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COMMISSION DELEGATED REGULATION (EU) 2019/856
of 26 February 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)

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;
- (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;

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- (3) ‘small-scale project’ means a project with a total capital expenditure not exceeding EUR 20 000 000;

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- (4) ‘medium-scale project’ means a project with a total capital expenditure above EUR 20 000 000 and not exceeding EUR 100 000 000;
- (5) ‘decision launching a call for proposals’ means a financing decision by which the Commission enables the financing of a call for proposals in accordance with Article 110 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽¹⁾ (‘the Financial Regulation’);
- (6) ‘competitive bidding procedure’ means a procedure whereby producers of low or zero carbon products that have applied for Innovation Fund support are selected on the basis of the most competitive bid, in accordance with Article 13d of this Regulation;
- (7) ‘qualification requirement’ means a condition that shall be fulfilled by a bidder in a competitive bidding procedure in order for its bid to be ranked;
- (8) ‘ranking criterion’ means the criterion used in competitive bidding procedures to rank proposals that meet the qualification requirements. The ranking criterion is always the bid price, put in direct relation to the product or objective forming the subject of the competitive bidding procedure, but may exceptionally be supplemented by other ranking criteria;
- (9) ‘competitive bidding procedure design’ means the description of the main economic parameters of a competitive bidding procedure that directly influence the incentive structure and bidding behaviour of project proponents;
- (10) ‘clearing price’ means the price of the marginal bid that fulfils the applicable qualification requirements in a competitive bidding procedure.

▼B*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;

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- (aa) to support projects that are sufficiently mature, have a significant potential to reduce greenhouse gas emissions and are aimed at scaling up innovative technologies, processes or products to achieve their broad commercial roll-out across the EU;

⁽¹⁾ 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).

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- (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****▼ M2**

The Innovation Fund support may take the following forms:

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- (a) grants;
- (b) contributions to blending operations under the Union investment support instrument;

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- (c) where necessary to achieve the objectives of Directive 2003/87/EC, funding in any of the other form laid down in the Financial Regulation, in particular prizes and procurement.

▼ B*CHAPTER II***▼ M2**

Specific provisions applicable to grants that are not awarded on the basis of Chapters IIa, IIb or IIc

*Article 5***Relevant costs**

For the purposes of the fifth sentence of the sixteenth subparagraph of Article 10a(8) of Directive 2003/87/EC, the relevant costs shall be the net extra 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 net extra costs shall be calculated as the difference between (i) the best estimate of economic costs (covering investment and operation) and economic revenues and operational benefits, and (ii) the best estimate of the economic costs and revenues and operational benefits of a project using a conventional technology with the same capacity in terms of effective production of the analogous final product.

The Commission may also decide that the relevant costs shall be the net extra costs, calculated as the difference between the best estimate of (i) the economic costs (covering investment and operation) and (ii) the economic revenues and operational benefits.

▼ B*Article 6***Disbursement of grants****▼ M2**

1. Grants shall be disbursed when the pre-determined milestones are reached.

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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.

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4. Up to 40 % of the total amount of the grant 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. The remainder of the total amount of the grant 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.

▼ B*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.

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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****▼ M2**

1. The project proponents shall be invited to apply for grants 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.

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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;

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(c) the types of solicited projects or sectors;

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(d) a description of the application procedure, specifying whether a one-stage or two-stage procedure applies, and specifying the information and documentation to be submitted with the application;

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- (e) detailed information on the selection procedure, including the methodology for evaluation and ranking;

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- (f) where small-scale projects are subject to a simplified application procedure in accordance with Article 10(4) and to a specific selection procedure in accordance with Article 12b, the rules on those specific procedures;

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- (g) if the Commission is reserving a part of the total amount of the Innovation Fund support available for the call to small-scale or medium-scale projects, the amount of that part;
- (h) whether additional award criteria are applied in accordance with Articles 11(2) and 11(3).

