

Financing Extractives in Southern Africa: Questions on Human Rights Due Diligence

The [UN Guiding Principles on Business and Human Rights](#) make clear that all companies have a responsibility to respect human rights. This includes avoiding negative impacts on people affected by their operations and business relationships, including throughout their supply chains, and addressing negative impacts when they do occur.

Financial institutions play a critical role in determining which projects and companies receive access to capital. This survey aims to better understand the current approach banks and investment firms take to assessing their clients with respect to human rights issues in the extractive industries. Human rights issues in the sector include the rights to land, access to clean water, livelihood, fair and safe working conditions, and consultation about the use of land and other natural resources. They also include respect for indigenous land rights and adherence to the process of securing free, prior and informed consent.

It is our hope that you will view this invitation as an opportunity share your institution's best practices with the investor community and a chance to exchange knowledge. Thank you for your time.

Name of company: [ING Bank NV](#)

1. What policies and procedures does your institution have to undertake human rights due diligence regarding the companies and projects it finances, beyond what is publicly available on your website?

[See our response to question 3](#)

2. Do you require new clients or new projects in the extractives sector to have undertaken human rights due diligence prior to providing financing?

[Yes. All new clients in the extractive sector undergo Know Your Client Screening that includes an ESR Client Assessment. Depending on our level of engagement \(providing general financing facilities to the client or financing specific assets\) ESR Assessment looks at material impacts, policies and procedures, governance, risk management, stakeholder engagement and grievance mechanisms, sourcing practices, reporting and transparency; commitment to standards, track-record. Verification tools include: site visits at client and asset level screening \(to see the operations, related infrastructure & understand local impacts\). Tools used include amongst others Sustainalytics ratings, EcoVadis, RepRisk, Responsible Mining Index, audit reports, media and NGO reports.](#)

[All new projects and project related financing for the extractive industries is subject to compliance with the Equator Principles \(IFC Performance Standards\).](#)

3. Which human rights issues are included in your risk assessment process for extractive projects?

Human rights issues that are included in our risk assessment very much depend on the size, nature and location of the project and related impacts. Those would have been identified in the Environmental and Social Impact Assessment (for projects) or application of our sensitive sector policies based on our ESR Assessment Tool (for clients and transactions). Country risk assessment is an integral part of our risk assessment.

Issues

For Mining Operations: The development of (new) mining assets increasingly take place in more complex environments (remote locations, countries with weaker governance or conflict zones) which potentially creates additional and new environmental and social risks to developers, contractors and financiers. Key concerns can include:

- Adverse impacts on natural habitats and protected areas from land use (open pits, erosion, deforestation, risks of landslides) and pollution potentially resulting in leaks, spills or other accidental releases into soils, surface water, and/or groundwater resources (e.g. cyanide);
- Risks associated with airborne emissions from fugitive dust from blasting, exposed surfaces such as tailings facilities, stockpiles, waste dumps, haul roads and infrastructure, and gases released from combustion of fuels;
- Energy and water use; and
- Risks to community and labour health and safety e.g. accidents, land and water pollution, spread of HIV due to influx of labour.

For Smelting and Refining Activities: Increasing attention is brought to the greenhouse gas (GHG) emissions profile of industries, smelting and refining plants. Key concerns can include:

- Air emissions, including particulate matter (PM), NO_x, CO and CO₂, SO₂, volatile organic compounds (VOC) released from thermal processes, melting activities, blast furnace cleaning, mechanical actions (scarfing and grinding) and raw material handling;
- Contaminated soil and groundwater from solid waste and by-products containing heavy metals, oil and grease, or asbestos;
- Improper disposal of wastewater from cooling water, storm water, rinse water, and other process effluent streams;
- Risks to community health and safety from accumulative contamination of land and dwellings with fine metal particulate, deposition of metals and other pollutants.

Country:

- Country risk indicators include amongst others: governance, ILO labour rights, transparency (EITI), human development, political and civil rights
- Contextual risk: project or operation location and factors, events or dynamics occurring in its environment potentially affecting it (i.e. proximity to communities, wide-spread poverty, disease, existence of conflict)

- Verification tools: e.g. Sustainalytics ESG Country Ratings, World Bank Country Risk Reports

Sector:

- Sector Policies for Mining & Metals, Oil and Gas guide E&S assessments
- Asset-based lending: Equator Principles assessments (IFC Performance Standards, EHS Guidelines)
- General-purpose lending: application of Sector Policies and ESR Client Assessment Tool

Client and asset level:

- Nature of business, core assets and operations, geographies
- ESR Client Assessment: looks at material impacts, policies and procedures, governance, risk management, stakeholder engagement and grievance mechanisms, sourcing practices, reporting and transparency; commitment to standards, track-record
- Verification tools: e.g. site visits at client & asset level (to see the operations, related infrastructure & understand local impacts), Sustainalytics, EcoVadis, RepRisk, Responsible Mining Index, audit reports, media, NGO reports

4. Does your institution adapt its human rights policies and procedures for the specific sector of investment in order to account for the varied risks across sectors? If so, do you have specific policies on the mining sector?

