

# Guidelines on Entry and Exit to Framework Partnership Agreement

Entry and Exit of KIC Partners and other entities listed in the FPA

**Version 2 / 2018**

European Institute of Innovation and Technology (EIT)

[www.eit.europa.eu](http://www.eit.europa.eu)



The EIT is a body of the European Union

## Versions and history of changes

Version 1 (2016)	Guidelines adapted to new legal framework: major changes to eligibility dates determination, principle to notify EIT about change in the partnership immediately; 2-months submission periods (no submission in November and December) and provisions for the exceptional period between 1 <sup>st</sup> January 2016 and June 2016, with regards to fulfilling the conditions for accession for KIC Partners as defined in FPA Article 62.1
Version 2 (2018)	Guidelines revised to reflect the use of Duna KIC Partnership Management platform (PIO) and to further align to the H2020 provisions. Other key changes and revisions: <ul style="list-style-type: none"> <li>- Rules for eligibility start date</li> <li>- Revised request letter and confirmation letter</li> <li>- Updated Accession form in line with updated Horizon 2020 templates</li> <li>- Further explanations have been added with regards to FPA status change, changes due to mergers, Legal data validation process, operational and financial capacity, participation of third country entities, etc.</li> <li>- Further explanations on how EIT assess the requests and approves entities including cases for rejection.</li> <li>- Additional explanations on KIC Partnership formation during the start-up phase</li> </ul>
Version 3 (upcoming)	<i>Reflecting the introduction of the category of international partners (FPA Annex 7).</i> <i>Reflecting the changes due to the new Financial Regulation</i>

# Contents

<b>1</b>	<b>Objectives and Scope .....</b>	<b>0</b>
<b>2</b>	<b>KIC Composition: KIC LE and KIC Partners.....</b>	<b>1</b>
2.1	Entities who may receive an EIT grant.....	3
2.2	KIC Partner organisations .....	5
2.3	Linked Third Parties (LTPs) .....	6
2.4	KIC partners and linked third parties established in non-EU countries (third countries) .....	8
2.5	International Partners .....	10
<b>3</b>	<b>Determination of Eligibility Period (Start – End) .....</b>	<b>12</b>
3.1	Entry Date - Eligibility Period (Start) .....	12
3.2	Exit Date - Eligibility Period (End).....	14
<b>4</b>	<b>Request to Amend FPA (by Letter) .....</b>	<b>17</b>
4.1	Request submission dates .....	18
4.2	Request Letter to amend FPA .....	19
4.3	Organisation form (in PIO) and relevant supporting documents.....	19
4.4	Quality control and miscellaneous provisions.....	32
<b>5</b>	<b>Publicity .....</b>	<b>34</b>
<b>6</b>	<b>The EIT Confirmation (by Letter) .....</b>	<b>35</b>
6.1	EIT’s assessment of the request.....	35
6.2	Rejection of the requested change to the KIC Partnership .....	41
	<b>APPENDIX – KIC Partnership formation and its monitoring during Start-up Phase .....</b>	<b>43</b>
6.3	KIC Consortium - Proposal submission and evaluation .....	43
6.4	KIC consortium designation (Year N-1).....	44
6.5	SUGA beneficiaries - SUGA Award and SUGA signature (year N) .....	44
6.6	KIC’s formation during the Start-up phase (year N) .....	46
6.7	Corrective Measures and consequences during the start-up phase .....	50
	<b>ANNEXES: Templates .....</b>	<b>51</b>

# 1 Objectives and Scope

These Guidelines aim at assuring a common interpretation and implementation of the provisions on the entry and exit of entities listed under the Framework Partnership Agreement (FPA). Therefore, this document describes the modalities for the entry and exit of KIC Partner organisations and linked third parties (LTP) - in line with definitions within H2020 Rules for participation<sup>1</sup>, the FPA and in accordance with the EIT Regulation<sup>2</sup>.

These guidelines do address entities which legally accede the FPAs – as KIC Partners - or are listed therein (e.g. as a linked third party). In the upcoming version, these guidelines will also further reflect the newly introduced ‘international partners’ category in line with the updated Framework Partnership Agreement and Specific Grant Agreements. These Guidelines do not address other third parties involved or concerned by the SGA, such as subcontractors, sub-grantees, etc.

In order to lay down a basis for common interpretation, the Guidelines provide an overview of the KIC partnership model. The Guidelines subsequently present all requirements concerning entry and exit, providing specific guidance on the implementation of the general H2020 provisions in the KIC context as well as on the verifications carried out by the EIT. The Guidelines also include a specific Appendix concerning entry and exit during and directly after the start-up phase.

Moreover, the present guidelines do not address the entry/exit of KIC LE or other amendments e.g. Strategic Agenda, terms and conditions update, which require FPA Amendment by contract signed by the EIT and the KIC LE.

---

<sup>1</sup> Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for participation and dissemination in “Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020)” and repealing Regulation (EC) No 1906/2006

<sup>2</sup> Regulation (EC) No 294/2008 of the European Parliament and of the Council of 11 March 2008 establishing the European Institute of Innovation and Technology, as amended by Regulation (EU) No 1292/2013 of the European Parliament and of the Council of 11 December 2013

## 2 KIC Composition: KIC LE and KIC Partners

The **'Knowledge and Innovation Community' (KIC)** means an autonomous partnership of higher education institutions, research organisations, companies and other stakeholders in the innovation process in the form of a strategic network, regardless of its precise legal form, based on joint mid- to long-term innovation planning to meet the EIT challenges and contribute to attaining the objectives of the H2020 Programme<sup>3</sup>, in accordance with Article 2(2) of the EIT Regulation.

**The KIC is composed by a KIC legal entity (KIC LE) and KIC partner organisations.** The KIC is legally framed by the multi-beneficiary Framework Partnership Agreement and the yearly Specific Grant Agreements (SGA) signed by the EIT and the KIC Legal Entity (KIC LE), representing the partnership. Therefore the EIT has a legal relationship with the KIC LE and with the KIC Partners. The KIC Partners are mandating the KIC LE to sign the SGAs on their behalf by means of their Accession Form to the FPA.

**The KIC LE has autonomy in defining the partnership internally**, i.e. to enter or cease the legal relationships and to define the internal agreements with the partner organisations - being these members, shareholders or other organisations. However, the accession to the KIC LE and the signature of internal agreements do not imply automatic access to the EIT grants. KIC partners become eligible to benefit from the EIT grant only by the approval of the EIT of their accession to the Framework Partnership Agreements (FPA).

The KIC's flexibility and autonomy may result in implementation of different KIC structures. The KIC partnership reflected in the FPA may equal, be larger or be smaller than the group of KIC LE members/shareholders. Situations in which the right to vote and participate in the strategy and decision-making of a KIC is given to an organisation not acceding the FPA shall be avoided, in particular, during the period when the KIC is highly dependent on the EIT grant. Yet, this does not refer to the eventual cases of temporary mismatch between the approval of KIC Partners by the KIC, based on the KIC's internal rules and timelines, and the periodic EIT FPA Amendment approval processes, which by definition last for a limited time.

**Besides the KIC partners, there are also other organisations who may be involved in implementing KIC added value activities or otherwise be concerned by the SGA implementation**

These organisations do not accede the FPA and as such, they are not part of the KIC as defined in these Guidelines and in the FPA<sup>4</sup>. Nevertheless, they may have an important role for the KIC development with regard to the KIC impact or involvement of SMEs. These entities – i.e. linked third parties, international partners, subcontractors, other third parties contributing in-kind and third parties financially supported – also need to comply with the relevant provisions of the FPA and SGA. Among these entities called third parties, linked third parties and international partners need to be identified in FPA (Annex 5 and Annex 7 respectively). Linked third parties are treated in several respects similarly

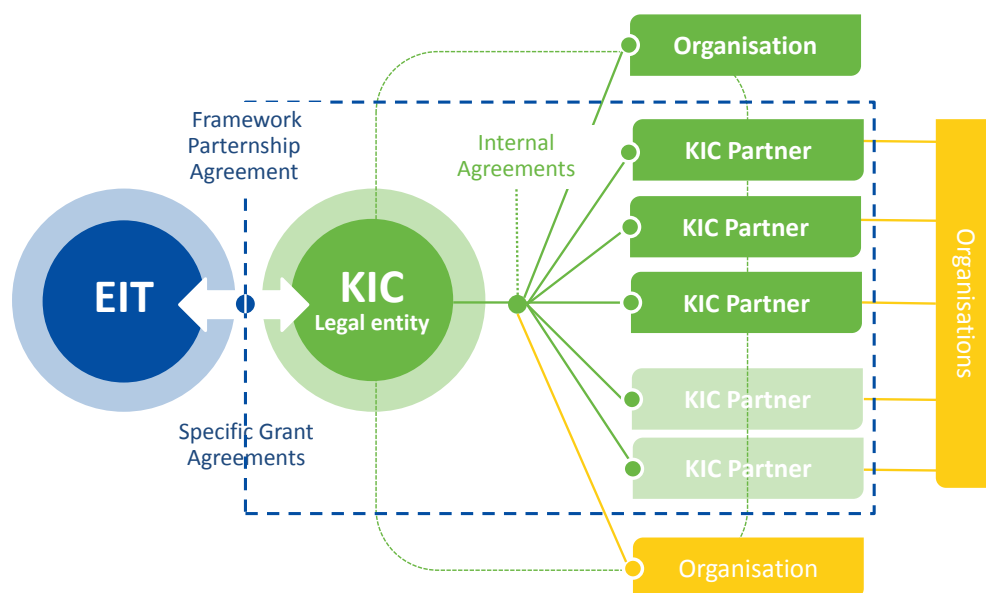
---

<sup>3</sup> Established under Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC

<sup>4</sup> For communication and similar purposes, all involved organisations are usually referred to as EIT Community', regardless their FPA/SGA status.

to the KIC Partners, for instance in terms of reporting obligations. In case of international partners<sup>5</sup>, they participate without receiving EIT funding and with no reporting obligations. Thus, when involving other organisations and in particular, when the organisation plan to receive EIT grant, the KIC needs to consider the related FPA/SGA rights and obligations in order to select the suitable type of involvement (third party category in the FPA/SGA terminology).

The below matrix reflects the legal relations between the EIT and the KIC, and organisations included or not included in the FPA or KIC LE<sup>6</sup>:



<sup>5</sup> The international partner category will be introduced in PIO by 3Q 2018

<sup>6</sup> The blue line frames the KIC Partnership as it is represented by accession to the FPA. The internal agreements may have the form of Statutes (Articles of Association), bylaws, consortium agreements, project agreements etc. Thus, certain organisations are members/shareholders of the KIC LE (dark green), some are not (light green). Some organisations collaborate with the KIC without having acceded to the FPA or the KIC LE (orange). Among the other organisations, some may need to be identified in FPA, some other may not.

The KICs' internal terminology to categorise its KIC Partners and other involved organisations may be different from the one used in FPA/SGA agreements.

KIC terminology	EIT FPA/SGA terminology:
<ul style="list-style-type: none"> <li>Core Partner, Founding member, Associated Partner, Affiliated Partner,</li> <li>Linked third Party, Project Partner, Network Partner</li> </ul>	<ul style="list-style-type: none"> <li>KIC Partners (listed in FPA Annex 2)</li> <li>Third parties: linked third parties (listed in FPA annex 5); subcontractors; third parties contributing in-kind free of charge/against payment; third parties receiving financial support; <i>international partners (listed in FPA annex 7)</i></li> </ul>
<i>This information shall be available in Partnership Management platform (KIC status field)</i>	<i>In Partnership Management platform, the FPA status shows if an organisation is KIC Partner or Linked Third party or an international partner<sup>7</sup>. Other third parties are not reflected in the PIO as they are not listed in the FPA.</i>

Due to the KIC's autonomy in setting up its legal and organisational structure, the terminology is not consistent from one KIC to another. For instance, if a 'project partner' accedes the FPA as a KIC Partner of one KIC, this might not be the case for another KIC. The same term – project partner – may be used by another KIC to classify organisations which collaborate as other involved organisations (third parties).

As part of the KIC model, the KIC operates as a network through its co-location centres ('CLCs')/ innovation hubs. In general, the CLCs may become KIC Partners by acceding the FPA or may be linked/affiliated to the KIC LE (linked third parties). In some cases, the CLCs are reported as part of the KIC LE or as part of other existing KIC Partner (e.g. University department). In any case, the CLCs shall be clearly identifiable in the Partnership Management platform.

## 2.1 Entities who may receive an EIT grant

The contractual relations between the KIC and the EIT are framed by the FPA which provides the legal framework to implement KIC's activities for which the KIC may receive an EIT grant. The entities which legally accede or are added to the FPA (listed therein) need to meet minimum conditions in order to be approved by the EIT. These conditions are described in the below subchapters.

For determination of the eligibility period start and end, please, consult chapter 3. For a detailed description of the entry (accession/addition) and exit (termination/removal) process, please consult Chapter 4. For more information on how the EIT approves the entry or exit of entities, see also Chapter 6.

### A legal person...

An organisation can only become a KIC partner or a linked third party and may receive the EIT grant under the FPA and SGA(s), if it is a legal person created and registered as such under national law,

<sup>7</sup> The international partner category will be introduced in PIO by 3Q 2018.

European law or international law. It must have a legal personality and, acting in its own name, exercise rights and be subject to obligations.

An entity that does not have legal personality under the applicable law may be nevertheless eligible if it meets the conditions<sup>8</sup> set out in Article 197(2) c) of the EU Financial Regulation<sup>9</sup>.

As a general principle, an organisation should have legal personality in order to be registered in the Partnership Management platform and become a KIC Partner or Linked Third Party. If your organisation does not have legal personality, its representatives must prove that they have the capacity to undertake legal obligations on its behalf and that the organisation has financial and operational capacity equivalent to that of legal persons.

In accordance with Article 2(5)-(7) and 7(3) of the EIT Regulation which refers to 'partner organisations', a natural person cannot be a KIC Partner. A self-employed natural person, although capable of exercising an economic activity, cannot be a partner either as it is not an organisation.

Besides the KIC Partners and linked third parties, the above definition also applies to the KIC LEs. On the contrary, unlike KIC Partners and LTPs, the subcontractors, seconded persons, and third parties financially supported can be organisations or natural persons.

#### ...not in one of the exclusion situations

In accordance with the EU Financial Regulation, an entity may benefit from the EIT grant, provided it is not in an **exclusion situation** provided for in the EU Financial Regulation<sup>10</sup>.

Besides the **declaration of honour** required from the entities, the European Commission's **Early Detection and Exclusion System** (EDES) database foreseen in EU Financial Regulation<sup>11</sup> is checked by the EIT in order to verify whether there is an exclusion in the system with regard to the entity planning to accede to the FPA.

#### ...having the operational and financial capacity

The KIC partnership shall have the **operational and financial capacity**<sup>12</sup> to implement the KIC Strategic Agenda and the KIC Business Plans. The KIC Partners shall have adequate financial resources, as well as professional competencies and qualifications to implement the KAVAs proposed under a Business Plan.

In accordance with the EU Financial Regulation<sup>13</sup>, grant applicants (i) shall have stable and sufficient sources of funding to maintain their activity throughout the period for which the grant is awarded and

---

<sup>8</sup> Their representatives have the capacity to undertake legal obligations on behalf of the entities and the entities offer guarantees for protecting the EU's financial interests equivalent to those offered by legal persons. In particular the entity shall have a financial and operational capacity equivalent to that of a legal person. The representatives of the entity shall prove that those conditions are satisfied.

