

LAST REVISED ON  
1 JULY 2017



## Guidelines for the issuance of export credit guarantees of 4 June 2014

This document is a translation which was made for the reader's convenience only.  
Only the German text is legally effective.

EXPORT CREDIT GUARANTEES OF THE  
FEDERAL REPUBLIC OF GERMANY

► **Hermes Cover**

## ► Guidelines for the issuance of export credit guarantees

*In accordance with Article 3 (1) Sentence 1, Number 1 of the Act on the Approval of the Federal Budget for the 2013 Fiscal Year (Budget Act 2013) of 20 December 2012 (BGBl. I page 2757), which was most recently amended by Article 1 and 2 of the Act of 15 July 2013 (BGBl. I page 2404), the Federal Ministry for Economic Affairs and Climate Action in consultation with the Federal Ministry of Finance, the Federal Ministry for Economic Cooperation and Development and the Federal Foreign Office hereby issues the following guidelines:*

### I. DECISION TO PROVIDE COVER

#### 1. GENERAL

- 1.1 These guidelines govern decisions to grant guarantees for eligible exports (export credit guarantees) by the Federal Republic of Germany (the Federal Government) for covering the foreign-country-related risks of an export transaction.
- 1.2 Export credit guarantees are not provided where cover of generally the same type and in generally the same scope can be obtained for export transactions in the private insurance market.
- 1.3 There is no right to obtain export credit guarantees.
- 1.4 Export credit guarantees may only be granted to German exporters, to German and foreign credit institutions, insofar as they finance the transactions of German exporters and there is no doubt as to the proper execution of the relevant credit agreements, and to public primary insurers for reinsurance purposes.
  - 1.4.1 German exporters are defined as
    - 1.4.1.1 sole traders and trading companies domiciled or with registered offices in Germany;
    - 1.4.1.2 foreign trading companies that operate a branch in Germany registered in the commercial register with regard to the export business of such branch.
  - 1.4.2 As a rule, credit institutions eligible for cover are defined as those enterprises which, in accordance with the German Banking Act (KWG), conduct banking business with the necessary authorisation or are permitted to conduct banking business for which no permit is required, in both cases in the territory to which said Act applies.

Export credit guarantees can support delivery, service and finance contracts in particular.

1.5 If the German exporter has not entered into the contract with the foreign buyer directly, it is only eligible to receive an export credit guarantee if

1.5.1 the German exporter holds the receivable to be covered, or

1.5.2 the contract has been entered into by a foreign affiliate of the German exporter and the Federal Government has a special interest in having the export transaction executed. Such special interest includes but is not limited to a transaction that creates or secures employment in the Federal Republic of Germany on a sustained basis.

1.6 The purpose of export credit guarantees is to promote German export business. They are generally only issued if the goods to be delivered or the services to be provided under the export contract materially originate within Germany.

In the case of export transactions that are exposed to a particularly high risk, the export credit guarantee may be confined to that part of the goods or services that have their origins within Germany.

Goods that are typically in transit (transit goods) may be included in export credit guarantees for export contracts with credit periods of no more than 24 months in accordance with terms customarily prevailing in international trade.

1.7 Applications for an export credit guarantee must generally be for all coverable risks associated with the export transaction.

In deciding whether to grant export credit guarantees, the Federal Government may exclude risks from the cover or restrict the scope of cover.

## 2. CRITERIA FOR THE GRANT OF EXPORT CREDIT GUARANTEES

### 2.1 Eligibility for support

Export credit guarantees can only be granted for export transactions if these are eligible for support or if the Federal Republic of Germany has a particular sovereign interest in having the export transaction executed.

An export transaction is particularly not considered to be eligible for support if it conflicts with any material interests of the Federal Republic of Germany.

### 2.2 Acceptable risk

An export credit guarantee can only be granted if on the basis of the risks already covered the guarantee is acceptable in terms of the creditworthiness of the foreign buyer or borrower and in the light of the political risks to which execution of the export transaction is exposed. It is acceptable for an export credit guarantee to be granted if there is a reasonable prospect of the export transaction being executed free of any loss.

The review of the risks to be covered must take account of the extent to which the export transaction is eligible for support. In individual cases, the limits of acceptability may be extended further than in normal cases if there is a special macroeconomic interest – particularly the preservation of employment – in having the export transaction executed.

