EUROPEAN
COMMISSION

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2019/0183 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Council Regulation (EC) No 2012/2002 in order to provide financial assistance to Member States to cover serious financial burden inflicted on them following a withdrawal of the United Kingdom from the Union without an agreement

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The United Kingdom has decided to leave the European Union, invoking the procedure set out in Article 50 of the Treaty on European Union (TEU). Following a request by the United Kingdom, the European Council (Article 50) agreed on 11 April 2019[1] to extend further[2] the period provided for in Article 50(3) TEU until 31 October 2019. Unless the United Kingdom ratifies the Withdrawal Agreement by 31 October 2019 or requests a third extension, to which the European Council (Article 50) agrees by unanimity, the period under Article 50(3) TEU will end then. The United Kingdom will then be a third country as of 1 November 2019 without an agreement to ensure an orderly withdrawal. The Commission continues to consider that an orderly withdrawal of the United Kingdom from the Union on the basis of the Withdrawal Agreement is the best outcome.

All EU primary and secondary law will cease to apply to the UK from that moment onwards. There will be no transition period, as provided for in the Withdrawal Agreement. This will obviously cause significant disruption for citizens, businesses and public institutions and would have a serious negative economic and financial impact.

Thus far, the European Union and the EU-27 Member States have put in place a significant set of measures. In particular, since November 2018, the European Commission has been preparing for a withdrawal without an agreement. To date, the Commission has tabled and the co-legislators adopted 19 legislative proposals. The Commission has also adopted 63 non-legislative acts and published 100 preparedness notices.

The principles governing the contingency measures at all levels were set out in the second Brexit Preparedness Communication of 13 November 2018[3]. These include in particular that measures should not remedy damage that could have been avoided by preparedness measures and timely action by the relevant stakeholders.

As stated in the fourth Brexit Preparedness Communications of 10 April 2019[4], in the context of the preparations of contingency measures, the Commission is ready to propose financial support measures to mitigate the impact in the most affected areas and sectors, taking into account the funds that are available and any adjustments on the expenditure and revenue side of the EU budget that might result from a withdrawal without an agreement. For more immediate support to affected stakeholders, EU State aid rules offer flexible solutions for national measures.

Businesses, especially small and medium-sized companies with a significant exposure to the United Kingdom may also run into difficulties as a consequence of the loss of easy access to its market or be otherwise affected by more complex trade relations. Loss of jobs could be a consequence. Member States may want to act against a negative impact on the labour market by introducing aid schemes to assist affected businesses in managing change or by introducing measures to help preserve employment levels.

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[1] European Council Decision (EU) 2019/584 (OJ L 101, 11.4.2019, p. 1).

[2] Following a request by the United Kingdom, the European Council decided a first extension on 22 March 2019 - European Council Decision (EU) 2019/476 (OJ L 80I, 22.3.2019, p. 1).

[3] COM(2018) 880 final.

[4] COM(2019) 195 final.

Member States' public administrations will also be affected as they will need to set up additional infrastructure facilities and recruit additional personnel in some affected sectors, within a very short time span.

For instance, in the field of customs and indirect taxation, national administrations will need to put significant investments in infrastructure and human resources, primarily in Member States that are the main entry and exit points for the European Union's trade with the United Kingdom. In the field of sanitary and phytosanitary controls, the 27 Member States are setting up new Border Inspection Posts or extending existing ones at entry points of imports from the United Kingdom into the EU.

The above types of actions are likely to have a significant impact on public spending, especially in the short term and in those Member States particularly affected. For the public finances of those Member States, it could constitute a major disaster resulting in an urgent need for additional public funding. Therefore, the mobilisation of the European Union Solidarity Fund (EUSF) could provide vital relief to those Member States and their finances, should its scope of action be extended as to cover the negative impact of this scenario.

The EUSF was created in 2002 to support EU Member States and accession countries in situations of major disasters caused by natural events such as floods, storms, earthquakes, volcanic eruptions, forest fires or drought. The Fund can be mobilised upon an application from the concerned country if the disaster event has a dimension justifying intervention at European level.

Its functioning is a tangible expression of a genuine EU solidarity, whereby Member States agree to support each other by making additional financial resources available through the EU budget.

