Authority and Issuance

Accordingly, part 240 is added to title 22, chapter II, of the Code of Federal Regulations, to read as follows:

PART 240—SOVEREIGN LOAN GUARANTEE—STANDARD TERMS AND CONDITIONS

Sec. 240.1 Purpose.
240.2 Definitions.
240.3 The Guarantee.
240.4 Guarantee eligibility.
240.5 Non-impairment of the Guarantee.
240.6 Transferability of Guarantee; Note Register.
240.7 Fiscal Agent obligations.
240.8 Event of Default; Application for Compensation; payment.
240.9 No acceleration of Eligible Notes.
240.10 Payment to USAID of excess amounts received by a Noteholder.
240.11 Subrogation of USAID.
240.12 Prosecution of claims.
240.13 Change in agreements.
240.14 Arbitration.
240.15 Notice.
240.16 Governing Law.

Appendix A to Part 240—Application for Compensation

Authority: Section 7034(o)(1) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2016 (Div. K, Pub. L. 114–113) (the “Authority”). The loan guarantees will be issued as provided herein pursuant to a Loan Guarantee Agreement signed on June 3, 2016, between the United States of America and Ukraine (the “Loan Guarantee Agreement”). The loan guarantee will apply to sums borrowed during a period beginning on the date that the Loan Guarantee Agreement enters into force and ending thirty days after such date, not exceeding an aggregate total of one billion United States Dollars ($1,000,000,000) in principal amount. The loan guarantee shall ensure the Borrower’s repayment of 100% of principal and interest due under such borrowings and the full faith and credit of the United States of America shall be pledged for the full payment and performance of such guarantee obligations.

This rulemaking document is not subject to rulemaking under 5 U.S.C. 553 or to regulatory review under Executive Order 12866 because it involves a foreign affairs function of the United States. The provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) do not apply.

List of Subjects in 22 CFR Part 240

Foreign aid, Foreign relations, Guaranteed loans, Loan programs, foreign relations.
such Eligible Note at the applicable Interest Rate.

Interest Rate means the interest rate borne by an Eligible Note.

Loss of Investment means, in respect of any Eligible Note, an amount in Dollars equal to the total of:

(1) Defaulted Payment unpaid as of the Date of Application;
(2) Further Guaranteed Payments unpaid as of the Date of Application; and
(3) Interest accrued and unpaid at the Interest Rate(s) specified in the Eligible Note(s) on the Defaulted Payment and Further Guaranteed Payments, in each case from the date of default with respect to such payment to and including the date on which full payment thereof is made to the Noteholder.

Note(s) means any debt securities issued by the Borrower.

Noteholder means the owner of an Eligible Note who is registered as such on the Note Register.

Note Register means the register of Eligible Notes required to be maintained by the Fiscal Agent.

Person means any legal person, including any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof.

Principal Amount means the principal amount of the Eligible Notes issued by the Borrower. For purposes of determining the principal amount of the Eligible Notes issued by the Borrower, the principal amount of each Eligible Note shall be the stated principal amount thereof.

USAID means the United States Agency for International Development or its successor.

§ 240.4 Guarantee eligibility.

(a) Eligible Notes only are guaranteed hereunder. Notes in order to achieve Eligible Note status:

(1) Must be signed on behalf of the Borrower, manually or in facsimile, by a duly authorized representative of the Borrower;
(2) Must contain a certificate of authentication manually executed by the Fiscal Agent whose appointment by the Borrower is consented to by USAID in the Fiscal Agency Agreement; and
(3) Shall be approved and authenticated by USAID by either: (i) The affixing by USAID on the Notes of a guarantee legend incorporating these Standard Terms and Conditions signed on behalf of USAID by either a manual signature or a facsimile signature of an authorized representative of USAID; or (ii) The delivery by USAID to the Fiscal Agent of a guarantee certificate incorporating these Standard Terms and Conditions signed on behalf of USAID by either a manual signature or a facsimile signature of an authorized representative of USAID.

