

Investment Guarantee **GUIDE**



World Bank Group
Multilateral Investment
Guarantee Agency

MULTILATERAL INVESTMENT GUARANTEE AGENCY
WORLD BANK GROUP

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) 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 also 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 from a MIGA member country into a developing member country.* 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 specifically 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.

* *Almost every nation is a member of MIGA. The list of MIGA member countries is available at www.miga.org.*

Eligible Investments

MIGA insures new cross-border investments. For an investment to be considered “new”, the investor must have filed a Preliminary Application with MIGA prior to the time that it commits and expends substantial funds to the project. New investment contributions associated with the expansion, modernization, or financial restructuring of existing projects are also eligible, as are acquisitions that involve the privatization of state-owned enterprises. Other investments may be eligible and are considered on a case-by-case basis.

The types of foreign investments that MIGA can cover include equity, shareholder loans, and shareholder loan guaranties, provided the loans have a minimum maturity of more than one year. Non-shareholder loans (e.g. loans to unrelated borrowers) can also be covered, as long as they relate to a specific project where MIGA has covered or will cover one of the other types of investments mentioned above. 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.

Types of Political Risks Covered

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 transfer local currency or foreign exchange outside the country due to government action or failure to act. Currency depreciation is not covered. On receipt of the blocked currency from an investor, MIGA pays compensation in the currency specified in the contract of guarantee.

EXPROPRIATION

Protects against losses arising from 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 case of total expropriation of equity investments, MIGA pays 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 guaranties, 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 arising from physical damage of assets

and total business interruption. For total business interruption, MIGA would pay 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 can 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 to resume 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 set out in the underlying contract and obtain a final arbitral award or judicial decision for damages. If, after a specified period of time, the investor has not received payment under the award, MIGA will pay compensation. MIGA may 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.

NON-HONORING OF SOVEREIGN FINANCIAL OBLIGATIONS

Protects against losses resulting from a government's failure to make a payment when due under an unconditional financial payment obligation or guarantee given in favor of a project that otherwise meets all of MIGA's normal requirements. It does not require the investor to obtain an arbitral award. This coverage is applicable in situations when a sovereign's financial payment obligation is unconditional and not subject to defenses.

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.

Terms of Coverage**

PRICING

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

* *Individual risk coverage is not available for guarantees underwritten through the Small Investment Program. The program provides a standardized package of risk coverages, a streamlined approval process, and reduced costs.*

** *The description herein is a summary only. 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. Contracts are subject to underwriting review and approval by MIGA's Board of Directors.*

DURATION OF GUARANTEE

MIGA provides coverage for a minimum of three years 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, the agency cannot 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 third.

AMOUNT OF COVERAGE

For equity investments, MIGA can guarantee up to 90 percent of the investment, plus up to an additional 50 percent of the investment contribution to cover earnings attributable to and retained in the project. For loans and loan guaranties, MIGA generally offers 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 \$180 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, in which MIGA is the insurer-of-record among participating underwriters. MIGA has no minimum investment amount.

The Small Investment Program (SIP)

MIGA's SIP program is designed to facilitate investment in small and medium-size project enterprises involved in the finance, agribusiness, manufacturing and services sectors. For an investment to be eligible for MIGA coverage, the project enterprise must fulfill two of the three criteria set out below:

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

The SIP offers:

- coverage up to \$10 million
- a guarantee package covering currency transfer restriction, expropriation, and war, terrorism, and civil disturbance*
- no application fee for eligible smaller investors**
- a quick approval process

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

** Smaller investors are defined as companies with fewer than 375 employees meeting one of the following criteria: no more than \$50 million in assets or \$100 million in annual sales.

How to Apply

Applicants seeking MIGA coverage should submit a completed Preliminary Application before the investment is irrevocably committed. 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, fax, or by post.

MIGA Applications Office
Mail Stop UI2-1205
1818 H St., NW
Washington, DC 20433
USA

t. 1.202.458.2538
f. 1.202.522.2630

www.miga.org
migainquiry@worldbank.org

Preliminary Application form for guarantee attached.

INSURING INVESTMENTS ■ ENSURING OPPORTUNITIES

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