Despite the measures already taken or planned, it is fair to assume that due to the particularly close economic and trading relationship with the United Kingdom, some Member States will be more impacted by the event of withdrawal without an agreement than others. Even if it is extremely difficult to assess it exactly, it will have a significant impact on the economy, the labour market and the public finances, especially in the short term. While it will be a singular event, its disruptive effects and the burden thereof on public finances, directly imputable to the event of a withdrawal without an agreement, could constitute a major disaster and therefore the activation of the "solidarity principle", which is the core of the EUSF, would be justified in order to mitigate those effects.

- **Consistency with existing policy provisions in the policy area**

The present proposal aims at modifying Council Regulation (EC) No 2012/2002 of 11 November 2002 establishing the European Union Solidarity Fund (hereafter: "Regulation (EC) No 2012/2002") in order to extend its scope to cover certain types of additional public expenditure caused by the withdrawal of the United Kingdom from the European Union without the Withdrawal Agreement.

- **Consistency with other Union policies**

The proposal is part of the preparations of contingency measures for the withdrawal of the United Kingdom from the European Union.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

As this is the modification of the existing regulation, it follows the provisions that are the legal basis for Regulation (EC) No 2012/2002, i.e. Article 175 of the Treaty on the Functioning of the European Union (TFEU). As this modification relates to Member States only, Article 212 TFEU does not apply.

- **Subsidiarity (for non-exclusive competence)**

The proposal aims to extend the scope of the EUSF in order to show European solidarity with the most seriously affected Member States by providing assistance from the Fund to help them bear the financial burden inflicted on them as a consequence of the withdrawal of the United Kingdom from the Union without an agreement. In line with the principle of subsidiarity, it defines clear eligibility criteria for the EUSF to be mobilised. Assistance under this instrument will therefore be confined to costs with serious repercussions on the economic and financial conditions in a given Member State.

The EUSF is based on the subsidiarity principle. This means that the EU should intervene only in cases where a Member State is deemed no longer to be able to cope with a crisis alone and requires assistance. The legislator considered that, for natural disasters, such a situation is present when the total direct damage exceeds a certain threshold. Economic follow-on damage is not included as it is considered too complex to determine in a quick, reliable and comparable way. The threshold for natural disasters was therefore set at direct damage exceeding 0.6% of gross national income (GNI) or EUR 3 billion (in 2011 prices), whereby the lower amount applies. This double criterion was chosen because a single fixed amount would not reflect the big differences in economic strength (and therefore budgetary response capacities) of the Member States and lead to great injustices and unequal treatment of Member States. A single percentage rate would lead to either extremely low amounts for the smaller Member States or unattainably high thresholds for the biggest economies.

In the case of a disorderly withdrawal of the United Kingdom from the EU, severe consequences for the economies of the Member States are expected. However, it is hardly possible to estimate the direct damage. The same approach as for natural disasters is therefore not possible. Instead, the Commission proposes to take the financial burden on Member States' budgets in order to face the additional needs stemming from and directly linked to a withdrawal without an agreement as the reference to determine eligibility. This corresponds largely to the public share of direct damage eligible for funding (such as the cost of recovery of public infrastructure, assistance to the population, rescue services etc.) in the case of natural disasters. This eligible public share of total damage varies greatly depending on the disaster and the country affected. On average, it is around 50% of total damage.

The Commission is therefore proposing to maintain the principles on which access to the EUSF is based. Accordingly, the lower of 0.3% of GNI or EUR 1.5 billion in 2011 prices, i.e. half of that applicable to natural disasters, are defined as the minimum level of public expenditure related to the withdrawal without agreement in order to access the EUSF. It is for the Member State to provide evidence for that expenditure and to demonstrate that it is directly imputable to the withdrawal without agreement.

- **Proportionality**

The proposal respects the proportionality principle. It does not go beyond what is necessary to achieve the objectives already laid down in the current instrument.

- **Choice of the instrument**

It is proposed to modify the existing Regulation (EC) No 2012/2002 to use the established procedures and practices to prepare and assess the applications for assistance and to implement and report the aid. This exercise is targeted and limited to mitigate economic consequences of a unique event which is the United Kingdom leaving the Union without an agreement.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

The Ex Post Evaluation 2002-2017[5] concluded that the Fund is a valuable instrument in the EU toolkit for interventions in disaster situations, bringing EU added value to the post-disaster response in Member States and accession countries. The evaluation also called for further consideration to be given to policy actions that increase the potential for the Fund to intervene.

- **Stakeholder consultations**

Due to the urgency to prepare the proposal so that it can be adopted on time by the co-legislators, a stakeholder consultation could not be carried out.

