



MULTILATERAL INVESTMENT GUARANTEE AGENCY (MIGA) AND GEORGIA

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INTRODUCTION

➤ What is MIGA?

The Multilateral Investment Guarantee Agency (MIGA or the Agency) 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 guarantees protect investments against non-commercial risks and can help investors obtain access to funding sources with improved financial terms and conditions.

The main function of MIGA is to insure cross-border investments made by investors in any MIGA member country into a developing member country.

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.

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.

Effective from April 12, 1988, MIGA Convention was adopted on October 11, 1985 with subsequent amendments in November 14, 2010.

➤ Membership and Structure

MIGA's membership is open to all members of the World Bank and to Switzerland. There is, however no obligation for the World Bank members to join the Agency. Georgia is MIGA member since December 1992.

The Agency's principal office is located in Washington, D.C., USA. It has a three-tiered structure, consisting of:

- Council of Governors;
- Board of Directors;
- President.

➤ Covered Risks and Eligibility

MIGA can help investors and lenders deal with these risks by insuring eligible projects against losses relating to:

- Currency convertibility and transfer restriction;
- Expropriation and measures tantamount to expropriation;
- War, terrorism and civil disturbance;

- Breach of contract;
- Non-honoring of sovereign financial obligations.

Eligible Investors - MIGA insures investments made by investors of 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.

Eligible Investments: Cross-border direct investments insured by MIGA, include:

- Equity investments, shareholder loans, and shareholder loan guaranties, provided the loans have a minimum maturity of more than one year.
- Non-shareholder loans, if 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, and franchising and licensing agreements.

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.

OPERATIONS

➤ Issuance of Guarantee

To qualify for a guarantee the investor on the one hand, and the investment, on the other, must meet the eligibility criteria listed above.

MIGA will not conclude any contract of guarantee before the "host government has approved the issuance of the guarantee by the Agency against the risks designated for cover".

➤ Pricing

Insurance 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 three years (more than one year for loans) 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 third 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 \$220 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.

➤ **Reinsurance**

MIGA is authorized to provide reinsurance to institutions of members issuing investment guarantees, to regional investment guarantee agencies¹ and to private insurers in member states.

Reinsurance arrangements shall be structured do that the Agency or the reinsured entity will have equivalent rights of subrogation and arbitration to those the Agency would have if it were primary guarantor.

➤ **Payment of Claims**

In order to ensure prompt payment of claims, decisions will be taken by the President in accordance with the contracts of guarantee and such policies as the Board may adopt and, in cases of dispute, final determination may depend on the outcome of arbitration between the Agency and the investor concerned.

It is envisaged that these policies will require the guarantee holder to seek such administrative remedies as may be appropriate under the circumstances, if they are readily available under the laws of the host country and may provide for reasonable periods of

¹ Such does not exist in Georgia at present.

time to elapse so as to maximize the prospects to amicable settlement of claims between investors and host countries.

It is expected that the specific time limits, to be included in the guarantee contracts, would be consistent with the practice of other political risk insurers. However, the Agency may establish such limits in its rules and regulations and may incorporate them into the contracts of guarantee in order to increase the attractiveness of its services.

➤ ***The Small Investment Program (SIP)***

MIGA's SIP program is designed to facilitate investment into small and medium-size 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*;
- no application fee for eligible smaller investors;
- a quick approval process

The SIP has no restrictions with respect to the size of the investor. However, the program is specifically designed to assist small and medium-size investors (SMIs). The application fee is waived for SMIs. In order to qualify as an SMI, the company must have no more than 375 employees and fulfill one of the following additional criteria: have no more than \$50 million in assets or \$100 million in annual sales.

APPLICATION PROCESS

MIGA's guarantee issuance process begins when a client submits a Preliminary Application. The application is free, confidential, short, and it can be done online. As soon as MIGA receives the application, they will assign an underwriter to review it to determine whether the project meets eligibility criteria. MIGA will then contact the client to discuss the project.

At this point the underwriter discusses preliminary pricing with the client, the potential size of the guarantee, and the MIGA covers that are most appropriate for the investment. MIGA also works with the client to identify environmental and social impact assessments that must be undertaken.

The next step is for the client to submit a Definitive Application (the form will be provided by MIGA's underwriting team). After receiving the completed Definitive Application, MIGA begins a thorough review of the project. To ensure a quick underwriting process, the project sponsors must submit supporting documentation, which MIGA reviews to ensure that the project meets their policies and guidelines. The supporting documentation MIGA requires to begin the formal underwriting process typically may include:

- Feasibility study or a business plan supporting the economic viability and financial soundness of the project;
- Financial forecast/ model;
- All loan documentation, including shareholder and non-shareholder loans (drafts acceptable during underwriting) and all loan-related documents;
- All loan guaranties (including back-stop guarantees from parent companies);
- Financial statements and incorporation documents/by-laws from the investor and the project enterprise in the host country;
- Environmental permits/environmental impact assessment if applicable;
- Land purchase/lease agreements;
- All other applicable project licenses/ permits/ agreements/contracts.

➤ *Fees*

Definitive Application Fee: \$5,000 for cover of less than \$25 million and \$10,000 for larger amounts. The application fee is applied toward the initial premium or, if MIGA rejects the project for any reason, the fee is refunded.

