



Inadmissibility of applications for EMFAF support (delegated act)

EMFF Expert Group – 8 September 2021

Pascale COLSON - DG MARE D.3

Legal basis

Article 11 of the EMFAF Regulation lays down the rules on the admissibility of operators' applications for financial support, and empowers the Commission to adopt a delegated act defining:

1. the identification of the threshold triggering, and the period of time of, the inadmissibility of operators who committed **serious infringements, environmental offences or fraud**;
2. the arrangements for recovering the support granted;
3. the relevant starting or ending dates of the inadmissibility period and the conditions for a reduced time of inadmissibility.

Objectives of the new delegated act

- Full alignment with the point system
- Better level playing field
- Coherence with the current system under the EMFF
- Simpler implementation
- Proportionality
- More flexibility regarding the reduction of the inadmissibility period

New rules in relation to serious infringements (1)

General rule

Inadmissibility is triggered when **2 serious infringements are committed.**

Derogation

One serious infringement associated with 7 points or no point triggers the inadmissibility.

Duration of the inadmissibility period

- 1 infringement point = 2 months of inadmissibility

Examples:

- *an operator commits 2 SIs with 3 points, he/she will be inadmissible for a minimum duration of 12 months (6 x 2).*
- *an operator commits a SI with 7 points, he/she will be inadmissible for a minimum duration of 14 months (7 x 2).*
- 1 serious infringement without point = 12 months of inadmissibility

New rules in relation to serious infringements (2)

Extension of the inadmissibility period in relation to points	Inadmissibility period extended by <u>2 months</u> for each additional infringement point assigned, and by 12 months for each new serious infringement for which no point is assigned.
Reduction of the inadmissibility period in relation to points	Inadmissibility period reduced by <u>4 months</u> when 2 points are deleted from the fishing licence pursuant to Article 133(3) of Implementing Regulation 404/2011 for any serious infringement.
Transfer of ownership of a vessel	A transfer of ownership cannot affect the EMFAF inadmissibility period for the new operator. However, points transferred to the new owner will be taken into account as soon as he/she commits any new serious infringement.
Operators owning several fishing vessels	All applications from an operator are inadmissible if 1) more than half of the fishing vessels that operator owns or operates are inadmissible; or 2) the average number of assigned infringement points per fishing vessel that operator operates or owns \geq 7 points.

Other provisions (IUU, environmental offences, fraud)

- **IUU: rule unchanged**

Specific rules apply to operators involved in the operation, management or ownership of fishing vessels included in the **Union IUU vessel list** and those whose vessels are flagged to **countries identified as non-cooperating third countries** in accordance with the IUU Regulation.

- **Environmental offences: rule unchanged**

The inadmissibility period of aquaculture producers is of 12 months if the offence set out in Article 3 of Directive 2008/99/EC is committed with serious negligence; and of 24 months if the offence is committed intentionally. The inadmissibility period is of 24 months for offences set out in Article 4 of the same Directive.

- **Fraud: rule unchanged**

The inadmissibility period will last from the date of the first official decision establishing the fraud until the end of the eligibility period of the EMFAF (31 December 2029).

Requirements on beneficiaries and Member States

As in the EMFF:

- an operator applying for EMFAF support will have to provide a **signed statement that he/she complies with admissibility rules**. Member States shall verify the veracity of the statement, in particular via the national register of infringements.
- any EMFAF beneficiary will have to comply with admissibility rules for the whole period of implementation as well as **5 years after the last payment**. Should a case of inadmissibility occur during this period, the EMFAF support shall be recovered by the Member State in accordance with CPR rules. New Article 12 on arrangements for recovering aid.

Next steps

Adoption by the
College of
Commissioners

Transmission to the EP and the Council
(2 months to object, extendable for another 2
months)

If no objection,
publication to the
Official Journal and
entry into force

Thank you Q&A



© European Union 2020

Unless otherwise noted the reuse of this presentation is authorised under the [CC BY 4.0](https://creativecommons.org/licenses/by/4.0/) license. For any use or reproduction of elements that are not owned by the EU, permission may need to be sought directly from the respective right holders.

Slide xx: **element concerned**, source: e.g. [Fotolia.com](https://www.fotolia.com/); Slide xx: **element concerned**, source: e.g. [iStock.com](https://www.istock.com/)

