MANAGEMENT AND ECONOMICS SOCIETY OF CIM

Recent Significant M&A Transactions

Presented By

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Public M&A Process

Public M&A - Acquisition Structures

- Plan of Arrangement
  - a single step transaction in which a court approves the fairness of the plan of arrangement and Target shareholders must approve the transaction
  - on completion, Target typically becomes a subsidiary of, or is amalgamated into, Acquiror
  - can only be done in a friendly transaction
  - nearly 90% of Canadian public M&A is done by way of a plan of arrangement
- Take-Over Bid
  - two step transaction:
    - Acquiror makes an offer directly to shareholders to acquire shares
    - if Acquiror can purchase at least 66.6% of the shares in the take-over bid, the second step involves a statutory process through which the remaining shares are purchased
  - can be used for friendly or hostile transactions
  - almost all transactions not done by plan of arrangement are take-over bids
- Other potential (very uncommon) structures include amalgamations and asset purchases

Friendly vs. Hostile – Key Differences

Friendly

- Definitive Agreement
  - *Negotiated representations and warranties*
- Deal Protections
  - *No Shop, Match Rights, and Break Fees*
- Due Diligence
  - *Acquiror is permitted to look "under the hood" of the target*
  - *Definitive Agreement often conditioned on the Acquiror's due diligence*

Hostile

- No definitive agreement
  - *No opportunity to negotiate beneficial representations and warranties*
  - *No ability to obtain deal protections such as No Shop, Match Rights, or Break Fees*
- Acquiror is only able to diligence publically available information
  - *It is not afforded the ability to look "under the hood" of the Target*
- Take-over bid circular to the target's shareholders
  - *Bid must stay open for a 105 days – large market risk*

Friendly vs. Hostile – Other Differences

Friendly

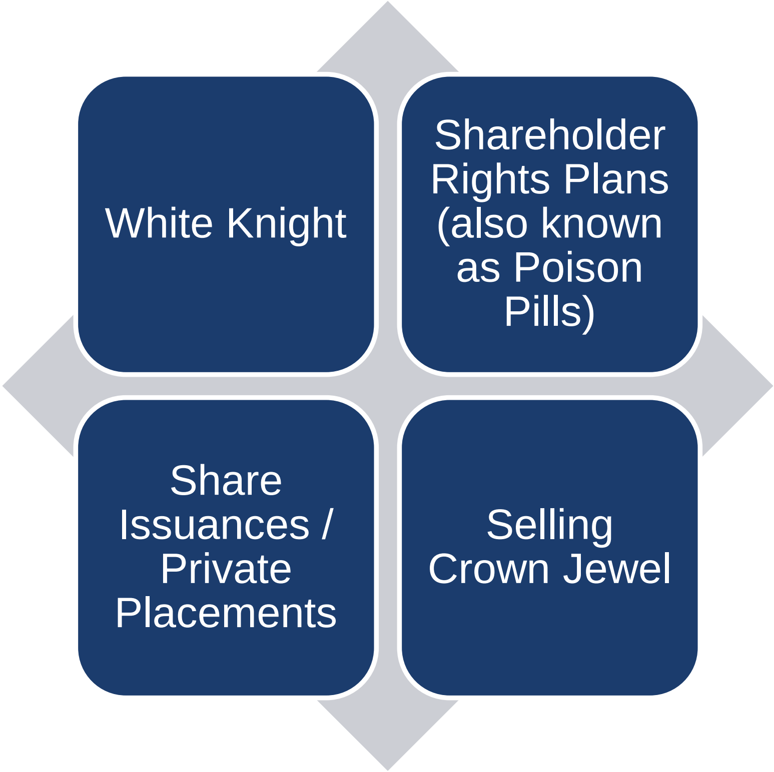
- Virtually always preferred by both sides
- Allows greater flexibility to structure transaction
  - can be a take-over bid or a one step shareholder approved transaction
- Acquiror can obtain access to confidential information
- Target often negotiates a standstill with Acquiror early in the transaction process to ensure Acquiror does not (and cannot for 12-24 months) launch a hostile take-over bid
- Target maintains some control of the process and is not put “in play” until ready

Hostile

- Generally only done when Target resists approach from Acquiror
- May be pursued if Acquiror anticipates issues, such as dealing with management or Board post-transaction
- Limited to take-over bids as the offer is made directly to shareholders
- Typically, Acquiror will try to lock up significant shareholders before making its offer
- Major cons include:
  - high risk that initial Acquiror will not be successful as Target will actively solicit competing bids
  - very costly - often involves litigation, court and/or regulatory proceedings, in addition to usual M&A costs
  - limited ability to optimize structure (i.e. tax structuring)

Defensive Tactics

Defensive Tactics under National Policy 62-202 – Take-Over Bids – Defensive Tactics



Recent Significant Deals

Barrick & Randgold

September 24, 2018

Barrick announced it reached an agreement to acquire Randgold

“Friendly” Deal – Pursuant to a Scheme of Arrangement under Companies (Jersey) Law

Valued at roughly US$6 billion

Closed on January 1, 2019.

