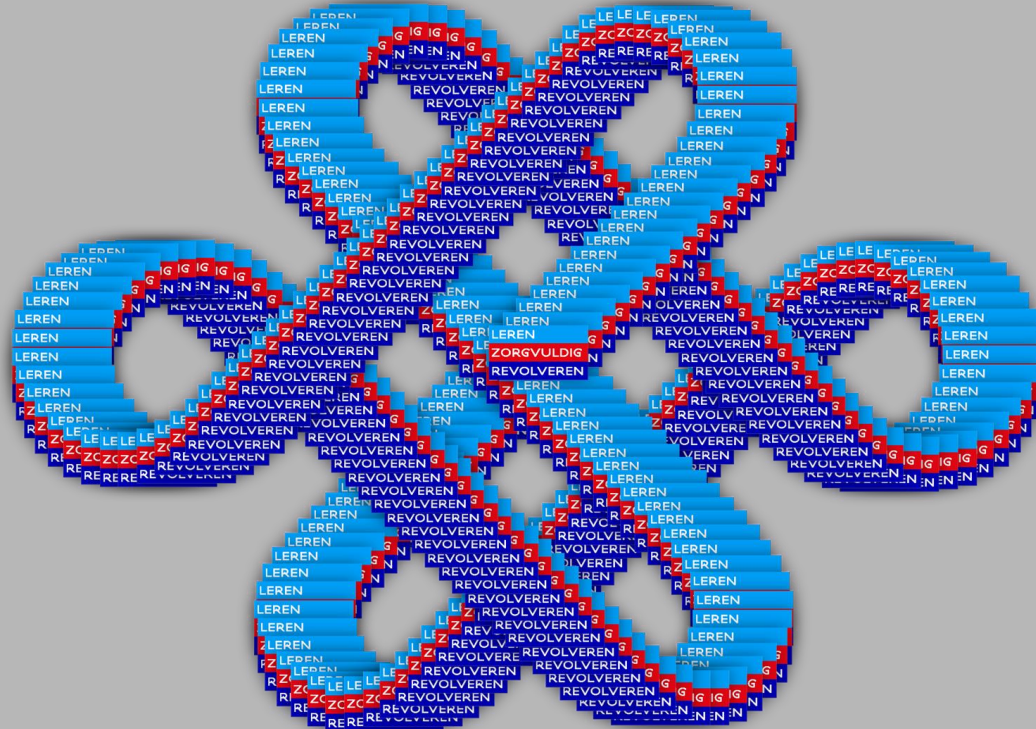


# Leren zorgvuldig revolveren

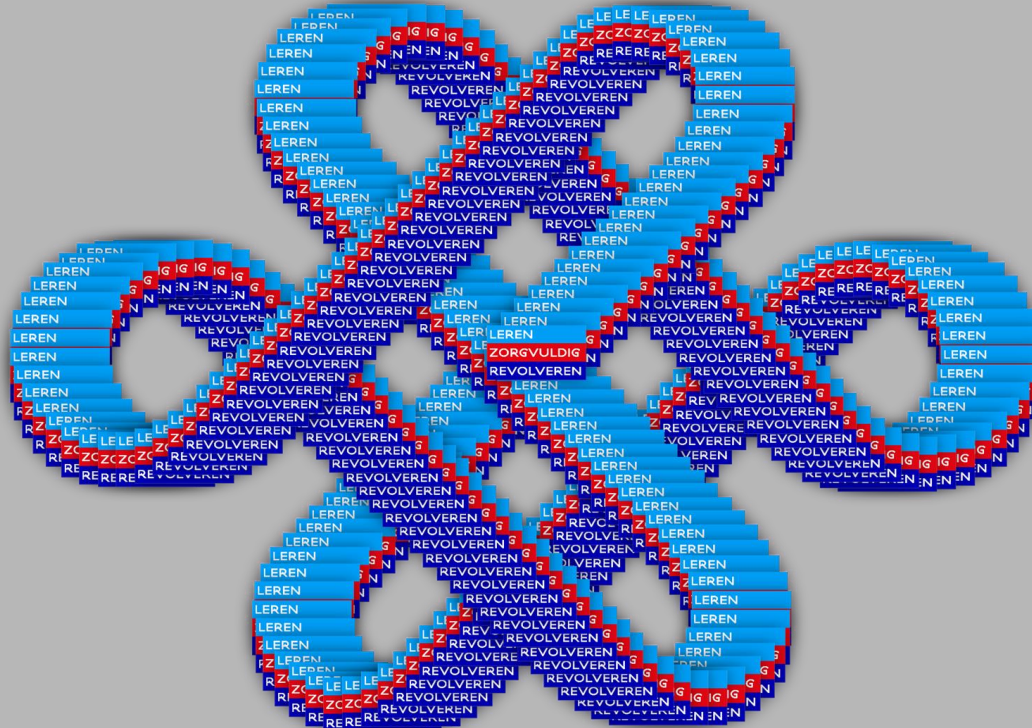


# Welkom



Prof. mr. J. (Jan) Smits

# Leren zorgvuldig revolveren



Prof. mr. drs. W. (Willemien) den Ouden

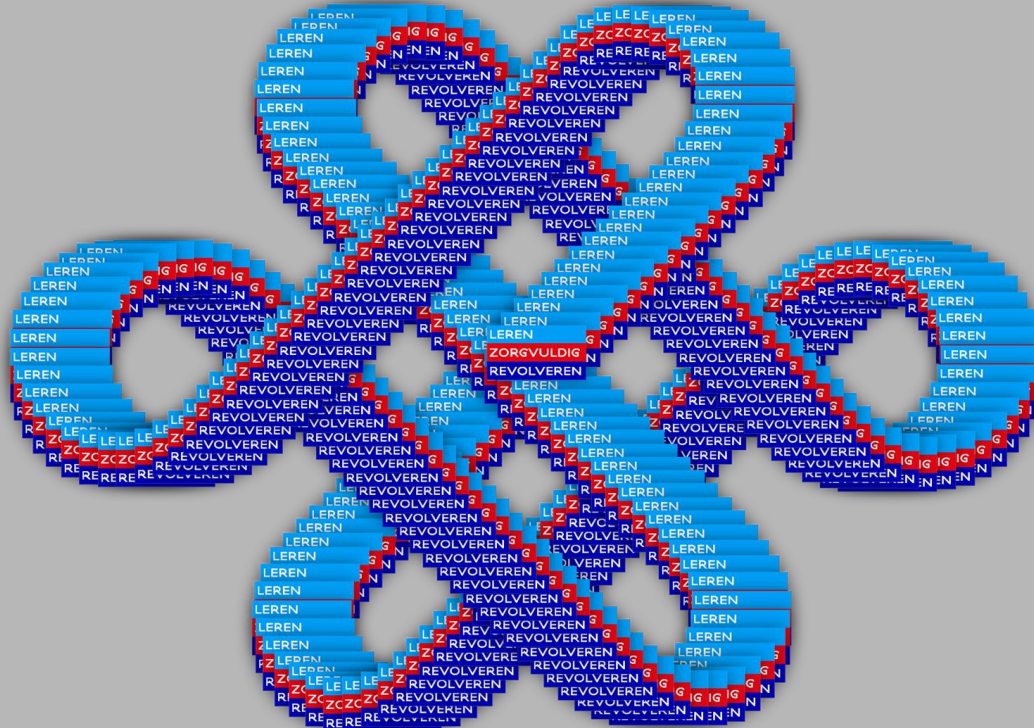
# Leren zorgvuldig revolveren

Het revolverend fonds: do's en don'ts met het oog op een rechtmatige, zorgvuldige en zinvolle besteding van publiek geld

Dagvoorzitter: Prof. mr. drs. W. (Willemien) den Ouden

#lerenzorgvuldigrevolveren

# Are revolving funds another form of state aid?



Prof. dr. Ph.A. (Phedon) Nicolaides

# Revolving Funds and State Aid

Prof P. Nicolaides

# Themes

- How much state aid?
- What is state aid?
- Typical arrangements?
- Under which conditions do revolving funds constitute state aid?
- Conclusions

# Amount of state aid by objectives [2016]

**NL: EUR 2.35 bn [0.33% of GDP (0.71% for EU)]**

| <b>Objective</b>               | <b>billion euros</b> |
|--------------------------------|----------------------|
| <b>EU total</b>                | <b>106</b>           |
| Energy & environmental aid     | 55.92                |
| R&D&I                          | 12.16                |
| Regional aid                   | 7.26                 |
| <b>SMEs &amp; risk capital</b> | <b>5.27</b>          |
| <b>NL</b>                      | <b>33 mn</b>         |
| Culture                        | 4.61                 |
| Employment                     | 2.30                 |
| Training                       | 0.48                 |
