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► **B** REGULATION (EU) 2021/1755 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 6 October 2021
establishing the Brexit Adjustment Reserve
(OJ L 357, 8.10.2021, p. 1)

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**REGULATION (EU) 2021/1755 OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL**

of 6 October 2021

establishing the Brexit Adjustment Reserve

CHAPTER I

General provisions

Article 1

Subject matter

1. This Regulation establishes the Brexit Adjustment Reserve (the 'Reserve').
2. It lays down the objectives of the Reserve, its resources, the forms of Union funding and rules on its implementation, including on the eligibility of expenditure, management and control, and financial management.

Article 2

Objectives

1. The Reserve shall provide support to counter the adverse economic, social, territorial and, where appropriate, environmental consequences of the withdrawal of the United Kingdom from the Union in Member States, including their regions and local communities, and sectors, in particular in those that are most adversely affected by the withdrawal, and to mitigate the related negative impact on the economic, social and territorial cohesion.
2. The objectives of the Reserve shall be pursued in line with the objective of promoting sustainable development as set out in Article 11 TFEU, taking into account the United Nations Sustainable Development Goals, the Paris Agreement and the 'do no significant harm' principle.

Article 3

Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) 'reference period' means the reference period referred to in Article 63(5), point (a), of the Financial Regulation, which shall be from 1 January 2020 to 31 December 2023;
- (2) 'applicable law' means Union law and the national law relating to its application;
- (3) 'irregularity' means any breach of applicable law resulting from an act or omission by any public or private entity involved in the implementation of the financial contribution from the Reserve, including Member State authorities, which has, or would have, the effect of prejudicing the Union budget by charging an unjustified item of expenditure to the Union budget;

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- (4) ‘systemic irregularity’ means any irregularity, which may be of a recurring nature, with a high probability of occurrence in similar types of measures;
- (5) ‘total errors’ means the sum of the projected random errors and, if applicable, delimited systemic errors and uncorrected anomalous errors;
- (6) ‘total error rate’ means total errors divided by the audit population;
- (7) ‘residual error rate’ means the total errors less the financial corrections applied by the Member State to reduce the risks identified by the independent audit body, divided by the expenditure to be declared in the application for a financial contribution from the Reserve;
- (8) ‘relocation’ means a transfer of the same or similar activity or part thereof within the meaning of Article 2, point (61a), of Commission Regulation (EU) No 651/2014 ⁽¹⁾;
- (9) ‘territories with special status’, in the context of this Regulation, means, where appropriate, the British Overseas Territories and the Crown Dependencies.

*Article 4***Geographical coverage and resources of the Reserve**

1. All Member States shall be eligible for support from the Reserve.
2. The maximum resources of the Reserve shall be EUR 5 470 435 000 in current prices.
3. The resources referred to in paragraph 2 of this Article shall be provisionally allocated, in both commitment and payment appropriations, pursuant to the methodology set out in Annex I. They shall be made available as follows:
 - (a) a pre-financing amount of EUR 4 321 749 000 in current prices shall be made available and paid in three instalments of EUR 1 697 933 000 in 2021, EUR 1 298 919 000 in 2022 and EUR 1 324 897 000 in 2023 in accordance with Article 9;
 - (b) a remaining provisionally allocated amount of EUR 1 148 686 000 in current prices shall be made available in 2025 in accordance with Article 12.

The amounts referred to in the first subparagraph, point (a), of this paragraph shall be considered pre-financing within the meaning of Article 115(2), point (b)(i), of the Financial Regulation.

⁽¹⁾ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.6.2014, p. 1).

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4. Member States whose provisional allocation from the resources of the Reserve includes an amount exceeding EUR 10 million determined on the basis of the factor linked to fish caught in the United Kingdom's exclusive economic zone shall spend at least 50 % of that amount or 7 % of their provisionally allocated amount, whichever is lower, to support local and regional coastal communities, including the fisheries sector, in particular the small-scale coastal fisheries sector dependent on fishing activities.

Where the provisional allocation is not entirely used, the amounts required to be spent for the purpose referred to in the first subparagraph shall be proportionately reduced.

Where the amount required to be spent to support local and regional coastal communities is not entirely used for that purpose, 50 % of the amount unused shall be deducted in the calculation of the total accepted amount.

The amount of eligible expenditure accepted, as referred to in Article 12(2), point (a), shall specify, where applicable, the accepted amount of expenditure to support local and regional coastal communities.

The application for a financial contribution from the Reserve shall include a breakdown of the expenditure incurred and paid for measures supporting local and regional coastal communities, in accordance with Annex II.

5. The Commission shall, by means of an implementing act, set out the provisional amounts allocated to each Member State based on the criteria set out in Annex I. That implementing act shall also set out the minimum amount of resources that shall be spent in accordance with paragraph 4.

▼M1*Article 4a***Transfer to the Recovery and Resilience Facility**

1. By 1 March 2023, Member States may submit to the Commission a reasoned request to transfer to the Recovery and Resilience Facility established by Regulation (EU) 2021/241 of the European and of the Council ⁽²⁾ all or part of the amounts of their provisional allocation set out in the implementing act of the Commission referred to in Article 4(5). If the transfer request is approved, the Commission shall amend the implementing act in order to reflect the adjusted amounts following the transfer.

2. Where the transfer affects the instalments already paid or to be paid as pre-financing, the Commission shall amend the implementing act referred to in Article 9(1) accordingly for the Member State concerned. Where appropriate, the Commission shall recover, in accordance with the Financial Regulation, all or part of the 2021 and 2022 instalments paid to that Member State as pre-financing. In that case the recovered amounts shall be transferred to the Recovery and Resilience Facility for the exclusive benefit of the Member State concerned.