<sup>9</sup> 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.

<sup>10</sup> See Articles 136 and 141 of the EU Financial Regulation.

<sup>11</sup> See Article 142 of the EU Financial Regulation.

<sup>12</sup> See Article 198 (1) and (2) of the EU Financial Regulation

<sup>13</sup> See Articles 196 (1) c), 198 (2) to (6), 130 (6)



to participate in its funding ('financial capacity') (ii) shall have the professional competencies and qualifications required to complete the proposed action or work programme ('operational capacity').

In line with the H2020 Rules for participation<sup>14</sup>, in cases where the requested funding is equal or superior to EUR 500.000, the funding body shall, by means compatible with national law, verify in advance the financial capacity of only the coordinators. Furthermore, whenever there are doubts about the financial capacity of the coordinator or other participants on the basis of available information, the funding body shall verify their financial capacity.

The financial capacity shall not be verified either in respect of legal entities whose viability is guaranteed by a Member State or an associated country or in respect of higher and secondary education establishments.

Financial capacity may be guaranteed by any other legal entity, whose financial capacity shall in turn be verified in line with the above requirements.

### ... being included in FPA

The entities may receive an EIT grant if they accede the Framework Partnership Agreement – as KIC Partners - or are listed therein - as a linked third party. These entities have also direct reporting obligation towards the EIT. The mentioned entities listed in the Framework Partnership Agreement shall be also part of the Specific Grant Agreements in order to be able to claim costs.

Besides, other entities may receive funding from the EIT grant if this complies with the relevant provisions of the FPA and SGA – e.g. subcontractors, other third parties contributing in-kind and third parties receiving financial support.

## 2.2 KIC Partner organisations

As stipulated in Article 62 of the FPA, the **KIC Partners** accede to the Framework Partnership Agreement by signing an Accession form (FPA Annex 4). The list of KIC Partners is included in Annex 2 to the FPA.

For KIC Partners which are listed in Annex 2 at the time of the FPA signature, the FPA Article 62.1 applies. These KIC Partners must accede to the Framework Partnership Agreement by signing the Accession Form, within 120 days after its entry into force.

In accordance with Article 6(2) of the EIT Regulation, the KIC shall be open to new partners whenever they **add value to the partnership**. Thus, as stipulated in FPA Article 62.2, the KIC may request the addition of a new KIC Partner, in justified cases by submitting a request for amendment of the Framework Partnership Agreement.

All KIC Partners having acceded to the Framework Partnership Agreement are part of the Specific Grant Agreements and they accede to it by the signature of the KIC LE. The KIC Partners may be 'active' or 'inactive' under one Specific Grant Agreement. As an active KIC Partner, the entity is involved in the action, thus, its role has to be described in the relevant section of the Business Plan (SGA Annex 1). Thus, when approved under the FPA, the KIC Partners that want to actively participate in a specific action, may be introduced in the ongoing Business Plan by means of an SGA amendment. All FPA and SGA rights and obligations fully apply. KIC Partners who do not want to actively participate in the

---

<sup>14</sup> See Article 25 (9) to (11).

ongoing SGA, may participate as KIC partners not carrying out action tasks (i.e. inactive KIC Partners). Formally, the rights and obligations under the FPA and SGA apply to them as well. In practice, the inactive KIC Partners do not have to comply with many obligations under that SGA as they do not carry out KAVAs, (e.g. reporting, IPRs), while some obligations e.g. information obligation, confidentiality, remain relevant.

The KIC partners may terminate their participation in the FPA, as stipulated in Article 56.2 of the FPA.

The KIC shall bear in mind the **EIT model's characteristics**<sup>15</sup>, such as autonomous, open, transparent partnership integrating different dimensions of the knowledge triangle, i.e. higher education, research and businesses. It should also make sure that the KIC's internal processes, which are autonomously established by the KIC, comply with the applicable contractual relations (FPA, SGAs). For instance, the good governance principles (see Article 19 of the SGA) shall apply during the KIC's existence despite the changes in the KIC Partnership. The changes in the KIC Partnership also cannot call into question the decision to award the specific grant or breach the principle of equal treatment of applicants or the KICs. Furthermore, the KIC must retain operational and financial capacity to carry out its Strategic Agenda and Business Plans.

**The KIC Partners are jointly and severally liable for the technical implementation** of the action described in Annex 1 to the Specific Grant Agreements<sup>16</sup>. Based on the EIT model, in the context of Article 47 of the FPA, the term "action" means the particular KIC added value activity in which the KIC Partners participate. The joint and several technical liability means that the KIC Partners involved in the implementation of the KAVA — including any new KIC Partner introduced through FPA/SGA amendment — accept that they are responsible for fully implementing the whole KAVA as described in Annex 1 to the Specific Grant Agreements — even if one of them withdraws.

Moreover, the KIC Partner is **responsible for work carried out by its third parties** (e.g. linked third parties, subcontractors).

**Each KIC Partner has individual financial responsibility.** In other words, in case of recovery, liability is limited to its own debt including undue amounts paid by the EIT for costs declared by its linked third parties (Article 50.1 FPA). In case a joint and several liability declaration is requested for a linked third party, the linked third party also bears financial responsibility. Each partner is responsible for paying any financial penalties imposed on it (Article 51.1 FPA), and for paying the damages claimed from it (Article 52 FPA).

## 2.3 Linked Third Parties (LTPs)

With reference to the SGA Article 6, the KIC Partners must have the appropriate resources to implement the specific action. However, if it is necessary to implement the specific action, the KIC Partners may call upon linked third parties to implement action tasks described in SGA Annex 1.

Entities performing a **substantial part of the specific action (Business plan)** should in principle be **KIC Partners**, NOT linked third parties. Linked third parties should only exceptionally perform a major part of the work.<sup>17</sup>

---

<sup>15</sup> Among others, see Article 6 of the EIT Regulation on the KICs and Article 2 Definitions on the KIC added value activities

<sup>16</sup> FPA Article 47.1. For more information, please, consult the Explanatory Note to the FPA shared in November 2016.

<sup>17</sup> See H2020 AMGA, p. 153.

In line with the H2020 Rules for participation and the FPA (Article 19), linked third parties may be 'affiliated entities' or 'entities with a legal link to a KIC partner'.

'Affiliated entity' means any legal entity that is:

- under the direct or indirect control of the beneficiary or
- under the same direct or indirect control as the beneficiary or
- directly or indirectly controlling the beneficiary.

In line with this definition, affiliated entities cover not only the case of parent companies or holdings and their daughter companies or subsidiaries and vice-versa, but also the case of affiliates between themselves (e.g. entities controlled by the same entity).

'Control' may in particular take any of the following forms:

- (a) the direct or indirect holding of more than 50% of the nominal value of the issued share capital in the legal entity concerned, or of a majority of the voting rights of the shareholders or associates of that entity;
- (b) the direct or indirect holding, in fact or in law, of decision-making powers in the legal entity concerned.

However, the following relationships between legal entities shall not in themselves constitute controlling relationships:

- (a) the same public investment corporation, institutional investor or venture-capital company has a direct or indirect holding of more than 50% of the nominal value of the issued share capital or a majority of voting rights of the shareholders or associates;
- (b) the legal entities concerned are owned or supervised by the same public body.

'Entities with a legal link' include legal entities which have a legal link to the partner implying collaboration that is not limited to the action. This refers to an established relationship (between the third party and the beneficiary), which is:

- Broad and not specifically created for the work under the specific action: accordingly, its duration must go beyond the specific action's duration and it usually pre-dates and outlasts the SGA; 'ad hoc' collaboration agreements or contracts to carry out work in the action are not covered.

and

- with a legal relationship:  
This may be either a legal structure (e.g. the relationship between an association and its members) or through an agreement or contract (not limited to the specific action). If the only relation between two entities is a capital link (i.e. ownership of part of the issued share capital), the entity may only participate as a linked third party if it is an 'affiliated entity'.

Linked third parties are not beneficiaries, they are not parties to the FPA and SGA, but they are allowed to fully participate in the action, like the KIC Partner they are linked to. They are therefore treated for many issues (including cost eligibility) like KIC Partners. Linked third parties must fulfil the general conditions for participation and funding under Horizon 2020.

In order to implement KAVAs and to be eligible, the linked third parties need to be **indicated in Annex 5 of the FPA**, therefore the KICs need to maintain an overview of their actual linked third parties. Furthermore, the costs of linked third parties are eligible for implementation of **tasks attributed to them in Annex 1 of the SGA**, provided the KIC partner they are linked to is also active in the SGA, and if they fulfil — *mutatis mutandis* — the general conditions and specific conditions for costs to be eligible (see Article 5 SGA).

**Characteristics of the involvement of linked third parties:**

- Linked third party does not charge a price, but declares its own costs for implementing the action tasks.
- Linked third parties perform the attributed action tasks directly and are responsible for them towards the KIC Partner. Linked third parties do NOT accede to the FPA / SGA (and are therefore not beneficiaries).
- The KIC Partner to whom the Linked third party is linked to:
  - o remains responsible towards the EIT for the work carried out by the linked third party;
  - o must make special arrangements regarding results produced by its linked third parties in order to be able to fully comply with the obligations under the SGA;
  - o is financially responsible for any undue amount paid by the EIT as reimbursement of costs for its linked third parties.
  - o must ensure that the LTPs comply with certain key obligations, e.g. that the EIT, the Commission, the European Court of Auditors (ECA) and the European Anti-Fraud Office (OLAF) can exercise their rights under Articles 28 and 29 of the Framework Partnership Agreement also towards its linked third parties, in particular to audit their costs and proper implementation of the action task;
  - o must ensure that the relevant obligations are accepted by the linked third parties.
- Work is attributed to the linked third party (in Annex 1 SGA) and is usually carried out on its premises.
- Work is under the full and direct control, instructions and management of the linked third party, who carries out this part of the action (with its employees).

According to the FPA, the EIT may request joint and several liability of a linked third party. This would be the case if the financial viability, capacity of a KIC Partner is weak or/and if it mainly coordinates the work of its Linked Third Party/Parties. Joint and several liability would normally be requested if the budget of the Linked Third Party is higher than the budget of the KIC Partner concerned.

The need for requesting joint and several liability and the extent of the liability will be assessed by the EIT on a case-by-case basis, in line with the declaration template in Annex 4a FPA. For any Linked Third Parties this will be assessed as part of the assessment of the Business Plan in which the Linked Third Party is planned to participate.

If joint and several liability has been requested by the EIT, a linked third party listed in Annex 5 may implement action tasks if it has accepted the joint and several liability with the KIC Partner (see FPA Annex 4a).

## 2.4 KIC partners and linked third parties established in non-EU countries (third countries)

The participation and possibility to benefit from EIT funding of **entities established in non-EU countries** is based on the rules defined in Horizon 2020 (see: H2020 Guide to participation by non-EU countries)<sup>18</sup>.

---

<sup>18</sup> [http://ec.europa.eu/research/participants/data/ref/h2020/grants\\_manual/hi/3cp/h2020-hi-3cp\\_en.pdf](http://ec.europa.eu/research/participants/data/ref/h2020/grants_manual/hi/3cp/h2020-hi-3cp_en.pdf)

The 'non-EU' country means any country/territory that is NOT in one of the following:

- A Member State of the European Union (EU MS) or a Member of the European Economic Area;
- An overseas country or territory linked to an EU country (OCT).

Entities from non-EU countries fall into 2 categories:

- those automatically eligible for funding under Horizon 2020,
- those not automatically eligible for funding (though they may still be funded in exceptional cases).

#### **A) Entities from non-EU countries automatically eligible for funding**

**Associated countries:** An entity established in a third country may benefit from the EIT grant if the country has concluded an Association Agreement to Horizon 2020 covering the EIT grants. The list of H2020 Associated Countries is available under the H2020 website<sup>19</sup>.

**Non-associated countries - automatically eligible** ('non-associated countries – AE'): Additionally, entities based in any of the countries listed in Annex A of the Horizon 2020 Work Programme<sup>20</sup> are automatically eligible for funding under the Horizon 2020 and thus by the EIT.

#### **B) Entities from non-EU countries exceptionally eligible for funding**

**All other non-EU entities** ('non-associated countries – NAE'): funding may be possible in the following exceptional cases:<sup>21</sup>

- if there is a bilateral scientific/technological agreement or similar arrangement between the EU and the country where the entity is based which explicitly provides for such funding; or
- where the participation of the entity is deemed essential for carrying out the action by the EIT.

The participation of the entity can be considered essential by the EIT for carrying out the action on the grounds that participation has clear benefits for the KIC, such as:

- outstanding competence/expertise,
- access to research infrastructure,
- access to particular geographical environments,
- access to particular data.

To this end, **the KIC LE shall submit a reasoned request to the EIT, justifying why the participation of such an entity in the FPA and in the implementation of a KIC Business Plans is essential in line with the above.**

The EIT will at first place verify the benefits for the KIC at the time of the FPA request, in order to decide whether participation in the FPA can be considered essential. In addition, the EIT will also verify at the time of the KIC Business Plan and amendment assessment, whether the participation of the entity in the KIC Business Plan with EIT funding is in line with this requirement.

---

<sup>19</sup> [http://ec.europa.eu/research/participants/data/ref/h2020/grants\\_manual/hi/3cpart/h2020-hi-list-ac\\_en.pdf](http://ec.europa.eu/research/participants/data/ref/h2020/grants_manual/hi/3cpart/h2020-hi-list-ac_en.pdf)

<sup>20</sup> [http://ec.europa.eu/research/participants/data/ref/h2020/other/wp/2018-2020/annexes/h2020-wp1820-annex-a-countries-rules\\_en.pdf](http://ec.europa.eu/research/participants/data/ref/h2020/other/wp/2018-2020/annexes/h2020-wp1820-annex-a-countries-rules_en.pdf)

<sup>21</sup> See Article 10(2) of the H2020 Rules for participation

In the context of the involvement of non-EU entities which are not automatically eligible, the EIT encourages KICs to consider national co-funding mechanisms, as a number of countries have made specific provisions for making national funding available for their participants in Horizon 2020 projects. References to information on these mechanisms can be found in the H2020 Guide to participation by non-EU countries.<sup>22</sup>

For more information on the International cooperation, eligibility for funding and the co-funding opportunities, please, consult the Horizon 2020 online manual - International cooperation chapter<sup>23</sup> – and in particular:

- List of H2020 Associated Countries
- the Guide for funding for non-EU countries & international organisations – listing:
  - o Countries' eligibility for funding
  - o Available local support for H2020 participants from non-EU countries

Whenever available, the EIT asks the KICs and the organisations to explore the available local support for Horizon 2020 participants from non-EU countries.

### Effects of the Notification of the UK of its intention to withdraw from the EU

Until the United Kingdom leaves the European Union, EU law continues to apply to and within the UK, both when it comes to rights and obligations of KIC partners established in the UK. This includes the eligibility of British legal entities to participate and receive funding under the Horizon 2020 framework programme.

It must be noted that the eligibility criteria must be complied with for the entire duration of the EIT grant. After 29 March 2019, if the United Kingdom withdraws from the EU during the grant period without concluding an agreement with the EU ensuring in particular that British entities continue to be eligible, such organisations will cease to receive EU funding (while continuing, where possible, to participate) or their participation in the grant agreement will be terminated<sup>24</sup>.