| Rescue & restructuring         | 0.13                 |



# Amount of state aid by instrument [euro, billion]

| Country        | SME+RC 2015 | SME+RC 2016 | Eq+Gr+Ln 2015 | Eq+Gr+Ln 2016 |
|----------------|-------------|-------------|---------------|---------------|
| European Union | 4463.82     | 5267.31     | 3894.72       | 1505.06       |
| Netherlands    | 25.14       | 32.79       | 76.39         | 60.04         |
| Belgium        | 105.20      | 137.23      | 69.18         | 10.59         |
| Germany        | 691.38      | 601.99      | 230.68        | 193.17        |
| France         | 1382.57     | 1625.49     | 282.15        | 169.68        |
| Italy          | 233.28      | 280.42      | 156.59        | 159.28        |
| United Kingdom | 1349.12     | 2029.13     | 363.14        | 283.76        |

# Cont.

|                             | 2016 [bn]    |
|-----------------------------|--------------|
| <b>Grant</b>                | <b>64.68</b> |
| NL                          | 1.4 bn       |
| <b>Tax exemption</b>        | <b>30.88</b> |
| NL                          | 0.35 bn      |
| <b>Soft loan</b>            | <b>0.77</b>  |
| NL                          | 49 mn        |
| <b>Equity participation</b> | <b>0.45</b>  |
| NL                          | 9 mn         |
| <b>Guarantee</b>            | <b>0.29</b>  |
| NL                          | 3 mn         |
| <b>Tax deferral</b>         | <b>0.06</b>  |
| <b>Other</b>                | <b>3.30</b>  |

