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Dear Customer

### **Freedom of Information Act 2000 and Updated Environmental Information Regulations**

As you will probably be aware, the Freedom of Information Act 2000 (FoIA) comes fully into force on 1 January 2005 and must be applied by all public bodies. Currently, public access to non-environmental information held by government departments is regulated by the Code of Practice on Access to Government Information presided over by the Parliamentary Commissioner. Access to environmental information held by public bodies is governed by the 1992 Environmental Information Regulations. The updated Environmental Information Regulations (EIRs) have now been laid before Parliament and should come into force on 1 January 2005. They are likely to restate significant elements of the previous 1992 Regulations and create greater rights of access to information about “emissions”.

The FoIA provides similar duties to respond to requests for information subject to similar exemptions as to those in the Code, but its statutory nature gives it greater enforceability. It gives people the right to be told whether a public authority holds a particular piece of information, and if so, to have that information communicated to them. It is intended to promote a culture of openness and accountability amongst public sector bodies, and therefore to facilitate better public understanding of how public authorities carry out their duties, why they make the decisions they do and how they spend public money.

The new EIRs, similar to the previous version, will enable people to have access to environmental information held by/on behalf of public authorities and those bodies carrying out a public function. Under both sets of legislation, any information held by ECGD or any other public authority can be requested to be released. We will have 20 working days to respond to any requests that we receive that fall under the FOIA or EIRs legislation.

However, information in a number of categories is exempt from disclosure under both the FoIA and the EIRs, subject, in some instances under the FoIA and in all cases under the EIRs, to a “public interest” test. It is beyond the scope of this letter to give an analysis of the exemptions which might possibly apply to public bodies. We believe that, although others may be relevant, the two exemptions which are likely to be of the greatest interest to yourselves are the exemption for information whose release would be a breach of

confidence by us, actionable at law; and the exemption for information whose release would damage either your or our commercial interests. The second of these requires us to weigh the public interest in disclosure against the public interest in non-disclosure. We will always consider carefully whether these, or other exemptions, might apply to any request for disclosure. There may be occasions when we will need to consult with you to help us determine whether certain information is exempt from disclosure or not. You will recall our Application Forms state in this connection that information will be kept private subject to legal obligations and duties to Parliament.

A request for information may only be refused by a public body if it falls under an exemption. A right of appeal exists under the Act and applicants for information who are not happy with responses received from public bodies may ask the Information Commissioner to investigate. If the Act has not been properly complied with, the Information Commissioner has extensive powers to compel the production of information and initiate legal proceedings for contempt of court in relation to any unjustified failure by public bodies to comply with notices and directions issued by him.

Yours sincerely,

A handwritten signature in black ink that reads "John Weiss". The signature is written in a cursive, slightly slanted style.

**John Weiss**  
Deputy Chief Executive