⁽²⁾ Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing a Recovery and Resilience Facility (OJ L 57, 18.2.2021, p. 17).

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3. Where a Member State chooses to transfer all or part of its provisional allocation to the Recovery and Resilience Facility in accordance with this Article, the amounts to be spent for the purposes of Article 4(4), first subparagraph, shall be proportionately reduced.
4. Where a Member State chooses to transfer all of its provisional allocation to the Recovery and Resilience Facility, Article 10(1) shall not apply.
5. Article 10(2) shall not apply to the amounts transferred to the Recovery and Resilience Facility.

▼B*CHAPTER II**Eligibility, technical assistance and exclusion from support**Article 5***Eligibility**

1. The financial contribution from the Reserve shall only support measures specifically carried out by Member States, including at regional and local levels, to contribute to the objectives set out in Article 2 and may cover in particular the following:
 - (a) measures to support private and public businesses, in particular SMEs, the self-employed, local communities and organisations adversely affected by the withdrawal of the United Kingdom from the Union;
 - (b) measures to support the economic sectors most adversely affected by the withdrawal of the United Kingdom from the Union;
 - (c) measures to support businesses, regional and local communities and organisations, including small-scale coastal fisheries, dependent on fishing activities in United Kingdom waters, in waters of territories with special status or in waters covered by fisheries agreements with coastal states where fishing opportunities for Union fleets have been reduced as a result of the United Kingdom's withdrawal from the Union;
 - (d) measures to support job creation and protection, including green jobs, short-time work schemes, re-skilling and training in sectors most adversely affected by the withdrawal of the United Kingdom from the Union;
 - (e) measures to ensure the functioning of border, customs, sanitary and phytosanitary, security and fisheries controls, as well as the collection of indirect taxation, including additional personnel and their training, and infrastructure;
 - (f) measures to facilitate regimes for certification and authorisation of products, to assist in meeting establishment requirements, to facilitate labelling and marking, for example for safety, health and environmental standards, as well as to assist in mutual recognition;

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- (g) measures for communication, information and awareness-raising of citizens and businesses about changes to their rights and obligations stemming from the withdrawal of the United Kingdom from the Union;
- (h) measures aimed at the reintegration of Union citizens as well as persons having the right to reside on the territory of the Union who left the United Kingdom, as a result of the withdrawal of the United Kingdom from the Union.

2. Expenditure shall be eligible for a financial contribution from the Reserve if it is incurred and paid by public authorities in the Member States, at national, regional or local levels, including payments to public or private entities, during the reference period for measures carried out in, or for the benefit of, the Member State concerned.

3. When designing support measures, Member States shall take into account the varied impact of the withdrawal of the United Kingdom from the Union on different regions and local communities and focus financial contribution from the Reserve on those most adversely affected by the withdrawal, while taking into account the partnership principle and encouraging a multi-level dialogue with local and regional authorities and communities of regions and sectors that are most adversely affected by the withdrawal, social partners and civil society, where relevant, and in accordance with their institutional, legal and financial framework.

4. When designing support measures in the field of fisheries, Member States shall take into account the objectives of the Common Fisheries Policy, making sure that those measures contribute to the sustainable management of fish stocks and shall endeavour to support fishers most adversely affected by the United Kingdom's withdrawal from the Union, including small-scale coastal fisheries.

5. The measures referred to in paragraph 1 shall comply with applicable law.

6. Measures eligible under paragraph 1 may receive support from other Union funds and programmes provided that such support does not cover the same cost.

7. Member States shall repay the contribution from the Reserve to an action comprising investment in infrastructure or productive investment, if within 5 years of the final payment to the recipients of the financial contribution from the Reserve or within the period of time set out in State aid rules, where applicable, that action is subject to any of the following:

- (a) a cessation of a productive activity or a transfer of a productive activity outside the Member State in which it received financial contribution from the Reserve;

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- (b) a change in ownership of an item of infrastructure which gives to a firm or a public body an undue advantage;

- (c) a substantial change affecting its nature, objectives or implementation conditions which would result in undermining its original objectives.

Member States may reduce the time limit set out in the first subparagraph to 3 years in cases that concern the maintenance of investments or jobs created by SMEs.

This paragraph shall not apply to any action that undergoes cessation of a productive activity due to a non-fraudulent bankruptcy.

*Article 6***Technical assistance**

1. 2,5 % of the financial contribution from the Reserve for each Member State shall be paid as technical assistance for the management, monitoring, information and communication, control and audit of the Reserve, including at regional and local levels, as appropriate.

2. Technical assistance shall be calculated as a flat rate by applying the factor of 25/975 to the amount of eligible expenditure accepted by the Commission pursuant to Article 12(2), point (a).

*Article 7***Exclusion from support**

The Reserve shall not support VAT and expenditure supporting relocation as defined in Article 3, point (8).

*CHAPTER III****Financial management****Article 8***Implementation and forms of Union funding**

1. The financial contribution from the Reserve to a Member State shall be implemented within the framework of shared management in accordance with Article 63 of the Financial Regulation.

2. Member States shall use the financial contribution from the Reserve to implement the measures referred to in Article 5 to provide non-repayable forms of support. The Union contribution shall take the form of reimbursement of eligible costs actually incurred and paid by public authorities in Member States, including payments to public or private entities, for measures carried out, and of flat-rate financing for technical assistance.

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3. Commitments and payments under this Regulation shall be made subject to the availability of funding.

4. By way of derogation from Article 63(5), (6) and (7) of the Financial Regulation, the documents referred to in those provisions shall be submitted once, pursuant to Article 10 of this Regulation.

5. By way of derogation from Article 12 of the Financial Regulation, unused commitment and payment appropriations under this Regulation shall be automatically carried over and may be used until 31 December 2026. The appropriations carried over shall be consumed first in the following financial year.