## 2.5 International Partners

In line with the new provisions in the 2018 FPA Amendment, deriving from the update of the H2020 model agreements by the Commission, a new possibility is introduced in the FPA (Article 19a) and the SGA (Article 12a) concerning the implementation of action tasks by international partners.

An international partner is **a legal entity established in a non-associated third country which is not eligible for funding** under Article 10 of the Rules for Participation. In other words, it concerns partners that are established in third countries not eligible for funding and that have not been considered eligible by the EIT on the grounds that their participation is essential for carrying out the action. Following the 2018 FPA Amendment, they are listed in the FPA Annex 7 and may implement action tasks attributed to them in Annex 1 to the Specific Grant Agreement.

International partners are allowed to participate in the action without EU funding. They are NOT KIC Partners and do NOT receive EIT funding; they therefore have no direct obligations under the specific

<sup>22</sup> [http://ec.europa.eu/research/participants/data/ref/h2020/grants\\_manual/hi/3cpart/h2020-hi-3cpart\\_en.pdf](http://ec.europa.eu/research/participants/data/ref/h2020/grants_manual/hi/3cpart/h2020-hi-3cpart_en.pdf), p. 3.

<sup>23</sup> Available at: [http://ec.europa.eu/research/participants/docs/h2020-funding-guide/cross-cutting-issues/international-cooperation\\_en.htm](http://ec.europa.eu/research/participants/docs/h2020-funding-guide/cross-cutting-issues/international-cooperation_en.htm)

<sup>24</sup> See Article 56.3 of the Framework Partnership Agreement.

grant agreement, but their KIC Partner must ensure that they comply with certain key (non-financial) obligations. International partners do NOT need to have a (capital or legal) link to the KIC Partners (but they may have one).

The new option may be useful in particular if the involvement of the international entity is needed for purposes other than requesting EIT funding for the entity in question: e.g. for realising certain activities of KIC Partners, or for attracting funding from other sources. In fact, a number of third countries not eligible for funding have made specific provisions for making national funding available for their participants in Horizon 2020 projects, as also mentioned in the Chapter 2.4 above.

**Characteristics:**

International partners perform their action tasks directly. They do NOT sign the SGA (and are therefore not beneficiaries).

The KIC Partner:

- remains responsible towards the EIT for the action tasks performed by its international partner
- must make special arrangements regarding results produced by the international partners (in order to be able to fully comply with their obligations under the SGA)
- must ensure that they comply with certain key (non-financial) obligations, e.g. the EIT, the European Court of Auditors and the European Anti-Fraud Office (OLAF) can exercise their rights
- must ensure that relevant obligations are accepted by the international partners

International partners perform their action tasks without receiving EU funding, i.e. their costs are NOT eligible for reimbursement under the grant. Therefore, they will not be subject to financial checks, reviews or audits.

The costs of the international partners are estimated in Annex 2 (to get an overview of the overall project budget). But this is for information purposes only, the international partners are not required to report on their costs.

The current guidelines and the Partnership Management Platform will be updated to allow entry/exit of international partners during the year 2018.

## 3 Determination of Eligibility Period (Start – End)

For the purpose of these guidelines and in line with the FPA,

**‘notification date’** means the date on which the KIC LE submits its request for FPA Amendment by Letter using the appropriate templates and within the agreed dates for submission.

For a detailed description of the accession and termination process, please consult Chapter 4. For more information on how the EIT approves the organisations (confirmation process), see Chapter 6.

### 3.1 Entry Date - Eligibility Period (Start)

#### KIC Partners and Linked Third Parties at the time of the FPA signature

KIC Partners listed in the FPA Annex 2 at the time of the FPA signature will assume the rights and obligations under the Agreements with effect from the date of their entry into force<sup>25</sup> provided they sign the Accession Form within 120 days after its entry into force<sup>26</sup>.

*Relevant accession form statement (FPA Annex 4): By signing this Accession Form, the KIC Partner accepts the grant and agrees to implement it in accordance with the Agreement, with all the obligations and conditions it sets out.*

Linked third parties listed in the FPA Annex 5 at the time of the FPA signature may implement the tasks attributed to them in SGA Annex 1 with effect from the date of entry into force of the FPA and SGA Agreements, provided their respective KIC Partner accedes the FPA.

The eligibility period cannot be earlier than:

- the date on which the organisation was officially established and registered under national, European or international law (KIC Partner/Linked Third party (LTP))
- the eligibility starting date of the KIC partner to whom the entity is linked/affiliated to (LTP)
- the date on which the link/affiliation entered into force (LTP).

#### Addition of new KIC Partners

**A new KIC Partner** organisation will assume rights and obligations under the Framework Partnership Agreement taking effect from **the date of their accession specified in the Accession Form** (FPA Annex 4). As a general rule, this accession date is equivalent to the date of signature of the Accession Form by the KIC Partner. Alternatively, the KIC Partner may indicate a specific future or past date of the accession in the Accession Form in accordance with the FPA Annex 4 form model and these guidelines.

---

<sup>25</sup> FPA Article 62 (1) and SGA Article 21

<sup>26</sup> FPA Article 62 (1) and 64



The alternative option to indicate a specific future or past date in the accession form may only be used in justified cases, above all with a view to allow the KIC to request an accession of organisations participating in the Business Plan as of a particular day 1 January when – in line with SGA Art. 3 – a specific action starts. The justification must be concrete.

Considering the requirement to immediately notify the EIT about changes in the KIC partnership, the accession date specified in the accession form shall fall within a period of maximum 4 months prior to or after the notification date (submission date). If accession form and the accession date are not compliant with the format and the rules presented in these guidelines, the EIT will take corrective measures as described in Chapter 6.

The entry date cannot be earlier than:

- the date on which the entity was officially established and registered under national, European or international law.

### Addition of new Linked Third Parties

A **Linked Third Party** may implement action tasks attributed to them by a KIC Partner from the date proposed by the KIC partner/LE (entry date). However, considering the requirement to immediately notify the EIT about changes in the FPA enlisted entities, the KIC LE can only indicate an entry date that falls within the **4 months prior to the notification date**. If specified incorrectly or not at all, the entry date shall be determined by the EIT as the notification date.

The entry date cannot be earlier than:

- the date on which the entity was officially established and registered under national, European or international law;
- the eligibility start date of the KIC partner to whom the entity is linked/affiliated to;
- the link/affiliation entered into force.

#### Additional conditions and Information related to the eligibility period (start)

Please, be aware of the requirement to immediately notify the EIT about changes related to the FPA enlisted entities. As such, the EIT will only accept:

- Accession Forms signed **maximum 4 months prior to the submission of the FPA Amendment request letter** by the new KIC Partner organisation. The 4-months-rule also applies in case of the alternative option when a specific accession date is foreseen.
- proposed entry date for Linked Third Parties within **the maximum range of 4 months prior to the notification date**.

In exceptional cases, upon justification provided by KICs, the EIT may extend the respective periods mentioned above. The extension may be justified, for instance, by the changes in the KIC's governance model.

#### FPA and SGA amendments - eligibility period (start) - Cost Eligibility Conditions

A KIC partner and linked third party shall be eligible to claim costs incurred from the entry date for activities defined in the respective KIC Business Plans and indicated in the budget of the on-going and consecutive SGAs. The simple indication of eligibility in the FPA Annex 2 and 5 does not

automatically make the organisations' costs eligible. New KIC Partner and linked third parties can be introduced in the ongoing Business Plan by means of an SGA amendment.<sup>27</sup>

- 1) **The KIC Partners are eligible to claim costs** in the final KIC Report, if they fulfil all the conditions below:
  - Are included in the FPA Annex 2, i.e. their accession has been confirmed by the EIT (PIO status eligible), and
  - Are active under the SGA; not all organisations eligible under the FPA are automatically active under each SGA.
- 2) **The linked third parties may claim costs** in the final KIC Report, if all the following conditions are met:
  - if they are included in the FPA Annex 5 - confirmed by the EIT (PIO status eligible), and
  - if the KIC Partner to which they are linked to is active under the SGA (see above), and
  - if the linked third parties have tasks attributed to them in SGA Annex 1 and the costs are eligible for these tasks/KAVAs.

More FAQ can be found in the Annex to the 2018 SGA Amendment Guidelines.

## 3.2 Exit Date - Eligibility Period (End)

### Non-accession of a KIC Partner and/or Linked Third Party indicated in the FPA at the time of the FPA signature

When a KIC Partner that was listed in the FPA at signature but never acceded is removed, the changes will be made ex tunc (i.e. since the beginning) since the KIC Partner's participation is terminated due to non-accession to the FPA. If the KIC Partner was foreseen to participate with linked third parties/international partners, they will be automatically be removed.

Same applies for linked third parties failing to provide the documents requested (e.g. declaration of honour) in order to be acknowledged in Annex 5 of the FPA.

These entities may be requested by the KIC any time and enter the KIC Partnership and FPA through the Entry and confirmation/approval process described in these guidelines (all entry checks apply).

### Termination of the KIC Partners' participation

A **KIC Partner** organisation which acceded to the FPA may terminate its participation in the Framework Partnership Agreement from the date proposed by the KIC Partner/LE in the notification /request (exit date). The proposed exit date shall correspond to the date proposed by the KIC Partner or by the KIC LE having consulted the KIC Partner – and in line with the KIC internal rules.

With reference to the FPA Article 56.2.1, when terminating participation of one or more KIC Partners in a specific action (KAVAs in the BP), **the date the termination takes effect must be after the notification** (i.e. after the request submission).

In the case of exiting organisations which do not implement any KAVAs under the ongoing SGA and will not declare any costs, the proposed exit date may be in the past. In case the termination of the

---

<sup>27</sup> See the SGA Amendment guidelines for more information.

participation is due to the entity being dissolved, the termination date is determined by the date on which the entity is wound up.

The exit date cannot be later than:

- the date on which the entity ceased to exist.

### Exit of Linked Third Parties

In order to determine the exit date for **linked third parties**, similar rules apply as for KIC Partners, i.e. as a general rule, the exit date shall be the date proposed in the notification/request.

Moreover, linked third parties of a KIC Partner which exited shall also be removed. The KIC LE may submit a request to re-assign the linked third party to another KIC Partner in the Partnership Management platform – if this is applicable. In this case, as well, the link to the new KIC Partner must be clearly explained and appropriate supporting documents presented.

#### Additional conditions on eligibility period (end)

Please, be aware of the requirement to notify the EIT in advance about the KIC Partners, which intend to terminate their participation in the KIC, in particular, when the respective organisations implement an activity in the ongoing SGA. In accordance with Article 56.2 of the FPA, the request/notification of the KIC LE must include certain minimum information (see chapter 4.3.2) in order to **terminate the participation properly**. If this information is not provided at all or provided poorly, the participation will be considered to have been **terminated improperly**.

When filling in the form in the Partnership Management platform, besides providing appropriate information about the 'Reasons for exiting' field, the 'KAVA involvement' field shall be duly filled in to clearly indicating if the KIC Partner implements an activity under the ongoing SGA and declares costs or not – i.e. whether an SGA amendment and termination report is applicable. See more in the chapter 4.3.2 relevant to exit process.

#### FPA and SGA amendments - Cost eligibility and other obligations

A KIC partner and linked third party may claim costs incurred until the end date of its eligibility period for KIC added value activities defined in the respective KIC Business Plans and indicated in the budget of the on-going SGA. When organisations implementing the SGA terminate their participation in FPA, an amendment of the on-going SGA is also necessary.

In case of termination of the participation of a KIC Partner declaring costs under the ongoing SGA, improper termination may lead to a **reduction of the specific grant**. Please also be aware of the FPA rules relating to the submission of the termination report.

In accordance with FPA Article 6.2, without prejudice to and in accordance with FPA Article 47.1, termination of participation in the framework partnership agreement does not release the KIC Partner concerned from its obligations under the Specific Agreements. It cannot however participate in specific actions for which specific grants are awarded after the date on which the termination takes effect. This means that unless the exiting KIC Partner is removed from the SGA, it retains full responsibility for the ongoing SGA. Moreover, the KIC Partner remains responsible to submit documents and information for the purpose of reporting or audits.

## 4 Request to Amend FPA (by Letter)

The KIC LE must officially notify the EIT about any changes occurring in the KIC partnership and other FPA listed entities that require an FPA Amendment, namely accession of new KIC partners to the FPA or involvement of new linked third parties and international partners in the on-going (or planned) actions, as well as about cases when the participation of an organisation is terminated. As the lists of KIC partners and linked third parties are an integral part of the FPA, the EIT shall receive an official request for FPA Amendment, accompanied by supporting documents in line with these Guidelines. The FPA Amendment request shall be submitted through the 'Partnership Management' platform available at:

<https://duna.eit.europa.eu/pio>

An amendment by letter is concluded when the requested entities are confirmed by EIT letter (see chapter 6).

The request is composed by:

- **FPA amendment request letter**, duly signed by the legal representative or a person authorized to sign on behalf of the KIC LE
- **All legal data and additional information available in PIO for every entity** included in the letter
- **A set of supporting documents per each entity**, in line with the type of request (*please see detailed list of required documents in Chapter 4.3*)

As such, the Partnership Management platform shows the information per 'request package' and per entity ('form').

Legal data and additional information can be uploaded into the Partnership Management platform by using available import templates (in bulk) or by using the user interface directly (the form). The necessary supporting documents shall be uploaded to the relevant entity using the correct naming convention and only in .pdf format. Bulk upload is also available. The Request Letter shall be submitted via PIO under the respective 'request package'.

The request for the Amendment must be received by the EIT within the agreed submission days (please see Chapter 4.1), and concern changes occurred within the pre-defined time period. Please, be aware of the conditions applied for the validity of documents and signature dates.

**KIC LE and KIC Partner shall keep originals of all documents, as these may be requested by the EIT, or in case of audit at a later stage.**

The KIC LE should **carry out a first quality check** of the Request and its related documents before the submission to the EIT. The EIT time to process the request highly depends on the quality of documents and information provided.

The list of documents to be submitted are presented in the following sub-chapters. Please, also read chapter 4.4 for further information on the supporting documents to be submitted, as well as on definitions related to legal data and status of organisations, e.g. SME status. Additionally, chapter 6 explains the process of verification and approval of FPA Amendment request by the EIT.

*Note: the functions of the Partnership Management platform to add/remove international partners will be made available in 2018.*

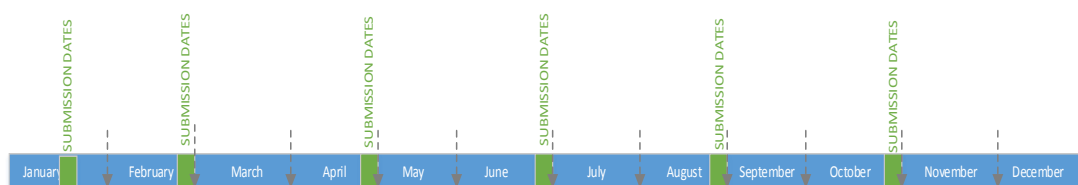
## 4.1 Request submission dates

The ‘**submission periods**’ in which the KIC LE shall submit an official request to amend FPA correspond to the last 5 working days of every second month in a year as specified below:

- (end) February
- (end) April
- (end) June
- (end) August
- (end) October

As such, **the deadline of the submission is the last working day of the relevant month (midnight).**

**In addition to the above, a further submission period is available in mid-January (Year N), intended for entities that are added/removed in relation to the Business Plan of the Year N. The deadline for the submission of the FPA Amendment request shall be 15<sup>th</sup> January (midnight) in this case.** The organisations entering the FPA in year N will not be able to claim costs eligible for Year N-1.