- **Impact assessment**

Due to the urgent nature of the proposal, no impact assessment was carried out.

4. BUDGETARY IMPLICATIONS

To maintain the availability of the EUSF for major natural disasters, which is its original purpose, the use of the EUSF for the purpose of the present proposal should be limited to a maximum of 50% of its annual available amount in 2019 and 2020.

The maximum annual allocation of the EUSF is EUR 500 million in 2011 prices. In current prices this means EUR 585.8 million for 2019 plus EUR 597.5 million for 2020, i.e. a total of EUR 1 183.3 million. Up to EUR 591.65 million would therefore be available for the purpose of the current proposal.

Based on the EUSF assistance already mobilised in 2019 and currently in the process of being mobilised, it is reasonable to expect that the major part, and in any event more than half, of the 2019 allocation will not be spent during that year and will be carried forward to 2020.

Advance payments were introduced with the revision of the EUSF Regulation in 2014 and became effective from 2015. The main justification for their introduction was that the procedure necessary to mobilise the EUSF and pay out the full assistance is too lengthy (typically up to one year) and that the serious crisis situation demanded a quicker response. It

5 SWD(2019) 186 final.

was also considered that the long delays in providing assistance were bad for the image of the EU.

The level of advances was set at 10% of the expected EUSF contribution, limited to a maximum of EUR 30 million. It turned out that this level was not satisfactory. In case of smaller disasters where the EUSF contribution amounts to a few million Euros the advance is not much more than some hundred thousand euros which hardly make a difference. In the event of very big disasters such as the Abruzzo earthquake with EUR 22 billion in damage and an EUSF contribution of EUR 1.2 billion an advance of no more than EUR 30 million is totally inadequate. In both scenarios the advance payment is disproportionate to its effects on the ground. The recent ex-post evaluation of the EUSF (2002-2017) confirms this analysis.

The Commission therefore proposes to raise the level of advance payments for individual disasters of all categories to 25% of the expected EUSF contribution, limited to a maximum of EUR 100 million.

The Commission also proposes to increase the total level of appropriations for EUSF advances in the annual budget from EUR 50 million to EUR 100 million. The Draft Budget for 2020 does not incorporate this proposal. In order to ensure the timely availability of resources where necessary, the Commission will propose to enter additional appropriations for a maximum of EUR 50 million in the budget for 2020.

5. OTHER ELEMENTS

• Implementation plans and monitoring, evaluation and reporting arrangements

Maximum transparency and proper monitoring of the use of the EU financial resources are required. Reporting obligations for the Member States and the Commission, will apply as set out in Regulation (EC) No 2012/2002.

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the third paragraph of Article 175 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[6],

Having regard to the opinion of the Committee of the Regions[7],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) The European Union Solidarity Fund (‘the Fund’) was established by Council Regulation (EC) No 2012/2002[8]. The Fund was created to provide financial assistance to Member States following emergency situations as a concrete sign of European solidarity in situations of distress.

(2) On 29 March 2017, the United Kingdom submitted the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union (TEU). The Treaties cease to apply to the United Kingdom from the date of entry into force of a withdrawal agreement or failing that, two years after that notification, unless the European Council, in agreement with the United Kingdom, unanimously decides to extend that period.

(3) On 11 April 2019, following a request by the United Kingdom, the European Council agreed[9] to extend further[10] the period provided for in Article 50(3) TEU until 31 October 2019. Unless the United Kingdom ratifies the Withdrawal Agreement[11] by 31 October 2019 or requests a third extension, to which the European Council agrees by unanimity, the United Kingdom will leave the Union without an agreement and will become a third country as of 1 November 2019.

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6 OJ C , , p. .

7 OJ C , , p. .

8 Council Regulation (EC) No 2012/2002 of 11 November 2002 establishing the European Union Solidarity Fund (OJ L 311, 14.11.2002, p. 3).

9 European Council Decision (EU) 2019/584 (OJ L 101, 11.4.2019, p. 1).

10 Following a request by the United Kingdom, the European Council decided a first extension on 22 March 2019 - European Council Decision (EU) 2019/476 (OJ L 80I, 22.3.2019, p. 1).

11 Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ C 144I, 25.4.2019, p. 1).

(4) To mitigate the economic impact of the withdrawal of the United Kingdom from the Union without an agreement and to show solidarity with the most affected Member States in such exceptional circumstances, Regulation (EC) No 2012/2002 should be amended to support related public expenditure.