*Article 9***Pre-financing**

1. Subject to receipt of the information required under Article 14(1), point (d), of this Regulation, the Commission shall, by means of an implementing act, set out the breakdown of the resources referred to in Article 4(3), point (a), of this Regulation per Member State. That implementing act shall constitute a financing decision within the meaning of Article 110(1) of the Financial Regulation and the legal commitment within the meaning of that Regulation. By way of derogation from Article 110(2) of the Financial Regulation, that financing decision shall not contain a description of the actions to be financed.

2. The budgetary commitments of the Union in respect of each Member State shall be made by the Commission in annual instalments during the period between 1 January 2021 and 31 December 2023.

By way of derogation from Article 111(2) of the Financial Regulation, the budgetary commitments for the first instalment shall follow the adoption of the implementing act constituting the legal commitment by the Commission.

3. The Commission shall pay the 2021 instalment of the pre-financing within 30 days of the date of the adoption of the implementing act referred to in paragraph 1 of this Article. The instalments of the pre-financing for 2022 and 2023 shall be paid by the Commission by 30 April 2022 and 30 April 2023, respectively. The pre-financing shall be cleared in accordance with Article 12.

4. Amounts allocated but not paid as pre-financing shall be carried over and shall be used for additional payments pursuant to Article 12(6).

*Article 10***Submission of applications for a financial contribution from the Reserve**

1. Each Member State shall submit to the Commission an application for a financial contribution from the Reserve by 30 September 2024. The Commission shall assess those applications and establish whether the remaining provisional allocation and additional amounts are due to Member States or if any amounts are to be recovered from Member States in accordance with Article 12.

2. Where a Member State does not submit an application for a financial contribution from the Reserve by 30 September 2024, the Commission shall recover the total amount paid as pre-financing to that Member State.

*Article 11***Content of the application for a financial contribution from the Reserve**

1. The application for a financial contribution from the Reserve shall be based on the template set out in Annex II. The application shall include information on the total expenditure incurred and paid by public authorities in Member States at national, regional or local levels, including the territorial distribution of the expenditure at NUTS level 2 regions, where relevant, and the values of output indicators for the measures carried out. It shall be accompanied by the documents referred to in Article 63(5), (6) and (7) of the Financial Regulation and by an implementation report.

2. The implementation report for the Reserve shall include:

- (a) a description of the negative impact of the withdrawal of the United Kingdom from the Union in economic, social, territorial and, where appropriate, environmental terms, including an identification of the sectors, regions, areas and, where relevant, local communities most adversely affected by the withdrawal;
- (b) a description of the measures carried out to counter the adverse consequences of the withdrawal of the United Kingdom from the Union, of the extent to which those measures alleviated the regional and sectoral impact referred to in point (a), and how they were implemented;
- (c) a justification of the eligibility of the expenditure incurred and paid, and its direct link to the withdrawal of the United Kingdom from the Union;
- (d) a description of the arrangements put in place to avoid double funding and to ensure complementarity with other Union instruments and national funding;
- (e) a description of the contribution of the measures to climate change mitigation and adaptation.

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3. The summary referred to in Article 63(5), point (b), of the Financial Regulation shall set out the total error rate and residual error rate for the expenditure entered in the application for a financial contribution from the Reserve submitted to the Commission, as a result of the corrective actions taken.

*Article 12***Clearance of the pre-financing of the remaining provisional allocation and calculation of the additional amounts due to Member States**

1. The Commission shall assess the application referred to in Article 11 and shall satisfy itself that the application is complete, accurate and true. When calculating the financial contribution from the Reserve due to the Member State, the Commission shall exclude from Union financing expenditure for measures which were implemented or for which disbursements have been made in breach of applicable law.

2. Based on its assessment, the Commission shall, by means of an implementing act, establish the following:

- (a) the amount of eligible expenditure accepted;
- (b) the amount of technical assistance calculated in accordance with Article 6(2);
- (c) the sum of the amounts referred to in points (a) and (b) ('total accepted amount');
- (d) whether the amount provisionally allocated in accordance with the implementing act under Article 4(5) ('provisional allocation') is due to the Member State in accordance with paragraph 3 of this Article, or whether amounts need to be recovered pursuant to paragraph 6 of this Article.

3. Where the total accepted amount exceeds the amount of pre-financing paid, an amount shall be due to that Member State from the allocation referred to in Article 4(3), point (b), up to the amount of the provisional allocation for that Member State.

4. With regard to the amounts due pursuant to paragraph 3 of this Article, the implementing act referred to in paragraph 2 of this Article shall constitute a financing decision within the meaning of Article 110(1) of the Financial Regulation and the legal commitment within the meaning of that Regulation.

5. The Commission shall clear the pre-financing and pay any amount due to Member States within 30 days of adoption of the implementing act referred to in paragraph 2.

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6. The Commission shall make any unused resources from the provisional allocations available as additional payments by increasing proportionately the financial contribution from the Reserve to Member States whose total accepted amount exceeds their provisional allocation. The unused resources shall consist of amounts carried over pursuant to Article 9(4), the remaining part of the provisional allocation of a Member State whose total accepted amount is lower than its provisional allocation and amounts resulting from recoveries carried out pursuant to the second subparagraph of this paragraph.

Where the total accepted amount is lower than the pre-financing paid to the Member State concerned, the difference shall be recovered in accordance with the Financial Regulation. The recovered amounts shall be treated as internal assigned revenue in accordance with Article 21(3), point (b), of the Financial Regulation.

Where the sum of the additional amounts calculated for all Member States whose total accepted amount exceeds their provisional allocation is higher than the resources available according to the first subparagraph, the financial contributions from the Reserve for the amounts exceeding the provisional allocations shall be reduced proportionately.

