



Brussels, 26.2.2019  
C(2019) 1492 final

**COMMISSION DELEGATED REGULATION (EU) .../...**

**of 26.2.2019**

**supplementing Directive 2003/87/EC of the European Parliament and of the Council  
with regard to the operation of the Innovation Fund**

(Text with EEA relevance)

{SEC(2019) 87 final} - {SWD(2019) 85 final} - {SWD(2019) 86 final}

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE DELEGATED ACT

The Innovation Fund is established by Article 10a(8) of Directive 2003/87/EC<sup>1</sup> to support across all Member States innovation in low-carbon technologies and processes in sectors listed in Annex I, including environmentally safe carbon capture and utilisation ('CCU') that contributes substantially to mitigating climate change, as well as products substituting carbon intensive ones produced in sectors listed in Annex I, and to help stimulate the construction and operation of projects that aim at the environmentally safe capture and geological storage ('CCS') of CO<sub>2</sub>, as well as of innovative renewable energy and energy storage technologies;<sup>2</sup>. The Fund, endowed with at least 450 million allowances is the successor to the NER 300 programme.

The support to low-carbon technology innovation is key for achieving the EU's climate and competitiveness objectives defined in the Energy Union<sup>3</sup> and in the renewed Industrial Policy Strategy.<sup>4</sup> The Innovation Fund will be the tool to demonstrate low- and zero-carbon technologies, which will enable the transition to a decarbonised economy as set out in the long-term emissions reduction strategy<sup>5</sup>. It will also increase the competitiveness of EU companies by helping them to become global leaders in those technologies. The Innovation Fund will support the objectives of the Strategic Energy Technology (SET)-Plan<sup>6</sup>, as well as those set in the Private-Public Partnerships under the EU Research Framework Programme, notably SPIRE (Sustainable Process Industry through Resource and Energy Efficiency), Bio-Based Industries and the Fuel Cells and Hydrogen Joint Undertaking. The Innovation Fund should also contribute to future partnerships and missions under Horizon in line with the objectives of Directive 2003/87/EC.

The objective of the Innovation Fund is to deliver successful demonstration projects for breakthrough low-carbon technology innovation. The Fund aims to select innovative and viable demonstration projects and contribute towards bridging their financing gap. The portfolio of the Innovation Fund is expected to represent broad technological and geographical coverage by 2030. The Innovation Fund will operate under effective, efficient and simple governance structure, ensuring accountability, transparency and knowledge sharing.

The potential investment volume for demonstration projects is estimated<sup>7</sup> at between EUR 55 to 68 billion in the eligible sectors. Although the volume of the Innovation Fund is expected to be substantial (€6 billion (at carbon price of €15/tCO<sub>2</sub>) to €11 billion (at a price of

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<sup>1</sup> Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC, OJ L 275, 25.10.2003, p. 32.

<sup>2</sup> For examples, see the list provided in Table 1 at the end of the Explanatory Memorandum.

<sup>3</sup> COM(2015)80, Communication from the Commission, A Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy

<sup>4</sup> COM(2017)479, Communication from the Commission, Investing in a smart, innovative and sustainable Industry: A renewed EU Industrial Policy Strategy

<sup>5</sup> Reference to be added

<sup>6</sup> COM (2015),6317 Communication from the Commission, Towards an Integrated Strategic Energy Technology (SET) Plan: Accelerating the European Energy System Transformation

<sup>7</sup> Fraunhofer ISI, Ecofys (2018) Impact on the Environment and the Economy of Technological Innovations for the Innovation Fund (IF) in the Fields of Energy-intensive Industries, Renewables, CCS/CCU and Energy Storage

€25/tCO<sub>2</sub>)), the funding demand goes well beyond the expected available resources. Hence, the Innovation Fund support should be combined with the support provided by other EU programmes and by the Member States.

The Innovation Fund will be complementary to Horizon Europe because it will provide support to low- or zero-carbon technologies that Horizon Europe – or its predecessor Horizon 2020 – has financed at earlier stages of their development. It will also be complementary to the European Regional Development Fund which supports innovation and its wider uptake (e.g. energy efficiency solutions for SMEs and buildings, renewable energy projects) but does not support any activities listed in Annex I of Directive 2003/87/EC. Connecting Europe Facility and European Structural and Investment Funds could support the infrastructure elements of the projects financed by the Innovation Fund such as construction of CO<sub>2</sub> and hydrogen pipelines or grid connections. The Innovation Fund will also operate in synergy with the Union investment support instrument (the InvestEU Fund proposed by the Commission)<sup>8</sup>: InvestEU Fund will be able to provide additional investment support (e.g. loan guarantees or equity contributions) to projects financed by the Innovation Fund. The Commission proposal for InvestEU foresees that the Innovation Fund will be able to contribute to blending operations under InvestEU (e.g. topping-up the risk-coverage provided by InvestEU).

The optimal combination of financing from the Innovation Fund, InvestEU Fund, other Union programmes, and the Member States should ensure a large coverage of the additional costs and risks linked to the demonstration of innovative low-carbon technologies or products.

The co-legislators have asked the Commission to organise the first call of the Innovation Fund before 2021 to provide a timely support to eligible projects. Although the undisbursed revenues from the first call for proposals of the NER 300 programme have been redirected to InnovFin EDP and CEF Debt Instrument<sup>9</sup>, it has already been more than five years since the last call for grants was launched under the NER 300 programme in 2013.

## 2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The experience with the NER 300 programme, including the study on lessons learnt<sup>10</sup>, provided valuable insights for the design of the Innovation Fund. The main problem identified during the implementation of the NER 300 programme is a low success rate of the awarded projects or delays in the early development phase of the project. So far, only 6 out of 39 awarded projects have entered into operation while 14 projects have been withdrawn. The main drivers for the low success rate of the projects financed by the NER300 programme were the selection of immature projects as well as the late provision of support.

Additional drivers of the low success rate mainly linked to the design of the NER300 programme that have been recently identified by the Court of Auditors<sup>11</sup> are a complex and unclear decision-making process and inflexible selection system. The Court of Auditors

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<sup>8</sup> Commission proposal COM (2018) 439 final for a Regulation of the European Parliament and of the Council establishing the InvestEU programme of 6 June 2018, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2018%3A439%3AFIN>.

<sup>9</sup> Commission Decision (EU) 2017/2172 amending Decision 2010/670/EU as regards the deployment of non-disbursed revenues from the first round of calls for proposals, OJ L 306, 22.11.2017, p. 24.

<sup>10</sup> ICF (2017) [NER 300 Lessons Learnt Summary report](#)

<sup>11</sup> Special report of 5 September 2018 No 24/2018: Demonstrating carbon capture and storage and innovative renewables at commercial scale in the EU: intended progress not achieved in the past decade, available on the Court of Auditors website at: [https://www.eca.europa.eu/Lists/ECADocuments/SR18\\_24/SR\\_CCS\\_EN.pdf](https://www.eca.europa.eu/Lists/ECADocuments/SR18_24/SR_CCS_EN.pdf)

recommends in this respect to improve the project selection and decision-making process by assessing aspects of projects' economic viability and consistency with EU priorities and Member States national energy and climate plans; by ensuring that firm and transparent commitments are obtained from Member States before awarding EU funds; by establishing criteria for withdrawing funding in cases where projects do not meet agreed milestones; by ensuring flexibility to respond to market and technology developments; by better coordination between different support programmes; and finally ensuring full accountability.

