BOOK REVIEW

SOCIALLY RESPONSIBLE INVESTMENT LAW: REGULATING THE UNSEEN POLLUTERS – BY BENJAMIN J RICHARDSON (OXFORD UNIVERSITY PRESS, 2008)

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This book addresses an issue that may come as a surprise to most people, that is, the involvement of financiers and investors in socially responsible practices in the projects and companies that they finance and invest in. Focus is usually on the companies who potentially have a negative impact on the environment, but are they forgetting who and what makes the wheel turn? Should the financial sector not be subjected to the same standards? Maybe not as much on their direct ecological footprint, as they are normally not regarded as the largest polluters, but certainly on the indirect side as far as concerns their involvement in the financing of development projects and operations that could have a significant negative impact on the environment. Financial institutions should not be considered innocent suppliers of capital, without knowledge of or control over the use of the capital that they provide.

Financial institutions that want to invest responsibly may do so from a risk management or legal and regulatory risk perspective and not necessarily because of the moral obligation. The author quite rightly states that “investment is commonly based on financial advantage and the primary motivation is to be prosperous and not virtuous". The analysis of current trends that the author provides is spot on. Environmental Social and Governance (ESG) factors create additional layers of prudential checks on lending and investment and are largely considered to be incidental rather than part of the core consideration. ESG is taken into account only if it impacts on the bottom line.

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On the other hand, the assimilation of ESG issues can be financially rewarding, minimize financial risk and yield superior returns. Banks need to be committed to sustainable development and not just practise defensive environmental risk assessment. The first chapter deals with the potential and limits of Socially Responsible Investment (SRI) and sets the trend for the remainder of the book, and the author provides a substantial list of authors and publications used in his research. These references provide an opportunity to the keen student to investigate the related topical avenues.

Opportunities for the financial institutions include ethical investment, defined covenants, support of regulation and support of voluntary codes and standards. Competitive financial markets have the potential to significantly inhibit cooperation, but collaboration should be considered in the formation of unified screening and monitoring standards.

Decisions that financial institutions have to make include how they will conclude deals and conduct a due diligence process going forward, but also how they will deal with existing agreements where they have not included conditions in covenants in relation to environmental legal compliance and social responsibility.

The author successfully places the accountability of financial institutions in perspective, while emphasising that it is the leading financial institution that will in the absence of environmental regulation endeavour to move beyond the basic requirements into the realm of self regulation and governance, with the long-term view of the sustainability of its own business and environmental imperatives. The book is factual and detailed and defends the argument of the writer successfully.

The author aims to orientate the uninformed reader at an introductory level, and this may explain the detailed and repetitive descriptions of important issues, but the book should also add value to the informed reader who understands the various principles of project financing, investment, equity, capital financing, debt finance, collective investment schemes, pension funds and other lending and investment practices.

In my opinion the author has successfully achieved his purpose and the points made are absolutely valid. He offers some suggestions on changing the lending culture, but in the absence of clear regulation it remains the prerogative of the individual financial institution to comply with voluntary requirements and to apply self-regulation.

This book should become a preliminary handbook in the offices of all environmental managers and strategic planners, compliance officers and legal teams in financial institutions, and is highly recommended for the purpose of understanding the financial institution's involvement, possible risks and legal liability, while providing solutions for the proactive management of social and environmental risks.