

PAN AMERICAN SILVER CORP
Form 40-F
March 12, 2019

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 40-F

REGISTRATION STATEMENT PURSUANT TO SECTION 12 OF THE
SECURITIES EXCHANGE ACT OF 1934

ANNUAL REPORT PURSUANT TO SECTION 13(a) OR 15(d) OF THE
SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended December 31, 2018 Commission File Number 000-13727

Pan American Silver Corp.
(Exact name of Registrant as specified in its charter)

| | | |
|--|---|--|
| British Columbia | 1044 | Not Applicable (I.R.S. Employer Identification No.) |
| (Province or other Jurisdiction of Incorporation or Organization) | (Primary Standard Industrial Classification Code Number) | |

1500 – 625 Howe Street
Vancouver, British Columbia
V6C 2T6
(604) 684-1175
(Address and telephone number of Registrant's principal executive offices)

CT Corporation
28 Liberty St.
New York, NY 10005
(212) 894-8940
(Name, address (including zip code) and telephone number
(including area code) of agent for service in the United States)

Securities registered or to be registered pursuant to Section 12(b) of the Act.
Title of Each Class Name of Each Exchange on Which Registered
Common Shares, No Par Value The Nasdaq Stock Market

Securities registered or to be registered pursuant to Section 12(g) of the Act.
Title of Each Class
Contingent Value Rights

Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act.
None

For annual reports, indicate by check mark the information filed with this Form:

Annual information form Audited annual financial statements

Indicate the number of outstanding shares of each of the issuer's classes of capital or common stock as of the close of the period covered by this annual report:

The Registrant had 153,448,356 Common Shares outstanding as at December 31, 2018.

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Exchange Act during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports) and (2) has been subject to such filing requirements for the past 90 days.

Yes No

Indicate by check mark whether the Registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this Chapter) during the preceding 12 months (or for such shorter period that the Registrant was required to submit such files).

Yes No

Indicate by check mark whether the Registrant is an emerging growth company as defined in Rule 12b-2 of the Exchange Act.

Emerging growth company Yes _____ No

If an emerging growth company that prepares its financial statements in accordance with U.S. GAAP, indicate by check mark if the Registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards* provided pursuant Section 13(a) of the Exchange Act.

Yes _____ No

NOTE TO UNITED STATES INVESTORS CONCERNING
ESTIMATES OF MEASURED, INDICATED AND INFERRED MINERAL RESOURCES

Unless otherwise indicated, all reserve and resource estimates included in this Annual Report on Form 40-F have been prepared in accordance with Canadian National Instrument 43-101 — Standards of Disclosure for Mineral Projects (“NI 43-101”) and the Canadian Institute of Mining, Metallurgy and Petroleum classification system. NI 43-101 is a rule developed by the Canadian Securities Administrators that establishes standards for all public disclosure an issuer makes of scientific and technical information concerning mineral projects. Canadian standards, including NI 43-101, differ significantly from the requirements of the United States Securities and Exchange Commission (the “SEC”), and reserve and resource information included herein may not be comparable to similar information disclosed by U.S. companies. In particular, and without limiting the generality of the foregoing, this Annual Report on Form 40-F uses the terms “measured resources,” “indicated resources” and “inferred resources.” U.S. investors are advised that, while such terms are recognized and required by Canadian securities laws, the SEC does not recognize them. The requirements of NI 43-101 for the identification of “reserves” are also not the same as those of the SEC, and reserves reported by the Registrant in compliance with NI 43-101 may not qualify as “reserves” under SEC standards. Under U.S. standards, mineralization may not be classified as a “reserve” unless the determination has been made that the mineralization could be economically and legally produced or extracted at the time the reserve determination is made. U.S. investors are cautioned not to assume that any part of a “measured resource” or “indicated resource” will ever be converted into a “reserve.” U.S. investors should also understand that “inferred resources” have a great amount of uncertainty as to their existence and as to their economic and legal feasibility. It cannot be assumed that all or any part of “inferred resources” exist, are economically or legally mineable or will ever be upgraded to a higher category. Under Canadian rules, estimated “inferred resources” may not form the basis of feasibility or pre-feasibility studies except in rare cases. In addition, disclosure of “contained ounces” in a mineral resource is permitted disclosure under Canadian regulations. However, the SEC normally only permits issuers to report mineralization that does not constitute “reserves” by SEC standards as in place tonnage and grade, without reference to unit measures. Accordingly, information concerning mineral deposits set forth in this Annual Report on Form 40-F may not be comparable with information made public by companies that report in accordance with U.S. standards.