In addition, the Commission conducted two rounds of consultations with concerned stakeholders in order to collect expert views on the design of the Innovation Fund: sectorial workshops from January to June 2017<sup>12</sup> and public on-line consultation from January to April 2018<sup>13</sup>.

In accordance with the Better Regulation requirements, the Commission published for feedback the draft delegated Regulation from 14 December 2018 to 11 January 2019. Thirty-five comments were received from various stakeholders (Member States, trade associations, companies). The general tone of the comments is positive, welcoming the delegated Regulation, showing appreciation that stakeholder views have been extensively sought and taken into account where possible and expressing agreement with the principles and concrete provisions, while pointing out that some elements, such as the definition of relevant costs and the recovery rules, need to be clarified in the context of the calls for proposals.

The main findings of consultations lead to the following conclusions:

- grants are the most suitable form of support, but there is also interest for financial instruments;
- support should generally be linked to both investment and operating costs;
- eligibility criteria should set deadlines for reaching specified milestones;
- the application process should be organised in two steps;
- project evaluation should be based on multiple criteria: decarbonisation potential, scalability, degree of innovation, bankability and expected cost of performance;
- fair funding balance between sectors (energy, industry), and technologies is needed
- project development assistance for prospective but not sufficiently mature projects would add value and reduce the time necessary for project preparation.

The proposal for the delegated regulation is in line with the majority of the preferences expressed by stakeholders on all the above elements.

The Commission commissioned a dedicated "Market testing study"<sup>14</sup> which undertook an expert survey of nearly 500 experts to predict the performance of and potential market of the Innovation Fund once it is launched.

The Commission formed a dedicated Innovation Fund Expert Group<sup>15</sup> in accordance with the Common understanding on delegated acts<sup>16</sup>, and met with the experts designated by Member

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<sup>12</sup> Sectorial workshops and final conference (2017) "[Finance for innovation: Towards the ETS Innovation Fund](#)"

<sup>13</sup> CE Delft (2018) [Report on the online public consultation on the establishment of the Innovation Fund](#) and [https://ec.europa.eu/clima/consultations/public-consultation-establishment-innovation-fund\\_en](https://ec.europa.eu/clima/consultations/public-consultation-establishment-innovation-fund_en)

<sup>14</sup> Ecofys (2018) [Market testing for low-carbon innovation support to energy intensive industry and to power generation](#)

<sup>15</sup> [Innovation Fund Expert Group](#)

States and from the eligible sectors on 8 June and 4 December 2018. The European Parliament and the Council of the European Union were invited to the meetings. During the first meeting, the experts largely supported the proposed options for the impact assessment. During the second meeting, the experts expressed their overall satisfaction with the scope of the draft regulation and the flexibility it offers to adjust to changing market conditions and learning from experience. Comments from experts were reflected by adding an obligation for the Commission to consult with Member States on the text of the call, and an obligation for the implementing body to support the Member States in their efforts to promote the Innovation Fund and to communicate with the project proponents. Furthermore, the threshold for small scale projects was increased to € 7.5 million. The selection criteria of ‘project maturity’ was clarified, including the importance of support by the Member State concerned. Minor drafting changes and clarifications were also made, including on the definition of the relevant costs. The Commission further explained that the Expert Group would be involved during the development of the calls for proposals.

In view of the importance of the Innovation Fund, the Commission undertook an impact assessment to analyse several options for each of the implementation issues operationalised in the current proposal. Under the preferred option, the Fund will continue to support the additional project costs related to innovation (as under NER300) but disburse the grants more flexibly based on milestones during the project’s construction and operation. To better select the projects, they will be selected through regular calls based on multiple criteria (i.e. cost efficiency, greenhouse gas emissions avoidance, economic viability). To streamline the governance, the Fund will be managed by the Commission (with the support of a public implementing body). While the delegated act should set the framework for the operations, several decisions (e.g. concrete details on selection procedure and evaluation) should be left to the calls for proposals to better reflect changing market conditions. Member States should be consulted on the key decisions (e.g. details of calls for proposals, list of pre-selected projects). To avoid distortions on the carbon market, the EU ETS allowances that will provide the resources for the Fund will be auctioned in equal annual volumes up to 2030, with limited flexibility to adjust the auction volumes to the demand from the project calls. The Fund will closely cooperate with other EU funding programmes such as Horizon Europe, and will complement the grants it will disburse with repayable forms of support (debt, equity, guarantees) through blending operations implemented within the InvestEU Programme, thus ensuring coordinated response to market needs.

The preferred option has been strongly supported by majority of stakeholders whether industrial representatives, energy utilities, project developers, Member States or NGOs and academia.

The preferred option will reduce administrative costs for proponents and Member State administrations through a streamlined decision-making chain and shorter decision times. The administrative costs of the implementing body will be fully covered by the Fund resources. No direct negative impacts are expected in economic, social or environmental area.

The Regulatory Scrutiny Board requested more evidence on the failure of the NER300 programme, the scope of the delegated regulation and the flexibility left for calls for proposals, the interaction with other Union programmes. Building on the recent report by the Court of Auditors, the drivers for the NER300 weaknesses could be better explained. The impact assessment provides now more analysis on how to optimally trade-off predictability

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<sup>16</sup> Making Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making, OJ L 123, 12.5.2016, p. 1–14

and flexibility in the divisions of functions between the delegated regulation and the calls for proposals. The role of the Innovation Fund is clarified as providing the link between research programmes – like Horizon Europe – and other Union programmes that finance the roll-out of technologies and infrastructure – such as the Connecting Europe Facility or the InvestEU Programme.

### **3. LEGAL ELEMENTS OF THE DELEGATED ACT**

Article 10a(8) of Directive 2003/87/EC establishes the Innovation Fund and lays down general rules of the functioning of the Innovation Fund, namely, the source of the Innovation Fund revenues, the projects eligible for the Innovation Fund support, as well as the general rules for the disbursement of the support. Moreover, Article 10a(8) specifies the criteria for the selection procedure and allows the complementary financing of the eligible projects to be provided by the Member States or the Union.

In addition, Article 10a(8) of Directive 2003/87/EC empowers the Commission to adopt delegated acts to supplement the Directive concerning rules on the operation of the Innovation Fund, including the selection procedure and criteria.

The proposal for the delegated regulation establishes the rules that are strictly necessary for the operation of the Innovation Fund while at the same time leaving some decisions to be made in the calls for proposals and in the contractual documentation.

Chapter I of the proposal for the delegated regulation establishes operational objectives of the Innovation Fund, and a list of the forms of support that the Innovation Fund shall provide.