(b) The authorized USAID representatives for purposes of the regulations in this part whose signature(s) shall be binding on USAID shall include the USAID Chief and Deputy Chief Financial Officer; Assistant Administrator and Deputy Assistant Administrator, Bureau for Economic Growth, Education and Environment; Assistant Administrator, Bureau for Europe and Eurasia; Director and Deputy Director, Office of Development Credit; and such other individual(s) designated in a certificate executed by an authorized USAID Representative and delivered to the Fiscal Agent. The certificate of authentication of the Fiscal Agent issued pursuant to the Fiscal Agency Agreement shall, when manually executed by the Fiscal Agent, be conclusive evidence binding on USAID that an Eligible Note has been duly executed on behalf of the Borrower and delivered.

§ 240.5 Non-impairment of the Guarantee.

After issuance of a Guarantee, that Guarantee will be an unconditional, full faith and credit obligation of the United States of America, and will not be affected or impaired by any subsequent condition or event. This non-impairment of the guarantee provision shall not, however, be operative with respect to any loss arising out of fraud or misrepresentation for which the claiming Noteholder is responsible or of which it had knowledge at the time it became a Noteholder. This Guarantee shall apply to each Eligible Note registered on the Note Register.

§ 240.6 Transferability of Guarantee; Note Register.

A Noteholder may assign, transfer or pledge an Eligible Note to any Person. Any such assignment, transfer or pledge shall be effective on the date that the name of the new Noteholder is entered on the Note Register. USAID shall be entitled to treat the Persons in whose names the Eligible Notes are registered as the owners thereof for all purposes of this Guarantee and USAID shall not be affected by notice to the contrary.

§ 240.7 Fiscal Agent obligations.

Failure of the Fiscal Agent to perform any of its obligations pursuant to the Fiscal Agency Agreement shall not impair any Noteholder’s rights under this Guarantee, but may be the subject of action for damages against the Fiscal Agent by USAID as a result of such failure or neglect. A Noteholder may appoint the Fiscal Agent to make demand for payment on its behalf under this Guarantee.

§ 240.8 Event of Default; Application for Compensation; payment.

At any time after an Event of Default, as this term is defined in an Eligible Note, any Noteholder hereunder, or the Fiscal Agent on behalf of a Noteholder hereunder, may file with USAID an Application for Compensation in the form provided in appendix A to this part. USAID shall pay or cause to be paid to any such Applicant any compensation specified in such Application for Compensation that is due to the Applicant pursuant to the Guarantee as a Loss of Investment not later than the Guarantee Payment Date. In the event that USAID receives any other notice of an Event of Default, USAID may pay any compensation that is due to any Noteholder pursuant to a Guarantee, whether or not such Noteholder has filed with USAID an Application for Compensation in respect of such amount.

§ 240.9 No acceleration of Eligible Notes.

Eligible Notes shall not be subject to acceleration, in whole or in part, by USAID, the Noteholder or any other
party. USAID shall not have the right to pay any amounts in respect of the Eligible Notes other than in accordance with the original payment terms of such Eligible Notes.

§ 240.10 Payment to USAID of excess amounts received by a Noteholder.

If a Noteholder shall, as a result of USAID paying compensation under this Guarantee, receive an excess payment, it shall refund the excess to USAID.

§ 240.11 Subrogation of USAID.

In the event of payment by USAID to a Noteholder under this Guarantee, USAID shall be subrogated to the extent of such payment to all of the rights of such Noteholder against the Borrower under the related Note.

§ 240.12 Prosecution of claims.

After payment by USAID to an Applicant hereunder, USAID shall have exclusive power to prosecute all claims related to rights to receive payments under the Eligible Notes to which it is thereby subrogated. If a Noteholder continues to have an interest in the outstanding Eligible Notes, such a Noteholder and USAID shall consult with each other with respect to their respective interests in such Eligible Notes and the manner and responsibility for prosecuting claims.

§ 240.13 Change in agreements.

No Noteholder will consent to any change or waiver of any provision of any document contemplated by this Guarantee without the prior written consent of USAID.

§ 240.14 Arbitration.

