

APEX SILVER MINES LTD  
Form S-3  
November 14, 2006

As filed with the Securities and Exchange Commission on November 14, 2006.

Registration No. 333-

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

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**FORM S-3**

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

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**APEX SILVER MINES LIMITED**

(Exact name of registrant as specified in its charter)

**Cayman Islands, British West Indies**  
(State or other jurisdiction of incorporation or organization)

**N/A**  
(I.R.S. Employer Identification No.)

**Walker House  
87 Mary Street  
George Town, Grand Cayman KY1-9002,  
Cayman Islands, British West Indies  
(345) 949-0050**

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

**Gerald J. Malys**  
Chief Financial Officer  
Apex Silver Mines Corporation  
1700 Lincoln Street, Suite 3050  
Denver, Colorado 80203  
Telephone: (303) 839-5060

(Name, address, including zip code, and telephone number, including area code, of agent for service)

**With copies to:**

**Deborah J. Friedman  
Davis Graham & Stubbs LLP  
1550 Seventeenth Street, Suite 500  
Denver, Colorado 80202  
Telephone: (303) 892-9400**

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**APPROXIMATE DATE OF COMMENCEMENT OF PROPOSED SALE TO THE PUBLIC:** From time to time after the effective date of this registration statement.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box:

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box:

## Edgar Filing: APEX SILVER MINES LTD - Form S-3

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering:

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box:

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

If delivery of the prospectus is expected to be made pursuant to Rule 434, check the following box.

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### CALCULATION OF REGISTRATION FEE

Title of each class of securities to be registered(1)	Proposed Maximum Aggregate Offering Price(2)	Amount of registration fee(3)
Ordinary Shares		
Preference Shares		
Warrants		
Debt Securities		
Depositary Shares		
Ordinary Share Purchase Rights		
Total	\$ 200,000,000	\$ 21,400

(1) Includes an indeterminate number of ordinary shares and preference shares, warrants to purchase ordinary shares and preference shares, an indeterminate principal amount of debt securities, depositary shares representing fractional interests in preference shares and ordinary share purchase rights representing rights to purchase an amount of ordinary shares which may be issued independently or together with another security. This Registration Statement also covers (i) ordinary shares that may be issued upon exercise of warrants and (ii) such indeterminate amount of securities as may be issued in exchange for, or upon conversion of, as the case may be, the securities registered hereunder. No separate consideration will be received for any securities issued upon conversion or exchange. In addition, any securities registered hereunder may be sold separately or as units with other securities registered hereunder. The securities which may be offered pursuant to this registration statement, include, pursuant to Rule 416 of the Securities of 1933, as amended (the Securities Act ), such additional number of ordinary shares of the Registrant that may become issuable as a result of any stock split, stock dividends or similar event.

(2) Represents the initial offering price of all securities sold up to an aggregate public offering price not to exceed \$200,000,000.00 or the equivalent thereof in foreign currencies, foreign currency units or composite currencies by the Registrant.

(3) Pursuant to Rule 457(o) under the Securities Act, the registration fee has been calculated on the basis of the maximum aggregate offering price and the number of securities being registered has been omitted.

THE REGISTRANT HEREBY AMENDS THIS REGISTRATION STATEMENT ON SUCH DATE OR DATES AS MAY BE NECESSARY TO DELAY ITS EFFECTIVE DATE UNTIL THE REGISTRANT SHALL FILE A FURTHER AMENDMENT WHICH SPECIFICALLY STATES THAT THIS REGISTRATION STATEMENT SHALL THEREAFTER BECOME EFFECTIVE IN ACCORDANCE WITH SECTION 8(a) OF THE SECURITIES ACT OF 1933 OR UNTIL THE REGISTRATION STATEMENT SHALL BECOME EFFECTIVE ON SUCH DATE AS THE COMMISSION, ACTING PURSUANT TO SAID SECTION 8(a), MAY DETERMINE.

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**Subject to Completion, dated November 14, 2006**

**The information in this prospectus is not complete and may be changed. Apex Silver Mines Limited may not sell these securities pursuant to this prospectus until the registration statement filed with the Securities and Exchange Commission becomes effective. This prospectus is not an offer to sell these securities and Apex Silver Mines Limited is not soliciting offers to buy these securities in any state where the offer or sale is not permitted.**

## **PROSPECTUS**

# **APEX SILVER MINES LIMITED**

**\$200,000,000**

**DEBT SECURITIES**

**PREFERENCE SHARES**

**DEPOSITARY SHARES**

**ORDINARY SHARES**

**WARRANTS**

**ORDINARY SHARE PURCHASE RIGHTS**

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This prospectus is part of a registration statement that we have filed with the Securities and Exchange Commission, or SEC, using a shelf registration process. Under this shelf registration process, we may sell from time to time our debt securities, preference shares, depositary shares, ordinary shares, warrants, or ordinary share purchase rights in one or more offerings up to a total dollar amount of \$200,000,000.

This prospectus provides you with a general description of the securities we may offer. Each time we sell any of these securities, we will provide one or more prospectus supplements containing specific information about the terms of that offering. Any prospectus supplements also may add, update or change information contained in this prospectus. If information in any prospectus supplement is inconsistent with the information in this prospectus, then the information in that prospectus supplement will apply and will supersede the information in this prospectus. You should carefully read both this prospectus and any prospectus supplement, together with additional information described under the heading **Where You Can Find More Information** before you invest in the securities.

We may sell securities directly to you, through agents we select, or through underwriters or dealers we select. If we use agents, underwriters or dealers to sell the securities, we will name them and describe their compensation in a prospectus supplement. The net proceeds we expect to receive from these sales will be described in the prospectus supplement.

This prospectus may not be used to offer and sell securities unless accompanied by a prospectus supplement.

Our ordinary shares are traded on the American Stock Exchange under the symbol **SIL**.

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***Investing in the securities offered in this prospectus involves risk. You should carefully consider the Risk Factors contained in this prospectus beginning on page 6.***

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**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities, or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.**

The date of this prospectus is \_\_\_\_\_, 2006.

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As used in this prospectus, the terms Apex Silver, we, our, ours and us may, depending on the context, refer to Apex Silver Mines Limited or one or more of Apex Silver Mines Limited's consolidated subsidiaries or to all of them taken as a whole. When we refer to ordinary shares throughout this prospectus, we include all rights attaching to our ordinary shares under any shareholder rights plan then in effect.

## ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that we filed with the SEC using a shelf registration process on Form S-3. Under the shelf registration, we may sell any combination of the securities described in this prospectus in one or more offerings up to a total dollar amount of \$200,000,000. This prospectus provides you with a general description of the securities that we may offer. Each time that we sell securities, we will provide a prospectus supplement that will contain specific information about the terms of that offering and a discussion of the material U.S. federal income tax considerations relating to such offering. The prospectus supplement also may add, update or change information contained in this prospectus. You should read both this prospectus and any prospectus supplement together with additional information described under the heading "Where You Can Find More Information" before you invest. We may use this prospectus to sell securities only if it is accompanied by a prospectus supplement.

The registration statement of which this prospectus is a part, including the exhibits to the registration statement, contains additional information about us and the securities offered under this prospectus. That registration statement can be read at the SEC's website, located at <http://www.sec.gov>, or at the SEC's offices referenced under the heading "Where You Can Find More Information."

You should not assume that the information in this prospectus, any accompanying prospectus supplement or any document incorporated by reference is accurate as of any date other than the date on its front cover.

## WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and current reports, proxy statements and other information with the SEC. You may read and copy any of these documents at the SEC's public reference room at 450 Fifth Street N.W., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the public reference room. Our SEC filings are also available to the public at the SEC's website at <http://www.sec.gov>.

The SEC allows us to incorporate by reference the information we file with the SEC, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is considered part of this prospectus, and information that we file later with the SEC will automatically update and supersede the information in this prospectus.

