

Export Finance and Insurance Corporation Amendment (Support for Infrastructure Financing) Bill 2019 Submission

Proposed changes to Australia’s export credit agency, Efic, pose serious financial, environmental and diplomatic risks. The changes should not be rushed through and must be subject to close scrutiny. Efic must be prevented from funding fossil fuel projects that undermine action on climate change; this is a major risk from the current bill.

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Summary

The Federal Government has tabled a bill that would transform Australia’s Export Finance and Insurance Corporation (Efic) into an overseas development bank.

As a finance and insurance organisation, ostensibly with a focus on small business, Efic does not have strong development expertise. These skills are located elsewhere in the federal public service. Despite this deficiency, Efic will be tasked with independently funding infrastructure in developing countries, with explicit goals including influencing Australia’s foreign relations and benefiting Australian businesses.

The bill requires Efic to maximise ‘Australian benefits’, including any “benefit that flows (whether directly or indirectly)... to a person carrying on business or other

activities in Australia”¹ and “stronger relationships with our regional partners, especially in the Pacific”.² These decisions will be made independent of government.

The requirement to produce deliver “benefits” to “Australia” is so broad that it is hard to see what it would rule out. Efic would be specifically enabled to lend simply to benefit a person carrying out business in Australia.

There is no mention whatsoever of benefits to recipient countries. The bill could create perverse incentives to fund projects that are not in the broad community interest for Australia or the recipient country.

The Government has made it explicit that Efic could fund projects to promote Australian fossil fuel exports:

In the energy sector, Efic's new power would enable it to finance the construction of LNG receivable terminals, leading to increased energy exports or engineering services.³

While the minister’s quote refers only to gas, this could equally apply to coal infrastructure. Efic has a long history of funding fossil fuels, and has claimed that Australia’s commitments adopted by parliament under the Paris Agreement do not apply to its activities.

New FOI documents show numerous coal companies have lobbied Efic for funding. With these changes, Efic could have taxpayers fund new coal power stations, then fund coal mines to fuel them, all against our broader climate change commitments.

Efic is ill-suited for development work and has a poor track record on large overseas infrastructure. The largest fossil fuel project it has funded has sparked civil conflict bordering on civil war.

¹ *Export Finance and Insurance Corporation Amendment (Support for Infrastructure Financing) Bill 2019*, First reading https://parlinfo.aph.gov.au/parlInfo/download/legislation/bills/r6263_first-reps/toc_pdf/19003b01.pdf;fileType=application%2Fpdf

² Birmingham (2019) *Explanatory Memorandum, Export Finance And Insurance Corporation Amendment(Support For infrastructure Financing) Bill 2019* https://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r6263_ems_57f609b5-1d40-45d0-a6aa-16a353f2afde/upload_pdf/698266.pdf;fileType=application%2Fpdf, page 2

³ Coulter (2019) *Hansard 13 February, House of Representatives* <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansardr%2Ff45cf053-d00c-473b-88ab-ac7ccd4b00ec%2F0073%22>

The bill poses serious financial, environmental and diplomatic risks, which must face close scrutiny and should not be rushed for approval.

The policy and bill

An Australian overseas development bank could be in the national interest only if it is set up properly. Getting it wrong could create significant problems, both for recipient countries and for Australia.

When announced in November 2018, the proposal remained vague and received little attention. Government and media focused more on a separate proposal for a \$2 billion Australian Infrastructure Financing Facility for the Pacific.⁴ The public still has few details about this Facility, including where the \$500 million in grant funding will come from. One possibility is, apart from a confirmation, but it is likely to come from will cut into the existing aid budget. Efic will apparently be administering this Facility as well.