▼ B*Article 10***Application procedure****▼ M1**

1. The implementing body shall collect the applications and organise the application procedure as determined pursuant to Article 9(2), point (d).

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2. If the two-stage application procedure is being used, it shall consist of the following consecutive stages:

- (a) the expression of interest stage;

- (b) the full application stage.

During the expression of interest stage, the project proponent shall submit a description of the key project characteristics in line with the requirements laid down in the relevant call for proposals. This description shall include a description of the project's effectiveness, degree of innovation, and maturity as specified in Article 11(1), points (a), (b) and (c).

During the full application stage, the project proponent shall submit a detailed description of the project and all supporting documentation, including the knowledge-sharing, communication and dissemination plans.

3. Where the one-stage application procedure applies, the project proponent shall submit a full application as described in paragraph 2, third subparagraph.

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4. A simplified application procedure may be applied for small-scale projects.

▼B*Article 11***▼M2****Award criteria**

1. Grants shall be awarded on the basis of the following criteria:
 - (a) effectiveness of the proposed projects in terms of their greenhouse gas emission avoidance potential and in terms of reducing overall climate impact using, where applicable, the benchmarks referred to in Article 10a(2) of Directive 2003/87/EC;
 - (b) the degree of innovation of the proposed projects compared with the state of the art;
 - (c) project maturity in terms of planning, the business model, the financial and legal structure as well as the 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 of the proposed projects for widespread application or replication, or for future cost reductions, and in terms of the proposed projects' potential to address multiple environmental impacts and its contribution to the EU's zero pollution and circularity objectives;
 - (e) efficiency in terms of the requested Innovation Fund grant amount plus any other public support that is part of the project's financial model, divided by the total projected amount of greenhouse gas emissions to be avoided in the first 10 years of operation.
2. Additional award criteria aimed at achieving a geographically balanced distribution of the Innovation Fund support may also be included in the call for proposals for the purposes of awarding grants to the selected projects.
3. Where the Commission launches a sector-specific call for proposals or provides for a sector-specific topic within a call for proposals, additional award criteria or requirements may be included in the call documents to evaluate the potential contribution of the proposed projects to the objectives and priorities of the European Green Deal. Such additional award criteria or requirements may include the potential contribution of the proposed projects to the EU's access to a secure and sustainable supply of net-zero technologies needed to safeguard the resilience of the EU's energy system and to contribute to the creation of quality jobs.

▼B*Article 12***▼M2****Selection procedure for the two-stage application procedure**

1. Based on the applications received during the expression of interest stage, the implementing body shall assess the eligibility of each proposed project in accordance with Article 10a(8) of Directive 2003/87/EC. The implementing body shall then select eligible projects in accordance with the procedure set out in paragraphs 2 and 3 of this Article.

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2. Based on the applications received at the expression of interest stage, the implementing body shall draw up a list of the projects that meet the award criteria laid down in Article 11(1), points (a), (b) and (c), and shall invite the proponents of those projects to submit a full application.

3. Based on the full application received in accordance with paragraph 2, the implementing body shall proceed with the project evaluation and ranking based on all award criteria laid down in Article 11. Applications shall be assessed by an evaluation committee, which may be fully or partially composed of independent external experts. At the end of the evaluation, the implementing body shall draw up a list of pre-selected projects.

4. The list of pre-selected projects referred to in paragraph 3 shall be communicated to the Commission and shall include at least the following:

- (a) a confirmation of compliance with the eligibility and award criteria;
- (b) details on project evaluation and ranking;
- (c) total project costs and relevant costs referred to in Article 5 in euro;
- (d) the amount of the requested grant in euro;
- (e) the projected amount of greenhouse gas emissions to be avoided.

5. On the basis of what was communicated pursuant to paragraph 4, the Commission shall, after consulting the Member States in accordance with Article 21(2), adopt the award decision specifying the support to be provided to the selected projects and, where appropriate, draw up a reserve list.