The following documents, which were previously filed with the SEC pursuant to the Securities Exchange Act of 1934, or the Exchange Act, are hereby incorporated by reference:

- our Annual Report on Form 10-K, as amended, for the year ended December 31, 2005;
- our Quarterly Reports on Form 10-Q for the quarters ended March 31, 2006, June 30, 2006 and September 30, 2006;
- our Current Reports on Form 8-K filed January 9, January 27, February 27, March 10, April 11, 2006, June 13, 2006, June 23, 2006 and September 28, 2006;
- the description of our capital stock contained in our registration statement on Form S-1, as amended (File No. 333-34685), and incorporated by reference into our Registration Statement on Form 8-A under the Exchange Act filed with the SEC on November 18, 1997.

All reports and other documents filed by us pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act subsequent to the date of this prospectus and prior to the termination of this offering shall be deemed to be incorporated by reference into this prospectus and shall be a part hereof from the date of filing of such reports and documents.

Any statement contained in a document incorporated or deemed to be incorporated by reference in this prospectus shall be deemed modified, superseded or replaced for purposes of this prospectus to the extent that a statement contained in this prospectus, or in any subsequently filed document that also is deemed to be incorporated by reference in this prospectus, modifies, supersedes or replaces such statement. Any statement so modified, superseded or replaced shall not be deemed, except as so modified, superseded or replaced, to constitute a part of this prospectus. Subject to the foregoing, all information appearing in this prospectus is qualified in its entirety by the information appearing in the documents incorporated by reference.

Statements contained in this prospectus as to the contents of any contract or other document are not necessarily complete, and in each instance we refer you to the copy of the contract or document filed as an exhibit to the registration statement or the documents incorporated by reference in this prospectus, each such statement being qualified in all respects by such reference.

You may receive a copy of any of these filings (excluding exhibits to those documents unless they are specifically incorporated by reference in those documents), at no cost, by writing or calling Apex Silver Mines Corporation, 1700 Lincoln Street, Suite 3050, Denver, Colorado 80203, Attention: Vice President, Investor Relations and Corporate Development, telephone (303) 839-5060.

#### **ENFORCEABILITY OF CIVIL LIABILITIES UNDER UNITED STATES LAWS**

Apex Silver is a Cayman Islands exempted company and one of our directors resides in jurisdictions outside of the United States. At any one time, all or a substantial portion of our assets and directors are or may be located in jurisdictions outside of the United States. Therefore, it could be difficult for investors to effect within the United States service of process on us or any of our directors who reside outside the United States. Further, it could be difficult to recover against us or such directors judgments of courts in the United States, including judgments based upon civil liability under U.S. federal securities laws and similar state laws. Notwithstanding the foregoing, we have irrevocably agreed that we may be served with process with respect to actions based on offers of the securities offered by this prospectus in the United States by serving Apex Silver Mines Corporation, 1700 Lincoln Street, Suite 3050, Denver, Colorado 80203, our U.S. agent appointed for that purpose.

Walkers, our Cayman Islands counsel, has advised us that there may be circumstances where the courts of the Cayman Islands would not enforce:

- judgments of U.S. courts obtained in actions against us or our directors that are not residents within the United States that are based upon the civil liability provisions of U.S. federal securities laws and similar state laws; or
- original actions brought in the Cayman Islands against us or such persons based solely upon U.S. federal securities laws.

There is no treaty in effect between the United States and the Cayman Islands providing for such enforcement. There are grounds upon which Cayman Islands courts may not enforce judgments of U.S. courts. In addition, some remedies that are available under the laws of U.S. jurisdictions, including certain remedies under U.S. federal securities laws, may not be allowed in Cayman Islands courts as being contrary to public policy.

## SUMMARY

*This summary contains selected information and because it is a summary, it does not contain all of the information that you should consider before investing. You should read this entire prospectus and prospectus supplement carefully, as well as our financial statements and the related notes and other information incorporated by reference in this prospectus, before making an investment decision.*

### **Our Company**

Apex Silver Mines Limited, incorporated under the laws of the Cayman Islands in 1996, is engaged in the exploration and development of silver properties in Latin America. We have a large diversified portfolio of privately owned and controlled silver and other mineral exploration properties. We have rights to or control over claims or concessions covering a total of approximately 700,000 acres, divided into approximately 60 property groups, located in or near the traditional silver producing regions of Bolivia, Peru, Argentina and Mexico. None of our properties is in production, and consequently we have no operating income or cash flow.

Our exploration efforts have produced our first development property, our 100% owned San Cristobal project located in southern Bolivia. We expect to commence production at San Cristobal during the second half of 2007. On September 25, 2006 we sold 35% of the San Cristobal project to Sumitomo Corporation in exchange for (i) \$224 million, (ii) 22.86% of Sumitomo's share of the silver production from the San Cristobal project, payable in the future in cash or silver bullion, and (iii) future cash payments equal to 20% of Sumitomo's share of payable zinc revenues in excess of \$1,800 per tonne. Additional information regarding this transaction is provided in our Form 8-K filed on September 28, 2006.

We are managed by a team of seasoned mining professionals with significant experience in the construction, development and operation of large scale, open pit and underground, precious and base metals mining operations, as well as in the identification and exploration of mineral properties.

Our principal executive office is located at 1700 Lincoln Street, Suite 3050, Denver, Colorado 80203 and our telephone number is (303) 839-5060. Our internet address is [www.apexsilver.com](http://www.apexsilver.com). Information contained on the Company's website is not a part of this prospectus.

### **Our Strategy**

Apex Silver is one of a limited number of silver companies with significant exposure to other metals. Our strategy is to capitalize on the San Cristobal project and our sizeable portfolio of mineral exploration properties in order to achieve long-term profits and growth and to enhance shareholder value. Although our primary focus is on silver, we intend to produce other metals from deposits we may discover or acquire, including zinc, lead and gold. From time to time, we also consider acquisitions of development or producing properties and business combination opportunities.

The principal elements of our business strategy are to:

- complete the development of the San Cristobal project into a large-scale open-pit mining operation;
- continue to explore and develop those properties which we believe are most likely to contain significant amounts of silver and/or other metals and divest those properties that are not of continuing interest; and
- identify and acquire additional mining and mineral properties that we believe contain significant amounts of silver and/or other metals or have exploration potential.



### **Certain Tax Considerations**

We believe that we likely were a passive foreign investment company ( PFIC ) with respect to 2004 and 2005, and likely will be a PFIC in 2006, as well as potentially with respect to future years. If we are a PFIC, U.S. Holders of ordinary shares will be subject to certain adverse U.S. federal income tax rules. Under the PFIC rules, a U.S. Holder who disposes or is deemed to dispose of ordinary shares at a gain, or who receives or is deemed to receive certain distributions with respect to ordinary shares, generally will be required to treat such gain or distributions as ordinary income and pay an interest charge on the tax imposed with respect thereto. The PFIC rules are extremely complex, and prospective investors are urged to consult their own tax advisers regarding the potential consequences to them of Apex Silver being classified as a PFIC. See Certain Federal Tax Considerations.

### **The Securities We May Offer**

This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission utilizing a shelf registration process. Under this shelf registration process, we may offer from time to time any of the following securities, either separately or in units:

- debt securities;
- ordinary shares;
- preference shares;
- depositary shares;
- warrants; and
- ordinary share purchase rights.

This prospectus provides you with a general description of the securities which we may offer. Each time we offer securities, we will provide you with a prospectus supplement that will describe the specific amounts, prices and terms of the securities being offered. The prospectus supplement may also add, update or change information contained in this prospectus.

The securities which we may offer may involve a high degree of risk. A prospectus supplement relating to any security that we offer will describe the risks relating to each such security. In addition, a prospectus supplement may also contain additional risk factors relating to our business.

### **Debt Securities**

We may offer general obligations of our company, which may be senior or subordinated. The senior debt securities and the subordinated debt securities are together referred to in this prospectus as the debt securities. The senior debt securities will have the same ranking as all of our other unsecured, unsubordinated debt. The subordinated debt securities will be entitled to payment only after payment on our Senior Indebtedness (as described below). In addition, we are a holding company that conducts all of our operations through subsidiaries. As a result, claims of the holders of the debt securities will generally have a junior position to claims of creditors of our subsidiaries (except to the extent that our company is recognized as a creditor of those subsidiaries) and preferred shareholders of our subsidiaries.

