ONTARIO MINING: ROCKY INDUSTRY CHALLENGES AND OPPORTUNITIES

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Canadian mining is the leading global producer of potash. It is also ranked internationally among the top five producers of aluminum, cobalt, diamonds, gold, and platinum.[1] While the global community relies on these raw materials in their daily lives and for advanced technologies; Canadian mining is struggling and is at a critical juncture, facing a mix of challenges hindering growth and international competitiveness. Lengthy permitting processes, stagnant public markets, diminished institutional investment, regulatory barriers to obtaining foreign investment and a talent shortage, especially in the "next generation" hinder progress. In this bulletin, we examine these pressing challenges, explore implications for Canadian mining, with a focus on Ontario, and steps to be taken to address them.

Lengthy Permitting Processes

"It shouldn't take 15 years to open a mine." says George Pirie, Ontario's Minister of Mines. "This process is too time consuming and costly, leading to project delays, and lost opportunities for Ontario's mineral exploration and mining sector".[2] The permitting process for mining projects in Canada has become increasingly lengthy and complex. Bureaucratic red tape, jurisdictional overlap between federal and provincial governments, and stringent environmental requirements contribute significantly to delays.

Increased time to obtain a permit is part of a broader international trend. S&P Global examined average times for mines coming online internationally and found it took an average of 17.9 years for mines coming online in 2020–23; compared to only 12.7 years for some mines that started operations before 2009. In Canada, the average timeline for mines to start operations was around 18 years, aligning with global trends.[3] These delays hamper initiation of new mining projects and deter potential investors, affecting the sector's growth and economic prospects. Shortening timeframes to permit mines allows projects to launch faster thereby having a more immediate positive impact on the Canadian economy, decreasing timelines for investor returns and bolstering investor confidence for current and future projects.

Efforts are underway to streamline processes with various levels of Canadian government implementing reforms. In March 2023, Mr. Pirie introduced amendments to Ontario's *Mining Act* to address some of these issues, through Bill 71, the *Building More Mines Act, 2023*, which aims to reduce administrative burdens and clarify rehabilitation requirements. The changes aim to decrease timelines for commencing or altering production and advanced exploration projects, assisting permitting for mineral recovery from waste and tailings materials and make mining closure plans more simplistic. The *Building More Mines Act* received royal assent in May 2023.

In April 2024, Ontario Regulation 240/00 was replaced by Ontario Regulation 35/24. This new regulation aims to more align with the *Building More Mines Act*, 2023 and, amongst other things, clarifies criteria for qualified person certification, introduces conditional filing orders to streamline closure plan approvals, formalizing phased financial assurance to align rehabilitation funding with project milestones and prescribes requirements for determining acceptable post-closure use of mine sites other than the prior use or condition.[4] Ontario has also committed, through its latest round of funding, $13 million to 84 projects through the Ontario Junior Exploration Program[5] to support early-stage mineral exploration, particularly in underexplored regions. By reducing financial barriers, this initiative aims to accelerate new discoveries and attract further investment, helping to address long timelines and high costs of launching projects.

Stagnant Canadian Public Markets

In recent years, the number of new listings on Canadian public markets, including those in the mining industry sharply declined. In 2024, there were only 25 IPOs (including capital pool and special purpose acquisition companies) completed across the Canadian Securities Exchange (the "**CSE**"), the TSX Venture Exchange (the "**TSXV**")**,** the Toronto Stock Exchange (the "**TSX**") and the Cboe Canada (formerly NEO Exchange).[6] Economic pressures including high inflation, interest rates and recently potential implementation of United States tariffs have strained Canadian stock exchanges, reducing IPOs and subsequent trading activity. Influenced by multiple global factors, growth companies, including junior mining exploration companies are opting for continued growth in the private markets or shifting their going public plans to markets outside of Canada.

A decline in Canadian public markets activity poses significant challenges for mining companies as public markets offer unique advantages difficult to replicate as a private company. Approximately 40% of the world's public mining companies are listed on the TSX and the TSXV, underscoring the importance of Canadian public listings in the mining sector. Publicly listed companies have greater access to external capital, increased liquidity for shareholders and are better positioned for mergers and acquisitions, as their market valuation and financial transparency make them appealing to potential buyers or strategic partners. In addition, being public enhances a company's visibility and credibility, making it more attractive to potential investors, partners, and stakeholders.

Additionally in recent years, Canadian investor interest shifted from traditional high-risk sectors like mining to emerging industries including cryptocurrencies, early-stage technology startups, and cannabis. This transition is partly due to the allure of rapid growth and innovation in these new markets however market interest can shift rapidly and companies in mineral exploration and development benefit from the flexibility when publicly listed of accessing markets rapidly when investor interest shifts to the sector.