Where the additional payments to Member States whose total accepted amount exceeds their provisional allocation have been made at a rate of 100 %, any remaining amount shall be returned to the Union budget.

7. The Commission shall, by means of an implementing act, set out the additional amounts due pursuant to the first subparagraph of paragraph 6 of this Article. That implementing act shall constitute a financing decision within the meaning of Article 110(1) of the Financial Regulation and the legal commitment within the meaning of that Regulation. The Commission shall pay any additional amount due within 30 days of adoption of that implementing act.

8. Prior to the adoption of the implementing acts referred to in paragraphs 2 and 7, the Commission shall inform the Member State concerned of its assessment and invite that Member State to submit its observations within 2 months of informing the Member State of its assessment.

*Article 13***Use of the euro**

Any amounts declared to the Commission by Member States in the application for a financial contribution from the Reserve shall be denominated in euro. Member States whose currency is not the euro shall convert the amounts in the application for a financial contribution from the Reserve into euro using the monthly accounting exchange rate established by the Commission, in the month during which the expenditure is registered in the accounting systems of the body or bodies responsible for the management of the financial contribution from the Reserve.

*CHAPTER IV**Management and control systems for the Reserve**Article 14***Management and control**

1. When executing tasks relating to the implementation of the Reserve, Member States shall take all the necessary measures, including legislative, regulatory and administrative measures, to protect the financial interests of the Union, namely by:

- (a) designating a body or, where required by the Member State constitutional framework, bodies responsible for the management of the financial contribution from the Reserve and an independent audit body in accordance with Article 63(3) of the Financial Regulation, and supervising such bodies;
- (b) setting up management and control systems for the Reserve in accordance with the principles of sound financial management and ensuring that those systems function effectively;
- (c) drawing up a description of the management and control systems for the Reserve in accordance with the template set out in Annex III, keeping the description up to date and making it available to the Commission on request;
- (d) notifying the Commission of the identity of the designated body or bodies and of the body to which the pre-financing shall be paid, and confirming that the descriptions of the management and control systems for the Reserve have been drawn up, by 10 December 2021;
- (e) ensuring that expenditure supported under other Union funds and programmes is not included for support from the Reserve;
- (f) preventing, detecting and correcting irregularities and fraud, and avoiding conflict of interest; those actions comprise the collection of information on the beneficial owners of the recipients of funding in accordance with point 4(a) of Annex III; the rules related to the collection and processing of such data shall comply with applicable data protection rules;
- (g) cooperating with the Commission, OLAF, the Court of Auditors and, in respect of those Member States participating in enhanced cooperation, the EPPO pursuant to Regulation (EU) 2017/1939.

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The use of and access to the data referred to in point (f) shall be limited to the bodies referred to in point (a), the Commission, OLAF, the Court of Auditors and, in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, to the EPPO.

Member States and the Commission shall be allowed to process personal data only where it is necessary for the purpose of meeting their respective obligations under this Regulation and shall process personal data in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council⁽³⁾ or Regulation (EU) 2018/1725, whichever is applicable.

2. For the purposes of paragraph 1, points (a) and (b), Member States may make use of bodies, at the appropriate territorial level, and management and control systems already in place for the implementation of cohesion policy funding or the European Union Solidarity Fund.

3. The body or bodies responsible for the management of the financial contribution from the Reserve shall:

- (a) ensure the functioning of an effective and efficient internal control system;
- (b) establish criteria and procedures for the selection of measures to be financed and determine the conditions for a financial contribution from the Reserve;
- (c) verify that the measures financed from the Reserve are implemented in accordance with applicable law and the conditions for a financial contribution from the Reserve, and that the expenditure is based on verifiable supporting documents;
- (d) establish effective measures to avoid double funding of the same costs by the Reserve and other sources of Union funding;
- (e) ensure *ex post* publication in accordance with Article 38(2) to (6) of the Financial Regulation;
- (f) use an accounting system to record and store electronically data on the expenditure incurred to be covered by the financial contribution from the Reserve that provides accurate, complete and reliable information in a timely manner;
- (g) keep available all supporting documents regarding expenditure to be covered by the financial contribution from the Reserve for a period of 5 years following the deadline for submission of the application for a financial contribution from the Reserve, and include that obligation in agreements with other entities involved in the implementation of the Reserve;

⁽³⁾ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

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(h) for the purposes of paragraph 1, point (f), collect information in an electronic standardised format to allow for the identification of recipients of a financial contribution from the Reserve and their beneficial owners in accordance with Annex III.

4. The independent audit body shall audit the management and control system for the Reserve and carry out audits of financed measures in order to provide independent assurance to the Commission regarding the effective functioning of that system and the legality and regularity of the expenditure included in the accounts submitted to the Commission.

The audit work shall be carried out in accordance with internationally accepted audit standards.

The audits of financed measures shall cover expenditure on the basis of a sample. That sample shall be representative and based on statistical sampling methods.

Where the population consists of less than 300 sampling units, a non-statistical sampling method may be used based on the professional judgement of the independent audit body. In such cases, the size of the sample shall be sufficient to enable the independent audit body to draw up a valid audit opinion. The non-statistical sampling method shall cover a minimum of 10 % of the sampling units in the population of the reference period, selected randomly.

5. The Commission may carry out on-the-spot audits at the premises of any entity involved in the implementation of the Reserve with regard to the measures financed from the Reserve and shall have access to the supporting documents regarding the expenditure to be covered by the financial contribution from the Reserve.

6. The Commission shall pay particular attention to the establishment of the management and control system for the Reserve where Member States do not make use of existing bodies designated for the implementation of cohesion policy funding or the European Union Solidarity Fund. If risks are identified, the Commission shall carry out an assessment to ensure that the management and control system for the Reserve functions effectively in ensuring the protection of the financial interests of the Union. The Commission shall inform the Member State concerned of its provisional conclusions and invite that Member State to submit its observations within 2 months of informing the Member State of its provisional conclusions.