The debt securities will be issued under an indenture between us and a financial institution, acting on your behalf as trustee. We have summarized certain general features of the debt securities that will be included in the indentures. We encourage you to read the form of the indentures (which are exhibits to the Registration Statement) and our recent periodic and current reports that we file with the SEC. Directions on how you can get copies of these reports are provided under the heading Where You Can Find More Information.

The prospectus supplement relating to a series of subordinated debt securities will describe any material covenants or special events of default in respect of such series of subordinated debt securities.

### **Preference Shares and Depositary Shares**

We may issue our preference shares in one or more classes or series. Our Board of Directors will determine for the preference shares, the dividend, voting, redemption, sinking fund, conversion, liquidation preference, relative priority and other rights of the class or series being offered and the terms and conditions relating to its offering and sale at the time of the offer and sale. We may also issue fractional shares of preference shares that will be represented by depositary shares and depositary receipts.

### **Ordinary Shares**

We may issue our ordinary shares, par value \$0.01 per share. Holders of ordinary shares are entitled to receive dividends when declared by the Board of Directors (subject to the rights of holders of preference shares). Each holder of ordinary shares is entitled to one vote per share. The holders of ordinary shares have no preemptive rights or cumulative voting rights.

### **Warrants**

We may issue warrants for the purchase of preference shares or ordinary shares. We may issue warrants independently or together with other securities. A prospectus supplement relating to the warrants will describe the terms of the warrants, including the following: the title, number and offering price of the warrants; the terms on which they may be issued; and the number, designation and description of the ordinary shares or preference shares that may be purchased upon exercise of the warrants and the price at which such shares may be purchased.

### **Ordinary Share Purchase Rights**

We may issue rights to purchase ordinary shares (the Ordinary Share Purchase Rights). We may issue Ordinary Share Purchase Rights independently or together with other securities. Our Board of Directors will determine for the Ordinary Share Purchase Rights, the number, the exercise price, the terms on which they may be issued, the extent of transferability, the date of commencement and the date of expiration.

## RISK FACTORS

*An investment in our securities involves a high degree of risk. Before purchasing any of our securities, you should consider carefully, in addition to the other information contained in, or incorporated by reference into, this prospectus, the risks set forth below. The risks we have described are not the only ones we face. Additional risks and uncertainties not presently known to us or that we currently consider immaterial may also affect our business. In addition to historical information, the information in this prospectus contains forward-looking statements about our future business and performance. Our actual operating results and financial performance may be very different from what we expect as of the date of this prospectus.*

### ***We have no history of production.***

We have no history of producing silver or other metals. The development of our San Cristobal project requires the construction and operation of mines, processing plants and related infrastructure. As a result, we are subject to all of the risks associated with establishing new mining operations and business enterprises. There can be no assurance that we will successfully establish mining operations or profitably produce silver or other metals at any of our properties.

### ***We have a history of losses and we expect losses to continue for at least the next two years.***

As an exploration and development company that has no production history, we have incurred losses since our inception, and we expect to continue to incur additional losses until sometime after the startup of production at San Cristobal. As of September 30, 2006, we had an accumulated deficit of \$216 million. There can be no assurance that we will achieve or sustain profitability in the future.

### ***The calculation of our reserves and other mineralization is subject to significant estimates.***

Unless otherwise indicated, reserves and other mineralization figures presented in our filings with the SEC, press releases and other public statements that may be made from time to time are based on estimates of contained silver and other metals made by independent geologists or our own personnel. These estimates are imprecise and depend on geological interpretation and statistical inferences drawn from drilling and sampling which may prove to be unreliable. There can be no assurance that:

- these estimates will be accurate;
- reserves and other mineralization figures will be accurate; or
- reserves or mineralization could be mined and processed profitably.

Since we have not commenced production on any of our properties, reserves and other mineralization estimates may require adjustments or downward revisions based on actual production experience. Extended declines in market prices for silver, zinc and lead may render portions of our reserves uneconomic and result in reduced reported reserves. Any material reductions in estimates of our reserves and other mineralization, or of our ability to extract these reserves or mineralization, could have a material adverse effect on our results of operations, financial condition and cash flows.

We have not established the presence of proven or probable reserves at any of our mineral properties other than the San Cristobal project. There can be no assurance that subsequent testing or future feasibility studies will establish additional reserves at our properties. The failure to establish additional reserves could restrict our ability to successfully implement our strategies for long term growth beyond the San Cristobal project.

*The San Cristobal project is subject to risks including delays in completion and we may be unable to achieve anticipated production volume or manage cost increases.*

Completion of the development of the San Cristobal project is subject to various factors, including the availability, terms, conditions and timing of acceptable arrangements for transportation, construction and smelting; and the performance of our engineering and construction contractors, mining contractor, suppliers and consultants. The lack of availability on acceptable terms or the delay in any one or more of the other items listed above could also delay or prevent the development of San Cristobal as currently planned. In addition, labor disputes, including strikes, work stoppages and demonstrations, are common in Bolivia. We have experienced occasional work stoppages and demonstrations at San Cristobal in the past and expect that similar labor disputes may occur in the future from time to time. Further, completion of the development of the San Cristobal project may be compromised in the event of a prolonged decline in price levels for silver and zinc. There can be no assurance:

- when or whether the San Cristobal project will be completed;
- whether the resulting operations will achieve the anticipated production volume; or
- that the construction costs and ongoing operating costs associated with the development of the San Cristobal project will not be higher than anticipated.

We have never developed or operated a mine or managed a significant mine development project. We cannot assure you that the development of San Cristobal will be completed at the cost and on the schedule predicted, or that silver, zinc and lead grades and recoveries, production rates or anticipated capital or operating costs will be achieved.

We believe that we have sufficient funds to complete the development of the San Cristobal project. If the actual cost to complete the project is significantly higher than currently expected, there can be no assurance that we will have sufficient funds to cover these costs or that we will be able to obtain alternative sources of financing to cover these costs. Unexpected cost increases, reduced silver and zinc prices or the failure to obtain necessary additional financing on acceptable terms, to complete the development of the San Cristobal project on a timely basis, or to achieve anticipated production capacity, could have a material adverse effect on our future results of operations, financial condition and cash flows.

The successful development of the San Cristobal project is also subject to the other risk factors described herein.

*We depend on a single mining project which is not 100% owned by us.*

We anticipate that the majority, if not all, of any revenues for the next few years and beyond will be derived from the sale of metals mined at the San Cristobal Project. Therefore, if we are unable to complete and successfully mine the San Cristobal Project, our ability to generate revenue and profits would be materially adversely affected.

In September 2006 we sold 35% of the San Cristobal Project to Sumitomo Corporation. As a result of this transaction, Sumitomo obtained certain rights with respect to the management and operation of the project. For example, certain significant matters for the project require the approval of Sumitomo, including approval of annual programs and budgets, and increases of 15% or more in capital expenditures or operating expenses and mergers or liquidations. If Sumitomo does not approve our proposals with respect to these matters, we may face significant delays in completing the project or improving its operations and may be unable to operate the project in the manner we believe to be in the best interests of our shareholders.

We and Sumitomo are required to provide our proportionate shares of funding for the project if necessary in order to complete construction and begin commercial operations. If additional funding is

necessary and Sumitomo does not pay its 35% share of such additional amounts, there can be no assurance that we would have sufficient capital to fund the amounts required.

Sumitomo is also required to comply with certain provisions of the San Cristobal project financing agreements. If Sumitomo fails to comply with its obligations, the failure could result in a default under those agreements, and in the subsequent acceleration of the San Cristobal project loans and settlement obligations under the commodity derivative obligations required by the project lenders, and enforcement of the lender's liens against the San Cristobal Project. See We may be unable to comply with the terms and covenants of the debt financing for our San Cristobal Project.

***Our success will depend on our ability to manage our growth.***

As we increase our development activity at San Cristobal, we are experiencing significant growth in our operations, which we expect to continue and accelerate over the next year and a half as we complete construction and anticipate the commencement of production in 2007. This growth has created and will continue to create new positions and responsibilities for management personnel and will substantially increase demands on our operating and financial systems. There can be no assurance that we will successfully meet these demands and manage our anticipated growth.

