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For more information,  
contact:

Dan Feldman  
+971 2 596 7027  
[dfeldman@kslaw.com](mailto:dfeldman@kslaw.com)

Dr. Axel Schilder  
+49 69 257 811 300  
[aschilder@kslaw.com](mailto:aschilder@kslaw.com)

Dr. Peter Stainer  
+49 69 257 811 052  
[pstainer@kslaw.com](mailto:pstainer@kslaw.com)

Frederick Lazell  
+44 20 7551 2143  
[flazell@kslaw.com](mailto:flazell@kslaw.com)

### King & Spalding

Abu Dhabi  
Level 15, Al Sila Tower  
Abu Dhabi Global Market  
Square  
PO Box 130522  
Abu Dhabi  
United Arab Emirates  
Tel: +971 2 652 3400

Frankfurt  
King & Spalding LLP  
TaunusTurm  
Taunustor 1  
60310 Frankfurt am  
MainTel: +49 69 257 811 000

## Key terms of the European Hydrogen Bank's November 2023 Pilot Auction

The European Commission recently released the heavily anticipated terms and conditions for its initial European Hydrogen Bank (EHB) auction. The structure of this subsidy scheme is of great interest to green hydrogen producers worldwide, even those outside the EU, who are looking for clues as to how the so-called "international leg" of the EHB might be shaped. The first auction round will launch in November 2023.

Below, we outline the key features of this initial "European leg" auction. As always, our Global Hydrogen Team Members in the Europe and around our global network are available to answer your questions.

### A. SUMMARY OF THE STRUCTURE

Pursuant to its Green Deal Industrial Plan<sup>1</sup>, the European Commission will launch a first auction/competitive bid for supporting the production of renewable hydrogen (i.e. green hydrogen that meets the EU requirements to qualify for "renewable fuels of non-biological origin" (RFNBO), which we have summarized in a recent Client Alert).

The EHB follows a fixed premium model (which mirrors the much-lauded US clean hydrogen production tax credit under Section 45V of the Inflation Reduction Act). Winners of the auction will receive a fixed payment, in Euros, for each kilogram of renewable hydrogen produced, over a period of ten years.

The total budget available amounts to EUR 800 million and is provided by the European Commission's Innovation Fund (which is funded by the revenues derived from EU industry's compliance with the Emissions Trading System carbon price levy).

The granting authority will be the Climate, Infrastructure and Environment Executive Agency (CINEA).

### B. TERMS OF THE GRANT AGREEMENT AND THE PURCHASE CONTRACTS

- Ceiling price at EUR 4.50/kg as maximum bid for fixed premium.



- Semi-annual production increases of up to 140% are supported by grant payments (although remain subject to the overall maximum grant amount across the 10-year term).
- The hydrogen production project must enter into operation within five years following award of the grant.
- Successful bidders will need to provide a completion guarantee covering 4% of the maximum grant amount issued by a bank or financial institution (rated at least BBB-/Baa3). The guarantee may be called under the following circumstances:
  - The production project fails to enter into operation within five years upon signature of the grant agreement.
  - Verified and certified RFNBO hydrogen production falls below 30% of the expected yearly average volume as stated in the bid for three consecutive years. This average will be calculated over a rolling 3-year period.
- If the project cannot certify that the overall total amount of hydrogen produced has achieved at least a 70% greenhouse gas (GHG) emissions saving in accordance with the GHG Delegated Act rules for RFNBO production (on average across the 10 year term) the grant may be reduced.
- Only new production capacity will be supported (i.e. this disqualifies projects which, at the time of application for funding, have placed long-lead equipment orders or commenced construction; acquisition of land, permits or conducting feasibility studies do not disqualify bidders).
- No indexation of the premium payment is offered.