6. The implementing body shall provide the Commission with the applications that meet the criteria set out in Article 11(1), points (a) and (b), but that have not been pre-selected. If the applicants agree, the Commission may transfer these applications to the entity in charge of awarding project development assistance in accordance with Article 13.

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*Article 12a***▼ M2****Selection procedure for the one-stage application procedure****▼ M1**

1. Based on the applications received, 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.

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2. Based on the applications received, the implementing body shall draw up a list of the projects that meet the award criteria laid down in Article 11 and shall proceed with the project evaluation and ranking based on the award criteria laid down in that Article. Applications shall be assessed by an evaluation committee, which may be fully or partially composed of independent external experts. At the end of the evaluation, the implementing body shall draw up a list of pre-selected projects.

3. The implementing body shall provide the Commission with the applications that meet the criteria set out in Article 11(1), points (a) and (b), but have not been pre-selected. If the applicants agree, the Commission may transfer these applications to the entity in charge of awarding project development assistance, in accordance with Article 13.

4. The list of pre-selected projects referred to in paragraph 2 shall be communicated to the Commission and shall include at least the following:

- (a) a confirmation of compliance with the eligibility and award criteria;
- (b) details on project evaluation and ranking;
- (c) total project costs and relevant costs referred to in Article 5 in euro;
- (d) the amount of requested grant in euro;
- (e) the projected amount of greenhouse gas emissions to be avoided.

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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.

*Article 12b***Selection procedure for small-scale projects**

By derogation from Articles 12 and 12a, a specific selection procedure may be applied to small-scale projects.

▼ M2*CHAPTER IIa****Project development assistance****Article 13***Project development assistance**

1. The Commission shall, after consulting the Member States in accordance with Article 21(2), point (c), determine the maximum amount of Innovation Fund support available for project development assistance.

2. The Commission may award project development assistance in the form of technical assistance to any project that falls within the scope of the Innovation Fund, as set out in Article 10a(8), first and sixth subparagraphs of Directive 2003/87/EC.

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3. The following activities may be funded by way of project development assistance:

- (a) improvement and development of 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. If project development assistance is implemented under indirect management, the implementing entity shall carry out the selection procedure and take the decision to award the project development assistance after having consulted the Commission. The award criteria shall take into account the degree of innovation compared to the state of the art, the potential to significantly reduce climate impacts and to support widespread application, the maturity as well as the geographical and sectoral balance in relation to the portfolio of funded projects.

*CHAPTER IIb****Specific provisions applicable to competitive bidding procedures****Article 13a***Competitive bidding procedure design and principles**

1. The Commission shall set out the competitive bidding procedure design in accordance with the principles of openness, clarity, transparency and non-discrimination.
2. Competitive bidding procedures shall be designed so as to minimise the risk of speculative bidding.
3. All competitive bidding procedures shall have a maximum budget or volume that acts as a binding constraint. Undersubscribed competitive bidding procedures shall be adapted to restore effective competition in the subsequent competitive bidding procedures.
4. The competitive bidding procedure design shall be published sufficiently in advance of the publication of the call for proposals to enable effective competition.

*Article 13b***Calls for proposals**

1. Project proponents shall be invited to apply for a competitive bidding procedure through open calls for proposals launched by the Commission.

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2. Before adopting a decision launching a call for proposals, the Commission shall consult the Member States on the draft decision.
3. The Commission decision launching the calls for proposals shall clearly set out the following:
 - (a) the policy objectives pursued by the call;
 - (b) the precise definition and requirements of the low or zero carbon product for which support may be granted;
 - (c) the budget provided by the Innovation Fund;
 - (d) whether a maximum bid price or volume per bid will apply;
 - (e) whether restrictions to cumulation or combination of the support awarded on the basis of a competitive bidding procedure with EU or national support measures will apply;
 - (f) whether criteria other than the bid price will apply in order to rank the proposals;
 - (g) the maximum duration of the support awarded on the basis of the competitive bidding procedure;
 - (h) a description of the application and selection procedures.

