

# Innovative Financing for the Global Mining Industry

Regulatory Considerations  
and Legal Perspectives

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Kari MacKay  
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**Goodmans<sup>LLP</sup>**

# Topics for Discussion

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- **Regulatory Developments**
  - Securities Law Developments
  - Regulatory Framework
- **Alternative Financings**
  - Legal Perspectives and Pitfalls

WELL, DON'T  
JUST SIT  
THERE, STEP  
UP AND HIRE  
WORKERS.



# Securities Law Developments

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- **Proposed Prospectus Exemptions:**
  - Offering Memorandum
  - Family, Friends & Business Associates
  - Existing Securityholders
  - Crowdfunding
- **Proposed Changes to Private Placement Rules:**
  - Accredited Investor
  - Minimum Amount Invested
- **Emerging Market Issuer Review:**
  - Impact on Issuers, Underwriters, Exchanges, Auditors

# Regulatory Framework

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- **Increasing Cost of Compliance**
  - Offering Regulations
  - Continuous Disclosure Obligations
  - Risk
- **Regulatory Environment in Mining Locations:**
  - Lack of Consistent and Transparent Regulations



***Evolution of Alternative Financings  
(Or Revolution?)***

# Alternative Financings

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- **Debt continues to be significant source of financing**
  - Diversification of financing obligations
- **Portfolio Optimization playing an increasing role**
  - Asset sales – project sales, joint ventures, off-takes
  - Royalties
  - Streaming Transactions
- **In 2013, Portfolio Optimization beat Equity 2:1**

# Alternative Financings Comparison\*

	<b>Debt</b>	<b>Joint Venture</b>	<b>Royalty</b>	<b>Stream</b>
<b>Ownership/ Control</b>	Retains full ownership but may limit options	Transfer of interest	Transfers an interest in the land and exploration upside	Ownership interest aligned but transfers exploration upside
<b>Covenants</b>	Strict financial and negative covenants	Negotiated operational covenants	Selected reporting obligations	Limited operational covenants
<b>Transfer Restrictions</b>	Limitations on transfers of assets	Negotiated limitations	Limited restrictions	Strict limitations on transfers of assets and change of control
<b>Transaction Mechanics</b>	Complex and time consuming	May (should) be complex	Relatively simple process	Efficient time and cost structure (unless involves an inter-creditor)

\* This summary does not compare the financial and commercial aspects, such as dilution, effect of debt, cash costs and pricing, discussed by others today.

# Legal Perspectives - Streaming

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- **Allocation of Risk**
  - Security
  - Development Risks (Completion Tests)
  - Operational Risk and Political Events
  - Tax
- **Interplay of Creditors**
  - Intercreditor Agreements



# Future Developments

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- **Flexible approach of stream transactions likely to result in this form of financing continuing to rise**
- **Future Innovations**
  - Syndication
  - Acquisition Financing
  - Non-Precious Metals

# Moving Forward

- **Every stage of the mining cycle requires critical amounts of capital and the industry will continue to move forward with innovative financing techniques**

*“Business people are like sharks, not just because we’re grey and slightly oily... but because we must move forward or die.”*

Stanley Bing



# Questions?

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**Kari MacKay**

*[kmackay@goodmans.ca](mailto:kmackay@goodmans.ca)*

*416.597.6282*

Kari MacKay is a partner and Executive Committee member of Goodmans LLP, whose practice focuses on corporate and securities law, with particular emphasis on M&A, corporate finance and corporate governance, primarily in the natural resources sector. Kari advises on the structuring of M&A transactions, including complex international mergers and contested change of control transactions. In the field of corporate and project finance, Kari represents both market participants and issuers in public financings and private investments of debt and equity. Her practice includes advising financing companies, senior producers and exploration and development-stage natural resource companies, providing the expertise, insight and business advice necessary for all stages of corporate and project development.