The key vehicle to deliver the support through the Fund shall be grants due to the high financial gap and risks of such projects and in line with the strong preference expressed by the stakeholders. The core chapter of the proposal – Chapter II – sets specific rules for the grant financing.

The Innovation Fund will cover up to 60% of the relevant costs in line with Article 10a(8) of Directive 2003/87/EC. The proposal for delegated regulation maintains the definition of additional costs used for the NER 300 programme, i.e. the difference in costs and revenues compared to a conventional technology, which is also in line with the practice in EU state aid assessment. At the same time, the proposal benefits small-scale projects by establishing a simplified definition of relevant costs.

The Fund will disburse support according to cash-flow needs of projects. Up to 40% of the award will be provided as upfront funding at financial close to de-risk projects so that they can proceed as fast as possible to construction. This will provide also impetus for projects to speed up with their financial close. The remaining 60% of the grant will be provided to projects according to their cash-flow needs when they reach specific milestones. A recovery mechanism will be established in order to ensure the recovery of the amounts unduly paid by the Innovation Fund.

Second, Chapter II establishes rules for the organisation of the calls for proposals, the application process, and the selection of projects. Effective competition at EU level will be necessary to select the projects with highest potential to avoid greenhouse gas emissions and to significantly lower the costs of transitioning towards a low-carbon economy in the sectors concerned.

The Fund foresees organising regular calls for proposals up to 2030. The proposal does not set any timing between the calls for proposals thus enabling the adapting of the calls for proposals to demand and maturity of the project pipeline, which will be evaluated after the

end of each call for proposals. In order to meet co-legislators' expectations, the first call for proposals should take place before 31 December 2020.

The proposal foresees a two-phase application procedure with a view to reducing costs and administrative burden for project proponents. The two-phase application procedure is meant to simplify and speed up both preparation for applicants and allow identifying mature project proposals upfront. In addition, the proposal foresees a possibility to establish a specific application procedure for small-scale projects in the call for proposals.

The proposal establishes a multiple selection criteria of effectiveness, efficiency and scalability, which will assess project's greenhouse gas (GHG) abatement potential, level of innovation, economic viability, potential for wider application and replication, cost of abatement and project maturity in terms of technological and business readiness, including the possession of permits covering, inter alia, the assessment of a project's environmental impacts.

In order to ensure a balanced geographical distribution of the support, the proposal foresees simplifications for small-scale projects and the provision of the project development support. In addition, it allows the establishment of additional selection criteria in subsequent calls.

Chapter III enables the Innovation Fund to disburse its revenues within blending operations under the InvestEU Programme thus providing better targeted support to eligible projects; either in addition to grants or as an alternative to them.

Chapter IV 'Governance' defines the main actors of the implementation of the Innovation Fund. In particular, it defines the role of the Commission, the implementing bodies, the Member States, and the stakeholders.

The calls for proposals for the Fund will be organised centrally by the Commission with the support of implementing bodies. This will ensure simplified and streamlined decision-making and thus lower administrative costs for project proponents. The EIB or an executive agency could be among the bodies to execute required tasks.

Member States will play an important role in the implementation of the Innovation Fund. Member States support and commitment is indispensable for swift project implementation, e.g. with additional financial support or speeding up permitting processes. A larger group of stakeholders will be consulted on questions of general orientations for the Innovation Fund.

Finally, the proposal lays down the rules for reporting, monitoring, evaluation, control, and publicity.

#### **4. BUDGETARY IMPACT**

All activities carried out under the Innovation Fund in accordance with this Draft Commission Delegated Regulation are financed by the revenues resulting from the auctioning of ETS allowances as foreseen in paragraph 8 of Article 10a of Directive 2003/87/EC establishing the Innovation Fund and laying down general rules for its functioning. Commission Regulation (EU) No 1031/2010 lays down detailed rules for the timing, administration and other aspects of the auctioning of ETS allowances of which the proceeds belong to the Member States and are, consequently, collected and managed outside the EU budget. This basic principle is still the same as for the NER 300 programme, which is the predecessor of the Innovation Fund, and will continue to apply independent who is concretely implementing the Innovation Fund: the European Investment Bank (EIB) as it was the case for NER 300 or the Commission alone or with an Executive Agency.

Taking into account the recommendations of the Court of Auditors made in the context of the NER 300 programme<sup>17</sup> and the increased role of the Commission in the implementing of the Innovation Fund, where the Commission chooses to implement the Innovation Fund in direct management, it is envisaged to incorporate the Innovation Fund into a budgetary structure similar to other Funds for which the Commission assumes coordination and implementing tasks for financial contributions made by third parties such as Trust Funds. In such case, all revenues of the Innovation Fund would be collected from the auctioneer in accordance with the provisions of Chapters VII and VIII of Regulation (EU) No 1031/2010) as external assigned revenue in the sense paragraphs 1 and 5 of Article 21 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council<sup>18</sup> (the ‘Financial Regulation’). This external assigned revenue would finance all expenditure related to the Innovation Fund implementation activities, including the administrative costs. As a result, the implementation of the Innovation Fund as proposed under this Draft Commission Delegated Regulation would not have any additional financial impact on the EU budget.

For a possible delegation of certain implementation tasks to an executive agency, a detailed Cost-Benefit-Analysis (CBA) will be launched. Such a detailed CBA on possible delegation of tasks under all EU programmes under the next MFF 2021-2027 is currently under preparation.

**TABLE 1: ILLUSTRATIVE EXAMPLES OF POTENTIAL PROJECTS**

<b>Category of sectors</b>	<b>Sectors eligible under Article 10a(8) of Directive 2003/87/EC</b>	<b>Examples of potential projects<sup>19</sup></b>
Renewable energy	Wind energy	- Floating off-shore wind power plants - Next generation turbines
	Solar energy	- Concentrated solar power plants - Flexible organic cells - Floating photovoltaics installations - Hybrid photovoltaic, concentrating solar power and storage technologies
	Geothermal energy	- Enhanced geothermal systems
	Bioenergy	- Advanced biofuels
	Ocean energy	- Tidal and wave energy technologies
Energy storage	Energy storage	- Product innovation (e.g. thermal storage, pumped heat electricity storage, flow batteries, lithium ion or post lithium

<sup>17</sup> Special report of 5 September 2018 No 24/2018: Demonstrating carbon capture and storage and innovative renewables at commercial scale in the EU: intended progress not achieved in the past decade, available on the Court of Auditors website at: [https://www.eca.europa.eu/Lists/ECADocuments/SR18\\_24/SR\\_CCS\\_EN.pdf](https://www.eca.europa.eu/Lists/ECADocuments/SR18_24/SR_CCS_EN.pdf)

<sup>18</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

<sup>19</sup> Eligible projects may include both process and product innovations addressing products substituting GHG intensive ones.