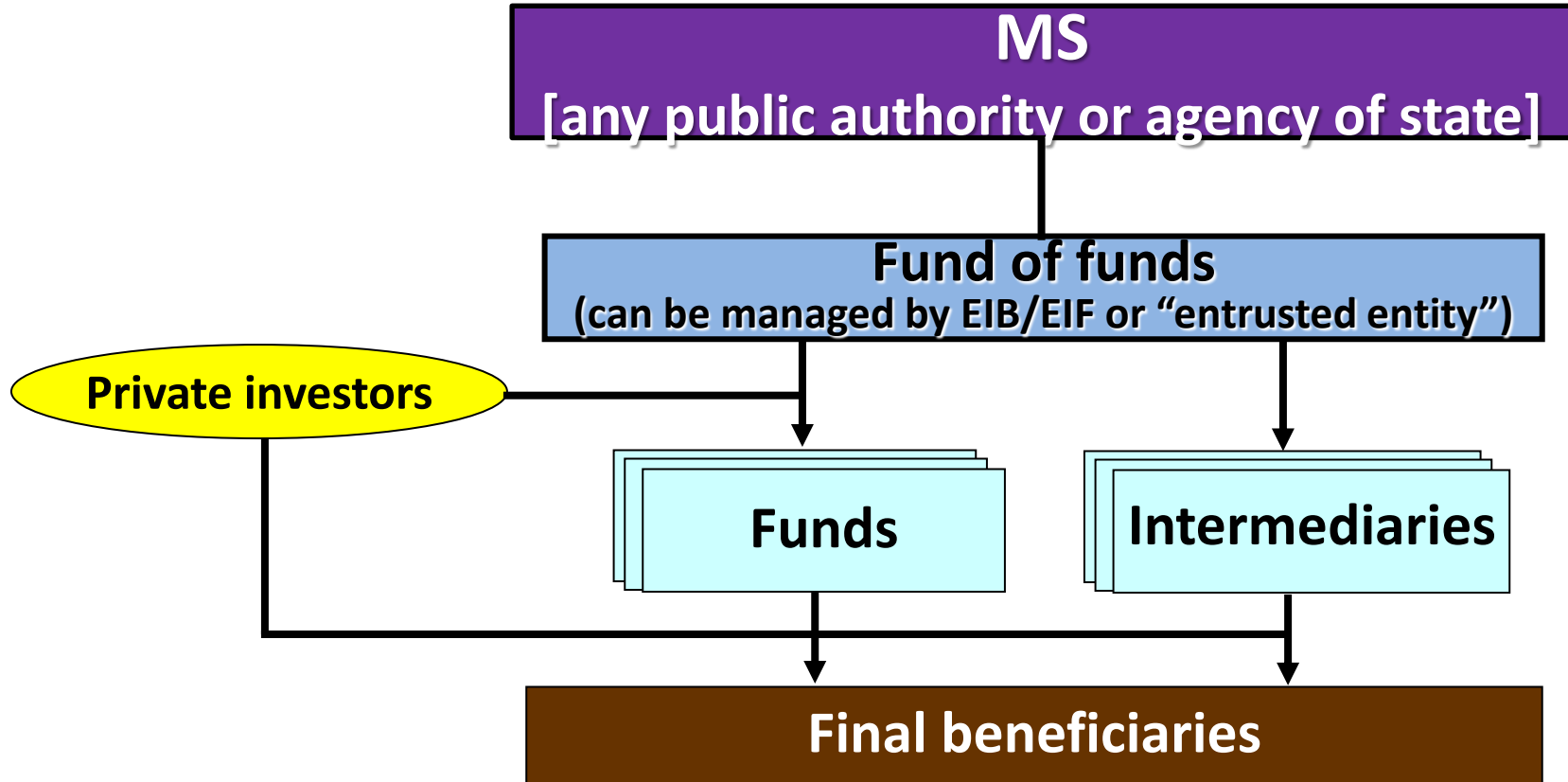
## Art 107(1) TFEU: Incompatibility of aid with the internal market

“Save as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market”

