

Draft of updated Equator Principles released

Following a strategic review of the Equator Principles ("EPs"), the Equator Principles Association ("**Association**"), which governs membership and use of the EPs, has released a draft of the updated EPs for stakeholder consultation and public comment. As well as expanding the types of projects that will be subject to the EPs, it also proposes enhanced reporting requirements. If approved, it will be the third version of the EPs and so is known as "EPIII".

Key changes

The EPs, originally launched in June 2003, are a well-known framework used by financial institutions to assess and manage the environmental and social impacts of projects. Based on the International Finance Corporation ("**IFC**") Performance Standards and World Bank Environmental Health and Safety Guidelines, they have been voluntarily adopted by 77 financial institutions ("**EPFIs**").

The IFC has reviewed its Performance Standards, and published updated versions in January 2012. The release of the draft of EPIII follows consultation with Association members and feedback from stakeholders received to date, as well as addressing the issues raised during the strategic review process and the changes to the IFC Performance Standards.

While the structure of, and requirements imposed by, the EPs is to remain essentially the same, EPIII proposes a number of amendments to the EPs. The key changes are set out below.

Expansion in scope

To date, the EPs have only covered project finance transactions with total project capital costs of US \$10 million or more. However, EPIII proposes to expand the scope of the EPs to also cover:

- Project finance advisory services (defined as the provision of advice on the potential financing of a development where one of the options may be project finance);
- Certain project-related corporate loans; and
- Bridge loans with a tenor of less than two years that are intended to be refinanced by project finance or project-related corporate loans.

Environmental groups have been calling for the requirements of the EPs to extend beyond project finance for some time. However, some commentators have raised the issue that if the EPs are to apply to a wider range of transactions, it increases the risk of inconsistent application of the EPs. This is likely to be an area that will attract a lot of comment during the consultation.

Key issues

- EPIII, a revised draft of the EPs, has been released for stakeholder consultation and public comment.
- The key changes are an expansion in scope to include transactions beyond project finance and enhanced reporting requirements.
- The consultation period ends on 12 October 2012.

Enhanced reporting requirements

EPIII proposes more detailed reporting requirements which may heighten the profile of the EPs and allow projects to be subject to greater scrutiny. The requirements include that EPFIs must:

- Require their clients to publish the environmental impact assessments and the environmental and social management plan for projects online; and
- Report in accordance with new minimum reporting requirements, in addition to the existing obligation to report on the EP implementation process.

The minimum reporting requirements for EPFIs are set out in a new annex to the EPs. It includes, for the first time, project-specific data reporting requirements. After obtaining the consent of the client, EPFIs are required to provide project details to the EPs Secretariat, for publication on the EPs website, including the name of the project and the sector. As a result, environmental groups and local communities will have better access to information enabling them to more closely scrutinise the environmental and social impacts of projects.

GHG emissions requirements

EPIII also obliges EPFIs to require clients to report greenhouse gas emissions levels during the operational phase for projects emitting over 100,000 tonnes of carbon dioxide equivalent annually (including both direct and certain indirect emissions). For such projects, there is also a requirement to undertake an analysis of less emissions-intensive alternatives. This is based on the requirements in the updated IFC Performance Standards.

Next Steps

Information on the strategic review and the timeline and process for the finalisation of EPIII is available at <http://www.equator-principles.com/index.php/about-ep3>. The consultation period ends on 12 October 2012. The Association will then review the comments received and consult with its members on further amendments to the draft of EPIII. To take effect, the changes will require the EPs to be formally amended through a voting process of the entire Association membership. It is expected that EPIII will be formally launched in early 2013.

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