		<p>technology, compressed air and liquid air energy storage)</p> <ul style="list-style-type: none"> <li>- Process innovation (e.g. block chain technologies and artificial intelligence)</li> <li>- System innovation (e.g. energy management systems and charging stations at ports)</li> <li>- Large scale demonstration of renewable hydrogen production and its use for energy storage (e.g. electrolysis of water coupled with hydrogen storage systems)</li> </ul>
Carbon Capture and Storage (CCS)	Carbon Capture and Storage (CCS)	<ul style="list-style-type: none"> <li>- Full chain CCS projects</li> <li>- Part chain CCS projects, with secured storage contracts</li> </ul>
Carbon capture and utilisation (CCU)	Carbon Capture and Utilisation	Capturing CO <sub>2</sub> and other carbon containing gaseous effluents and converting them to useable fuels or products
Industry	Manufacture of coke and refined petroleum products	<ul style="list-style-type: none"> <li>- Switching to low carbon hydrogen</li> <li>- Use of alternative sustainable feedstocks</li> </ul>
	Manufacture of basic ferrous metals	<ul style="list-style-type: none"> <li>- New smelting reduction technologies</li> <li>- Direct reduction technologies, based on low-carbon hydrogen</li> <li>- Electricity-based steel production</li> <li>- Top gas recycling</li> </ul>
	Manufacture of basic non-ferrous metals	<ul style="list-style-type: none"> <li>- Low emission electrolysis</li> <li>- Inert anodes/wetted drained cathodes</li> <li>- Magnetic billet heating</li> <li>- Waste heat recovery</li> </ul>
	Cement and concrete product manufacturing	<ul style="list-style-type: none"> <li>- Less carbon cement</li> <li>- Low carbon cement</li> <li>- Changes in concrete composition</li> </ul>
	Lime and gypsum product	<ul style="list-style-type: none"> <li>- Increase of CO<sub>2</sub> concentration e.g. by looping</li> <li>- Combination with oxygen-fuel process</li> </ul>
	Glass and glass product manufacturing	<ul style="list-style-type: none"> <li>- Electric furnaces</li> <li>- Oxygen-fuel combustion (incl. heat recovery)</li> <li>- Fuel switch to biofuels or low carbon hydrogen</li> <li>- Batch reformulation and batch palletisation (e.g. non-carbonated materials or glass with lower melting temperature)</li> </ul>
	Clay product and refractory manufacturing	<ul style="list-style-type: none"> <li>- Electric furnaces and dryers</li> <li>- Design of non-fired or low-fired products</li> <li>- Other product innovations</li> </ul>
	Manufacture of paper and paper products	<ul style="list-style-type: none"> <li>- New drying techniques</li> <li>- Foaming of fibrous materials</li> <li>- Black liquor gasification</li> </ul>

		<ul style="list-style-type: none"> <li>- Enzymatic pre-treatment</li> <li>- Heat recovery;</li> <li>- Electrochemical depolymerisation of lignin.</li> </ul>
	Manufacture of chemicals and chemical products	<ul style="list-style-type: none"> <li>- Utilisation or better utilisation of alternative sources of carbon: CO<sub>2</sub>, biomass, waste, exhaust gases, residues and recycled materials</li> <li>- Materials “breakthroughs” (e.g. high performance functional materials including lightweight materials for low-carbon energy, mobility and housing)</li> <li>- Utilisation of renewable electricity</li> <li>- Production and use of low carbon hydrogen</li> <li>- Electrified processes including through non-conventional energy forms</li> </ul>
	Other sectors covered by Annex I to Directive 2003/87/EC	<ul style="list-style-type: none"> <li>- Production of low carbon hydrogen with renewable electricity or with CCS</li> <li>- Innovative low-carbon tyre production</li> </ul>
Cross-cutting	Cross-cutting projects and industrial symbiosis	<ul style="list-style-type: none"> <li>- Any combination of the above</li> <li>- Carbon capture from several industrial plants, transport of CO<sub>2</sub>, utilisation and storage</li> <li>- Production and demonstration of new chemistry large-scale batteries</li> <li>- Low-carbon hydrogen use and storage, and infrastructure projects</li> <li>- Electric charging</li> <li>- Hybrid renewable energy systems</li> <li>- Industrial heat systems using heat pumps</li> </ul>

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**of 26.2.2019**

**supplementing Directive 2003/87/EC of the European Parliament and of the Council  
with regard to the operation of the Innovation Fund**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC<sup>20</sup>, and in particular to the fourth subparagraph of Article 10a(8) thereof,

Whereas:

- (1) Detailed rules on the operation of the Innovation Fund should be established taking into account lessons learnt from the NER300 programme established under Directive 2003/87/EC and implemented on the basis of Commission Decision 2010/670/EU<sup>21</sup>; notably the conclusions of the Court of Auditors report<sup>22</sup> should be taken into account.
- (2) In order to cover the lower profitability and the higher technological risks of the eligible projects compared to conventional technologies, a significant part of the Innovation Fund financing should be provided in the form of a grant. Detailed rules on the disbursement of grants should therefore be established.
- (3) As the risks and profitability of eligible projects may differ across sectors and activities of those projects and may also evolve over time, it is appropriate to allow for a part of the Innovation Fund support to be provided through contributions to blending operations under the Union investment support instrument, as well as in other forms provided for in Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council<sup>23</sup> (the ‘Financial Regulation’).

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<sup>20</sup> OJ L 275, 25.10.2003, p. 32.

<sup>21</sup> Commission Decision 2010/670/EU of 3 November 2010 laying down criteria and measures for the financing of commercial demonstration projects that aim at the environmentally safe capture and geological storage of CO<sub>2</sub> as well as demonstration projects of innovative renewable energy technologies under the scheme for greenhouse gas emission allowance trading within the Community established by Directive 2003/87/EC of the European Parliament and of the Council (OJ L 290, 6.11.2010, p. 39).

<sup>22</sup> Special report of 5 September 2018 No 24/2018: Demonstrating carbon capture and storage and innovative renewables at commercial scale in the EU: intended progress not achieved in the past decade, available on the Court of Auditors website at: [https://www.eca.europa.eu/Lists/ECADocuments/SR18\\_24/SR\\_CCS\\_EN.pdf](https://www.eca.europa.eu/Lists/ECADocuments/SR18_24/SR_CCS_EN.pdf)

<sup>23</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU)

