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Particularities of Holding Constructions

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Only the German text is legally effective.

INVESTMENT GUARANTEES OF THE
FEDERAL REPUBLIC OF GERMANY

► **Direct Investments Abroad**

► Particularities of Holding Constructions

HOLDING CONSTRUCTIONS

Since the beginning of the nineties German enterprises have increasingly established holding companies abroad in order to improve the co-ordination of their activities in the particular host country. As the holding company normally participates in further operating companies and is principally responsible for their administration, the operative companies are responsible for the operative business. The operating company and the holding company are two legally independent enterprises for which political risks can be realised separately. On special application the Federal Republic of Germany (Federal Government) supports such types of project with its investment guarantees.

COVER OPTION

In principle the guarantee covers only the investment that has been made directly from Germany in the host country. Consequently, the losses resulting from sovereign acts affecting the assets of an operating company are not covered in the first instance. Thus, in case of a holding construction the investment in the operating company is covered additionally to ensure a comprehensive cover. This applies to all investments for which the injection of funds was made directly from Germany or by internal financing in the host country.

REALISATION

The realisation takes place by granting cover in favour of the German parent company for both its proportionate equity participation in the holding company as well as the equity participation of the holding company in the operating company. In case both companies have been affected by the realisation of risks the loss of the operating company ranks prior to the loss of the holding company. This adaptation of the guarantee terms provides the German investor with a comprehensive cover also against sovereign acts affecting the assets of the respective operating company.

LEGAL PROTECTION

Sufficient legal protection in the host country is a precondition for granting cover. This legal protection usually exists in case the Federal Republic of Germany and the host country concluded a treaty under international law on the mutual protection of capital investments (Investment Protection Treaty). Unless the protection of the Investment Protection Treaty does not explicitly include indirect investments, it is moreover of vital importance for a holding construction that the host country ensures the legal protection also for the investment made into the operating company by issuing an adequate statement.

PREMIUM

The adaptation of the Federal guarantee to the holding construction does not result in an increased premium.

Investment Guarantees: an instrument to promote foreign trade and investment provided by the



Federal Ministry
for Economic Affairs
and Climate Action

Commissioned to implement the federal funding instrument Investment Guarantees:



Investment Guarantees of the Federal Republic of Germany

Investment Guarantees have been an established and effective foreign trade promotion instrument of the Federal Government for decades. Investment Guarantees protect eligible German direct investments in developing countries and emerging economies against political risks. This promotion instrument plays an important role in fostering economic growth as well as in protecting and creating jobs both in the host country and in Germany. The Federal Government commissioned PricewaterhouseCoopers GmbH Wirtschaftsprüfungsgesellschaft to manage the federal funding instrument Investment Guarantees.

Information on other foreign trade promotion instruments of the Federal Government can be found at www.bmwk.de/en under the heading Promotion of foreign trade and investment.

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