



Annex II - InvestBG Investment Guidelines under the Primary Fund Window

Important Disclaimer

This document is for information purposes only. This document is an outline of the principal operational guidelines for the product described herein, which are subject to change and non-exhaustive.

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1. Definitions

Whenever used in these guidelines, the following terms shall have the meanings opposite them. Any capitalised items not defined in this Annex have the meaning given to them in the Open Call for expression of Interest or as the case may be Annex II thereto.

Financial Intermediary	Means an entity undertaking risk capital investments which is eligible to receive funding under the Facility; and which shall include investment funds, venture capital or private equity funds and special purpose vehicles established or in formation, by providing long-term equity and/or quasi-equity but shall exclude entities (i) targeting buy out or replacement capital intended for asset stripping, and (ii) operating lending activities requiring a banking licence.
InvestBG Investment	Means an investment, or any other similar contractual arrangement entered into between the EIF and a Financial Intermediary pursuant to an InvestBG Agreement. It shall be noted that for the purposes of these Investment Guidelines, the InvestBG Investment comprises of the resources made available through the Reflows from JEREMIE and are not inclusive of other

	resources under EIF management which may also be invested in the same Financial Beneficiary alongside InvestBG.
(Pre-) Seed Stage	Means the stage of development of an enterprise that needs funding to research, assess and develop an initial concept before a business has reached the Start-Up Stage. This stage includes low scale pilot production, demonstration and/or development of associated business application of tested and validated products/technologies.
Other Early Stage	Means the phase of development of an enterprise that has completed the product development phase and needs further funding to initiate commercial manufacturing and/or sales.
Start-Up Stage	Means the stage of development of an enterprise which may be in the process of being set up or may have been in business for a short time, but has not sold its product commercially, and needs further funding for product development and initial marketing.
Expansion and Growth Stage	Means the stage of development of a company that has already established a product or service, and has already generated revenue, but may or may not be making a profit and needs financing to grow and expand. Such financing may be used – without being limited - to finance increased production capacity, market or product development, provide additional working capital or is used for a transfer of business with a view to further grow the business.
Final Recipient	Means a recipient legal person other than a Financial Intermediary as defined in section 4 “Final Recipient” of these investment guidelines who receives support under the InvestBG.
Fund Agreement	Means in relation to each InvestBG Investment the agreement whereby the EIF commits to a Financial Intermediary.
Non-Cooperating Jurisdiction	<p>Financial Intermediaries shall comply with relevant standards and applicable legislation on the prevention of money laundering, the fight against terrorism and tax fraud to which they may be subject. The Financial Intermediary shall comply with the EIB Group policy towards weakly regulated, non-transparent and uncooperative jurisdictions and tax good governance that shall address issues of money laundering, terrorism financing, tax avoidance, tax fraud and tax evasion as amended, supplemented or modified from time to time.</p> <p>Furthermore, in the case of cross-border Financial Instruments where the relevant support is not reserved for operations, projects or activities implemented in the same jurisdiction where the concerned Financial Intermediary is incorporated, Financial Intermediaries shall not be incorporated in territories whose jurisdictions do not co-operate with the Union in relation to the application of the internationally agreed tax standard (of the Organisation for Economic Cooperation and Development (OECD) and its Global Forum on Transparency and Exchange for Tax Purposes).</p> <p>Each Applicant may inquire about the status of a particular jurisdiction with the EIF.</p>