**Please, be aware of the requirement to notify the EIT about the changes in partnership immediately;** i.e. at the earliest possible date for the Request submission. In order to comply with this requirement, a 4-months rule applies for the eligibility period (start) – i.e. accession and proposed entry date - see *chapter 3.1*. The EIT must be notified about exiting entity as soon as possible and in line with the FPA rules - see *chapter 3.2*. Improper termination may result in grant reduction.

The EIT cannot ensure processing excessive number of entities requested in the October submission period. As such, the KIC LE shall seek to identify and request the new KIC Partners and linked third parties in due time. Moreover, the KIC LE shall strive to ensure a preliminary quality control of the information and documents provided by the KIC partners and linked third parties, in order to avoid situations which would put at risk the eligibility of costs at reporting stage.

Besides the above ‘submission dates’ during which the PIO is automatically open for submission, the EIT may open the platform for additional submission upon request and justification by the KIC. The KIC shall contact the EIT Programme officer with a clear justification underlining the necessity of the exception and the related risks, if any. Determination of the eligibility start date outside of the applicable time periods cannot in itself be considered sufficient justification for exceptional opening.

Please note that the KIC may create 'drafts' of the organisations or of the request in the Partnership Management platform any time, including upload of necessary documents. However, the prepared request package can only be submitted during the submission periods.

Only one Request Package may be submitted at a time. Before submitting the request, please, make sure that the Request letter and the list of organisations included therein corresponds to the request package visible in PIO.

## 4.2 Request Letter to amend FPA

The KIC LE shall submit an official Request Letter which must:

- be generated from the Partnership Management platform (PIO) and duly filled in;
- be duly signed by the KIC LE's legal representative or other person authorized to sign on behalf of the KIC LE and dated no earlier than 2 months prior to its submission to the EIT;
- be accompanied by all necessary data as well as all supporting documents uploaded to the PIO per KIC Partner and linked third party, constituting thus the PIO 'request package';
- be consistent with the 'request package' created in the PIO.

## 4.3 Organisation form (in PIO) and relevant supporting documents

The type of information and relevant documents to be provided vary according to the type of requested change for the particular organisation. In the Partnership Management platform, four types of changes are possible: **entry, change, FPA change or exit**. Please find below a presentation of the data and documents.

The below described information and documents are needed in order to verify the eligibility of the proposed entities for receiving EIT grant, as detailed in Chapters 2 and their eligibility start-end, as detailed in Chapter 3.

### 4.3.1 ENTRY of a new entity

#### KIC partner organisation

- 1) KIC Partner information entered into the PIO by using the excel template or directly in the user interface, containing the following:
  - **Entity's legal and other information** allowing (i) the update of FPA Annex 2 and legal validation check (ii) identification of the entity within the FPA and within the KIC, such as (*compulsory minimum information are highlighted in bold*):
    - i. *KIC Partner full official name, Name in English, **short name**, legal form, SME, AREA, official address – country, zip, city, street), website, VAT number and KIC Code; Registration Number, Legal Type (public/private), type (profit/non-profit),*

- ii. **FPA status** (i.e. KIC Partner), KIC status (e.g. core partner), KIC Node (name of the CLC or other geographical area as used by the KIC), department, contact information.
- **Accession date:** with regard to the eligibility period, the KIC shall provide the requested accession date in line with the rules stipulated in chapter 3.1 and in 'yyyy-mm-dd' format.
  - **KIC added value:** Brief explanation of the added value the new entity brings to the KIC in accordance with the EIT Regulation and FPA article 62.2. The accession of new partners must be in line with the objectives of the KIC's Strategic Agenda. Additionally, the acceding organisation shall demonstrate the key competences that it will bring to the partnership in a specific field of interest of the KIC. Examples of such key competences may be access to knowledge, knowhow, and new skills, new expertise or infrastructures, links to markets, value chains and business development opportunities that will be beneficial for the partnership. In addition, the acceding organisation should present its designated role within the partnership (e.g. participation in a particular area or segment of the KIC's portfolio of activities)
  - **KAVA involvement** (if applicable): The KIC should specify the title of the KIC added value activity in which the new entity is (going to be) involved. This is advanced notification with regard to the ongoing SGA involvement, however, it does not replace the need for SGA Amendment. If the organisation does not plan to participate in the ongoing SGA (year N), this field should indicate 'n/a' and it may additionally indicate Business Plan year N+1 with the KAVA, if this is the case.

Applicable for entities established in a non-EU and non-associated country not automatically eligible for funding:

- **Justification for Third Country Entity:** For KIC Partners or linked third parties established in a non-associated country not automatically eligible for funding, the KIC has to explain the clear benefits and justification of why their participation in the KIC's operations is essential, such as: outstanding competence/expertise, access to research infrastructure, access to particular geographical environments or access to data. Furthermore, and if applicable, please provide the information on the steps undertaken to verify the availability of national support scheme for H2020 involvement. The EIT reserves itself the right to request further clarifications on the role of the proposed organisation when deemed necessary.

For the definition of non-associated countries not automatically eligible for funding with respect to this Guideline, *please see chapter 2.4.*

2) Documents to be submitted when requesting a new KIC Partner:

- **Accession Form** (*template included as Annex to the Guidelines*) completed and duly signed by the KIC partner and countersigned by the KIC LE. Please, be aware of the 4 months rule applicable for the accession date!

Model is included in the FPA Annex 4 and annexed to these Guidelines. General template shall be generated from PIO, alternative template shall only be used in specific justified cases (see chapter 3.1). Please note that the model accession form has also an additional OPTION for change of KIC Partner due to partial takeover.

*Accession form statements concerning the accession date (FPA Annex 4):*

- *option by default (in PIO): By signing this Accession Form, the KIC Partner accepts the grant and agrees to implement it in accordance with the Agreement, with all the*



*obligations and conditions it sets out as from the date of signature of the Accession Form ('accession date') — if the EIT agrees with the request for amendment.*

- *alternative option for specific cases: By signing this Accession Form, the KIC Partner accepts the grant and agrees to implement it in accordance with the Agreement, with all the obligations and conditions it sets out as from [insert date] ('accession date') — if the EIT agrees with the request for amendment.*
- **Declaration of Honour on Exclusion Criteria and Absence of Conflict of Interest (DoH)** (template included as Annex to the Guidelines) completed in the name of the legal entity and duly signed;
- **Legal Entity Form (LEF)** <sup>28</sup> filled in and duly signed. Please note that the EIT can only accept recent Legal Entity Forms, signed within 90 days from the notification date.
- **Supporting documents to the Legal Entity Form**, as mentioned therein. Most frequent supporting documents to the LEF are the *legal registration certificates* and *VAT registration certificates* issued by the national authorities. In case an organisation is not subject to VAT, please submit an official certification from the national tax authority confirming this. Proof of non-for-profit status may be needed, where applicable. The supporting documents serve to confirm the main official data of the organisation, such as official name and address of the company, as well as the registration and VAT number, where applicable, therefore they need to be consistent with the data included in the Legal Entity Form and the PIO.

The EIT reserves the right to additionally request:

- Documents evidencing the entity's operational and financial capacity.
- Other documents, if necessary, in order to ensure the registration or verification of the legal entity in the relevant databases of the European Union (e.g. ABAC).

***Please, read carefully the chapter 4.4.1 Quality control and miscellaneous provisions for important information on the data and documents.***

Please note that supporting documents are only accepted in .pdf format.

Some key points on FPA and SGA amendment, and cost eligibility related to the entry to FPA are made in chapter 3.1

### Linked third party

- 1) Linked Third Party information entered into the PIO by using the excel template or directly in the user interface, containing the following information:
  - **Entity's legal and other information** allowing (i) the update of FPA Annex 5 and legal validation check (ii) the identification of the entity within the FPA and the within the KIC, such as (compulsory minimum information are highlighted in bold):
    - i. **Entity's full official name**, Name in English, **short name**, legal form, SME, AREA, **official address – country, zip, city, street**, website, **VAT number** and KIC Code; Registration Number, Legal Type (public/private), type (profit/non-profit),

<sup>28</sup> LEF :[http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/legal\\_entities/legal\\_entities\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm)

- ii. **FPA status** (i.e. *Affiliated Entity or Entity with a Legal Link*), **KIC status** (e.g. *linked third party*), **KIC Node** (name of the CLC or other geographical area as used by the KIC), **department, contact information**.
- **Proposed Entry Date:** with regard to the eligibility period, the KIC shall provide the date in line with the rules stipulated in chapter 3.1 and in 'yyyy-mm-dd' format.
- **KIC Partner to which the entity is linked to:** please, select from the list of KIC Partners (KIC CODE+full official name)
- **Nature of affiliation or nature of the legal link:** The KIC should explain the link and its duration, e.g. type of existing agreement, key subject of collaboration, agreement start and end date or level of control. In particular for affiliated entities where the direct or indirect holding does not reach more than 50% of the nominal value of the issued share capital in the legal entity concerned, or of a majority of the voting rights of the shareholders or associates of that entity, the existence of effective control and decision-making powers needs to be clearly substantiated. Simple repetition of the type of linked third party (e.g. affiliated) is not sufficient. For the definition of linked third parties, *see chapter 2.3*.
- **KAVA involvement** (if applicable): The KIC should specify the title of the KIC added value activity in which the new entity is (going to be) involved. This is advanced notification with regard to the ongoing SGA involvement, however, it does not replace the need for SGA Amendment. If the entity does not plan to participate in the ongoing SGA (year N), this field should indicate 'n/a' and it may additionally indicate Business Plan year N+1 with the KAVA, if this is the case.

Applicable for entities established in a nonEU and non-associated country not automatically eligible for funding:

- **Justification for Third Country Entity:** For linked third parties established in a non-associated country not automatically eligible for funding, the KIC has to explain the clear benefits and justification of why its participation in the KIC's operations is essential, such as: outstanding competence/expertise, access to research infrastructure, access to particular geographical environments, and access to data. Furthermore, and if applicable, please provide the information on the steps undertaken to verify the availability of national support scheme for H2020 involvement. The EIT reserves itself the right to request further clarifications on the role of the proposed organisation when deemed necessary.

For the definition of non-associated countries not automatically eligible for funding with respect to this guidelines, *see chapter 2.4*.

2) Documents to be submitted when requesting a new LTP:

- **Declaration of Honour on Exclusion Criteria and Absence of Conflict of Interest (DoH)** (*template included as Annex to the Guidelines*), completed in the name of the legal entity and duly signed;
- **Legal Entity Form (LEF)** filled in and duly signed. Please note that the EIT can only accept recent Legal Entity Forms, signed within 90 days from the notification date.
- **Supporting documents to the Legal Entity Form**, as mentioned therein.<sup>29</sup>

---

<sup>29</sup> LEF: [http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/legal\\_entities/legal\\_entities\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm)

- **Documents proving that the linked third party is legally linked to the relevant KIC partner** (e.g. statutes, registration certificate, or agreement between KIC Partner and the linked third party).

The EIT reserves the right to additionally request:

- Declaration on Joint and several liability of linked third party may be requested by the EIT with regard to the Business Plan and its amendments (SGA Annex 1&2) outside of the FPA amendment process described in these guidelines.
- Documents evidencing the entity's operational and financial capacity
- Other documents necessary in order to ensure the registration or verification of the legal entity in the relevant databases of the European Union (e.g. ABAC).

*Please, read carefully the chapter 4.4.1 Quality control and miscellaneous provisions for important information on the data and documents.*

Please note that supporting documents are only accepted in .pdf format.

Some key points on FPA and SGA amendment, and cost eligibility related to the entry to FPA are made in chapter 3.1

### International partner

*Foreseen to be available upon activation in the Partnership Management platform in 2018.*

## 4.3.2 EXIT of a KIC Partner/Linked Third Party

- 1) Termination related information entered into the PIO by using the excel template or directly in the user interface, in particular

- **Reasons for exiting** shall describe the main reasons of the KIC Partner to leave the KIC partnership. This information shall be further supported by a letter or similar communication by the KIC partner concerned.
- **KAVA involvement:** if the entity is participating in the implementation of the action in the ongoing year, the proposal for reallocation of the tasks and the estimated budget of the KIC Partner/Linked Third Party concerned shall be indicated. This field serves as an advanced notification with regard to the ongoing SGA involvement and re-allocation of resources, however, it does not replace the need for SGA Amendment.

If the entity does not participate in the ongoing SGA (year N), this field should indicate 'n/a'. However, in case of exit of major KIC partners, such as any of the top 10 KIC Partners in financial terms (e.g. by cumulative EIT grant or total costs for the past 3 years) or in operational terms (for implementation of an important part of KIC's portfolio of activities), irrespective of the involvement in the implementation of the ongoing SGA, in this field, the KIC LE shall explain how the termination of the partnership of the organisation will affect the KIC's operations on a long run and how the KIC plans to mitigate the situation.

- **Proposed Exit date (Date of termination):** in case of a KIC Partner which implements KAVAs in the ongoing SGA, the date when termination takes effect must be after the notification date.

2) Documents to be submitted if the exiting KIC partner is implementing an action under the ongoing SGA:

- **Document/communication substantiating reasons for exiting** (e.g. request for exit by the KIC Partner)
- **Opinion of the KIC Partner concerned** (or proof that this opinion has been requested in writing). This is required in cases when the exit is initiated by other KIC Partners or KIC LE. This is not applicable for linked third parties.
- **and opinion of the KIC Partner concerned** (the latter, if applicable)
- **Request for SGA Amendment** shall be sent in line with the SGA Amendment guidelines (applicable if the exiting KIC Partner is involved in ongoing SGA with a role in one or more KAVAs)

Additionally, within 30 days from when termination takes effect (see article 56.2.2 of FPA), the KIC LE must submit a:

- **Report on the distribution of payments to the KIC Partner concerned** (if applicable)
- **Termination Report** (*template included as Annex to the Guidelines*)

Please note that the termination report and the report on the distribution of payments are only applicable to KIC Partners who implement KAVAs under the ongoing SGA. In order to comply with the FPA provision (Art. 56.2) explained above, a Report template combining the information related to the termination is available in the *Annex to these Guidelines*. Upon agreement with EIT and in cases when the termination occurs in 3-4Q of the year, the termination report may be provided by means of the final KIC Report.

The EIT reserves the right to additionally request:

- Documents evidencing the KIC's operational and financial capacity
- In specific cases, other documents may be necessary in order for the EIT to comply with information obligation towards relevant databases of the European Union.

***Please, read carefully the chapter 4.4.1 Quality control and miscellaneous provisions for important information on the data and documents.***

Please note that supporting documents are only accepted in .pdf format.

In case of termination of the participation of an entity declaring costs under the ongoing SGA, the non-respect of the exit requirements constitutes **improper termination** which may lead to a reduction of the specific grant. Some key points on FPA and SGA amendment, and cost eligibility related to the entry to FPA are made in chapter 3.2.

