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COMMISSION DECISION

of 25.3.2020

**delegating the management of the revenues of the Innovation Fund to the European
Investment Bank**

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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/EC¹, and in particular the fourth subparagraph of Article 10a(8) thereof,

Having regard to the 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 Fund², and in particular Article 20(3) thereof,

Having regard to 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 966/2012³, and in particular Article 62(1)(c)(iii) thereof,

Whereas:

- (1) The Innovation Fund established by Article 10a(8) of Directive 2003/87/EC is the successor of the NER 300 programme. Detailed rules on the operation of the Innovation Fund have been established by Delegated Regulation (EU) 2019/856.
- (2) The Innovation Fund is to be endowed *inter alia* with the revenues from the 450 million allowances monetised on the Common Auction Platform in accordance with Commission Regulation (EU) No 1031/2010⁴. The allowances are to be auctioned progressively over the coming years. The Innovation Fund is also to be endowed with part of the unspent NER300 assets, which will be transferred to it.
- (3) Article 19(3) of Regulation (EU) 2019/856 states that the revenues of the Innovation Fund shall constitute external assigned revenues within the meaning of Article 21 of the Regulation (EU, Euratom) 2018/1046 (“Financial Regulation”). Those revenues are to be channelled through the Union Budget.
- (4) Article 3(c) read in conjunction with Recital 13 of Delegated Regulation (EU) 2019/856 states that the revenues of the Innovation Fund, including the revenues from

¹ OJ L 275 25.10.2003, p. 32.

² OJ L 140, 28.5.2019, p. 6.

³ OJ L 193, 30.7.2018, p. 1.

⁴ 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 system for greenhouse gas emission allowances trading within the Union (OJ L 302 18.11.2010, p. 1).

the allowances, should be managed in accordance with the objectives of Directive 2003/87/EC.

- (5) Recital 16 of Delegated Regulation (EU) 2019/856 foresees that the Innovation Fund should be implemented in accordance with the sound financial management principles as laid down in the Financial Regulation.
- (6) In accordance with Article 24(1) of Regulation (EU) No 1031/2010⁵, the European Investment Bank (EIB) is the auctioneer for the allowances to be auctioned from 2021 for the Innovation Fund, as well as for the Modernisation Fund, which has also been established by Directive 2003/87/EC.
- (7) The EIB has been performing the management of the revenues of the NER 300 programme. The unused funds of the NER 300 fund currently managed by the EIB are to be partly transferred to the Innovation Fund. It is desirable to ensure the continuity of the investment process and to allow for an optimal transfer of the assets. In addition, having implemented the NER 300 programme, the EIB has acquired valuable experience in the implementation of an asset management strategy that takes account of the related cash workflows.
- (8) The EIB has been entrusted with the management of the revenues of the Modernisation Fund. Synergies and economies of scale are likely to result from the asset management of both the Innovation Fund and the Modernisation Fund by the same asset manager.
- (9) Accordingly, the Commission intends to delegate to the EIB the tasks related to the management of the revenues of the Innovation Fund. This is subject to the conclusion, pursuant to Article 20(3) of Delegated Regulation (EU) 2019/856, of an agreement between the Commission and the EIB laying down the specific terms and conditions under which the EIB is to carry out those tasks, in compliance with the sound financial management principles as laid down in the Financial Regulation.
- (10) That agreement should comprise in particular specific provisions as regards: (i) detailed rules concerning the monetisation process in accordance with Regulation (EU) No 1031/2010; (ii) detailed rules concerning fund transfers enabling the Commission to timely implement the Innovation Fund; (iii) the calculation of the asset management fees; (iv) the frequency, content and form of the reporting; (v) accounting requirements; (vi) the investment strategy applicable to the management of the revenues of the Innovation Fund,

HAS DECIDED AS FOLLOWS:

Article 1

Delegation of the management of the revenues of the Innovation Fund to the European Investment Bank

1. The management of the revenues of the Innovation Fund is delegated to the European Investment Bank (EIB), subject to the conclusion of the contribution agreement referred to in Article 2.
2. The EIB is entrusted to manage the following revenues of the Innovation Fund:

⁵ Commission Delegated Regulation (EU) 2019/1868 of 28 August 2019 amending Regulation (EU) No 1031/2010 to align the auctioning of allowances with the EU ETS rules for the period 2021 to 2030 and with the classification of allowances as financial instruments pursuant to Directive 2014/65/EU of the European Parliament and of the Council (OJ L 289 8.11.2019, p. 9.)

