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Investing in Australia's Mining Industry

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INTRODUCTION

The strength of China's trade relationship with Australia is largely due to the complementarities of both country's economic structure and their close geographical proximity. In the mining context, it can be seen that Australia's abundance in natural resources compliments China's demand for raw materials largely driven by its rapid industrialisation and urbanisation.

Whilst the trade relationship between China and Australia has grown much closer in the last decade, many Chinese companies have experienced a number of challenges in investing in the Australian mining sector. It has been suggested that these challenges may come from two broad areas: (1) a lack of internal resources, skills and knowledge concerning the management of foreign investments; and (2) a lack of adequate understanding of Australia's regulatory framework and political system.[1]

With this in mind, this paper provides a strategic overview of Australia's legal framework with respect to foreign investments in its mining sector. It is divided into eight parts, the structure of which is outlined below. Greater attention is afforded to the areas of law that we believe are of particular importance to foreign investors in the mining industry.

Part 1 provides a brief introduction to Australia's federal political system. A discussion on the relevant laws that affect the Australian mining industry will always touch upon issues pertaining to the relationship between the Commonwealth and State Governments. As such, it is important to have

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[1] Xueli Huang and Ian Austin, *Chinese Investment in Australia – Unique Insights from the Mining Industry* (2011) 11.

some understanding on Australia's division of legislative powers between the Commonwealth and State Governments.

Part 2 introduces Australia's foreign investment regime for private foreign companies and direct investments by foreign governments and their agencies, and in China's case, State Owned Enterprises (**SOEs**).

Part 3 introduces the business structures that are popular among foreign investors in Australia as well as the general requirements for listing a company on the Australian Securities Exchange.

Part 4 discusses acquisitions by way of a takeover, share placement and scheme of arrangement under Australian law.

Part 5 provides a brief description of Australia's restrictive trade practices, anti-trust and competition laws.

Part 6 provides a cursory discussion on the relevant taxation laws that may affect foreign investments in the mining industry in Australia.

Part 7 briefly discusses Australia's environmental and planning laws. Australia currently has over 300 Acts that relate to environmental matters and more than 80 agencies or authorities at both Commonwealth and State levels. Most mining projects in Australia are required to undergo extensive environmental impact assessments under State and Commonwealth laws prior to commencement.

Part 8 briefly discusses Australia's Native Title laws, which recognises the proprietary rights of some indigenous people in respect of their land and water. Mining projects are often affected by Native Title issues as the areas of land that are subject to mining operations are often the same areas of land that are subject to a particular indigenous group's Native Title or registered Native Title claim.

PART 1: AUSTRALIA'S FEDERAL POLITICAL SYSTEM

The Australian Constitution (**Constitution**) is contained in the *Commonwealth of Australia Constitution Act 1900*. The Constitution established a federal system of government which divided the legislative powers between the Commonwealth Government (also known as the Federal Government) and the six State Governments. There are also two federal Territories, one with its own legislature (the Northern Territory) and one which relies on the Commonwealth Parliament for its legislation (the Australian Capital Territory).

The Commonwealth Government is separated into three branches: the legislature, executive and judiciary.

1.1 The Legislature

Under the Constitution, specific legislative powers are granted to the Commonwealth while the residual powers remain with the States.

The specific legislative powers conferred on the Commonwealth comprise two categories. The first relates to those powers which the Commonwealth alone has exclusive power to legislate. These exclusive powers include customs and excise duties. The second relates to those powers which the States retain the power to legislate concurrently. These include taxation, interstate and foreign trade and commerce.

Among the residual powers retained by the States is the power to regulate the mining industry. The States have the prima facie power to legislate for the ownership and mining of minerals situated within their geographical boundaries. Each State has its own legislation in relation to onshore minerals.

It is worth noting that whilst the Constitution does not empower the Commonwealth Parliament to legislate over onshore minerals, a number of its specific legislative powers do encompass matters relevant to the mining industry, some of which include its powers to legislate with respect to trade and commerce with other countries which is relevant to exported minerals, taxation such as the Minerals Resources Rent Tax and the Carbon Pricing Scheme both of which are due to commence in July 2012, defence which is relevant to uranium mining and trade, and external affairs which enables the Commonwealth Parliament to ratify international treaties a number of which relates to environmental protection. Because the States and Commonwealth are able to exercise certain legislative powers concurrently, inconsistencies may arise at times between State and Commonwealth legislation. In these situations, the Constitution provides that the Commonwealth legislation will always override State legislation.

