



Ministerial Submission

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FOR: Mr S Ciobo MP

INFO: Ms J Bishop MP

Action Requested: Routine

Priority Action Date:

Reason for Priority:

Efic: Revised Statement of Expectations

Key Issues: [s34\(3\)](#)

The Statement enables Efic to finance onshore resource projects where a funding market gap exists, but precludes Efic from considering proposals to finance construction of projects that are partially funded by the Northern Australia Infrastructure Facility. [s22\(1\)\(a\)\(ii\)](#)

The Statement is attached for your signature.

Recommendation:

That you:

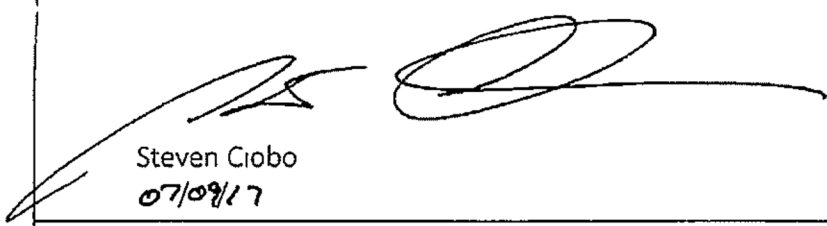
- a) Sign the revised Statement of Expectations (Attachment A).
- b) Note the draft media release and draft talking points (Attachments B and C).

Decision:

[s47C](#)

Domestic/Media Considerations: Yes. Likely interest in Efic being able to support domestic coal projects.

Action:


Steven Ciobo

07/09/17

Information:

Noted

Julie Bishop
/ /

From: James Wiblin, IVD - Investment Trade Finance & Business Liaison Branch
6261 3267

Contact: [s22\(1\)\(a\)\(ii\)](#)

Consultation: Nil



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THE HON STEVEN CIOBO MP

Minister for Trade, Tourism and Investment

Mr James M. Millar AM
Chairman
Export Finance and Insurance Corporation
Level 10 Export House
22 Pitt Street
SYDNEY NSW 2000

Dear Mr ~~Miller~~ Millar

This letter sets out the Australian Government's revised statement of expectations for the Export Finance and Insurance Corporation (Efic). This statement outlines the Australian Government's key priorities and objectives for Efic, consistent with section 34 of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). It replaces the statement of expectations sent to Mr Andrew Mohl on 13 November 2014.

Mandate and scope of operations

The Government considers Efic to play an important role in facilitating exports. As outlined in the *Export Finance and Insurance Corporation Act 1991* (the 'Efic Act'), Efic will continue to:

- facilitate and encourage Australian export trade by providing insurance and financial services and products to persons involved directly or indirectly in such trade;
- encourage banks and other financial institutions carrying on business in Australia to finance, or assist in financing, export contracts or eligible export transactions;
- administer payments and related matters under export contracts in respect to overseas aid projects for which money was made available by the Commonwealth; and
- provide information and advice about finance and insurance arrangements to support Australian export trade.

However, Efic must not provide financial services or products on its Commercial Account (CA) unless Efic is satisfied that private sector providers are unable or unwilling to support financially viable business activities. Efic should ensure its activities fill the 'market gap' where private sector finance is not forthcoming. I expect Efic to monitor the capacity of the commercial markets and to take this into account when determining the scope of its activities.

The Government decided in 2014 to place greater emphasis on supporting small and medium-sized enterprises (SMEs) seeking to expand their opportunities in overseas markets. I welcome Efic's focus on continuous improvement to make it easier for SMEs to access its services and I expect Efic to continue to improve and simplify its services to ensure SMEs have every opportunity to access markets and expand their businesses overseas.

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In accordance with the Efic Act, I expect Efic to support a wider range of SMEs, including tourism operators, online businesses, exporters of intellectual property and other related rights, and businesses engaged in overseas direct investment.

While prioritising Efic support for SMEs facing challenges accessing finance, the Government recognises that large projects or firms can help SMEs access markets through supply-chain participation. To achieve a balance in the level of support for large transactions, I am introducing some stipulations around the support Efic can provide to large projects or firms.

Efic shall only provide support for domestic or overseas resource projects (and related infrastructure) where the Efic Board is satisfied, after careful review:

- there is a demonstrated market gap in the availability of finance;
- the transaction does not come at the expense of SME transactions;
- the project has significant Australian content including through SME supply chain participation; and
- the project is financially viable.

Efic shall not consider proposals to provide finance to an entity for the construction of a project where the entity is also the recipient of funding from the Northern Australia Infrastructure Facility for that project.

Efic may continue to provide support to SME suppliers of domestic resource projects (and related infrastructure) where the SME good or service is integral to the performance of a resource export project (and related infrastructure).

Where Efic approves transactions involving resource projects (and related infrastructure), I expect Efic to provide the Department of Foreign Affairs and Trade (DFAT) with an assessment of the transactions' compliance with the relevant criteria above and to report this publicly (subject to any confidentiality considerations).