***Our profitability will be affected by changes in the prices of metals.***

Our profitability and long-term viability depend, in large part, on the market price of silver, zinc, lead and other metals. The market prices for these metals are volatile and are affected by numerous factors beyond our control, including:

- global or regional consumption patterns;
- supply of, and demand for, silver, zinc, lead and other metals;
- speculative activities;
- expectations for inflation; and
- political and economic conditions.

The aggregate effect of these factors on metals prices is impossible for us to predict. Decreases in metals prices in the past have delayed the development of the San Cristobal project and could in the future adversely affect our ability to finance the exploration and development of our other properties, which would have a material adverse effect on our financial condition, results of operations and cash flows. There can be no assurance that metals prices will not decline.

The following table sets forth for the periods indicated (1) the Comex nearby active silver futures contract's high and low price of silver in U.S. dollars per troy ounce and (2) the London Metals Exchange's high and low settlement prices of zinc and lead in U.S. dollars per pound.

Year	Silver		Zinc		Lead	
	High	Low	High	Low	High	Low
2001	\$ 4.83	\$ 4.03	\$ 0.48	\$ 0.33	\$ 0.24	\$ 0.20
2002	5.13	4.22	0.42	0.33	0.24	0.18
2003	5.99	4.35	0.46	0.34	0.34	0.19
2004	8.29	5.49	0.56	0.42	0.45	0.29
2005	9.01	6.41	0.87	0.54	0.51	0.37
2006*	14.83	8.74	1.95	0.87	0.76	0.43

\* Through November 3, 2006



The closing prices of silver, zinc and lead on November 3, 2006 were \$12.61 per troy ounce, \$1.95 per pound and \$.76 per pound, respectively.

***We may not be successful in hedging against metals price, currency and interest rate fluctuations; we expect to incur mark-to-market losses on our metals price hedges and could lose money through our hedging programs.***

We have entered into metals trading transactions to hedge against commodity and base metals price risks, using puts, calls and forward sales. The terms of our debt financing for the San Cristobal project require that we utilize various price hedging techniques to hedge a portion of the metals we plan to produce at San Cristobal. If we fail to maintain the minimum level of hedge transactions required by the terms of our debt financing for the San Cristobal project, our ability to draw additional amounts from the lenders may be adversely affected. These derivative positions represent 4%, 14% and 17% of planned life-of-mine payable production of silver, zinc and lead. For the nine months ended September 30, 2006, we recorded \$165.5 million in non-cash mark-to-market losses related to our metals derivative open positions, resulting from recent increases in the spot and forward prices for silver, zinc and lead. During the periods that the metal derivative positions are outstanding, gains and losses may fluctuate substantially from period to period based on spot prices, forward prices and quoted option volatilities.

We expect to settle these hedges over time after the San Cristobal project is in production. If the completion of the project is delayed or if we are unable for any reason to deliver the quantity of metals required by the terms of the applicable forward sale, we may be required to settle the sales by purchasing silver, zinc or lead at spot prices. Depending on the price of the applicable metal at that time, the financial settlement of the forward sales could have a material adverse effect on our financial condition, results of operations and cash flows.

We may also enter into transactions to hedge the risk of exposure to currency and interest rate fluctuations related to the development of the San Cristobal project in Bolivia or to exploration or development in other countries in which we incur substantial expenditures.

Further, there can be no assurance that the use of hedging techniques will ultimately be to our benefit. Hedging instruments that protect against metals market price volatility may prevent us from realizing the benefit from subsequent increases in market prices with respect to covered production, which would cause us to record a mark-to-market loss, decreasing our revenues and profits. In addition, our ability to hedge against zinc and lead price risk in a timely manner may be adversely affected by the smaller volume of transactions in both the zinc and lead markets. Hedging contracts also are subject to the risk that the other party may be unable or unwilling to perform its obligations under these contracts. Any significant nonperformance could have a material adverse effect on our financial condition, results of operations and cash flows.

***The exploration of mineral properties is highly speculative in nature, involves substantial expenditures and is frequently non-productive.***

Our future growth and profitability will depend, in part, on our ability to identify and acquire additional mineral rights, and on the costs and results of our continued exploration and development programs. Competition for attractive mineral exploration properties is intense. Our strategy is to expand our reserves through a broad program of exploration. Mineral exploration is highly speculative in nature and is frequently non-productive. Substantial expenditures are required to:

- establish ore reserves through drilling and metallurgical and other testing techniques;
- determine metal content and metallurgical recovery processes to extract metal from the ore; and
- construct, renovate or expand mining and processing facilities.

If we discover ore, it usually takes several years from the initial phases of exploration until production is possible. During this time, the economic feasibility of production may change. As a result of these uncertainties, there can be no assurance that we will successfully acquire additional mineral rights, or that our exploration programs will result in new proven and probable reserves in sufficient quantities to justify commercial operations at any of our properties, other than the San Cristobal project.

We consider from time to time the acquisition of operating or formerly operating mines. Our decisions to acquire these properties are based on a variety of factors including historical operating results, estimates of and assumptions about future reserves, cash and other operating costs, metals prices and projected economic returns, and evaluations of existing or potential liabilities associated with the property and its operation. Our estimates and assumptions may turn out to be erroneous or incorrect. In addition, there is intense competition for attractive properties. Accordingly, there is no assurance that our acquisition efforts will result in profitable mining operations.

*Our profitability depends, in part, on actual economic returns and actual costs of developing mines, which may differ significantly from our estimates and involve unexpected problems and delays.*

None of our mineral properties, including the San Cristobal project, has an operating history upon which we can base estimates of future cash operating costs. Our decision to develop the San Cristobal project is based on feasibility studies. Decisions about the development of other projects in the future may also be based on feasibility studies. Feasibility studies derive estimates of reserves and operating costs and project economic returns. Estimates of economic returns are based, in part, on assumptions about future metals prices. Our profitability will be affected by changes in the price of metals. Feasibility studies derive estimates of average cash operating costs based upon, among other things:

- anticipated tonnage, grades and metallurgical characteristics of ore to be mined and processed;
- anticipated recovery rates of silver and other metals from the ore;
- cash operating costs of comparable facilities and equipment; and
- anticipated climatic conditions.

Actual cash operating costs, production and economic returns may differ significantly from those anticipated by our studies and estimates.

There are a number of uncertainties inherent in the development and construction of any new mine, including the San Cristobal project. These uncertainties include:

- the timing and cost, which can be considerable, of the construction of mining and processing facilities;
- the availability and cost of skilled labor, power, water and transportation;
- the availability and cost of appropriate smelting and refining arrangements;
- the need to obtain necessary environmental and other governmental permits, and the timing of those permits; and
- the availability of funds to finance construction and development activities.

The costs, timing and complexities of mine construction and development are increased by the remote location of many mining properties, like the San Cristobal project. It is common in new mining operations to experience unexpected problems and delays during development, construction and mine start-up. In addition, delays in the commencement of mineral production often occur. Accordingly, there is no assurance that our future development activities will result in profitable mining operations.



***Title to our mineral properties may be challenged.***

Our policy is to seek to confirm the validity of our rights to title to, or contract rights with respect to, each mineral property in which we have a material interest. However, we cannot guarantee that title to our properties will not be challenged. Title insurance generally is not available, and our ability to ensure that we have obtained secure claims to individual mineral properties or mining concessions may be severely constrained. We have not conducted surveys of all of the properties or concessions in which we hold direct or indirect interests and, therefore, the precise area and location of these properties may be in doubt. Accordingly, our mineral properties may be subject to prior unregistered agreements, transfers or claims, and title may be affected by, among other things, undetected defects. In addition, we may be unable to operate our properties as permitted or to enforce our rights with respect to our properties.

***We may lose rights to properties if we fail to meet payment requirements or development or production schedules.***

We derive the rights to some of our mineral properties from leaseholds or purchase option agreements which require the payment of rent or other installment fees. In addition, we must make annual mining patent payments to the Bolivian government totaling approximately \$400,000 to maintain our concessions at San Cristobal. If we fail to make these payments when they are due, our rights to the property may lapse. There can be no assurance that we will always make payments by the requisite payment dates. Some contracts with respect to our mineral properties require development or production schedules. There can be no assurance that we will be able to meet any or all of the development or production schedules. In addition, our ability to transfer or sell our rights to some of our mineral properties requires governmental approvals or third party consents, which may not be granted.

