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NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee

No. Cion doc.: COM(2020) 854 final

Subject: Regulation on Brexit Adjustment Reserve (BAR)
- Analysis of the final compromise text with a view to agreement

I. INTRODUCTION

1. The Commission tabled the proposal for a Regulation on the Brexit Adjustment Reserve (BAR)¹ on 25 December 2020. The draft regulation is based on Article 175 of the Treaty on the Functioning of the European Union (TFEU) aimed at enhancing economic, social and territorial cohesion by providing financial support to the most affected Member States, regions and sectors to deal with the adverse consequences of Brexit.
2. The Economic and Social Committee and the Committee of the Regions have been consulted and have adopted their opinions on 24 February and 19 March 2021, respectively.

¹ Doc. 14360/20 + ADD1.

3. The European Court of Auditors has also been consulted and has adopted its opinion on 25 February 2021.
4. At the European Parliament, the EP REGI Committee is in the lead for the file (with BUDG and PECHE with associated status).

II. STATE OF PLAY OF INTER-INSTITUTIONAL NEGOTIATIONS

5. The Commission proposal on the Brexit Adjustment Reserve (BAR) was presented to Coreper, to the UKWP and to the Structural Measures Working Party (SMWP) during the month of January 2021.
6. The article-by-article examination of the file took place at the SMWP from January to April 2021. On 29 April Coreper agreed on a mandate for negotiations with the European Parliament² on the BAR.
7. On 25 May, the REGI committee voted their mandate on BAR and on 9 June during the EP Plenary, it was announced that inter-institutional negotiations could start. Five technical meetings took place on 9, 10, 11, 14 and 15 June.
8. One single and conclusive political trilogue took place on 17 June. On 18 June, another technical meeting was held to make the necessary alignments between the compromises reached and the recitals and annexes of the BAR Regulation.
9. On 23 June, the SMWP examined the outcome of the trilogue deal.
10. Following the Structural Measures Working Party on 23 June, **the Presidency is of the view that a final and balanced compromise text has emerged which has been supported by the majority of Member States.**

² Doc. 7996/21.

III. WAY FORWARD

11. On that basis, the Permanent Representatives Committee is, therefore, invited to:
- analyse the final compromise text with a view to an agreement concerning the proposal for a Regulation establishing the Brexit Adjustment Reserve, as set out in the Annex to this note.
 - authorise the Presidency to send a letter to the Chair of the European Parliament's Committee on Regional Development confirming that, should the European Parliament adopt its position at first reading, in accordance with Article 294 paragraph 3 of the Treaty, in the form set out in the compromise text contained in the Annex (subject to revision by the lawyer-linguists of both institutions), the Council would, in accordance with Article 294, paragraph 4 of the Treaty, approve the European Parliament's position and the act shall be adopted in the wording which corresponds to the European Parliament's position.
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**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
establishing the Brexit Adjustment Reserve**

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 and Article 322(1)(a) 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 Committee³,

Having regard to the opinion of the Committee of the Regions⁴,

Having regard to the opinion of the European Court of Auditors⁵,

Acting in accordance with the ordinary legislative procedure,

³ OJ C , , p. .

⁴ OJ C , , p. .

⁵ OJ C , , p. .

Whereas:

- (1) On 1 February 2020, the United Kingdom of Great Britain and Northern Ireland ('United Kingdom') left the European Union and the European Atomic Energy Community ('Euratom') – hereafter referred together as the 'Union', entering a transition period. That time-limited period was agreed as part of the Withdrawal Agreement⁶ and ended on 31 December 2020. During the transition period, the Union and the United Kingdom started formal negotiations on a future relationship.
- (2) Following the end of the transition period, barriers to trade, to cross-border exchanges and to the free movement of persons, services and capital between the Union and the United Kingdom have become reality with broad and far-reaching consequences for businesses, particularly SMEs, and their workers, as well as for local communities, public administrations and citizens. As those consequences are unavoidable, they need to be mitigated as much as possible, and stakeholders need to make sure that they are ready for them.
- (3) The Union is committed to mitigating the adverse economic, social, territorial and, where relevant, environmental consequences of the withdrawal of the United Kingdom from the Union and to show solidarity with all Member States, including their regions and local communities, as well as economic sectors, especially the most adversely affected ones in such exceptional circumstances.
- (3a) The Union is also committed to sustainable fisheries management in line with the objectives of the Common Fisheries Policy, including the principle of achieving maximum sustainable yield for all stocks according to the best available scientific advice, ending over fishing, restoring populations of harvested species and protecting the marine environment, as also provided for by international commitments.

⁶ Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community ('Withdrawal Agreement') (OJ L 29, 31.1.2020, p. 7).