Efic is to maintain its demonstration role to private finance providers. In most circumstances, after one or two transactions with the same company, Efic will have demonstrated to the private sector that commercial returns are possible. I therefore expect Efic to limit the number of CA facilities provided to the same company to three facilities within a three year period. Further facilities with the same firm must be approved by the Efic Board on the basis that the transaction is to an emerging market, or where the Board assesses that the transaction will not crowd out the private sector.

The Government expects Efic, subject to my approval and legislative authority, will make available its specialist financial capabilities to Commonwealth entities and companies. If called on to provide such financial capabilities to Commonwealth entities and companies, Efic must ensure that such activities do not occur at the expense of its primary purpose and Efic will take steps to minimise the impact of work it performs for the Commonwealth on its capacity to assist exporters, including by the charging of appropriate fees for such services.

Pricing arrangements

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I expect Efic's CA operations to be conducted on a commercial basis. As such, the pricing of Efic's products and services should not undercut the private sector where private sector support is present, nor undercut pricing for comparable risks when private sector support is absent. This enhancement of Efic's demonstration role is central to Efic meeting its policy objective of helping commercially viable exporters overcome financial barriers while also encouraging private sector participation.

In line with the 2014 changes to the Efic Act, competitive neutrality charges apply to Efic. It is my expectation that the National Interest Account (NIA) should also normally be conducted on a commercial basis. Any risk on the CA is not to be transferred to the Commonwealth without specific authorisation from me, as Minister for Trade, Tourism and Investment.

Governance and reporting

As a corporate Commonwealth entity, as defined in the PGPA Act, Efic is subject to the accountability, management, performance and reporting requirements specified in that Act. I expect Efic's Board and senior management to manage Efic's financial matters with care and diligence in accordance with the applicable obligations of the PGPA Act and the Efic Act. Together you should strive to maintain a culture of professionalism and continuous improvement throughout the organisation.

Efic should continue to maintain systems to manage its risks. While Efic is not an Authorised Deposit-taking Institution, it should continue to be guided by the Australian Prudential Regulation Authority in managing financial risk. Efic will also provide regular reporting to DFAT, the Treasury and the Department of Finance on its cumulative exposures per industry and per country.

Efic should continue to provide regular reports on the risk the Commonwealth is bearing directly through the NIA. Commonwealth exposures will continue to be reported through the statement of risks in the Budget papers.

I expect Efic to publish through its on-line register information on all transactions within eight weeks of signature, including the name of the client, the sector, the goods/services involved, the country, the type of facility and the value of the facility. In addition to the enhanced pricing disclosure arrangements and within appropriate confidentiality and legal parameters, I expect Efic to share the pricing and terms of its transactions with relevant financiers operating in the domestic market. This will help demonstrate that commercial returns are possible and encourage private sector financiers to take on Efic clients.

For repeat transactions (companies with more than three transactions with Efic in a three year period) Efic will report to DFAT the basis for the support, in line with my expectations above.

Efic should continue to publish its *Policy and Procedures for environmental and social review* and regularly review the policy to ensure it is consistent with best-practice environmental and social standards, including the IFC Performance Standards, the OECD Guidelines for Multinational Enterprises, the Equator Principles and the OECD Common Approaches. Efic should continue to publicly disclose its prospective involvement in transactions associated with projects that have potentially significant adverse environmental or social impacts (Category A projects).

Other matters

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In addition to the requirements above, and your responsibilities under the Efic Act and the PGPA Act to provide me and the Minister for Finance with a range of information and services, Efic is also to:

- provide products and services having regard to the Australian Government's World Trade Organization (WTO) and other international commitments, including the United Nations Convention against Corruption;
- comply with the OECD Arrangement for Officially Supported Export Credits;
- where Efic considers it appropriate, attend international forums such as the Paris Club, the OECD, the International Working Group on Export Credits, and the WTO;
- provide DFAT and any other relevant agencies with any non-legally privileged information they request to support them in preparing advice on policy related aspects of export credits and Efic's operations;
- comply with Government and Parliamentary requirements in relation to the provision of information, noting exceptions available under the Freedom of Information Act 1982 and the possible availability of public interest immunity;
- inform me and DFAT of any approaches, whether bilaterally or multilaterally, to restructure or relieve outstanding Development Import Finance Facility loans; and
- comply with Ministerial Directions, including those relating to the Democratic People's Republic of Korea, Iran, Zimbabwe and the exploitation of uranium as well as with Australian laws implementing United Nations Security Council and Australian autonomous sanctions.

I expect Efic and DFAT to have a Service Level Agreement in place in relation to the management and administration of the NIA.

Efic should work closely with Austrade, Tourism Australia, the Department of Industry, Innovation and Science and DFAT in delivering their services to Australian businesses. This will involve a coordinated approach at all levels between the organisations.

I look forward to receiving a response from you on Efic's plans to meet these expectations. Per usual practice, Efic should make these intentions and expectations publicly available.

