

INVESTMENT GUARANTEE GUIDE



INSURING INVESTMENTS ■ ENSURING OPPORTUNITIES

MIGA: Bringing Clients Unique Strengths

The Multilateral Investment Guarantee Agency (MIGA) is a member of the World Bank Group. Its mandate is to promote foreign direct investment (FDI) in developing countries by providing guarantees (political risk insurance and credit enhancement) to investors and lenders.

MIGA's guarantees protect investments against non-commercial risks and can help investors obtain access to funding sources with improved financial terms and conditions. The agency derives its unique strength from the World Bank Group and from its structure as an international organization whose shareholders include most countries of the world. This enables MIGA to provide an umbrella of deterrence against government actions that could disrupt projects, and assist in the resolution of disputes between investors and governments. MIGA also adds value through its ability to offer clients extensive knowledge of emerging markets and of international best practice in environmental and social management.

The agency works closely with public and private political risk insurance providers to increase insurance capacity. MIGA can act as the arranger for a project's total insurance requirements.

Eligible Clients

MIGA insures investments made by investors in a MIGA member country into a developing member country. Almost every nation is a member of MIGA. The list of MIGA member countries is available at www.miga.org. In certain cases, the agency may also insure an investment made by a national of the host country, provided the funds originate from

outside that country and the host government approves the investment. Corporations or financial institutions are eligible for coverage if they are either incorporated in and have their principal place of business in a member country or if they are majority-owned by nationals of member countries. Investments by state-owned corporations are also eligible if they operate on a commercial basis. Investments by a non-profit organization may be eligible if it is established that the specific investment will be carried out on a commercial basis.

Eligible Investments

MIGA insures cross-border investments. This includes new investments as well as investments associated with the expansion, modernization, improvement, or enhancement of existing projects, or where the investor demonstrates both the development benefits of, and a long-term commitment to, the project. Acquisitions by new investors, including the privatization of state-owned enterprises, may also be eligible. MIGA can cover equity investments, shareholder loans, and shareholder loan guaranties, provided the loans have a minimum maturity of more than one year. Non-shareholder loans can also be covered, as long as they relate to a specific investment or project in which some other form of direct investment is present. Other forms of investment, such as technical assistance and management contracts, asset securitizations, capital market bond issues, leasing, services, franchising and licensing agreements, may also be eligible for coverage.

In keeping with MIGA's objective of promoting economic growth and development, projects supported must be financially and economically viable, environmentally sound, and consistent with the labor standards and development objectives of the country.

POLITICAL RISK COVERAGES

Currency Inconvertibility and Transfer Restriction

Protects against losses arising from an investor's inability to legally convert local currency (capital, interest, principal, profits, royalties, and other remittances) into foreign exchange and/or to transfer local currency or foreign exchange outside the country where such a situation results from a government action or failure to act. Currency depreciation is not covered. In the event of a claim, MIGA pays compensation in the currency specified in the contract of guarantee.

Expropriation

Protects against losses arising from certain government actions that may reduce or eliminate ownership of, control over, or rights to the insured investment. In addition to outright nationalization and confiscation, "creeping" expropriation—a series of acts that, over time, have an expropriatory effect—is also covered. Coverage is available on a limited basis for partial expropriation (e.g., confiscation of funds or tangible assets).

In the case of total expropriation of equity investments, compensation to the insured party is based on the net book value of the insured investment. For expropriation of funds, MIGA pays the insured portion of the blocked funds. For loans and loan guarantees, MIGA can insure the outstanding principal and any accrued and unpaid interest. Compensation will be paid upon assignment of the investor's interest in the expropriated investment (e.g., equity shares or interest in a loan agreement) to MIGA.

War, Terrorism, and Civil Disturbance

Protects against loss from, damage to, or the destruction or disappearance of, tangible assets or total business interruption (the total inability to conduct operations essential to a project's overall financial viability) caused by politically motivated acts of war or civil disturbance in the country, including revolution, insurrection, coups d'état, sabotage, and terrorism. The cover protects against losses directly attributable to the physical damage of assets and total business interruption. For total business interruption, compensation would be based on the net book value of the total insured equity investment or the insured portion of the principal and interest payment in default as a direct result of a covered war and civil disturbance event. For tangible asset losses, MIGA will pay the investor's share of the lesser of the book value of the project assets, their replacement cost, and the cost of repair of the damaged assets.

Temporary business interruption may also be included upon a request from the investor and would cover three sources of interruption: damage of assets, forced abandonment, and loss of use. For short-term business interruption, MIGA will pay unavoidable continuing expenses and extraordinary expenses associated with the restart of operations and lost business income or, in the case of loans, missed payments.

