ESG CRITERIA INCREASINGLY SIGNIFICANT AS THE DOMINANT DRIVERS FOR INFRASTRUCTURE INVESTMENTS

Environmental, social (or sustainable) and governance (ESG) criteria are a set of standards for a company's operations that socially conscious investors use to screen potential investments.

The importance of such standards as critical criteria influencing key decisions made by investors in energy infrastructure assets has been apparent for a considerable time. With growing climate change risk awareness among institutional investors, however, ESG issues are assuming an ever more dominant place in the infrastructure investment industry. ESG criteria certainly now drive the monitoring and evaluation processes adopted by asset managers of both listed and unlisted infrastructure assets to a considerable extent. Whether to invest or divest, or whether to maintain or reduce exposure to a particular energy asset class, investors are increasingly evaluating their decisions against industry wide-ESG benchmarks set by regulators, rating agencies and business academics.

Setting an appropriate and fit for purpose ESG policy is a challenge for all businesses, but especially so while the taxonomy of corporate issues falling within ESG grows ever broader. ESG needs to be aligned with the mission statement of the energy asset owner and so also embedded in its culture and values. However, arguably this is especially difficult for energy infrastructure owners to achieve. For example, the majority of senior executives in the energy industry tend to be male, drawn either from an engineering or financial background and with similar career profiles. There is certainly a marked absence of female senior executives. Even though all the evidence is that boards containing a better gender balance make more sustainable long term decisions and are more effective in managing risks, there are relatively few examples of well-balanced boards in the energy and infrastructure industry. Without appropriate adjustment, this presents an immediate adverse ESG mark.

An energy infrastructure asset may be owned by a publicly listed company or, more commonly, by a private entity (company or partnership). Whatever the ownership structure, the ultimate asset owner is likely to have complex stakeholder relationships to manage, including investors (public (institutional) or private (retail), employees, regulators, suppliers and contract counter-parties. Managing these relationships, up, down and sideways, takes considerable skill and effort. Moreover, the scrutiny of the asset owner's ESG performance by rating agencies, investment analysts, financial journalists and others is likely to present it with many communications challenges, both internal and external. Finding the most effective and impactful language to articulate the asset owner's key ESG messages is unlikely to be easy given the different audiences it needs to satisfy.

Wind farms, solar parks, energy storage facilities, power plants, electricity grids, oil & gas facilities all have differing environmental footprints. The basis on which their individual performance is assessed needs, rightly, to be scrutinised against a range of criteria. ESG provides an increasingly important handrail to guide such assessment. It is certainly more frequently quoted and senior executives are increasingly aware of its significance in their management decisions.

The Prospect Law and Prospect Advisory team has substantial experience of raising investment capital for energy infrastructure assets, where ESG issues have been at the forefront of the decision criteria used by the equity and debt capital providers ultimately committing funding to the asset. Overall ESG is certainly likely to remain a major feature of energy infrastructure transactions in the future.

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About the Author

Mark Vickers is an experienced public and private sector complex risk consultant, with a focus on financing projects in energy and infrastructure. Mark was previously a commercial & investment risk advisor at The Crown Estate, focused on new marine energy technology investments in UK waters, such as wave & tidal power, floating wind turbines and offshore transmission grids. With qualifications in law, accounting, finance and risk, Mark has worked in a range of major banks, private equity funds, corporates and professional advisory firms.

Prospect Law is a multi-disciplinary practice with specialist expertise in the energy and environmental sectors with particular experience in the low carbon energy sector. The firm is made up of lawyers, engineers, surveyors and finance experts.

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