*Article 15***Financial corrections**

1. The financial corrections made by Member States in accordance with Article 14(1), point (f), shall consist of cancelling all or part of the financial contribution from the Reserve. Member States shall recover any amount lost as a result of an irregularity detected.

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2. The Commission shall take appropriate action to ensure that the financial interests of the Union are protected through the exclusion of irregular amounts submitted to the Commission in the application referred to in Article 11 of this Regulation from Union financing and if irregularities are subsequently identified through the recovery of the amounts unduly paid in accordance with Article 101 of the Financial Regulation.

3. The Commission shall base its financial corrections on individual cases of identified irregularity and shall take account of whether an irregularity is systemic. Where it is not possible to quantify precisely the amount of irregular expenditure, or where the Commission concludes that the management and control system for the Reserve is not working effectively to safeguard the legality and regularity of the expenditure, the Commission shall apply a flat rate or extrapolated financial correction. The Commission shall respect the principle of proportionality by taking account of the nature and gravity of the irregularity and its financial implications for the Union budget.

4. Prior to the application of financial corrections through the recovery of amounts unduly paid, the Commission shall inform the Member State concerned of its assessment and invite that Member State to submit its observations within 2 months of informing the Member State of its assessment.

*CHAPTER V**Final provisions**Article 16***Information and communication**

Member States and their regional and local authorities, where appropriate, shall be responsible for informing and publicising to Union citizens, including those potentially benefiting from the Reserve, of the role, the results and impact of the Union contribution from the Reserve through information and communication actions and, in that context, raise awareness about the changes resulting from the withdrawal of the United Kingdom from the Union.

*Article 17***Evaluation and reporting**

1. By June 2024, the Commission shall inform the European Parliament and the Council on the state of play of the implementation process of this Regulation, based on available information.

2. By 30 June 2027, the Commission shall carry out an evaluation to examine the effectiveness, efficiency, relevance, coherence and Union added value of the Reserve. The Commission may make use of all relevant information already available in accordance with Article 128 of the Financial Regulation.

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3. By 30 June 2028, the Commission shall submit to the European Parliament, to the Council, to the European Economic and Social Committee and to the Committee of the Regions a report on the implementation of the Reserve.

Article 18

Entry into force

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

*ANNEX I*

ALLOCATION METHODOLOGY FOR THE RESOURCES OF THE RESERVE SET OUT IN ARTICLE 4(3)

The resources of the Reserve shall be distributed between the Member States according to the following methodology:

1. Each Member State's share of the resources of the Reserve is determined as the sum of a factor linked to the fish caught in the United Kingdom's exclusive economic zone, a factor linked to trade with the United Kingdom, and a factor linked to the population of maritime border regions with the United Kingdom.
2. The factor linked to fish caught in the United Kingdom's exclusive economic zone is used to allocate EUR 656 452 200. The factor linked to trade with the United Kingdom is used to allocate EUR 4 540 461 050. The factor linked to maritime border regions with the United Kingdom is used to allocate EUR 273 521 750. Each of those amounts is expressed in current prices.
3. The factor linked to the fish caught in the United Kingdom's exclusive economic zone is obtained on the basis of the following criteria and by applying the following steps:
 - (a) share of each Member State of the total value of the fish caught in the United Kingdom's exclusive economic zone;
 - (b) those shares are increased for Member States with fisheries that have an above average dependency on the fish caught in the United Kingdom's exclusive economic zone and decreased for the Member States that have a below average dependency as follows:
 - (i) for each Member State, the value of fish caught in United Kingdom's exclusive economic zone as a percentage of the total value of fish caught by that Member State is expressed as an index of the Union average ('index of dependency');
 - (ii) the initial share of the value of fish caught in the United Kingdom's exclusive economic zone is adjusted by multiplying it with the Member State's index of dependency raised to the power of 75 %;
 - (iii) those adjusted shares are rescaled to ensure that the sum of all Member States' shares equals 100 %.
4. The factor linked to trade with the United Kingdom is obtained by applying the following steps:
 - (a) each Member State's trade with the United Kingdom is expressed as share of the Union trade with the United Kingdom (trade is the sum of the imports and the exports of goods and services);
 - (b) to assess the relative importance of the trade flows with the United Kingdom for each Member State, the sum of those trade flows is expressed as a percentage of the Member State's gross domestic product (GDP) and subsequently expressed as an index of the Union average ('index of dependency');

