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CAREY AND TIANQI ON THE LARGEST DEAL IN THE CHILEAN STOCK MARKET HISTORY

Eleven firms confirm counsel for Tianqi -SQM record-breaking deal

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The acquisition of a 24% stake in Sociedad Química y Minera de Chile (SQM) by Chinese Lithium miner Tianqi for US$4.1 billion involved counsel from at least 11 firms, in a deal widely billed as the largest in Chilean stock market history.

Weil, Gotshal & Manges LLP in New York and Carey in Santiago advised Tianqi. The seller, Canadian crop fertiliser maker Nutrien, relied on Jones Day in New York, Washington, DC, San Francisco and Atlanta and Claro & Cía in Santiago. The deal closed on 5 December.

Tianqi obtained two credit facilities from Hong Kong-based CITIC Bank worth a combined US$3.5 billion to fund the acquisition.

Latham & Watkins LLP in Hong Kong and a separate team from Carey's Santiago office helped Tianqi for both funding transactions. In the first, Tianqui got a US$2.5 billion senior loan. CITIC relied on Allen & Overy LLP in Sydney, Beijing, Hong Kong and New York and Chilean firm Barros & Errázuriz Abogados. In the second round, Tianqi obtained a US$1 billion mezzanine loan from CITIC. This time, the lender relied on White & Case LLP in Hong Kong and Sydney and Guerrero Olivos in Santiago.

Mezzanine loans are hybrid debt and equity financing. They allow a lender to convert debt in to equity in case of default. Both financing transactions closed on 5 December.

Prior to selling the 24% stake to Tianqi, Nutrien sold an additional 8% stake in SQM, worth US$1 billion, through a public auction on the Santiago Stock Exchange. Claro & Cía in Santiago helped Nutrien, while Davis Polk & Wardwell LLP in New York and Northern California helped the placement agents. Jones Day is also thought to have advised Nutrien on that transaction, but this could not be confirmed

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prior to publication. That deal closed in June.

Claro & Cía also helped Nutrien with tax matters. This allowed all its assets in Chile to be liquidated and remitted for closing. The US$1 billion tax deal is understood to be the largest deal of its kind. Chile's tax authority reviewed the entire transaction and carried out a complete tax audit of all the Chilean companies Nutrien sold stakes in. The acquisition comes as global demand for lithium grows. The material is a key component in batteries for mobile phones, electric cars and power storage devices. Natural resource analysts from Goldman Sachs expect lithium demand for electric cars to grow 20-fold by 2025.

The seller, Nutrien, was created by a merger between Canadian agribusiness company Agrium and counterpart PotashCorp in January 2018. As a condition for the merger, Chinese and Indian competition authorities ordered the subsequent tie-up to divest various assets by March 2019, including the stake in SQM.

The acquisition strengthens Tianqi's position as an important global player in the lithium market. Through a subsidiary, it holds a joint venture with one of SQM's biggest counterparts, US miner Albemarle. That tie-up owns the world's largest lithium mine, Greenbushes, which is in Western Australia. It also holds mining assets in Tibet and in China's central southern province of Sichuan.

However, the acquisition did not pass without scrutiny. The deal was originally set for fast-track antitrust approval. This led one SQM shareholder, Julio Ponce Lerou, to file a claim before the constitutional court against the accelerated proceeding. The claimant argued the deal should undergo the regular antitrust procedure because of the deal's size and Tianqi being a competitor of SQM. The constitutional court ruled in favour of the fast-track regime in October and said the claim lacked grounds. Ponce relied on Chilean firm Oddo & Cía, while Nutrien hired Claro & Cía. Carey advised Tianqi together with Estudio Fermandois.

Tinaqi's growing position in the lithium market also caught the eye of the government's Corporation for the Promotion of Production, which filed a complaint before Chile's antitrust regulator, the National Economic Prosecutor (FNE). It argued Tianqi would have too much influence in the global lithium market if the deal were to go through. Alejandro Guillier, a senator and Chilean presidential candidate for the centre-left New Majority coalition in 2017, also filed a complaint with

the authority. Amid growing political pressure, FNE responded by launching an investigation in June (a month after Tianqi put forward its formal offer to buy the stake in SQM) that identified several competition concerns and reached an out-of-court settlement with Tianqi in September. This settlement involves 11 different measures that – among other things – prevent the Chinese company from electing board members or accessing commercially sensitive information. The Tribunal for the Defence of Free Competition approved the settlement in October. Carey advised Tianqi throughout the antitrust matters.