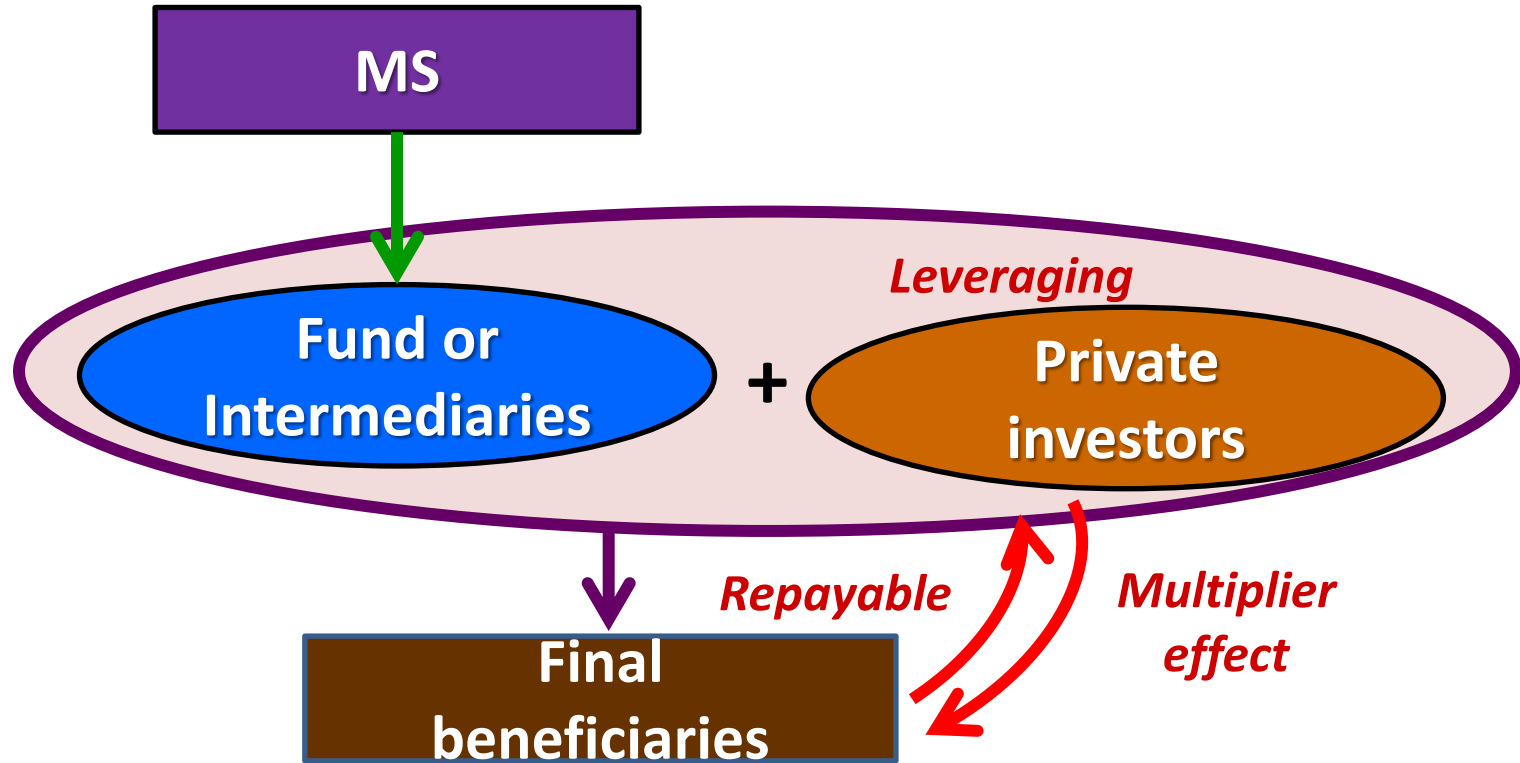
# Applicability of Art 107(1): Four criteria

1. Aid from public funds [granted by MS or through state resources] to undertakings [not individuals or households]
  2. Aid confers advantage [provides favour]
  3. Aid is selective [to certain undertakings or production of certain goods]
  4. Aid affects trade between MS & distorts competition
- [criteria are cumulative, not alternative]

# Typical arrangement for risk finance



# But if funding is repayable, where is the advantage? And who receives the advantage?



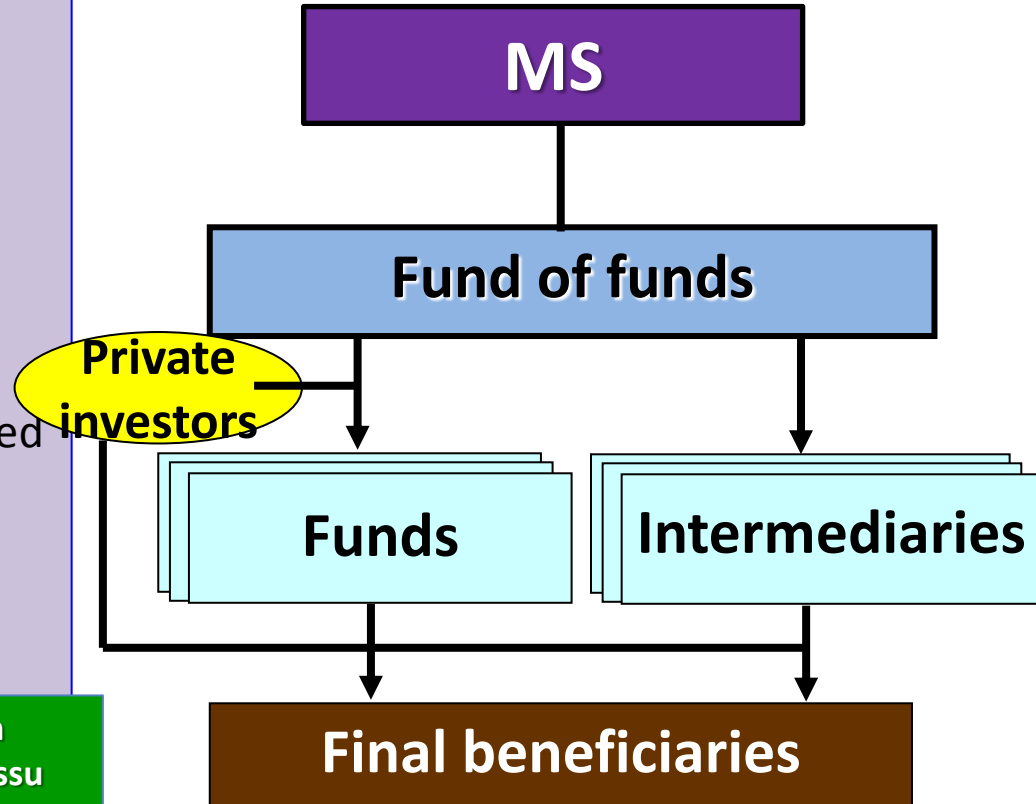
# Advantage = unequal sharing of risk

State assumes risk that is not acceptable to private investor

## State aid may exist at 4 different levels

1. Level of fund
2. Level of manager
3. Level of final beneficiary
4. Level of investor
  - Their principal may be guaranteed
  - Loss may be limited
  - A minimum profit may be guaranteed
  - They may take first dividends
  - They may take all dividends up to a certain level
  - They may take all dividends in a certain period