#### 4.3.3 DATA CHANGE concerning a KIC Partner/Linked third party

A change in the KIC Partners' and/or linked third parties' data does NOT normally require an FPA amendment.

However, in case of **legal data change** – e.g. official name, legal form (such as Ltd., S.A.), address, etc. – the information obligation to immediately notify the EIT applies. Thus, the KIC LE needs to initiate the change in the Partnership Management platform and upload the necessary supporting documents: typically, a recent Legal Entity Form, as well as the supporting documents listed therein, which are affected by the change.

If a linked third party needs **to change the KIC Partner to which it is linked to**, this is also done through a data change. The FPA Annex 2 has to be updated, relevant supporting documents need to be provided by KIC and especially, the link has to be assessed by EIT.

Other data (e.g. website, contact data), can be edited by the KIC without the requirement to formally notify the EIT. The changed data will be automatically reflected in the next FPA Amendment confirmation.

The initiation of a data change does not normally affect the eligibility of a KIC Partner and/or linked third party, provided that the requirements described in these Guidelines continue to be complied with.

*For legal data changes of KIC partner or linked third party:*

- 1) **KIC partner/Linked third party data** shall be changed in the PIO (*by using the excel template or directly in the user interface*)
- 2) **Legal Entity Form** filled in and duly signed, and supporting documents mentioned therein<sup>30</sup> submitted (if the information submitted as part of the form are changed) [*applicable for change of legal name, legal form, official address etc*]
- 3) **Documents proving that the linked third party is legally linked to the relevant KIC partner** (e.g. statutes, registration certificate, or agreement between KIC Partner and the linked third party) [*applicable for the change of the KIC Partner to which the linked third party is linked to*]
- 4) Other documents may be submitted, if necessary depending on the type of change.

***Please, read carefully the chapter 4.4.1 Quality control and miscellaneous provisions for important information on the data and documents.***

Please note that supporting documents are only accepted in .pdf format.

#### 4.3.4 Change due to takeover

In case of a KIC partner/LTP affected by takeover, we differentiate between **universal takeover** and **partial takeover**, as these may have different consequences on the status of the KIC Partner/LTP affected and on the transfer of rights and obligations assumed under the FPA and SGA.

In case of a takeover, the KIC LE must — in addition to updating the data in the Partnership Management platform and requesting an FPA amendment or change as detailed below — specifically inform the EIT, if the takeover could:

- significantly delay the implementation of the action or affect the EU's financial interests, or
- affect the decision to award the EIT grant or the compliance with requirements under the SGA.

<sup>30</sup> LEF: [http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/legal\\_entities/legal\\_entities\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm)

The EIT shall be officially notified of the takeover by means of an FPA Amendment by letter. If the EIT considers that the registered transfer negatively affects the implementation of the action, it reserves itself the right to request further guarantees from the KIC LE to safeguard the correct implementation of the action and the EU's financial interests.

If necessary in view of the details of the takeover (depending on how the rights and obligation are transferred) and the impact on the implementation of the action, an SGA amendment shall also be introduced in line with the SGA amendment guidelines.

The financial statement for the open reporting period until the transfer must be uploaded with the next reporting period by the entity taking over, together with its own financial statement.

### Universal takeover

In the case of a **universal takeover**, the original entity, hereinafter also referred to as “former KIC Partner” is replaced by a new entity, hereinafter also referred to as “new KIC Partner”<sup>31</sup> and **all the rights and obligations — including those assumed under the FPA/SGA — are transferred to this new entity** (e.g. merger or full acquisition).

**Example:** KIC Partner X merges with another existing entity Y by:

- becoming part of it (thus X and Y are together known as ‘Y’, and entity X ceases to exist) or
- establishing a new separate legal entity (X and Y are together known as ‘Z’).

### Partial takeover

**‘Partial takeover’** means that a part of the business of the KIC Partner — including rights and obligations concerning, **fully or partially**, the FPA/SGA — is taken over by (one or more) other entity(ies) (transfer of a business unit as a going concern, e.g. partial acquisition, distribution of a business unit after dissolution/liquidation, division/demerger, etc.).

Definitions for partial takeover from AMGA<sup>32</sup>:

- ‘Partial acquisition’ means that the original entity continues to exist, but that a new entity absorbs or takes over part of the rights and obligations of the original entity. Thus, some of the rights and obligations (and contracts) of the original entity are transferred to the new entity. Since the beneficiary continues to exist as a legal entity and only some of its rights and obligations are affected, a case-by-case analysis is needed to determine the impact on the rights and obligations under the FPA/SGA (and the need for a fully-fledged FPA/SGA amendment).
- ‘Distribution of a business unit on dissolution/liquidation’ means that the original entity disappears (due to dissolution or liquidation), but that (one or more) new entities absorb or take over part of the rights and obligations of the original entity. Since only some of the beneficiary's rights and obligations are transferred, a case-by-case analysis is needed.
- ‘Division/demerger’ means that the original entity disappears and several entities replace it; different parts of the original entity are transferred to the new entities (i.e. several partial transfers to different entities).

### Changes of KIC partner or linked third party due to takeover:

---

<sup>31</sup> Here, “new KIC Partner” refers to the entity

<sup>32</sup> See H2020 AMGA p. 351.

Technically, the KIC LE needs to initiate the change in the Partnership Management platform to ensure an update of the entity data. In the PIO, the takeover is handled as ENTRY/EXIT.

Before starting the request, please, make sure that the type of takeover is clear.

- 1) **KIC partner/Linked third party data** shall be reflected in the PIO (*by using the excel template or directly in the user interface*) The specific situations as regards takeover should be clear from the information provided in the Partnership Management platform (for entry: 'KIC added value', 'KAVA involvement', respectively 'reasons for exiting' or 'KAVA involvement' for exits) and shall be supported by documents. See box below for examples on how to handle takeover in PIO.
- 2) **Accession Form including additional OPTION for change of KIC Partner due to partial takeover** (see EIT FPA annex 4 model; this is not generated by the PIO platform and, if applicable, it has to be added manually)
- 3) **Declaration of Honour on Exclusion criteria and Absence of Conflict of Interest**, filled in and duly signed by the entity taking over the KIC Partner/LTP, if not yet available.
- 4) **Legal Entity Form** filled in and duly signed<sup>33</sup>, if not yet provided.
- 5) **Supporting documents to the Legal Entity Form**, as mentioned therein, shall be submitted, if not yet provided.
- 6) **Other supporting documents concerning the takeover**, such as transfer agreement or other document incl. in particular clear statement(s) indicating:
  - that all the rights and obligations — including those assumed under the FPA/SGA — are transferred to the <name entity> + <registration number> as of <date>. *[option for universal takeover]*
  - that all the rights and obligations related to the FPA/SGA are transferred to the <name entity> + <registration number> as of <date> *[option 1 for partial takeover with full transfer of rights and obligations under the FPA/SGA]*
  - the details of the takeover and the consequences for the FPA/SGA if not all the rights and obligations related to the FPA/SGA are transferred, together with the relevant supporting information (in particular information on the financial liability of the former KIC Partner / LTP based on applicable national rules and terms of the takeover) and documents (e.g. copy of the takeover contract) *[option 2 for partial takeover with partial transfer of rights and obligations under the FPA/SGA]*
  - which entities cease to exist
  - which entities are existing KIC Partners
  - any significant delays of the implementation or if the EU's financial interests is affected
- 7) **Other supporting documents concerning linked third parties:** If the KIC Partner affected by the takeover was participating with linked third parties, in the context of the FPA ENTRY/EXIT, it will need to be determined, which of the former KIC Partner's linked third parties may remain as linked third parties in the FPA. For this purpose, information and documentation regarding the link of the linked third parties also needs to be submitted together with the FPA amendment request.

Please note that entry and exit related information and documents apply to validate the legal entity and check exclusion criteria. By way of difference to the exit rules, a report on distribution of payments and termination report for the former KIC Partner are not required.

The transfer date shall be the same date as the accession date of the new KIC Partner (entity taking over rights and obligations under the FPA/SGA).

---

<sup>33</sup> LEF: [http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/legal\\_entities/legal\\_entities\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm)

**In case of an FPA Exit due to universal takeover and partial takeover with full transfer of rights and obligations** under the FPA/SGA, the date on which the takeover takes effect will be considered as the end date of eligibility for the former KIC Partner and the starting date of eligibility for the new KIC Partner, provided that the FPA amendment request by letter is submitted within 2 months from the date of the takeover.

**In case the partial takeover results in a partial transfer of rights and obligations** under the FPA / SGA, the FPA amendment request must clearly set out the details of the takeover and the consequences for the FPA/SGA. Any elements that are not explained in the amendment request may not afterwards be held against the EIT.

**Handling data in PIO – Example situations:**

- (A) KIC Partner X merges with another existing KIC Partner Y by becoming part of it (thus X and Y are together known as 'Y', and KIC Partner X ceases to exist) (*universal takeover*)
- (B) KIC Partner X merges with another entity Y (not being a KIC Partner) by becoming part of it (thus X and Y are together known as 'Y', while the entity X ceases to exist). (*universal takeover*)
- (C) KIC Partner X merges with another KIC Partner Y by establishing a new separate legal entity Z (X and Y are together known as 'Z', while the entity 'Z' is not an existing KIC Partner) (*universal takeover*)

For KIC Partner X:

- Exit of KIC Partner X to the transfer date. When exiting the KIC Partner X, please, indicate the *universal takeover* as a reason for exiting, include *the name of the KIC Partner Y*, list the ongoing KAVAs in the KAVA involvement field (if applicable), and do not forget to submit the supporting document(s) concerning the takeover.

For entity/KIC Partner Y:

- Situation A: no action needed
- Situation B&C: accession of new KIC Partner Y: When requesting KIC Partner Y, please, also indicate *universal takeover* in the KIC added value, include *the name of the KIC Partner X*, list KAVAs involvement (if relevant) and do not forget to submit documents concerning the takeover (if already available).

For entity Z:

- Situation C: accession of new KIC Partner Z: When requesting KIC Partner Y, please, also indicate *universal takeover* in the KIC added value, include *the name of the KIC Partner X*, list KAVAs involvement (if relevant) and do not forget to submit documents concerning the takeover (if already available).

Partial takeover will be handled in PIO similarly to the above examples. In case of partial takeover, the supporting documents must provide enough information to ensure that the extent of the transfer of rights and obligations under the FPA/SGA is clear.



### 4.3.5 FPA status change

FPA status stands for a KIC Partner and Linked Third party (namely, an entity with a legal link and an affiliated entity)

In some situations, an organisation may decide to change its involvement from a linked third party to a KIC Partner or vice versa. The relevant documents and information, if not yet provided, shall be submitted in line with the previous sub-chapters.

The FPA status change is handled with a specific function and can only be done in the PIO User interface. An excel template is not available for this operation due to its complexity. General requirements for entry and exit applies as described in chapters 4.3.1 and 4.3.2. The below explains some specificities.

#### Scenario 1: A KIC Partner changes to a Linked Third Party

- KIC Partner Exit:
  - Relevant information, such as 'reasons to exit' the KIC Partnership and 'KAVA involvement' of the KIC Partner shall be provided by the KIC LE in the PIO. 'FPA status change' may be indicated among the reasons for exit. Should the entity continue implementing a KAVA, the KIC LE does not need to provide the termination report nor the distribution of payments report.
  - Eligibility end date should allow continuation of the eligibility period for the entity (continuing as linked third party). The eligibility period (end) date is important for the entity to terminate its rights and obligations as KIC Partner.
  - As a direct effect of the change of status of a KIC Partner into a Linked Third Party, any Linked Third Parties to the former KIC Partner shall no longer be considered eligible from the exit date of the former KIC Partner—and as such FPA Annex 5 shall be consequently amended (by LTP exit or change of the KIC Partner to which it is linked to, the latter done by means of 'data change').
- LTP entry:
  - Relevant information needs to be provided by the KIC LE, such as the nature of the link to an existing KIC Partner, together with the necessary supporting documents.
  - Eligibility start date should allow continuation of the eligibility period for the entity (continuing implementing action as linked third party). LTP's proposed entry date shall allow the continuation of the eligibility period for the entity. When no exit date is proposed, the change from KIC Partner to LTP shall automatically take effect from the day following the notification date. The eligibility period (start) date is important for the entity to operate with rights and obligations as a linked third party.

#### Scenario 2: A Linked Third Party changes status to a KIC Partner

- KIC Partner entry:
  - Relevant information, such as KIC added value or KAVA involvement (if applicable) shall be provided by the KIC LE in PIO.
  - The accession date shall be the one specified in the Accession Form in line with the rules of the current guidelines. The eligibility period (start) is important as a date when the entity assumes rights and obligation as a KIC Partner.
- LTP Exit:
  - the KIC LE shall specify the KAVA in which the LTP is involved
  - the exit date shall allow the continuation of the eligibility period for the entity. It is important as a date to which the entity stops assuming rights and obligations as a linked third party.

If the continuity of eligibility period is ensured and the SGA involvement remains unchanged, there is no need for the submission of the report on distribution of payments and termination report for the exiting KIC partner to the EIT. The financial statement shall be uploaded with the next reporting period by the entity with updated FPA status, together with its own financial data. The KIC LE shall make sure that the entities concerned are duly informed of the effects of the change from KIC Partner to LTP and vice versa in terms of the rights and obligations under FPA.

The FPA status change with regard to the 'International Partner' category will only be possible as of 1 January in any given year.

