

Afghanistan

Investment Guarantee
Facility



World Bank Group
Multilateral Investment Guarantee Agency

SPONSORS OF THE AFGHANISTAN INVESTMENT GUARANTEE FACILITY COMPRISE THE GOVERNMENT OF **THE ISLAMIC REPUBLIC OF AFGHANISTAN**, THROUGH A CREDIT FROM THE **INTERNATIONAL DEVELOPMENT ASSOCIATION** (IDA) AND A CON-
CESSIONAL LOAN FROM THE **ASIAN DEVELOPMENT BANK** (ADB), EACH IN THE AMOUNT OF \$5 MILLION EQUIVALENT. THE GOVERNMENT OF THE **UNITED KINGDOM** IS ALSO A SPONSOR, THROUGH A GRANT OF £1 MILLION FROM THE DEPARTMENT FOR INTERNATIONAL DEVELOPMENT. **MIGA** AND THE ADB WILL BOTH PROVIDE \$10 MILLION IN COINSURANCE. MIGA WILL ALSO SEEK TO MOBILIZE ADDITIONAL CAPACITY FROM PRIVATE AND OTHER PUBLIC INSURERS. TOTAL GUARANTEE CAPACITY AVAILABLE THROUGH THE FACILITY IS EXPECTED TO REACH \$60 MILLION.



Introduction

After nearly a quarter century of conflict, the Islamic Republic of Afghanistan is facing extensive reconstruction needs. The costs of rebuilding are expected to exceed \$15 billion over the next decade, underscoring the need for private sector help in meeting the challenge. Investment opportunities exist across a range of sectors, especially in the areas of construction, agribusiness, manufacturing, and mining.

The Afghanistan Investment Guarantee Facility (AIGF) is designed to help bridge the gap between investors' desires to tap business opportunities in the country and concerns about political risks. The facility, administered by MIGA, will mitigate key risks for foreign investors by providing political risk guarantees (insurance) for their investments.

The facility has a number of innovative features that are specifically designed to facilitate the development of the local private sector. For example, a portion of AIGF can be used to insure transactions that do not involve a foreign equity partner but that involve loans extended by a foreign financial institution or local branch of a foreign bank to local Afghani businesses.

Facility Administrator: MIGA

MIGA was established in 1988 as a member of the World Bank Group. The agency, which today boasts 164 member countries, aims to encourage foreign investment in developing countries by providing:

- Long-term political risk insurance to eligible investors for foreign direct investments. Beyond insurance protection, MIGA's involvement enhances confidence that the investor's rights will be respected, an advantage inherent in the agency's organization as a voluntary association of developing and developed countries, and as a member of the World Bank Group.
- Technical assistance to help governments of its developing member countries enhance their ability to attract foreign direct investment.
- Dispute mediation services to help governments and investors resolve investment disputes without the need for formal arbitration, and to ultimately improve the country's investment climate.

Guarantee Program

AIGF provides long-term political risk insurance to foreign investors from MIGA's member countries, and to foreign financial institutions, located abroad or in Afghanistan, who make loans to local Afghani businesses.

The insurance coverage described below may be purchased individually or in combination, but coverage selection must be made before MIGA issues a contract of guarantee on behalf of AIGF.

TRANSFER RESTRICTION

This type of coverage protects against losses arising from an investor's inability to convert local currency (capital, interest, principal, profits, royalties, or other monetary benefits) into foreign exchange for transfer outside the host country. The coverage also insures against excessive delays in acquiring foreign exchange caused by the host government's actions or failure to act. Currency devaluation is not covered.

EXPROPRIATION

This type of coverage offers protection against loss of the insured investment as a result of acts by the host government that may reduce or eliminate ownership of, control over, or rights to the insured investment. This policy also covers partial losses, as well as "creeping" expropriation—a series of acts that over time have an expropriatory effect. Bona fide, non-discriminatory measures taken by the government of Afghanistan in the exercise of its legitimate regulatory authority are not considered expropriatory.

WAR AND CIVIL DISTURBANCE

This coverage protects against loss due to the destruction, disappearance, or physical damage to tangible assets caused by politically motivated acts of war or civil disturbance, including revolution, insurrection, and coups d'état. Terrorism and sabotage are also covered. War and civil disturbance coverage also extends to events that result in the total inability of the project enterprise to conduct operations essential to its overall financial viability.

