

GOLD FIELDS LTD
Form SC TO-T
October 22, 2004

As filed with the Securities and Exchange Commission on October 21, 2004

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

SCHEDULE TO

(Rule 14d-100)

Tender Offer Statement under Section 14(d)(1) of the Securities

Exchange Act of 1934

GOLD FIELDS LIMITED

(Name of Subject Company (issuer))

HARMONY GOLD MINING COMPANY LIMITED

(Name of Filing Person (offeror))

Ordinary Shares,

nominal value Rand 0.50 per share

(Title of Class of Securities)

38059R100

(CUSIP Number of Class of Securities)

American Depositary Shares

(each representing one Ordinary Share)

(Title of Class of Securities)

38059T106

(CUSIP Number of Class of Securities)

Marian van der Walt

Suite No. 1

Private Bag X1

Melrose Arch, 2076

South Africa

Tel: 011-27-11-684-0140

(Name, Address and Telephone Number of Person Authorized to Receive

Notices and Communications on Behalf of the Person(s) Filing Statement)

With copies to:

Steven N. Robinson

Hogan & Hartson LLP

Columbia Square

555 Thirteenth Street, N.W.

Washington, DC 20004-1109

(202) 637-5600

Elizabeth L. Katkin

John M. Basnage

Hogan & Hartson

One Angel Court

London EC2R 7HJ

United Kingdom

011-44-20-7367-0200

CALCULATION OF FILING FEE

<u>Transaction Valuation(1)</u>	<u>Amount of Filing Fee(2)</u>
U.S.\$2,817,155,321	U.S.\$356,933.58

(1) Estimated for purposes of calculating the amount of the filing fee only. Calculated based on (1) the purchase of the maximum number of ordinary shares subject to the offer (which is 80,913,530) at a price of R83.14 per ordinary share converted into U.S. dollars at the rate of R6.4475 = U.S.\$1.00, the Federal Reserve Bank of New York noon buying rate on October 15, 2004 and (2) the purchase of the maximum number of American depository shares (which is 137,788,354) at a price of U.S.\$12.85, the average of the high and low sales prices of Gold Fields American depository shares reported on the New York Stock Exchange on October 15, 2004.

(2) The amount of the filing fee is calculated in accordance with Rule 0-11 of the Securities Exchange Act of 1934, as amended.

Check box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the form or schedule and the date of its filing. Form F-4 Registration Statement filed October 21, 2004.

Check box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

Check the appropriate boxes to designate any transactions to which this statement relates:

third party tender offer subject to Rule 14d-1

issuer tender offer subject to Rule 13e-4

going-private transaction subject to Rule 13e-3

amendment to Schedule 13D under Rule 13d-2

Check the following box if the filing is a final amendment reporting the results of the tender offer.

This Tender Offer Statement on Schedule TO (this Schedule TO) is filed with the United States Securities and Exchange Commission (SEC) by Harmony Gold Mining Company Limited, a corporation organized under the laws of the Republic of South Africa, in connection with Harmony's offer to acquire (1) 34.9% of the ordinary shares, nominal value Rand 0.50 per share, of Gold Fields Limited, a corporation organized under the laws of the Republic of South Africa, that are held by holders who are located in the United States and (2) 34.9% of the American Depositary Shares of Gold Fields (each a Gold Fields ADS, and each Gold Fields ADS representing one Gold Fields ordinary share), held by holders wherever located. This offer is being made on the terms and subject to the conditions set forth in the Prospectus, dated October 21, 2004 (the Prospectus) attached hereto as Exhibit (a)(4) and incorporated herein by reference, and the related ADS Letter of Transmittal and Form of Acceptance attached hereto as Exhibits (a)(1)(i) and (a)(1)(vi), respectively, and incorporated herein by reference (collectively, the U.S. Offer). Concurrently with the U.S. Offer, Harmony is also making, on substantially similar terms and subject to the same conditions, a South African offer (the South African Offer) open to all holders of Gold Fields ordinary shares who are located in South Africa and to holders of Gold Fields ordinary shares who are located outside of South Africa and the United States, if, pursuant to local laws and regulations applicable to such holders, they are permitted to participate in the South African Offer. Together, the U.S. Offer and the South African Offer are being made for 34.9% of the outstanding ordinary shares of Gold Fields, including Gold Fields ordinary shares represented by Gold Fields ADSs.