1.2 The Executive

Executive power is vested in the Governor General who represents the Queen under the Constitution. The Governor General is advised formally by a federal executive council. In practice, it is the Cabinet which comprises certain ministers appointed from the party having the majority in the Lower House of the Commonwealth Parliament.

1.3 The Judiciary

The judicial power of the Commonwealth is vested in the High Court of Australia and other Federal courts. The State courts also have some jurisdiction in federal matters and retain jurisdiction over State powers. The High Court is the final arbiter on constitutional law questions and disputes.

PART 2: AUSTRALIA'S FOREIGN INVESTMENT REGIME

Australia's foreign investment law and policy are described below. Australia generally welcomes and encourages foreign investment into Australia.

2.1 The Foreign Acquisitions Takeovers Act 1975

Australia's foreign investment regime is regulated by the *Foreign Acquisition and Takeovers Act 1975* (Cth) (**FATA**) and its Regulations, and the Commonwealth Government's Foreign Investment Policy (**Policy**).

The FATA is the key legislation for assessing both private and government related foreign investment proposals. It broadly covers all forms of proposed foreign investments in Australia, from real estate acquisitions to business investments.

Under the FATA, notification to the Foreign Investment Review Board (**FIRB**) is required for:

- all direct investments by foreign governments and their agencies irrespective of the size of their investment;
- an acquisition of an interest of 15% or more in an Australian entity or assets valued at above AUD$244 million (subject to annual indexation); and

- an acquisition of an interest in an urban land corporation.

From the date of notification, a statutory review period of 30 days applies to all investment proposals which can be extended for up to a further 90 days by an interim order issued by the Treasurer.

Unlike the FATA, there is no formal review mechanism for proposals required to be notified under the Policy. The Policy works in conjunction with the FATA to provide a framework for assessing certain investment proposals in the acquisition of Australian businesses and real estate. The Policy itself is contained in a publication issued by the Australian Government which lists various categories of investments and the restrictions that may apply to some categories for foreign investment. It has no statutory force and is revised from time to time. Media releases and public announcements made by the Government on foreign investments also form part of the Policy and become guidelines for assessing future proposals.

2.2 The Foreign Investment Review Board (FIRB)

The FIRB is responsible for screening each proposal and reporting its findings to the Treasurer. The FATA gives the Treasurer the ultimate power to reject or impose conditions on proposals that do not pass the 'national interest' test. National interest is not defined in the FATA or the Policy but rather each proposal is assessed on a case-by-case basis and in accordance with the guidelines set out in the Policy.

2.3 Guidelines for Investments by Foreign State Owned Enterprises

Direct investments by foreign governments and their agencies are regarded as more sensitive and hence the Policy outlines specific criteria and guidelines relating to those investment categories.

The Policy sets out the following five principles for the Commonwealth Government to assess whether a foreign government investment is in Australia's national interest:

- National Security: The extent to which an investment may impact on Australia's national security.
- Competition: Whether a proposed investment may result in an investor gaining control over market pricing and production of a good or service in Australia.
- Other Government Policies (including tax): The impact of a foreign investment proposal on Australian Tax revenues. Investments must also be consistent with the Government's objectives in relation to matters such as environmental impact.
- Impact on the Economy and the Community: The impact of the investment on the general economy.
- Character of the Investor: The extent to which the investor operates on a transparent commercial basis and is subject to adequate and transparent regulation and supervision.

Proposals by SOEs that operate on a 'transparent and commercial basis' are less likely to raise national interest concerns; however, investments that will impact on Australia's national security, hinder competition or impact on Australian revenue policies will be closely scrutinized. The

Government will also examine the extent of Australian participation in the ownership, control and management of the target business or company after being acquired partially or wholly by the foreign investor.

PART 3: BUSINESS STRUCTURES

The common types of investment vehicle used in Australia by both residents and non-residents are sole proprietorship, companies (public or private), including branch offices or subsidiaries of foreign companies, joint ventures (incorporated or unincorporated), partnerships (general or limited), and trading trusts (discretionary or unit).

All corporations in Australia are required to comply with the *Corporations Act 2001* (Cth) (**Corporations Act**), which is administered by the Australian Securities & Investments Commission (**ASIC**). ASIC regulates the registration of companies and the registration of foreign companies or branches in Australia.

