

MODERNISATION FUND
Accelerating the transition to climate neutrality

**ASSESSMENT GUIDANCE
DOCUMENT**



Public

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MODERNISATION FUND – Accelerating the transition to climate neutrality

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List of abbreviations	
BMS	Modernisation Fund Beneficiary Member State
CHP	Combined Heat and Power
DH	District Heating
EC	European Commission
EIB	European Investment Bank
ETS Directive	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 with amendments
GBER	General Block Exemption Regulation
GHG	Greenhouse Gas
IC	Modernisation Fund Investment Committee
IR	Commission Implementing Regulation 2020/1001 of 9 July 2020 laying down detailed rules for the application of Directive 2003/87/EC of the European Parliament and of the Council as regards the operation of the Modernisation Fund supporting investments to modernize the energy systems and to improve energy efficiency of certain Member States.
MF	Modernisation Fund

PART A



PART A – INTRODUCTION

To promote consistency between different submissions and to facilitate the investment proposal assessment process, in consultation with the European Commission (EC), the European Investment Bank (EIB) has developed this Assessment Guidance Document. This document discusses investment submission practicalities, assessment criteria and assessment processes performed by the EIB and the Investment Committee (IC).

The Modernisation Fund (MF) at national level operates under the responsibility of each of the beneficiary Member States (BMS). Investments suitable for the support from the MF and its assessment principles are determined by:

- 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 with amendments (ETS Directive);
- Commission Implementing Regulation 2020/1001 of 9 July 2020 laying down detailed rules for the application of Directive 2003/87/EC of the European Parliament and of the Council as regards the operation of the Modernisation Fund supporting investments to modernize the energy systems and to improve energy efficiency of certain Member States with amendments (IR).

The roles and responsibilities of the BMS, the EIB, the IC and the EC with respect to assessment activities are set out below:

The BMS are responsible for:

- Implementing the MF on their territory.
- Submitting an annual indicative overview of their planned investments to the EC, the EIB and the IC.
- Selecting and submitting investment proposals for confirmation by the EIB or the IC.
- Providing the information needed for investment proposals assessment on the specific proposal forms.
- Ensuring compliance with Union and national law on their territory, including but not limited to laws regarding money laundering, the financing of terrorism and the detection and prevention of fraud.

The EIB is responsible for¹:

- Confirming whether an investment submitted as a priority investment is a priority investment.
- Conducting financial and technical due diligence of non-priority investments, including an assessment of the expected emission reductions.
- Transferring the respective resources to the BMS following the disbursement decision of the EC.
- Preparing the draft annual report for the IC.

The IC is responsible for:

- Issuing recommendations on the financing for non-priority investments.

The EC is responsible for:

- Taking the disbursement decision once an investment has been confirmed by the EIB or recommended for financing by the IC.
- Ensuring compliance with the ETS Directive and the IR.
- Interpretation of the legal and regulatory framework governing the MF.

This MF Assessment Guidance Document is prepared in consultation with the EC and has been reviewed by the IC. It may be subject to future revisions and updates during the MF implementation period.

¹ The EIB Modernisation Fund Unit is excluded from providing technical assistance for the preparation of MF investments, or the selection of MF investments for the Member States to avoid any perceived conflict of interest with its assessment role under the EU legislation.

PART B



PART B – ASSESSMENT CRITERIA

1. General criteria

Investments proposed by the BMS, shall aim to modernise energy systems and to improve energy efficiency.

All the investments supported with/by the MF shall be consistent with the aims of the ETS Directive, as well as the objectives of the communication of the Commission of 11 December 2019 on “The European Green Deal”² and Regulation (EU) 2021/1119³ and the long-term objectives as expressed in the Paris Agreement.

The NACE⁴ code of the economic activity of the investment must be provided in the proposal form.

In order to ensure that investments will be commercially feasible and thus contribute to the objectives of the European Green Deal, investment proposals must comprise mature technology. In general, the proposed technologies must be proven in an operational environment under comparable conditions and scale and with available appropriate references.

Investment proposals must originate from, must be implemented in and benefit must derive to, the following EU Member States: Bulgaria, Croatia, Czech Republic, Estonia, Greece, Hungary, Latvia, Lithuania, Poland, Portugal, Romania, Slovakia and Slovenia. However, the BMS may, where appropriate, use the resources of the MF to finance investments involving the adjacent Union border regions when this is relevant to the energy transition of the BMS.

A proposal concerning a non-priority small-scale⁵ project must be submitted as part of a scheme.

Categories of allowances

The MF comprises of three separate categories

- Original 2% - funds generated by the auctioning of allowances under Article 10(1), third subparagraph of the ETS Directive.
 - Funds generated before 31 December 2027 can be used for investments involving gaseous fossil fuels for energy generation if the activity qualifies as environmentally sustainable under the EU Taxonomy and is duly justified for reasons of ensuring energy security.
 - Funds generated between 31 December 2027 and 30 December 2028 can be used for investments involving downstream uses of gas if the activity qualifies as environmentally sustainable under the EU Taxonomy and is duly justified for reasons of ensuring energy security.
 - Funds generated after 30 December 2028 which cannot be used for investments involving gaseous fossil fuels.
- New 2.5% - funds generated by the auctioning of allowances under Article 10(1), fourth subparagraph of the ETS Directive.

² [Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Communities of the Regions -The European Green Deal](#) (11 December 2019)

³ [Regulation \(EU\) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations \(EC\) No 401/2009 and \(EU\) 2018/1999 \('European Climate Law'\)](#)

⁴ Revision 2 classification system of economic activities established by Regulation (EC) No 1893/2006 of the European Parliament and of the Council.