Now that the changes to Efic are publicly tabled, we see there is much to be concerned about. Without any consultation or white paper, as is the correct process for such a major proposal, the bill proposes radical changes to Efic's legislation to

- increase Efic's callable capital six-fold, signalling a major increase in lending scale and risk;
- allow Efic to lend to overseas infrastructure on the poorly defined basis of generating an "Australian benefit", which could include "a benefit that flows (whether directly or indirectly) from overseas to: Australia; or (b) a person carrying on business or other activities in Australia."
- allow Efic to lend in order to foster "stronger relationships with our regional partners", as put in the explanatory memorandum, a non-economic criterion that is completely unlike anything Efic currently does;
- allow and make likely that Efic would fund fossil fuel projects, contrary to the intent of the Paris agreement, which Efic currently says does not apply to it;
- allow Efic to guarantee co-lenders to projects to which it has also lent itself.

Risks from the bill

Efic would not be required to fund projects that benefit Australia broadly. Efic could lend on the basis of benefits to an Australian business. There is no pretence here of

⁴ PMC (2018) *Address: Australian and Pacific, a New Chapter* <https://www.pm.gov.au/media/address-australia-and-pacific-new-chapter>

supporting market efficiency. There is no requirement for a broad based national interest test.

Efic would not be required to fund projects that benefit the host countries. Despite the rhetoric of development, there is no reference to the development needs of or challenges for our regional neighbours.

The bill would create a clear incentive for Australian companies to push projects that benefit them rather than benefiting Australia or the host country. Australian companies with better political and business connections in host countries are no doubt likely to be more successful. This undermines rather than strengthens institutions in host countries.⁵

Efic has little experience in development financing, which is a specialised field managed in other parts of the government. It is unclear why this expertise did not become the basis for this initiative. It is essential to emphasise that this government has cut aid to record low levels and greatly undermined the formerly highly respected AusAID program.

Efic also has no mandate to address the barriers to development through private financing in other countries. Such barriers may include infrastructure policy and governance. Providing debt in such a context in fact risk exacerbating other risks.

Efic financing could lead developing countries into debt traps. This is a persistent risk in all development financing and is exacerbated by Efic's lack of experience or mandate to focus on development, capacity building or institutions. While there has been significant criticism of China in relation to their recent overseas financing, it is unclear why the changes to Efic would avoid those same criticisms. The same criticism was launched at the Australian Infrastructure Financing Facility by the former Minister for the Pacific.⁶

Efic will be making decisions in order to influence foreign affairs with taxpayer funds independently of DFAT and cabinet. Any overseas funding has the potential to be politically fraught in host countries, with diplomatic consequences. While Efic might consult with the Minister or DFAT, and Efic can also be subject to Ministerial directions, Efic's legislation *requires* independence to the extent it *prohibits* Ministerial direction about decisions on specific projects. But according to the explanatory

⁵ These comments draw on Howes (2019) *Efic Reform: A Bad Idea* <http://www.devpolicy.org/efic-reform-a-bad-idea-20190213/>

⁶ Murphy (2018) *Concetta Fierravanti-wells Questions Morrisons' Approach in Pacific* <https://www.theguardian.com/australia-news/2018/nov/17/concetta-fierravanti-wells-questions-morrisons-approach-in-pacific>

memorandum, the bill “enables” Efic to lend to foster “stronger relationships with our regional partners”. It is unclear how Efic will decide which regional partners, which countries and which interests within them, with which it will foster stronger relationships.

Efic has a poor track record of funding major projects overseas. Efic has been unable to assess risks associated with large scale resource projects, many of them in PNG.

The massive, Efic funded PNG LNG project has resulted in ongoing civil conflict in the region, which some have warned could flare into a civil war.⁷ Other projects supported by Efic have been infamous environmental disasters (Ok Tedi mine, Panguna mine), accused of human rights abuses (Porgera mine, Panguna mine) and tax evasion (Oyu Tolgoi mine, Mongolia).⁸

Efic is likely to put Australian taxpayer money into fossil fuel projects, undermining the Paris Agreement. The Minister explicitly promoted this possibility when tabling the bill:

In the energy sector, Efic's new power would enable it to finance the construction of LNG receivable terminals, leading to increased energy exports or engineering services.⁹

The first submission to go live on the inquiry’s website is from Oil Search, the PNG / Australian company Efic supported to develop the massive PNG LNG project. It is not surprising that Oil Search supports the bill; as its submission says, Oil Search is developing more major fossil fuel projects, and presumably would like further taxpayer support for these projects.