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- (c) the initial share of trade with the United Kingdom is adjusted by multiplying it with the Member State's index of dependency raised to the power of 75 %;
 - (d) those adjusted shares are rescaled to ensure that the sum of all Member States' shares equals 100 %;
 - (e) the shares so obtained are adjusted by dividing them with the Member State's gross national income (GNI) per capita (in purchasing power parities) expressed as a percentage of the average GNI per capita of the Union (average expressed as 100 %);
 - (f) the resulting shares are rescaled to ensure the sum of shares equals 100 %, whereby it is ensured that no Member State can have a share higher than 25 % of the Union's total; the resources deducted due to that capping are redistributed to the other Member States, proportionally to their non-capped shares;
 - (g) if that calculation leads to an allocation exceeding 0,36 % of a Member State's GNI (measured in euro), that Member State's allocation is capped at the level of 0,36 % of its GNI; the resources deducted due to that capping are redistributed to the other Member States, proportionally to their non-capped shares;
 - (h) if the calculation referred to in point (g) results in an aid intensity of more than EUR 195/inhabitant, that Member State's allocation is capped at the level corresponding to an aid intensity of EUR 195/inhabitant; the resources deducted due to that capping are distributed to the Member States not capped under points (g) or (h), proportionally to their shares as calculated in point (g).
5. The factor linked to the maritime border regions with the United Kingdom is obtained by calculating the share of each Member State in the total population of the maritime border regions with the United Kingdom. Maritime border regions with the United Kingdom are NUTS level 3 regions along border coastlines and other NUTS level 3 regions of which at least half of the population lives within 25 km of these border coastlines. Border coastlines are defined as coastlines that are located at a maximum of 150 km from the United Kingdom's coastline.
6. For the purposes of calculating the distribution of the resources of the Reserve:
- (a) for the value of the fish caught in United Kingdom's exclusive economic zone, the reference period shall be from 2015 to 2018;
 - (b) for the value of the fish caught in the United Kingdom's exclusive economic zone as a share of total value of fish caught by a Member State, the reference period shall be from 2015 to 2018;
 - (c) for trade the reference period shall be from 2017 to 2019;
 - (d) for GNI the reference period shall be from 2017 to 2019;
 - (e) for GNI/capita (in purchasing power parities) the reference period shall be from 2016 to 2018;
 - (f) for GDP and for total population of the Member States the reference period shall be from 2017 to 2019;
 - (g) for population of the NUTS level 3 regions the reference period shall be 2017.

ANNEX II

Template for an application for a financial contribution from the reserve, including elements related to the accounts

| | | | |
|-----|---|---------------|-----------|
| 1. | Member State | | |
| 2. | Date of application | | |
| 3. | Date of first expenditure | Date incurred | Date paid |
| 4. | Date of last expenditure | Date incurred | Date paid |
| 5. | Amount of pre-financing received (in EUR) | | |
| 6. | Body ⁽¹⁾ or bodies responsible for the management of the financial contribution from the Reserve Responsible person and function Contact details | | |
| 7. | Independent audit body Responsible person and function Contact details | | |
| 8. | Body or bodies to which tasks have been delegated, where applicable | | |
| 9. | Short description of the areas and sectors affected by the withdrawal of the United Kingdom from the Union and the response measures put in place | | |
| 10. | When carried out, a short description of the multi-level dialogue | | |
| 11. | Total expenditure incurred and paid before deductions | | |
| 12. | Amounts deducted by the Member State and the reasons for deduction | | |

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|-------|--|---|-----------------------------------|---|
| 13. | In particular, out of the amounts deducted under point 12., the amounts corrected as a result of audits of the measures financed | | | |
| 14. | Total expenditure submitted for the financial contribution from the Reserve (EUR) (14 = 11 – 12) | | | |
| 15. | In national currency (where applicable) | For Member States whose currency is not the euro: please convert all amounts into euro at the monthly accounting exchange rates established by the Commission published at: https://ec.europa.eu/info/funding-tenders/how-eu-funding-works/information-contractors-and-beneficiaries/exchange-rate-infoeuro_en | | |
| 16. | Monthly accounting exchange rates established by the Commission | | | |
| 17. | Territorial distribution of the expenditure at NUTS level 2 regions, where relevant | | | |
| 18. | Breakdown of expenditure submitted for the financial contribution from the Reserve, including the amount of resources spent in accordance with Article 4(4) (please provide a list of the individual actions financed under each measure and the related expenditure for each action) Each expenditure item should be entered only once | EUR | National currency (if applicable) | Output indicators (please provide a number) |
| 18.1. | Measures to support private and public businesses, in particular SMEs, the self-employed, local communities and organisations adversely affected by the withdrawal of the United Kingdom from the Union | | | Enterprises (supported) Enterprises supported (advised) Population benefiting |
| 18.2. | Measures to support the economic sectors most adversely affected by the withdrawal of the United Kingdom from the Union | | | Enterprises (supported) Enterprises supported (advised) |
| 18.3. | Measures to support businesses, regional and local communities and organisations, including small-scale coastal fisheries, dependent on fishing activities in United Kingdom waters, in waters of special status territories or in waters covered by fisheries agreements with coastal states where fishing opportunities for Union fleets have been reduced as a result of the United Kingdom's withdrawal from the Union | | | Enterprises (supported) Enterprises supported (advised) Population benefiting |

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|--------|---|--|--|--|
| 18.4. | Measures to support job creation and protection, including green jobs, short-time work schemes, re-skilling and training in sectors most adversely affected by the withdrawal of the United Kingdom from the Union | | | Participants |
| 18.5. | Measures to ensure the functioning of border, and security controls, including additional personnel and their training, and infrastructure | | | Additional Personnel (in FTE) Physical infrastructure adapted (m ²) |
| 18.6. | Measures to ensure the functioning of customs and collection of indirect taxation, including additional personnel and their training, and infrastructure | | | Additional Personnel (in FTE) Physical infrastructure adapted (m ²) |
| 18.7. | Measures to ensure the functioning of sanitary and phytosanitary and fisheries controls, including additional personnel and their training, and infrastructure | | | Additional Personnel (in FTE) Physical infrastructure adapted (m ²) |
| 18.8. | Measures to facilitate regimes for certification and authorisation of products, to assist in meeting establishment requirements, to facilitate labelling and marking, for example for safety, health, environmental standards, as well as to assist in mutual recognition | | | Enterprises (supported) Enterprises supported (advised) |
| 18.9. | Measures for communication, information and awareness-raising of citizens and businesses about changes to their rights and obligations stemming from the withdrawal of the United Kingdom from the Union | | | Enterprises supported (advised) Population covered |
| 18.10. | Measures aimed at the reintegration of Union citizens as well as persons having the right to reside on the territory of the Union who left the United Kingdom, as a result of the withdrawal of the United Kingdom from the Union | | | Persons |

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| | | | | |
|--------|--|---|--|--|
| 18.11. | Other (please specify) | | | |
| 19. | Any complementary Union funding received or requested for expenditure not included in this application Short description/amount (e.g. use of cohesion policy funding/REACT-EU/JTF/RRF/other – please specify) | | | |
| 20. | Please indicate the legal entity and the full bank account number and holder in case of a further payment | <input type="checkbox"/> Account used previously to receive EU payments <input type="checkbox"/> New account | | |

(¹) Where applicable in accordance with Article 14(1), point (a), the information shall be provided for all bodies responsible for the management of the financial contribution from the Reserve.

