ALSTON & BIRD

ALSTONFINANCE.COM

Finance ADVISORY

JUNE 8, 2020

How Does My Business Qualify for a Green Loan?

by Andrew Petersen and Thomas Dunn

Part 1 of our ESG series introduced ESG, considered its impact on the structured finance markets, and considered the implications of the COVID-19 pandemic on ESG.

What Are Green Loans?

Following a profusion of sustainable finance and development initiatives, both internationally and nationally in 2018, as evidence of changing investor preferences and increased recognition that investments in well-governed entities that create a positive social and environmental impact are growing in prominence, the Loan Market Association (LMA), Asia Pacific Loan Market Association, and Loan Syndications and Trading Association (LSTA) launched the 'Green Loan Principles' (GLP), which were designed to provide environmental, social, and governance (ESG) criteria for loan products.

Since the launch of the GLP, throughout the structured finance markets there are an increasing number of 'green' loans emerging. The GLP defines green loans as 'any type of loan instrument made available exclusively to finance or refinance, in whole or in part, new and/or existing eligible Green Projects.… Green loans must align with the four core components of the GLP'.

In other words, green loans are loans whose proceeds are applied specifically for environmentally friendly or sustainable purposes—for example, building solar or wind farms or investing in new green technologies. The GLP also enshrine a very important expectation that green loans will require ongoing reporting and tracking to make sure the loans are being used for their intended purposes throughout the life of the loan. It is important to note that a distinction should be drawn between green loans and sustainability-linked loans (and the LMA/LSTA's Sustainability Linked Loan Principles), which we will cover in our next article. Classification of sustainability-linked loans does not depend on how proceeds are used—rather the key feature is that pricing is tied to the borrower's performance against predetermined sustainability criteria. How businesses may attract cash earmarked for green lending has become a task that will become ever more important in a post-COVID-19 world where the scarcity of cash will determine the survival of certain businesses.

As an increasing number of lenders seek to offer better loan terms to borrowers who are able to show that they are lessening their environmental impact, green loans are growing rapidly. And it seems that the coronavirus pandemic has not put an end to the rise of green lending.

Why Should My Business Enter into a Green Loan?

There are a number of advantages for both borrowers and lenders in entering into green loans. The GLP suggests the following nonexhaustive list:

- Positive impact on the environment, climate change mitigation, and adaptation.
- Positive impact on reputation and credibility.
- Building stronger, values-based relationships with stakeholders.
- Gaining access to new markets, providing greater resilience to market disruption caused by climate change, and decreasing risk across portfolios.
- Gaining access to a wider and more diverse pool of investors, particularly those seeking investment with a positive ESG focus.
- Meeting regulatory and policy targets and commitments.
- Increasing ability to attract and retain staff who see sustainable development contributions as an important part of their personal and working lives.

How Does My Business Qualify? The 4 Core Components

In order to qualify for a green loan, your business will need to comply with the '4 Core Components'.

1. Use of proceeds

The fundamental determinant of a green loan is the utilisation of the loan proceeds for green projects (and other related and supporting expenditures, including R&D), which should be appropriately described in the finance documents and, if applicable, marketing materials. Your green projects will need to provide clear environmental benefits, which will be assessed, and where feasible, quantified, measured, and reported.

2. Process for project evaluation and selection

You will need to clearly communicate to your lenders:

- Your business's environmental and sustainability objectives.
- How your business determines how its projects fit within the eligible categories.
- The related eligibility criteria, including, if applicable, exclusion criteria or any other process applied to identify and manage potentially material environmental risks associated with the proposed projects.

3. Management of proceeds

The proceeds of your green loan will need to be credited to a dedicated account or otherwise tracked in an appropriate manner to maintain transparency and promote the integrity of your green loan. If your green loan takes the form of one or more tranches of a loan facility, each green tranche must be clearly designated, with the proceeds of the green tranche credited to a separate account or appropriately tracked.

4. Reporting

You will need to make and keep readily available, up-to-date information on the use of proceeds to be renewed annually until fully drawn, and as necessary thereafter in case of material developments. According to the GLP, 'This should include a list of the Green Projects to which the green loan proceeds have been allocated and a brief description of the projects and the amounts allocated and their expected impact.' When confidentiality is a concern, information can be provided only to those institutions participating in the loan. The GLP recommend the use of qualitative performance indicators and, where feasible, quantitative performance measures (for example, energy capacity, electricity generation, greenhouse gas emissions reduced/avoided) and disclosure of the key underlying methodology, or assumptions used in the quantitative determination.

Avoid Greenwashing!

Greenwashing, in the context of green loans, is when a borrower or project is held out to have green credentials but these credentials are untrue, overhyped, or misleading. Of course, this practice is strongly discouraged amongst all market participants. Many lenders have sought to prevent borrowers taking advantage of their favourable green loan terms by introducing quantitative environmental measures. For example, ING requires any green loans to comply with at least three out of its five ESG targets.

Accusations of greenwashing may lead to litigation, impact investor confidence, and call the integrity of green loans into question. The GLP and the four core components are therefore drafted to give a clear framework of the processes to be followed to maintain the integrity of green loans.