Processing Fee: Additional fees may be required for complex projects. For example, fees may be required to cover the cost of site visits for environmental and social due diligence.

Syndication Fee: If applicable, a fee will be applied when MIGA arranges a project's total insurance requirements through reinsurance.

➤ *Review, Disclosure, and Due Diligence by MIGA and Duration of the Process*

Before MIGA undertakes extensive underwriting, the Agency's management conducts a preliminary assessment of the project's development impact, risk profile, and compliance with our legal and policy requirements.

The duration of the underwriting process depends on the complexity of the project. Complex projects requiring extensive environmental and social due diligence will take longer, but most projects can be underwritten in four to six months or less. Projects under the Small Investment Program can be processed in one to two months if all of the required documentation has been provided.

DISPUTE RESOLUTION

A dispute may arise when an investor alleges that the government has breached its contractual obligations or expropriated its investment. Conversely, a dispute may be brought by a host government alleging that the investor has breached its contractual obligations. Both sides may disagree about who is at fault and about how the aggrieved party should be compensated. MIGA uses its "good offices" in these cases to examine areas of responsibility and potential liability, and to help the parties reach an agreement that would settle the dispute to the satisfaction of both sides.

If the parties are unable to settle their dispute and a claim for compensation is brought by an investor under a MIGA guarantee, the Agency will review the facts of the dispute and make a formal determination. If MIGA finds for the insured investor, they will pay the compensation to which the investor is entitled under the guarantee. Under the terms of MIGA's Convention, MIGA is then permitted to seek reimbursement of such payments from the host government.

The Convention establishes procedures for four different types of disputes:

- Questions of interpretation or application of the Convention arising between any member and the Agency or among any members will be decided by the Board subject to the possibility of appeal to the Council.
- Disputes arising under a contract of guarantee or reinsurance between the

Agency and the other party will, if not solved amicably, be submitted to arbitration in accordance with the rules contained or referred to in the contracts of guarantee or reinsurance;

- Disputes between the Agency as subrogee of an investor and a member shall be settled either in accordance with the Convention or in accordance with an agreement to be entered into between the Agency and that member on alternative dispute settlement mechanisms;
- Disputes other than those listed above, which arise between the Agency and any member or agency thereof as well as all disputes between the Agency and a former member will be settled through negotiations and failing this, according to conciliation and arbitration.

Arbitration proceedings shall be instated by means of a notice by the party seeking arbitration (the claimant) addressed to other parties of the disputes. The respondent shall within 30 days after the date of notice receipt, notify the claimant the name of the arbitrator appointed by it. The two parties shall within the period of 30 days from the date of appointment of second arbitrator, select a third arbitrator who shall act as the President of the Arbitral Tribunal.

MIGA CONTACT INFORMATION

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This Brochure is limited to the matters directly addressed herein and shall not be deemed applicable to the explanations, clarifications or matters other than expressly contemplated herein.

USEFUL INFORMATION

Projects with MIGA Guarantee in Georgia

<p>Project name: Adjaristsqali Hydro Project, Georgia</p> <p>Fiscal year: 2014</p> <p>Status: Proposed</p> <p>Guarantee holder: Tata Power International Pte. Ltd.</p> <p>Investor country: Singapore</p> <p>Host country: Georgia</p> <p>Sector: Power</p> <p>Date SPG disclosed: April 10, 2014</p> <p>Projected Board date: June 12, 2014</p> <p>Gross exposure: \$64.0 million</p> <p>Project type: Non-SIP</p>
<p>Project name: GeoCapital, Georgia</p> <p>Fiscal year: 2013</p> <p>Status: Proposed</p> <p>Guarantee holder: Principals of a microfinance organization operating in Georgia</p> <p>Investor country: United States</p> <p>Host country: Georgia</p> <p>Sector: Banking</p> <p>Date SPG disclosed: April 19, 2013</p> <p>Projected Board date: May 03, 2013</p> <p>Gross exposure: \$2.0 million</p> <p>Project type: SIP</p>
<p>Project name: ProCredit Group Central Bank Mandatory Reserves Coverage</p> <p>Fiscal year: 2012</p> <p>Status: Active</p> <p>Guarantee holder: ProCredit Holding AG & Co. KGaA</p>

Investor country: Germany

Host country: Georgia

Sector: Banking

Date SPG disclosed: October 28, 2011

Project Board date: December 01, 2011

Gross exposure: \$13.5 million

Project type: Non-SIP

Project name: ProCredit Group Central Bank Mandatory Reserves Coverage

Fiscal year: 2011

Status: Active

Guarantee holder: ProCredit Holding

Investor country: Germany

Host country: Georgia

Sector: Banking

Date SPG disclosed: October 05, 2010

Project Board date: November 23, 2010

Gross exposure: \$9.0 million

Project type: Non-SIP

Project name: International Commercial Black Sea Bank (Georgia) S.A.

Fiscal year: 1997

Status: Not Active

Guarantee holder: Commercial Bank of Greece, S.A.

Investor country: Greece

Host country: Georgia

Sector: Banking

Gross exposure: \$2.0 million

Project type: SIP