

2008 BCSECCOM 31

September 17, 2007

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Securities Act s. 114(2) Takeover Bids - Exemption from the formal take over bid requirements in Part 13 of the Act – pre-bid integration requirements in s.103(1) of the Act - Pre-bid integration - Issuer wants relief from the pre-bid integration requirements in s. 103(1) of the Act - The offeror is acquiring shares of the offeree issuer in a private placement; the private placement is a condition precedent to the offer so that the offeree may meet its immediate cash requirements required for the development of the offeree’s mineral properties and for its general corporate purposes; the ability of the offeror to acquire the offeree’s shares prior to making the announcement of its intention to make the offer was restricted by other factors

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, ss. 103(1), and 114(2)

In the Matter of
the Securities Legislation of
British Columbia, Alberta, Saskatchewan, Manitoba, Ontario,
Quebec, Nova Scotia and Newfoundland and Labrador
(the “Jurisdictions”)

and

In the Matter of
the Mutual Reliance Review System for Exemptive Relief Applications

and

In the Matter of
Sino Gold Mining Limited

MRRS Decision Document

Background

The local securities regulatory authority or regulator (the “Decision Maker”) in each of the Jurisdictions has received an application from Sino Gold Mining Limited, in connection with the proposed offer (the “Offer”) by Sino Gold Mining Limited or its subsidiary (collectively, “Sino Gold”) to acquire all of the issued and outstanding common shares (the “Golden China Shares”) of Golden China Resources Corporation (“Golden China”), other than Golden China Shares already

2008 BCSECCOM 31

owned by Sino Gold and its affiliates, on the basis of 1 ordinary share of Sino Gold (a “Sino Gold Share”) for every 4.5 Golden China Shares, for a decision pursuant to the securities legislation of the Jurisdictions (the “Legislation”) that the Private Placement (as defined below) may be consummated notwithstanding the prohibition that an offeror shall not offer to acquire, or make or enter into, an agreement, commitment or understanding to acquire shares that are subject to a take-over bid otherwise than pursuant to the take-over bid on and from the day that the offeror announces its intention to make the take-over bid until its expiry (the “Requested Relief”).

Under the Mutual Reliance Review System for Exemptive Relief Applications (the “MRRS”):

- (a) the Ontario Securities Commission (the “OSC”) is the principal regulator for this application, and
- (b) this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

Defined terms contained in National Instrument 14-101 *Definitions* have the same meaning in this decision unless they are defined in this decision.

Representations

This decision is based on the following facts represented by Sino Gold:

1. Sino Gold is a public company based in Sydney, Australia and incorporated in New South Wales, Australia. Sino Gold explores, evaluates, develops and operates gold mines in China through cooperative joint venture companies with local Chinese partners.
2. Sino Gold Shares are listed on the Australian Securities Exchange (“ASX”) and the Hong Kong Stock Exchange (“HKSE”) (ASX: SGX and HKSE: 1862). Sino Gold does not currently intend to list the Sino Gold Shares on any exchange in Canada.
3. As at August 30, 2007, there were 181,616,415 Sino Gold Shares issued and outstanding. Under the Australian Corporations Act 2001 (Commonwealth of Australia), Australian registered companies do not have an authorized capital.
4. Sino Gold is not currently a reporting issuer or equivalent in any of the Jurisdictions.