No state aid when  
state invests *pari passu*



# What happens if there is state aid?

## ■ Options for MS:

- De minimis aid [Reg 1407/2013] => no notification
- GBER [Reg 651/2014] [upt to EUR 15mn] => no notification
- Risk Finance Guidelines => notification  
[notifiable aid that is not notified = illegal]

## ■ Compatible risk finance aid:

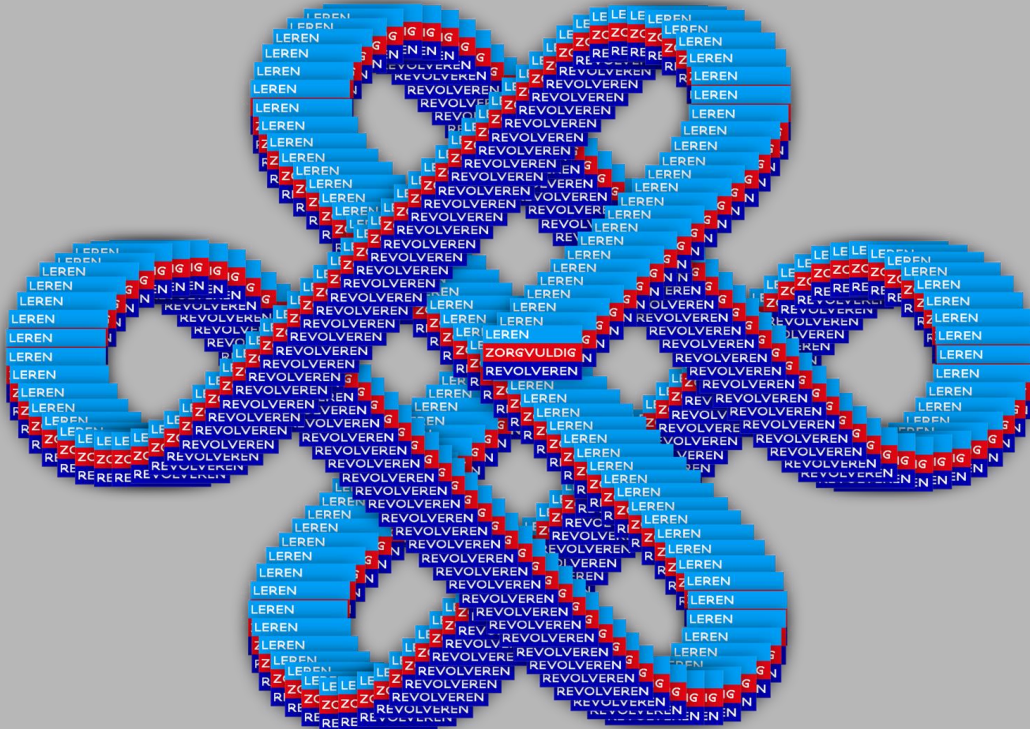
- Must address market failure
- Must be necessary & proportional
- Must not cause excessive distortion to competition
- If granted on basis of GBER, it must be implemented via a financial intermediary