#### 4.3.6 Summary of information and documents to be attached to the Request

KIC PARTNER	LINKED THIRD PARTY
<p>If the entity adds value to the KIC Internal KIC entry/exit process</p> <p><b>ACCESSION date:</b> date of signature of the Accession form by KIC partner, or another date specified*</p> <p><b>PROPOSED TERMINATION/EXIT date:</b> proposed by the KIC; this date must be after the notification in cases when the entity implements KAVAs in the ongoing SGAs</p>	<p>If necessary to implement the KAVA KIC partner is responsible for the work carried out by linked third party; linked third party has to comply with the FPA/SGA provisions</p> <p><b>PROPOSED ENTRY date:</b> proposed by the KIC; if not specified, the date of the official request (notification date)</p> <p><b>PROPOSED EXIT date:</b> proposed by the KIC; this date must be after the notification in cases when the entity implements KAVAs in the ongoing SGAs</p>
ENTRY	
<p><b>KIC Partner entry data</b></p> <ul style="list-style-type: none"> <li>- Entity's Legal and contact information; including exit/entry dates</li> <li>- Brief explanation of the added value the new organisation brings to the KIC</li> <li>- a title of the KIC activity in which the new entity is going to be involved (if applicable)</li> <li>- For entities established in a non-associated, not automatically eligible country: A description justifying why its participation in the KIC's operations is essential</li> </ul> <p><b>Accession Form</b></p> <p><b>Declaration of Honour</b></p> <p><b>Legal Entity Form</b> and supporting documents</p> <p>n/a</p>	<p><b>Linked Third Party entry data</b></p> <ul style="list-style-type: none"> <li>- Entity's Legal and contact information; including exit/entry dates</li> <li>- n/a</li> <li>- a title of the KIC activity in which the new entity is going to be involved (if applicable)</li> <li>- For entities established in a non-associated country: A description justifying why its participation in the KIC's operations is essential</li> </ul> <p>n/a</p> <p><b>Declaration of Honour</b></p> <p><b>Legal Entity Form</b> and supporting documents</p> <p><b>Documents proving that the linked third party is linked/affiliated to the relevant KIC partner</b> (e.g. statutes, registration certificate, and agreement between KIC Partner and the linked third Party) (only upon request from the EIT)</p>
EXIT	
<p><b>KIC Partner exit data</b></p> <ul style="list-style-type: none"> <li>- Reasons why</li> <li>- Opinion of the KIC partner (or letter if applicable)</li> <li>- Evidence that the opinion of the KIC partner has been requested in writing (if applicable)</li> </ul>	<p><b>Linked Third Party exit data</b></p>

KIC PARTNER	LINKED THIRD PARTY
<ul style="list-style-type: none"> <li>- a title of the KAVA which the entity is going to leave and information on the reallocation (if applicable)</li> </ul> <p><b>Exit documentation:</b> e.g. communication about wound-up, if applicable</p> <p><b>Report on the distribution of payments</b> <b>Termination report,</b> if partner is active under the on-going SGA (within 30 days from the date the termination takes effect; if applicable)</p>	<p><b>Exit documentation:</b> e.g. communication about wound-up, if applicable</p> <p>n/a</p>
DATA CHANGE	
<p><b>KIC Partner data changed in PIO</b> <b>Legal Entity Form</b> and supporting documents (if information relevant to the form are changed) Other</p>	<p><b>Linked Third Party data changed in PIO</b> <b>Legal Entity Form</b> and supporting documents (if information relevant to the form are changed) <b>Documents proving that the linked third party is linked/affiliated to the relevant KIC partner</b> (if a KIC Partner to which the LTP is linked to changed) Other</p>

For specific cases such as change due to takeover or FPA status change, please, chapters 4.3.4 and 4.3.5

## 4.4 Quality control and miscellaneous provisions

### 4.4.1 Quality control by the KIC LE

#### Horizon 2020 Beneficiary Register

In order to facilitate the FPA amendment process, the EIT strongly advises the KIC LE and the KIC Partners to use the publicly available ‘**Horizon 2020 beneficiary register**’ to verify if the entering organisation has a **valid PIC number (participant identification number)**.

The H2020 Beneficiary Register includes data for those organisations which apply for Horizon 2020 funds, and is available at: <https://ec.europa.eu/research/participants/portal/desktop/en/organisations/register.html>

When the **PIC** is marked as ‘valid’, the legal data of the organisation can be considered as correct, unless a recent change in any legal data have occurred, in which case, the database needs to be updated and change needs to be requested by the KIC to the EIT. Also, organisations with a valid PIC number are likely to be registered in ABAC with assigned LEF number. This may be useful information for the KIC LE while carrying out a first quality check of the data provided by the relevant organisation.

#### Quality control of the FPA Amendment request and related documents

**Partnership Management platform:** All necessary data per entity shall be provided in the platform, by either using the available excel import templates or directly entered into the user interface. The inserted data shall correspond to the official Request for FPA amendment. It shall include the accession and termination dates in line with the determination rules set out in Chapter 3. The eligibility dates will be assessed and will be confirmed in the Confirmation letter signed by the EIT.

The Partnership Management platform shall be used as **exclusive repository of documents related to FPA Amendments** and the entities listed therein, thus all requested documents need to be uploaded there, and separate e-mailing shall be avoided, unless specifically requested by the EIT.

**The core legal data** (e.g. legal name, address, registration number, and VAT number) both in PIO and in the submitted documents (e.g. Accession Form, Declaration of Honour, etc.) must correspond to the legal data included in the supporting documents to the Legal Entity Form.

**The Accession form** shall be signed by the KIC Partner no earlier than 4 months from the submission. 4-months rule also applies in case of alternative option to indicate a specific future or past date unless an exception is granted- *see chapter 3.1 for more details on when to use this alternative option*. The accession form shall be counter-signed by KIC LE representative authorized to sign it.

**Concerning the Declaration of honour**, please, make sure that the organisations carefully read all the exclusion criteria and provide correct answers. Please, also make sure that the organisations complete all sections applicable for them.

**The Legal Entity Form:** the form should correspond to the public/private type of entity. The date of signature should not be older than 90 days. Supporting documents to the LEF – depending on the type of document – should also be recent. If an organisation is not registered in ABAC or their data are not valid anymore, the LEF and supporting documents will be transferred by the EIT to the European

Commission's DG BUDG who will assess it and, in case of positive outcome, validates the legal entity. DG BUDG may request further supporting documents to perform the validation in ABAC, if deemed necessary.

Please, select the correct type of the Legal Entity Form (public/private) and read the related instructions therein for the list of supporting documents needed. Bear in mind that only recently signed LEF is accepted, they must be correctly completed, dated, stamped<sup>34</sup> and signed. Regarding the supporting document, VIES print-out cannot be accepted as evidence of a VAT number. The VIES website is considered as a non-reliable tool for the validation exercise of legal entities. The quality and update of the VIES database are not guaranteed and the available information varies between Member States.

At the same time, the LEF and supporting documents serve to ensure the registration and legal validation of the organisation in the ABAC database managed by the European Commission services, a pre-condition to benefit from EIT grant as beneficiary of an SGA.

**Supporting documents proving the legal link or affiliation of the Linked Third Party to the KIC Partner:** the KIC LE, together with the particular KIC Partners, remain responsible for verifying the 'link', as defined in chapter 2.3, as well as if the linked third party is a legal entity or not. The document proving **the legal link or affiliation** shall demonstrate that the link or affiliation pre-dates the FPA Amendment request date/SGA involvement of the respective LTP. Besides the chapter 2.3 where definition is available, be also guided by the chapter 3.1 with regard to what shall be explained under the 'nature of the link' in PIO.

The **Accession Form**, the **Declaration of Honour on the exclusion criteria** and the **Legal Entity Form** need to be signed by the legal representative of the KIC partner or other person authorized to sign on behalf of the KIC partner. In case of signatures by proxy, please attach the authorisation to sign for the respective person. Before submission, the KIC LE shall verify if the documents are signed by authorized persons.

**Please note that the documents are only accepted in .pdf format.**

The KIC's governance rules (i.e. selection and approval of KIC partners, termination of membership of a KIC partner) shall be made in compliance with both, entry and exit procedures explained in these guidelines and the FPA provisions at the same time.

### Small and Medium Sized Enterprises

**SME status:** For statistical purposes, the KIC Partners and Linked third Parties should inform the EIT about their SME status in the Partnership Management tool and in the supporting documents, particularly LEF form. To do so, it is recommended to read the SME definition and use the SME Self-Assessment questionnaire provided by the Horizon 2020 Participant portal.

Currently, the SME status is neither eligible criterion nor has effect on the level of requested funding. As such, the SME status shall be declared by each organisation and it will not be verified based on supporting documents.

---

<sup>34</sup> In some few countries, the stamp is not applicable.

### What is an SME?

Small and medium-sized enterprises (SMEs) are defined in the EU recommendation 2003/361. The first step to qualify as an SME is to be considered an enterprise. According to the Definition, an enterprise is 'any entity engaged in an economic activity, irrespective of its legal form'. It is the economic activity that is the determining factor, not the legal form. In practice, this means that the self-employed, family firms, partnerships and associations or any other entity that is regularly engaged in an economic activity may be considered as enterprises. An economic activity is usually seen as 'the sale of products or services at a given price, on a given/direct market'.

The main factors determining whether an enterprise is an SME are:

1. staff headcount
2. either turnover or balance sheet total

Company category	Staff headcount	Turnover	or	Balance sheet total
Medium-sized	< 250	≤ € 50 m		≤ € 43 m
Small	< 50	≤ € 10 m		≤ € 10 m
Micro	< 10	≤ € 2 m		≤ € 2 m

These ceilings apply to the figures for individual firms only. A firm that is part of a larger group may need to include staff headcount/turnover/balance sheet data from that group too.

Relevant links and documents are made available on the SME Definition webpage of The Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs: [http://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition\\_en](http://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition_en)

Under the link, you can find updates of the SME definition and more details, e.g.:

- The revised User Guide to the SME definition (770 kB, available in all EU languages)
- Declaring your enterprise to be an SME (the form is available in all languages as an annex in the revised User Guide)
- Use the SME self-assessment questionnaire and determine whether an organisation qualifies as a small and medium-sized enterprise

### SME self-assessment questionnaire:

[http://ec.europa.eu/growth/tools-databases/SME-Wizard/?field\\_newsroom\\_topics\\_tid=233](http://ec.europa.eu/growth/tools-databases/SME-Wizard/?field_newsroom_topics_tid=233)

**Note: The SME definition is under the revision. Please, follow the updates on the EC website and apply the new definition, when available**

[http://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition\\_en](http://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition_en)

## 5 Publicity

The EIT may publish information in any form and medium of the KIC Partner, including its name, address, contact details, amount of the grant and any picture or audio-visual or web material provided to the EIT, subject to Art. 13.4 of the EIT Regulation and Article 42 of the FPA. The EIT may agree to forgo such publicity, upon a reasoned and duly substantiated request by the KIC, if disclosure of the information indicated above would risk compromising the partners' or members' security or prejudicing their commercial interests. The KICs shall duly indicate to the EIT whenever they request to consider certain information communicated to the EIT as confidential.

Please note that the EIT has an obligation to publish the list of beneficiaries/KIC Partners as well as their locality (address) and the amount of funding allocated to the KIC on an annual basis.<sup>35</sup>

In accordance with the EIT Regulation (Art. 5) which defines the KIC's operations as open and transparent, the KIC shall clearly publish a list of KIC Partners. The KIC should bear in mind that the organisation becomes a KIC Partner after the EIT's approval/confirmation. The EIT is processing personal data in the context of grant management in accordance with the applicable legal framework. For more details, please refer to <https://eit.europa.eu/data-protection>.

## 6 The EIT Confirmation (by Letter)

By issuing the Confirmation Letter signed by EIT Director and uploaded in PIO, the FPA amendment is concluded and the requested entities are approved.

For determination of the eligibility period start and end, please, consult chapter 3. For a detailed description of the accession and termination process, please consult Chapter 4.

### 6.1 EIT's assessment of the request

The EIT aims at approving and confirming the entities and related changes requested within the 2 months window (as specified in chapter 4.1), however, the confirmation process highly depends on the quality of documents and information provided.

The EIT reserves the right to suspend this period when corrections and additional clarifications are requested from the KIC. For the avoidance of doubt, the suspension shall not delay the entry date – eligibility period (start) date as defined under chapter 3.1, should the EIT receive all corrections and additional clarifications within the deadline specified in its request and approve the entity.

The EIT processes the KIC request as follows:

Checks	Guiding questions
<b>Completeness and correctness of the Request</b>	Does the information in the request letter correspond to the PIO Request Package? <i>If not, the whole request package will be sent for correction</i>
	Are all documents and information necessary to process the request provided? Are all data and documents correct? <i>This check is completed during the checks below.(*)</i>
<b>Legal Entity Validation</b>	Does the organisation legally exist? Does it comply with the definition of a legal entity? (verification in the ABAC database or registration therein is carried out)  (*) Are all data in the supporting documents and PIO correct?

<sup>35</sup> See Article 38 of the Financial Regulation.

Checks	Guiding questions
<b>Non-Exclusion check:</b>	Is the entity in any of the exclusion criteria situations specified in the Declaration of honour, or, is it included in the Early Detection and Exclusion Database (EDES) of the European Commission? (this check should produce negative result) (*) Is the DOH filled in correctly and corresponds to the entity?
<b>Eligibility dates determination</b>	What is the eligibility start and/or end date? Does it comply with the relevant rules? (*) Is the accession form correctly filled in and signed?
<b>KIC partner's added value assessment (only for KIC Partners)</b>	Does the KIC Partner present a KIC added value for the partnership? (*) Has the KIC provided enough information to assess the KIC Partners added value to the KIC?
<b>Nature of affiliation or nature of the legal link validation (only for Linked Third parties)</b>	Is the entity affiliated (in effective control situation) or with a legal link (broad and not specifically created for the work under specific action)? (*) is the link/affiliation sufficiently described and is the document provided proving the affiliation/link?
<b>Third country justification (if applicable):</b>	Is the organisation established in a non-associated third country not automatically eligible for funding? If yes, is the participation essential for the KIC's operation? (*) Has the KIC provided enough information to assess the KIC Partners added value to the KIC?
<b>Operational and financial capacity check</b>	Does the KIC retain the operational and financial capacity to implement its Strategic Agenda and Business Plans under the ongoing and future SGAs?
<b>Effects on the implementation of the action, the KIC strategy and KIC Partnership</b>	Does the requested change to the KIC Partnership negatively affect or delay the implementation of the Business Plan? Does it affect the implementation of the KIC's strategy? Does it call into question the award of the FPA?

Throughout the assessment process carried out by EIT, the KICs may see if documents/data provided per organisation are correct - (OK/NOK).

### Completeness and correctness check

The check is carried out **at the Request level** and **the entity level**.

(I) First of all, **the EIT verifies if the information in the request letter correspond to the PIO Request Package**. If this is not the case, the whole request package will be immediately sent for correction. The EIT will not continue the process until the PIO request package and the request letter (in pdf) are correct.

(II) Secondly, **all necessary documents and information per entity must be provided** in PIO in order to allow the EIT to process the request. This task goes in parallel to the below checks. If an information or documents is missing or is incorrectly provided, the EIT may (a) requests correction



of the entity (e.g. missing or incorrect legal entity form), (b) correct the information in PIO (e.g. VAT or full official name are corrected after the legal data verification done in ABAC).

Particular attention has to be given to the change due to the takeover or termination of a KIC Partner where more information is required to describe and explain the event. See relevant chapters 4.3.2 and 4.3.4.

When an entity or a request package is sent for correction, its PIO status changes (from 'assessment' to 'pending' and from 'submitted' to 'corrections', respectively). The system issues a notification. After providing corrections, the KIC must re-submit the organisation/request package in PIO.

### Legal Entity Validation

As mentioned in chapter 2.1, the KIC Partner and linked third party must legally exist. Moreover, in order to obtain grants, the organisation must be registered in the Commission's accounting system called ABAC. In view of the EIT FPA/SGA – multi-beneficiary agreements –, the KIC Partners and linked third parties included in the SGA are linked to the KIC's annual budget (EIT grant) as secondary beneficiaries.

Thus, **the EIT checks the registration of the entity in the Commission's accounting system called ABAC and eventually registers it therein.**

When an entity is registered in ABAC, it has a LEF number (composed of 10 digits, starting with 6xxxxxxx). If the entity is already registered in ABAC – i.e. the organisation is assigned a LEF number, it means its legal data have been validated by DG BUDG. If the legal data in ABAC corresponds to those in PIO and submitted LEF and supporting documents, the EIT validates the legal data OK. Should the organisation not be registered in ABAC, the EIT shall ask DG BUDG for registration using the submitted legal entity form and supporting documents. EIT first pre-check if the documents are correct, then, they are forwarded to DG BUDG for registration. If documents are not correct, the EIT will mark them as NOK and send the entity for correction in PIO. The ABAC registration will be pending till the KIC re-submits the new corrected documents.

During the ABAC registration, DG BUDG validates data provided by the organisation in the legal entity form against the supporting documents and may request further clarification and/or corrections. In this case, the EIT will notify the KIC LE and forward the DG BUDG request.

In case of an entity which does not have legal personality, for the purpose of the FPA entry, its representatives must prove that they have the capacity to undertake legal obligations on its behalf.