***We cannot insure against all of the risks associated with mining.***

The business of mining is subject to a number of risks and hazards, including:

- adverse environmental effects;
- industrial accidents;
- labor disputes;
- technical difficulties due to unusual or unexpected geologic formations;
- failures of pit walls; and
- flooding and periodic interruptions due to inclement or hazardous weather conditions.

These risks can result in, among other things:

- damage to, and destruction of, mineral properties or production facilities;
- personal injury;
- environmental damage;
- delays in mining;
- monetary losses; and
- legal liability.

Although we maintain, and intend to continue to maintain, insurance with respect to our operations and mineral properties within ranges of coverage consistent with industry practice, there can be no assurance that insurance will be available at economically feasible premiums. Insurance against



environmental risks is not generally available. These environmental risks include potential liability for pollution or other disturbances resulting from mining exploration and production. In addition, not all risks associated with developing and producing silver, zinc, lead and other metals are included in coverage and some covered risks may result in liabilities which exceed policy limits. Further, we may elect to not seek coverage for all risks. The occurrence of an event that is not fully covered, or covered at all, by insurance, could have a material adverse effect on our financial condition, results of operations and cash flows.

***We may be subject to fines or other penalties in connection with an alleged violation of the Foreign Corrupt Practices Act.***

We have concluded, based on the results of an internal investigation conducted under the direction of our Audit Committee, that several senior employees of one of our South American subsidiaries were involved in making impermissible payments of approximately \$125,000 to government officials in 2003 and 2004 in connection with an inactive, early stage exploration property that is not related to any of our active exploration or development properties. We contacted the Department of Justice ( DOJ ) and SEC and reported the results of our internal investigation. We have been informed that the SEC has commenced an investigation with respect to these matters, including possible violations of the Foreign Corrupt Practices Act ( FCPA ). We are cooperating fully with the SEC investigation, and will cooperate with any investigation by the DOJ. There can be no assurance that governmental investigation of these matters will not conclude that violations of applicable laws have occurred. If we are found to have violated the FCPA or other applicable law, we may be subject to civil or criminal fines. We cannot predict the outcome of any investigations that may take place, including any fines or penalties that may be imposed.

***Our San Cristobal project and our exploration activities are in countries with developing economies and are subject to the risks of political and economic instability associated with these countries.***

We currently conduct exploration activities in countries with developing economies including Bolivia, Argentina, Mexico and Peru in Latin America. These countries and other emerging markets in which we may conduct operations have from time to time experienced economic or political instability. We may be materially adversely affected by risks associated with conducting operations in countries with developing economies, including:

- political instability and violence;
- war and civil disturbance;
- expropriation or nationalization;
- changing fiscal regimes;
- fluctuations in currency exchange rates;
- high rates of inflation;
- underdeveloped industrial and economic infrastructure; and
- unenforceability of contractual rights.

Changes in mining or investment policies or shifts in the prevailing political climate in any of the countries in which we conduct exploration and development activities could adversely affect our business. Our operations may be affected in varying degrees by government regulations with respect to, among other things:

- production restrictions;
- price controls;



- export and import controls;
- income and other taxes;
- maintenance of claims;
- environmental legislation;
- foreign ownership restrictions;
- foreign exchange and currency controls;
- labor;
- welfare benefit policies;
- land use;
- land claims of local residents;
- water use; and
- mine safety.

We cannot accurately predict the effect of these factors. In addition, legislation in the United States regulating foreign trade, investment and taxation could have a material adverse effect on our financial condition, results of operations and cash flows.

***Our San Cristobal project may be adversely affected by changes in government policies toward the mining industry.***

On May 1, 2006, President Evo Morales of Bolivia, who took office in January 2006, signed a decree to nationalize Bolivia's hydrocarbon industry, in order to take control of companies involved in the production, transport, refining or distribution of oil and gas. Although the oil and gas companies were permitted to continue operating, the nationalization decree provides that a larger share of the revenues derived from the production and sale of hydrocarbons in Bolivia will go to the government. The government is negotiating new arrangements separately with each of the oil and gas producers operating in Bolivia. President Morales and others in his administration have made public statements regarding their desire to recover natural resource production in Bolivia, including mining.

To date, there have been no formal proposals to nationalize the mining industry. The government may, however, alter its current policies with respect to the mining industry. If the San Cristobal project were nationalized, we might be unable to recover any significant portion of our investment in the project. The government could also substantially increase mining taxes or require significant royalty payments, which could have a material adverse effect on the profitability of the San Cristobal project. If as a result of changes in government policy, we did not complete construction of the San Cristobal project, we could have substantial liabilities in connection with our hedge positions. We do not maintain political risk insurance to cover losses that we may incur as a result of nationalization, expropriation or similar events in Bolivia. The lenders, other than Corporacion Andina de Fomento, do, however maintain political risk insurance to cover their loan and hedge position exposures. Amounts payable with respect to such insurance would be payable directly to the lenders or hedge counterparties and would not cover any portion of our investment in the project.

In addition, in May 2006, the Constitutional Court of Bolivia issued a ruling declaring certain articles of the Mining Code unconstitutional. The Court's ruling is not effective until May 2008 and the ruling urges the Bolivian Congress to enact legislation during that time which may supersede the ruling. Among other things, the ruling may limit the transferability of mining concessions and restrict our ability to transfer or mortgage our mining concessions including the San Cristobal concessions that we have mortgaged as collateral to the lenders providing financing for the San Cristobal Project. There can be no assurance that the Bolivian Congress will enact legislation to permit the transfer or mortgage of concessions prior to the May 2008 implementation and if implemented, what the impact of the Court's ruling will be. If the Court's ruling is implemented and causes a negative effect on the validity of our existing San Cristobal mortgages that situation could result in a default under the San Cristobal Project finance facility, which could result in acceleration of the loan and hedge liabilities.

***Our activities are subject to foreign environmental laws and regulations which may materially adversely affect our future operations.***

We conduct mineral exploration and development activities primarily in South America and Central America, and are most active in Bolivia, where the San Cristobal project is located, and Peru, Argentina and Mexico. With the development of San Cristobal, we also expect to conduct mining operations in Bolivia. These countries have laws and regulations which control the exploration and mining of mineral properties and their effects on the environment, including air and water quality, mine reclamation, waste handling and disposal, the protection of different species of flora and fauna and the preservation of lands. These laws and regulations will require us to acquire permits and other authorizations for certain activities. In many countries, including Bolivia, there is relatively new comprehensive environmental legislation, and the permitting and authorization processes may not be established or predictable. There can be no assurance that we will be able to acquire necessary permits or authorizations on a timely basis, if at all. Delays in acquiring any permit or authorization could increase the development cost of our projects and could delay the commencement of production.

Environmental legislation in many countries is evolving in a manner which will likely require stricter standards and enforcement, increased fines and penalties for non-compliance, more stringent environmental assessments of proposed projects and a heightened degree of responsibility for companies and their officers, directors and employees. In Bolivia, where there is relatively new environmental legislation, enforcement activities and strategies may be under development, and thus may not be predictable. We cannot predict what environmental legislation or regulations will be enacted or adopted in the future or how future laws and regulations will be administered or interpreted. Compliance with more stringent laws and regulations, as well as potentially more vigorous enforcement policies or regulatory agencies or stricter interpretation of existing laws, may (1) necessitate significant capital outlays, (2) cause us to delay, terminate or otherwise change our intended activities with respect to one or more projects and (3) materially adversely affect our future operations.

Many of our exploration and development properties are located in historic mining districts where prior owners may have caused environmental damage which may not be known to us or to the regulators. In most cases, we have not sought complete environmental analyses of our mineral properties and have not conducted comprehensive reviews of the environmental laws and regulations in every jurisdiction in which we own or control mineral properties. To the extent we are subject to environmental requirements or liabilities, the cost of compliance with these requirements and satisfaction of these liabilities would reduce our net cash flow and could have a material adverse effect on our financial condition and results of operations. If we are unable to fund fully the cost of remediation of any environmental condition, we may be required to suspend operations or enter into interim compliance measures pending completion of the required remediation.