- (4) It is appropriate to consider the difference between the total costs of an eligible project and the total costs of an equivalent project using conventional technology as relevant costs for the purposes of financing under the Innovation Fund. However, in order to avoid excessive administrative burden for small-scale projects and address their particular difficulties in obtaining financing, the relevant costs of a small-scale project should be the total capital expenditure cost of such a project.
- (5) With a view to making adequate financial resources timely available to the eligible projects, the disbursement of grants should be based on the achievement of milestones. For all projects, the milestones should include financial close and entry into operation. As some projects might need the support to be disbursed at a different point in time, it is appropriate to provide for the possibility to determine additional milestones in the contractual documentation.
- (6) In order to increase the probability of success of the projects, the possibility to disburse a part of the grant prior to the entry into operation of a project should be established. The disbursement of grants should in principle start at the financial close and continue during the development and operation of the project.
- (7) The major part of the Innovation Fund support should depend on verified avoidance of greenhouse gas emissions. Substantial underperformance on planned greenhouse gas emission avoidance should therefore lead to the reduction and recovery of the amount of the support dependant on such avoidance. The reduction and recovery mechanism, however, should be flexible enough to take into account the innovative nature of projects supported by the Innovation Fund.
- (8) Grants under the Innovation Fund should be awarded following a competitive selection process, via calls for proposals. In order to reduce the administrative burden for project proponents, a two-phase application procedure should be established, comprising an expression of interest and the full application.
- (9) Projects applying for the Innovation Fund support should be assessed on the basis of qualitative and quantitative criteria. The combination of such criteria should ensure the completeness of the project assessment in terms of its technological and business potential. To ensure fair and merit-based selection, projects should be selected based on the same selection criteria, but be evaluated and ranked first *vis-à-vis* other projects in the same sector and subsequently *vis-à-vis* projects across sectors.
- (10) Projects whose planning, business model and financial and legal structure appear insufficiently mature, in particular in light of a possible lack of support by the Member States concerned or of the necessary national permits, should not be selected for Innovation Fund support. However, such projects may be promising. Therefore, the possibility to provide development assistance to such projects should be laid down. Project development assistance should in particular benefit small-scale projects and projects in lower-income Member States to help achieving a geographically balanced distribution of the Innovation Fund support.
- (11) It is important to achieve a geographically balanced distribution of the Innovation Fund support. To prevent a situation where some Member States are not sufficiently covered, the possibility should be laid down to establish additional selection criteria aimed at achieving geographical balance in a second or subsequent calls for proposals.

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No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

- (12) The Commission should ensure the implementation of the Innovation Fund. The Commission should however be enabled to delegate some of the implementation actions, such as the organisation of the call for proposals, pre-selection of projects or contractual management of grants, to implementing bodies.
- (13) The revenues of the Innovation Fund, including the revenues from the allowances monetised on the Common Auction Platform in accordance with Commission Regulation (EU) No 1031/2010<sup>24</sup>, should be managed in accordance with the objectives of Directive 2003/87/EC. The Commission should therefore carry out that task itself and be enabled to delegate this task to the European Investment Bank.
- (14) The Commission should apply different rules depending on the mode of the implementation of the Innovation Fund. Where the Innovation Fund is implemented in direct management, the provisions of this Regulation should be fully aligned with the provisions of the Financial Regulation.
- (15) Member States should play an important role in the implementation of the Innovation Fund. In particular, the Commission should consult the Member States on the key implementation decisions, as well as on the development of the Innovation Fund.
- (16) The Innovation Fund should be implemented in accordance with the sound financial management principles as laid down in the Financial Regulation.
- (17) Clear reporting, accountability and financial control arrangements should be laid down in order to ensure that the Commission receives complete and timely information on the progress of projects supported by the Innovation Fund, the entities managing the Innovation Fund apply sound financial management principles, and the Member States are in a timely manner informed about the implementation of the Innovation Fund,

HAS ADOPTED THIS REGULATION:

## **CHAPTER I** **GENERAL PROVISIONS**

### *Article 1* *Subject matter*

This Regulation lays down detailed rules supplementing Directive 2003/87/EC as regards:

- (a) the operational objectives of the Innovation Fund established by Article 10a(8) of Directive 2003/87/EC;
- (b) the forms of support provided under the Innovation Fund;
- (c) the application procedure for the Innovation Fund support;
- (d) the procedure and criteria for project selection under the Innovation Fund;
- (e) disbursement of the Innovation Fund support;
- (f) the governance of the Innovation Fund;

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<sup>24</sup> Commission Regulation (EU) No 1031/2010 of 12 November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowances trading within the Community (OJ L 302, 18.11.2010, p. 1).

- (g) reporting, monitoring, evaluation, control, and publicity concerning the operation of the Innovation Fund.

*Article 2*  
*Definitions*

For the purposes of this Regulation the following definitions apply:

- (1) ‘financial close’ means the moment in the project development cycle where all the project and financing agreements have been signed and all the required conditions contained in them have been met;
- (2) ‘entry into operation’ means the moment in the project development cycle where all elements and systems required for operation of the project have been tested and activities resulting in effective avoidance of greenhouse gas emissions have commenced;
- (3) ‘small-scale project’ means a project with a total capital expenditure not exceeding EUR 7 500 000.

*Article 3*  
*Operational objectives*

The Innovation Fund shall have the following operational objectives:

- (a) to support projects demonstrating highly innovative technologies, processes or products, that are sufficiently mature and have a significant potential to reduce greenhouse gas emissions;
- (b) to offer financial support tailored to market needs and risk profiles of eligible projects, while attracting additional public and private resources;
- (c) to ensure that the revenues of the Innovation Fund are managed in accordance with the objectives of Directive 2003/87/EC.

*Article 4*  
*Forms of the Innovation Fund support*

The Innovation Fund support to the project may take the following forms:

- (a) grants;
- (b) contributions to blending operations under the Union investment support instrument;
- (c) where necessary to achieve the objectives of Directive 2003/87/EC, funding in any of the other form laid down in Regulation (EU, Euratom) 2018/1046 (the ‘Financial Regulation’), in particular prizes, and procurement.

**CHAPTER II**  
**SPECIFIC PROVISIONS APPLICABLE TO GRANTS**

*Article 5*  
*Relevant costs*

1. For the purposes of the fourth sentence of the third subparagraph of Article 10a(8) of Directive 2003/87/EC, the relevant costs shall be the additional costs that are borne by the project proponent as a result of the application of the innovative technology related to the reduction or avoidance of the greenhouse gas emissions. The relevant costs shall be calculated as the difference between the best estimate of the total capital expenditure, the net present value of operating costs and benefits arising during 10 years after the entry into operation of the project compared to the result of the same calculation for a conventional production with the same capacity in terms of effective production of the respective final product.

Where conventional production referred to in the first subparagraph does not exist, the relevant costs shall be the best estimate of the total capital expenditure and the net present value of operating costs and benefits arising during 10 years after the entry into operation of the project.

2. The relevant costs of a small-scale project shall be the total capital expenditure costs of that project.

*Article 6*  
*Disbursement of grants*

1. The Innovation Fund support, in the form of a grant, shall be disbursed upon reaching the pre-determined milestones.
2. For all projects, the milestones referred to in paragraph 1 shall be based on the project development cycle and shall be at least the following:
  - (a) financial close;
  - (b) entry into operation.
3. Taking into account the technology deployed and the specific circumstances of the sector or sectors in which it is being deployed, additional specific milestones may be determined in the contractual documents.
4. Up to 40% of the total amount of the Innovation Fund support, including project development assistance, to a specific project shall be disbursed upon financial close or upon reaching a specific milestone preceding financial close where such a milestone has been determined in accordance with paragraph 3.
5. To the extent that the total amount of the Innovation Fund support to a specific project has not been disbursed pursuant to paragraph 4, that amount shall be disbursed after the financial close. It may be partially disbursed prior to the entry into operation and in annual instalments after the entry into operation.
6. For the purposes of paragraphs 4 and 5 of this Article, the total amount of the Innovation Fund support provided to a specific project shall include the amount of the Innovation Fund support provided to that project by way of project development assistance in accordance with Article 13.