New FOI documents released to The Australia Institute show numerous coal companies have tried to get funding from Efic and the government has previously changed the rules to allow this to happen.

⁷ AAP (2018) *PNG gas project may spark 'new civil war'* <https://www.sbs.com.au/news/png-gas-project-may-spark-new-civil-war>

⁸ See discussion and references in Fletcher and Campbell (2017) *Export Finance and Insurance Corporation Amendment (Support for Commonwealth Entities) Bill 2016 [provisions] Submission* <http://www.tai.org.au/sites/default/files/TAI%20Jubilee%202017%20Efic%20Bill%20submission%20FINAL.pdf>

⁹ Coulter (2019) *Hansard 13 February, House of Representatives* <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansard%2Ff45cf053-d00c-473b-88ab-ac7ccd4b00ec%2F0073%22>

Efic would be able could fund coal power plants overseas and then fund new mines to fuel them. The only restriction is on funding the dirtiest coal plants, under an OECD agreement, which is banned in some cases but would still be possible for many countries in our region.¹⁰

Efic's history has been marred by controversy about its involvement in this sector. In terms of liability, Efic's current exposure is at least half in mining and fossil fuels.

Efic should face a legislated prohibition against funding fossil fuel projects. While Efic could make this policy internally, it has shown itself unwilling to do so. Legislation is needed. It is deeply concerning that both the government and the opposition voted against amendments to this bill to prevent Efic from funding coal projects.

Enabling Efic to fund fossil fuel projects under the guise of development stands in stark contrast to the World Bank, which no longer funds coal, oil or gas projects.¹¹

In Australia, there is a clear example of a government funding agency facing a legislated prohibition on certain forms of financing, in the *Clean Energy Finance Corporation Act 2012*. The CEFC has a legislated prohibition on funding nuclear or carbon capture and storage projects:

62 Prohibited technology

An investment for the purposes of the Corporation's investment function is an investment in a prohibited technology if it is an investment in:

- (a) technology for carbon capture and storage (within the meaning of the National Greenhouse and Energy Reporting Act 2007); or
- (b) nuclear technology; or
- (c) nuclear power.¹²

Where Efic does lend to energy projects, it should be required to focus on clean energy and could help deliver solar, storage and smart grid technology, including those designed and made in Australia, to our region. Instead, the bill creates a huge risk that Efic would put Australian money into fossil fuel projects. The Government explicitly intends these changes to put taxpayer money into fossil fuel projects.

¹⁰ OECD (2019) *January 2019 Arrangement on Officially Supported Export Credits [TAD/PG(2019)1]* [www.oecd.org/officialdocuments/displaydocument/?doclanguage=en&cote=tad/pg\(2019\)1](http://www.oecd.org/officialdocuments/displaydocument/?doclanguage=en&cote=tad/pg(2019)1) page 120

¹¹ Elliott (2019) *World Bank to end financial support for oil and gas extraction* <https://www.theguardian.com/business/2017/dec/12/uk-banks-join-multinationals-pledge-come-clean-climate-change-risks-mark-carney>

¹² *Clean Energy Finance Corporation Act 2012*, <https://www.legislation.gov.au/Details/C2017C00265>

At a minimum, Efic should be required to commit to and implement the recommendations of the G20 Financial Stability Boards' *Taskforce on Climate Related Financial Disclosures*, which includes disclosure of '2 degree' scenario stress testing. Through such a process, Efic would consider and disclose how its lending relates to, is at risk from or undermines the goals of the Paris Agreement.

Contrary to such best practice, Efic has repeatedly refused to provide any information about how it considers climate change.¹³ Indeed, Efic has argued that the Paris Agreement does not apply to its lending, because it is not a government.¹⁴ Many kinds of actors – companies, financiers, subnational actors, and government agencies – are considering alignment with Paris; it is deeply concerning that Efic rejects any suggestion it should do so.

Efic's history with fossil fuels

Efic has previously focused on financing large mining projects, in Australia and around the world. Half of its current exposures are to fossil fuels or mining. Many of these projects have generated serious problems.