2. The terms of an InvestBG Investment

Nature	Direct investments in venture capital and private equity Financial Intermediaries.
Investor	The EIF in its own name operating on behalf and in the ultimate benefit of the Government of Bulgaria.
Types of Financial Intermediaries	Venture capital and private equity funds.
Timing Investment	The EIF shall normally commit at the first closing of a Financial Intermediary. The EIF may invest in other closings if the fit and value added to InvestBG is duly demonstrated.
Size of InvestBG Investment	<ul style="list-style-type: none"> • Not less than the lower of i) 10% of total commitments to the Financial Intermediary at the closing at which the InvestBG Investment is made or ii) EUR 5 million; • Not more than the higher of i) up to 30%¹ of the total commitments to the Financial Intermediary at any closing or ii) EUR 20m.
Duration of InvestBG Investments	InvestBG Investments shall usually consist of participations in Financial Intermediaries held for not more than 12 years.
Investor Base of an Financial Intermediary	<p>In order to catalyse private sector investments, at least 30% of the capital committed to any Financial Intermediary shall be provided by investors that pass the market economy operator test².</p> <p>When calculating the portion of capital invested in any one Financial Intermediary by investors that pass the market economy operator test, no account shall be taken of the capital committed or proposed to be committed to a Financial Intermediary under the InvestBG, which is considered an investment by public investor. No single investor shall account, directly or indirectly, for more than 50% of the total commitments to any Financial Intermediary.</p>
Ranking of Investments	InvestBG Investments shall rank at least pari-passu (i.e. Like Risk, like Reward) with investors investing in the same risk class. A transaction is presumed to be compliant with the above pari-passu principle requirement if investors in the same risk class make their investment under equivalent economic terms and conditions and hold the same level of subordination or seniority. The relevant constitutional documents of the Financial Intermediary (including, where relevant, any side letter entered into by the EIF) shall reflect such key requirement.
Representation of InvestBG Investments	The EIF shall be represented in advisory boards or similar investor representation bodies.
Borrowing and lending by Financial Intermediaries	There shall be no borrowing by the Financial Intermediary's manager secured by any asset (including undrawn commitments) of the Financial Intermediary. The Financial Intermediary shall not borrow from its manager or from any other vehicle managed by the same manager (or any affiliated or associated entity) nor shall it make loans to the manager or any fund managed by the same manager (or any affiliated or associated entity). In addition, borrowing by the Financial Intermediary shall be of short-term in nature (i.e. with a duration of less than 12 months).

¹ Higher rate of participation may be possible in duly justified cases.

² Communication from the Commission: Guidelines on State Aid to promote risk finance investments of 15 January 2014 (http://ec.europa.eu/competition/state_aid/modernisation/risk_finance_guidelines_en.pdf)

	<p>Commercial lending activity requiring a banking licence shall be excluded. Other type of lending made by Financial Intermediaries shall only be made alongside or for the preparation of equity investments, at market rate, and shall be limited to a maximum of 30% of the total commitments to the Financial Intermediary at any point in time.</p> <p>Where lending structures are used by an Financial Intermediary (e.g. a mezzanine fund) to make an investment carrying equity or mezzanine risk, such funding should be considered as equity or quasi-equity irrespective of its legal form (convertible bonds/loans, loan with warrants, etc.).</p>
Monitoring and audit	<p>The Financial Intermediaries must agree (and must agree to cause the Final Recipients to agree) to allow the Commission’s agents, the Ministry of Economy of Bulgaria, the EIF and the European Court of Auditors to have access to adequate information to enable them to discharge their duties with respect to monitoring, control and auditing of the correct use of the Investments, including the promotion, visibility and transparency requirements specified in this Annex in the “Miscellaneous” section These controls may include on-the-spot controls of the Financial Intermediaries and the Final Recipients.</p>
State Aid	<p>The InvestBG is considered to be consistent with State aid rules and therefore does not constitute State Aid.</p>

3. The Financial Intermediaries

The Financial Intermediary needs to comply with the following general and specific requirements:

General Requirements	<p>The Financial Intermediary shall:</p> <ul style="list-style-type: none"> i. Provide the EIF with a representation as attached in Annex I - Expression of Interest to be completed by applicants; ii. Agree to publicize the support of the Government of Bulgaria under the InvestBG as set out in the “Miscellaneous” section of this Annex; iii. Agree not to select Excluded Final Recipients. iv. Not have a predominant focus³ on Final Recipients in (Pre-) Seed Stage.
Specific requirements	<p>The Financial Intermediary shall:</p> <ul style="list-style-type: none"> i. Meet the definition of the Financial Intermediary; ii. Provide long-term equity and/or quasi-equity (including, without limitation, equity, subordinated and participating loans and/or convertible bonds, mezzanine); iii. Not include in their business activity any of the activities referred to below: <ul style="list-style-type: none"> a. illegal activities according to applicable legislation;

³ A Financial Intermediary is considered to have a predominant focus on (Pre-) Seed Stage if, according to its investment strategy, it undertakes to invest more than 50% of its committed capital to Final Recipients which fall under the definition of in (Pre-) Seed Stage