While wider economic factors continue to depress Canadian public markets activity, separate strategic measures could enhance attractiveness of Canadian public listings and address existing challenges including:

Simplifying the Path to Public Listing

The process of going public in Canada involves multiple steps, including preparing a primary disclosure document, audited financial statements, securities regulatory and exchange reviews. Streamlining procedures can simplify and shorten time required to achieve a public listing. Implementing more standardized procedures and enhancing coordination among the Canadian Securities Administrators and stock exchanges to make it more of "one stop" review would expedite the listing process.

Increasing the "Listed Issuer Financing Exemption" Limit

Currently, under National Instrument 45-106 *Prospectus Exemptions*, issuers can raise the greater of $5 million or 10% of the aggregate market value of the issuer's listed securities within a 12-month period using this exemption by issuing free trading shares not otherwise issuable without a prospectus. The Listed Issuer Financing Exemption has been warmly received by the capital markets community and is frequently used, particularly by junior mining public companies. Substantially increasing the amount of money issuers can raise under the Listed Issuer Financing Exemption, relaxing some of the restrictive timelines and uses of funds would enable companies to secure more substantial funding with reduced regulatory hurdles, facilitating growth and operational expansion.

Decreasing Ongoing Compliance Costs

Public companies in Canada incur various ongoing compliance expenses, including continuous disclosure obligations and corporate governance requirements. Reducing these costs through regulatory simplification and reduced reporting for early-stage companies, and recognizing disclosure overlap, particularly with US disclosure, for more senior issuers, would decrease financial burdens, making ongoing public listings more economically viable for emerging and established companies alike.

Lack of Institutional Investment into Mining and Canada

Institutional investment generally in Canada was significantly reduced in recent years, particularly domestic investment from large pension funds. These funds, managing trillions in assets, have increasingly turned away from domestic investments, seeking larger-scale opportunities abroad, marking a material decrease in Canadian pension fund domestic investment since the 90's. This trend is driven largely by the sheer size of these funds, which often find Canadian companies, especially mining, too small to meet their growing investment needs.

This trend specifically impacts mining. Mining companies, particularly at the junior stage are smaller compared to global enterprises in other sectors, find it challenging to attract substantial investments from pension giants shifting investment focus to larger international projects. Further, the long-term, capital-intensive nature of mining projects may not align with the risk profiles and return expectations these pension funds demand.

The Canadian government recognizes the economic impact of this trend and is taking steps to incentivize pension funds to reinvest in Canada. This includes forming a working group to explore how to catalyze greater domestic investment opportunities for Canadian pension funds. The working group will be led by Stephen Poloz (former Governor of the Bank of Canada) and supported by the Deputy Prime Minister and Minister of Finance.[7] Given mining's role in Canada's economy and its importance in supplying critical minerals, we are optimistic the working group will consider mining investments as part of its focus on domestic growth opportunities.

Whether Canadian pensions funds are mandated or incentivized (likely via tax reform) to invest in Canadian mining is an open question, the latter likely being the path of least resistance from the funds themselves.

Struggle to Attract Foreign Investment Due to Regulatory Barriers

Canadian federal laws continue to discourage investments in Canadian mining companies as scrutiny of such investments has intensified under the *Investment Canada Act* (the "***ICA***")'s national security review regime, leading to foreign investments being blocked or abandoned due to extended review periods and potentially deterring future investment in Canadian projects.

The *ICA* is a federal law enabling the Canadian government to review foreign investments into Canada. While the ICA was historically focused on ensuring foreign-directed investments into significant Canadian businesses were of "net benefit to Canada", the ICA's national security review regime, created in 2009, has become the prominent feature of the ICA. The ICA's national security regime permits the Government to block or impose conditions on foreign investments into Canada. From 2021 to 2024 there were four mining related transactions involving Chinese-controlled entities subject to orders blocking investment or requiring divestment of prior acquisitions under the *ICA*[8] and three mining related transactions involving Chinese-controlled entities where full-scale national security reviews were ordered and the investors withdrew their investments in response.[9] Additionally, during those four years, seven investments were withdrawn following the investor receiving a notice the Canadian Government was considering issuing a full-scale national review order. It is unclear how many of those transactions were of Chinese origin and related to mining. There are likely many other investments that might not have been made at all out of the fear of such reviews.

Recent amendments to the *ICA* further expanded government oversight, introducing mandatory pre-closing filings and waiting periods for investments in specific sectors. While these amendments are not yet in effect as the precise industries that will be covered by this obligation have not yet been established, it is anticipated investments in critical minerals will be caught by this new obligation. National security reviews are becoming increasingly lengthy, often exceeding the *ICA*'s 200-day statutory timeline, which permits additional extensions "on consent", which investors may be willing to give where the alternative is their investment getting blocked.

In May 2024, Solaris Resources backed out of a $130 million agreement to sell a 15% stake to TSX listed Zijin Mining Group, a partially government-owned Chinese mining company. While Solaris is a Canadian-incorporated company, its primary assets consist of mining projects located in Ecuador, Mexico, and Chile.[10] Solaris intended to use funds from the sale to advance its Warintza copper-gold project in Ecuador. In its announcement about the withdrawal, Solaris cited this decision as being due to its "inability to complete the transaction in a reasonable timeframe" and "ongoing regulatory concerns." In November 2024, Solaris announced its intention to redomicile away from Canada and relocate to Switzerland.[11] Canadian mining companies redomiciling outside of Canada to avoid a perceived burdensome regulatory regime is an increasingly problematic trend.