A. Disclosure Controls and Procedures

Disclosure controls and procedures are defined in Rules 13a-15(e) and 15d-15(e) under the U.S. Securities Exchange Act of 1934, as amended (the "Exchange Act"), as those controls and other procedures that are designed to ensure that information required to be disclosed by the Registrant in reports filed or submitted by it under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms. Rules 13a-15(e) and 15d-15(e) also provide that disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by the Registrant is accumulated and communicated to the Registrant's management as appropriate to allow timely decisions regarding required disclosure. As of December 31, 2018, the end of the period covered by this Annual Report on Form 40-F, the Registrant carried out an evaluation, under the supervision and with the participation of the Registrant's management, including the Registrant's Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of the Registrant's disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) of the Exchange Act. Based on that evaluation, the Chief Executive Officer and Chief Financial Officer have concluded that, as of December 31, 2018, the Registrant's disclosure controls and procedures were effective. See "Disclosure Controls and Procedures" in Management's Discussion and Analysis for the fiscal year ended December 31, 2018, filed as Exhibit No. 1.2 to this Annual Report on Form 40-F.

B. Management's Annual Report on Internal Control Over Financial Reporting

See "Management's Report on Internal Control over Financial Reporting" in Management's Discussion and Analysis for the fiscal year ended December 31, 2018, filed as Exhibit 1.2 to this Annual Report on Form 40-F.

C. Attestation Report of the Independent Registered Public Accounting Firm

The attestation report of Deloitte LLP, the Registrant's Independent Registered Public Accounting Firm, on management's assessment of the Registrant's internal control over financial reporting is included in the "Report of Independent Registered Public Accounting Firm" filed with the Registrant's Audited Consolidated Financial Statements for the fiscal years ended December 31, 2018 and 2017, as Exhibit 1.3 to this Annual Report on Form 40-F.

D. Changes in Internal Control Over Financial Reporting

There was no change in the Registrant's internal control over financial reporting that occurred during the period covered by this report that has materially affected, or is reasonably likely to materially affect, the Registrant's internal control over financial reporting.

E. Notice of Pension Fund Blackout Period

The Registrant was not required by Rule 104 of Regulation BTR to send any notice to any of its directors or executive officers during the fiscal year ended December 31, 2018.

F. Audit Committee Financial Expert

The Registrant's board of directors has determined that Michael Carroll, an individual serving on the Audit Committee of the Registrant's board of directors, is an audit committee financial expert, as that term is defined in General Instruction B(8)(b) of Form 40-F and is independent under Rule 10A-3 under the Exchange Act and the rules and regulations of the Nasdaq Stock Market.

The Commission has indicated that the designation of a person as an audit committee financial expert does not make such person an "expert" for any purpose, impose any duties, obligations or liabilities on such person that are greater than those imposed on members of the audit committee and the board of directors who do not carry this designation or affect the duties, obligations or liability of any other member of the audit committee or board of directors.

G. Code of Ethical Conduct

The Registrant has adopted a global code of ethical conduct (the "Code") that applies to all directors, officers and employees. A copy of the Code may be obtained at www.panamericansilver.com. No waivers from the requirements of the Code were granted in the fiscal year ended December 31, 2018.

H. Principal Accountant Fees and Services and Audit Committee Pre-Approval Policies

Information about the Registrant's principal accountant fees and services and a description of the Registrant's pre-approval policies and procedures is included under the heading "External Auditor Service Fees" of the Registrant's Annual Information Form for the fiscal year ended December 31, 2018, filed as Exhibit 1.1 to this Annual Report on Form 40-F.

I. Off-Balance Sheet Arrangements

The Registrant is not a party to any off-balance sheet arrangements that have or are reasonably likely to have a current or future effect on its financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources that is material to investors.