(5) As this is an exceptional use of the Fund, its assistance to mitigate serious financial burden, inflicted on the Member States as a direct consequence of the withdrawal of the United Kingdom from the Union without an agreement, should be targeted and limited in time to safeguard the Fund's original rationale and its capacity to respond to natural disasters.

(6) For the purposes of this exceptional use of the Fund, it is appropriate to establish a minimum amount of estimated damage above which a Member State may apply for assistance from the Fund due to the withdrawal of the United Kingdom from the Union without an agreement. In addition, the eligibility rules need to be amended to include support for public expenditure incurred as a result of the withdrawal of the United Kingdom from the Union without an agreement.

(7) To ensure equal treatment among the Member States, there should be one single deadline applicable to all Member States for the submission of applications for a financial contribution from the Fund, without possibility to extend an application after that deadline to cover additional expenditure.

(8) To maintain the availability of the Fund for natural disasters, its original purpose, a budgetary ceiling for support related to the withdrawal of the United Kingdom from the Union without an agreement should be established.

(9) Assistance from the Fund to mitigate serious financial burden inflicted on the Member States as a consequence of the withdrawal of the United Kingdom from the Union without an agreement should be subject to the same rules for implementation, monitoring, reporting, control and audit as any other interventions of the Fund. In addition, given the broad scope of public expenditure potentially eligible for support, it is important to ensure that other provisions of EU law, in particular the State aid rules, are respected.

(10) The Commission should be able to take a rapid decision to commit specific financial resources and to mobilise them as quickly as possible. The existing provisions for making advance payments should therefore be strengthened by increasing their amounts.

(11) This Regulation should enter into force as a matter of urgency on the day following that of its publication in the *Official Journal of the European Union* and should apply from the day following that on which the Treaties cease to apply to the United Kingdom pursuant to Article 50(3) TEU unless a withdrawal agreement concluded with the United Kingdom has entered into force by that date.

(12) Regulation (EC) No 2012/2002 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2012/2002 is amended as follows:

(1) Before Article 1, the following heading is inserted:

“TITLE I
SCOPE AND ELIGIBILITY”

(2) In Article 1 the following subparagraph is added:

“For the purpose of this Regulation, the notion of “major disasters” covers natural disasters as well as situations where serious financial burden is inflicted on a Member State as a direct consequence of the withdrawal of the United Kingdom from the Union without an agreement.”.

(3) The following new Articles 3a and 3b are inserted:

"Article 3a

(1) At the request of a Member State, assistance from the Fund may also be mobilised when serious financial burden is inflicted on this Member State as a direct consequence of the United Kingdom leaving the Union without an agreement in accordance with Article 50(2) TEU (“withdrawal without an agreement”). The assistance shall take the form of a financial contribution from the Fund.

(2) The available appropriations for this goal shall be limited to half of the maximum available amount for the Fund intervention for the years 2019 and 2020.

(3) Such assistance shall cover a part of the additional public expenditure caused directly by the withdrawal without an agreement and incurred exclusively between the date of the withdrawal without an agreement and 31 December 2020 ("financial burden").

(4) A Member State shall be eligible to apply for assistance under this Article, if the financial burden it has suffered is estimated to be either over EUR 1 500 000 000 in 2011 prices, or more than 0.3 % of its GNI.

(5) Only Member States may apply for assistance from the Fund under this Article.

Article 3b

(1) Assistance provided under Article 3a shall cover only the financial burden borne by a Member State compared to the situation where an agreement between the Union and the United Kingdom would have been concluded. Such assistance may be used, for example, to provide support to businesses affected by the withdrawal without an agreement, including support to State aid measures for those businesses and related interventions; measures to preserve existing employment; and to ensure the functioning of border, customs, sanitary and phytosanitary controls, including additional personnel and infrastructure.

(2) VAT shall not constitute eligible expenditure.

(3) The loss of the revenues by a Member State shall not constitute eligible expenditure.

(4) Technical assistance for management, monitoring, information and communication, complaint resolution, and control and auditing, shall not be eligible for a financial contribution from the Fund. Costs relating to the

preparation and implementation of the operations mitigating financial burden, including costs relating to essential technical expertise, shall be eligible as part of project costs.

(5) Where revenue is generated from operations referred to in paragraph 1 with a financial contribution from the Fund, the total financial contribution from the Fund shall not exceed the total net financial burden borne by a Member State. A Member State shall include a statement to that effect in the report on the implementation of the financial contribution from the Fund pursuant to Article 8(3).