*Article 7*  
*General recovery rules*

1. The Commission shall take appropriate measures to ensure that, where activities financed under this Regulation are implemented, the financial interests of the Innovation Fund are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities are detected, by the recovery of the amounts unduly paid and, where appropriate, by effective, proportionate and dissuasive administrative and financial penalties.
2. Recoveries shall be implemented in accordance with the Financial Regulation.
3. The grounds for recovery as well as the recovery procedures shall be further specified in the contractual documentation.

*Article 8*  
*Special recovery rules*

1. The amount of the Innovation Fund support disbursed in accordance with paragraph 5 of Article 6 after the financial close shall be dependent on the avoidance of greenhouse gas emissions verified on the basis of annual reports submitted by the project proponent for a period between 3 to 10 years following the entry into operation. The final annual report submitted by the project proponent shall include the total amount of greenhouse gas emissions avoided during the entire reporting period.
2. Where the total amount of greenhouse gas emissions avoided during the entire reporting period is lower than 75% of the total amount of greenhouse gas emissions planned to be avoided, the amount paid or to be paid to the project proponent in accordance with paragraph 5 of Article 6 shall be proportionally recovered or reduced.
3. Where the project fails to enter into operation by the pre-determined time or the project proponent fails to demonstrate any real avoidance of greenhouse gas emissions, the amount paid after the financial close in accordance with paragraph 5 of Article 6 shall be fully recovered.
4. Where the situations referred to in paragraphs 2 and 3 occur due to extraordinary circumstances that are beyond the control of the project proponent and the project proponent demonstrates the project's potential to achieve an avoidance of greenhouse gas emissions beyond the reported amount, or where the project proponent demonstrates that the project can achieve significant low-carbon innovation benefits, the Commission may decide not to apply the recovery mechanisms under paragraphs 2 and 3.
5. The ground for recovery and recovery procedures shall be further specified in the contractual documentation.
6. The rules laid down in paragraphs 3 and 4 of this Article shall be without prejudice to general recovery rules under Article 7.



*Article 9*  
*Calls for proposals*

1. The project proponents shall be invited to apply for the Innovation Fund support through open calls for proposals launched by the Commission.  
Before adopting a decision launching a call for proposals, the Commission shall consult the Member States on the draft decision.
2. The Commission decision launching the calls for proposals shall include at least the following:
  - (a) the overall amount of the Innovation Fund support available for the call;
  - (b) the maximum amount of the Innovation Fund support available for project development assistance;
  - (c) the types of solicited projects or sectors;
  - (d) a description of the application procedure and a detailed list of information and documentation to be submitted at each phase of the application procedure;
  - (e) detailed information on the selection procedure, including the methodology for evaluation and ranking;
  - (f) where specific application and selection procedures are applied in accordance with Article 10(4) and Article 12(6) for small-scale projects, the rules on those specific procedures;
  - (g) where the Commission reserves a part of the total amount of the Innovation Fund support available for the call to small-scale projects, the amount of that part;
  - (h) where additional selection criteria aimed at achieving a geographically balanced distribution of the Innovation Fund support are applied in accordance with Article 11(2), those criteria.

*Article 10*  
*Application procedure*

1. The implementing body shall collect the applications and organise the application procedure in two subsequent phases:
  - (a) the expression of interest;
  - (b) the full application.
2. At the expression of interest phase, the project proponent shall be required to submit a description of key project characteristics in line with the requirements laid down in the relevant call for proposals, including the description of the project's effectiveness, degree of innovation, and maturity as specified in points (a), (b) and (c) of Article 11(1).
3. At the full application phase, the project proponent shall be required to submit a detailed description of the project and all supporting documentation, including the knowledge-sharing plan.
4. A simplified application procedure may be applied for small-scale projects.

*Article 11*  
*Selection criteria*

1. The selection of projects for the Innovation Fund support shall be based on the following criteria:
  - (a) effectiveness in terms of greenhouse gas emission avoidance potential, where applicable, compared to the benchmarks referred to in Article 10a(2) of Directive 2003/87/EC;
  - (b) degree of innovation of the projects compared to the state of the art;
  - (c) project maturity in terms of planning, business model, financial and legal structure as well as prospect of reaching the financial close within a pre-defined period of time not exceeding four years after the award decision;
  - (d) technical and market potential for widespread application or replication, or for future cost reductions;
  - (e) efficiency in terms of the relevant costs of the project minus any contribution to those costs from the project proponent, divided by the total projected amount of greenhouse gas emissions to be avoided or energy to be produced or stored or CO<sub>2</sub> to be stored in the first 10 years of operation.
2. Additional criteria aimed at achieving a geographically balanced distribution of the Innovation Fund support may also be applied for the purposes of project selection.

*Article 12*  
*Selection procedure*

1. Based on the applications received at the expression of interest phase, the implementing body shall assess, for each project, the eligibility in accordance with Article 10a(8) of Directive 2003/87/EC. The implementing body shall then proceed with the selection of eligible projects under paragraphs 2 and 3 of this Article.
2. Based on the applications received at the expression of interest phase, the implementing body shall draw up a list of the projects that meet the selection criteria laid down in points (a), (b) and (c) of Article 11(1) and shall invite the proponents of those projects to submit a full application.

Where the implementing body concluded that a project meets the selection criteria laid down in points (a) and (b) of Article 11(1), but does not meet the criterion laid down in point (c) of Article 11(1), the implementing body shall assess whether that project has the potential to meet all selection criteria if further developed. Where the project has such a potential, the implementing body may award project development assistance to the project concerned or, where the Commission implements that task, propose to the Commission to award project development assistance to the project.

3. Based on the full application received in accordance with paragraph 2 of this Article, the implementing body shall proceed with the project evaluation and ranking based on all selection criteria laid down in Article 11. For the purposes of that evaluation, the implementing body shall compare the projects with the projects in the same sector as well as with projects in other sectors, and shall draw up a list of pre-selected projects.

4. The list of pre-selected projects referred to in paragraph 3 and, where applicable, the suggestion referred to in the second subparagraph of paragraph 2 shall be communicated to the Commission and shall include at least the following:
  - (a) a confirmation of the compliance with the eligibility and selection criteria;
  - (b) details on project evaluation and ranking;
  - (c) total project costs and relevant costs referred to in Article 5, in euro;
  - (d) the request for the total Innovation Fund support in euro,
  - (e) the projected amount of greenhouse gas emissions to be avoided;
  - (f) the projected amount of energy to be produced or stored;
  - (g) the projected amount of CO<sub>2</sub> to be stored;
  - (h) information on the legal form of the Innovation Fund support requested by the project proponent.
5. On the basis of what was communicated pursuant to paragraph 4 of this Article, the Commission shall, after consulting the Member States in accordance with Article 21(2), adopt the award decision specifying the support to the selected projects and, where appropriate, draw up a reserve list.
6. A specific selection procedure may be applied for small-scale projects.