3.1 Joint Ventures

The joint venture structure has been widely adopted by Chinese investors for mining projects with Australian partners in the resource sector.

Unlike China which adopted the 'Law of the Peoples' Republic of China on Sino-Foreign Co-operative Enterprises' on 13 April 1988, there is no codification of contractual joint venture law in Australia. Accordingly, in Australia it is necessary to draft detailed, comprehensive agreements which cover all aspects of the joint venture and how it is to operate.

Australian joint ventures take one of two forms: the incorporated (equity) joint venture (**EJV**) and the unincorporated (contractual) joint venture (**CJV**). Most mining enterprises established in Australia adopt the CJV structure for the reasons discussed below.

3.1.1 EJV

An EJV is set up by the incorporation of a company under the Corporations Act. The participants in the EJV are shareholders in the joint venture vehicle, which itself is a separate legal entity. Advantages of the structure include limited liability, transferability of interests in the JV company by share transfer as well as the prospect of simplified collective financing.

There are some complications applicable to an EJV. In an EJV, the participants have no access to joint venture profits except by way of dividends (which must be approved by a majority board decision). The tax position for an EJV is that of a joint venture company and the individual joint venturers tax losses will be trapped in the company itself. The participants are also liable for Capital Gains Tax upon disposal of joint venture shares.

All management decisions of an EJV are made by the board of directors and typically require a majority decision except for special categories specified in any shareholder agreement.

An important consideration in the context of resource projects is that the joint venturers of an EJV do not have access to ore production at production cost price, but must purchase product at market price from the joint venture company under Australian law.

3.1.2 CJV

In contrast to the EJV, a CJV is created by a contract entered into between two or more parties which mutually agree to enter into formal legal arrangements with each other with a view to undertaking activities on a joint basis (for example, exploring for or mining minerals). The contract is entered into under the same legal rules that apply for all contracts under Australian law.

Unlike the EJV, no separate legal entity is constituted in a CJV. The participants hold direct and separate legal beneficial interests in the assets or the joint venture. Their interests are held as tenants in common.

The distinguishing feature of a CJV is the entitlement of each participant to take its percentage ownership share of the joint venture production separately in kind (rather than in the form of a share in profits or in dividends). This means that a participant will automatically be entitled to its percentage of the product while it holds a participating interest in the joint venture, which it can retain for its own purposes or sell into the market place. However, if it retains ownership of that production, Australian tax law requires that it be accounted for at market price as a ‘deemed’ sale including accounting for depreciation of allowances for its infrastructure investment for the project.

A manager is interposed between the participants and the operation. Even the minority participant has a direct role in the management of the joint venture and often major policy decisions require unanimous vote. This permits the participants to take a direct role to protect their interest in the joint venture.

As the CJV has no separate legal status under Australian law, liability for tax is separate and not joint, so that each participant can receive its own special tax deductions, including its depreciation position. Participants are entitled to the benefits of all tax losses based on their joint venture share. They can also share tax losses with any other Australian subsidiaries and generally have more opportunities to use the tax advantages available for CJVs.

In this way, the joint venturers have a direct share in the profits derived from the sale of production based on the difference between the cost price of production and the market price achieved on any sale or deemed sale.

In a CJV, the participants are also able to negotiate the management of the CJV and control structures of utilising a separate management vehicle which may be owned jointly or by one of the joint venturers or even a third party contractor. Even a minority joint venture interest will typically give the joint venturer some negative control over the management of the joint venture, such as requiring its approval for major management decisions.

3.2 Public and Private Companies

Often a foreign investor may choose to establish an Australian incorporated subsidiary as a special purpose vehicle to conduct its affairs in Australia. This is done to provide legal protection to the foreign party against exposure to litigation in Australia and may either be in the form of a private company or a public company.

Under Australian law, a company is a separate legal entity with its own obligations. It is owned by shareholders and managed by the directors of the company. A key feature is the liability of the shareholders: the liability is limited and typically to the unpaid amount on any shares held or a specified amount.

A company must have a registered office within Australia, have a minimum number of Australian resident directors (two for public companies, one for private companies) and an Australian resident company secretary (optional for private companies). There are no residency restrictions on shareholders/members and no general minimum capital requirements for an Australian company.