***We compete against larger and more experienced companies.***

The mining industry is intensely competitive. Many of the largest mining companies are primarily producers of base metals, and may become interested in the types of silver deposits on which we are focused because these deposits typically are polymetallic, containing significant quantities of base metals including zinc, lead and copper. Many of these companies have greater financial resources, operational experience and technical capabilities than we have. We may encounter increasing competition from other mining companies in our efforts to acquire mineral properties and hire experienced mining professionals. Increased competition in our business could adversely affect our ability to attract necessary capital funding or acquire suitable producing properties or prospects for mineral exploration in the future.

***Our ability to obtain dividends or other distributions from our subsidiaries may be subject to restrictions imposed by law, foreign currency exchange regulations and our financing arrangements.***

We conduct, and will continue to conduct, all of our operations through subsidiaries. Our ability to obtain dividends or other distributions from our subsidiaries may be subject to restrictions on dividends or repatriation of earnings under applicable local law, monetary transfer restrictions and foreign currency exchange regulations in the jurisdictions in which the subsidiaries operate. Further, our debt financing for the San Cristobal project includes requirements that we satisfy certain debt service reserve or operating reserve requirements or meet debt payment obligations prior to payment to us of any dividends by our subsidiaries. Our subsidiaries' ability to pay dividends or make other distributions to us is also subject to their having sufficient funds to do so. If our subsidiaries are unable to pay dividends or make other distributions, our growth may be inhibited unless we are able to obtain additional debt or equity financing on acceptable terms. In the event of a subsidiary's liquidation, we may lose all or a portion of our investment in that subsidiary.

***We may not be able to raise the funds necessary to explore and develop our mineral properties.***

Although we believe that we have raised sufficient amounts to fund the expected cost of developing and constructing the San Cristobal project, we will need additional external financing to fund the exploration and development of our other mineral properties. Sources of external financing may include bank borrowings and future debt and equity offerings. There can be no assurance that such future financing will be available on acceptable terms, or at all. The failure to obtain financing would have a material adverse effect on our growth strategy and our results of operations and financial condition. The mineral properties that we are likely to develop are expected to require significant capital expenditures. There can be no assurance that we will be able to secure the financing necessary to retain our rights to, or to begin or sustain production at, our mineral properties.

***We may be unable to comply with the terms and covenants of the debt financing for our San Cristobal project.***

In December 2005, in order to finance construction and startup costs for the San Cristobal project, we entered into a \$225 million project loan facility with several large financial institutions. At November 3, 2006, we had borrowed \$140 million pursuant to the facility and expect to draw the remaining amounts as part of our funding for the construction of the project. Our obligations under the facility are secured by substantially all of the assets of certain of our subsidiaries, including our Bolivian subsidiary that holds the San Cristobal project. The terms of the loan facility obligate Apex Silver as well as certain of our subsidiaries, including our Bolivian subsidiary, to meet numerous ongoing conditions and covenants. These covenants include obligations related to the construction and operation of the project as well as certain financial covenants pertaining to Apex Silver and our subsidiaries. We already have been unable to meet certain conditions and covenants and have obtained temporary or permanent waivers from our lenders, and we may be unable to meet one or more conditions and covenants in the future. Failure to meet one or

more of these conditions and covenants, or our inability to obtain waivers from our lenders in a timely fashion, could prevent us from future borrowing under the loan facility and could cause the lenders to declare us in default on our existing obligations. If such a default were declared and remained uncured, all borrowed amounts could become due and payable immediately. Since we currently have no operations or source of funds, there can be no assurance that we would be able to repay such amounts. If we are unable to repay the borrowed amounts or otherwise perform our obligations under the loan facility, the lenders may be entitled, in certain circumstances, to enforce their lien and take possession of the secured assets, including the assets that comprise the San Cristobal project.

***We depend on the services of key executives.***

We are dependent on the services of key executives including our chairman and our chief executive officer and a small number of highly skilled and experienced executives and personnel focused on the development of the San Cristobal project. Due to the relatively small size of Apex Silver, the loss of these persons or our inability to attract and retain additional highly skilled employees required for the development of the San Cristobal project may delay or otherwise adversely affect the development of the San Cristobal project, which could have a material adverse effect on our business or future operations.

***The substantial control of Apex Silver by our directors, officers and 5% shareholders could have a significant effect in delaying, deferring or preventing a change in control of Apex Silver or other events which could be of benefit to our other shareholders.***

As of November 3, 2006, the directors and officers and 5% shareholders of Apex Silver beneficially owned approximately 34 million, or 58% of our outstanding shares, assuming the conversion of currently exercisable options and warrants. This level of ownership by these persons could have a significant effect in delaying, deferring or preventing a change in control of Apex Silver or other events which could be of benefit to our other shareholders.

***Apex Silver and certain lower tier subsidiaries will likely be treated as passive foreign investment companies for U.S. federal income tax purposes.***

We believe that we likely were a passive foreign investment company ( PFIC ) with respect to 2004 and 2005, and likely will be a PFIC in 2006 as well as potentially with respect to future years. If we are a PFIC, U.S. holders of ordinary shares will be subject to certain adverse U.S. federal income tax rules. Under the PFIC rules, a U.S. holder who disposes or is deemed to dispose of ordinary shares at a gain, or who receives or is deemed to receive certain distributions with respect to ordinary shares, generally will be required to treat such gain or distributions as ordinary income and pay an interest charge on the tax imposed with respect thereto. Certain elections may sometimes be used to reduce the adverse impact of the PFIC rules for holders of ordinary shares (so-called QEF elections and mark-to-market elections), but these elections may accelerate the recognition of taxable income and may result in the recognition of ordinary income. The PFIC rules are extremely complex, and prospective investors are urged to consult their own tax advisers regarding the potential consequences to them of Apex Silver being classified as a PFIC.

In addition, special adverse rules apply to U.S. holders of our shares for any year in which we are a PFIC and have a non-U.S. subsidiary that is also a PFIC (a lower tier PFIC ). As discussed below, we likely had a lower tier PFIC for 2004 and 2005 and likely will have a lower tier PFIC for 2006 and possibly later years. U.S. holders of ordinary shares generally will be deemed to own, and will be subject to the PFIC rules with respect to, their indirect ownership in any lower tier PFIC. If we are a PFIC and a U.S. holder of ordinary shares does not make a so-called QEF election in respect of any lower tier PFIC, the U.S. holder could incur liability for the deferred tax and interest charge described above if we receive a distribution from, or dispose of all or part of our interest in, the lower tier PFIC or if the U.S. holder



disposes of all or part of its ordinary shares. Moreover, a QEF election that is made for Apex Silver will not apply to a lower tier subsidiary. While a separate QEF election may be made for a lower tier PFIC in order to reduce the adverse impact of the PFIC rules for holders of ordinary shares with respect to that lower tier PFIC, this election may accelerate the recognition of taxable income and may result in the recognition of ordinary income. In addition, any U.S. holder of ordinary shares who has made a mark-to-market election for Apex Silver could be subject to the PFIC rules with respect to income of the lower tier PFIC, even though the value of the lower tier PFIC already was subject to tax via mark-to-market adjustments.

We previously disclosed that, for 2005 and all subsequent taxable years, the potential for our lower tier subsidiaries to be classified as PFICs with respect to new investors could be substantially eliminated without adverse tax consequences. In connection with the completion of the debt financing for the San Cristobal project, however, we were required at the end of 2005 to contribute certain amounts to the Bolivian subsidiary that holds the principal assets associated with the project. Following the contribution of those amounts, that Bolivian subsidiary is earning significant interest income and consequently, we believe that subsidiary was a PFIC in 2005 and will likely be a PFIC in 2006. As a result, U.S. holders of ordinary shares may be subject to the adverse tax treatment described above.