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Template for the management declaration to accompany the application for a financial contribution from the Reserve

I/We, the undersigned [name(s), first name(s), title(s) or function(s)], Head of the body responsible for the management of the financial contribution from the Reserve, based on the implementation of the Reserve during the reference period, based on my/our own judgement and on all information available to me/us at the date of the application submitted to the Commission, including the results from verifications carried out and from audits in relation to the expenditure included in the application submitted to the Commission in respect of the reference period, and taking into account my/our obligations under Regulation (EU) 2021/1755 of the European Parliament and of the Council ⁽¹⁾, hereby declare that:

- (a) the information in the application is properly presented, complete and accurate in accordance with Article 63 of the Financial Regulation,
- (b) the expenditure entered in the application complies with applicable law and was used for its intended purpose,
- (c) the control systems put in place ensure the legality and regularity of the underlying transactions.

I/We confirm that irregularities identified in the final audit and control reports in relation to the reference period have been appropriately treated in the application. Furthermore, I/we confirm the reliability of data relating to the implementation of the Reserve. I/we also confirm that effective and proportionate anti-fraud measures are in place and that those measures take account of the risks identified in that respect.

Finally, I/we confirm that I/we am/are not aware of any undisclosed matter related to the implementation of the Reserve which could be damaging to the reputation of the Reserve.

Template for the audit opinion to accompany the application for a financial contribution from the Reserve

To the European Commission, Directorate-General for Regional and Urban Policy

1. INTRODUCTION

I, the undersigned, representing [the name of the independent audit body], have audited

- (i) the elements related to the accounts in the application for the reference period;
- (ii) the legality and regularity of the expenditure for which reimbursement has been requested from the Commission; and
- (iii) the functioning of the management and control system for the Reserve, and verified the management declaration,

in order to issue an audit opinion.

⁽¹⁾ Regulation (EU) 2021/1755 of the European Parliament and of the Council of 6 October 2021 establishing the Brexit Adjustment Reserve (OJ L 357, 8.10.2021, p. 1).

▼B**2. RESPONSIBILITIES OF THE BODY ⁽²⁾ RESPONSIBLE FOR THE MANAGEMENT OF THE FINANCIAL CONTRIBUTION FROM THE RESERVE**

[name of the body] is identified as the body responsible to ensure proper functioning of the management and control system for the Reserve with regard to the functions and tasks provided for in Article 14.

In addition, [the name of body] is responsible to ensure and declare the completeness, accuracy and veracity of the application.

Moreover, it is the responsibility of the body responsible for the management of the financial contribution from the Reserve to confirm that the expenditure entered in the application is legal and regular and complies with applicable law.

3. RESPONSIBILITIES OF THE INDEPENDENT AUDIT BODY

As established by Article 63 of the Financial Regulation, my responsibility is to express an independent opinion on the completeness, veracity and accuracy of the elements related to the accounts in the application, on the legality and regularity of the expenditure for which reimbursement has been requested from the Commission, and on the proper functioning of the management and control system for the Reserve put in place.

My responsibility is also to include in the opinion a statement as to whether the audit work puts in doubt the assertions made in the management declaration.

The audits in respect of the Reserve were carried out in accordance with internationally accepted audit standards. Those standards require that the independent audit body complies with ethical requirements, plans and performs the audit work in order to obtain reasonable assurance for the purpose of the audit opinion.

An audit involves performing procedures to obtain sufficient and appropriate evidence to support the opinion set out below. The procedures performed depend on the auditor's professional judgement, including assessing the risk of material non-compliance, whether due to fraud or error. The audit procedures performed are those I believe are appropriate in the circumstances and are compliant with the requirements of the Financial Regulation.

I believe that the audit evidence gathered is sufficient and appropriate to provide the basis for my opinion [[in case there is any scope limitation:], except where mentioned in Point 4 'Scope limitation'].

The summary of the findings from the audits in respect of the Reserve are reported in the attached report in accordance with point (b) of Article 63(5) of the Financial Regulation.

⁽²⁾ Where applicable in accordance with Article 14(1), point (a), the information shall be provided for all bodies responsible for the management of the financial contribution from the Reserve.

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4. SCOPE LIMITATION

Either

There were no limitations on the audit scope.

Or

The audit scope was limited by the following factors:

- (a) ...;
- (b) ...;
- (c)

[Indicate any limitation on the audit scope, for example any lack of supporting documentation, cases under legal proceedings, and estimate under ‘Qualified opinion’ below, the amounts of expenditure and contribution from the Reserve affected and the impact of the scope limitation on the audit opinion. Further explanations in this regard shall be provided in the report, as appropriate.]

5. OPINION

Either (Unqualified opinion)

In my opinion, and based on the audit work performed:

- (i) the elements related to the accounts in the application give a true and fair view;
- (ii) expenditure included in the application is legal and regular; and
- (iii) the management and control system for the Reserve functions properly.

The audit work carried out does not put in doubt the assertions made in the management declaration.