	<p>c. any other activity which would make such an InvestBG Investment not compatible with the Guidelines on the EIF Restricted Sectors⁴ as amended from time to time;</p> <p>iv. Be established in a Country within the European Union;</p> <p>v. Not be established, at the date of the Fund Agreement, in a Non-Cooperating Jurisdiction;</p> <p>vi. Be commercially-oriented managed by independent management teams⁵ combining the appropriate mix of skills and experience to demonstrate the necessary capability and credibility to manage a risk capital fund;</p> <p>vii. Agree to provide reporting in accordance with the applicable provisions of the InvestBG as further specified in the “Miscellaneous” section;</p> <p>viii. Be willing to comply with the visibility requirements in accordance to the “Miscellaneous” section;</p> <p>ix. Be willing to contribute to evaluations and employment and growth surveys as further specified in the “Miscellaneous” section;</p> <p>x. Be willing to accept that the EIF may not be required to participate, fully or partially, in an investment in the Final Recipient if that investment would result in an irremediable breach of the InvestBG portion, as agreed with the Financial Intermediary at the time of the InvestBG Investment;</p> <p>xi. Be willing to provide the list of investors in compliance with the requirements set out in the “Investor base” section.</p>
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4. Final Recipients

Financial Intermediaries shall undertake to select Final Recipients according to their internal rules and procedures taking due account of the economic viability of projects of Final Recipients.

<p>Excluded Recipients</p>	<p>Final</p>	<p>Financial Intermediaries shall not be entitled to invest in final recipients which at the time of the envisaged first investment:</p> <p>a) are in one of the situation as listed in Annex I - Expression of Interest to be completed by applicants;</p> <p>b) are established, at the date of first investment by the Financial Intermediary, in a Non-Cooperating Jurisdiction;</p> <p>c) do not provide the Financial Intermediary with a representation as attached in Annex I - Expression of Interest to be completed by applicants;</p> <p>d) are not willing to acknowledge the support of the InvestBG and and are not willing to comply with the relevant provisions in terms of publication of information as set out in the “Miscellaneous” section;</p> <p>e) include in their business activity any of the activities referred to below:</p>
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⁴ http://www.eif.org/news_centre/publications/2010_Guidelines_for_Restricted_Sectors.htm

⁵ Independent management teams include teams operating within a corporate or university structure provided that the operation of the fund management business has a high degree of independence from the parent company/organisation

	<ul style="list-style-type: none"> • illegal activities according to the applicable legislation, including the legislation of Bulgaria; • any activity which, should an investment be made by an Financial Intermediary in that entity, would make such investment not compatible with the Guidelines on the EIF Restricted Sectors as amended from time to time.
Eligible Final Recipients	<p>1. With respect to location of the Eligible Final Recipient, it shall:</p> <ul style="list-style-type: none"> (i) be established in Bulgaria or within the European Union; and (ii) have Bulgaria as country of its main operations; or (iii) receive an investment aimed at establishing or developing a long-term presence in Bulgaria (i.e. indicated by significant workforce in Bulgaria or otherwise, in any case excluding the operation of retail facilities (e.g. shopping mall)); <p>2. With respect to the size, stage and economic sector of the Eligible Beneficiary, it shall:</p> <ul style="list-style-type: none"> (iv) be an SME (Commission recommendation 2003/361/EC of 6th May 2003, as amended) or a Midcap (up to and including 2999 FTEs); (v) not be a company in difficulty, as defined by the Community guidelines on State aid for rescuing and restructuring firms in difficulty (vi) not operate in any of the economic sectors referred to as “EIF restricted sectors” in the Guidelines on EIF restricted sectors <p>The Financial intermediaries shall undertake to include in their respective investment documentation an obligation to invest in Eligible Final Recipients at least 1.5x (with a target of 2x) the amount of the relevant InvestBG Investment drawn down for the purposes of investments.</p>
Purpose of financing of Eligible Final Recipients	<p>The investment made in an Eligible Final Recipient is to be used primarily to finance, business development, business expansion or value creation (which may include, inter alia, restructuring, acquisition activities, activities for strengthening of export capabilities, etc). Partial buy-outs through the form replacement capital (roll-over from key management, including founders, shareholder reorganisation, (leveraged) buy-outs) are possible. For avoidance of doubt replacement capital intended for asset stripping is not allowed.</p>