(6) Eligible expenditure can only relate to operations that are compatible with Union law, including State aid rules."

(4) Before Article 4, the following headings are inserted:

"TITLE II
PROCEDURES

Chapter I
Natural disasters"

(5) Before Article 4 a, the following heading is inserted:

"Chapter II
Withdrawal of the United Kingdom from the Union"

(6) Article 4a is replaced by the following:

"Article 4a

(1) The responsible national authorities of a Member State may submit a single application to the Commission for a financial contribution from the Fund in accordance with Article 3a by 30 April 2020 at the latest. The application shall include, as a minimum, all relevant information on the financial burden inflicted on that Member State. It shall describe the public measures taken in response to the withdrawal without an agreement specifying their net cost until 31 December 2020 and the reasons why they could not have been avoided through preparedness measures. It should also include the justification concerning direct effect of the withdrawal without an agreement.

(2) The Commission shall prepare guidance on how to access and implement the Fund effectively. The guidance shall provide detailed information on the preparation of the application, and the information to be submitted to the Commission, including on the evidence to be provided concerning the financial burden inflicted. The guidance shall be made public on the websites of the relevant Directorate Generals of the Commission and the Commission shall ensure its wider dissemination to the Member States.

(3) After 30 April 2020, the Commission shall assess on the basis of the information referred to in paragraphs 1 and 2, for all applications received, whether the conditions for mobilising the Fund are met in each case and shall

determine the amounts of any possible financial contribution from the Fund within the limits of the financial resources available.

(4) Assistance from the Fund shall be awarded to the Member States meeting the eligibility criteria, taking into account the thresholds specified in Article 3a(4), at a rate of up to 5% of the inflicted financial burden, and within the limits of the budget available. In the event that the budget available should prove insufficient, the aid rate shall be proportionately reduced.

(5) Where the Commission has concluded that the conditions as set out in Article 3a are met for providing a financial contribution from the Fund, it shall without delay submit to the European Parliament and the Council the necessary proposals to mobilise the Fund and to authorise the corresponding appropriations. Those proposals shall include:

(a) all available information, as referred to in paragraph 1;

(b) all other relevant information in the possession of the Commission;

(c) evidence demonstrating that the conditions of Article 3a are fulfilled;

(d) a justification of the amounts proposed.

(6) The decision to mobilise the Fund shall be taken jointly by the European Parliament and the Council as soon as possible after the submission of the proposal by the Commission. The Commission, on the one hand, and the European Parliament and the Council, on the other hand, shall endeavour to minimise the time taken to mobilise the Fund.

(7) Once the appropriations are made available by the European Parliament and the Council, the Commission shall adopt a decision, by means of an implementing act, awarding the financial contribution from the Fund and shall pay that financial contribution immediately and in a single instalment to the beneficiary State. If an advance has been paid pursuant to Article 4b, only the balance shall be paid.".

(7) After Article 4a, the following heading and a new Article 4b are inserted:

"Chapter III
Common provisions"

"Article 4b

(1) When submitting an application for a financial contribution from the Fund to the Commission, for a damage caused by a natural disaster, a Member State may request the payment of an advance. The Commission shall make a preliminary assessment of whether the application fulfils the conditions laid down in Article 4(1) and verify the availability of budgetary resources. Where those conditions are fulfilled and sufficient resources are available, the Commission may adopt a decision, by means of an implementing act, awarding the advance and pay it out without delay before the decision referred to in Article 4(4) has been taken. The payment of an advance shall be made without prejudice to the final decision on the mobilisation of the Fund.

(2) When submitting an application for a financial contribution from the Fund to the Commission for serious financial burden caused by the withdrawal of the

United Kingdom from the Union without an agreement, a Member State may request the payment of an advance. The Commission shall make a preliminary assessment of whether the application fulfils the conditions laid down in Article 4a(1) and verify the availability of budgetary resources. Where those conditions are fulfilled and sufficient resources are available, the Commission may adopt a decision, by means of an implementing act, awarding the advance and pay it out without delay before the decision referred to in Article 4a(7) has been taken. The payment of an advance shall be made without prejudice to the final decision on the mobilisation of the Fund.

(3) The amount of an advance shall not exceed 25% of the amount of the financial contribution anticipated and shall in no case exceed EUR 100 000 000. Once the definitive amount of the financial contribution has been determined, the Commission shall take into account the sum of the advance prior to the balance of the financial contribution being paid. The Commission shall recover unduly paid advances.

