

Memo van de gedeputeerde

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Gedep. Economie en Internationalisering

Onderwerp

Algemene voorwaarden EU instellingen

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Bijlage(n)

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Geachte Statenleden,

Via deze memo wil ik u graag informeren over de geldende algemene voorwaarden die door het Europese Investeringsfonds en de Europese Investeringsbank worden gehanteerd. Dit naar aanleiding van mijn toezegging in het debat op 8 september 2017. Deze voorwaarden gelden ook voor de MKB-plusfaciliteit Brabant. In de bijgevoegde documenten zijn richtlijnen opgenomen ten aanzien van financiering van bepaalde sectoren.

Met vriendelijke groet,
Bert Pauli

Bijlagen

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Guidelines on the EIF Restricted Sectors

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I. Fundamental Principles

1. General

The EIF applies restrictions to its operations in relation to certain economic sectors ("EIF Restricted Sectors"), which are considered not to be compatible with the ethical or social basis of the public mission of EIF and, in particular, which do not comply with European Union and/or EIB Group policies as further set out herein.

These restrictions are summarised in the present Guidelines on the EIF Restricted Sectors (hereinafter referred to as the "Guidelines"). EIF considers these Guidelines an important element of its reputation.

For activities performed by EIF under mandates, the provisions of the respective mandate may contain additional constraints; mandate provisions will prevail to the extent such provisions are more restrictive than the present Guidelines.

EIF counterparts, which receive financial or other support from EIF should adequately consider the EIF Restricted Sectors (as defined below) in their respective transactional policies and guidelines and to monitor compliance with such policies and guidelines by final beneficiaries.

In addition, EIF counterparts should consult EIF on any transaction supported by EIF, which may not comply with the EIF Restricted Sectors.

The EIF Restricted Sectors shall be updated from time to time.

2. EIF Restricted Sectors

The following economic sectors are together referred to as the "EIF Restricted Sectors".

a. Illegal Economic Activities

Any production, trade or other activity, which is illegal under the laws or regulations of the home jurisdiction for such production, trade or activity.

Human cloning for reproduction purposes is considered an Illegal Economic Activity in the context of these Guidelines.

b. Tobacco and Distilled Alcoholic Beverages

The production of and trade in tobacco and distilled alcoholic beverages and related products.

c. Production of and Trade in Weapons and Ammunition

The financing of the production of and trade in weapons and ammunition of any kind. This restriction does not apply to the extent such activities are part of or accessory to explicit European Union policies.

d. Casinos

Casinos and equivalent enterprises.

e. IT Sector Restrictions

Research, development or technical applications relating to electronic data programs or solutions, which

(i) aim specifically at:

- (a) supporting any activity included in the EIF Restricted Sectors referred to under 2. a to d above;
 - (b) internet gambling and online casinos; or
 - (c) pornography,
 - or which
 - (ii) are intended to enable to illegally
 - (a) enter into electronic data networks; or
 - (b) download electronic data.
 - f. Life Science Sector Restrictions
- When providing support to the financing of the research, development or technical applications relating to:
- (i) human cloning for research or therapeutic purposes; or
 - (ii) Genetically Modified Organisms ("GMOs").
- EIF will require from the EIF counterpart appropriate specific assurance on the control of legal, regulatory and ethical issues linked to such human cloning for research or therapeutic purposes and/or Genetically Modified Organisms.

II. Operational Implementation

In relation to the EIF Sector Restrictions listed under I/2., EIF will apply the following operational principles:

1. EIF will
 - (i) not invest in, guarantee or otherwise provide financial or other support to any EIF counterpart, whose business activity consists of Illegal Economic Activities;
 - (ii) not invest in, guarantee or otherwise provide financial or other support to an Illegal Economic Activity of a EIF counterpart; and
 - (ii) decide on appropriate action and the exercise of remedies available to EIF under the applicable legal framework where, in the context of an existing contractual relationship with a EIF counterpart it becomes evident (a) that such EIF counterpart's business consists of Illegal Economic Activities or (b) EIF support is provided to an Illegal Economic Activity of a EIF counterpart. In this context, EIF may, where appropriate, consider the withdrawal of its support to such EIF counterpart or activity, taking into account recognised market standards.
2. Subject to section 1 above, EIF will
 - (i) not invest in, guarantee or otherwise provide financial or other support to EIF counterparts, which substantially focus on the financing of EIF Restricted Sectors and may, where appropriate, consider the withdrawal of EIF support to such EIF counterpart, taking into account recognised market standards; and
 - (ii) seek to avoid providing financial support to EIF counterparts in relation to final beneficiaries, which substantially focus on EIF Restricted Sectors; EIF may, where appropriate, consider the withdrawal of EIF support to the EIF counterpart in relation to specific transactions with such final beneficiaries, taking into account recognised market standards.
3. EIF considers that an EIF Restricted Sector constitutes a substantial focus of the EIF counterpart or final beneficiary, as the case may be, if such sector is ex ante

identified as being essential for the economic success of the EIF counterpart or final beneficiary respectively. This assessment is based, for example, on the proportionate importance of such sector in relation to the revenues, the turnover or the client base of the respective EIF counterpart or final beneficiary.