⁵ As defined in Article 2(3) of the IR.

- Transfers - funds generated by the auctioning of the allowances transferred to the Modernisation Fund under Article 10d(4) of the ETS Directive⁶.

In the submission form, the BMS must specify the category of funds to be used for financing the investment proposal.

No support from the MF shall be provided to energy generation facilities that use fossil fuels. However, revenue from allowances covered by a notification pursuant to Article 10d(4) of the ETS Directive (Transfers) may be used for investments involving gaseous fossil fuels. Furthermore, revenue from allowances referred to in Article 10(1), third subparagraph, of the ETS Directive (Original 2%) may, where the activity qualifies as environmentally sustainable under Regulation (EU) 2020/852 of the European Parliament and of the Council and is duly justified for reasons of ensuring energy security, be used for investments involving gaseous fossil fuels provided that, for energy generation, the allowances are auctioned before 31 December 2027 and, for investments involving downstream uses of gas, the allowances are auctioned before 31 December 2028.

The BMS shall provide a signed declaration stating that the activity qualifies as environmentally sustainable under Regulation (EU) 2020/852 of the European Parliament and of the Council.

“Do no significant harm” principle (applicable with 1 January 2025)

In line with Article 10f of the ETS Directive, from 1 January 2025, the BMS and the EC shall use the revenues generated from the auctioning of allowances referred to in Article 10(1), third (Original 2%) and fourth subparagraphs (New 2.5%) of this Directive in accordance with the “do no significant harm” criteria set out in Article 17 of Regulation (EU) 2020/852, where such revenues are used for an economic activity for which technical screening criteria for determining whether an economic activity causes significant harm to one or more of the relevant environmental objectives have been established pursuant to Article 10(3), point (b), of that Regulation.

Further guidance on how BMS will have to demonstrate compliance with Article 10f of the ETS Directive will be agreed and communicated at a later stage.

Discontinued investment

Investments are considered as discontinued in either of the following cases:

- the BMS or the scheme managing authority has not entered, within two years from the latest transmission of funds by the EIB under Article 9 of the IR, a legal commitment with the project proponent or any of the scheme’s final recipients to finance the investment;
- the BMS or the scheme managing authority has not awarded any support to the investment for more than two years since entering the legal commitment to finance the investment with the project proponent or any of the scheme’s final recipients, unless the BMS can demonstrate that the investment is being implemented and that support will be awarded within a reasonable time.

Duration of a scheme

Where a proposal concerns a scheme, the duration of the scheme shall not exceed five years. The duration of the scheme is the period from and including the scheme launch date until and including the last day on which the scheme managing authority can legally commit to granting funds to the beneficiaries under the relevant scheme.

This condition shall not prevent the BMS from submitting a new investment proposal for the continuation of the scheme.

⁶ BMS can supplement the transferred allowances, according to Article 10ca of the revised ETS Directive: By 15 May 2024, the Member State concerned shall notify the EC of the respective amounts of allowances to be used under Article 10(2), first subparagraph, point (a), and, by way of derogation from Article 10d(4), second sentence, under Article 10d. Same rules apply.

Large-scale projects and schemes

Large-scale scheme means a scheme for which the total Modernisation Fund support requested exceeds EUR 100 000 000. Large-scale project means an investment other than a scheme, for which the total Modernisation Fund support requested exceeds EUR 70 000 000. When submitting a proposal for a large-scale project, the BMS shall specify the amount requested as the first disbursement for the scheme and submit a project implementation schedule and a corresponding disbursement schedule. Any subsequent disbursement shall require a separate proposal from the BMS specifying the amount to be disbursed and containing updated information on the large-scale project, as appropriate. In addition, the BMS shall provide information about the implementation of the project compared to the submitted implementation schedule.

Where the proposal concerns a subsequent disbursement for a scheme of a large-scale project the BMS will have to provide information about the implementation of the scheme or large-scale project in accordance with Annex I, point 4.2 of the IR.

The BMS must provide information about the outcome of the consultation of the relevant stakeholders on the draft investment proposals for large-scale projects and large-scale schemes and, in compliance with the relevant Union or national provisions on the protection of confidential information. Reasonable timeframes for the relevant stakeholders to be informed and express their views before the submission of the investment proposals to the EIB, would have to be set.

Resubmission of proposals

A non-priority investment proposal that substantially duplicates a prior proposal that has been examined and not recommended by the IC is inadmissible i.e. cannot be resubmitted in future disbursement cycles.

A priority investment proposal that substantially duplicates a prior proposal that has not been confirmed by EIB (other than on the grounds of lack of information) is inadmissible i.e. cannot be resubmitted in future disbursement cycles.

Disbursements

The total amount of the MF support for the investment proposal comprising a project must be disbursed to the BMS in one payment, except for large-scale projects. The MF will not support individual project investment proposals that will require multiple disbursements from the MF to the BMS, except large-scale projects.

The total amount of the MF support for the investment proposal comprising a scheme may be disbursed to the BMS in multiple disbursements.

Submissions with zero requested amount from the Modernisation Fund will not be assessed and will be returned.

Expenditures to be covered by the MF

The BMS is fully responsible for the definition of expenditures to be covered by the MF.

Costs covered by the MF are those that are necessary to achieve the objective of the eligible investment measure.

Abatement cost

For calculating the abatement cost, the BMS must divide the total investment costs by the estimated average annual GHG reduction provided by the investment. The BMS is required to include the baseline and underlying assumptions used for the estimation.