5. Miscellaneous

Reporting	<p>Financial Intermediaries shall provide the EIF with quarterly and annual reporting prepared in accordance with the reporting guidelines published or endorsed by the Invest Europe from time to time. Financial Intermediaries shall also provide annual audited financial statements in accordance with applicable laws. The valuation of risk capital investments in Eligible Final Recipients shall be made in accordance with the valuation principles published or endorsed by Invest Europe from time to time.</p>
Other Information	<p>Financial Intermediaries may also be requested to provide, from time to time, further information related to the SMEs covered by InvestBG in the context of programme evaluations and employment and growth reports. This information is required by the European Commission and or the</p>

	<p>Government of Bulgaria for reporting purposes and will be used for evaluating the InvestBG programme. The European Commission and or Government of Bulgaria requests will be coordinated by the EIF. Any request of additional information will be within the context of the InvestBG programme legal basis and will follow the principle of proportionality.</p> <p>The Financial Intermediary shall ask the eligible Final Recipients to provide information on the basis of a template provided by the EIF. The provision of such information by the eligible Final Recipients shall (i) be subject to applicable laws, including without limitation in relation to data protection and banking secrecy, and (ii) not be mandatory requirement nor constitute a condition precedent to the relevant operation or any eligibility criteria. Any failure to provide information shall not affect the eligible Eligible Final Recipient transaction granted or require the EIF or any Financial Intermediary to take any further steps. Neither the EIF nor the Financial Intermediary nor the Final Recipients or any of their employees, officers or agents shall be liable for the correctness of information or the completeness of data provided by the employment and growth report.</p>
Visibility	<p>Each Financial Intermediary shall:</p> <ul style="list-style-type: none"> i. explicitly inform Eligible Final Recipients that financing is made possible through the support of the InvestBG with the financial backing of the Government of Bulgaria. Such information needs to be prominently included either in the contractual documentation and/or in an accompanying cover letter and it shall be duly acknowledged by the Final Recipient; ii. create a dedicated section on its website or a clear link to this information, regarding the type of finance offered, name of the product supported through the InvestBG (if applicable), a description of the key eligibility criteria, the investment focus (if applicable) and information on the application procedure; iii. include in any press release that the Financial Intermediary may choose to make with regard to the operation and on a dedicated information page of the type of finance offered referred to in (ii) above on its website a reference, in the relevant language, that the Financial Intermediary has benefited from the support of the InvestBG. This shall include the logo of the Ministry of Bulgaria of at least equal prominence to the logo of the EIF. Instead of issuing a press release, the Financial Intermediary may choose alternative ways of communication, in which case the same visibility requirements shall apply; iv. follow the rules and conventions⁶ when displaying the Union Emblem; v. provide the EIF with at least 2 case studies of Eligible Final Recipient having benefited of an InvestBG by filling in and sending to the EIF the case study template provided by the EIF.
Publication	The EIF shall publish on its website each year:

⁶ As set out in <http://europa.eu/about-eu/basic-information/symbols/flag/>

	<p>a) a list of Financial Intermediaries with whom the EIF concluded a Fund Agreement⁷, containing for each Financial Intermediary the name and address of the Financial Intermediary, as well as the amount invested by the EIF under the Fund Agreement into the Financial Intermediary, an indication of the nature of the Financial Intermediary's investments (indicating whether this Financial Intermediary is a sector specific entity by publishing the respective sector or by indicating that this Financial Intermediary has a generalist approach);</p> <p>b) a list of Eligible Final Recipients, containing for each Eligible Final Recipient the name and address and the type of finance received under the InvestBG.</p> <p>Any Financial Intermediary, or Eligible Final Recipient may, prior to receiving financial support under the InvestBG, declare in writing (including by a representation in the relevant agreement) that the publication requirements set out above risks harming its commercial interests or risks threatening the rights and freedoms of individuals concerned as protected by the Charter of Fundamental Rights of the European Union, on the basis of a written justification. The implementation details will be established by the EIF. In addition such publication shall not be required if: (i) it would be illegal under the applicable laws and regulations, or (ii) the eligible Eligible Final Recipient is a natural person.</p>
Record Keeping	<p>The Financial Intermediary shall maintain or be able to produce all the documentation related to the implementation of the Fund Agreement for a period of two (two) years following the termination of the Fund Agreement. The Financial Intermediary shall require each Final Recipient to maintain and be able to produce all documentation related to the investment for a period of two (2) years following the termination of the investment in such Eligible Final Recipient.</p>

⁷ This shall also include the name of the entity that applied for the funding.