Yours sincerely



Steven Ciobo

07 SEP 2017

Page redacted

Efic - State of Expectations

Talking points

- . Today I issued a new mandate for Australia's export credit agency, Efic.
- . My statement of expectations will enable Efic to support Australian exporters in all sectors of the economy who cannot obtain private sector finance
 - ensuring Efic continues to support Australian jobs growth by promoting increased trade, tourism and investment.
- . I expect Efic will focus on supporting small and medium-sized enterprises (SMEs), the engine-room of the Australian economy.
- . Consistent with recent legislative amendments, I have introduced changes which will enable Efic to support a wider range of Australian SMEs to expand their reach overseas, including:
 - tourism operators, online businesses, exporters of intellectual property and other related rights, and businesses engaged in overseas direct investment
 - : I have stipulated that any Efic support for overseas direct investment must increase jobs in Australia.
- . I also expect Efic to respond to emerging market gaps across all sectors, including for Australian domestic resource projects.
- . Subject to careful consideration, Efic will now be able to support domestic resource projects in the post-mining boom era.
- . Efic is reporting an increasing number of resource projects facing difficulties obtaining private market finance
 - for example, the NSW Government has written to me in support of the need for Efic funding for a resource project to export a range of new technology metals
 - Efic was approached to support several coal related projects, but was unable to assist under the previous statement.
- . This change will not duplicate support to resource projects, which obtain support for capital infrastructure costs from the Northern Australia Infrastructure facility (NAIF).

Background

The new Statement of Expectations for Efic is released under Section 34 of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). The last Statement was issued in November 2014 by former Minister Robb. The new Statement will reflect 2014 amendments to the Efic Act now in force, foreshadow changes in the Efic Bill, and enable Efic to support all sectors of the Australian economy, including onshore resource projects

You (Minister Ciobo) introduced the Efic Amendment (Support for Commonwealth Entities) Bill on 9 November 2016. [s47C](#)

s47C, 47G

FOREIGN AFFAIRS AND TRADE

Efic: Statement of Expectations

Possible Question

Why did the Government issue a new Statement of Expectations for Efic?

Talking Points

- On 11 September last year (2017), I announced a new Statement of Expectations for Efic.
 - This Statement enables Efic to support Australian exporters in all sectors of the economy who cannot obtain private sector finance.
 - Efic will focus on supporting small and medium-sized enterprises (SMEs), the engine-room of the Australian economy.
 - Efic will now also be able to support domestic resource projects in the post-mining boom era.
- : This is subject to Efic's usual requirements and its Board's consideration that any support does not come at the expense of SME transactions.

If Asked: Did the Government issue a new Statement of Expectations to enable Efic to assist coal projects, including the Adani Carmichael project?

- No.
- I issued the new Statement of Expectations to enable Efic to respond to emerging market gaps across all sectors of the Australian economy.
- Efic will only be able to support domestic resource projects subject to Efic's usual requirements and its Board's consideration.

- This mandate will not duplicate other Government support to resource projects.
- Efic will not be able to provide finance for the construction of projects that are funded by the Northern Australia Infrastructure Facility, as stipulated in my Statement of Expectations for Efic.

Background

On 11 September 2017, you (Minister Ciobo) announced the new Statement of Expectations by media release. The Statement reflects legislative changes enabling Efic to lend directly to Australian tourism operators, online businesses, exporters of intellectual property and other related rights, and businesses engaged in overseas direct investment. The Statement expects Efic will continue to focus on supporting SMEs.

The Statement also responds and lifts the restriction on Efic's ability to provide support for domestic resource projects, subject to careful consideration. s47C
s47C, 47B(b)

Efic support for domestic resource projects under the new Statement of Expectations is subject to the Efic Board being satisfied, after careful review, that there is a demonstrated market gap in the availability of finance; the transaction does not come at the expense of SME transactions; the project has significant Australian content including through SME supply chain participation; and the project is financially viable. Where such transactions are approved, Efic is required to provide DFAT with reporting on its compliance.

The Statement also stipulates that Efic shall not consider proposals to provide finance to an entity for the construction of a project where the entity is also the recipient of funding from the Northern Australia Infrastructure Facility.

In the case of the Commonwealth's National Interest Account, administered by Efic, you (Minister Ciobo) can direct Efic to enter into a facility, or give approval for Efic to enter into a facility, so long as you (Minister Ciobo) believes it is in the 'national interest' to do so. National Interest Account transactions tend to involve: financial commitments which are too large for Efic's balance sheet; risks which Efic considers are too high for it prudently to accept on Efic's Commercial Account; and transactions which would be commercially acceptable if Efic did not already have significant exposures to a country or entity related to the transaction.

On 20 January 2018, the ABC inaccurately reported that Efic's Managing Director, Ms Swati Dave misled Senate Estimates when she testified that Efic had had no contact with Adani. Efic clarified that Ms Dave's response related to the question of any contact with Adani on the new Statement of Expectations. The ABC subsequently issued an editor's note about Efic's position on the accuracy of Ms Dave's testimony. Separately, Ms Dave responded to a letter from Senator Gallacher, stating she was satisfied her evidence was correct.

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