- (a) revenues from the allowances monetised on the Common Auction Platform in accordance with Regulation (EU) No 1031/2010;
- (b) any assets accruing from the transfer to the Innovation Fund, including undisbursed revenues from the second call of the NER 300 programme.

Article 2

Contribution agreement

1. The Commission and the EIB shall conclude a contribution agreement laying down the specific terms and conditions under which the EIB shall carry out its tasks related to the management of the revenues of the Innovation Fund and the monetisation of the allowances.
2. The contribution agreement shall reflect the need for the Commission and the EIB to fully cooperate on a transparent basis. It shall set up detailed rules to ensure their compliance with the sound financial management principles as laid down in the Financial Regulation. They shall also be compliant with the applicable administrative agreements, in particular the Financial and Administrative Framework Agreement between the European Union and the European Investment Bank, and the Tripartite Agreement between the European Commission, the European Court of Auditors and the European Investment Bank.
3. The contribution agreement shall lay down in particular:
 - (a) detailed rules concerning the monetisation of the allowances in accordance with Regulation (EU) No 1031/2010;
 - (b) detailed rules concerning the transfer of funds between the EIB and the Commission enabling the Commission to draw on revenues of the Innovation Fund promptly in response to project financing needs;
 - (c) the cost-based remuneration due to the EIB for the monetisation of allowances and management of the revenues of the Innovation Fund and the related tasks. That cost-based remuneration shall be established on the basis of documentary evidence in respect of the services provided;
 - (d) a monthly reporting by the EIB to the Commission in a format laid down by the Commission. It shall enable the Commission to meet all requirements for the purpose of its own monitoring and reporting pursuant to Article 23 of Delegated Regulation (EU) 2019/856;
 - (e) the investment strategy for the revenues of the assets of the Innovation Fund. In particular, (i) the investment strategy shall seek to deliver a sound return consistent with the protection of the value of the revenues and allowing the EIB to meet all required outflows fully and promptly over the investment horizon of the fund; (ii) the EIB shall propose an investment strategy, which shall be approved by the Commission, upon a positive recommendation of the Accounting Officer of the Commission. The investment strategy shall be established before the Innovation Fund commences operations; (iii) the investment strategy shall be framed in terms of a proposed allocation of assets across the classes of eligible investment and a benchmark proposal. The latter shall be established in line with good industry practices, taking into account the investment horizon, eligible investment universe, objectives and risk tolerance for the Innovation Fund; (iv) to facilitate the establishment of the investment

strategy, the Commission shall provide an estimated schedule of the financing needs generated by the projects to be funded by the Innovation Fund; (v) the EIB shall review the investment strategy at least once a year or whenever required by changes in the cash-flows profile; (vi) the EIB shall present the investment strategy and the performance of the portfolio to the Commission once a year and on request;

- (f) detailed rules pursuant to which the EIB shall provide the Commission with the audited financial statements of the Innovation Fund for each financial year, pursuant to Article 23(7) of Delegated Regulation (EU) 2019/856;
 - (g) detailed rules pursuant to which the EIB shall cooperate with the Court of Auditors of the European Union, the European Anti-Fraud Office and the European Public Prosecutor's Office, in accordance with Union law.
4. The agreement shall enter into force upon signature by both the Commission and the EIB.

Done at Brussels, 25.3.2020

For the Commission
Johannes HAHN
Member of the Commission