A company's directors and its holding company can be personally liable for company obligations incurred at a time when the company is insolvent or there are reasonable grounds for suspecting it is insolvent or would become insolvent by incurring a particular obligation.

A private company is limited to 50 non-employee shareholders and cannot engage in fundraising activities in Australia. It can be simpler and cheaper to administer from an Australian regulatory point of view. If a foreign investor intends to own the subsidiary fully and does not intend to offer shares or debentures to the public, a private company structure will be appropriate. In any event, a private company may be converted into a public company at any time.

A public company may also be listed on the Australian Securities Exchange (**ASX**) provided that it satisfies the requirements for listing under the ASX Listing Rules (**Listing Rules**). As reported by the ASX on 5 October 2011 in its issues paper, *'ASX Listing Rules Review Issues Paper: Reserves and Resources Disclosure Rules for Mining and Oil & Gas Companies'* (**Issues Paper**) the metals and mining industry is the largest industry group amongst ASX listed companies by number of companies listed, with 830 companies involved in mineral exploration, development and production. Listed mining and oil and gas companies represent approximately 45 per cent of all ASX listed companies.

3.2.1 The ASX Listing Rules

To gain admission to the official list of the ASX, applicant entities must enter into a contract that requires them to observe the Listing Rules. By virtue of the contract entered into between the ASX and listed entities, the Rules are binding on the parties contractually. That, however, is not all. The Listing Rules are also referred to and enforced under the Corporations Act.

Whilst the ASX has the primary responsibility of enforcing the Listing Rules, the ASIC took over the supervision of potential legal breaches and market misconduct on the part of stock brokers. There is current discussion on transferring all of the supervisory and regulatory responsibilities to ASIC.

In general, the Listing Rules govern the admission of entities to the official list, quotation of securities, suspension of securities from quotation, removal of entities from the official list, disclosure, and some aspects of the conduct of listed entities.

3.2.1.1 Admission Requirements

Chapter 1 of the Listing Rules provides a number of conditions for admission. A detailed discussion of each condition is beyond the scope of this paper. Among the conditions is the condition that the applicant entity achieve the relevant shareholder spread without employing artificial means. At present, this requirement can be achieved by satisfying either of the following:

- 500 shareholders, each holding at least AUD$2000.00 in value of the main class of securities; or

- 400 shareholders, each holding at least AUD$2000.00 in value of the main class of securities with 25% or more of the main class of securities held by unrelated parties.

In April 2012, the ASX proposed in its paper *'Strengthening Australia's equity capital markets'* ('**Proposals Paper**') to adjust the shareholder spread test to:

- 400 shareholders, each holding at least AUD$2000.00 in value of the main class of securities;
- 350 shareholders, each holding at least AUD$2000.00 in value of the main class of securities with 25% or more of the main class of securities held by unrelated parties; or
- 300 shareholders, each holding at least AUD$2000.00 in value of the main class of securities with 50% or more of the main class of securities held by unrelated parties.

The ASX's justification for its proposed adjustment is the fact that many resources companies have a small capitalisation with a narrow range of shareholders, which limits the utility of rights issues as a funding raising tool.

PART 4: ACQUISITIONS

4.1 Acquisitions of Private Companies

Whilst the CJV structure has been the predominant form of investment adopted by Chinese investors in Australia, Chinese investors have recently moved towards acquiring direct stakes in Australian companies by way of mergers and acquisitions.

Acquiring a shareholding in an Australian private company can be completed by either acquiring the company's existing shares or through a share placement to subscribe for additional shares to be issued in the company.

There are no special restrictions on foreign entities purchasing existing or new capital in an Australian private company. FIRB notification is required for acquisitions that meet the monetary thresholds under the Act and/or under the Policy. Where the investor is a Chinese SOE, any purchase of any share will require FIRB approval. The acquisition will be required to take place in accordance with the provisions of the Australian company's constitution and applicable provisions of the Corporations Act.

4.2 Acquisition of public companies

Chinese investors can buy into Australian publicly listed companies by acquiring existing shares on the market, by a share placement, the takeover route or alternatively a scheme of arrangement.

The key laws and regulations relevant to acquisitions and takeovers of an Australian publicly listed company are as follows:

- All Chinese SOE's acquisitions must be notified to the FIRB.

