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**MODERNISATION FUND**

Accelerating the transition to climate neutrality

# **MODERNISATION FUND**

## **EIB CONFIRMATION OF PRIORITY INVESTMENT**

### **SCHEME**

### **Subsequent Disbursement Request**

ref. MF 2024-1 PL 0-003

*Beneficiary Member State: Poland*

*Investment Proposal: The use of alternative fuels for energy purposes.*

#### **1. Background**

The Modernisation Fund was set up pursuant to Article 10d of 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 (the “ETS Directive”).

The legal basis for the operation of the Modernisation Fund is set out in the Commission Implementing Regulation (EU) 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 modernise the energy systems and to improve energy efficiency of certain Member States (the “Implementing Regulation”).

In accordance with Article 10d(6) of the ETS Directive, the European Investment Bank (the “EIB”) is to confirm whether a proposed investment falls into a priority area. The EIB may confirm the proposal as a priority investment if the conditions specified in Article 6(7) of the Implementing Regulation are met.

After the European Commission has decided on the first disbursement to the scheme, any subsequent disbursement shall require a separate proposal from the beneficiary Member State specifying the amount to be disbursed and containing the updated information about the scheme, as appropriate.

In accordance with Article 6(8) of the Implementing Regulation, where a proposal concerns a subsequent disbursement for a scheme confirmed by the EIB in accordance with Article 6(9) of the Implementing Regulation prior to the first

disbursement and there have been no changes to the scheme, the EIB may confirm the proposal as a priority investment provided that the following conditions are met:

- a) the beneficiary Member State has sufficient funds available in the relevant category or subcategory of funds according to the statement of the available funds referred to in Article 5(1) of the Implementing Regulation and after deduction of any amounts to be disbursed for investments already confirmed in accordance with paragraph 9 of this Article 6(9) of the Implementing Regulation;
- b) the beneficiary Member State 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 beneficiary Member State has demonstrated that the investment complies with Article 10f of Directive 2003/87/EC, where needed;
- d) the beneficiary Member State provides information about the implementation of the scheme in accordance with Annex I, point 4.2.

## **2. Investment proposal**

Pursuant to Article 4(2) (second sentence) of the Implementing Regulation, on 14/02/2024 Poland (the “beneficiary Member State”) submitted to the EIB an investment proposal concerning a subsequent disbursement from the Modernisation Fund for the “The use of alternative fuels for energy purposes” (Modernisation Fund reference number MF 2024-1 PL 0-003).

The investment scheme “The use of alternative fuels for energy purposes” was confirmed as a priority investment proposal by the EIB on 23/03/2022 (Modernisation Fund reference number MF 2022-1 PL 0-007).

The European Commission issued Decision C(2022) 3496 on the first disbursement of the revenues of the Modernisation Fund under Directive 2003/87/EC on 23 May 2022.

The EIB has already disbursed an amount of EUR 44 400 000 of the revenues of the Modernisation Fund.

The beneficiary Member State has requested funding of EUR 399 600 000 for a subsequent disbursement under the investment proposal.

The beneficiary Member State has indicated an expected Modernisation Fund funding for the scheme 444 000 000.

### **3. Compliance with the conditions for priority investment**

- a) The beneficiary Member State has confirmed that there have been no changes to the scheme.
- b) The beneficiary Member State has sufficient funds generated before 31 December 2027 available from the auctioning of allowances referred in Article 10(1), the third subparagraph of Directive 2003/87/EC - 2% for the requested disbursement according to the statement of the available funds referred to in Article 5(1) of the Implementing Regulation and after deduction of any amounts to be disbursed for investments already confirmed in accordance with Article 6(9) of the Implementing Regulation.
- c) The beneficiary Member State has provided evidence that the investment proposal is exempted from the State aid notification in accordance with the applicable State aid rules.
- d) The beneficiary Member State has provided information about the status of implementation of the scheme in accordance with Annex I, point 4.2a of the Implementing Regulation.

### **4. Conclusions**

The EIB has assessed the subsequent disbursement proposal based on the information submitted by the beneficiary Member State in accordance with Article 4 and Annex 1 of the Implementing Regulation and has concluded that the proposal meets the conditions specified in Article 6(8) of the Implementing Regulation.

In view of the above, and in reliance on the information and evidence provided and the confirmations given by the beneficiary Member State as described at paragraph 3 above, the EIB confirms the subsequent disbursement proposal “The use of alternative fuels for energy purposes”, (Modernisation Fund reference number MF 2024-1 PL 0-003) as a priority proposal.

This confirmation, being based in part upon an exemption from State aid notification that is limited in time, is made on the assumption that the investment proposal, if it constitutes State aid after the expiry of such time limit, will continue to be exempted from State aid notification or that the beneficiary Member State will either obtain State aid clearance or cease to finance the investment proposal with Modernisation Fund funds at that time.

This confirmation is without prejudice to the requirement for a disbursement decision to be made pursuant to Article 10d(3) of the ETS Directive.

European Investment Bank  
Luxembourg, 12<sup>th</sup> March 2024