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A REVIEW OF LEGAL FINANCE

HEALTH CARE ROUNDTABLE WITH LAW FIRM LEADERS	POWERING A REBOUND USING INVISIBLE ASSETS	LEGAL FINANCE CASE STUDIES

The future of mining post-pandemic

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While the top 40 mining companies have been well-positioned to weather the impact of Covid-19,[1] the broader resource industry is grappling with different challenges brought about by the pandemic—including commodity price volatility, supply chain disruptions, uncertainty of the global economic outlook and increasing geopolitical unrest. But as the world slowly emerges from the pandemic, mining companies and commodities traders will have an opportunity to reevaluate how they pursue litigation and leverage legal assets for strategic business purposes.

NAVIGATING ECONOMIC UNCERTAINTY

The metals and mining industry has entered an unprecedented period of economic uncertainty. Rocketing costs for exploration and production have impacted profit margins and left investors reluctant to engage with new mining projects, especially with smaller companies. And costs concerns have only been exacerbated by Covid-19 due to the added expenses of new procedures, protocols and health testing equipment for workers, as well as increased costs due to global supply chain disruption. Meanwhile, global economic conditions have resulted in unprecedented pricing volatility, putting financial strain on commodities traders that already faced narrow profit margins and making it difficult for mining companies to make long-term decisions about demand.[2]

In recent years, ESG investing has also become a popular boardroom topic. For companies operating in the "wrong" industries (such as coal mining), established and cheap sources of funding for projects deemed to fall outside the relevant investment parameters could suddenly be put at risk.

While considerable disparity exists between the large-cap multinational mining companies and small single-asset operators, the economic impact of the past year is changing the way mining companies and commodities traders of all sizes are doing business.

Expanding business growth

The lack of certainty over the availability and cost of capital is a perennial problem constraining the growth and operation of the smaller companies within the industry.

As a result, companies in the space are often thinly capitalized and rely heavily on external borrowing, making it difficult for them to pursue new projects.

Historically, the financing options available to companies have failed to adequately address the needs of smaller miners and commodities traders. To embark on mining projects that will take years to reach production, for example, miners rely heavily on borrowing or else partnering with larger players to gain access to necessary project capital. However, these avenues invariably have risk associated with them: A bank may deny a loan, decline to cover full project costs or impose onerous covenants, and a partnership can go awry, exposing individuals and companies to legal and economic risks. Similarly, for commodities traders sitting in the middle of the supply chain and operating with tight profit margins, the only way to meaningfully increase revenue is to significantly scale up their market exposure. Doing so would generally require the businesses to take on significant leverage, thus increasing their reliance on bank facilities and trade finance.

Given the sensitivity of these companies to disruptions to all parts of the supply chain, unfulfilled contractual obligations are common among metals and mining companies. The prevalence of large-scale disputes therefore makes these companies good candidates for legal finance.

Increasingly, companies are optimizing their legal assets as a way to gain access to project finance. Resource companies may gain cash advances against the future value of pending

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Thank you for your interest in Burford.

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