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**Cabinet of the Prime
Minister**

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Our reference
4242063

Date 15 December 2021
Implementation of the Sneller
motion

Dear President,

During the Budgetary Discussions for the Ministry of General Affairs on 14 October 2021, a motion from member Sneller was accepted relating, in brief, to the handling of business and financial interests of incoming members of government.¹ Below I summarise the current policy and explain how the motion will be implemented.

Policy with regard to commercial and financial interests of incoming members of government. The approach of the government formateur regarding the assessment of candidate members of government is laid down in the Letter to Parliament from Balkenende, dating from 2002, and the attached appendix.² The relevant financial and business interests of the members of government and the way they are dealt with are considered in the interview between the candidate member of government and the government formateur, and are recorded in the letter sent by the Prime Minister to the House of Representatives, shortly after the Cabinet takes office.

With regard to the financial and business interests of members of government, any appearance of non-objective decision making must be avoided. For that reason, candidate members of government are required to commit to stringent rules of conduct. It is the responsibility of the government formateur to systematically deal with this subject in the interview with the candidate. It is the responsibility of the candidate to truthfully and completely report all relevant facts. If during the interview potentially incompatible financial and/or business interests are discovered, it is the responsibility of the candidate member of government to arrive at an adequate settlement, in a timely manner. The government formateur will take note in outline of this situation, and is merely required to indicate, in the case in question, whether the selected solution appears plausible to him.

¹ Parliamentary Papers II, 35925 III, no. 9.

² Parliamentary Papers II, 28754, no. 1.

It goes without saying that the government formateur can never independently acquire a complete picture of the business interests of the person in question, and their legal nature. In assessing the business interests and the chosen proposed solution, the government formateur must rely on the information provided by the candidate member of government. As a consequence, the only option he has is to assess in outline whether the person in question has selected an adequate solution for the observed problem points. The government formateur is also unable to check whether the person in question has subsequently correctly implemented the agreements. The responsibility for the chosen proposed solution and its correct implementation therefore remain fully with the candidate member of government.

Also during the period of office, the member of government is naturally not permitted to create any financial or business interest that violates the above described guidelines. The appendix to the letter from 2002 provides a (non-exhaustive) summary of the guidance employed with regard to financial or business interests and accepted proposed solutions.

Implementation of the motion

The motion calls upon the government to adjust the rules in such a way that when a new Cabinet takes office, the Prime Minister announces publicly the business interests of the incoming members of government, how they have distanced themselves from their business interests and that this be updated annually.

Above, I have described how the business interests of incoming members of government and the way in which they have distanced themselves from their business interests, wherever relevant, are discussed in the letter sent to the House of Representatives at the end of the government formation process. The chosen solution with regard to the act of distancing themselves from business interests must be sustainable for the entire period of office. Members of government are not permitted to create or to accept a financial or business interest during the period of office, that is in violation of the reasons outlined above.

Nevertheless, the motion is justified in calling for attention for the situation in which, during a period of office, for example under general title, due to the acceptance of an inheritance or a gift, a member of government accepts business and financial interests which could lead to an appearance of bias. However, the annual updating of this situation is not sufficient. Upon accepting such an interest, the member of government must make a provision and duly notify the House of Representatives. Because by their nature, the acquisition of any such interests will take place in the personal life of the member of government in question, and the Prime Minister is unable to independently acquire this information, the obligation remains with the member of government him or herself.

In other words, the existing policy will be extended by the obligation upon members of government in office, when circumstances mean that they acquire business or financial interests which could lead to the appearance of bias, to select an accepted solution and to duly notify the House of Representatives. In this way, I hereby implement the request from the motion.

Cabinet of the Prime Minister

Date

15 December 2021

Our reference

4242063

The motion also calls upon the government to provide further information to the House, which at least includes:

- a. which members of government own real estate properties abroad and in which country;
- b. in as much as relating to financial or business interests in enterprises, the names of the companies in question;
- c. and a description of the way in which they have distanced themselves from control over the management of financial interests.

With regard to real estate properties abroad, I would note the following. Within current policy, a provision must be made for commercially operated real estate properties, whereby the person in question has an influence on the management and operation and in as much as the accumulated net revenue is greater than €3500 per year. This principle applies irrespective whether the real estate property is located abroad or in the Netherlands.

As a consequence, the motion affectively relates above all to real estate property abroad, used exclusively for private purposes, such as a holiday home. In and of itself, the ownership of real estate properties abroad, for private purposes, does not result in a risk of appearance of conflict of interests or a risk of non-objective decision making. It can also affect the personal life, including that of persons in the environment, of the requested member of government. Nevertheless, in accordance with the adopted motion, the policy in the future will be to include this element in the interviews between the government formateur and the requested member of government and to include this in the letter to the House of Representatives. This also means that members of government who come in the possession of a holiday home abroad during their period of office must immediately duly notify this fact to the House of Representatives.

Incoming members of government are not required to make a provision for business and financial interests is shares or risk-bearing participations/investments in individual listed and non-listed enterprises, up to an amount of 25,000 euro.

In the case of financial interests of this scale, the risk of appearance of conflict of interests is estimated as very limited. Such interests are therefore not reported in the Letter to Parliament.

Incoming members of government are required to make an acceptable provision for business and financial interests is shares or risk-bearing participations/investments in individual listed and non-listed enterprises, above an amount of 25,000 euro, in order to remove the risk of conflict of interests. An acceptable provision shall for example include the disposal of the interests. In that case, there is no longer a financial interest that engenders the risk of non-objective decision making.

In addition, the incoming members of government can distance themselves from the interest, in such a way that there is no control situation, can convert shares in individual companies into shares in public investment funds, or declare that shares or participations will not be traded during the period of office.

The underlying principle for the provision to be made is that the person in question is no longer able to exercise any influence over his business interests, thereby mitigating the risk of the appearance of conflict of interests. The House of Representatives will be informed in outline of the financial and business interests, and of the provisions made by the person in question.

Cabinet of the Prime Minister

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In cases in which, as requested by the motion, it is possible to also state the names of the affected companies, this will be done for example if the incoming member of government has a substantial interest in a private limited liability company. However, it is uncertain whether this is possible in all cases. For example, by distancing him or herself from his or her business interests, an incoming member of government can no longer exercise an influence over the shares he or she holds at any moment and the value of these shares can fluctuate over time.

It is up to the requested member of government him or herself to report his or her business and financial interests to the government formateur, and to reach a decision on what is an acceptable provision. It is also up to the requested member of government to determine, given the business and financial interests and the provision to be made, whether the names of the companies in question can be reported. The government formateur can take note of these considerations, and as necessary, deliberate upon them in the interview.

The description of the control over financial and business interests, that is already an integral part of the letter sent to the House of Representatives by the government formateur at the end of the formation process, will in the future be extended, wherever possible, in line with the motion.

In conclusion

The above will serve as the operating principle in the next formation process, and will be included in the letter to be sent by the Prime Minister to the House of Representatives, following the taking up of office.

THE PRIME MINISTER
Minister of General Affairs,

Mark Rutte