*Article 13c***Qualification requirements**

1. Only proposals that meet the qualification requirements shall be considered for the ranking procedure set out in Article 13d.
2. Qualification requirements shall aim at ensuring that project proponents participating in the competitive bidding procedure are able to complete the proposed project in accordance with the competitive bidding procedure design, with the terms of the call for proposals and with the objectives in Article 3, and in compliance with EU law.
3. Qualification requirements shall be limited to what is necessary to achieve the objectives of the competitive bidding procedure and to ensure the highest degree of competition and quality of submitted proposals.
4. Qualification requirements may be eligibility, selection, and award criteria within the meaning of the Financial Regulation.

*Article 13d***Ranking procedure**

1. Proposals that meet the qualification requirements shall be ranked from the lowest offered price to the highest, unless additional criteria are applied pursuant to paragraph 2.

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2. The Commission may decide, exceptionally, to use additional criteria for the ranking of the proposals, provided that the bid price, put in direct relation to the product or objective forming the subject of the competitive bidding procedure, accounts for at least 70 % of the weighting of the ranking criteria. The use of additional criteria shall be clearly set out in the call for proposals and shall be justified by the nature of the auctioned product and the objectives of the call.

3. The implementing body shall draw up the list of pre-selected proposals and communicate it to the Commission. The list shall contain:

- (a) a confirmation of compliance with the qualification requirements;
- (b) details on the ranking;
- (c) the amount of support requested;
- (d) the projected volume of the auctioned product.

4. At the request of the Commission, the implementing body shall also communicate the ranking of proposals that meet the qualification requirements but whose price is above the clearing price.

5. On the basis of what was communicated pursuant to paragraph 3, the Commission shall, after consulting the Member States in accordance with Article 21(2), adopt the award decision specifying the support to be provided to the selected proposals and, where appropriate, draw up a reserve list.

*Article 13e***Cumulation**

1. For each competitive bidding procedure, the Commission may decide to restrict the possibility for a project proponent to cumulate the support awarded on the basis of a competitive bidding procedure with EU funding or national public support.

2. Any restrictions adopted pursuant to paragraph 1 shall be limited to what is necessary to ensure a level playing field and to achieve the objectives of the competitive bidding procedure.

3. The scope and rationale of the restrictions referred to in paragraph 1 shall be clearly set out in the draft decision submitted to Member States pursuant to Article 13b(2) as well as in the publication of the competitive bidding procedure design elements referred to in Article 13a(4).

*Article 13f***Deposits**

1. The Commission may request deposits, in accordance with Article 10a(8a) of Directive 2003/87/EC, in the form of a financial guarantee, in order to mitigate the risk of speculative bidding or to incentivise project proponents to deliver the proposed project on time and in accordance with their proposal.

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2. Retained deposits shall accrue to the Innovation Fund as external assigned revenue pursuant to Article 21(5) of the Financial Regulation.

*CHAPTER IIc****Specific provisions applicable to technical assistance provided to Member States with a low level of effective participation****Article 13g***Technical assistance provided to Member States with a low level of effective participation**

1. Member States with the lowest ratio based on the Innovation Fund support received by projects on their territory compared with their share of EU ETS verified emissions in 2013-2020 may be eligible for technical assistance provided by the Commission in accordance with Article 10a(8), fourteenth subparagraph, of the Directive 2003/87/EC.

2. The maximum amount of the Innovation Fund support available for technical assistance as well as the list of Member States eligible for technical assistance shall be determined by the Commission after consulting the Member States in accordance with Article 21(2)(d). The list of eligible Member States shall be updated at least once every two years thereafter.

▼ B*CHAPTER III***▼ M2*****Specific provisions applicable to other forms of Innovation Fund support*****▼ B***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.