#### C. PREQUALIFICATION REQUIREMENTS

- Only projects located within the territory of the EEA will be eligible for support through the auctions, but there is no geographical limitation of origin for the consortium / applicant.
- No submitted bid may request a grant that exceeds one third of the total available budget, i.e. EUR 266.7 million is the maximum amount available per project.
- Assuming (perhaps pessimistically) a winning bidder is awarded the full EUR 4.50kg, this is enough for its project to produce 60,000 tonnes of hydrogen over ten years, or 6,000 tonnes per year. By way of illustrating the scale of the subsidy, the first world-scale export project to achieve financial close, the NEOM Green Hydrogen Project, is expected to produce about 200,000 tonnes of hydrogen per year (i.e. 33 times as much hydrogen). To cover all of the hydrogen production of a project of this kind for ten years, the EHB's award to that single project would need to be EUR 4.5 billion.
- There are no restrictions on offtakers.
- There are certain limitations on cumulation of support (restricting the project from also benefiting from State aid and / or funding from other EU programs). This applies to support received by the project but also by the offtaker of the H2 produced. This is a crucial aspect of the rules for projects to be aware of, since it will need to be factored into the project's offtake strategy and contractual terms<sup>2</sup>.

#### D. TECHNICAL ELEMENTS TO BE TAKEN INTO CONSIDERATION

- The auctioned good as defined in the auction's terms and conditions is "RFNBO hydrogen" compliant with the requirements of RED II<sup>3</sup> and the RFNBO Delegated Acts (EU)2023/1084 and (EU)2023/1085.



- Section 1.13 of the terms and conditions state that no special rules for different technologies, regions or actors are envisaged.
- There are no minimum or maximum production thresholds, but there is a minimum requirement of 5 MWe of newly installed electrolyzer capacity in one single location (this will prevent virtual pooling of production capacity).

## E. AUCTION PROCESS

### 1. Type of auction

The auctions for the EHB will be conducted annually (although the total funding available for future auction rounds has not yet been announced). There will be no ex-post adjustment of either auction rules or auction volume.

### 2. Content of a bid/proposal

A bid must consist of the following components:

- A fixed payment of EUR/kg of RFNBO hydrogen production.
- Expected average yearly volume of RFNBO hydrogen production in kg per year over a 10-year production period.
- The maximum grant amount will be calculated as follows:

$$\bullet \left[ \text{Bid price in } \frac{\text{EUR}}{\text{kg}} \right] * \left[ \text{expected average yearly volume in } \frac{\text{kg}}{\text{year}} \right] * 10 \text{ years}$$

- Projected new electrolyzer capacity in MWe at the time when all elements and systems required for operation of the project have been tested and the capacity stated in the bid has been certified as operational (cumulatively by completion certificate, plant handover report and proof of grid connection).
- The bids will be ranked by price only.
- Grants will be awarded on a pay-as-bid basis.

### 3. Bid/proposal submission

Submissions must be made through the [Fundings and Tender Portal](#) using required forms A, B and C<sup>4</sup>, including a Gantt chart outlining the project timeline, a template-based financial model and a letter of intent from a financial institution to issue a completion guarantee.

### 4. Consideration of bids/proposals

- Bids will be ranked by price only and awarded based on the submitted price until the total budget is allocated.
- Grants will be awarded on a pay-as-bid basis.
- There will also be an assessment for operational capacity as well as relevance and quality award criteria on a pass/fail basis.
- The last bid that exceeds the available budget will be added to the reserve list.
- For proposals with the same bid price, a priority order will be determined according to the following approach:
  - Successively for every group of ex-aequo proposals, starting with the lowest bid price group and continuing in descending order:
  - Proposals with an overall smaller maximum grant requirement will be considered to have higher priority.



- If the foregoing is insufficient to determine priority, proposals located in an EEA country with fewer funds awarded previously under the Innovation Fund will be considered to have higher priority.
- If the foregoing is insufficient to determine priority, then proposals with a shorter time until entry into operation will be considered to have higher priority.
- The bid components of successful applicants will be published (bid price, volume, capacity, name of the applicant and anonymized and aggregated off-take prices)

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<sup>1</sup> Communication From The Commission To The European Parliament, The European Council, The Council, The European Economic And Social Committee And The Committee Of The Regions – A Green Deal Industrial Plan for the Net-Zero Age dated 1 February 2023 – COM(2023) 62 final

<sup>2</sup> Refer to page 14 et seq. of the Terms and Conditions.

<sup>3</sup> DIRECTIVE (EU) 2018/2001 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 December 2018 on the promotion of the use of energy from renewable sources.

<sup>4</sup> For detailed description of the content of these forms refer to page 10 et seq. of the Terms and Conditions.