The Canadian federal government's increasing reluctance to allow Canadian companies to accept Chinese investment as illustrated by the Solaris Resources example limit funding options of Canadian mining companies, even where no operating assets are in Canada. For more details on the *ICA* and foreign investments in mining, please see our bulletin Canadian Miners Asking: Will Canada Remain a Competitive Jurisdiction for Mining Companies with Global Assets? As raising capital for Canadian mining companies continues to be a domestic challenge, international partners willing to partner in Canadian projects need to be permitted and encouraged to fill this void.

There are examples of Canada taking steps to attract foreign investment, but we need to see more proactive and sustained effort in this area. For example, in 2023, Ontario and the state of Nevada signed a Memorandum of Understanding (the "**MOU**") to strengthen collaboration in mining, marking a significant step enhancing cross-border economic ties. This initiative is a strategic response to the growing global demand for critical minerals, essential for advanced manufacturing, electric vehicles, and clean energy technologies. Over $2 billion (CAD) in trade moved between Ontario and Nevada in 2022[12] and the MOU aims to increase that in coming years. By pooling resources and expertise, both regions can boost development of supply chains, accelerate innovation, and secure a stable supply of these crucial materials. Similarly, targeted efforts to forge alliances with other key jurisdictions could attract foreign capital by showcasing Ontario's (and other Canadian

Provinces and Territories) role as a stable, resource-rich region with access to well-developed infrastructure, a skilled workforce, and favorable trade agreements.

Generational Transitional Instability and a Talent Shortage

Ontario's mining industry supports 31,000 direct mining jobs and another 47,000 indirect jobs;[13] however, the sector faces a significant challenge as the aging workforce approaches retirement with insufficient young workers entering mining to fill the gap. The average age of a mining worker is now over 46, with nearly half of the skilled engineering workforce set to retire within the next decade.[14] As noted by Frank Galati, Managing Partner at The Bedford Group "The gray tsunami is coming: Around half of the industry will retire in the coming years, leaving a huge gap that needs to be filled."[15] This is an issue from the top of corporate organizations in the c-suite down to boots on the ground workers. In a sector struggling to attract new talent, this looming retirement wave threatens to leave a critical knowledge gap.

A key issue exacerbating this problem is a perceived lack of interest among young people in pursuing mining-related education. This has created a "lost decade" of training new professionals, leading to a shortage of qualified candidates when demand for minerals is surging. Additionally, today's younger workforce seeks careers that align with values such as sustainability which although the mining industry is committed to sustainability, it has not always been able to effectively communicate this commitment to broad audience.

Efforts to address this gap are taking shape. Some mining companies are focusing on internal upskilling and apprenticeships to fill the void left by retiring workers. Separately to further bridge the talent gap in the mining sector, several initiatives were established including the Gearing Up program, managed by the Mining Industry Human Resources Council. Gearing Up aligns post-secondary student skills training with mining industry requirements through work-integrated learning opportunities.[16] Other wage subsidies are also provided by the Government of Canada for eligible employers to hire, train, and mentor youth in the natural resources sectors.[17] Various government tax incentives and subsidy programs currently promoting apprenticeships and tradespersons may have indirect application to those working in the mining sector.[18] However, there should be opportunity for government to expand and tailor such programs (or introduce new analogous programs) to encourage youth to enter the mining sector. There is a growing recognition that improving the industry's image, particularly around environmental, social, and governance practices is crucial to attracting the next generation of talent and thriving as an industry. As noted by Chris Hodgson, President of the Ontario Mining Association, "As demand for responsibly mined minerals grows, we have a once-in-a-lifetime opportunity to develop our abundant natural resources in a way that is environmentally sustainable and economically viable."[19] Without these changes, the mining sector risks losing its ability to meet future demand and remain competitive.

Conclusion

Our mining sector faces critical challenges impacting its growth and global competitiveness. Prolonged permitting processes delay project timelines and deter investment, while regulatory barriers on foreign capital further restrict funding options. Declining public market listings and decreased corporate finance driven by heightened regulatory standards and economic pressures, push many companies to seek alternative growth paths and financing in private markets. Reduced Canadian institutional investment from large domestic pension funds compounds funding difficulties, with many opting for larger global projects. Meanwhile, a looming talent shortage threatens operational continuity, as an aging workforce retires, and younger talent seeks opportunities in other sectors. Addressing these issues through regulatory adjustments and improved investment policies are key to securing a sustainable future for Ontario and Canada's mining sector, a sector to which we steadfastly remain committed.

by Alex Bruvels, Micah Zierer-Clyke, Cory Kent, Joshua Chad, and Andrew Stirling

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A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.