J. Tabular Disclosure of Contractual Obligations

The required disclosure can be found under the heading "Commitments" of Management's Discussion and Analysis for the fiscal year ended December 31, 2018, filed as Exhibit 1.2 to this Annual Report on Form 40-F.

K. Nasdaq Stock Market Exemptions

On March 21, 2018, the Registrant informed the Nasdaq Stock Market that as permitted by Rule 4350(a)(1) of the Nasdaq Marketplace Rules, it intended to follow Canadian law with respect to independence requirements for members of its Human Resources and Compensation Committee (the "Compensation Committee") and its Nominating and Governance Committee (the "Nominating Committee") in lieu of those required by Rules 5605(d)(2)(A) and 5605(e)(1)(B) of the Nasdaq Marketplace Rules, respectively. Rules 5605(d)(2)(A) and 5605(e)(1)(B) require members of compensation committees and nominations committees be independent pursuant to Rule 5605(a)(2)(E) of the Nasdaq Marketplace Rules. The Corporate Governance Guidelines in Canadian National Instrument 58-201 recommend that a company's board of directors appoint a compensation committee composed entirely of independent directors and the Disclosure of Corporate Governance Practices in Canadian National Instrument 58-101 requires (a) disclosure whether or not a company's board of directors has a compensation committee composed entirely of independent directors, and, if not, (b) a description of what steps the board takes to ensure an objective process for determining such compensation. There is no equivalent independence guidance with respect to a nominating committee, but Canadian National Instrument 58-101 requires (a) disclosure whether or not a company's board of directors has a nominating committee composed entirely of independent directors, and, if not, (b) a description of what steps the board takes to encourage an objective nomination process. Mr. Christopher Noel Dunn, a member of both the Compensation Committee and the Nominating Committee until the Registrant's Board of Directors accepted his resignation from each of these committees on March 22, 2018, was not considered independent as he served as an executive officer of another publicly listed company where, for an approximate ten month period from May 2017 to March 2018, an executive officer of the Registrant served on its compensation committee. The Registrant's executive officer stepped down and no longer serves on that listed company's compensation committee. The Registrant provided relevant disclosure required by Canadian National Instrument 58-101 in its Management Information Circular dated April 4, 2018. Mr. Dunn was replaced on those committees by an independent director pursuant to Rule 5605(a)(2)(E) of the Nasdaq Marketplace Rules and the Registrant now fully complies with Rules 5605(d)(2)(A) and 5605(e)(1)(B) of the Nasdaq Marketplace Rules. Mr. Dunn did not stand for re-election at Pan American's annual general and special meeting of its shareholders on May 9, 2018.

On March 16, 2005, the Registrant informed the Nasdaq Stock Market that as permitted by Rule 4350(a)(1) of the Nasdaq Marketplace Rules, it intended to follow British Columbia practice with respect to quorum requirements in lieu of those required by Rule 4350(f) of the Nasdaq Marketplace Rules (which provides that a quorum for a shareholder meeting of a Nasdaq-listed company must be at least 33-1/3% of the outstanding common shares of the company). The Registrant's by-laws provide that the minimum quorum for a meeting of holders of Common Shares is two individuals who are shareholders, proxy holders or duly authorized representatives of corporate shareholders personally present and representing shares aggregating not less than 25% of the issued shares of the Registrant carrying the right to vote. The Registrant's quorum requirements are not prohibited by the requirements of the Business Corporations Act (British Columbia) and the Registrant intends to continue to comply with the requirements of the Business Corporations Act (British Columbia). The rules of the Toronto Stock Exchange, upon which the Common Shares are also listed, do not contain specific quorum requirements.

L. Identification of the Audit Committee

The Registrant has a separately-designated standing Audit Committee established in accordance with Section 3(a)(58)(A) of the Exchange Act. The members of the Audit Committee are Gillian D. Winckler, Neil de Gelder and Michael Carroll. Gillian D. Winckler, Neil de Gelder and Michael Carroll are independent as such term is defined under Rule 10A-3 under the Exchange Act and the rules and regulations of the Nasdaq Stock Market. Further information about the Registrant's Audit Committee can be found under the heading "Audit Committee" of the Registrant's Annual Information Form for the fiscal year ended December 31, 2018, filed as Exhibit 1.1 to this Annual Report on Form 40-F.