### *Article 13*

#### *Project development assistance*

1. The Commission shall, after consulting the Member States in accordance with Article 21(2)(c), determine the maximum amount of the Innovation Fund support available for project development assistance.
2. The project development assistance shall be awarded by the Commission or by the implementing body in accordance with Article 12(2) in the form of a grant.
3. The following activities may be funded by way of project development assistance:
  - (a) improvement and development of a project documentation, or of components of the project design, with a view to ensuring the sufficient maturity of the project;
  - (b) assessment of the feasibility of the project, including technical and economic studies;
  - (c) advice on the financial and legal structure of the project;
  - (d) capacity building of the project proponent.
4. For the purposes of project development assistance, the relevant costs shall be all project development related costs. The Innovation Fund may finance up to 100% of the relevant costs.

### **CHAPTER III**

#### **SPECIFIC PROVISIONS APPLICABLE TO THE FORMS OF THE INNOVATION FUND SUPPORT OTHER THAN GRANTS**

#### *Article 14*

##### *Provision of Innovation Fund support through contributions to blending operations under the Union investment support instrument*

1. Where the Commission decides to disburse the Innovation Fund support through contributions to blending operations under the Union investment support instrument, the Innovation Fund support shall be implemented in accordance with the rules applicable to the Union investment support instrument. However, the eligibility of the projects shall be assessed in accordance with Article 10a(8) of Directive 2003/87/EC.
2. The Commission shall adopt, after consulting the Member States, a decision specifying whether the contribution to blending operations takes a form of non-repayable support or repayable support or both, and indicating the amount of the Innovation Fund support available for the disbursement through the Union investment support instrument.

#### *Article 15*

##### *Provisions of the Innovation Fund support in any other form laid down in the Financial Regulation*

1. Where the Commission decides to disburse the Innovation Fund support in any form laid down in the Financial Regulation other than grants, the Commission shall adopt, after consulting the Member States, a decision indicating the amount of the Innovation Fund support available for disbursement in that form as well as the rules applicable to the application for such support, the selection of the projects and the disbursement of the support.
2. Projects receiving the Innovation Fund support under this Article shall comply with the Union state aid rules.

### **CHAPTER IV GOVERNANCE**

#### *Article 16*

##### *Implementation of the Innovation Fund*

1. The Commission shall implement the Innovation Fund in direct management in accordance with relevant provisions of Articles 125 to 153 of the Financial Regulation or in indirect management through bodies referred to in Article 62(1)(c) of the Financial Regulation.
2. Costs incurred, in relation to the Innovation Fund implementation activities, including the administrative and management costs, shall be financed from the Innovation Fund.

*Article 17*  
*Designation of implementing bodies*

1. Where the Commission decides to delegate certain tasks related to the Innovation Fund implementation to an implementing body, the Commission shall adopt a decision designating such an implementing body.

The Commission and the designated implementing body shall enter into an agreement laying down the specific terms and conditions under which the implementing body is to perform its tasks.

2. Where the Commission implements the Innovation Fund in direct management and decides to delegate certain implementation tasks to an implementing body, the Commission shall designate an executive agency as implementing body.
3. Where the Commission implements the Innovation Fund in indirect management, the Commission shall designate as implementing body a body referred to in Article 62(1)(c) of the Financial Regulation.
4. To the extent that the tasks relating to the implementation of the Innovation Fund are not delegated to an implementing body, the Commission shall carry out those tasks.

*Article 18*  
*Tasks of the implementing body*

The implementing body designated in accordance with Article 17(1) may be entrusted with the overall management of the call for proposals, the disbursement of the Innovation Fund support, and the monitoring of the implementation of selected projects. For that purpose, the implementing body may be entrusted with the following tasks:

- (a) organising the call for proposals;
- (b) organising the application procedure, including collecting the applications and analysing all the supporting documents;
- (c) organising the project selection, including the project evaluation or the due diligence assessment and ranking;
- (d) advising the Commission on the projects to be awarded the Innovation Fund support and on projects to be included in the reserve list;
- (e) awarding or providing project development assistance;
- (f) signature of the grant agreements and other contracts depending on the form of Innovation Fund support;
- (g) preparing and managing the contractual documentation concerning the awarded projects;
- (h) checking if the conditions for the financing are met and disbursing the Innovation Fund revenues to the project proponents;
- (i) monitoring of the project implementation;
- (j) communicating with the project proponents;
- (k) reporting to the Commission, including on general orientation for the further development of the Innovation Fund;
- (l) financial reporting;

- (m) information, communication and promotion actions, including the production of the promotion materials, and the development of the Innovation Fund logo;
- (n) management of knowledge sharing;
- (o) supporting the Member States in their efforts to promote the Innovation Fund and to communicate with the project proponents;
- (p) any other tasks relating to the implementation of the Innovation Fund

#### *Article 19*

#### *Specific provisions applicable to the implementation of the Innovation Fund in direct management*

1. Where the Commission designates an executive agency as implementing body under Article 17(1) of this Regulation, such a Commission decision shall be subject to the result of the cost-benefit analysis referred to in Article 3 of Council Regulation (EC) No 58/2003<sup>25</sup> and the agreement referred to in second subparagraph of Article 17(1) of this Regulation shall take the form of an instrument of delegation in accordance with Regulation (EC) No 58/2003.
2. Where amounts disbursed by way of direct management are recovered under Articles 7 and 8 of this Regulation, the recovered amounts shall constitute assigned revenue in accordance with Article 21 of the Financial Regulation and shall be used to finance the Innovation Fund operations.
3. For all implementing tasks carried out by the Commission, including through an executive agency, the revenue of the Innovation Fund shall constitute external assigned revenue within the meaning of paragraphs 1 and 5 of Article 21 of the Financial Regulation. That assigned revenue shall also cover all administrative costs related to the implementation of the Innovation Fund. The Commission may use a maximum of 5 % of the Innovation Fund envelope to cover its management costs.
4. A project that has received the Innovation Fund support may also receive a contribution from any other Union programme, including Funds under shared management, provided that the contributions do not cover the same costs. The cumulative financing shall not exceed the total eligible costs of the project and the support from different Union programmes may be calculated on a pro-rata basis.

#### *Article 20*

#### *Management of the Innovation Fund revenues*

1. The Commission shall ensure that the allowances destined for the Innovation Fund are auctioned in accordance with the principles and modalities laid down in Article 10(4) of Directive 2003/87/EC and shall manage the Innovation Fund revenues in accordance with the objectives of Directive 2003/87/EC.
2. The Commission shall ensure that the revenues referred to in paragraph 1 are passed on to the implementing body, in a timely manner, for financing the costs related to the implementation activities and for the disbursement to the awarded projects.