Items 1 through 11.

As permitted by General Instruction F to Schedule TO, all of the information in the Prospectus, attached hereto as Exhibit (a)(4), and the related ADS Letter of Transmittal and Form of Acceptance, attached hereto as Exhibits (a)(1)(i) and (a)(1)(vi), respectively, and any amendment or supplement thereto related to the U.S. Offer hereafter filed with the SEC by Harmony, is hereby incorporated herein by reference in answer to Items 1 through 11 of this Schedule TO.

Items 12. Exhibits

- (a)(1)(i) ADS Letter of Transmittal (Gold Fields ADSs) (Incorporated by reference to Exhibit 99.1 to the Registration Statement on Form F-4, filed on October 21, 2004 (the 2004 Form F-4))
- (a)(1)(ii) Notice of Guaranteed Delivery (Gold Fields ADSs) (Incorporated by reference to Exhibit 99.2 to the 2004 Form F-4)
- (a)(1)(iii) Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees (Gold Fields ADSs) (Incorporated by reference to Exhibit 99.3 to the 2004 Form F-4)
- (a)(1)(iv) Letter to Clients from Brokers, Dealers, Commercial Banks, Trust Companies and other Nominees (Gold Fields ADSs) (Incorporated by reference to Exhibit 99.4 to the 2004 Form F-4)
- (a)(1)(v) Guidelines for Certification of Taxpayer Indemnification Number on Substitute Form W-9 (Incorporated by reference to Exhibit 99.5 to the 2004 Form F-4)
- (a)(1)(vi) Form of Acceptance (Gold Fields Ordinary Shares) (Incorporated by reference to Exhibit 99.6 to the 2004 Form F-4)
- (a)(1)(vii) Technical Notice to South African Financial Intermediaries and U.S. Custodians (Gold Fields ordinary shares) (Incorporated by reference to Exhibit 99.7 to the 2004 Form F-4)
- (a)(1)(viii) Letter to Clients from Brokers, Dealers, Commercial Banks, Trust Companies and other Nominees (Gold Fields ordinary shares) (Incorporated by reference to Exhibit 99.8 to the 2004 Form F-4)

- (a)(2) None
- (a)(3) None
- (a)(4) Prospectus, dated October 21, 2004 (Incorporated by reference to the 2004 Form F-4)
- (a)(5)(i) Press release announcing the offer for Gold Fields, dated October 18, 2004 (incorporated herein by reference to the filings made by Harmony pursuant to Rule 425 and on Form 6 K on October 18, 2004)
- (a)(5)(ii) Press release announcing the offer for Gold Fields, dated October 18, 2004 (incorporated herein by reference to the filings made by Harmony pursuant to Rule 425 and on Form 6-K on October 18, 2004)
- (a)(5)(iii) Press release announcing the offer for Gold Fields, dated October 18, 2004 (incorporated herein by reference to the filings made by Harmony pursuant to Rule 425 and on Form 6 K on October 18, 2004)
- (a)(5)(iv) Slide presentation filed by Harmony (incorporated herein by reference to the filing made by Harmony pursuant to Rule 425 on October 18, 2004)
- (a)(5)(v) Conference call transcript, first made publicly available on October 19, 2004 (incorporated herein by reference to the filings made by Harmony pursuant to Rule 425 and on Form 6-K on October 19, 2004)
- (a)(5)(vi) Slide presentation filed by Harmony (incorporated by reference to the filing made by Harmony pursuant to Rule 425 on October 20, 2004)
- (a)(5)(vii) Text of newspaper advertisement, dated October 21, 2004, and published in the *Wall Street Journal*
- (b) None
- (c) None
- (d) Irrevocable undertaking, dated October 16, 2004, by and among Harmony and MMC Norilsk Nickel*
- (e) None
- (f) None
- (g) None

Item 13. Information Required by Schedule 13e-3.

Not applicable.

* To be filed by amendment.

SIGNATURE

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this Schedule TO is true, complete and correct.

HARMONY GOLD MINING COMPANY LIMITED

By: /s/ Zacharias Bernardus Swanepoel
Name: Zacharias Bernardus Swanepoel

Title: Chief Executive Officer

October 21, 2004