- The Corporations Act governs Australian company law, including takeovers of companies, and sets out the procedures for a takeover of an Australian public company. The takeover code is administered by the ASIC.

- The Listing Rules sets out various rules in respect of public companies listed on the ASX in relation to the management and dealing of the company's shares.

- The *Competition and Consumer Act 2010* (**CCA**) prohibits direct and indirect acquisitions of shares or assets that would be likely to have the effect of substantially lessening competition in Australia.

4.2.1 Acquisition by Takeovers

A takeover bid is essentially a regulated offer to buy a target company's shares that is made on identical terms to each target company shareholder.

The takeover provisions under the Corporations Act are triggered by any acquisition of 20% or more of shares in a publicly listed company. Where there is an acquisition of 10% or more of the target company, the acquirer is in a position to block a compulsory acquisition by another party who may make a competitive bid for the target company.

There are two main types of takeovers in Australia, 'on-market takeovers' (for shares of listed companies) and 'off-market takeovers' (for shares in companies which are listed or unlisted).

Off-market bids can be conditional (for example, on obtaining sufficient acceptances to gain control or reach compulsory acquisition thresholds, and on obtaining regulatory approvals), and can offer any form of bid price, including equity securities or debentures of the bidder.

On-market bids, on the other hand, must be unconditional and can only offer an all-cash price. For these reasons, off-market bids are far more common in Australia than on-market bids.

A takeover offer can be made with the support of the target company's director (**recommended** or **friendly**) or without the support of the target company's directors (**unsolicited** or **hostile takeovers**).

The main regulator of takeovers is the Takeovers Panel which is responsible for resolving disputes about takeover bids.

There is no requirement under Australian law to approach the target company before making a takeover offer. The bidder can launch an unsolicited takeover offer for the target company. In which case, the bidder will be restricted from conducting a formal due diligence and will not know if the directors of the target company would recommend the offer to the shareholders.

Alternatively, if the bidder seeks a recommended offer, it may approach the target company and conduct a due diligence. Documents such as the 'Bidder's Statement' and 'Target's Statement' must be lodged with ASIC and the ASX.

Non-Australian companies which are listed on the ASX will generally be regulated only by the law of their home jurisdiction, and will not be subject to Australian takeover regulation.

4.2.2 Acquisition under a Share Placement

A share placement is essentially an agreement with a target company to subscribe for additional shares to be issued in a target company. A share placement can be undertaken by inviting existing or newly identified shareholders to participate in taking up the new shares.

In any case, it may be advantageous for an investor to acquire a strategic shareholding in a target company before making a takeover offer. In doing so, it is relevant to also note the following percentages for the purposes of disclosure and other takeovers provisions:

- 5% - if investor acquires more than 5% in a target company, a notice must be served on a target company and released to the ASX. This must be done within 48 hours of the acquisition;
- 10% - if investor acquires 10% or more of a target company, it will be in a position to block a compulsory acquisition by another party who may make a takeover offer;
- 15% - if the company is listed on the ASX, it can issue up to an additional 15% in a 12 month period in a placement without the need for shareholder approval unless a director or associate participates.
- 20% or more – the acquisition will fall under the takeover provisions of the Corporations Act, except for a private placement which has obtained majority shareholder approval for the acquisition.

4.2.3 Acquisition by Scheme of Arrangement

A scheme of arrangement is a court-approved form of corporate transaction, under which a bidder can acquire all of the shares in the target company. For a scheme of arrangement to have effect, it requires approval from both the Court and target company shareholders in general meeting. The two shareholder voting thresholds (both of which must be satisfied) are:

- a special resolution of shareholders, which requires that at least 75% of the number of votes cast on the resolution are in favour of the scheme. This vote is taken on a poll, so it will be based on the number of shares voted; and

- approval from more than 50% of the number of shareholders who vote at the meeting, regardless of how many shares they hold.

Takeovers and schemes are quite different ways of reaching a similar outcome. Choosing the best structure for an acquisition will depend on a number of factors.

PART 5: RESTRICTIVE TRADE PRACTICES, ANTI-TRUST AND COMPETITION

The *Competition and Consumer Act 2010* (Cth) (**CCA**), as administered by the Australian Competition and Consumer Commission (**ACCC**), prohibits anti-competitive behavior which includes:

- Acquiring shares/assets: likely effect of substantially lessening competition;
- Misuse of substantial market power;
- Arrangements: purpose or likely effect of substantially lessening competition;
- Horizontal and vertical price fixing;
- Horizontal and vertical market sharing; and
- Horizontal and vertical third line forcing.

