Environmental trend spurs green financing

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The green financing market is gaining traction in South Africa, says law firm ENSafrica natural resources and environment senior associate **Mihlali Sitefane.**

Green financing promotes the funding of projects that contribute to sustainable development by requiring the integration of social, economic and environmental factors in the planning and implementation of projects, she explains.

Amid the mining industry's unique environmental and social impacts, and the increasing effects of climate change, financial institutions have reviewed their role in facilitating sustainable development as well as re-evaluated criteria for investment decisions.

Consequently, environmental, social and corporate governance initiatives are increasing, driven by certain lenders integrating and implementing requirements pertaining to the long-term environmental prospects of the projects that they finance. These lenders include commercial institution the Bank of China, State-owned finance institution

Further, Sitefane cites the DBSA's announcement of the launch of its first green bond in February, and Standard Bank becoming the first bank in South Africa to publish a policy on the funding of thermal coal mining as prime examples of efforts undertaken by financial institutions to facilitate sustainable development.

Given these developments, the mining projects best placed to receive green financing are those that are, besides other aspects, environmentally sustainable; therefore, mining companies may have to voluntarily adopt principles, such as the International Council on Mining and Metals' mining principles, to attract investment.

"Green financing in the mining industry in South Africa is relatively new. However, increasing numbers of companies and investors are becoming aware of the importance of environmental conservation and the need to reduce carbon emissions and carbon footprints in general. Undoubtedly, the availability of green bonds and other green financing instruments will increase in the near future."

ENSafrica natural resources and environment associate **Zinzi Lawrence** adds that a global call for a transition to a low-carbon economy may require significant resources and, consequently, such investment may not be readily available to midtier and junior miners.

Sitefane agrees, noting that, as companies must go above and beyond legislative requirements to adopt internationally accepted best practice, junior and small-scale miners, which are characterised by undercapitalisation, may be left behind.

principles. As a result of this, the cost of mining may increase. This will pose a significant financial challenge for new mining companies or junior miners that are attempting to enter the mining sector. To address this, financial support to mining companies in need of it must be prioritised."

However, Lawrence adds that equipping mines with the required technology will prolong the life of mines, consequently bolstering the economy and creating much-needed jobs, as well as slowing the deterioration of the environment.

Social Licence to Operate

"As the industry shifts towards sustainable mining and looks to source funding from investors, community engagement is going to be a key consideration that contributes to the success of mining companies," says Lawrence, adding that the importance of attaining a social licence can, therefore, not be overstated.

Sitefane adds that recent judgments – such as Maledu and Others v Itereleng Bakgatla Mineral Resources and Another (2018), Baleni and Others v Minister of Mineral Resources and Others (2016), as well as and Baleni and Others v Regional Manager: Eastern Cape Department of Mineral Resources and Others (2015) – demonstrate that mining does not enjoy the primacy it previously enjoyed.

The courts have, in defined circumstances, recognised communities' right to meaningfully participate in the decision- making process of what should happen to the land in which they have an interest.

going forward failure to secure the social licence has the potential to jeopardise mining operations before they have even started."

Lawrence adds that long-term sustainability in the mining sector requires that current methods be rethought and re-examined: "While the legislative framework has been refined over the years to foster community inclusion, it has not factored in the nuances that come with dealing with South African communities. These include difficulty in determining the correct leadership structures within the host community and a failure to cater for customary processes."

She stresses that the public participation process provided for in the National Environmental Management Act and the Mineral and Petroleum Resources Development Act, should not be taken lightly or approached as a box-ticking exercise: "It should be approached with a view to engage meaningfully with the community and to address its concerns".

Sitefane and Lawrence state that the current investor climate requires mining companies to reinvent themselves because "a successful mine of the future is one that is socially and environmentally aware".

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