Or (Qualified opinion)

In my opinion, and based on the audit work performed:

- (1) The elements related to the accounts in the application
 - the elements related to the accounts in the application give a true and fair view [where the qualification applies to the application, the following text is added:] except in the following material aspects:
- (2) Legality and regularity of the expenditure included in the application
 - the expenditure included in the application is legal and regular [where the qualification applies to the application, the following text is added:] except for the following aspects:

The impact of the qualification is limited [or significant] and corresponds to (amount in EUR of the total amount of expenditure).
- (3) The management and control system for the Reserve in place as at the date of this audit opinion
 - the management and control system for the Reserve put in place functions properly [where the qualification applies to the management and control system for the Reserve, the following text is added:] except for the following aspects:

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The impact of the qualification is limited [or significant] and corresponds to (amount in EUR of the total amount of expenditure).

The audit work carried out does not put/puts [delete as appropriate] in doubt the assertions made in the management declaration.

[Where the audit work carried out puts in doubt the assertions made in the management declaration, the independent audit body shall disclose in this paragraph the aspects leading to this conclusion.]

Or (Adverse opinion)

In my opinion, and based on the audit work performed:

- (i) the elements related to the accounts in the application give/do not give [delete as appropriate] a true and fair view; and/or
- (ii) the expenditure in the application for which reimbursement has been requested from the Commission is/is not [delete as appropriate] legal and regular; and/or
- (iii) the management and control system for the Reserve put in place functions/does not function [delete as appropriate] properly.

This adverse opinion is based on the following aspects:

— in relation to material matters related to the application: [please specify]

and/or [delete as appropriate]

— in relation to material matters related to the legality and regularity of the expenditure in the application for which reimbursement has been requested from the Commission: [please specify]

and/or [delete as appropriate]

— in relation to material matters related to the functioning of the management and control system for the Reserve: [please specify].

The audit work carried out puts in doubt the assertions made in the management declaration as regards the following aspects:

[The independent audit body may also include emphasis of matter, not affecting its opinion, as established by internationally accepted auditing standards. A disclaimer of opinion can be given in exceptional cases.]

Date:

Signature:

*ANNEX III*

Template for the description of the management and control system for the Reserve

1. GENERAL

1.1. Information submitted by:

(a) Member State:

(b) Name and email of main contact point (body responsible for the description):

1.2. The information provided describes the situation on: (dd/mm/yyyy)

1.3. System structure (general information and flowchart showing the organisational relationship between the bodies involved in the management and control system for the Reserve)

(a) Body ⁽¹⁾ responsible for the management of the financial contribution from the Reserve (name, address and contact point in the body):

(b) The body or bodies to which tasks have been delegated (name, address and contact point in the body), where applicable:

(c) The independent audit body (name, address and contact points in the body):

(d) Indicate how the principle of separation of functions between the bodies referred to in points (a) and (c) is respected:

2. BODY RESPONSIBLE FOR THE MANAGEMENT OF THE FINANCIAL CONTRIBUTION FROM THE RESERVE

2.1. Body responsible for the management of the financial contribution from the Reserve and its main functions

(a) The status of the body responsible for the management of the financial contribution from the Reserve (national or regional body) and the body of which it is part:

(b) Framework to ensure that an appropriate risk management exercise is conducted when necessary, and in particular in the event of major modifications to the management and control system:

2.2. Description of the organisation and the procedures related to the functions and tasks of the body responsible for the management of the financial contribution from the Reserve

(a) Description of the functions and tasks carried out by the body responsible for the management of the financial contribution from the Reserve:

⁽¹⁾ Where applicable in accordance with Article 14(1), point (a), the information shall be provided for all bodies responsible for the management of the financial contribution from the Reserve.

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(b) Description of how the work is organised and what procedures will be applied in particular in carrying out verifications (administrative and on-the-spot) and to ensure an adequate audit trail regarding all documents related to expenditure:

(c) Indication of planned resources to be allocated in relation to the different functions of the body responsible for the management of the financial contribution from the Reserve (including information on any planned outsourcing and its scope, where appropriate):

3. INDEPENDENT AUDIT BODY

Status and description of the organisation and the procedures related to the functions of the independent audit body

(a) The status of the independent audit body (national or regional body) and the body of which it is part, where relevant:

(b) Description of the functions and tasks carried out by the independent audit body:

(c) Description of how the work is organised (workflows, processes, internal divisions), what procedures apply and when, how these are supervised, indication of planned resources to be allocated in relation to the different audit tasks:

4. ELECTRONIC SYSTEM

Description of the electronic system or systems including a flowchart (central or common network system or decentralised system with links between the systems) for:

(a) Recording and storing, in electronic form data on each measure financed from the Reserve:

— the name of the recipient and amount of the financial contribution from the Reserve,

— the name of the contractor⁽²⁾ and sub-contractor⁽³⁾, where the recipient is a contracting authority in accordance with the Union or national provisions on public procurement, and value of the contract,

— the first name, last name and date of birth of beneficial owner⁽⁴⁾, as defined by Article 3, point (6), of Directive (EU) 2015/849 of the European Parliament and of the Council⁽⁵⁾, of the recipient or contractor referred to in the first and second indent of this point,

— where appropriate, data on individual participants;

⁽²⁾ Information only required where public procurement procedures above the Union thresholds are concerned.

⁽³⁾ Information only required at the first level of sub-contracting, only where information is recorded on the respective contractor, and only for sub-contracts above EUR 50 000 total value.

⁽⁴⁾ Member States may comply with this requirement by using the data stored in the registers as referred to in Article 30 of Directive (EU) 2015/849.

⁽⁵⁾ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).

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- (b) Ensuring that accounting records for each measure financed from the Reserve are recorded and stored, and that those records support the data required for drawing up the application for contribution;
- (c) Maintaining accounting records of expenditure incurred and paid;
- (d) Indicating whether the electronic systems are functioning effectively and can reliably record the data as at the date set out in point 1.2;
- (e) Describing the procedures to ensure the electronic systems' security, integrity and confidentiality.