2. Priority investments

Investment proposals falling under at least one of the below listed areas are considered as priority investments:

- a) the generation and use of electricity from renewable sources, including renewable hydrogen;
- b) heating and cooling from renewable sources;
- c) the reduction of overall energy use through improvement of energy efficiency, including in industry, transport, buildings, agriculture and waste;
- d) energy storage and the modernisation of energy networks, including demand-side management, DH pipelines, grids for electricity transmission and the increase of interconnections between Member States and infrastructure for zero-emission mobility;
- e) support for low-income households, including in rural and remote areas, to address energy poverty and to modernise their heating systems;
- f) a just transition in carbon-dependent regions in the BMSs, so as to support the redeployment, re-skilling and up-skilling of workers, education, job-seeking initiatives and start-ups, in dialogue with civil society and the social partners, in a manner that is consistent with and contributes to the relevant actions included by the Member States in their territorial just transition plans in accordance with Article 8(2) first subparagraph, point (k), of Regulation (EU) 2021/1056, where relevant.

At least 80% of the revenue from allowances referred Article 10(1), the third subparagraph (Original 2%), and from allowances covered by a notification pursuant to Article 10d(4) (Transfers), and at least 90% of the revenue from allowances referred to in Article 10(1), fourth subparagraph (New 2.5%) shall be used to support priority investments.

An indicative, non-exhaustive and non-binding list of priority investment examples, for guidance purposes only is provided in the Appendix 1.

3. Non-priority investments

Investment proposals not falling under the areas listed under Article 10d(2) of the ETS Directive, but compliant with the requirements of Article 10d(1) and able to demonstrate decreases in GHG emissions are considered as non-priority investments.

Any investment relating to DH should demonstrate a substantial improvement in energy efficiency and emission reductions.

No more than 20% of the of the revenue from allowances referred by Article 10(1), the third subparagraph (Original 2%), and from allowances covered by a notification pursuant to Article 10d(4) (Transfers) and no more than 10% of the revenue from allowances referred to in Article 10(1), fourth subparagraph (New 2.5%) shall be used to support non-priority investments.

No more than 70% of the relevant costs of non-priority investment may be supported with resources from the MF provided that the remaining costs are financed by private legal entities.

An indicative non-exhaustive and non-binding list of non-priority investment examples for guidance purposes only is provided in Appendix 2.

PART C



PART C – DESCRIPTION OF ASSESSMENT PROCESS

4. Submission and language

The BMS may submit investment proposals to the EIB at any time during the calendar year. The EIB shall acknowledge receipt, and this shall constitute the date of submission. The modalities of the proposal submission process are detailed in Appendix 3 of this document.

All investment proposals and corresponding supporting information shall be submitted to the EIB in the English language. All communications between the BMS and the EIB shall be in the English language. All documents issued by the EIB in relation to the assessment of investment proposals shall be in English language.

The BMS must provide the information relating to the proposal in the investment proposal form given in Appendix 4 (for priority investments) and Appendix 5 (for non-priority investments) of this document. If the investment proposal is not submitted using those proposal forms, the EIB may reject it and request the BMS to resubmit the proposal using the forms annexed to this document.

The EIB may request from the BMS any information or documents that it considers necessary to assess the investment, provided that such information or documents are required by Annex I of the IR.

Investment proposals comprising schemes must contain a consistent set of priorities coherent with the objectives of the MF, and because of the characteristics of the projects under the scheme it must be able to be qualified as a priority or a non-priority investment i.e. priority schemes must comprise only priority investments, not a mix of the two types of investments.

For Priority Investment scheme proposals

A scheme with a consistent set of priorities coherent with the objectives of the MF is defined as follows:

- It shall be composed only of measures/projects consistent with Article 10d(1) of the ETS Directive, and one or more of the priorities listed in Article 10d(2) of the ETS Directive. However, for consistency and efficiency of implementation it is recommended that schemes should focus on only one of the priorities.
- Each measure/project in a scheme should be clearly justified as to why it is considered as a priority investment under the indicated priority area, defined in Article 10d(2) of the ETS Directive (e.g. type of technology applied, technical standards imposed, any other requirements that would demonstrate that all measures/projects fall into an indicated priority area).
- All measures/projects in the scheme should preferably be under the same State Aid regime (no State aid, State aid decision for a scheme or a project, or block-exempted from a State aid notification).

Additionally, to streamline assessment and implementation process it is recommended to compose schemes from measures/projects: addressing as much as possible the same objective, applying similar technical solutions, addressing the same type of beneficiaries, having similar investment costs and implementation periods.

For Non-Priority Investment scheme proposals

A scheme with a consistent set of priorities coherent with the objectives of the MF is defined as follows:

- It shall be composed only of measures/projects consistent with Article 10d(1) of the ETS Directive.
- It shall be composed from measures/projects: addressing as much as possible the same objective, applying similar technical solutions, addressing the same type of beneficiaries, having similar investment costs and implementation periods.

- All measures/projects in the scheme should preferably be under the same State Aid regime (no State aid, State Aid decision for a scheme or project, or block-exempted from a State aid notification).

The total amount of the MF support for the investment proposal comprising a project must be disbursed to the BMS in one payment, except for large-scale projects. The MF will not support individual project investment proposals that will require multiple disbursements from the MF to the BMS, except large-scale projects.

The total amount of the MF support for the investment proposal comprising a scheme may be disbursed to the BMS in multiple disbursements.

Proposals for subsequent disbursements for schemes shall be submitted using the forms provided in Appendix 6 (for priority investment schemes) and Appendix 7 (for non-priority investment schemes) of this document, provided that there have been no changes to the scheme. "No changes to the scheme" means no change to the objectives, the scope and nature of investments, the total Modernisation Fund support, the final beneficiaries and to the State aid classification.

