Background Memo
April 7, 2015

Barclays decision on MTR finance part of an industry-wide trend

Summary:

Barclays PLC, the number one bankroller of mountaintop removal (MTR) coal mining worldwide in 2013, adopted a new policy in March 2015 ending its financial support to the controversial practice. Barclays ruled out future financing for mountaintop removal projects and companies, citing MTR's negative environmental and social impacts, as well as market forces. In its policy statement, Barclays also forecast that MTR will soon be "phased out" entirely, as a result of increased market and regulatory pressures. The Barclays announcement came just weeks after U.S.-based PNC Financial announced its own policy restricting financing for MTR coal producers.

Barclays was the top lender to MTR coal producers in 2013:

Barclays was number one worldwide in financing for mountaintop removal coal producers in 2013, as documented in the 2014 Coal Finance Report Card, Extreme Investments, Extreme Consequences, released by Rainforest Action Network, the Sierra Club, and BankTrack. In 2013, Barclays financed $550 million in loan and bond transactions for mountaintop removal producers, and acted as lead arranger in seven of these transactions.

An emerging financial industry consensus on MTR:

As the financial, regulatory, and reputational risks associated with financing mountaintop removal (MTR) coal mining continue to grow, leading U.S. and European banks have exited relationships with the top producers of MTR coal. As of April 2015, the following banks have moved away from financing two of the largest mountaintop removal coal producers, Alpha Natural Resources and Arch Coal:

- **PNC Financial** – Citing concerns about the environmental and health impacts of MTR, as well as financial risks, in March 2015, PNC adopted a policy to cut its financing exposure to producers of MTR coal. RAN will be monitoring the bank's future financing exposure to verify the bank's implementation of this policy change.
- **JPMorgan Chase** – In 2013, JPMorgan Chase adopted a policy to cut its exposure to MTR coal producers. Since 2013, the bank has not participated in new bond or loan transactions with either Alpha Natural Resources or Arch Coal.
- **Wells Fargo** – Wells Fargo's policies commit the bank to a "limited and declining" involvement with the practice of MTR. As of 2015, the bank has not been involved in new transactions with either Alpha Natural Resources or Arch Coal.

- **BNP Paribas** – BNP Paribas noted that a 2013 policy change prohibited the bank from participating in transactions with the top three MTR producers, including Alpha Natural Resources and Arch Coal.
- **Société Générale** – Société Générale adopted a policy in September 2014 stating, "Societe Generale refrains from providing financial products and services to clients who are involved in Mountaintop removal coal mining in the Appalachians in a significant way."
- **Royal Bank of Scotland (RBS)** – RBS adopted a policy in the spring of 2014 stating that RBS "does not support customers and/or transactions involved in prohibited activities," including "project finance of projects involving the use of mountaintop removal (MTR) mining methods" and "significant producers of coal using MTR mining in Appalachia, USA."
- **Union Bank of Switzerland (UBS)** - UBS's policy on MTR commits the bank to assess client company exposure to MTR mining and states that "UBS needs to be satisfied that the client is committed to reduce over time its exposure to this form of mining." Its policy also states that its "overall exposure to MTR companies has declined substantially since 2010."

A confluence of risks has made MTR coal producers less appealing to top lenders:

- **Credit risk at MTR producers continues to increase** – Persistently weak coal markets have led to credit downgrades and bankruptcies at a number of U.S. coal producers. Since January 2013, financial weakness at MTR producers Mechel, James River Coal, and Essar has resulted in sales of MTR mining operations (Mechel), and bankruptcies (James River and Essar's Trinity Coal subsidiary).
- **MTR-related reputational risks have grown** – Human rights concerns raised by RAN's March 2013 Coal Risk Update about Arch Coal's MTR operations were echoed by a delegation from the United Nations Office of the High Commissioner on Human Rights, which called for investigations into potential violations of the right to water and right to housing by MTR operations in Appalachia. Across the United States, students protested financing of MTR by Citigroup and Bank of America at 70 university recruiting events in 2013.
- **Litigation risks associated with MTR water contamination are growing –** In March 2014, the U.S. Environmental Protection Agency and the Department of Justice reached a record-setting $227.5 million settlement with Alpha over water contamination at 79 mine sites, which included several MTR mines. RAN's February 2013 Coal Risk Update highlighted Alpha's exposure to litigation risk from water pollution at MTR sites. Several citizen groups have filed lawsuits against the company over water pollution at its MTR sites since 2012, and a number of these cases were ongoing or had resulted in summary judgments against the company as of 2015.
- **Some coal companies have acknowledged MTR's significant financial risks and are phasing out the practice** – In 2012, Patriot Coal, the #2 producer of MTR coal, agreed to phase out its MTR operations. In 2014, Patriot's CEO stated that his company's exit from MTR was good for business, helped Patriot avoid growing regulatory, permitting, and litigation risks associated with the practice, and that it is "increasingly unlikely that any producer is going to invest a lot of money in building out a large-scale surface mine in Central Appalachia."
- **A recent court ruling has added to regulatory uncertainty for MTR** – A February 2014 decision by a U.S. District Court struck down a federal rule enacted by the Bush Administration in 2008, which had stripped environmental protections for streams impacted by MTR operations. Following the anticipated publication of a revised rule anticipated from the federal Office of

Surface Mining Reclamation and Enforcement (OSMRE) in 2015, MTR operations are likely to face additional regulatory scrutiny.

Some laggard banks still have not taken action:

Citigroup, Credit Agricole, Credit Suisse, Deutsche Bank, Goldman Sachs, and Morgan Stanley all have yet to adopt policies ending MTR finance.

Top coal producers remain committed to MTR despite risks, underscoring the need for banks to adopt strong policies until more robust regulations are put in place:

- **Top coal producers remain committed to MTR –** Alpha (9.4 million tons in 2013) and Arch (4.6 million tons in 2013) have maintained robust MTR coal production despite weak coal demand. Both companies have new MTR projects in the pipeline: As of April 2015, in West Virginia alone, Alpha Natural Resources had five pending permits for a combined 3,672 acres of new surface mines awaiting regulatory approval. As of the same date, Arch Coal had four pending West Virginia permits for 1,772 acres of new surface mining.

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