Contravention of the CCA will attract penalties for corporations and individuals. The CCA does not have a mandatory notification procedure for acquisitions of shares or assets. Where parties proceed with an acquisition that would be likely to substantially lessen competition in Australia without the approval from the ACCC, the parties bear the risk of the ACCC seeking orders on the Acquisition. This may include orders for an injunction, divesture, and/or voiding the acquisition. Pecuniary penalties may also apply. As such, our risk minimization strategy for our clients is to assist them in seeking formal or informal clearance from the ACCC first before completing the acquisition.

PART 6: TAXATION

There are various tax implications on company and group structuring in Australia, including consolidated tax return and stamp duty on transfers. Establishing the right group structure may maximise tax benefits to the group.

The Commonwealth Government imposes income taxes (which includes capital gains tax), fringe benefits tax, Goods and Services Tax (**GST**), customs duty on certain imports and excise duty on certain goods.

Under Australian law, companies are treated as separate taxpayers. The income tax system is administered by the Australian Taxation Office.

Both Australian resident and non-resident companies are liable to pay Australian tax on income and capital gains. The company tax rate is 30%. This applies to all companies including those operating in the mining and resources sector.

In addition to the income tax, there is a new resource taxation arrangement, the Minerals Resource Rent Tax (**MRRT**) regime, which will apply from July 2012 but only to iron ore and coal mining in Australia.

Under the MRRT, the resource tax rate is 30% and the effective tax rate (combined income tax and resource rate) depending on calculations, is anywhere between 42 to 45%. Taxpayers with MRRT assessable profits of less than $50 million will not have an MRRT liability.

The current Petroleum Resource Rent Tax (**PPRT**) regime continues to apply to all Australian onshore and offshore oil and gas projects, including the North West Shelf along with the coal seam gas industry under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cth). This legislation came into operation from 1 July 1986. PRRT is levied on the taxable profits of a petroleum project at a rate of 40%.

PART 7: AUSTRALIA'S ENVIRONMENTAL AND PLANNING LAWS

In recent years, the Commonwealth and State Governments have manifested their commitment to environmental protection and sustainability through the enactment of a number of legislations and corresponding regulations that address environmental issues.

The primary environmental and planning obligations that affect businesses are to be found in the laws of the States or Territories in which the business entities operate. The Commonwealth environmental and planning laws are essentially designed to apply in addition to the obligations imposed by the relevant State or Territory. Both Commonwealth and State legislation may require an environmental impact assessment of a major project. It is very common for Australian petroleum and mining projects to undertake extensive environmental impact assessments and rehabilitation programs with a dedicated expenditure under State and Commonwealth laws.

PART 8: NATIVE TITLE AND INDIGENOUS HERITAGE

Australian law recognises that some indigenous people continue to hold rights in respect of their land and water. These 'bundle of rights' are collectively termed as Native Title and have their source in the body of law and custom acknowledged and observed by the indigenous claimant's ancestors when Australia was colonised by Europeans.

Mining projects are often affected by Native Title issues. This is because the areas of land that are subject to mining operations are often the same areas of land that are subject to a particular indigenous group's Native Title or registered Native Title claim.

The details of Australia's Native Title laws are beyond the scope of this paper.

CONCLUSION

In this paper, we have discussed some of the major legal topics that affect foreign investments into Australia's mining industry. These topics include understanding Australia's federal political system and appreciating the division of legislative powers between the Commonwealth and State governments, complying with Australia's foreign investment law and policy, choosing the best business structure to achieve the purpose of the investment, and complying with Australia's environmental, planning, native title and indigenous heritage laws.

As each mining project is different, there are many State and Territory based laws that may also apply depending on the nature and location of the project. We therefore advise foreign investors to conduct proper financial, technical and legal due diligence investigations before making an investment decision. An effective risk management strategy will always require comprehensive due diligence.

Foreign investors should seek advice from technically proficient, commercially astute and culturally fluent lawyers, who are able to overcome language and cultural barriers, appreciate their investment needs, navigate the numerous laws and regulations that may apply to the investment, and negotiate and structure a deal that best reflect the interests of their foreign clients.

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