Where there are modifications to the investment which do not constitute a change as described above, the BMS must notify the EC, copying EIB, providing the details of the actual modifications and the justification. The IC will also be informed in case of NPIs.

In case the modification constitutes a change as described above, the BMS must submit a notification to the EC, copying EIB, providing the justification for the modification.

Any deviations from the assumptions applied in the original investment proposal submission (first disbursement request) that would fall into the definition of "no change to the scheme" shall be described in the relevant section of the subsequent disbursement form and reported annually to the EC.

In case of changes to a confirmed PI scheme or an IC recommended NPI scheme, a new investment proposal shall be submitted.

The total requested disbursement amount of investment proposals submitted in each bi-annual disbursement cycle should not exceed the available funds of the individual BMS as at the date referenced in Article 5(3) of the IR. To facilitate assessment planning in any disbursement cycle, investment proposals should be submitted at appropriate intervals to match available EIB assessment capacity. In this regard the BMS and the EIB shall have bi-lateral discussions to ensure a balanced submission of investment proposals in line with the available assessment capacity.

The EIB assesses proposals from each of the BMS by the order of submission date and time, taking into account the priority order for assessment of an individual BMS, if indicated in accordance with Article 4(3) of the IR. Where proposals have the same submission date and time, the EIB will decide the assessment order, if not indicated by the BMS. If it appears that the BMS would not have sufficient funds, the EIB may postpone the assessment until the next disbursement cycle subject to the availability of funds.

5. Confirmation of Priority Investments

The EIB shall assess investment proposals, including proposals concerning subsequent disbursements, submitted by the BMS as priority investments as per Article 6 of the IR.

The EIB shall conduct a completeness check of investment proposals to verify that all required information has been provided. The EIB may request from the BMS any information or documents that it considers necessary to assess the investments.

The EIB shall use its best efforts to request all such information or documents without undue delay. Normally the EIB will request them following the completeness check. However, the EIB may also request them at a later stage of the assessment of investment proposals, where the need for additional information or documents becomes apparent.

In case the EIB requests for any information under Article 6.2 of the IR, the four weeks period mentioned in Articles 6.3 and 6.4 of the IR will start from the day of receipt of the requested information or documentation.

If all the required information for the assessment (relating to investment proposals and subsequent disbursement proposals) is not submitted to the EIB six weeks before the upcoming IC meeting it will be considered as an incomplete submission and the proposal will be returned to the BMS. The investment proposal will need to be resubmitted for the next biannual cycle.

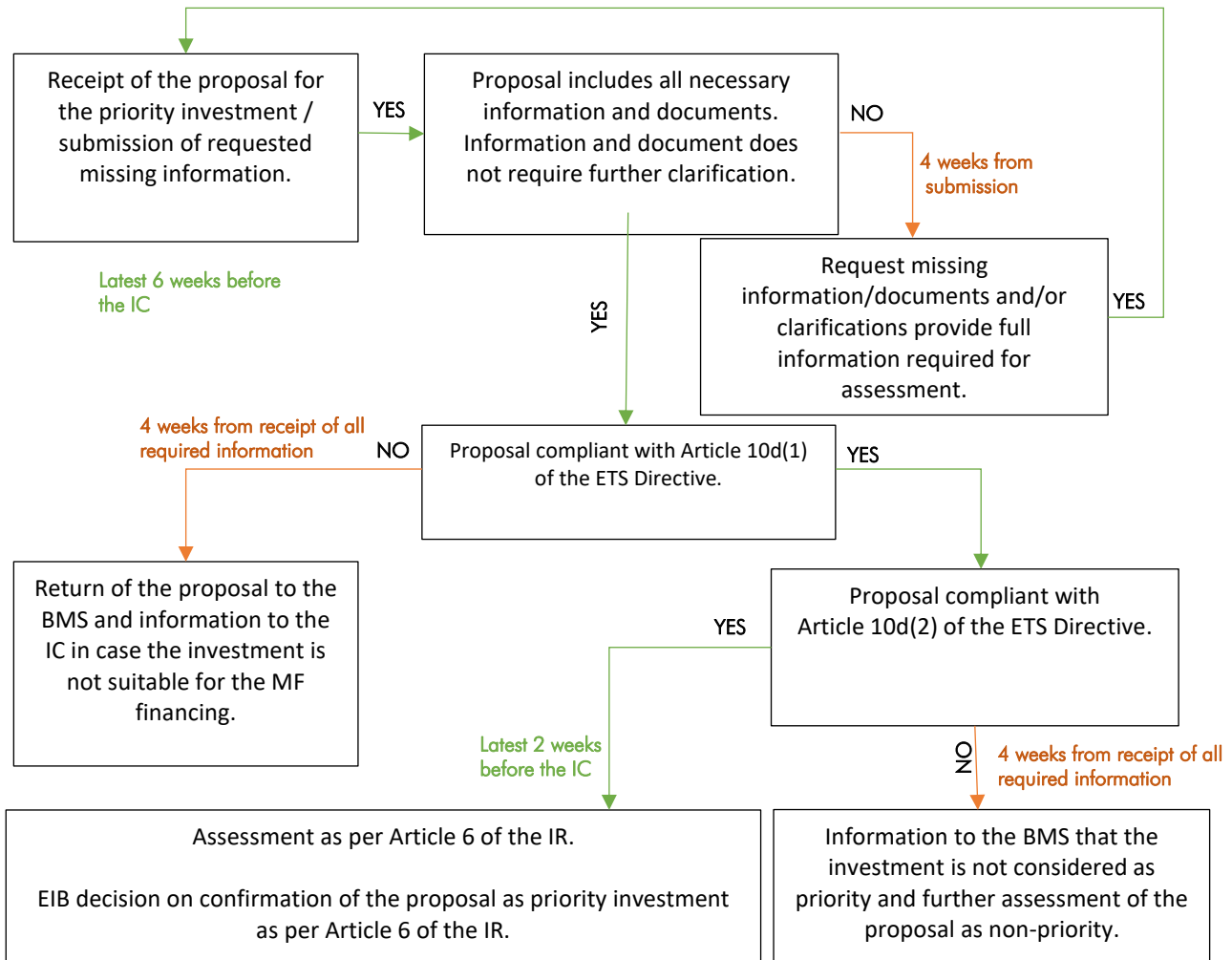
If the EIB concludes that the proposal is not aligned with Article 10d(1) of the ETS Directive or the requirements of the IR, the EIB will return the proposal to the BMS within four weeks from submission of the proposal, and state the reasons for its conclusion. The EIB shall forthwith inform the IC.