# Conclusions

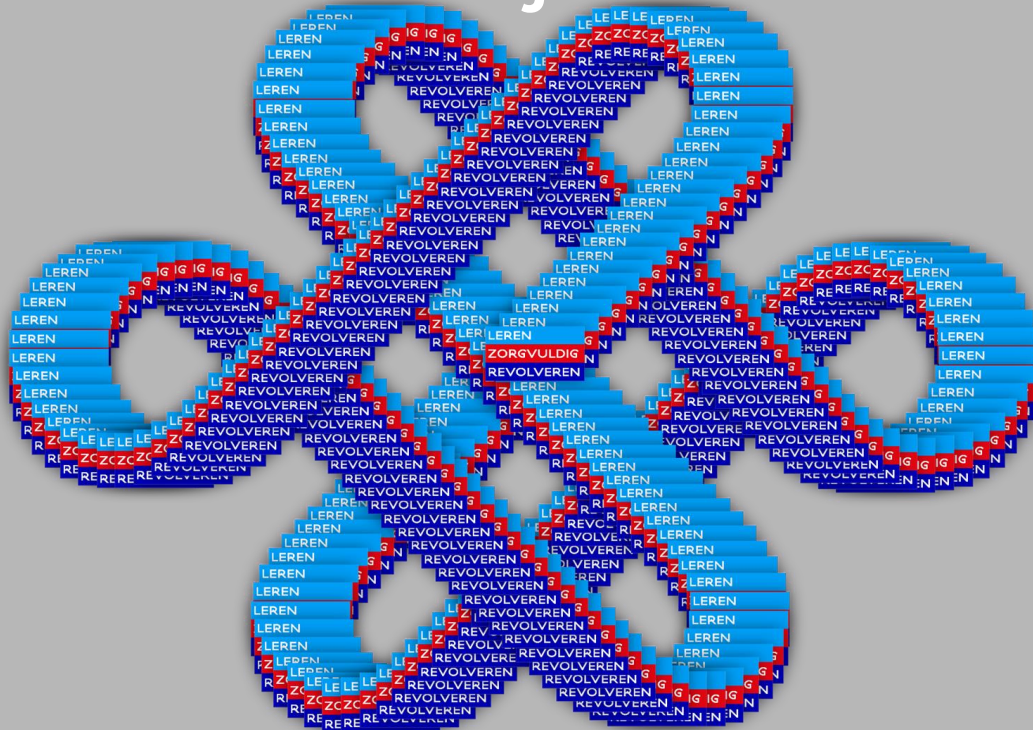
- Revolving funds contain state aid when:
  - They involve state resources, confer a selective advantage, affect trade & distort competition
- State aid can be compatible with internal market:
  - GBER & Commission Guidelines on Risk Finance
- Financial instruments not classified as Risk Finance must comply with relevant rules [other than those on Risk Finance]
- In case of doubt:
  - Seek advice
  - Re-design => compatible or no aid
  - Notify

# Discussie



Dagvoorzitter: Prof. mr. drs. W. (Willemien) den Ouden

# Zicht krijgen op revolverend fondsen van het Rijk



Drs. E. (Ewout) Irrgang

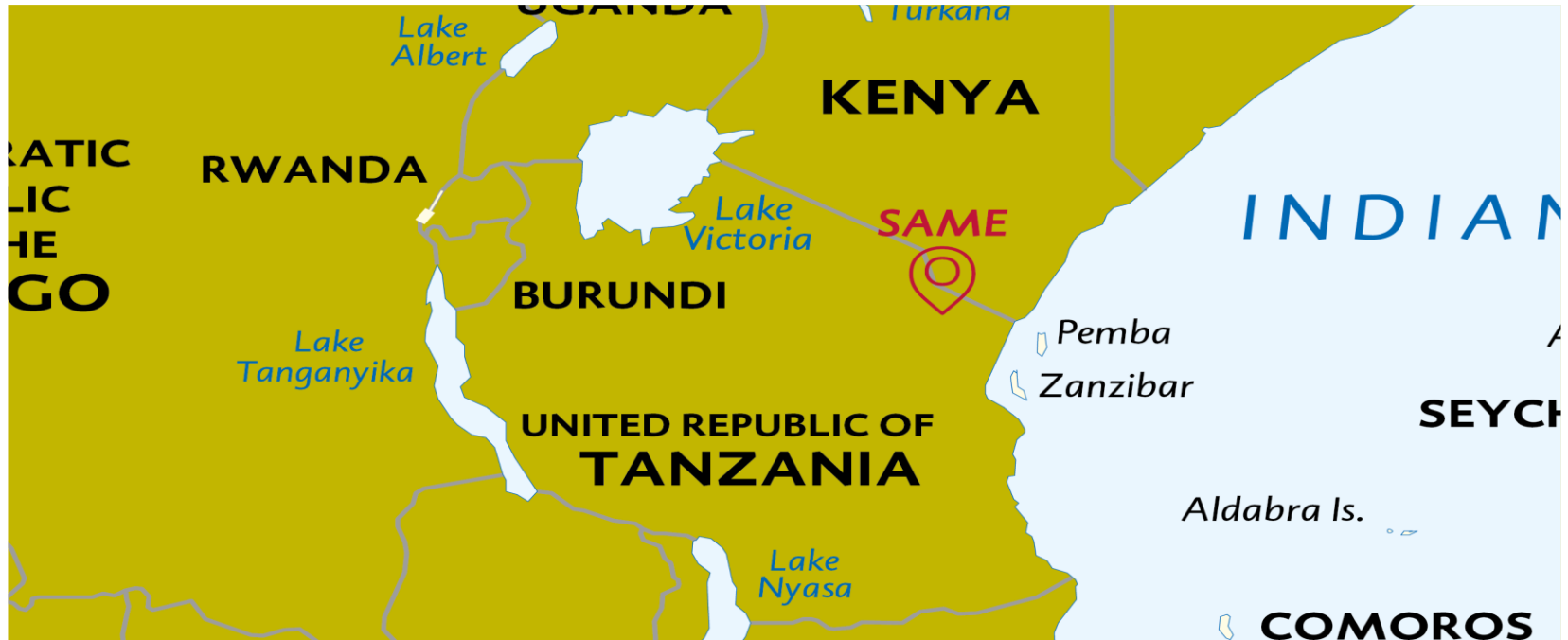


# Zicht krijgen op revolverende fondsen van het Rijk

**Drs. E. (Ewout) Irrgang**

Lid van het College van de Algemene Rekenkamer

# Same (Tanzania)





- De Algemene Rekenkamer controleert of de rijksoverheid publiek geld zinnig, zuinig en zorgvuldig uitgeeft.
- Heeft de rijksoverheid het geld *rechtmatig* (volgens de regels) geïnd en besteed?
- En is het geld ook *doelmatig en doeltreffend* besteed? Anders gezegd: krijgt de burger waar voor zijn geld?



