

# Environment Legal Alert

---

## Asset Based Lending: How to Manage Environmental and Safety Risks

When real estate forms part of the security in an asset based lending (“ABL”) transaction, environmental concerns will arise.

Broadly speaking, owners are liable for environmental risks. When a lender enforces their security they open themselves up to environmental - and potentially criminal - liability.

There are steps a lender can take to mitigate liability when enforcing their security. These include obtaining conditions precedents, ensuring that any limitations on the auditor’s liability are acceptable, requiring the original owner to remediate prior to signing the loan document, obtaining an indemnity from the borrower and securing sufficient insurance.

The attached Legal Alert expands on these issues, informs you of the potential risks and the possible solutions.

Mayer Brown’s environment and ABL practice groups are well versed in advising on lender liability risks and have developed key resources which could be made available to lenders involved in ABL.

Cate Sharp and Michael Hutchinson are partners in London's environmental group.  
Dominic Griffiths is a partner in London's finance group and head of the London  
leveraged finance practice

**Cate Sharp**

Partner

T +44 20 3130 3891

E [csharp@mayerbrown.com](mailto:csharp@mayerbrown.com)

**Michael Hutchinson**

Partner

T+44 20 3130 3164

E [mhutchinson@mayerbrown.com](mailto:mhutchinson@mayerbrown.com)

**Dominic Griffiths**

Partner

T +44 20 3130 3292

E [dgriffiths@mayerbrown.com](mailto:dgriffiths@mayerbrown.com)

This Mayer Brown publication provides information and comments on legal issues and developments of interest to our clients and friends. The following is not a comprehensive treatment of the subject matter covered and is not intended to provide legal advice. Readers should seek specific legal advice before taking any action with respect to the matters discussed herein.

© 2009. Mayer Brown LLP, Mayer Brown International LLP, and/or JSM. All rights reserved.

Mayer Brown is a global legal services organisation comprising legal practices that are separate entities ("Mayer Brown Practices"). The Mayer Brown Practices are: Mayer Brown LLP, a limited liability partnership established in the United States; Mayer Brown International LLP, a limited liability partnership incorporated in England and Wales; and JSM, a Hong Kong partnership, and its associated entities in Asia. The Mayer Brown Practices are known as Mayer Brown JSM in Asia.

[mayerbrown.com](http://mayerbrown.com)