If the EIB is of the opinion that the proposal concerns a non-priority investment, the EIB shall inform the BMS within four weeks from the submission of the proposal and state the reasons for its conclusion. In that case, the proposal shall be assessed in accordance with the requirements and timelines specified in Article 7 of the IR (please see section 5 of this document).

The EIB shall decide on the confirmation of the proposal as a priority investment at the latest two weeks before the meeting of the IC, and will inform the BMS concerned and the EC.

At the latest one week before the meeting of the IC, the EIB shall inform the IC about the investment proposals of each BMS confirmed as priority investments and the amount to be disbursed for each investment.

The EIB shall assess each priority investment proposal following steps shown in **Figure 1** below:



The EIB may confirm the proposal as a priority investment provided it meets the following conditions:

- the BMS has demonstrated that the investment complies with the requirements laid down in Article 10d(1), of the ETS Directive and that it falls into at least one area listed in Article 10d(2) of that directive. To demonstrate compliance with Article 10d(1) of the ETS Directive the BMS may refer to alignment of the investment with the objectives of the National Energy and Climate Plan (NECP) and the National long-term strategy (LTS);
- the BMS has sufficient funds available according to the statement of the available funds referred to in Article 5(1) of the IR and after deduction of any amounts to be disbursed for investments already confirmed in accordance with Article 6(9);
- the BMS has provided evidence that the investment proposal fulfils any of the following requirements:
 - obtained State aid clearance in accordance with the EC decision by providing a reference number of the Commission decision of non-objection on the national aid measure,
 - is exempted from State aid notification in accordance with applicable State aid provisions (e.g. in case of GBER, by indicating a reference number under which the summary information was provided to the EC pursuant to Article 11 of GBER), or,
 - does not constitute State aid within the meaning of Article 107(1) of the Treaty on the Functioning of the European Union (by referring to the reasons as to why the BMS does not consider the project to involve State aid);
- the BMS has confirmed in writing that the investment complies with any other applicable requirements of Union and national law;
- according to the information provided by the BMS about contributions from other Union and national instruments, the amounts requested from the MF are not intended to cover the same costs of the investment as those financed by another Union or national instrument.

The EIB shall check that the BMS has provided evidence that the investment proposal has obtained State aid clearance (by referring to a Commission decision approving the scheme or project concerned), is exempted from a State aid notification (e.g. by referring to the relevant articles of the GBER and their conditions or other equivalent Block Exemption and providing the reference number for the summary information provided to the EC pursuant to Article 11 of the GBER), or that it does not constitute State aid within the meaning of Article 107(1) of the Treaty on the Functioning of the European Union (by referring to the reasons given by the Member State as to why it does not consider the project to involve State aid within the meaning of Article 107 TFEU). The EIB shall rely on the evidence and statements submitted by the BMS. The EIB shall not be required to conduct its own verification of State aid compliance; but the EIB may provide the EC with copies of statements submitted by the BMS in order to give the EC an opportunity to examine them.

The EIB shall verify that the BMS has confirmed in writing that the investment complies with any other applicable requirements of Union and national law. The EIB shall rely on the information submitted by the BMS and shall not perform any additional verification or compliance check. It is responsibility of the BMS to ensure that investment proposals are compliant with all required legislation, strategies, and plans.

To inform the assessment of priority investment proposals, the aspects below may be taken into account:

- The technology is mature and necessary elements constitute a functional technical proposition that can contribute to the objectives of The European Green Deal in one of the priority areas and the long-term objectives as expressed in the Paris Agreement as required by the BMS National Energy and Climate Plans (NECP).
- The implementation schedule of the investment proposal can be realized in time to contribute to the objectives of The European Green Deal of the concerned country and the long-term objectives as expressed in the Paris Agreement, and as required by the BMS National Energy and Climate Plans (NECP).

The assessment of the proposal shall include verification of the costs of the proposed investment, unless the proportionality of the amount of aid to be received has been verified by the EC under the relevant State aid procedure.

The EIB shall review and assess the justification of investment costs submitted by the BMS in the submission proposal form. This will also include a check that investment costs are aligned with the objectives of the investment as well as

opinion on the basis of the costs (e.g. basic/detailed design, pre/post tendering, contractual estimate). The investment cost verification will not assess the proportionality of the amount of aid to be received.

It shall be noted that the EIB may not refuse to confirm a priority investment for reasons related to cost verification. However, if the EIB establishes that the costs of the proposed investments are not aligned with the implementation of the project, exceed the needs of the project or for whatever other reason do not appear to be justified, the EIB may indicate its observations in the notification of the confirmation of the priority investment.