### Non-Exclusion check

An organisation may benefit from the EIT grant, provided it is not in any **exclusion criteria situation**. This check is carried out in two ways:

The EIT evaluates the situation based, in particular, on the data in the European Commission's Early Detection and Exclusion System (EDES)<sup>36</sup>. In practice, EIT uses ABAC where a flag is available in case

---

<sup>36</sup> More information on EDES is available at: [http://ec.europa.eu/budget/explained/management/protecting/protect\\_en.cfm](http://ec.europa.eu/budget/explained/management/protecting/protect_en.cfm)

the organisation is in EDES. If an entity is not registered in ABAC, EDES needs to be checked as the database also include the entities registered therein by national authorities.

The check is carried out at the time of the FPA signature/amendment, as well as before the grants are awarded (before the SGA signature) and before the payment is executed.

Furthermore, the KIC LE must provide the declaration of honour filled in and signed by the KIC Partners and linked third parties. In case of any doubt, the EIT reserve the right to request exclusion criteria evidence from the KIC LE and the Partners, as mentioned in the declaration of honour.

If needed, the EIT may request clarifications or additional information on the potential KIC Partner/linked third party. If compliant, the period of verification of the exclusion criteria evidence will not delay the 'entry date' as defined under chapter 3. In case of non-compliance, the EIT will inform the KIC LE on its assessment, justifying the reasons for not accepting the potential KIC Partner/Linked Third Party as beneficiary of EIT grant. Furthermore, the entity may fall under an exclusion situation but offer remedial measures. In this case, the EIT may accept the remedial measure and approve the KIC Partner/Linked Third Party as beneficiary of EIT grant.

**What is Early Detection and Exclusion System (EDES)?**

[http://ec.europa.eu/budget/explained/management/protecting/protect\\_en.cfm](http://ec.europa.eu/budget/explained/management/protecting/protect_en.cfm)

Early Detection and Exclusion System (EDES) is available publically at:

[http://ec.europa.eu/budget/edes/index\\_en.cfm](http://ec.europa.eu/budget/edes/index_en.cfm)

Please note that the publicly available list of organisations concerns only the cases for which a decision was taken to publish for, where necessary, reinforcing the deterrent effect of the sanctions. Other cases of exclusions and financial penalty are listed in the Commission's database (EDES-DB) which is only accessible to authorised users involved in the implementation of the EU budget.

### Eligibility dates determination

The eligibility period (start – end) is determined in accordance with the chapter 3.

If the accession date is incorrectly indicated by the KIC the EIT requests a new Accession Form to be signed with a correctly indicated accession date.

For exit, the EIT considers if an entity implement the activities in an ongoing SGA, if the prior notification, re-allocation of resources and termination report is applicable, and verifies the proposed exit date correspondingly, in line with the chapter 3.

### KIC partner's added value assessment

As also described in chapter 2.2, in accordance with Article 6(2) of the EIT Regulation, addition of a new KIC Partner may be requested if the organisation adds value to the partnership. With due respect to the substantial overall autonomy of the KICs as regards their composition, the EIT will assess information provided by the KIC in the PIO – see chapter 4.3.1. When assessing this element, the EIT is guided by the following:

Does the KIC Partner present an added value for the KIC partnership, for instance, in terms of:

- its key competences in specific field of interest of the KIC, e.g. access to knowledge, knowhow, and new skills, new expertise or infrastructures, links to markets, value chains and business development opportunities that will be beneficial for the partnership,
- its designated role within the partnership (e.g. participation in a particular area or segment of the KIC's portfolio of activities),
- its strategic importance or governance change in line with the KIC's Strategic Agenda or recommendations given by the EIT (e.g. EIT GB strategic recommendation),
- its importance for the Business Plan and the KIC's portfolio implementation (incl. reference to a specific KAVA).

### Nature of affiliation or nature of the legal link validation (only for Linked Third parties)

The information and supporting document provided in line with chapter 4.3.1 is checked against the definition of Linked Third Parties explained in chapter 2.3.

The start/end date of the link may also affect the determination of the eligibility start/end date.

### Third country justification (if applicable)

In line with the general conditions for the entities who may receive an EIT grant, the EIT will assess the justification for entities established in non-associated and not automatically eligible countries, based on the criteria described in chapter 2.4 and the information provided by the KIC at the entry of a new entity - see 4.3.1.

If rejected, the organisations cannot receive EIT grant nor claim costs eligible.

### Operational and financial capacity check (FPA and SGA level)

In accordance with the EU Financial Regulation<sup>37</sup> and the EIT Regulation, (I) **the KIC partnership shall have the operational and financial capacity** to implement its Strategic Agenda and the Business Plans. (II) Besides the KIC Partnership, **the KIC Partners themselves need to have the necessary operational and financial capacity to implement the proposed tasks in the Business Plan**. For definition of the operational and financial capacity, see chapter 2.1

The different stages of the EIT's assessment are described as follows:

(I) In accordance with the EU Financial Regulation, **in case of framework partnership agreements, verification of the operational and financial capacity** shall be performed before signature of the framework partnership agreement. The operational capacity verification of the KIC Partnership is carried out at the time of the proposal evaluation and the financial capacity of the coordinator<sup>38</sup> is verified after the KIC designation.

During the FPA implementation, the EIT reserves the right to carry out an additional verification including requests for additional documents if proposed changes in the KIC Partnership participating in the FPA are considered as having a substantial effect on its operational and financial capacity.

Taking into account the high number of KIC Partners participating in the FPA, the exit of an individual KIC Partner is not considered to affect the operational and financial capacity of the KIC. The operational and financial capacity of the KIC will be subject to separate additional verification in case of substantive

---

<sup>37</sup> See Articles 196 (1) c), 198 (2) to (6), 130 (6) of the EU Financial Regulation.

<sup>38</sup> See Article 25 (9) to (11) of the H2020 Rules for participation

changes in the partnership, in particular in the situation **when a significant number of KIC Partners leave the KIC**.

(II) Regarding the KIC Partners, the KIC LE shall make sure that the KIC Partners have adequate resources to implement the KAVAs included in the Business Plan.

EIT carries out verification in case of doubts about financial and operational capacity to implement specific KAVA(s). These may arise in particular in the following cases: e.g. an organisation such as association with a limited internal resources and history track record; a single organisation is implementing a KAVA, thus is the only one technically liable organisation for the KAVA's implementation.

The verification may be carried out at the PIO request stage - with regard to the entity's involvement in the ongoing Business Plans -, or at later stage at the Business Plan (amendment) assessment.

In case of an entity which does not have legal personality, for the purpose of the FPA entry, its representatives must prove that the organisation has financial and operational capacity equivalent to that of legal persons.

**For operational capacity**, the following may be requested from the KIC Partner or KIC LE:

- Risk assessment and mitigation measures, eventually an action plan to address the KIC partner(s) operational capacity with respect to the particular KAVA(s).
- Relevant previous projects, activities, publications or other achievements (e.g. if not part of KCAs description)
- Description of any significant infrastructure or any major items of technical equipment
- Description of third parties contributing to the work but not represented as KIC partners
- Curriculum Vitae or description of the profile of the team

**Financial viability** is verified by checking that the organisation:

- has sufficient liquidity - is able to cover its short-term commitments
- is financially autonomous
- is solvent - capable of covering its medium and long-term commitments;
- is profitable - generating profits, or at least with self-financing capacity.

KIC Partners may check their **organisation's financial viability** using the Horizon 2020 Financial self-check tool, available at: <http://ec.europa.eu/research/participants/portal/desktop/en/organisations/lfv.html>

If the organisation's financial viability has to be assessed, the KIC Partner will have to provide financial information and relevant supporting documents covering the last closed financial year – if not already available in Horizon 2020 Participant portal in relation to another project. The EIT will carry out a financial analysis on the last closed financial year. The KIC Partner may be asked to provide a declaration in which it states to be aware of its financial liability under the FPA.

### Effects on the implementation of the action, the KIC strategy and KIC Partnership

(1) As a request of entering/exiting organisation(s) may affect the ongoing or future business plan implementation, the EIT will verify, in particular, whether a change to the KIC partnership is likely to substantially affect or delay the implementation of the Business Plan(s). The main focus will be on the effects to the ongoing SGA and the information provided in 'KIC added value' (entry), and 'reasons for

exiting' (exit) and 'KAVA involvement' (for both, entry or exit) alongside the information provided in the Reallocation/termination report. The EIT's assessment is guided by the following risk assessment:

- Are there fundamental changes to the KIC Partnership – i.e. above 50 % of active KIC Partners (exiting)?
- Do(es) the KIC Partner(s) implement KAVA(s) under the ongoing SGA?

If the answer to both above questions is YES, then, the following is considered:

- does the KIC distribute the action tasks/KAVA involvement to other KIC Partners/Linked third parties or otherwise mitigate the exit(s)?

If the answer to the above question is NO, the KIC shall nevertheless consider to implement a mitigation measure and EIT may follow more in detail the Partnership change and SGA implementation, depending on the level of the change in the KIC Partnership.

In line with the operational check, the EIT will consider how the changes in the partnership – especially in case of exiting of key organisations or a large number of organisations – will affect/put in risk the current and/or future KIC operations especially the delivery of the KIC's strategic agenda.

Furthermore, in case of fundamental changes in the KIC Partnership (above 50% of active KIC Partners), the EIT will also consider whether the change calls into question the SGA Award decision. This assessment puts the KIC Partnership change in perspective with the relevant evaluation results related to the funding allocation that constituted basis for the SGA Award decision.

(2) The EIT will also verify how the changes affect the KIC Partnership (geographical, KTI balance etc). This is not necessarily carried out for a single confirmation/approval but at least with annual frequency, especially in preparation for GB Hearings.

## 6.2 Rejection of the requested change to the KIC Partnership

The EIT may reject the requested organisation and/or the request for example in case of one of the below situation (*non-exhaustive list*). For more details, please, refer to the chapter 6.1

- organisation is not a legal person as defined in chapter 2.1 (eligibility criteria)
- organisation is ineligible, e.g. organisation is established in one of the non-associated not automatically eligible countries and its involvement with KIC's operations (and activities) is not considered essential by the EIT (eligibility criteria)
- organisation is in one of the exclusion criteria situation listed in the Declaration of Honour (exclusion criteria)
- organisation is included in the EDES database (exclusion criteria)
- organisation does not have the necessary financial and/or operational capacity to implement the action (if applicable).
- the KIC fails to provide information/documents within the deadlines set in the second reminder
- the KIC fails to take certain action within the deadlines set in the second reminder (e.g. remove a linked third party that is in one of the situations above (ineligible, cannot be validated,

- insufficient operational capacity, insufficient financial capacity, exclusion situation, fails to provide information/documents).
- changes in the KIC Partnership call into question the decision to award the framework Partnership Agreement or breaches the principle of equal treatment of applicants or the KICs.

Please note that in some cases, the EIT may reject an entity after its initial approval, for instance, the organisation re-allocated its seat to a non-associated country not automatically eligible for funding and its participation is not considered essential to KIC's operations.

For the below listed example situations, the EIT may request an action plan/mitigation measures and follow closely the KIC Partnership changes, e.g. within the monitoring, multi-annual progress assessment, the good governance or other review:

- The KIC Partnership changes are likely to substantially affect or delay the implementation of the specific actions
- The operational capacity of the KIC Partnership calls into question the implementation of the multiannual strategy (strategic agenda)
- The operational and financial capacity of a KIC Partner is weak

# APPENDIX – KIC Partnership formation and its monitoring during Start-up Phase

This chapter provides additional guidance related to **the key stages of the KIC formation from the KIC Proposal submission to the FPA signature and shortly after**. The start-up year is a crucial period when a designated consortium composed by future KIC Partners are setting up the KIC's legal and operational structure, appointing CEO and submitting its first Business Plan.

**Please note that the partnership management platform (PIO) does not handle entities in relation to the Start-up Grant Agreement (SUGA) and eligibility under this agreement.**

During the Start-up year, the tool is used:

- to monitor the future KIC Partnership in preparation for the FPA signature,
- to collect all documents and justifications.

The KIC Partnership formation during the Start-up phase is handled within the Request Package 0 – its submission and eventual request for correction. Legally, as of FPA signature the chapters 1 - 6 apply.

The following lists the key stages in which the KIC Partnership is formed. For clarity purposes, the text explains both, the information needed, the process and effects related to the FPA signature and future KIC Partnership on the one hand, and the Start-up Grant agreement and its implementation, on the other. In other words, the changes of the KIC consortium from the KIC designation to the FPA signature are analysed by EIT against its potential effects on FPA (and strategic agenda implementation) as well as SUGA implementation.

## 1. KIC Consortium - Proposal submission and evaluation

All applicants listed in the administrative part of the proposal are considered as future KIC Partners. Furthermore, in the proposal (part B), partnership growth strategy is described.

Additionally, a list of linked third parties indicates possible involvement of other organisations in the KIC's activities (if applicable to the Call for KIC Proposals). Based on previous experience, some linked third parties are requested to become KIC Partners.

The submitted proposals are evaluated based on the pre-defined criteria, among which the composition of the partnership plays its role. Therefore, changes in the KIC Partnership from its

designation to the FPA signature may call into question the award of the FPA and the SGA. Thus, the change shall be limited to the minimum necessary under duly justified circumstances.

## 2. KIC consortium designation (Year N-1)

After all submitted proposals are evaluated and Hearings with the relevant applicants are held, the EIT GB selects and designates a KIC consortium. As mentioned above, the designation is a result of an evaluation process which includes consideration about the partnership's innovation potential.

## 3. SUGA beneficiaries - SUGA Award and SUGA signature (year N)

After the selection and designation, the KIC Consortium prepares a start-up plan for the upcoming start-up phase. The start-up plan is evaluated by the EIT and if concluded positively, a start-up grant is awarded. Subsequently, a start-up grant agreement (SUGA) is signed between the EIT and the KIC Consortium Coordinator who is required to sign on behalf of the organisations of the consortium as designated by the EIT GB. The individual consortium members access SUGA by signing their individual SUGA Accession Forms within the established deadline<sup>39</sup>.

**Important:** By signing the SUGA Accession forms, the beneficiaries accede the Start-up grant agreement, NOT the future Framework Partnership Agreement.

Legally, those who accede the start-up grant agreement are bound to successfully deliver the start-up plan and the main objective to legally and operationally prepare the KIC as well as to pilot its first activities.

Thus, in order to guarantee the implementation of the start-up plan, all consortium members are required to be listed among the **SUGA beneficiaries. This requirement is checked against the proposal administrative part.**

Additionally, a list of linked third parties (if applicable under the Start-up grant agreement) indicates involvement of other organisations in the start-up of the KIC.

In preparation for the Start-up Grant agreement signature, the EIT or the Consortium coordinator provides data and relevant documents in **the Partnership Management Platform under Request Package 0**. When preparing the Request Package 0, the general approach described in Chapter 4.3.1 is followed, with some exception/adaptation<sup>40</sup>.

- KIC added value: for those entities listed in the KIC Proposal (admin part), the relevant field shall contain a reference to the KIC Proposal and KIC designation; for any new entities, this field shall explain why the KIC is requesting it to be added to the future KIC Partnership. It is important to keep in mind that the changes from the designation to the FPA signature shall be limited to the minimum necessary under duly justified circumstances.