### 2.3 Terms and conditions of contract

Export transactions should only be supported if the agreed conditions are consistent with the contractual terms and conditions customary in foreign trade in the light of the type and scope of the goods to be delivered or the services to be provided. In particular, the terms of payment and/or conditions for repayment of principal and interest under the export transactions concerned should comply with international agreements and internationally approved rules for export business.

### 2.4 Budget-related restrictions

All decisions are made within the framework of the provisions of federal budget law. In particular, export credit guarantees may not be granted if

2.4.1 the maximum amount set aside in the budget for guarantees is not sufficient, or

2.4.2 it must be assumed with a high degree of probability that recourse will be taken to the Federal Government.

An application for an export credit guarantee may only be granted subject to the approval of the Federal Ministry of Finance.

### 3. PARTIES INVOLVED IN THE DECISION-MAKING PROCESS

- 3.1 The Federal Ministry for Economic Affairs and Climate Action makes the decisions to grant export credit guarantees through the Interministerial Committee for Export Credit Guarantees with the approval of the Federal Ministry of Finance in accordance with Section 39 of the Federal Budget Code of 19 August 1969 (BGBl. I page 1284), which was most recently amended by Article 2 of the Act of 15 July 2013 (BGBl. I page 2395), and in consultation with the Federal Foreign Office and the Federal Ministry for Economic Cooperation and Development.
- 3.2 The meetings of the Interministerial Committee are attended by:
- 3.2.1 Representatives of the Federal Ministry for Economic Affairs and Climate Action, the Federal Ministry of Finance, the Federal Foreign Office and the Federal Ministry for Economic Cooperation and Development;
- 3.2.2 Representatives of the mandatary charged with managing the export credit guarantee scheme.
- The Federal Ministry for Economic Affairs and Climate Action may invite the following persons to attend the meetings of the Interministerial Committee in an advisory capacity:
- 3.2.3 Representatives nominated by the Federal Audit Office, Kreditanstalt für Wiederaufbau and AKA Ausfuhrkreditgesellschaft mbH;
- 3.2.4 Representatives of the export and banking sectors appointed by the Federal Ministry for Economic Affairs and Climate Action for a fixed term.
- 3.3 The Interministerial Committee is chaired by a representative of the Federal Ministry for Economic Affairs and Climate Action.
- 3.4 All participants are under a duty to treat the deliberations of the Interministerial Committee confidentially. All documents and information are for the respective recipients' eyes only and may not be disclosed to any third parties except with the requisite authorisation.
- 3.5 The Federal Government has mandated Euler Hermes Aktiengesellschaft, Hamburg, with the management of the export credit guarantee scheme.

3.5.1 Management responsibilities are governed in greater detail in a mandatory agreement entered into by and between the Federal Government and Euler Hermes Aktiengesellschaft. These responsibilities include the acceptance of applications and other declarations from the recipients of the export credit guarantees (policyholders) and the processing and handling of such applications and other declarations. The mandatary prepares the applications so that a decision can be made and notifies the applicants/policyholders of the decisions made and any instructions that may have been issued.

3.5.2 The mandatary's activities are supervised by the Federal Ministry for Economic Affairs and Climate Action, the Federal Ministry of Finance and the Federal Audit Office.

### 4. PROCEDURE

4.1 Export credit guarantees are granted only subject to receipt of an application. As far as possible, an application should be submitted before the export contract and, where applicable, the loan agreement are entered into and in all cases before the risk to be covered arises.

4.2 Offer of cover  
It is possible for the applicant to be given an offer of cover before an export contract and, where applicable, a loan agreement are entered into.

4.2.1 The offer of cover entails a commitment by the Federal Government to grant the export credit guarantee applied for as long as there is no change in the factual or legal situation provided that the export contract and, where applicable, the loan agreement are entered into within a specified period and the maximum amount stipulated by the Budget Act for guarantees is sufficient.

4.2.2 If, after an offer of cover has been issued, there is a change in the factual or legal situation such that the Federal Ministry for Economic Affairs and Climate Action would not have issued the offer of cover had it been aware of such changes or would not have been permitted to do so for legal reasons, the Federal Government shall not be bound by its commitment under the offer of cover.

4.2.2.1 The Federal Ministry for Economic Affairs and Climate Action shall inform the applicant that it is no longer bound by its commitment under the offer of cover upon becoming aware of the change in the factual or legal situation.