For the acquisition

Counsel to Tianqi Lithium

Weil, Gotshal & Manges LLP

Partners Michael Lubowitz, Catherine Dixon, Laura Wilkinson, Helyn Goldstein, David Bower, counsel Michael Naughton, and associates Kimberly Thibault, Andrea Ryken and Brianna Dollinger in New York

Carey

Partners Francisco Ugarte, Rafael Vergara, Claudio Lizana, Gonzalo Fernandez, Jessica Power, Jorge Ugarte and Juan Carlos Riesco, counsel Francisco Corona, and associates Luciano Aguilera, Manuel José Garcés, Virginia Rivas, Pamela Morales, Constanza Hube, Reiner Baack, Paulina Espinoza and Domingo Russi in Santiago

Counsel to Nutrien

Jones Day

Partners Jeffrey Symons and Robert Profusek, and of counsel Claire Sheng in New York; partner Yizhe Zang in San Francisco; partner Joel May in Atlanta; and of counsel Phillip Proger in Washington, DC

Claro & Cía

Partners José María Eyzaguirre B., Cristóbal Eyzaguirre, José Miguel Huerta, Juan José León and Alex Van Weezel, counsel Cristián Lagos, and associates Karina Henríquez Castillo, Álvaro Vives Martens, Luis Ignacio Vergara López, Nicolás Maturana Sanhueza, Santiago Bravo

Sanz, Javier Pérez Marchant, Pablo Becerra Poblete, Rafael Cruzat Donoso, Dino Schiappacasse Escudero, Diego Fuensalida Aguado, Nicolás Aspillaga Pumarino, Ricardo Pfaff Nash, Javier Verdugo Pacheco, Bastián Cabrera Jorquera, Cristóbal Garí Neef, Josefina Ayala Wilkins, Joséfina Covarrubias, José Manuel Larraín Covarrubias, Martín Fischer Jimenez, María Jesús Muñoz Ugarte, María Soledad Valenzuela Cisternas, Manuela Ugarte Enrione and Rafael Schmidt Hernández in Santiago

For the senior and mezzanine loan

Counsel to Tianqi Lithium

Latham & Watkins LLP

Partner Howard Lam and associates Trinh Hoang, Zarmina Tirmzi, Evangeline Tsui and Rachel Kwong in Hong Kong

Carey

Partner Francisco Ugarte and associates Luciano Aguilera, Pamela Morales, Reiner Baack, Domingo Russi and Vicente Güell in Santiago

For the senior loan

Counsel to CITIC Bank

Allen & Overy LLP

Partners David Christensen and Ka Sen Wong, and associates Lachlan Shelley, Alice Morstyn, Christopher Scarf and Catherine Dawson in Sydney; partner Yvonne Ho and associates Galvin Chua and Violet Jia in Beijing; partner Fiona Cumming and associate Andrew Page in Hong Kong, and partner Justin Cooke in New York.

Barros & Errázuriz Abogados

Partners Pablo Guerrero and Francisco de la Barra, and associates Vicente Cordero, Francisca Ellis, Mary Anne Hohmann and Martin Errazurriz in Santiago

For the mezzanine loan

Counsel to CITIC Bank

White & Case LLP

Partner Baldwin Cheng and associates Eva Yu, Shuwen Zeng, Wilson Leung and Tiffanie Chan in Hong Kong, and partner Cameron Watson and associates Emanuel Blum and Alicia Jennison in Sydney.

Guerrero Olivos

Partners Juan Enrique Allard and Macarena Ravinet, counsel Miguel Coddou, and associate Tomás Montes

For the sale of series B shares

Counsel to Nutrien

Claro & Cía

Partners José María Eyzaguirre B., José Luis Ambrosy and Juan José León in Santiago

Counsel to placement agents

Davis Polk & Wardwell LLP

Partner Maurice Blanco in New York and counsel Drew Glover in Northern California

For tax

Counsel to Nutrien

Claro & Cía

Partners José María Eyzaguirre B. and Jorge Carraha in Santiago

For the antitrust dispute in the constitutional court

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Partners José María Eyzaguirre B., Cristóbal Eyzaguirre and Alex Van Weezel in Santiago

Counsel to Julio Ponce Lerou

Oddo & Cía

Partners Sebastián Oddo, Álvaro Jofré and José Coz in Santiago

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Partners Gonzalo Fernández, Juan Carlos Riesco, Claudio Lizana, Francisco Ugarte and associate Constanza Hube in Santiago

Estudio Fermandois

Partner Arturo Fermandois in Santiago

For competition matters

Counsel to Tianqi

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