4. EIF shall seek to obtain from the EIF counterparts an undertaking to comply with the relevant principles set out in these Guidelines.
5. Specific due diligence in the context of providing support to the financing of the research, development or technical applications relating to (i) human cloning for research or therapeutic purposes or (ii) Genetically Modified Organisms, will consider the adequacy of internal know-how, procedures and controls with a EIF counterpart with a view to getting comfort on full compliance with all applicable laws, regulations and industry standards on all related legal and ethical issues.
6. The implementation of these Guidelines to different business lines of EIF will be decided upon by the Chief Executive.

EXCLUDED ACTIVITIES

ACTIVITIES EXCLUDED FROM EIB LENDING (22 APRIL 2013)

TYPE OF ACTIVITIES	TYPICAL EXAMPLES	COMMENTS/CLARIFICATIONS
1) AMMUNITION AND WEAPONS, MILITARY/POLICE EQUIPMENT OR INFRASTRUCTURE		INCLUDES EXPLOSIVES AND SPORTING WEAPONS
2) PROJECTS WHICH RESULT IN LIMITING PEOPLE'S INDIVIDUAL RIGHTS AND FREEDOM, OR VIOLATION OF HUMAN RIGHTS		THE EIB STATEMENT OF ENVIRONMENTAL AND SOCIAL PRINCIPLES AND STANDARDS, IN PARTICULAR: 6; 46; AND 47
3) PROJECTS UNACCEPTABLE IN ENVIRONMENTAL AND SOCIAL TERMS	PROJECTS IN PROTECTED AREAS, CRITICAL HABITATS AND HERITAGE SITES, WITHOUT ADEQUATE COMPENSATION/MITIGATION	THE EIB STATEMENT OF ENVIRONMENTAL AND SOCIAL PRINCIPLES AND STANDARDS, IN PARTICULAR: 58; 71; AND 72
4) ETHICALLY OR MORALLY CONTROVERSIAL PROJECTS	SEX TRADE AND RELATED INFRASTRUCTURE, SERVICES AND MEDIA; ANIMAL TESTING*); GAMBLING AND RELATED EQUIPMENT, HOTELS WITH IN-HOUSE CASINOS; TOBACCO (PRODUCTION, MANUFACTURING, PROCESSING, AND DISTRIBUTION)	*) EXISTING EIB PRACTICE; ACTIVITIES INVOLVING LIVE ANIMALS FOR EXPERIMENTAL AND SCIENTIFIC PURPOSES ARE ELIGIBLE INsofar AS IN COMPLIANCE WITH THE "DIRECTIVE 2010/63/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 22 SEPTEMBER 2010 ON THE PROTECTION OF ANIMALS USED FOR SCIENTIFIC PURPOSES"
5) ACTIVITIES PROHIBITED BY <u>NATIONAL</u> LEGISLATION (<u>ONLY</u> WHERE SUCH LEGISLATION EXISTS)	GENETICALLY MODIFIED ORGANISMS (GMO); ABORTION CLINICS; NUCLEAR ENERGY; ETC.	APPLICABLE NATIONAL LAW

EIB LOANS UNDER SPECIFIC MANDATES OUTSIDE THE EU

ALL THE ABOVE TYPES OF INVESTMENTS ARE EXCLUDED. MOREOVER, LOANS UNDER THE MANDATES MAY BE FURTHER RESTRICTED TO SPECIFIC SECTORS AND ACTIVITIES TO COMPLY WITH THE BANK'S LENDING POLICIES, AS AGREED BY THE BOARD OF DIRECTORS, AS WELL AS PRIORITIES ATTACHED BY THE RESPECTIVE EU CO-OPERATION OBJECTIVES OR THE LENDING MANDATE .	<ul style="list-style-type: none"> - EUROPEAN PARLIAMENT AND COUNCIL DECISION OF 25/10/2011 (1080/2011/EU) - ACP-EU PARTNERSHIP AGREEMENT (COTONOU, 23.06.2000, REVISED 25.06.2005 & 22.06.2010) - EIB BOARD DECISIONS
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OTHER EXCLUSIONS

- i) CERTAIN COSTS, SUCH AS RECOVERABLE VAT, ARE EXCLUDED.
- ii) THE BANK DOES NOT FINANCE PROJECTS WITH A POLITICAL OR RELIGIOUS CONTENT.

INTERMEDIATED OPERATIONS (INCL. THROUGH FUNDS)

ALL THE ABOVE EXCLUSIONS APPLY. ADDITIONAL ACTIVITIES MAY BE EXCLUDED (ON THE BASIS OF SIDE-LETTERS AGREED).