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The Sheppard Mullin Six

EQUATOR PRINCIPLES IV

Here are six key items to be aware of today regarding the Equator Principles IV

1. **What Are They?** The Equator Principles (EPs) are agreed upon by the 112 global financial institutions of the Equator Principles Association. They are minimum standards for due diligence and risk analysis for infrastructure project finance and align with international standards including the United Nations Guiding Principles on Business and Human Rights (UNGPs), the 2015 Paris Agreement and International Finance Corporation guidelines.
2. **Why do They Matter?** While not carrying the force of law, because the EPs are voluntarily enforced by the adopting financial institutions (many of which are among worlds largest and most active financiers of infrastructure projects), they can effectively set the minimum standards that an infrastructure project must meet in order to obtain development, construction and/or acquisition financing and related services.
3. **What has Changed?** The fourth edition of the EPs (EP4) came into effect October 1, 2020. EP4 expands their applicability in a number of ways, including by no longer deferring to the host-country laws of any nation, including the U.S. Financial institutions must now make independent determinations as to whether a project satisfies the environmental and social impact studies and risk management analysis required by the EPs. Under prior versions, many of the key requirements of the EPs applicable to U.S.-sited infrastructure projects were satisfied by compliance with U.S. law.
4. **Increasing the Scope (People)** EP4 adds compliance with the UNGPs in connection with project development, construction and operation, which includes implementing fair labor standards and consulting with locally affected communities. Prior to receiving funding from a member financial institution, a project must demonstrate that it has obtained Free, Prior, and Informed Consent from affected indigenous peoples.
5. **Increasing the Scope (Size)** EP4 impacts projects of a smaller size than its predecessors. Among the projects that are subject to EP4 are (i) projects and project finance advisory services with capital costs of $10 million USD and (ii) corporate loans over $50 million USD with a 2+ year term where the majority of funds are going to a Borrower who has effective operational control over a project.
6. **Increasing the Scope (Climate)** Parties asking for loans for any project expected to emit more than 100,000 tons of CO_2 equivalent are now also required to provide an assessment on physical and transition risk as well as an alternative analysis on alternatives with fewer greenhouse gas emissions.

Key Contacts - Equator Principles IV

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Laurette focuses her practice on leasing and commercial lending transactions. She has represented varied developers and debt and equity investors in the negotiation and due diligence of key project documents, structuring and documentation of project debt and equity financing, and closing of tax advantaged investments, most recently in renewable energy: wind, solar, biofuels. Before becoming a lawyer, Laurette spent 10 years as a banker specializing in the electric and gas industry.

Ben Huffman

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Ben is experienced with a variety of enterprise-level and project level debt and equity financings, including origination and secondary market transactions. Benjamin works with financing providers (including banks, non- bank lenders, insurance companies and investment funds) and financing users (including project developers, public company borrowers and privately held borrowers) in connection with construction, acquisition and working capital debt facilities, passive tax and cash equity investments and secondary-market purchase and sale of debt and equity financing products. While he works with a variety of industries, Benjamin has particular experience with tax credit monetization transactions and renewable energy production facilities.

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Sarah represents renewable energy companies, borrowers, financial sponsors, portfolio companies, commercial banks and other financial institutions in a variety of financing transactions. Her practice focuses on a variety of transactions in the energy sphere, representing renewable energy companies in project-level debt and equity financings of wind and solar facilities. Sarah is also a member of the New York office's sustainability committee.

Energy, Infrastructure & Project Finance Team

Project Revenue, Development, Construction & Operations

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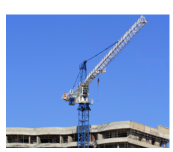

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