Where a proposal concerns a subsequent disbursement for a scheme or a large-scale project confirmed by the EIB in accordance with paragraph 9 of the IR prior to the first disbursement and there have been no changes to the scheme or the large-scale project, the EIB may confirm the proposal as a priority investment, provided that the following conditions are met:

- a) the BMS has sufficient funds available in the relevant category or subcategory of funds according to the statement of the available funds and after deduction of any amounts to be disbursed for investments already confirmed;
- b) the BMS has provided evidence that the investment proposal fulfils either of the following requirements:
 - obtained State aid clearance in accordance with the Commission decision,
 - is exempted from the State aid notification in accordance with the applicable State aid rules,
 - does not constitute State aid within the meaning of Article 107(1) of the Treaty;
- c) the BMS has demonstrated that the investment complies with Article 10f of the ETS Directive, where needed, except for the schemes confirmed by the EIB before 5 June 2023;
- d) the BMS provides information about the implementation of the scheme or large-scale project in accordance with Annex I, point 4.2 of the IR.

6. Recommendations on non-priority Investments

The IC shall assess investment proposals, including proposals concerning subsequent disbursements, submitted by the BMS as non-priority investments as per Article 7 of the IR.

The IC shall assess the technical and financial viability of that investment, including the emission reductions it achieves, and issue a recommendation on financing the investment from the Modernisation Fund. The IC shall ensure that any investment relating to district heating achieves a substantial improvement in energy efficiency and emission reductions.

At the latest two weeks before the meeting of the IC, the EIB shall complete and despatch to the IC a technical and financial due diligence assessment of the proposal, including an assessment of the expected GHG emission reductions provided by the BMS.

The EIB is required to undertake a technical and financial due diligence of proposals for non-priority projects and schemes, as well as an assessment of expected GHG reductions for both. In the case of schemes, because of their composite nature, generally the limited level of information available for the scheme sub-projects, and the extended implementation periods, the due diligence exercise may need to be tailored differently how due diligence is carried out for individual projects. This may focus on scheme level key criteria and parameters, as well as representative technical, financial and GHG data that appropriately captures the essential features of the range of sub-projects that comprise the scheme.

The EIB technical and financial due diligence assessment of non-priority investment proposals shall be based on the information about the investment provided by the BMS.

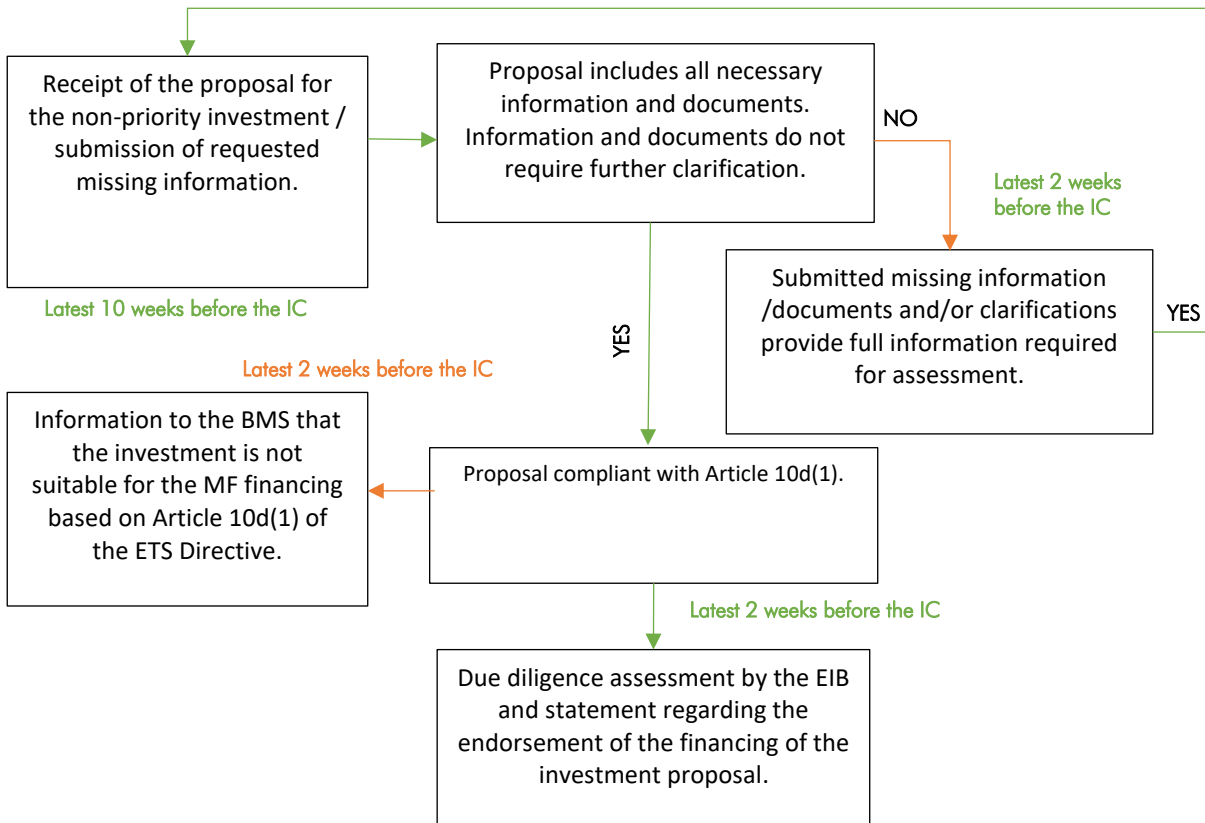
The EIB shall conduct a completeness check of investment proposals to verify that all required information has been provided. The EIB may request from the BMS any information or documents that it considers necessary to assess the investments.