M. Mine Safety

The Registrant is not currently required to disclose the information required by Section 1503(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

UNDERTAKING AND CONSENT TO SERVICE OF PROCESS

A. Undertaking

The Registrant undertakes to make available, in person or by telephone, representatives to respond to inquiries made by the Commission staff, and to furnish promptly, when requested to do so by the Commission staff, information relating to the securities in relation to which the obligation to file an annual report on Form 40-F arises; or transactions in said securities.

B. Consent to Service of Process

The Registrant has previously filed with the Commission a Form F-X in connection with its Common Shares. Any change to the name and address of the agent for service of process shall be communicated promptly to the Commission by an amendment to Form F-X.

EXHIBITS

The following exhibits are filed as part of this report:

| Exhibit Number | Title |
|----------------|--|
| 1.1 | Annual Information Form for the fiscal year ended December 31, 2018. |
| 1.2 | Management's Discussion and Analysis for the fiscal year ended December 31, 2018. |
| 1.3 | Audited Consolidated Financial Statements for the fiscal years ended December 31, 2018 and 2017. |
| 23.1 | Consent of Deloitte LLP. |
| 23.2 | Consent of Martin Wafforn. |
| 23.3 | Consent of Michael Steinmann. |
| 23.4 | Consent of Pamela De Mark. |
| 23.5 | Consent of Americo Delgado. |
| 23.6 | Consent of Christopher Emerson. |
| 31.1 | Certification of CEO pursuant to Section 302 of the Sarbanes-Oxley Act of 2002. |
| 31.2 | Certification of CFO pursuant to Section 302 of the Sarbanes-Oxley Act of 2002. |
| 32.1 | Certification of CEO and CFO pursuant to Section 906 of the Sarbanes-Oxley Act of 2002. |
| 101 | Interactive Data File. |

Exhibits 1.1, 1.2 and 1.3 are incorporated by reference into the Registrant's Registration Statement on Form F-10 (File No. 333-212468) and Registration Statements on Form S-8 (File Nos. 333-180494, 333-180495, 333-206162 and 333-229795).

SIGNATURE

Pursuant to the requirements of the Exchange Act, the Registrant certifies that it meets all of the requirements for filing on Form 40-F and has duly caused this annual report to be signed on its behalf by the undersigned, thereto duly authorized.

PAN AMERICAN SILVER CORP.

Dated: March 12, 2019 /s/ Delaney Fisher
By: Delaney Fisher
Title: Vice President Legal Affairs and
Corporate Secretary

EXHIBITS

The following exhibits are filed as part of this report:

| Exhibit Number | Title |
|----------------|---|
| 1.1 | <u>Annual Information Form for the fiscal year ended December 31, 2018.</u> |
| 1.2 | <u>Management's Discussion and Analysis for the fiscal year ended December 31, 2018.</u> |
| 1.3 | <u>Audited Consolidated Financial Statements for the fiscal years ended December 31, 2018 and 2017.</u> |
| 23.1 | <u>Consent of Deloitte LLP.</u> |
| 23.2 | <u>Consent of Martin Wafforn.</u> |
| 23.3 | <u>Consent of Michael Steinmann.</u> |
| 23.4 | <u>Consent of Pamela De Mark.</u> |
| 23.5 | <u>Consent of Americo Delgado.</u> |
| 23.6 | <u>Consent of Christopher Emerson.</u> |
| 31.1 | <u>Certification of CEO pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</u> |
| 31.2 | <u>Certification of CFO pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</u> |
| 32.1 | <u>Certification of CEO and CFO pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</u> |
| 101 | Interactive Data File. |

Exhibits 1.1, 1.2 and 1.3 are incorporated by reference into the Registrant's Registration Statement on Form F-10 (File No. 333-212468) and Registration Statements on Form S-8 (File Nos. 333-180494, 333-180495, 333-206162 and 333-229795).