The massive PNG LNG project, which Efic backed and which is still a quarter of its exposure, has generated serious civil conflict in the local region bordering on civil war.¹⁵ Efic also backed the Wiggins Islands Coal Export Terminal, which has suffered ongoing financial distress.

In recent years the Labor and then Coalition governments have focused Efic on smaller exporters. A Productivity Commission review into Efic was scathing, especially around its role in big mining projects. Trade Minister Andrew Robb eventually wrote prevented Efic from funding mining projects in Australia.

¹³ Hansard (2018) *Question on Notice 178. Foreign Affairs, Defence and Trade - Supplementary Budget Estimates 2017 – 2018*

<https://www.aph.gov.au/api/qon/downloadattachment?attachmentId=fbeaea78-f81d-42c8-8fae-b57458aba0e5>

¹⁴ Hansard (2018) *Foreign Affairs, Defence and Trade Legislation Committee, 01/03/2018, Estimates*
<https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;adv=yes;orderBy=customrank;page=0;query=Dataset%3AcomSen,estimate%20Efic%20climate%20Decade%3A%222010s%22%20Year%3A%222018%22;rec=0;resCount=Default>

¹⁵ Lyons (2018) *'Pushing for civil war': fears riots could turn into widespread conflict in PNG*
<https://www.theguardian.com/world/2018/jun/20/pushing-for-civil-war-fears-riots-could-turn-into-widespread-conflict-in-png>

However, new FOI documents show that in recent years “Efic was approached to support several coal related projects”. However, Efic unable to do so, due to the Ministerial Statement of Expectations.¹⁶ The DFAT provided this as a justification for changing the rules, which the Government did, to allow Efic to fund big mining projects again.

Figure 1: Talking points on Efic, from DFAT to Minister for Trade

Efic is reporting an increasing number of resource projects facing difficulties obtaining private market finance

- for example, the NSW Government has written to me in support of the need for Efic funding for a resource project to export a range of new technology metals
- Efic was approached to support several coal related projects, but was unable to assist under the previous statement.

It was later revealed that Efic was in talks with Adani about its coal mine project and was to support a supplier to the project.¹⁷ This was subsequently dropped.¹⁸ Efic has also considered funding a coal mine project in South Africa; this was also dropped.¹⁹

Efic has also become the government’s general purpose financing agency. Efic is the ‘back end’ of the Northern Australia Infrastructure Facility (NAIF), best known for a year of controversy over considering a \$1 billion subsidised loan to Adani.²⁰ It is also now managing the \$3.8bn Defence Export Facility, which supports arms sales out of Australia through loans made by direction from the Minister.²¹

Efic’s long history of funding, or seeking to fund, or being enabled to fund, fossil fuel projects, should be a major concern. Efic should not be given more powers and funding

¹⁶ FOI documents requested by The Australia Institute

¹⁷ Hasham (2018) *Federal government to lend money to Adani business associates* <https://www.smh.com.au/politics/federal/federal-government-to-lend-money-to-adani-business-associates-20180305-p4z2uy.html>

¹⁸ Senate estimates evidence from Efic, 1 June 2018, <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;db=COMMITTEES;id=committees%2Festimate%2F8927e018-ee43-4dcf-9085-93967d3b2baa%2F0005;query=id%3A%22committees%2Festimate%2F8927e018-ee43-4dcf-9085-93967d3b2baa%2F0000%22>

¹⁹ Jubilee Australia and actionaid (2017) *Common sense wins over coal - Australian taxpayer loan to South African coal mine on ice* <http://www.tai.org.au/content/common-sense-wins-over-coal-australian-taxpayer-loan-south-african-coal-mine-ice>

²⁰ Efic (2019) *Support Services* <https://www.efic.gov.au/our-organisation/our-organisation/support-services/>

²¹ Efic (2019) *Defence Export Facility* <https://www.efic.gov.au/what-we-do/project-corporate-and-buyer-finance/defence-export-facility/>

without a clear rule preventing them from funding projects that undermine action on climate change.