Yes, please see page 26 of our ESR Framework, ESR Sector Policies, Mining & Metals
<https://www.ing.com/Sustainability/Sustainable-business/Environmental-and-social-risk-policies.htm>

5. Does your institution adapt its human rights policies and procedures for the specific country of investment in order to account for the varied risks across nations? If so, do you have specific policies for any countries or areas in Southern Africa?

Country risk is an integral component of our risk management. We respect sanctions imposed by the United Nations, the European Union or any other legislated sanctions that apply to the countries in which the bank operates. ING will not undertake any transactions that may conflict with these sanctions. We also maintain a list of 'no-go countries' requiring ING to refrain from financing clients and projects from an Financial Economic Crime viewpoint. We also maintain a list of 'high ESR countries' which do not impose a restriction from financing clients and projects, but where we have a combination of a client demonstrating weak ESR performance, with a difficult operating context, we may refrain from such opportunity based on human rights risk grounds. We purchase Sustainalytics ESG Country Ratings to inform our 'high ESR country' list.

6. Who assesses human rights risks at your bank (departments, positions, internal/external, etc.)?

We have a dedicated global Environmental and Social Risk team responsible for assessing environmental, social and human rights risks at ING. This team reports to the Chief Risk Officer.

We have Account Managers, and product specialists, who serve our corporate clients in the Extractive Industries and who are responsible for ensuring that clients and related transactions meet the requirements of our Environmental and Social Risks Framework.

On the Environmental and Social side, this includes compliance with our:

- Country Risk Requirements;
- Sector Policies for Oil and Gas, Mining and Metals;
- Equator Principles.

We also have a Business Ethics team, who opines on a more sensitive transactions, requiring an enhanced human rights due diligence, and where involvement with these carries a heightened reputational risk for ING.

The governance is described in more detail in our ESR Policy Framework.

7. Do you require companies to have grievance mechanisms in place for each extractive project and if so, what do you see as essential in an effective grievance mechanism?

We require companies to have grievance mechanisms in place for each extractive project that is financed by ING, and in our overall assessment of companies operating extractive projects, we ask whether they have a: *“Stakeholder Engagement Strategy or Grievance Mechanism to address concerns raised by stakeholders incl. employees or communities affected by the company's operations”*.

We look for the following characteristics when evaluating effectiveness of a grievance mechanism:

- **Scaled to fit the project needs:** relative to the level of risks and potential impacts the project is likely to create.
- **Made simple, accessible, appropriate:** to the affected stakeholders, and established timely.
- **Backed by a good stakeholder engagement process:** a well-functioning grievance mechanism should be backed by good stakeholder engagement process. The two processes complement each other and both contribute to the overall success of the company's social performance.
- **Commits to a certain timeframe** within which recorded complaints should be responded to, and be closed out by, and ensure the timeframe is met.
- **Records and tracks grievances:** is able to demonstrate availability of a grievance log; is able to answer questions about how a grievance was managed, what were the outcomes, and becomes an important piece of documentation should the grievance escalates to the judicial system.

8. Have you ever taken any steps to require or support a client in remediating a human rights impact?

Yes, we did.

9. Have you ever withheld loans or other financial services as a result of a human rights assessment or allegation?

Yes, we did. Reasons for not accepting a company or approving a loan can vary from, but is not limited to:

- Poor environmental and social performance of the company implying lack of capacity and commitment to manage human rights impacts related to its operations;
- Poor occupational health and safety management for workers and/or high accident rates, (e.g. particularly in underground mines);
- Increased health and safety risks for local communities (e.g. poor management of tailings dams);
- Operation in areas where there is a legacy of tension (including locations where there has been mine damage, closure or NGO campaigns)
- Operations in countries with a history of weak regulatory frameworks, lack of transparency or high corruption and/or human rights violations.

10. Do you undertake any form of on the ground assessment of conditions at project sites?

Our Account Managers for the Extractive Sector are well aware of the need for good assessment of environmental, social and human right risks at both client and asset level. They therefore undertake site visits at client & asset level to see the operations, related infrastructure & understand local impacts. Where needed, they are accompanied and/or informed by our Environmental and Social Risk team or an independent environmental and social consultant.

Further information and guidance:

[UN Guiding Principles on Business and Human Rights](#)

[OECD Guidelines for Multinational Enterprises](#)

[Mapping of Sustainable Development Goals to human rights instruments and issues](#)

[OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas](#)

[EU Regulation on Due Diligence in Mineral Supply Chains - Civil Society Guidance for Companies](#)