- 4.2.2.2 If the applicant has entered into the export contract prior to the expiry of the stipulated period and it immediately discloses this and, when entering into the contract, it could reasonably assume in good faith that there had been no change in the factual or legal situation, the Federal Ministry for Economic Affairs and Climate Action will only be able to declare that it is no longer bound by its commitment under the offer of cover if and to the extent that it would be entitled to alter the cover under an existing export credit guarantee.
- 4.3 Firm commitment
- 4.3.1 A firm commitment shall be made on the application for an export credit guarantee when all facts of relevance for the decision are known.
- 4.3.2 A final positive decision (firm commitment) is normally not made until the export contract and, where applicable, also the loan agreement have been entered into and all data required to issue the guarantee certificate has been received.
- 4.3.3 The firm commitment entitles the applicant to enter into an export credit guarantee agreement with the Federal Government provided that the maximum amount stipulated by the Budget Act for guarantees is sufficient. However, the Federal Government is not bound by the commitment if and to the extent that it would be entitled to alter the cover under an existing export credit guarantee.

## II. EXECUTION OF CONTRACT

### 5. EXPORT CREDIT GUARANTEE AGREEMENT

- 5.1 The Federal Government enters into an export credit guarantee agreement with the recipient of the guarantee on the basis of the firm commitment. In its capacity as the contractual partner of the recipient of the guarantee (policyholder), the Federal Government is represented by the Federal Ministry for Economic Affairs and Climate Action. The Federal Ministry for Economic Affairs and Climate Action, in turn, is represented by the mandatary.
- 5.2 The export credit guarantee agreement governs the details of the cover provided, including but not limited to
- 5.2.1 the contractual obligations and rights of the policyholder under the export credit guarantee (the subject matter and scope of cover),

- 5.2.2 the circumstances under which the Federal Government is liable for indemnification (covered risks),
- 5.2.3 the portion of the loss to be borne by the policyholder (uninsured percentage),
- 5.2.4 the maximum amount of indemnification which the Federal Government may provide (maximum indemnification),
- 5.2.5 the circumstances under which the Federal Government may restrict cover (intervention in the scope of cover), and
- 5.2.6 the scope for rescheduling agreements with the debtor country affecting the uninsured percentage to be borne by the exporters (rescheduling agreements).
- 5.3 The Federal Ministry for Economic Affairs and Climate Action may issue standard terms and conditions to govern recurring contractual conditions subject to consultation with the Federal Ministry of Finance.

### 6. FEES

- 6.1 Upon submission of an application, the exporter or credit institute, as the case may be, is under a contractual obligation to pay the Federal Government a fee in consideration of
- 6.1.1 the processing of the application and
- 6.1.2 the acceptance of the risks by the Federal Government (premium). The fees and premiums should be such that the cover instrument is self-supporting in the long term.
- 6.2 The Federal Ministry for Economic Affairs and Climate Action sets the fees and premium rates in agreement with the Federal Ministry of Finance.

## III. FINAL PROVISIONS

### 7. EFFECTIVE DATE

These guidelines shall take effect from 4 June 2014. Upon taking effect, they shall replace the guidelines for the grant of export credit guarantees of 30 December 1983, which shall therefore forthwith be suspended.

Export Credit Guarantees and Untied Loan Guarantees: instruments to promote foreign trade and investment provided by the



Federal Ministry  
for Economic Affairs  
and Climate Action

Commissioned to implement the federal funding instruments Export Credit Guarantees and Untied Loan Guarantees:



EULER HERMES

## 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 (so-called Hermes Cover) protect German exporters and banks financing exports 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. Federal Government commissioned Euler Hermes Aktiengesellschaft to manage the federal funding instruments Export Credit Guarantees and Untied Loan Guarantees.

Information on other foreign trade promotion instruments of the Federal Government can be found at [www.bmwk.de/en](http://www.bmwk.de/en) under the heading Promotion of Foreign Trade and Investment.

### Euler Hermes Aktiengesellschaft

Postal address:  
P.O. Box 50 03 99  
22703 Hamburg, Germany

Office address:  
Gasstraße 29  
22761 Hamburg, Germany

Phone: +49 (0)40/88 34-90 00  
Fax: +49 (0)40/88 34-91 75

[info@exportkreditgarantien.de](mailto:info@exportkreditgarantien.de)  
[info@ufk-garantien.de](mailto:info@ufk-garantien.de)  
[www.agaportal.de/en](http://www.agaportal.de/en)

Branch offices: Berlin, Dortmund, Frankfurt,  
Freiburg/Stuttgart, Hamburg, Munich,  
Nuremberg, Rhineland