

K oznámeniu č. 170/2011 Z. z.**Article 11: Covered Risks**

- (a) Subject to the provisions of Sections (b) and (c) below, the Agency may guarantee eligible investments against a loss resulting from one or more of the following types of risk:
- (i) **Currency Transfer**
any introduction attributable to the host government of restrictions on the transfer outside the host country of its currency into a freely usable currency or another currency acceptable to the holder of the guarantee, including a failure of the host government to act within a reasonable period of time on an application by such holder for such transfer;
 - (ii) **Expropriation and Similar Measures**
any legislative action or administrative action or omission attributable to the host government which has the effect of depriving the holder of a guarantee of his ownership or control of, or a substantial benefit from, his investment, with the exception of non-discriminatory measures of general application which governments normally take for the purpose of regulating economic activity in their territories;
 - (iii) **Breach of Contract**
any repudiation or breach by the host government of a contract with the holder of a guarantee, when (a) the holder of a guarantee does not have recourse to a judicial or arbitral forum to determine the claim of repudiation or breach, or (b) a decision by such forum is not rendered within such reasonable period of time as shall be prescribed in the contracts of guarantee pursuant to the Agency's regulations, or (c) such a decision cannot be enforced; and
 - (iv) **War and Civil Disturbance**
any military action or civil disturbance in any territory of the host country to which this Convention shall be applicable as provided in Article 66.
- (b) In addition, the Board, by special majority, may approve the extension of coverage under this Article to specific non-commercial risks other than those referred to in Section (a) above, but in no case to the risk of devaluation or depreciation of currency.
- (c) Losses resulting from the following shall not be covered:
- (i) any host government action or omission to which the holder of the guarantee has agreed or for which he has been responsible; and
 - (ii) any host government action or omission or any other event occurring before the conclusion of the contract of guarantee.

Article 12: Eligible Investments

- (a) Eligible investments shall include equity interests, including medium- or long-term loans made or guaranteed by holders of equity in the enterprise concerned, and such forms of direct investment as may be determined by the Board.
- (b) Loans other than those mentioned in Section (a) above are eligible for coverage
- (i) if they are made to finance or are otherwise related to a specific investment or project in which some other form of direct investment is present, whether or not guaranteed by the Agency and regardless of when such other investment was made, or
 - (ii) as may be otherwise approved by the Board by special majority.
- (c) The Board, by special majority, may extend eligibility to any other medium- or long-term form of investment.
- (d) Guarantees shall generally be restricted to investments the implementation of which begins subsequent to the registration of the application for the guarantee by the Agency or receipt by the Agency of other satisfactory evidence of investor intent to obtain guarantees from the Agency. Such investments may include:
- (i) a transfer of foreign exchange made to modernize, expand, or develop an existing investment, in which case both the original investment and the additional investment may be considered eligible for coverage;
 - (ii) the use of earnings from existing investments which could otherwise be transferred outside the host country;
 - (iii) the acquisition of an existing investment by a new eligible investor;
 - (iv) existing investments where an eligible investor is seeking to insure a pool of existing and new investments;
 - (v) existing investments owned by an eligible investor where there is an improvement or enhancement of the underlying project or the investor otherwise demonstrates medium- or long-term commitment to the project, and the Agency is satisfied that the project continues to have a high developmental impact in the host country; and
 - (vi) such other investments as may be approved by the Board by special majority.
- (e) In guaranteeing an investment, the Agency shall satisfy itself as to:
- (i) the economic soundness of the investment and its contribution to the development of the host country;
 - (ii) compliance of the investment with the host country's laws and regulations;

(iii) consistency of the investment with the declared development objectives and priorities of the host country; and

(iv) the investment conditions in the host country, including the availability of fair and equitable treatment and legal protection for the investment.