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UFK-Guarantees of the Federal Republic of Germany

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UFK-GUARANTEES OF THE
FEDERAL REPUBLIC OF GERMANY

► **Untied Loan Finance**

► UFK-Guarantees of the Federal Republic of Germany

UNTIED LOAN GUARANTEES

The secure supply of raw materials and energy is being considered to be a basic prerequisite for prosperity and growth in the Federal Republic of Germany (Federal Government). However, due to a rather limited national endowment with natural resources, German companies heavily rely on the import of raw materials such as oil and gas, base metals and refractory metals. Hence, the German Untied Loan Guarantee Scheme (UFK) has been designed to enhance the national supply of commodities by providing financial guarantees to national and international financial institutions lending to commercial projects in the mining as well as the oil and gas sector.

For financing to be eligible for cover under the Untied Loan Guarantee Scheme, the Federal Government requires the project's owner or sponsor to enter into a contract with a German offtaker for the delivery of natural resources extracted. The offtake agreement shall comprise the delivery of reasonable quantities, be of reasonable duration and match industry standards in respect of termination, hardship and force majeure clauses. Projects shall also be commercially and technically feasible and contribute to the economic development of the host country. UFK-guaranteed loans are not tied to German exports and services.

The respective guarantee agreement and the currently valid General Terms and Conditions for Untied Loan Guarantees are the legally binding basis for Untied Loan Guarantees.

ELIGIBLE APPLICANTS

Banks domiciled in Germany, branches of foreign banks established in Germany and, under certain circumstances, foreign banks are eligible to apply for cover.

OBJECT OF COVER

The covered obligation under the Untied Loan Guarantee is the Policyholder's repayment claim against the foreign debtor as agreed in the loan contract (Guaranteed Amount). The loan can be denominated in euros or in any foreign currency. Any interest agreed on in the loan contract is also covered insofar as it accrues up to the agreed maturities.

SCOPE OF COVER

An event of loss is deemed to have occurred if and when the Guaranteed Amount is uncollectable as a result of one of the political or commercial risks defined below.

An amount is deemed to be uncollectable for **political reasons** as a result of one of the following events:

- ▶ Legislative or administrative measures abroad which were passed or came into force after the conclusion of the loan contract in respect of the Guaranteed Amount
- ▶ War, other armed conflicts, revolutions or civil commotion abroad
- ▶ Payment embargoes or moratoriums as well as the impossibility of converting or transferring amounts deposited with a solvent bank for their transfer
- ▶ Exchange rate losses due to governmental devaluations

An amount is deemed to be uncollectable for **commercial reasons** as a result of one of the following events:

- ▶ Insolvency, unsuccessful execution and suspension of payment
- ▶ Protracted default

On application, the scope of cover can be limited to political risks. The Federal Government can limit the scope of cover to certain risks when assuming an Untied Loan Guarantee. Further information is available in the current version of the General Terms and Conditions for Untied Loan Guarantees.

PREREQUISITES

The Federal Government only assumes Untied Loan Guarantees for projects which are eligible for cover and on the precondition that the risk of assuming a guarantee is justifiable.

The main element in deciding on the eligibility for cover is the so-called **eligibility for cover in principle**. The Ministry for Economic Affairs and Energy confirms this provided that a project contributes to securing the supply of the Federal Republic of Germany with raw materials which e. g. cannot be obtained or can only be obtained in limited quantities via the international spot markets, for which trade barriers exist affecting German industry or which are strategic raw materials for industries with important future potential.

The assessment and declaration of a project's eligibility for cover in principle is made on a case by case basis depending on the details of the individual project. Another precondition for the assumption of an Untied Loan Guarantee is the prospect of a loss free record of the guarantee – that is the timely repayment of the covered loan.

As for the **justifiability of risk**, project risks should be shared between project stakeholders, e.g. by sponsors providing equity or by providing a security package.

APPLICATION AND APPROVAL PROCESS

Applicants interested in an Untied Loan Guarantee should contact Euler Hermes already during the **planning and negotiation phase of the project**. Issues such as the project's positive contribution to the natural resources supply of the Federal Republic of Germany and other requirements are key issues and should be discussed in advance.

In the early phase of a project the Federal Government is prepared to give a first non-binding **indication** whether a project is, in principle, suitable for an Untied Loan Guarantee. In addition to information about the debtor as well as the terms and conditions of the loan (amount and tenor) the enquiry should contain information about the project (project structuring, investment volume, stakeholders) and its financing structure (including the security concept). In the case of natural resources projects the enquiry should state the expected contribution of the project to an increase of the resources supply of the Federal Republic of Germany (possible German off-takers/envisaged conditions of the offtake agreement). Such an enquiry can be informal and is free of charge for the applicant.

The further application and approval process for the project is then initiated with a formal **application**. Based on the project information memorandum (PIM) and a financial model submitted by the applicant, a so-called **preliminary review** is carried out by Euler Hermes. This includes a preliminary review of the project and financing structure, the entities involved in the project, the market situation, the economic viability as well as the security package (if available at this stage).

Based on the findings of the preliminary review the Federal Government may request the applicant to commission an **expertise** on the economic viability of the project (further information on the requirements and

scope of the expertise can be found in the brochure “Expert opinions for Project Financing and Structured Finance” which also applies to the UFK-scheme and can be found under “Downloads” at www.agaportal.de).