The EIB shall use its best efforts to request such information or documents without undue delay. Normally the EIB shall request them following the completeness check. However, the EIB may also request them at a later stage of the assessment of investment proposals, where the need for additional information or documents becomes apparent.

If all the required information for the assessment (relating to investment proposals and subsequent disbursement proposals) is not submitted to the EIB 10 weeks before the upcoming IC meeting it will be considered as an incomplete submission and will be returned to the BMS. The investment proposal will need to be resubmitted for the next biannual cycle.

Investment proposals submitted as priority investments but in the opinion of the EIB not compliant with Article 10d(2) of the ETS Directive will be assessed as non-priority investments. The EIB shall request the BMS to provide all the information required for the non-priority investments. The EIB shall commence assessment of the investment proposal only when the completed non-priority investment proposal form (Appendix 5) has been received.

The EIB shall assess each non-priority investment proposal following steps shown in **Figure 2** below:



As a first step of the assessment process, the EIB shall assess if the non-priority investment proposal is compliant with Article 10d(1) of the ETS Directive and the requirements of the IR. To demonstrate compliance with Article 10d(1) of the ETS Directive the BMS may refer to alignment of the investment with the objectives of the National Energy and Climate Plan (NECP) and the National long-term strategy (LTS). If the proposal does not comply with 10d(1) it shall be returned to the BMS forthwith and no further assessment will be undertaken.

The EIB shall verify the costs of the proposed investment, unless the proportionality of the amount of aid to be received has been verified by the EC under the relevant State aid procedure.

The EIB shall review and assess the justification of investment costs submitted by the BMS in the submission proposal form. This will also include a check that costs are aligned with the objectives of the investment as well as opinion on the basis of the investment costs (e.g. basic/detailed design, pre/post tendering, contractual estimate). The investment cost verification will not assess the proportionality of the amount of aid to be received.

The EIB shall check that the BMS has provided evidence that the investment proposal has obtained State aid clearance (by referring to a Commission decision approving the scheme or project concerned), is exempted from a State aid notification (e.g. by referring to the relevant articles and related conditions of the GBER, or equivalent exemption, and the summary information provided to the EC pursuant to Article 11 of the GBER, or equivalent exemption), or that it does not constitute State aid within the meaning of Article 107(1) of the Treaty on the Functioning of the European Union (by referring to the reasons given by the Member State as to why it does not consider the project to involve State aid within the meaning of Article 107 TFEU). The EIB shall rely on the evidence and statements submitted by the BMS. The EIB shall not be required to conduct its own verification of State aid compliance; but the EIB may provide the EC with copies of statements submitted by the BMS in order to give the EC an opportunity to examine them. The EC may request the BMS to provide clarifications on submitted investment proposals.

The EIB shall verify that the BMS has confirmed in writing that the investment complies with any other applicable requirements of Union and national law. The EIB will fully rely on the information submitted by the BMS and shall not perform any additional verification or compliance check. It is responsibility of the BMS to ensure that investment proposals are compliant with all required legislation, strategies and plans.

The EIB shall decide upon the detailed scope of due diligence on an investment-by-investment basis. Where deemed to be necessary and applicable, the due diligence may comprise some or all of the following aspects, among others:

- promoter, promoter's capacity, project scope, location, implementation timetable;
- details on the investment costs;
- general market, supply and demand considerations;
- technical aspects including technologies to be applied, GHG emission reduction, energy efficiency gains, abatement costs;
- envisaged project management arrangements;
- capacity, use of materials, nature and use of fuels, production;
- applicable tariffs and operating costs;
- overall financial feasibility (financial forecast, sources of financing, operating results and profitability);
- application of EU environmental directives.

The BMS shall demonstrate the GHG emission reductions for non-priority investments when compared to what would have happened in the absence of the investments, which are referred to as baseline emissions.⁷

The EIB will analyse the GHG Emission Reductions justifications provided by the BMS in the submission proposal form.

The due diligence assessment by the EIB shall be accompanied by a statement of the EIB representative regarding the endorsement of the financing of the investment proposal. The EIB shall forthwith transmit the due diligence assessment to the IC.

The IC may issue a recommendation on financing the investment proposal provided it meets the following conditions:

- the BMS has demonstrated that the investment complies with the requirements laid down in Article 10d(1) of the ETS Directive;
- the BMS has sufficient funds available in the relevant category or subcategory of funds according to the statement of the available funds and after deduction of any amounts to be disbursed according to information specified in Article 6(10) of the IR and on the basis of the recommendations already issued;
- where the proposed investment is to be financed from revenues generated from the auctioning of the allowances referred to in Article 10(1), third subparagraph, of the ETS Directive, or of the allowances transferred to the Modernisation Fund under Article 10d(4) of that Directive, the share of the funds allocated to priority investments is at least 80% of the revenue from allowances referred to in Article 10(1), third subparagraph, and from allowances transferred to the Modernisation Fund under Article 10d(4) of the ETS Directive used by the BMS, including the following funds:
 - funds already disbursed for priority and non-priority investments,
 - funds still to be disbursed according to information specified in Article 6(10),
 - funds still to be disbursed in accordance with the recommendations already issued under paragraph 9,
 - funds requested for the investment proposal under the assessment;
- where the proposed investment is to be financed by the revenues generated from the auctioning of the allowances referred to in Article 10(1), fourth subparagraph of the ETS Directive, the share of the funds allocated to priority investments is at least 90% of the revenue from allowances referred to in Article 10(1), fourth subparagraph, used by the BMS, including the following funds:
 - funds already disbursed for priority and non-priority investments,
 - funds still to be disbursed according to the information specified in Article 6(10),

⁷ The baseline and assumptions selected by the BMS must be appropriate for the investment and fully explained and justified. In case of schemes it shall be demonstrated for each measure/project in a scheme (or for an appropriate representative sample of the scheme measures/projects in that case of a homogeneous scheme).