# FONDS

- Oprichtingsjaar 200x
- Geplande einddatum 20xx
- Begunstigden Lorem ipsum
- Doelstelling Lorem ipsum dolor sit amet, consectetur adipiscing elit, sed diam nonummy nibh euismod tincidunt ut laoreet dolore magna aliquam erat volutpat. Ut wisi enim ad minim veniam.
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## Toelichting FONDS

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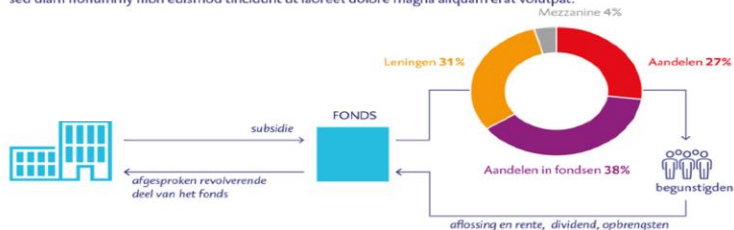
## Reden voor oprichting revolverend fonds

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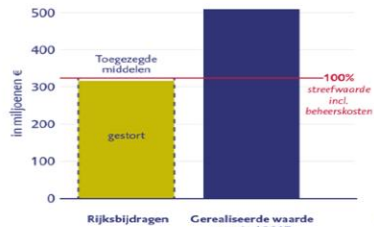
### 1. Hoe zit het fonds in elkaar?

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### 2. Hoe revolveert de rijksbijdrage van het fonds?

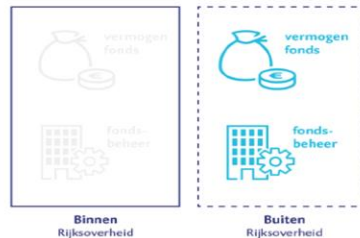
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### 4. Wat is de positie van het fonds tot het Rijk?

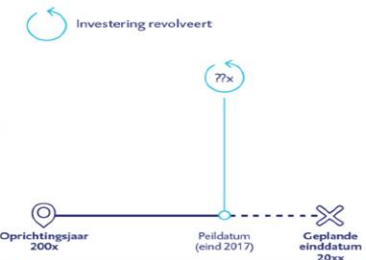
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Voor FONDS geldt:



### 3. Hoe vaak revolveert de rijksbijdrage fonds?

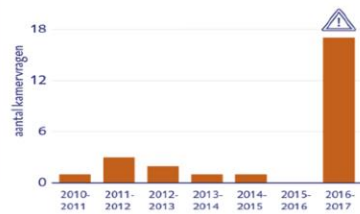
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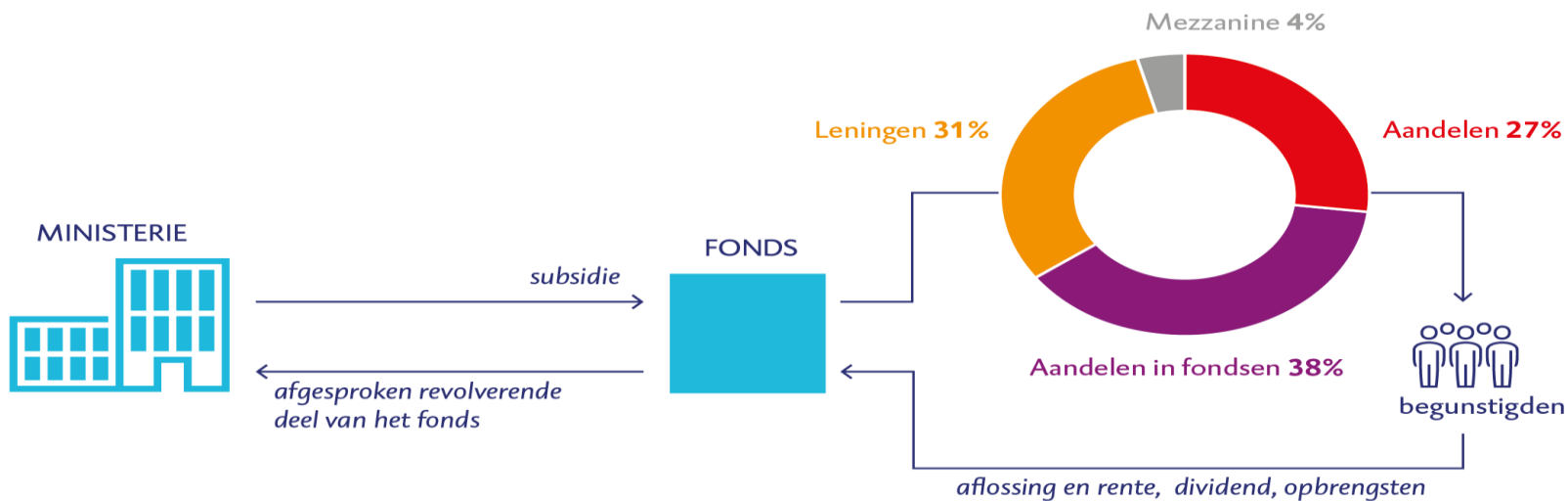
### 5. Wat weet de Tweede Kamer over het fonds?