Recent Developments in the UK and Europe

Bank of Scotland's £30 million green loan for Glasgow properties

In mid-May, Dunaskin Properties secured a £30 million funding from the Bank of Scotland against 10 of its city centre properties, including Baltic Chambers, Central Chambers, and Ingram House.

The funding package was put together under the Bank of Scotland's 'Green Lending Initiative' and consisted of a term loan and a revolving credit facility that provided Dunaskin with flexibility to trade assets and to fund capital expenditure across the portfolio.

The green loan was part of refinancing discussions and wider plans for a clear sustainability strategy for Dunaskin. The terms of the deal include green covenants requiring the firm to spend £1.2 million on sustainability improvements for its buildings and meet a range EPC improvement targets.

IPUT Real Estate's €300 million green loan with Wells Fargo

At the end of May, Irish property company IPUT Real Estate agreed a €300 million revolving credit facility (RCF) with Wells Fargo, which was increased from an existing RCF by €50 million. This made the increased RCF the largest green finance facility in the Irish real estate market. The €200 million green component of the RCF will be used to finance green projects that meet several criteria based on the GLP and tested by several renewable and energy-efficient metrics.

Van Oord's green loan agreements with Rabobank and BNP Paribas

In June, Van Oord, a Netherlands-headquartered dredging specialist, agreed its first green loans with Rabobank and BNP Paribas. The green loans were based on Van Oord's sustainability programme SEA and will finance three new trailing suction hopper dredgers that will each obtain a Green Passport and a Clean Ship Notation. Van Oord's SEA programme is based on the GLP, and one of its advantages is that additional green loans can be added in the future.

The ESG Acid Test and the Green Loan

We previously discussed the concept of the 'ESG acid test'. Once the COVID-19 pandemic has passed, the practice of investing in companies that conform to ESG standards will surely continue to grow. The coronavirus pandemic presents an opportunity for investors with ESG mandates to take a deep dive into the track record of a company ahead of their capital allocation decisions. This means that the actions of companies during the COVID-19 crisis may act as an acid test.

Similarly, the efforts to rebuild the global economy following the COVID-19 pandemic will surely lead many borrowers and lenders to focus on rebuilding the economy in a sustainable fashion, leading to a 'green new deal' or a 'green recovery'. We urge all market participants not to fall behind the curve.

Alston & Bird is set to be one of the first firms to activate a multidisciplinary ESG Task Force made up of lawyers across several practice groups, providing businesses with proactive and holistic advice surrounding ESG.

You can subscribe to future *Finance* advisories and other Alston & Bird publications by completing our **publications subscription form**.

If you have any questions or would like additional information, please contact your Alston & Bird attorney or the following:

Andrew Petersen
+44.0.20.3823.2230
andrew.petersen@alston.com

Thomas Dunn
+44.0.20.3823.2229
thomas.dunn@alston.com

ALSTON & BIRD

WWW.ALSTON.COM

ATLANTA: One Atlantic Center ▪ 1201 West Peachtree Street ▪ Atlanta, Georgia, USA, 30309-3424 ▪ 404.881.7000 ▪ Fax: 404.881.7777
BEIJING: Hanwei Plaza West Wing ▪ Suite 21B2 ▪ No. 7 Guanghua Road ▪ Chaoyang District ▪ Beijing, 100004 CN ▪ +86.10.85927500
BRUSSELS: Level 20 Bastion Tower ▪ Place du Champ de Mars ▪ B-1050 Brussels, BE ▪ +32 2 550 3700 ▪ Fax: +32 2 550 3719
CHARLOTTE: Bank of America Plaza ▪ 101 South Tryon Street ▪ Suite 4000 ▪ Charlotte, North Carolina, USA, 28280-4000 ▪ 704.444.1000 ▪ Fax: 704.444.1111
DALLAS: Chase Tower ▪ 2200 Ross Avenue ▪ Suite 2300 ▪ Dallas, Texas, USA, 75201 ▪ 214.922.3400 ▪ Fax: 214.922.3899
LONDON: 5th Floor ▪ Octagon Point, St. Paul's ▪ 5 Cheapside ▪ London, EC2V 6AA, UK ▪ +44.0.20.3823.2225
LOS ANGELES: 333 South Hope Street ▪ 16th Floor ▪ Los Angeles, California, USA, 90071-3004 ▪ 213.576.1000 ▪ Fax: 213.576.1100
NEW YORK: 90 Park Avenue ▪ 15th Floor ▪ New York, New York, USA, 10016-1387 ▪ 212.210.9400 ▪ Fax: 212.210.9444
RALEIGH: 555 Fayetteville Street ▪ Suite 600 ▪ Raleigh, North Carolina, USA, 27601-3034 ▪ 919.862.2200 ▪ Fax: 919.862.2260
SAN FRANCISCO: 560 Mission Street ▪ Suite 2100 ▪ San Francisco, California, USA, 94105-0912 ▪ 415.243.1000 ▪ Fax: 415.243.1001
SILICON VALLEY: 950 Page Mill Road ▪ Palo Alto, California, USA 94304-1012 ▪ 650.838.2000 ▪ Fax: 650.838.2001
WASHINGTON, DC: The Atlantic Building ▪ 950 F Street, NW ▪ Washington, DC, USA, 20004-1404 ▪ 202.239.3300 ▪ Fax: 202.239.3333