- funds still to be disbursed in accordance with a recommendation already issued under paragraph 9,
 - funds requested for the investment proposal under assessment;
- the BMS confirmed that the financing complies with the fourth sentence of the second subparagraph of Article 10d(6) of the ETS Directive (Up to 70% of the relevant costs of an may be supported with resources from the Modernisation Fund provided that the remaining costs are financed by private legal entities);
- the BMS has provided evidence that the investment proposal fulfils any of the following requirements:
 - obtained State aid clearance in accordance with the EC decision,
 - is exempted from State aid notification in accordance applicable State aid rules,
 - does not constitute State aid within the meaning of Article 107(1) of the Treaty on the Functioning of the European Union;
- the BMS has confirmed in writing that the investment complies with any other applicable requirements of Union and national law;
- according to the information provided by the BMS about contributions from other Union and national instruments, the amounts requested from the MF are not intended to cover the same costs of the investment as those financed by another Union or national instrument;
- where a proposal concerns a scheme, the duration of the scheme does not exceed five years. This condition shall not prevent the BMS from submitting a new investment proposal for the continuation of the scheme.

Where a proposal concerns a subsequent disbursement for a scheme or a large-scale project recommended for the financing by the IC in accordance with paragraph 9 prior to the first disbursement and there have been no changes to the scheme or the large-scale project, the IC may recommend the proposal for financing, provided that the following conditions are met:

- the investment fulfils the requirements mentioned in the previous paragraph;
- the BMS has demonstrated that the investment complies with Article 10f of the ETS Directive, where needed, except for the schemes recommended for financing by the Investment Committee in accordance with paragraph 9 before 5 June 2023;
- the BMS provides information about the implementation of the scheme or large-scale project in accordance with Annex I, point 4.2.

APPENDICES



MODERNISATION FUND
Accelerating the transition to climate neutrality

APPENDIX 1
Priority Investment Examples

Appendix 1 Priority Investment Examples

Indicative, non-exhaustive and non-binding list of priority investment examples, for guidance purposes only.

Priority investments under Modernisation Fund must be compliant with Article 10d(1) of the ETS Directive and fall under at least one of the priority areas specified in Article 10d(2) of the of the ETS Directive.

1. Generation and use of electricity from renewable sources

- a) Renewable electricity generation projects.
- b) Production of green H₂ from renewable electricity. Use of H₂ produced from renewable electricity.
- c) Electrification of existing industrial process to use renewable electricity.
- d) Zero direct emission mobile assets based on renewables.

2. Heating and cooling from renewable sources

- a) Heat pumps.
- b) Solar thermal.
- c) Geothermal.

3. Reduction of overall energy use through energy efficiency, including in industry, transport, buildings, agriculture and waste

- a) High efficiency CHP investment if major amount of electricity is cogenerated at high efficiency on an annual basis.
- b) Electricity and heat cogeneration using industrial waste gases and also recovery of industrial waste heat to produce electricity, provided they don't lead to prolongation of lifetime coal assets.
- c) Energy Efficiency in transport, buildings and industrial ETS installations, which do not prolong the use of solid fossil fuel assets.
- d) Investments to improve the energy performance of lighting.
- e) Renovation of existing buildings.

4. Energy storage and the modernisation of energy networks

Including district heating pipelines, grids for electricity transmission and the increase of interconnections between Member States.

- a) Smart electricity grids – (such as demand side management measures and flexible response investments, smart metering).
- b) Demand side response measures (User side).
- c) Upgrading electricity grids for e-mobility/deployment of charging stations.
- d) Electricity grids enabling renewable energy investments such as network investments; enhancing flexibility of electricity systems.
- e) Investments increasing interconnections between the Member States.
- f) Modernisation of electricity transmission infrastructure.
- g) Heat distribution grid modernization leading to decreased heat losses.
- h) Smartening of DH and cooling networks.
- i) Energy storage (electricity, heat, cold, etc).
- j) Infrastructure for the transmission and distribution of green hydrogen including refuelling stations.

5. Support for low-income households, including in rural and remote areas, to address energy poverty and to modernise their heating systems

- a) Replacement of inefficient fossil fuel based domestic heating sources with renewable heat sources.

- b) Replacement of fossil fuel-based heating systems by heat pumps (electrically driven).
- c) Low-emission biomass boilers and heaters.
- d) Solar thermic systems for hot water heating.
- e) Waste water heat recovery systems.

6. Just transition in carbon-dependent regions

The measures explicitly foreseen in the relevant Territorial Just Transition Plan approved by the EC.

MODERNISATION FUND
Accelerating the transition to climate neutrality

APPENDIX 2
Non-Priority Investment Examples

Appendix 2 Non-Priority Investment Examples

Indicative, non-exhaustive and non-binding list of non-priority investment examples for guidance purposes only.

Non-priority investments under the Modernisation Fund must comply with Article 10d(1) of the ETS Directive and demonstrate greenhouse gases emissions reductions.

1. DH and Cooling Systems that do not use renewable sources

New systems, provided that they achieve a substantial improvement in energy efficiency and emission reductions.

2. Gas Infrastructure

3. Electricity and/or Heat Generation

- a) Industrial Gas-fired electricity generators.
- b) Nuclear power generation projects.