(4) Any repayment due to be made to the general budget of the Union shall be effected before the due date indicated in the order for recovery drawn up in accordance with the Article 101 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council[12]. The due date shall be the last day of the second month following the issue of the order.

(5) When adopting the draft general budget of the Union for a given financial year, the Commission shall, where necessary in order to ensure the timely availability of budgetary resources, propose to the European Parliament and the Council to mobilise the Fund in an amount up to a maximum of EUR 100 000 000 for the payment of advances and propose to enter the corresponding appropriations into the general budget of the Union. The budgetary arrangements shall comply with the ceilings referred to in Article 10(1) of Council Regulation (EU, Euratom) No 1311/2013[13].".

(8) After Article 9, the following heading is inserted:

"TITLE III

FINAL PROVISIONS"

Article 2

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

It shall apply from the day following that on which the Treaties cease to apply to the United Kingdom pursuant to Article 50(3) TEU.

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12 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 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, Euroatom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

13 Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 (OJ L 347, 20.12.2013, p. 884).

However, this Regulation shall not apply if a withdrawal agreement concluded with the United Kingdom in accordance with Article 50(2) TEU has entered into force by the date referred to in the second paragraph of this Article.

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

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 2012/2002 in order to provide financial assistance to Member States to cover serious financial burden inflicted on them following a withdrawal of the United Kingdom from the Union without an agreement

1.2. Policy area(s) concerned

13. Regional policy; 13 06 01. Assistance to Member States in the event of a major natural disaster with serious repercussions on living conditions, the natural environment or the economy

1.3. Grounds for the proposal/initiative

1.3.1. Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative

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

It shall apply from the date following that on which the Treaties cease to apply to the United Kingdom pursuant to Article 50(3) TEU.

This Regulation shall not apply if a withdrawal agreement concluded with the United Kingdom in accordance with Article 50(2) TEU has entered into force by that date.

1.3.2. Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.

The reason for setting up the EU Solidarity Fund (EUSF) is to demonstrate solidarity with Member States affected by a serious crisis induced by the occurrence of a severe natural disaster and deemed to overwhelm the Member State’s budgetary response capacity. This proposal extends that logic to the financial burden resulting from the withdrawal of the United Kingdom from the Union without a withdrawal agreement.

1.3.3. Lessons learned from similar experiences in the past

The EUSF has proven to be a very effective instrument in providing assistance to Member States following natural disasters as set out by a major evaluation of the Fund[14].

1.3.4. Compatibility with the Multiannual Financial Framework and possible synergies with other appropriate instruments

The specific provisions of this Regulation regarding the withdrawal of the United Kingdom without an agreement are limited in time and concern the budgetary years

[14] SWD(2019) 186 final.

2019 and 2020 only. It remains within the maximum allocations provided for the EUSF for those years and is therefore compatible with the MFF.

1.3.5. *Assessment of the different available financing options, including scope for redeployment*

This Regulation will not increase the maximum allocation to the EUSF. The Union contribution to the interventions will be financed via the general budget of the Union.

1.4. Duration and financial impact of the proposal/initiative

– Proposal of limited duration. The proposal concerns the years 2019 and 2020. Applications will be accepted between 1 November 2019 and 30 April 2020.

– The ceiling will be 50% of the maximum allocation of the EUSF for 2019 and 2020 totalling EUR 591.65 million (EUR 292.9 million for 2019 plus EUR 298.75 million for 2020).

1.5. Management mode(s) planned[15]

☐ **Direct management** by the Commission

– ☐ by its departments, including by its staff in the Union delegations;

– ☐ by the executive agencies

X Shared management with the Member States

☐ **Indirect management** by entrusting budget implementation tasks to:

– ☐ third countries or the bodies they have designated;

– ☐ international organisations and their agencies (to be specified);

– ☐ the EIB and the European Investment Fund;

– ☐ bodies referred to in Articles 70 and 71 of the Financial Regulation;

– ☐ public law bodies;

– ☐ bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;

– ☐ bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;

– ☐ persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

– *If more than one management mode is indicated, please provide details in the 'Comments' section.*

Comments

N/A

15 Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: https://myintracomm.ec.europa.eu/budgweb/EN/man/budgmanag/Pages/budgmanag.aspx

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

The same as laid down in Council Regulation (EC) No 2012/2002 (for natural disasters)

2.2. Management and control system(s)

2.2.1. Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed

The same as laid down in Council Regulation (EC) No 2012/2002

2.2.2. Information concerning the risks identified and the internal control system(s) set up to mitigate them

The same as laid down in Council Regulation (EC) No 2012/2002

2.2.3. Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)

The same as laid down in Council Regulation (EC) No 2012/2002

2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures, e.g. from the Anti-Fraud Strategy.