Definitive Agreement includes a non-solicit covenant in favour of Randgold (Barrick agreed not to solicit a competing proposal for Barrick’s shares)

Barrick & Randgold

Consideration:	• 6.1280 common shares of Barrick for one common share of Randgold • Barrick shareholders to own 2/3 of combined entity
Consideration:	• Issuance of Barrick shares requires Barrick shareholder approval under TSX Policy
Directors & Management:	• 2/3 of board will be Barrick directors, 1/3 Randgold directors • Management will be a mix – Barrick Executive Chairman to remain and Randgold CEO to be the new CEO
Premium:	• No premium – the price/share paid was approximately the same as the 20 day VWAP of Randgold at the time of announcement
Strategic Rationale:	• Barrick will have a combined 78 million ounces of proven and probable gold reserves and the ownership of five of the world's top ten Tier One Gold assets by total cash costs
Strategic Rationale:	• Tier One Gold asset is a mine with a stated mine life in excess of 10 years with 2017 production of at least 500,000 ounces of gold
Strategic Rationale:	• Randgold's share price was down approximately 30% in 2018
Financial Highlight:	• The new entity is estimated to have the highest adjusted EBITDA in the sector of $4.7 billion and an adjusted EBITDA margin of 48%
Special Randgold Dividend:	• Randgold shareholders entitled to $2.00 dividend prior to the effect of the transaction
Break Fee:	• Barrick agreed to pay a $300 million break fee to Randgold

Newmont & Goldcorp

- January 14, 2019
- Newmont announced it reached an agreement to acquire Goldcorp
- “Friendly” Deal – Pursuant to a Plan of Arrangement under Business Corporations Act (Ontario)
- Valued at roughly US$10 billion
- Has not yet closed
- Definitive Agreement contains mutual non-solicitation covenants and rights to match superior proposals

Newmont & Goldcorp

Consideration:	• 0.3280 of a Newmont share plus $0.02 cash for one share of Goldcorp • Share issuance results in requirement for Newmont shareholder approval by simple majority
Directors:	• 2/3 to be Newmont directors and 1/3 Goldcorp
Premium:	• 17%, based on Goldcorp.'s 20 day VWAP at the time of announcement
Strategic Rationale:	• Expect to generate up to $100 million in annual pre-tax synergies
Strategic Rationale:	• Gold reserves and resources will represent the largest in the gold sector
Strategic Rationale:	• Barrick, Newmont's direct peer and the largest mining company in the world, just closed their acquisition of Randgold
Financial Highlight:	• A targeted sustainable annual dividend of $0.56 per share, the highest among senior gold producers
Break Fees:	• Newmont agreed to pay a $650 million break fee to Goldcorp • Goldcorp agreed to pay a $350 million reverse break fee to Newmont
Special Dividend:	• Newmont shareholders urged Newmont to renegotiate with Goldcorp as they felt Newmont's value significantly increased as a result of the JV with Barrick
Special Dividend:	• Newmont intends to pay its shareholders a one-time dividend worth $470 million, or $0.88/share in recognition of the potential synergy value of the JV

Barrick & Newmont

February 25, 2019

Barrick announced the launch of a hostile take-over bid to acquire all the outstanding common shares of Newmont

Valued at roughly US$18 billion

The letter proposal made by Barrick to Newmont included a condition requiring the termination of the Newmont/Goldcorp agreement

Take-over bid circular never prepared; Joint-venture agreement entered into instead

Barrick & Newmont

Consideration:	• 2.5695 Barrick shares per Newmont share
Premium:	• No premium, rather, an 8% discount based on Newmont's share price as at the time of the announcement
Strategic Rationale:	• Over US$7 billion of synergies related to their Nevada operations, general corporate G&A, exploration and project planning, and supply chain.
Strategic Rationale:	• Barrick says that "synergies are the premium" and that the Nevada operational synergies amounts to approximately US$500 million of annual real synergies
Strategic Rationale:	• Potential "must-own stock" for gold and generalist investors
Strategic Rationale:	• Barrick's management commented that "A Nevada joint venture is <u>not</u> the right path forward; A Nevada JV fails to realize the US$2.4 billion of non-Nevada synergies"

Barrick & Newmont

March 4, 2019

- Newmont's board of directors reject the proposal and instead offer Barrick a joint-venture proposal regarding Newmont and Barrick's Nevada operations

March 4, 2019

- Barrick's CEO, Mark Bristow, says that Newmont's joint-venture proposal is based on the stale and convoluted process that foundered previously, as well as that it comes with unrealistic preconditions

March 5, 2019

- Barrick releases a presentation that slams Newmont's acquisition of Goldcorp, while highlighting the synergies they would achieve by acquiring Newmont

Barrick & Newmont

March 11, 2019

- Barrick and Newmont forge a Nevada Joint Venture Agreement designed to unlock “$5 billion in synergies”
- Barrick also agreed to withdraw their take-over bid

March 11, 2019

- Barrick’s CEO said the agreement marked the successful culmination of a deal that had been more than 20 years in the making

Implementation Agreement

- Outlines the key-terms of the joint-venture
- Both Barrick and Newmont agree to incorporate a “JV Company” and transfer Nevada related assets to it
- Barrick will hold a 61.5% membership interest in the JV Company and Newmont a 38.5% interest
- Board representation of the JV Company based on ownership
- Both Barrick and Newmont have the opportunity to conduct due diligence on the assets to be contributed to the JV Company
- Reciprocal representations and warranties
- No break-fees

Food for thought: Is this the outcome Barrick secretly wanted from the start?

Questions?

Thank You

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