Once Euler Hermes has received the Expert opinion/assessed the project (as the case may be), it prepares a recommendation for the Federal Government which provides the basis for the Interministerial Committee’s (IMC) decision. Besides the Federal Ministry for Economic Affairs and Energy as lead ministry, the Federal Ministry of Finance, the Federal Foreign Office and the Federal Ministry for Economic Cooperation and Development are represented on the committee. Before the signing of the project and financing contracts, the IMC gives a so-called **preliminary approval** to the applicant bank. This comprises the binding confirmation from the Federal Government to make a positive decision on the Untied Loan Guarantee applied for, provided that no changes take place to the material and legal position and as long as the project and financing contracts and/or the long-term offtake agreement for raw materials are concluded within a stipulated period and any conditions concerning the project and/or the financing concept are fulfilled.

When the project and financing contracts as well as the long-term offtake agreement – where necessary after fulfillment of the conditions stipulated – are signed, the Federal Government concludes a guarantee agreement (Untied Loan Guarantee) with the bank or the bank consortium which made the application.

REQUIRED INFORMATION AND DOCUMENTS

In order to execute the project due diligence process certain information and documents are required about commercial, technical, environmental, social and human rights aspects of a project. These are typically:

INFORMATION ABOUT

- ▶ the creditor and the debtor (name, address etc)
- ▶ the terms and conditions of the loan (loan amount, duration, interest rate etc)
- ▶ the investment project (short project overview, investment volume, financing, management after completion of the project)
- ▶ the security concept (completion and payment guarantee, obligation to make additional contributions, escrow account, dividend payout limitation/accumulation of reserves, assignment of claim, mortgages etc)
- ▶ permissions, concessions and commitments of public authorities that are important for the implementation of the project (import/export licenses, account keeping abroad, borrowing or loan repayment in foreign currency, tax exemptions etc)
- ▶ the environmental, social and human rights impacts of the project (ecological and social aspects, compliance with the requirements of the host country, as well as with the guidelines of the World Bank etc)

DOCUMENTS

- ▶ Project information memorandum (PIM) (economical and technical examination of the project, financing, market condition and competition, infrastructure, importance for the national economy etc)
- ▶ Revenue and liquidity forecast for the project (stating the assumptions that the calculation is based upon)
- ▶ Environmental, Social and Human Rights Impact Assessment (ESIA)
- ▶ Term Sheet/loan contract (disbursement conditions, repayment modalities, loan security, debtor’s obligations etc)
- ▶ Offtake contract
- ▶ Shareholder Agreement/Articles of Association of the debtor

In some cases Euler Hermes will ask for additional documents and information, which might be needed for processing the application.

PERIOD OF COVER

Cover is provided as soon as the loan is being paid out and ends upon full repayment of the covered loan. There is no cover for not yet paid out loan amounts.

FEES AND PREMIUMS

The premium charged for assuming an Untied Loan Guarantee comprises application fees and the premium for cover.

An **application fee** must be paid for the processing of an application for an Untied Loan Guarantee. The application fee for a loan (including interest) with an amount up to 5,000,000.-- euros is 1‰ and for an amount above 5,000,000.-- euros it is 0.5‰. However, application fees are capped at 30,000.-- euros.

A **premium** depending on the type and size of the risk to be covered will be charged for assuming an Untied Loan Guarantee. The premium is risk differentiated and is charged as a percentage of the loan amount to be covered (without interest). The solvency of the debtor or the economical stability of the project, the country risk and the risk duration are crucial criteria for determining the premium rate. It is charged as a percentage of the loan amount to be covered (without interest) and is payable as a one-off up-front payment on the assumption of the guarantee. Insurance taxes are not applicable.

For further information on fees and premiums please see the publication **“Fees and premium rates” for Untied Loan Guarantees**.

CALCULATION AND PAYMENT OF INDEMNIFICATION

It is a prerequisite for an indemnification that a covered repayment claim is deemed uncollectable due to one of the covered risks. The Federal Government will calculate the amount to be indemnified within one month of receiving all the documentation required for ascertainment of the claim for indemnification. The amount resulting from this calculation will be paid to the Policyholder within five bank days following notice of such calculation to the Policyholder, provided that the Policyholder has acknowledged the calculation to be correct.

The Policyholder is normally required to retain for his own account a portion of each loss amounting to 10% for all risks. Insurance elsewhere is permissible in principle – with the exception of a retention borne by the Policyholder of 5% of the loss.

CONTACT

Euler Hermes Aktiengesellschaft in Hamburg, Germany, is mandated by the Federal Government to manage the UFK-scheme. Please contact Euler Hermes if you have any further questions about the UFK-scheme.

For further information please visit our homepage www.agaportal.de.

Cover from the Federal Republic of Germany for foreign business

Export Credit Guarantees and Untied Loan Guarantees have been established and effective foreign trade promotion instruments of the Federal Government for decades. Export Credit Guarantees (“Hermes Cover”) protect German exporters and the banks financing them against political and commercial risks. Untied Loan Guarantees are to support raw material projects abroad regarded as eligible for promotion by the Federal Government. Both promotion instruments play an important role in fostering economic growth as well as in protecting and creating jobs.

They are managed on behalf of the Federal Republic of Germany by Euler Hermes Aktiengesellschaft as mandatary of the Federal Government.

Information on other foreign trade promotion instruments of the Federal Government can be found at www.bmwi.de under the search term “Promotion of foreign trade and investment”.



Federal Ministry
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OUR PARTNER



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