2008 BCSECCOM 31

5. Sino Gold does not have knowledge of any material facts or material change with respect to Golden China that has not been generally disclosed.
6. Golden China is incorporated under the *Canada Business Corporations Act* and is a Toronto based mining company principally engaged in a mix of exploration and development, processing, and mining production throughout China. The common shares of Golden China ("Golden China Shares") are listed on the Toronto Stock Exchange ("TSX") and, via a depository receipt system, the ASX (ASX and TSX: GCX).
7. Golden China's authorized share capital consists of an unlimited number of Golden China Shares without nominal or par value, of which 55,330,319 Golden China Shares were issued and outstanding as at August 13, 2007.
8. Golden China is a reporting issuer in British Columbia, Alberta and Ontario, and to Sino Gold's knowledge, is not in default of its obligations as a reporting issuer thereunder.
9. On August 13, 2007, Sino Gold Mining Limited and Golden China entered into an agreement (the "Letter Agreement") setting out the general terms of the Offer, and issued a joint press release announcing the signing of the Letter Agreement and Sino Gold's intention to make the Offer.
10. Under the Offer, Golden China shareholders would receive one Sino Gold Share for every 4.5 Golden China Shares they hold, subject to the terms and conditions of the Offer.
11. Pursuant to the Letter Agreement, Sino Gold and Golden China agreed to negotiate in good faith and to use their best efforts to enter into a definitive support agreement on or before September 10, 2007 on customary terms to provide for the making and support of the Offer.
12. On September 7, 2007, Sino Gold and Golden China entered into the definitive support agreement (the "Support Agreement") providing for the making and support of the Offer.
13. The Support Agreement also provides that, subject to regulatory approval, Sino Gold will subscribe for 5,882,352 Golden China Shares, at Cdn\$0.85 per share, or approximately 9.5% of the issued and outstanding Golden China Shares (including the Golden China Shares to be issued to Sino Gold) to fund the operations of Golden China (the "Private Placement").

2008 BCSECCOM 31

14. Following the completion of the Private Placement, Sino Gold currently intends to commence the Offer by mailing the Circular, together with all related documents, to holders of Golden China Shares whose last address on the books of Golden China is shown as being in Canada, which Circular will describe, among other things, the Offer. Sino Gold will also file the Circular on the System for Electronic Document Analysis and Retrieval ("SEDAR").
15. To date, Sino Gold has also entered into lock-up agreements with three Golden China shareholders who hold in aggregate approximately 11.4% of the currently outstanding Golden China Shares. In addition, Baker Steel Capital Managers (who own approximately 5.4% of the currently outstanding Golden China Shares) has indicated its verbal support for the Offer.
16. The Legislation provides that (a) an offeror shall not enter into an agreement to acquire shares that are subject to a take-over bid otherwise than pursuant to the take-over bid on and from the day that the offeror announces its intention to make the take-over bid until its expiry (the "Restriction On Acquisitions"), and (b) where a take-over bid is made by an Offeror, and within the period of ninety days immediately preceding the bid, the Offeror or a person or company acting jointly or in concert with the offeror acquired beneficial ownership of securities of the class subject to the bid pursuant to a transaction not generally available on identical terms to holders of that class of securities, the offeror shall offer consideration for securities deposited under the bid at least equal to (and in some of the Jurisdictions in the same form) as the highest consideration that was paid on a per security basis under any of such prior transactions or the offeror shall offer at least the cash equivalent of such consideration and for at least the same percentage (the "Pre-Bid Integration Requirements").
17. In order to complete the proposed Private Placement, Sino Gold requires relief: (i) from the Restriction On Acquisitions in all Jurisdictions and (ii) from the Pre-Bid Integration Requirements in certain Jurisdictions.
18. The price for the Golden China Shares to be purchased under the Private Placement was negotiated in connection with the terms of the Letter Agreement at Cdn\$0.85 per share, representing the closing price of the Golden China Shares on the TSX on August 10, 2007 – the last trading day prior to announcement of the Letter Agreement and Sino Gold's intention to make the Offer. On August 16, 2007, Golden China received conditional approval from the TSX for the Private Placement.
19. The Private Placement was negotiated at arm's length, on customary terms in advance of the announcement of Sino Gold's intention to make the Offer. The

2008 BCSECCOM 31

terms of the Private Placement, as set out in the Letter Agreement and superseded by the Support Agreement, were approved unanimously by Golden China's Board of Directors in advance of the announcement of Sino Gold's intention to make the Offer.

20. Due to timing constraints and other factors, including the need to obtain conditional approval from the TSX for the Private Placement, Sino Gold and Golden China were unable to consummate the Private Placement in advance of the announcement of Sino Gold's intention to make the Offer.
21. The Private Placement was proposed and required as a term of the Offer by Golden China to meet Golden China's immediate cash requirements and will be undertaken for valid business purposes. The funds from the Private Placement are to be used by Golden China to support the development of Golden China's gold properties and for general corporate purposes.

Decision

Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met.

The decision of the Decision Makers in the Jurisdictions under the Legislation is that the Requested Relief is granted.

Suresh Thakrar
Ontario Securities Commission

Robert L. Shirriff
Ontario Securities Commission