Osisko and allowed Pretium to obtain the full benefit of its production and repay its construction financing.

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Sharing risk

Another key theme was an increase in joint ventures and partnerships to share risk, especially with development stage assets. Joint ventures and earn-ins have always been a foundational basis for deal making in the mining sector. However, persistent difficulties in accessing capital provided opportunities for investors to combine forces. A number of transactions resulted in financing arrangements that one or both issuers would not have been able to do themselves. Two such transactions are

- **Lithium Americas and Ganfeng Lithium:** In October 2018, Lithium Americas replaced SQM, its JV partner for its principal project, the Cauchari-Olaroz project, with LAC's largest shareholder, Ganfeng Lithium, and increased its stake from a 50% to a 62.5% holding, with Ganfeng Lithium holding the other 37.5%. In August 2019, Ganfeng Lithium invested a further US$160M in the holding company for the Cauchari-Olaroz project to increase its holding to 50%. The transaction significantly increased the valuation for the Cauchari-Olaroz project and derisked development of the project by providing substantial funding towards construction. (Osler acted for the Special Committee of Lithium Americas.)
- **Argonaut Gold and UrbanGold:** Argonaut and UrbanGold signed an option agreement granting the other party the right to earn a 50% interest in the other's claims – effectively combining the properties to form a single project.

UrbanGold has an option to earn a 50% interest in Argonaut's claims in consideration for 750,000 common shares of UrbanGold over the first two years of the agreement and an expenditure commitment of at least $300,000 until the third anniversary of the agreement. On completion, Argonaut may earn-in to UrbanGold's projects. Combining assets allows for efficient use of both parties' limited exploration dollars in a prospective area.

Restructurings using capital structure

Many mining issuers face a conundrum: lower market valuations make it difficult to aggressively acquire new assets, while at the same time they are unable to generate near-term value appreciation with their current asset mix and financial resources. Many shareholders share this frustration. In 2019, a number of issuers creatively used their capital structure to restructure their asset base and shareholder base. Three such transactions are

- **Osisko Gold Royalties and Orion Mine Finance:** Osisko had previously purchased a royalty portfolio from Orion in consideration for Osisko equity, with Orion holding approximately 19.48% of Osisko. Orion wished to exit and Osisko wanted an orderly sale process. The parties negotiated a blended transaction including a public secondary offering by Orion, a repurchase of shares in consideration for equity securities of certain Osisko portfolio companies and cash, and a sale of other equity securities to an affiliate of Orion for cash. The transaction allowed Orion to exit its investment in Osisko Gold Royalties for cash and new portfolio investments and allowed Osisko to clear the overhang on its shares from the Orion investment. (Osler acted for the underwriters on the secondary offering by Orion.)
- **Calibre Mining and B2Gold:** B2Gold and Calibre entered into a transaction pursuant to which B2Gold agreed to sell to Calibre all of B2Gold's interest in the producing El Limon and La Libertad Gold Mines, the Pavon Gold Project and additional mineral concessions in Nicaragua for consideration consisting of cash, Calibre shares, a debenture and a deferred cash payment. In connection with the transaction, Calibre was able to complete a significant subscription receipt financing, with the result being that B2Gold increased its interest in Calibre to 28%, new investors held 57% of the combined company and pre-existing Calibre shareholders (who held an interest in an exploration company with limited access to capital) held 12% of the outstanding equity. The transaction allowed B2Gold to separate itself from Nicaragua to focus on optimizing production at other existing mines in Mali, Namibia and the Philippines, as well as to advance its pipeline of development and exploration projects. It further allowed Calibre to consolidate its interests in Nicaragua and immediately move from an exploration company to a producing issuer.
- **Newmont Goldcorp and Arcus Development Group:** Newmont Goldcorp has agreed to acquire the Dan Man property (near Newmont Goldcorp's Coffee gold project in the Yukon Territory) from Arcus in consideration for the return to Arcus of a 19.9% interest in Arcus (previously held by Goldcorp). Arcus will also receive a 1% NSR on future commercial production from Dan Man, although Goldcorp Kaminak, a Newmont Goldcorp subsidiary, will have the right to repurchase the royalty at any time for C$1 million. For Newmont Goldcorp, this

transaction allows an efficient expansion of its Coffee project by consolidating prospective lands in the area in consideration for a non-core junior mining investment. For Arcus, the transaction removes overhang on its common shares, reduces the overall float outstanding and allows it to reduce costs and reallocate scarce resources to other projects in the company's portfolio.

These transactions present a sampling of inventive structures we saw in 2019 that have enabled parties to achieve their commercial objectives in a period of persistent difficulty for the mining sector. They make use of assets in a way that takes advantage of market conditions and existing opportunities. To the extent financing and M&A difficulties continue, we expect to see more of these types of transactions into 2020.

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