This coverage encompasses not only violence in the host country directed against a host country government, but also against foreign governments or foreign investments, including the investor's government or nationality.

Breach of Contract

Protects against losses arising from the government's breach or repudiation of a contract with the investor. Breach of contract coverage may be extended to the contractual obligations of state-owned enterprises in certain circumstances. In the event of an alleged breach or repudiation, the investor should invoke a dispute resolution mechanism (e.g., an arbitration) set out in the underlying contract. If, after a specified period of time, the investor has been unable to obtain an award due to the government's frustration of its efforts, or has obtained an award but the investor has not received payment under the award, MIGA will pay compensation. If certain conditions are met, MIGA may, at its discretion, make a provisional payment pending the outcome of the dispute. MIGA may also elect to pay compensation without an award, if the investor does not have recourse to a dispute resolution forum or there is unreasonable government interference with the investor's pursuit of legal rights against the host government.

The coverages described above may be purchased individually or in combination, but selection of the desired coverages must be made by an investor before MIGA issues its guarantee.

CREDIT ENHANCEMENT

Non-honoring of Financial Obligations

protects against losses resulting from a failure of a sovereign or sub-sovereign government or a qualified state-owned enterprise (SOE) to make a payment when due under an unconditional financial payment obligation or guarantee related to an eligible investment. It does not require the investor to obtain an arbitral award. This coverage is applicable in situations when the financial payment obligation is unconditional and not subject to defenses.

Availability of this product is limited to governments/SOEs with satisfactory credit ratings.

TERMS OF COVERAGES

Pricing

Premium rates are decided on a per-project basis and vary by country, sector, transaction and the type of risk insured. Premiums are due at the beginning of each contract period.

Duration of Guarantee

MIGA provides coverage for a minimum of one year and a maximum of up to 15 years (and possibly 20 years if justified by the nature of the project). Once a guarantee is issued and effective, MIGA may not terminate the contract unless a default occurs, but the guarantee holder may reduce or cancel coverage without any penalty on any contract anniversary date starting with the first anniversary.

Amount of Coverage

For equity investments, MIGA can guarantee up to 90 percent of the investment, plus up to an additional 500 percent of the investment contribution to cover earnings attributable to, and retained in, the project. For loans and loan guaranties, MIGA generally offers coverage of up to 95 percent of the principal (or higher as determined on a case-by-case basis), plus up to an additional 150 percent of the principal to cover interest that accrues over the term of the loan. For technical assistance contracts and other contractual agreements, MIGA can insure up to 90 percent of the total value of payments due under the insured agreement (up to 95 percent in exceptional circumstances).

Regardless of the nature of the project, an investor is required to remain at risk for a portion of any loss. MIGA can currently issue up to \$250 million of coverage on its own account for a single project, and can cover significantly higher additional amounts through reinsurance arrangements. The agency can also mobilize additional coverage through coinsurance programs with other political risk insurers, including through its Cooperative Underwriting Program. MIGA has no minimum investment amount.

This description is only a summary. It does not include all terms, conditions, and exclusions of the policies described. Please refer to the actual policies for complete details of coverage and exclusions. Sample contracts are available at www.miga.org.

THE SMALL INVESTMENT PROGRAM (SIP)

MIGA's SIP program is designed to facilitate investment into small and medium enterprises (SMEs) involved in the finance, agribusiness, manufacturing, and services sectors.

Investments are eligible for coverage under the SIP if they are related to the establishment of an SME, or made into an existing SME, in a developing member country. In order to qualify as an SME, the project enterprise must fulfill at least two of the following criteria:

- no more than 300 employees
- total assets not more than \$15 million
- total annual sales not more than \$15 million

Investments in the financial sector are eligible under the SIP if they are geared toward providing financial services for SMEs, and at least 50 percent of clients related to the investment are SMEs as defined above.

The SIP offers:

- coverage up to \$10 million (the actual size of the investment may be bigger)
- a guarantee package covering currency transfer restriction, expropriation, and war, terrorism, and civil disturbance a quick approval process

The SIP has no restrictions with respect to the size of the investor.

Breach of contract and non-honoring of financial obligation coverages are not offered under SIP, but investors requiring these coverages may apply through MIGA's regular guarantee program.

HOW TO APPLY

Applicants seeking MIGA coverage should submit a completed Preliminary Application as soon as feasible. There is no fee charged. Once investment and financing plans are established, applicants submit a Definitive Application along with any relevant project documentation and a processing fee. Applications may be submitted through MIGA's website, via email, or by post.

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