▼B*Article 18***Tasks of the implementing body**

►**M2** The implementing body designated in accordance with Article 17(1) of this Regulation to implement the Innovation Fund in accordance with Article 17(2) may be entrusted with the overall management of the calls 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;

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- (c) organising the selection procedure, including the proposals' evaluation and ranking;

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- (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;

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- (m) information, communication and promotion actions, including the production of the promotion materials;

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- (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;

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- (oa) fostering synergies between the Innovation Fund and other EU funding programmes (including Horizon Europe);

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- (p) any other tasks relating to the implementation of the Innovation Fund

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Following the closure of each call for proposals organised pursuant to Articles 9 and 10, the implementing body shall share information with the Member States on the applicants, their projects, their contact details, the requested grant amount, the greenhouse gas emission avoidance potential and envisaged dates of financial close and entry into operation.

Following the closure of each call for proposals organised pursuant to Article 13b, the implementing body shall share with the Member States information on the project proponents, their projects, their contact details, the amount of Innovation Fund support requested and, where relevant, envisaged dates of financial close and entry into operation.

The sharing of information referred to in second and third paragraphs is subject to the project proponents' consent and EU legislation.

▼ B*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 ⁽¹⁾ 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.

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2. Where disbursed amounts are recovered under Articles 7 and 8 of this Regulation, the recovered amounts shall constitute external assigned revenue in accordance with Article 21 of the Financial Regulation and shall be used to finance the Innovation Fund's 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 Article 21, paragraphs 1 and 5 of the Financial Regulation. The revenue of the Innovation Fund shall cover all administrative and management costs related to its implementation. 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 EU programme, including funds under shared management, provided that those contributions do not cover the same costs and no restrictions have been introduced in accordance with Article 13e(1). The cumulative financing shall not exceed the total eligible costs of the project and the support from different EU programmes may be calculated on a pro-rata basis.

⁽¹⁾ 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).

▼B*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.

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.

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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 that Directive until all the revenues are spent on the objectives of the Innovation Fund.

▼B*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:

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- (a) the list of the pre-selected proposals, including the reserve list, established in accordance with Articles 12, 12a and 13d;
- (b) draft Commission decisions referred to in Articles 9(1), 13b, 14(2) and 15(1);
- (c) the maximum amount of the Innovation Fund support to be made available for the project development assistance in accordance with Article 13;
- (d) the maximum amount of the Innovation Fund support to be made available for technical assistance and the list of Member States with a low level of effective participation, in accordance with Article 13g.

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3. The Member States shall, if requested by the Commission, advise and assist the Commission in:

- (a) setting general orientations for the Innovation Fund;

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- (b) addressing existing or emerging project implementation problems;
- (c) dealing with any other issue relating to the project implementation.

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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) or Article 12a(5).

▼ B*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.

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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;

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- (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****▼M2**

1. In 2025 and every 5 years thereafter, the Commission shall carry out an evaluation of 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 EU programmes, notably the EU Framework Programme for Research and Innovation (including Horizon Europe and Horizon 2020), as well as the procedure for disbursement of the Innovation Fund support.

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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.

▼ B*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****▼ M2**

1. The project proponents shall proactively and systematically promote the projects supported under this Regulation and their results and impact by making relevant information publicly available through all available communication channels, including their websites and social media accounts. That information shall include an explicit reference to the Innovation Fund support received. The project proponents shall nominate a focal point for project communication and shall inform the implementing body well in advance before engaging in specific project communication or dissemination activities with a potentially substantial media impact.

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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.

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3. The label ‘(co-)funded from the EU Emissions Trading System (the Innovation Fund)’, the emblem of the Union and other promotional elements required shall be used for all communication and knowledge-sharing activities and appear on notice boards at strategic places visible to the public, in accordance with the contractual requirements associated with the Innovation Fund support.

4. The project proponents shall provide detailed information on the planned actions in accordance with paragraphs 1 and 2 in their knowledge-sharing, and communication and dissemination plans. They shall regularly monitor and, if appropriate, review their implementation.

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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.