---

<sup>39</sup> Start-up Grant Agreement is a multi-beneficiary agreement based on Horizon 2020 model adapted to the start-up phase and is signed between the consortium coordinator and the EIT.

<sup>40</sup> In the text below, additional information is added in order to clarify the difference between the assessment related to the FPA and the assessment related to SUGA (the latter in green).



- Accession date / proposed entry date shall be established as 1 January year N+1 representing the expected eligibility period starts under the future FPA. In this respect, the partnership management platform does not handle the entities in relation to the SUGA eligibility but it is a tool to monitor the future KIC Partnership in preparation for the FPA signature.
- **SUGA related Accession form: at this stage, SUGA accession forms shall be submitted under 'other' document category, as the 'accession forms' category in the partnership management platform is only valid for the FPA related Accession form, which shall only be submitted after the FPA is signed.**

Furthermore, note that the Request Package 0 submission does not require any 'request letter' (i.e. chapter 4.2 is not relevant).

The EIT will use the Partnership Management Platform to carry out relevant checks as described in Chapter 6 (*specific aspects of the Start-up phase are explained*).<sup>41</sup>

- Legal Entity Validation<sup>42</sup>
- Non-Exclusion check: with regard to Declaration of Honour, note that the document is submitted together with the proposal. For the record, it should be uploaded in PIO.
- Eligibility dates determination: As the partnership management platform does not handle the entities in relation to the SUGA eligibility but the FPA. The eligibility start date shall be set to 1 January Year N+1 (in line with the FPA provision). **The eligibility start date for implementing start-up plan under the SUGA are determined in line with SUGA provisions!**
- KIC partner's added value assessment is by default positively assessed for those organisations who are listed in the Proposal (admin part) as a result of the KIC designation. For any new entity, the added value to the future KIC Partnership needs to be well justified and will be assessed by EIT prior SUGA award and signature.
- Nature of affiliation or nature of the legal link validation (only for Linked Third parties)
- Third country justification (if applicable):
  - o **With regard to SUGA: additional information may be requested by the EIT to clarify the essential involvement of the entity in the SUGA implementation.**
  - o With regard to FPA: by default is positively assessed for those organisations who are listed in the Proposal (admin part) as a result of the KIC designation, however, the relevant fields have to be filled in with relevant justifications. For any new entity, the justification will be assessed by the EIT.
- Operational and financial capacity check (if applicable):
  - o **With regard to SUGA: EIT fully follows the Horizon 2020 methodology explained in the Horizon 2020 Manual. The operational capacity is checked during the proposals evaluation while financial capacity is carried out on the designated KIC Consortium in collaboration with the REA<sup>43</sup>. In the event of Consortium changes, the EIT verifies the KIC Consortium (SUGA consortium) operationally capable to carry out Start-up Plan.**

---

<sup>41</sup> In the text below, additional information is added in order to clarify the difference between the assessment related to the FPA and the assessment related to SUGA (the latter in green).

<sup>42</sup> Please note that EIT is currently discussing collaboration with REA (Research Executive Agency) Validation unit the possibility to outsource the legal validation under the REA's competence. Thus, the entities may be using the Horizon 2020 Participant portal to submit their legal related documents and in this case will be notified directly on the results of the legal validation through the Participant Portal.

<sup>43</sup> Research Executive Agency, financial validation unit carries out financial verification of all beneficiaries under Horizon 2020. After KIC's designation, the EIT informs REA about the designated consortium and REA validates, if necessary, the financial capacity.

- With regard to FPA: by default is not applicable provided consortium remains the same as in the KIC Proposal as described in the bullet point above. Any change to the consortium at the stage of the SUGA award is analysed by the EIT against the strategic agenda/proposal implementation. Stricter rules than specified in chapter 6.1 are applied since the consortium is relatively small.
- Effects on the implementation of the action, the KIC Strategy and KIC Partnership:
  - SUGA: **the effects on the implementation of the SUGA action is assessed as part of the SUGA Start-up Plan and budget evaluation prior to the SUGA signature.**
  - FPA: unlike the situation described in Chapter 6, for any changes - regardless its significance, - the EIT will consider whether the change could call into question the KIC consortium designation as well as if it affects/puts in risk the future KIC's delivery of the proposal (i.e. future KIC strategic agenda). To assess if the changes may call into question the KIC designation and the future FPA award, the EIT verifies any important elements resulting from the KIC Proposals evaluation including Hearings.

In principle, **no deviations are allowed, with the exception of the newly established KIC LE and/or CLCs.** Other deviations must be clearly justified by the Consortium and are subject to the EIT's assessment and approval before the SUGA signature.

## 4. KIC's formation during the Start-up phase (year N)

During the start-up phase, the consortium's main objective is to reach legal and operational readiness of the KIC. In particular, the KIC LE must be set-up and the management team selected. Furthermore, the proposed KIC Consortium must prepare the KIC's business plan for the upcoming first year of the KIC's operations.

Besides piloting first activities, the partnership is being formed and the individual organisations recognise what value the KIC brings to them as well as what obligations and rights the KIC represents. After piloting the KIC model in practice, the start-up phase may bring changes to the proposed KIC partnership. **Such changes shall, however, not affect the composition and the balance of the partnership in a significant manner.**

EIT monitors closely the start-up phase by means of:

- Progress reporting (monthly): brief progress report updating per each key milestone of the start-up plan, but also updating on the partnership, in particular, if any key partner is intending to leave, or setting-up of the CLCs and their future status with regard to FPA (KIC Partner, linked third party...). As part of this reporting, the Partnership Management Platform may be updated on regular basis.
- Periodical calls with SUGA Coordinator and EIT KIC interim CEO/COO/CFO
- Monitoring activities in line with a monitoring plan: recommended monitoring activities are: CEO selection, participation at the high level governing/management meeting, selection of the future portfolio of activities
- Ad-hoc communication and support to the proposed KIC provided in preparation of the business plan
- Formal SUGA Amendments (see below)

### SUGA Amendments

As mentioned, the start-up phase is contractually framed by start-up grant agreement (SUGA) which legally binds the coordinator, mandated by all consortium members, and the beneficiaries having acceded the SUA agreement to successfully deliver the start-up phase. Thus, **any SUGA amendments requested and concluded represent an important step in the monitoring of the KIC partnership formation, as well as the start-up progress.**

Based on previous practice, the changes in the SUGA implementation incl. the changes in the consortium, can be best dealt with by means of 2 amendments, upon request by the consortium (approximately in July and October).

In general, the *Amendment by letter* as described in these guidelines is not applicable in case of SUGA amendment as the change in the SUGA beneficiaries or linked third parties is accompanied by the change in the work plan and planned budget of the start-up year. However, the KIC Consortium Coordinator shall - in parallel to the SUGA amendment by contract - update the data in Partnership Management Platform. By default, the SUGA consortium is considered as the future KIC Partnership and as such, any changes in the SUGA consortium must be analysed by EIT also with regard to the effects on FPA and future KIC Partnership. As mentioned earlier, the changes could call into question the KIC designation or the FPA award.

**For new entities, similar rules as described in chapter 3 applies.**

Technically, the SUGA coordinator shall notify EIT. When an entity no longer wants to form future KIC Partnership or new entities shall be added, the Request Package 0 is sent back for corrections and the entity is taken out or added by the KIC Consortium coordinator. The justifications must be provided and EIT will assess it in line with the chapter 3.

The EIT will use the Partnership Management Platform to update the list of organisations, by using the 'request correction' function for Request Package 0. The KIC shall cancel the relevant organisation from the request package.

With regard to SUGA process, the SUGA Amendment has to be requested in line with SUGA provision and as such is assessed by EIT, i.e. change of the consortium has to be reflected correctly in the work plan and budget related to the start-up year and EIT assess how the changes in the consortium and work-plan affect the start-up year.

### SUGA interim assessment by the EIT (year N)

The SUGA interim report is the most important milestone for the consortium in the start-up phase. Based on the interim SUGA report submitted by the consortium, the EIT evaluates the progress in terms of KIC's legal, operational and other readiness and, in case of positive assessment, proposes to the EIT GB to endorse the KIC's successful start-up. **The GB endorsement of successful start-up phase is a condition for the FPA award and subsequent FPA signature – thus, creation of the KIC.**

At this stage, the EIT verifies and evaluates the changes in the Partnership following the checklist below. The evidenced is taken from the SUGA interim report, progress reporting and a situation monitored in the Partnership management Platform. Furthermore, to assess if the changes in the KIC Partnership may calls into question the KIC designation and FPA award, the EIT verifies any important elements resulting from the KIC Proposals evaluation. With regards to the below check, the EIT concludes on the

effects on the future KIC Partnership and KIC strategy implementation and may implement corrective measures.

Checklist:	
<b>Proposal:</b>	<p>For information purposes, the following shall be included:</p> <ul style="list-style-type: none"> <li>- # of organisations and KTI balance<sup>44</sup></li> <li>- Key elements of the Evaluation Summary Report and Hearings relating to the Partnership which affected the KIC's designation over other consortia</li> </ul>
<b>SUGA:</b>	<p>The following should be put in comparison with the proposal and the growth strategy detailed in the Strategic Agenda:</p> <ul style="list-style-type: none"> <li>- # of organisations in the SUGA preamble and KTI balance</li> <li>- # of organisations in the SUGA Amendment(s)</li> <li>- # of organisations who signed accession forms to SUGA</li> <li>- # of organizations who plan to implement activities in the upcoming year (as available in the Business Plan)</li> </ul> <p>Any deviations to be substantiated.</p> <p>Note: Ideally, SMEs shall be represented in the partnership, however, other forms of SME participation should be taken into consideration (e.g. an additional mechanism/instrument through which SMEs are involved in the activities and/or KIC's strategy development).</p>
<b>KIC LE</b> (membership / ownership / formal partnership)	<p>Establishing of a KIC LE is a key milestone of the start-up phase. Understanding of the KIC model and monitoring of the organisations' acceding to the KIC LE and its progress during the start-up phase is an important element.</p> <ul style="list-style-type: none"> <li>- # of organisations having acceded the KIC LE as compared to the proposal (administrative but also technical part) and SUGA</li> </ul> <p>Any deviations to be substantiated and validated against the long-term partnership growth strategy and planned impact.</p>
<b>Endorsement of the FPA</b>	<p>Endorsement of the FPA is another key milestone of the start-up phase:</p> <ul style="list-style-type: none"> <li>- # of organisations having endorsed the signature of the FPA and the KTI balance</li> </ul>
<b>CONCLUSION:</b>	<p>Does the partnership remain balanced in terms of knowledge triangle representation?</p> <p>Could the changes in the partnership put in question the KIC designation and the FPA award decision?</p> <p>Is the growth strategy included in the strategic agenda followed?</p> <p>Do changes in the partnership put in risk the implementation of the long term strategy (strategic agenda)?</p>

In parallel to the SUGA interim assessment, the EIT assesses in greater detail the submitted Business Plan Year N+1 and the KIC's strategic agenda.

<sup>44</sup> For the purpose of this note, the KTI balance is measured as a share of the different knowledge triangle sides within the partnership.

### Business Plan Year N+1 submission by KIC Consortium:

In preparation for the Business Plan, the KIC Consortium Coordinator needs to update the Partnership Management Platform and create entities (in drafts) which will implement the activities in the upcoming year (i.e. the KIC's Business Plan N+1). This provides an additional information to the EIT on how the KIC Partnership will be formed in the upcoming year – i.e. the first year of the KIC's operations.

### KIC Partnership - FPA award decision and FPA signature (year N+1)

Upon positive interim SUGA evaluation and the endorsement of the designated KIC's start-up phase by the EIT GB, the EIT Director decides to award the FPA and subsequently, the files for the FPA signature are prepared, including the entities listed in the annexes.

In preparation for the FPA signature, the KIC Consortium Coordinator (or KIC LE, if delegated) shall update the Partnership Management platform for any pending data and documents. The EIT will use the Partnership Management Platform to carry out relevant checks.

In principle, no deviations are allowed, with the exception of the newly established KIC LE and/or CLCs. Other deviations must be of limited scope, clearly justified and are subject to the EIT's assessment and approval before the FPA signature. For new entities, similar rules as described in chapter 3 applies. When an entity no longer wants to form future KIC Partnership or new entities are requested to be included, the Request Package 0 is sent back for corrections and the entity is taken out by the KIC Consortium coordinator. The justifications must be provided in the PIO but also may be requested in further detail outside of the tool.

The FPA signature is an important milestone when the Request Package 0 represents the KIC Partners listed in the FPA Annex 2 and Linked third parties listed in the FPA Annex 5 at the time of the FPA signature. The FPA signature is indicated by EIT in PIO by using a dedicated functionality. As of FPA signature the chapters 1 - 6 applies and the KIC may amend the FPA.

Technically, final confirmation of all entities in Request Package 0 only happen once the deadline to submit the FPA accession forms is expired (FPA Article 62.1) – formal accession of all KIC Partners to FPA.

### Formal Accession of all KIC Partners to the FPA (year N+1) and KIC partnership entry and exit:

After the FPA signature, the KIC Partners listed in the Annex 2 formally accede the FPA and become eligible by signing the Accession Form within 120 days after the entry into force of the FPA (FPA Article 62.1). The KIC should submit the accession forms using the PIO platform within maximum 1 month from this deadline.

New KIC Partners may be added to the partnership in line with these Guidelines (chapters 1 - 6).

The EIT monitors the KIC Partnership during the first year of its operation against the strategic agenda – in particular the growth strategy. Any significant changes should be discussed with the EIT and may be highlighted to the EIT GB.

## 5. Corrective Measures and consequences during the start-up phase

### Examples of follow-up actions in case of deviations are:

The KIC (consortium) may be asked to submit an action plan to address any weaknesses, such as drop of a key partner(s), significant change in the KTI balance, geographical balance or SME participation.

- Action plan to comply with the agreed partnership growth strategy in the strategic agenda to be agreed between the EIT and the KIC
- Monitoring of the good governance principles
- Follow-up by GB Rapporteur
- Questioning the KIC during the Hearings
- EIT GB recommendations
- Start-up grant reduction in case of non-compliance with the SUGA including lack of completion of the Start-up plan

The partnership may also be a subject of the questions during the Hearings where the EIT GB assesses strategy and multi-annual progress within the framework of the funding allocation.

### The consequence of unsuccessful start-up phase

If the start-up phase is NOT deemed successful, the EIT does NOT recommend the GB to endorse it and the GB will decide on the next step. The creation of the KIC Partnership (FPA signature) may be delayed or cancelled. The GB may decide to use an established reserve list (if available) and designate another consortium.

# ANNEXES: Templates

1. Organisation (entity) data form for entry/exit/change/FPA change (*available as an excel template generated from PIO and/or in form of a user interface*)
2. Accession Form
  - a. generated from PIO indicating accession date as date of the signature
  - b. general model FPA Annex 4 (*template provided as a separate annex*)
3. Declaration on joint and several liability of linked third parties – FPA Annex 4a (*template provided as a separate annex*)
4. Declaration of Honour (*template provided as a separate annex*)
5. Legal Entity Form available at:  
[http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/legal\\_entities/legal-entities\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal-entities_en.cfm)
6. KIC LE Request Letter (*available in PIO*)
7. Reallocation/termination report (*template provided as a separate annex*)
8. EIT's Confirmation Letter (*available in PIO*)