Any controversy or claim between USAID and any Noteholder arising out of this Guarantee shall be settled by arbitration to be held in Washington, DC in accordance with the then prevailing rules of the American Arbitration Association, and judgment on the award rendered by the arbitrators may be entered in any court of competent jurisdiction.

§ 240.15 Notice.

Any communication to USAID pursuant to this Guarantee shall be in writing in the English language, shall refer to the Ukraine Loan Guarantee Number inscribed on the Eligible Note and shall be complete on the day it shall be actually received by USAID at the Office of Development Credit, Bureau for Economic Growth, Education and Environment, United States Agency for International Development, Washington, DC 20523–0630. Other addresses may be substituted for the above upon the giving of notice of such substitution to each Noteholder by first class mail at the address set forth in the Note Register.

§ 240.16 Governing Law.

This Guarantee shall be governed by and construed in accordance with the laws of the United States of America governing contracts and commercial transactions of the United States Government.

Appendix A to Part 240—Application for Compensation

United States Agency for International Development

Washington, DC 20523

Ref: Guarantee dated as of , 20 : Gentlemen: You are hereby advised that payment of $ (consisting of $ of principal, $ of interest and $ in Further Guaranteed Payments, as defined in § 240.02 of the Standard Terms and Conditions of the above-mentioned Guarantee) was due on , 20 , on $ Principal Amount of Notes issued by Ukraine (the “Borrower”) held by the undersigned. Of such amount $ was not received on such date and has not been received by the undersigned at the date hereof. In accordance with the terms and provisions of the above-mentioned Guarantee, the undersigned hereby applies, under § 240.08 of said Guarantee, for payment of $, representing $, the Principal Amount of the presently outstanding Note(s) of the Borrower held by the undersigned that was due and payable on and that remains unpaid, and $, the Interest Amount on such Note(s) that was due and payable by the Borrower on and that remains unpaid, and $ in Further Guaranteed Payments, plus accrued and unpaid interest thereon from the date of default with respect to such payments to and including the date payment in full is made by you pursuant to said Guarantee, at the rate of % per annum, being the rate for such interest accrual specified in such Note. Such payment is to be made at [state payment instructions of Noteholder or Fiscal Agent, as applicable].

All capitalized terms herein that are not otherwise defined shall have the meanings assigned to such terms in the Standard Terms and Conditions of the above-mentioned Guarantee.

[Name of Applicant]

By: 

Name: 

Title: 

Dated: 

1 In the event the Application for Compensation relates to Further Guaranteed Payments, such Application must also contain a statement of the nature and circumstances of the related loss.

Dated: September 19, 2016.


[FR Doc. 2016–22856 Filed 9–21–16; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2016–0890]

Drawbridge Operation Regulation; Red River, Alexandria, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulations.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the US 165 (Jackson Street) Drawbridge across the Red River, mile 88.6, at Alexandria, Louisiana. The deviation is necessary to allow the bridge owner time to adjust the new pinion bearings that are essential to the continued safe operation of the drawbridge. This deviation allows the bridge to remain in the closed-to-navigation position.

DATES: This deviation is effective without actual notice from September 22, 2016 until 6 p.m., September 30, 2016. For the purposes of enforcement, actual notice will be used from 6 a.m. to 6 p.m., each day, from September 26, 2016 until September 30, 2016.

ADDRESSES: The docket for this deviation, (USCG–2016–0890) is available at http://www.regulations.gov. Type the docket number in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Eric A. Washburn, Bridge Administrator, Western Rivers, Coast Guard; telephone 314–269–2378, email Eric.Washburn@uscg.mil.

SUPPLEMENTARY INFORMATION: The Louisiana Department of Transportation and Development requested a temporary deviation for the US 165 (Jackson Street) Drawbridge, across the Red River, mile 88.6, at Alexandria, Louisiana. It has a vertical clearance of 40.0 feet above normal pool in the closed-to-navigation position. The US 165 (Jackson Street) Drawbridge currently operates in accordance with 33 CFR 117.491(b).