Persistent volatility in commodity prices has made it increasingly difficult for mining companies to access traditional forms of debt and equity financing.

In order to fund the capital for new projects or to expand upon existing projects, mining companies are having to source alternative and creative financing solutions.

**WHAT IS METALS STREAMING?**

Persistent volatility in commodity prices has made it increasingly difficult for mining companies to access traditional forms of debt and equity financing. In order to fund the capital for new projects or to expand upon existing projects, mining companies are having to source alternative and creative financing solutions. Metals streaming is one potential solution, which emerged in the Americas in 2004 and championed by Silver Wheaton, Franco Nevada and Royal Gold Inc. Although this form of alternative financing is relatively novel in the Australian market, it is a tried and tested financing structure that may appeal to Australia’s junior to mid-cap mining proponents.

Metals streaming is an agreement between a mining company and an investor for the investor to purchase a percentage of the company’s future production at a fixed price below market value. The future production subject of the sale (known as a ‘stream’) is often the by-product of the company’s main operations – for example, precious metals which are the by-product of the company’s base metal production.

The stream is acquired by the investor making an upfront capital payment (or a series of payments) to the producer in exchange for an agreed fixed price (plus inflation) per unit of production for the life of the mine, or a defined and likely protracted period of time. The upfront payment is often structured as a deposit. Effectively, the streaming agreement allows a mining company to monetise its future production prior to production commencing.

**HOW IS METALS STREAMING DIFFERENT FROM ROYALTY AGREEMENTS?**

Although somewhat similar, streaming and royalty agreements can be distinguished. Streaming
involves the sale by the mining company of physical product, whereas under royalty agreements the investor is entitled to share in the future revenue of the producer’s project. In addition, a royalty investor will typically make no ongoing payments to receive its share of revenue, while a streamer will be obliged to make ongoing payments for product delivered (albeit generally at a discounted price).

WHAT ARE THE KEY BENEFITS OF METALS STREAMING ARRANGEMENTS?

Streaming arrangements may offer a number of benefits for mining companies. Principally, these include the following:

- Like royalty agreements, streaming can be employed alongside other forms of financing arrangements. As the stream often comprises the by-product of the mining company’s core product, the mining company may be able to access funds from the streaming agreement without reducing its broader borrowing capacity.

- Streaming transactions can be reached in a time effective and low-cost manner. To this end, streaming arrangements are also similar to royalty agreements.

- The agreement itself will generally be less restrictive on the company compared to other traditional debt instruments, allowing the company to retain greater control over the project’s overall operations.

- Companies are afforded greater flexibility under streaming arrangements compared to traditional debt products as the company is only obliged to deliver the product when it is produced.

WHAT ARE THE PITFALLS OF STREAMING?

The key issue associated with streaming arrangements is that the mining company may inadvertently price the streamed product too low, thereby failing to benefit from subsequent increases in its market value. Unless the mining company is able to negotiate optional buybacks to purchase all or part of the stream, the investor may accrue a significant windfall without having to compensate the mining company for that benefit. This issue may be prevalent where the market for the streamed product is particularly volatile.

Similarly, if the mining company has agreed to sell a fixed percentage of the streamed product, the investor may receive a windfall where the mining company’s production is higher than expected or where new discoveries are made. As a preventative measure however, mining companies may seek to cap the volume of the product to which the investor is entitled.

RECENT STREAMING TRANSACTIONS

Recent streaming transactions include the agreement entered into by Anani Investments Limited (a wholly owned subsidiary of Glencore) with Silver Wheaton (Caymans) Ltd (a wholly owned subsidiary of Silver Wheaton Group) in 2015, under which Silver Wheaton agreed to pay US$900 million to Anani Investments in addition to paying 20% of the spot price per silver oz delivered. In return, Silver Wheaton will receive 33.75% of silver produced until the delivery of 140 million oz and 22.50% of silver production thereafter for the life of the mine.

In early 2015 KBL Mining Limited entered into a streaming agreement with Quintana Mineral Hill
Streaming Co. LLC under which Quintana agreed to provide US$23 million to KBL over several instalments in exchange for the right to purchase a percentage of KBL’s base metals, gold and silver production.

**CONCLUSION**

Although the cumulative value of existing global streaming arrangements has been estimated to exceed US$9 billion, streaming remains a relatively novel and underutilised form of financing outside of the Americas. Despite this, it is expected that the number of Australian streaming transactions will continue to rise while traditional sources of financing remain difficult to obtain. To that end, the number of streaming companies entering the Australian market will also increase while traditional royalty companies may look to expand their existing portfolio to including streaming.

**KEY CONTACTS**

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.

ANDREW MCLEAN  
PARTNER, PERTH  
+61 8 9211 7724  
Andrew.McLean@hsf.com

**LEGAL NOTICE**

The contents of this publication, current at the date of publication set out above, are for reference purposes only. They do not constitute legal advice and should not be relied upon as such. Specific legal advice about your specific circumstances should always be sought separately before taking any action based on this publication.

© Herbert Smith Freehills 2019