The same as laid down in Council Regulation (EC) No 2012/2002

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff./Non-diff.[16]	from EFTA countries[17]	from candidate countries[18]	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
Heading 9: Special Instruments	13 06 01 - Assistance to Member States in the event of a major natural disaster with serious repercussions on living conditions, the natural environment or the economy	Differentiated	NO	NO	NO	NO

3.2. Estimated financial impact of the proposal on appropriations

3.2.1. Summary of estimated impact on operational appropriations

– ☐ This Regulation has no financial impact.

X The proposal/initiative requires the use of operational appropriations, as explained below:

16 Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.
17 EFTA: European Free Trade Association.
18 Candidate countries and, where applicable, potential candidates from the Western Balkans.

The specific provisions of this Regulation regarding the withdrawal of the United Kingdom without an agreement are limited in time and concern the budgetary years 2019 and 2020 only.

It shall apply from the date following that on which the Treaties cease to apply to the United Kingdom pursuant to Article 50(3) TEU.

Applications will be accepted between 1 November 2019 and 30 April 2020.

The ceiling will be 50% of the maximum allocation of the EUSF for 2019 and 2020 totalling EUR 591.65 million (EUR 292.9 million for 2019 plus EUR 298.75 million for 2020).

This Regulation shall not apply if a withdrawal agreement concluded with the United Kingdom in accordance with Article 50(2) TEU has entered into force by that date.

Furthermore, the additional advances require EUR 50 million in commitment and payment appropriations from 2020 onwards.

The overall proposal remain within the maximum allocations provided for the EUSF and is therefore compatible with the MFF.

EUR

Heading of multiannual financial framework	9	Special Instruments

			2019	2020	2021	2022	2023	Subsequent years	**TOTAL**
• Operational appropiation									
13 06 01 - Assistance to Member States in the event of a major natural disaster with serious repercussions on living conditions, the natural environment or the economy	Commitments	(1a)							
	Payments	(2a)							
TOTAL appropriations	Commitments	=1a+1b +3							
	Payments	=2a+2b +3							

• TOTAL operational appropriations	Commitments	(4)							
	Payments	(5)							
• TOTAL appropriations of an administrative nature financed from the envelope for specific programmes		(6)							
TOTAL appropriations under HEADING 9 of the multiannual financial framework	Commitments	=4+ 6							
	Payments	=5+ 6							

<u>If more than one operational heading is affected by the proposal / initiative, repeat the section above:</u>

Heading of multiannual financial framework		

This section should be filled in using the 'budget data of an administrative nature' to be firstly introduced in the Annex to the Legislative Financial Statement (Annex V to the internal rules), which is uploaded to DECIDE for interservice consultation purposes.

EUR million (to three decimal places)

		Year **N**	Year **N+1**	Year **N+2**	Year **N+3**	Enter as many years as necessary to show the duration of the impact (see point 1.6)			**TOTAL**
DG: <…….>									
• Human resources									
• Other administrative expenditure									
TOTAL DG <…….>	Appropriations								

TOTAL appropriations under HEADING 5 of the multiannual financial framework	(Total commitments = Total payments)								

EUR million (to three decimal places)

		Year **N**[19]	Year **N+1**	Year **N+2**	Year **N+3**	Enter as many years as necessary to show the duration of the impact (see point 1.6)			**TOTAL**

19 Year N is the year in which implementation of the proposal/initiative starts. Please replace "N" by the expected first year of implementation (for instance: 2021). The same for the following years.