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<sup>25</sup> Council Regulation (EC) No 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes (OJ L 11, 16.1.2003, p. 1).

3. The Commission may delegate the monetisation of allowances and the management of the Innovation Fund revenues to the European Investment Bank (EIB). In the case of such a delegation, the Commission and the EIB shall enter into an agreement laying down the specific terms and conditions under which the EIB shall carry out its tasks related to the management of the Innovation Fund revenues.
4. Subject to the provisions of Directive 2003/87/EC, Innovation Fund revenues remaining at the end of the eligibility period for the supported projects shall be used to support new projects that meet the eligibility criteria laid down in Article 10a(8) of Directive 2003/87/EC until all the revenues are spent for the objectives of the Innovation Fund. Such new projects shall be selected via new calls for proposals in accordance with Article 9 or supported in accordance with Articles 14 or 15.

#### *Article 21*

##### *Role of the Member States*

1. When implementing the Innovation Fund, the Commission shall consult with and be assisted by the Member States.
2. The Member States shall be consulted on:
  - (a) the list of the pre-selected projects, including the reserve list, and the list of projects proposed for project development assistance in accordance with Article 12(2), prior to the award of the support;
  - (b) draft Commission decisions referred to in Article 9(1), Article 14(2) and Article 15(1);
  - (c) the maximum amount of the Innovation Fund support to be made available for the project development assistance;
3. The Member States shall, if requested by the Commission, advise and assist the Commission in:
  - (a) setting general orientations for the Innovation Fund;
  - (b) addressing existing or emerging project implementation problems;
  - (c) dealing with any other issue relating to the project implementation.
4. The Commission shall report to the Member States on the progress made in implementing this Regulation, in particular on the implementation of award decisions referred to in Article 12(5).

#### *Article 22*

##### *Role of the stakeholders*

The Commission may involve stakeholders in the discussions relating to the implementation of the Innovation Fund, including on the issues listed in Article 21(3).

**CHAPTER V**  
**MONITORING REPORTING, AND EVALUATION**

*Article 23*  
*Monitoring and reporting*

1. The implementing body shall monitor the operation of the Innovation Fund, including the amounts of the disbursed Innovation Fund support.
2. With a view to ensuring that data for monitoring referred to in paragraph 1 and results are collected efficiently, effectively and in a timely manner, proportionate reporting requirements may be imposed on the project proponents. The reports of the project proponents shall include the information on the knowledge-sharing actions undertaken pursuant to Article 27.
3. The implementing body shall regularly report to the Commission on the performance of its tasks.
4. The implementing body shall report to the Commission on the full cycle of the disbursement of support, and in particular on the organisation of the calls for proposals, and on the signatures of contracts with the project proponents.
5. After completion of the each call for proposals, the Commission shall report to the Member States on the implementation of that call for proposals.
6. The Commission shall report annually to the Council and to the European Parliament on the progress of the implementation of the Innovation Fund.
7. Implementing bodies, other than executive agencies, and entities to which the management of the Innovation Fund revenues has been delegated pursuant Article 20(3) shall provide the Commission with the following:
  - (a) by 15 February, unaudited financial statements covering the preceding financial year, which shall run from 1 January to 31 December, in respect of the activities delegated to those implementing bodies and entities;
  - (b) by 15 March of the year of the transmission of the unaudited financial statements, the audited financial statements covering the preceding financial year, which shall run from 1 January to 31 December, in respect of the activities delegated to those implementing bodies and entities.

The Commission shall prepare annual accounts of the Innovation Fund for each financial year, which shall run from 1 January to 31 December on the basis of the financial statements provided pursuant to the first subparagraph. Those accounts shall be subject to an independent external audit.

Any financial statements and accounts provided for in this paragraph shall be drawn up in compliance with the accounting rules referred to in Article 80 of the Financial Regulation.

*Article 24*  
*Evaluation*

1. In 2025 and every five years thereafter, the Commission shall carry out an evaluation on the operation of the Innovation Fund. The evaluation shall focus on, but shall not be limited to, the assessment of synergies between the Innovation Fund and other



relevant Union programmes, as well as the procedure of disbursement of the Innovation Fund support.

2. Based on the results of the evaluations referred to in paragraph 1 of this Article, the Commission shall, where appropriate, make proposals to ensure that the Innovation Fund progresses towards the achievement of its objectives provided for in Directive 2003/87/EC and in Article 3 of this Regulation .
3. At the end of the implementation of the Innovation Fund, but no later than in 2035, the Commission shall carry out a final evaluation of the operation of the Innovation Fund.
4. The Commission shall make the results of the evaluations undertaken pursuant to paragraphs 1, 2, and 3 publicly available.

## **CHAPTER VI**

### **AUDITS, PUBLICITY AND KNOWLEDGE SHARING**

#### *Article 25*

##### *Audits*

1. Audits on the use of the Innovation Fund support carried out by independent external auditors, including by other than those mandated by the Union Institutions or bodies, shall form the basis of the overall assurance pursuant to Article 26.
2. Any person or entity receiving Innovation Fund support shall agree in writing to grant the necessary rights and access as provided for to in Article 129 of the Financial Regulation.

#### *Article 26*

##### *Cross-reliance on audits*

Without prejudice to existing possibilities for carrying out further audits, where an audit based on internationally accepted audit standards providing reasonable assurance has been conducted by an independent auditor on the financial statements and reports setting out the use of a Union contribution, that audit shall form the basis of the overall assurance, as further specified, where appropriate, in sector-specific rules, provided that there is sufficient evidence of the independence and competence of the auditor. The report of the independent auditor and the related audit documentation shall be made available on request to the European Parliament, the Commission, the Court of Auditors and the audit authorities of Member States.

#### *Article 27*

##### *Communication, knowledge sharing and publicity*

1. The project proponents shall proactively and systematically make publicly available on their websites information relating to projects supported under this Regulation. Such information shall include an explicit reference to the Innovation Fund support received.
2. The project proponents shall ensure the provision of coherent, effective and targeted information on the Innovation Fund support received to multiple audiences, including the media and the public.

3. The Innovation Fund logo or other promotional elements required in the contractual documentation shall be used for all communication and knowledge-sharing activities and appear on notice boards at strategic places visible to the public.
4. The project proponents shall provide detailed information on the planned actions in accordance with paragraphs 1 and 2 of this Article in the knowledge-sharing plan submitted in accordance with Article 10(3).
5. The implementing body shall perform information, communication and promotion actions relating to the Innovation Fund support and results. The implementing body shall organise specific seminars, workshops or, where appropriate, other types of activities to facilitate exchanges of experience, knowledge and best practices as regards the design, preparation and implementation of projects as well as on the effectiveness of the financing provided through project development assistance projects.

## ***CHAPTER VII FINAL PROVISIONS***

### *Article 28*

#### *Entry into force*

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 26.2.2019

*For the Commission  
The President  
Jean-Claude JUNCKER*