As to whether we may have owned lower tier PFICs in prior years, in certain filings in years before 2006 we stated that we believed that (i) Apex Silver may have been a PFIC but (ii) none of our non-U.S. lower tier subsidiaries had constituted PFICs. We now believe that certain of our non-U.S. lower tier subsidiaries, including our Bolivian subsidiary that owns the San Cristobal project, constituted PFICs in certain prior years. As a result, there is a possibility that some shareholders may suffer adverse U.S. federal income tax consequences that arguably might not have been suffered had they been aware of the prior PFIC status of these lower tier subsidiaries. Such shareholders may, however, be able to make retroactive elections in some cases that would mitigate any such adverse consequences. Moreover, under applicable proposed regulations, the fact that our lower tier subsidiaries of any consequence may not have had earnings and profits for any taxable year since formation may arguably eliminate any such tax consequences in respect of prior taxable years.

In the future, holders of our shares may claim that they have suffered adverse tax consequences for which they could have taken remedial action if they had been aware that such subsidiaries constituted PFICs. It is not possible for us to determine the number of shareholders, if any, that might make such a claim or to determine the merits or impact of such claims on us and whether such claims may be material to us.

#### **FORWARD-LOOKING STATEMENTS**

Some information contained in or incorporated by reference into this prospectus may contain forward-looking statements within the meaning of Section 27A of the Securities Act and Section 21E of the Securities Exchange Act of 1934. These statements include comments regarding our San Cristobal project, including development and construction plans, capital and other costs, funding and timing; the timing of completion of San Cristobal construction, start-up and commencement of operations; anticipated spending during 2006 and 2007; increased funding requirements, capital costs and working capital requirements for the San Cristobal project; contractual arrangements with Sumitomo, including Sumitomo's obligations with respect to deferred payments and funding commitments; the likely increased volatility in future earnings due to forward sales, derivative positions and metals trading activity; anticipated San Cristobal production and operating costs and the timing and amounts of spending on the evaluation and expansion of our exploration portfolio.

The use of any of the words anticipate, continue, likely, estimate, expect, may, could, will, project, should, believe and similar words is intended to identify uncertainties. We believe the expectations reflected in those forward-looking statements are reasonable. We cannot assure

you, however, that these expectations will prove to be correct. Our actual results could differ materially from those anticipated in these forward-looking statements as a result of the risk factors set forth below and other factors set forth in, or incorporated by reference into, this report:

- worldwide economic and political events affecting the supply of and demand for silver, zinc and lead;
- political unrest and economic instability in Bolivia including the communities located near the San Cristobal project and other countries in which we conduct business;
- future actions of the Bolivian government with respect to nationalization of gas and other natural resources;
- changes in the mining or tax laws or policies of the Bolivian government;
- volatility in market prices for silver, zinc and lead;
- financial market conditions;
- uncertainties associated with developing a new mine, including potential cost overruns and the unreliability of production and cost estimates in early stages of mine development;
- variations in ore grade and other characteristics affecting mining, crushing, milling and smelting operations and mineral recoveries;
- geological, technical, permitting, mining and processing problems;
- the availability, terms, conditions and timing of required government permits and approvals;
- failure to comply with obligations under the San Cristobal project finance facility;
- disagreements with Sumitomo Corporation regarding future development or operation of San Cristobal, or failure to comply with agreements with Sumitomo related to the San Cristobal project;
- uncertainties regarding future changes in applicable law or implementation of existing law, including Bolivian laws relating to tax, mining, environmental matters and exploration;
- the availability, terms and timing of arrangements for smelting and variations in smelting operations and capacity;
- the availability of experienced employees; and
- the factors discussed under Risk Factors.

**Many of those factors are beyond our ability to control or predict. You should not unduly rely on these forward-looking statements. These statements speak only as of the date of this prospectus. Except as required by law, we are not obligated to publicly release any revisions to these forward-looking statements to reflect future events or developments. All subsequent written and oral forward-looking statements attributable to us and persons acting on our behalf are qualified in their entirety by the cautionary statements contained in this section and elsewhere in this prospectus.**



#### **RATIO OF EARNINGS TO FIXED CHARGES**

We are a mining exploration and development company that holds a diversified portfolio of privately owned and controlled silver and other mineral exploration properties. None of these properties is in production, and, consequently, we have no current operating income or operating cash flow. Accordingly, no ratios are shown for any of the years ended December 31, 2001, 2002, 2003, 2004 and 2005 and the nine-month period ended September 30, 2006 as earnings were not sufficient to cover fixed charges.

We did not have any material amount of indebtedness for which interest payments were required during the years ended December 31, 2001, 2002, and 2003, and, therefore the amount by which earnings were inadequate to cover fixed charges for these years was not material. We had interest expense of \$3.6 million and \$7.3 million for the year ended December 31, 2004 and 2005, respectively, and interest expense of \$0.7 million for the nine months ended September 30, 2006. Because we had a net loss from operations for each of those periods, our earnings were insufficient to cover fixed charges by \$15.3 million in 2004, \$59.3 million in 2005 and \$50.6 million in the nine-month period ended September 30, 2006.

#### **USE OF PROCEEDS**

Unless a prospectus supplement indicates otherwise, the net proceeds we receive from the sale of the securities offered by this prospectus and the accompanying prospectus supplement will be used to continue further evaluation, exploration, advancement and expansion of our portfolio of exploration properties or for other general corporate purposes.

#### **DESCRIPTION OF DEBT SECURITIES**

The following description, together with the additional information we include in any applicable prospectus supplement, summarizes the material terms and provisions of the debt securities that we may offer under this prospectus. While the terms we have summarized below will apply generally to any future debt securities we may offer under this prospectus, we will describe the particular terms of any debt securities that we may offer in more detail in the applicable prospectus supplement. The terms of any debt securities we offer under a prospectus supplement may differ from the terms we describe below. However, no prospectus supplement shall fundamentally change the terms that are set forth in this prospectus or offer a security that is not registered and described in this prospectus at the time of its effectiveness. As of the date of this prospectus, we have no outstanding registered debt securities.

We will issue the senior debt securities under the senior indenture that we will enter into with the trustee named in the senior indenture. We will issue the subordinated debt securities under the subordinated indenture that we will enter into with the trustee named in the subordinated indenture. We have filed forms of these documents as exhibits to the registration statement which includes this prospectus. We use the term indentures in this prospectus to refer to both the senior indenture and the subordinated indenture.

The indentures will be qualified under the Trust Indenture Act of 1939, as amended, or Trust Indenture Act. We use the term debenture trustee to refer to either the trustee under the senior indenture or the trustee under the subordinated indenture, as applicable.

The following summaries of material provisions of the senior debt securities, the subordinated debt securities and the indentures are subject to, and qualified in their entirety by reference to, all the provisions of the indenture applicable to a particular series of debt securities. We urge you to read the applicable prospectus supplements related to the debt securities that we sell under this prospectus, as well as the indenture that contains the terms of the debt securities. Except as we may otherwise indicate, the terms of the senior indenture and the subordinated indenture are identical.

**General**

We will describe in each applicable prospectus supplement the terms relating to a series of debt securities, including:

- the title;
- the principal amount being offered, and if a series, the total amount authorized and the total amount outstanding;
- any limit on the amount that may be issued;
- whether or not we will issue the series of debt securities in global form, the terms and who the depositary will be;
- the maturity date;
- whether and under what circumstances, if any, we will pay additional amounts on any debt securities held by a person who is not a United States person for tax purposes, and whether we can redeem the debt securities if we have to pay such additional amounts;
- the annual interest rate, which may be fixed or variable, or the method for determining the rate and the date interest will begin to accrue, the dates interest will be payable and the regular record dates for interest payment dates or the method for determining such dates;
- whether or not the debt securities will be secured or unsecured, and the terms of any secured debt;
- the terms of the subordination of any series of subordinated debt;
- the place where payments will be payable;
- restrictions on transfer, sale or other assignment, if any;
- our right, if any, to defer payment of interest and the maximum length of any such deferral period;
- the date, if any, after which, and the price at which, we may, at our option, redeem the series of debt securities pursuant to any optional or provisional redemption provisions and the terms of those redemptions provisions;
- the date, if any, on which, and the price at which we are obligated, pursuant to any mandatory sinking fund or analogous fund provisions or otherwise, to redeem, or at the holder's option to purchase, the series of debt securities and the currency or currency unit in which the debt securities are payable;
- whether the indenture will restrict our ability or the ability of our subsidiaries to:
  - incur additional indebtedness;
  - issue additional securities;
  - create liens;
  - pay dividends or make distributions in respect of our capital stock or the capital stock of our subsidiaries;
  - redeem capital stock;