BREACH OF CONTRACT

This protects against losses arising from the host government's breach or repudiation of a contractual agreement with the investor. In the event of such an alleged breach or repudiation, the investor must be able to invoke a dispute resolution mechanism (e.g., arbitration) set out in the underlying contract and obtain an award for damages. The investor may file for a claim if, after a specified period of time, payment is not received.

Eligible Investments

AIGF can cover new investments into Afghanistan originating from any of MIGA's member countries. New investments associated with the expansion, modernization, or financial restructuring of existing projects are also eligible, as are acquisitions that involve the privatization of state enterprises. Investments by Afghan Diaspora who reside either overseas or in the Islamic Republic of Afghanistan are also eligible, provided the investment originates from outside Afghanistan.

Eligible forms of foreign investment include equity, shareholder loans, and loan guaranties issued by equity holders, provided the investment has a term of at least three years. Other eligible forms of investment include movable assets, management contracts, and franchising and licensing agreements, provided they have terms of at least three years and the investor's remuneration is tied to the project's operating results.

A portion of the facility may also be used to cover transactions that involve loans provided by a foreign financial institution or by the local branch of a foreign financial institution to local Afghani businesses. When such transactions are considered, MIGA will follow the operational rules applicable to the AIGF.

Although AIGF can operate in all sectors, the facility is designed primarily to facilitate small and medium-size investments. In addition, in view of MIGA's objective of promoting economic growth and development, investment projects will be selected on the basis of their contribution to economic development and must be financially, economically, and environmentally sound.

DURATION OF GUARANTEE

Coverage from AIGF is available for up to seven years. Longer tenors may be obtained through coinsurance provided by MIGA or arranged by MIGA from other public and private providers of political risk insurance. The project duration will be discussed between MIGA and the investor during the application phase, in order to best meet the investor's needs.

Contracts issued under the AIGF cannot be terminated unless the insured party defaults on its contractual obligations, but the insured may reduce or cancel coverage after three years.

PREMIUM RATES

Each risk category carries its own premium rate that takes into account the country's riskiness for the different types of cover as well as the risk profile of investment concerned. Premiums are payable on an annual basis.

AVAILABILITY OF COVERAGE

In each risk category, MIGA may insure equity investments for up to 90 percent of the investment contribution, plus up to an additional 450 percent of the initial investment amount to cover earnings directly attributable to the investment. In the case of loans and loan guaranties, MIGA may insure up to 95 percent of the principal, plus an additional 135 percent of the initial principal amount to cover interest that will accrue over the term of the loan. For other forms of equity investments, MIGA may insure up to 90 percent of the total value of the investment. Regardless of the nature of the project, an investor is required to remain at risk for the uninsured portion of any covered loss.

Guarantee Process

PRELIMINARY APPLICATION FOR GUARANTEE

An investor seeking coverage under the AIGF should submit a preliminary application (see attached form) to MIGA before the investment is made or irrevocably committed. The preliminary application provides the information MIGA needs to make a provisional determination of the eligibility of the investor and investment. Upon qualification, a notice of registration, along with a definitive application, will be sent to the investor. Investors may contact MIGA if they have any questions about the eligibility of an investment.

DEFINITIVE APPLICATION FOR GUARANTEE

Once investment and financing plans are established, applicants will submit a definitive application to MIGA along with any relevant project documentation, such as a joint venture contract, feasibility study, and an environmental assessment, if available. The definitive application and other documentation provide the detailed information that MIGA needs to review the project, obtain internal approvals, and prepare the contract of guarantee. This information includes the investor's eligibility, the amount and type of investment, types of coverage desired, the project's expected developmental impact, and substantiation of the project's financial and economic viability.

Government Approval

MIGA must obtain the approval of the Government of the Islamic Republic of Afghanistan prior to issuing a contract of guarantee.

FEES

The preliminary application is free of charge. However, MIGA charges an application fee of \$5,000 to process a definitive application for investments of less than \$25 million. A processing fee of \$10,000 is charged for investments larger than \$25 million. If a guarantee is offered and accepted, the fee will be credited against the first year's premium. If MIGA declines to offer coverage under the AIGF, the fee will be refunded. If MIGA offers to provide a contract of guarantee and the applicant declines the offer, the fee will not be refunded.