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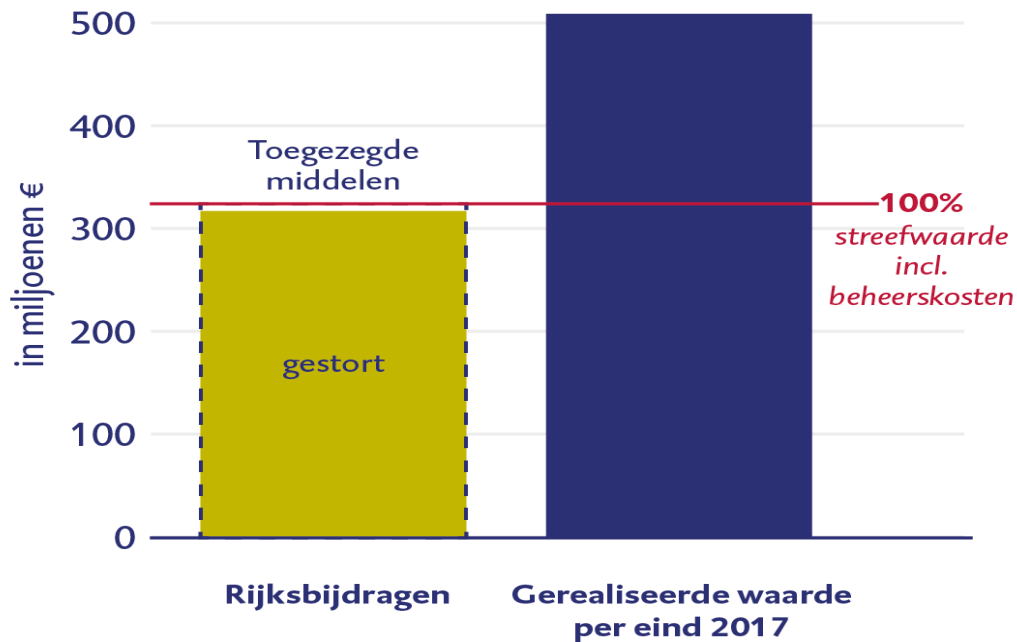


# Hoe zit het fonds in elkaar?





# Wat is de waarde van het fonds?



# Democratische controle op revolverende fondsen

26





 @rekenkamer

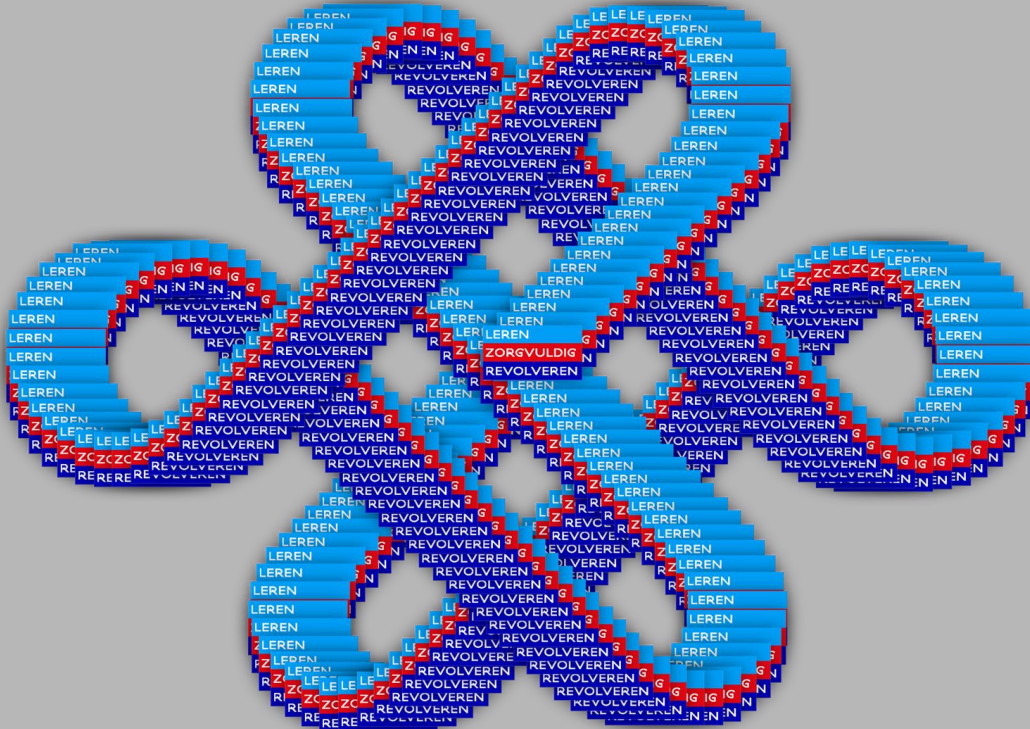
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 [www.facebook.com/rekenkamer](https://www.facebook.com/rekenkamer)



Algemene Rekenkamer

# Discussie



Dagvoorzitter: Prof. mr. drs. W. (Willemien) den Ouden

# Leren zorgvuldig revolveren



LEREN  
ZORGVULDIG  
REVOLVEREN