TOTAL appropriations under HEADINGS 1 to 5 of the multiannual financial framework	Commitments								
	Payments								

3.2.2. Estimated output funded with operational appropriations

Commitment appropriations in EUR million (to three decimal places)

Indicate objectives and outputs ⇩			Year **2020**				Year		Year		Enter as many years as necessary to show the duration of the impact (see point 1.6)						**TOTAL**	
	OUTPUTS																	
	Type[20]	Average cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	Total No	Total cost
SPECIFIC OBJECTIVE No 1[21]…																		
- Output																		
- Output																		
- Output																		
Subtotal for specific objective No 1																		
SPECIFIC OBJECTIVE No 2 ...																		
- Output																		
Subtotal for specific objective No 2																		
TOTALS																		

[20] Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

[21] As described in point 1.4.2. ‘Specific objective(s)…’

3.2.3. Summary of estimated impact on administrative appropriations

– ☒ The proposal/initiative does not require the use of appropriations of an administrative nature

– The appropriations required for human resources and other expenditure of an administrative nature will be met by appropriations from the managing DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the DG under the annual allocation procedure and in the light of budgetary constraints.

– ☐ The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

	Year **N** [22]	Year **N+1**	Year **N+2**	Year **N+3**	Enter as many years as necessary to show the duration of the impact (see point 1.6)			**TOTAL**
HEADING 5 of the multiannual financial framework								
Human resources								
Other administrative expenditure								
Subtotal HEADING 5 of the multiannual financial framework								
Outside HEADING 5[23] of the multiannual financial framework								
Human resources								
Other expenditure of an administrative nature								
Subtotal outside HEADING 5 of the multiannual financial framework								
TOTAL								

22 Year N is the year in which implementation of the proposal/initiative starts. Please replace "N" by the expected first year of implementation (for instance: 2021). The same for the following years.

23 Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

3.2.3.1. Estimated requirements of human resources

– ☒ The proposal/initiative does not require the use of human resources.

– The appropriations required for human resources and other expenditure of an administrative nature will be met by appropriations from the managing DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the DG under the annual allocation procedure and in the light of budgetary constraints.

– ☐ The proposal/initiative requires the use of human resources, as explained below:

Estimate to be expressed in full time equivalent units

		Year **N**	Year **N+1**	Year **N+2**	Year **N+3**	Enter as many years as necessary to show the duration of the impact (see point 1.6)		
• Establishment plan posts (officials and temporary staff)								
XX 01 01 01 (Headquarters and Commission's Representation Offices)								
XX 01 01 02 (Delegations)								
XX 01 05 01/11/21 (Indirect research)								
10 01 05 01/11 (Direct research)								
• External staff (in Full Time Equivalent unit: FTE)[24]								
XX 01 02 01 (AC, END, INT from the 'global envelope')								
XX 01 02 02 (AC, AL, END, INT and JPD in the delegations)								
XX 01 04 **yy** [25]	- at Headquarters							
	- in Delegations							
XX 01 05 02/12/22 (AC, END, INT - Indirect research)								
10 01 05 02/12 (AC, END, INT - Direct research)								
Other budget lines (specify)								
TOTAL								

XX is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary staff	
External staff	

24 AC= Contract Staff; AL = Local Staff; END= Seconded National Expert; INT = agency staff; JPD= Junior Professionals in Delegations.

25 Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

3.2.4. *Compatibility with the current multiannual financial framework*

The proposal/initiative:

– ☒ can be fully financed within the relevant heading of the Multiannual Financial Framework (MFF).

– requires use of the unallocated margin under the relevant heading of the MFF and/or use of the special instruments as defined in the MFF Regulation.

This Regulation is limited in time and concerns the budgetary years 2019 and 2020 only. It remains within the maximum allocations provided for the EUSF for those years and is therefore compatible with the MFF. It shall apply from the date following that on which the Treaties cease to apply to the United Kingdom pursuant to Article 50(3) TEU. Applications will be accepted between 1 November 2019 and 30 April 2020. The ceiling will be 50% of the maximum allocation of the EUSF for 2019 and 2020 totalling EUR 591.65 million (EUR 292.9 million for 2019 plus EUR 298.75 million for 2020). This Regulation shall not apply if a withdrawal agreement concluded with the United Kingdom in accordance with Article 50(2) TEU has entered into force by that date.

– ☐ requires a revision of the MFF.

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.

3.2.5. *Third-party contributions*

The proposal/initiative:

– **X** does not provide for co-financing by third parties

– ☐ provides for the co-financing by third parties estimated below:

Appropriations in EUR

3.3. Estimated impact on revenue

– **X** The proposal/initiative has no financial impact on revenue.

– The proposal/initiative has the following financial impact:

 – ☐ on own resources

 – ☐ on other revenue

 – please indicate, if the revenue is assigned to expenditure lines X

EUR

For assigned revenue, specify the budget expenditure line(s) affected.

N/A

Other remarks (e.g. method/formula used for calculating the impact on revenue or any other information).