In cases involving exceptional underwriting expenses to evaluate projects that are environmentally sensitive (such as oil and gas, mining, and infrastructure) or whose complex financial structures would require MIGA to employ outside advisors to help underwrite the project, the investor will be required to provide advance funding for such additional processing fees at the time of the definitive application.

Cooperation with Other Political Risk Insurers

MIGA will actively seek to attract additional insurance capacity in support of the AIGF from other public and private political risk insurers through coinsurance, via its Cooperative Underwriting Program (CUP), and reinsurance arrangements, for joint coverage of eligible investment projects.

The CUP and reinsurance programs are designed to encourage private and public insurers to cover political risk insurance for projects alongside MIGA. Under the CUP, MIGA is the insurer-of-record and issues a contract of guarantee for the amount of insurance requested by an investor (subject to available capacity), but retains only a portion of the amount for its own account. The remainder is underwritten by one or more insurance partners using MIGA's contract wording, with the investor assuming the counterparty risk of the insurance partner. Contact Peter Jones at MIGA (pjones1@worldbank.org) for more information on the program.

For more information on the AIGF, contact:

MIGA

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PRELIMINARY APPLICATION FOR GUARANTEE

In order for MIGA to process this application, all fields must be completed upon submission.

INVESTOR INFORMATION

Investor's name

Investor's contact

Investor's address

Telephone

Fax

Email

INVESTMENT INFORMATION

If majority public owned, does the company operate on a commercial basis? Yes No

Investor country

Host country (Where project is located)

Name of project

Brief description of project (Industry/sector)

Estimated total cost of project (US\$)

Estimated amount of investment (US\$)

Types of investment for which cover is requested.

- Equity Shareholder loan Non-shareholder loan (please see next page)
 Loan guarantee Other

Is this application related to a prior guarantee issued by MIGA or to another application filed with MIGA?

- Yes No

(If yes, please provide details - contract number or registration number)

Date of commitment to invest

BROKER OR INVESTOR REPRESENTATIVE INFORMATION (IF ANY)

Name and Title

Address

Telephone

Fax

Email

How did you hear about MIGA?

- MIGA News Insurance Broker Magazine Article Conference
 Investment Insurer Host Government Official Investor Government Official WBG Official
 MIGA's website Other

Signature

Date

The purpose of this application is to ensure that the investment is registered with MIGA before it is made or irrevocably committed. Upon acceptance, a Notice of Registration will be issued. This notice does not constitute a commitment either by MIGA to offer a guarantee or by the applicant to accept such a guarantee. MIGA will treat all information contained in this application as confidential, and will not disclose it outside the agency except with the applicant's consent.

ELIGIBLE INVESTMENTS

The following is a summary of MIGA's rules on eligibility pertaining to investments and applicants. Other types of investments might qualify for MIGA's coverage.

1. New Investments

- Cross-border investments originating in any member country and destined for any developing member country.
- Investment contributions associated with the expansion, modernization, or financial restructuring of existing projects.
- Acquisitions involving privatization of state enterprises.

2. Form of Investments

- Equity interests.
- Shareholder loans made and loan guarantees issued by equity holders, which must have a term of at least three years.
Non-shareholder loans, provided an eligible investment is covered or will be covered by MIGA. In this respect, MIGA should receive an application from an eligible investor in the project before or at the time when the application for the non-shareholder loan is filed.
- Other investments such as technical assistance, management contracts, franchising and licensing agreements as long as the remuneration of the investor depends on the revenues or production of the investment project and such form of investment has a term of at least three years.

3. Eligible Applicants

- Nationals of a member country other than the country in which the investment is to be made (host country).
- Juridical persons 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.
- State-owned corporations if they operate on a commercial basis.
- Nationals of the host country or juridical persons incorporated in said host country or whose capital is majority-owned by its nationals, provided that the invested assets are transferred from outside the host country.

FOR MORE DETAILS on MIGA's activities, including its member countries, contact the MIGA Business Development Officer at migainquiry@worldbank.org or visit www.miga.org.

World Bank Group
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INSURING INVESTMENTS ■ ENSURING OPPORTUNITIES



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