- place restrictions on our subsidiaries' ability to pay dividends, make distributions or transfer assets;
- make investments or other restricted payments;

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- sell or otherwise dispose of assets;
- enter into sale leaseback transactions;
- engage in transactions with stockholders or affiliates;
- issue or sell stock of our subsidiaries; or
- effect a consolidation or merger;
- whether the indenture will require us to maintain any interest coverage, fixed charge, cash flow-based, asset-based or other financial ratios;
- a discussion of certain material or special United States federal income tax considerations applicable to the debt securities;
- information describing any book-entry features;
- provisions for a sinking fund purchase or other analogous fund, if any;
- whether the debt securities are to be offered at a price such that they will be deemed to be offered at an original issue discount as defined in paragraph (a) of Section 1273 of the Internal Revenue Code;
- the denominations in which we will issue the series of debt securities, if other than denominations of \$1,000 and any integral multiple thereof; and
- any other specific terms, preferences, rights or limitations of, or restrictions on, the debt securities, including any additional events of default or covenants provided with respect to the debt securities, and any terms that may be required by us or advisable under applicable laws or regulations.

#### **Conversion or Exchange Rights**

We will set forth in the applicable prospectus supplement the terms on which a series of debt securities may be convertible into or exchangeable for our ordinary shares or our other securities. We will include provisions as to whether conversion or exchange is mandatory, at the option of the holder or at our option. We may include provisions pursuant to which the number of shares of our ordinary shares or our other securities that the holders of the series of debt securities receive would be subject to adjustment.

#### **Consolidation, Merger or Sale**

The indentures do not contain any covenant that restricts our ability to merge or consolidate, or sell, convey, transfer or otherwise dispose of all or substantially all of our assets. However, any successor to or acquiror of such assets must assume all of our obligations under the indentures or the debt securities, as appropriate. If the debt securities are convertible for our other securities or securities of other entities, the person with whom we consolidate or merge or to whom we sell all of our property must make provisions for the conversion of the debt securities into securities that the holders of the debt securities would have received if they had converted the debt securities before the consolidation, merger or sale.

#### **Events of Default Under the Indenture**

The following are events of default under the indentures with respect to any series of debt securities that we may issue:

- if we fail to pay interest when due and payable and our failure continues for 90 days and the time for payment has not been extended or deferred;

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- if we fail to pay the principal, premium or sinking fund payment, if any, when due and payable and the time for payment has not been extended or delayed;
- if we fail to observe or perform any other covenant contained in the debt securities or the indentures, other than a covenant specifically relating to another series of debt securities, and our failure continues for 90 days after we receive notice from the debenture trustee or holders of at least 25% in aggregate principal amount of the outstanding debt securities of the applicable series; and
- if specified events of bankruptcy, insolvency or reorganization occur.

If an event of default with respect to debt securities of any series occurs and is continuing, other than an event of default specified in the last bullet point above, the debenture trustee or the holders of at least 25% in aggregate principal amount of the outstanding debt securities of that series, by notice to us in writing, and to the debenture trustee if notice is given by such holders, may declare the unpaid principal of, premium, if any, and accrued interest, if any, due and payable immediately. If an event of default specified in the last bullet point above occurs with respect to us, the principal amount of and accrued interest, if any, of each issue of debt securities then outstanding shall be due and payable without any notice or other action on the part of the debenture trustee or any holder.

The holders of a majority in principal amount of the outstanding debt securities of an affected series may waive any default or event of default with respect to the series and its consequences, except defaults or events of default regarding payment of principal, premium, if any, or interest, unless we have cured the default or event of default in accordance with the indenture. Any waiver shall cure the default or event of default.

Subject to the terms of the indentures, if an event of default under an indenture shall occur and be continuing, the debenture trustee will be under no obligation to exercise any of its rights or powers under such indenture at the request or direction of any of the holders of the applicable series of debt securities, unless such holders have offered the debenture trustee reasonable indemnity. The holders of a majority in principal amount of the outstanding debt securities of any series will have the right to direct the time, method and place of conducting any proceeding for any remedy available to the debenture trustee, or exercising any trust or power conferred on the debenture trustee, with respect to the debt securities of that series, provided that:

- the direction so given by the holder is not in conflict with any law or the applicable indenture; and
- subject to its duties under the Trust Indenture Act, the debenture trustee need not take any action that might involve it in personal liability or might be unduly prejudicial to the holders not involved in the proceeding.

A holder of the debt securities of any series will only have the right to institute a proceeding under the indentures or to appoint a receiver or trustee, or to seek other remedies if:

- the holder has given written notice to the debenture trustee of a continuing event of default with respect to that series;
- the holders of at least 25% in aggregate principal amount of the outstanding debt securities of that series have made written request, and such holders have offered reasonable indemnity to the debenture trustee to institute the proceeding as trustee; and
- the debenture trustee does not institute the proceeding, and does not receive from the holders of a majority in aggregate principal amount of the outstanding debt securities of that series other conflicting directions within 90 days after the notice, request and offer.

These limitations do not apply to a suit instituted by a holder of debt securities if we default in the payment of the principal, premium, if any, or interest on, the debt securities.

We will periodically file statements with the debenture trustee regarding our compliance with specified covenants in the indentures.

#### **Modification of Indenture; Waiver**

We and the debenture trustee may change an indenture without the consent of any holders with respect to specific matters:

- to fix any ambiguity, defect or inconsistency in the indenture;
- to comply with the provisions described above under Consolidation, Merger or Sale ;
- to comply with any requirements of the SEC in connection with the qualification of any indenture under the Trust Indenture Act;
- to add to, delete from or revise the conditions, limitations, and restrictions on the authorized amount, terms, or purposes of issue, authentication and delivery of debt securities, as set forth in the indenture;
- to provide for the issuance of and establish the form and terms and conditions of the debt securities of any series as provided under General to establish the form of any certifications required to be furnished pursuant to the terms of the indenture or any series of debt securities, or to add to the rights of the holders of any series of debt securities;
- to evidence and provide for the acceptance of appointment hereunder by a successor trustee;
- to provide for uncertificated debt securities and to make all appropriate changes for such purpose;
- to add to our covenants such new covenants, restrictions, conditions or provisions for the protection of the holders, and to make the occurrence, or the occurrence and the continuance, of a default in any such additional covenants, restrictions, conditions or provisions an event of default; or
- to change anything that does not materially adversely affect the interests of any holder of debt securities of any series.

In addition, under the indentures, the rights of holders of a series of debt securities may be changed by us and the debenture trustee with the written consent of the holders of at least a majority in aggregate principal amount of the outstanding debt securities of each series that is affected. However, we and the debenture trustee may only make the following changes with the consent of each holder of any outstanding debt securities affected:

- extending the fixed maturity of the series of debt securities;
- reducing the principal amount, reducing the rate of or extending the time of payment of interest, or reducing any premium payable upon the redemption of any debt securities; or
- reducing the percentage of debt securities, the holders of which are required to consent to any amendment, supplement, modification or waiver.

#### **Discharge**

Each indenture provides that we can elect to be discharged from our obligations with respect to one or more series of debt securities, except for specified obligations, including obligations to:

- register the transfer or exchange of debt securities of the series;

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- replace stolen, lost or mutilated debt securities of the series;
- maintain paying agencies;
- hold monies for payment in trust;
- recover excess money held by the debenture trustee;
- compensate and indemnify the debenture trustee; and
- appoint any successor trustee.

In order to exercise our rights to be discharged, we must deposit with the debenture trustee money or government obligations sufficient to pay all the principal of, any premium and interest on, the debt securities of the series on the dates payments are due.

**Form, Exchange and Transfer**

We will issue the debt securities of each series only in fully registered form without coupons and, unless we otherwise specify in the applicable prospectus supplement, in denominations of \$1,000 and any integral multiple thereof. The indentures provide that we may issue debt securities of a series in temporary or permanent global form and as book-entry securities that will be deposited