- (4) A Brexit Adjustment Reserve (the ‘Reserve’) should be established to provide support to counter adverse consequences in Member States, regions and sectors, in particular those that are worst affected by the withdrawal of the United Kingdom from the Union, and thus to mitigate the related negative impact on the economic, social and territorial cohesion. It should cover in whole or in part the additional expenditure incurred and paid by public authorities in Member States for measures specifically taken to mitigate those consequences. The reference period as defined in this Regulation determining the eligibility of expenditure should apply to payments made by public authorities in the Member States at national, regional or local level, including payments to public or private entities, for measures carried out. Taking into account the importance of the fisheries sector in certain Member States, it is appropriate to earmark a part of the resources for providing dedicated support to local and regional coastal communities.
- (4a) Where Member States choose to support measures to maintain and create jobs, they should aim at quality employment.
- (4abis) The objectives of the Reserve should be pursued in line with the objective of promoting sustainable development as set out in Article 11 TFEU, taking into account the UN Sustainable Development Goals, the Paris Agreement adopted under the United Nations Framework Convention on Climate Change (the ‘Paris Agreement’) and the "do no significant harm" principle within the meaning of Article 17 of Regulation (EU) No 2020/852, the European Green Deal, the Digital agenda, as well as the principle of partnership and the principles set out in the European Pillar of Social Rights, including its inherent contribution to eliminate inequalities, and to promote gender equality and gender mainstreaming, ensuring respect for fundamental rights.
- (5) For the purposes of countering the adverse consequences of the withdrawal of the United Kingdom, Member States, when designing support measures and allocating the contribution from the Reserve, should support private and public entities adversely affected by the withdrawal, including SMEs and their workers, as well as self-employed, as they now face barriers to trade flows, an increase in administrative and custom procedures and greater regulatory and financial burden, including disruptions to cooperation and exchange. It is therefore appropriate to provide a non-exhaustive list of the type of measures that are most likely to achieve this objective.

- (5a) In view of the importance of tackling climate change in line with the Union's commitments to implement the Paris Agreement and the UN Sustainable Development Goals, the Funds and programmes will contribute to mainstream climate actions and to the achievement of an overall target of 30 % of the Union budget expenditure supporting climate objectives. The Brexit Adjustment Reserve is also expected to contribute to climate objectives according to the specific needs and priorities of each Member State. The Commission should assess the climate contribution based on the information available in the final report on the implementation of the Reserve.
- (6) At the same time, it is important to clearly specify any exclusions from support provided by the Reserve. In addition to entities benefiting from the withdrawal, including those from the financial sector, value added tax (VAT) should be excluded from support provided by the Reserve, as it constitutes a Member State revenue, which offsets the related cost for the Member State budget. In line with the general approach for cohesion policy, expenditure linked to relocations or contrary to any applicable Union or national law should also be excluded from support provided by the Reserve.
- (6a) In order to reduce the administrative burden, technical assistance for the management, monitoring, information and communication and control and auditing of the Reserve should be implemented through a flat rate based on the amount of eligible expenditure accepted by the Commission. Technical assistance may be used to help local, regional and national authorities to implement the Reserve in assisting particularly SMEs, which due to their size lack the resources and knowledge to overcome the increased administrative burden and costs.
- (7) In order to take into account the impact of the adverse economic, social, territorial and, where relevant, environmental consequences of the withdrawal of the United Kingdom from the Union on the Member States and their economies and where appropriate, the measures taken by the Member States to mitigate the expected negative effects of the withdrawal prior to the expiry of the transition period, the eligibility period should start as from 1 January 2020 and be concentrated over a limited period of 4 years.
- (7a) The European Commission should provide to the European Parliament and the Council an assessment analysing the impact of the withdrawal of the United Kingdom on Union businesses and economic sectors while taking into account the effects of currency fluctuations on trade.

- (8) It is necessary to specify that the budget allocated to the Reserve should be implemented by the Commission under shared management with Member States within the meaning of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council⁷ (the ‘Financial Regulation’). It is therefore appropriate to determine the principles and specific obligations that the Member States should respect, in particular the principles of sound financial management, transparency and non-discrimination and the absence of conflict of interest.
- (8a) Member States should ensure the coordinated use of the Reserve with other Union instruments and funds including through consultation with the relevant local and regional authorities, as appropriate.
- (9) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 of the Treaty on the Functioning of the European Union (TFEU) apply to this Regulation. These rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also concern the general regime of conditionality for the protection of the Union budget as established in the Regulation (EU, Euratom) No 2020/2092.
- (10) For the purpose of sound financial management, specific rules should be laid down for budget commitments, payments, carry-overs and the recovery of the Reserve. While respecting the principle that the Union budget is set annually, this Regulation should, on account of the exceptional and specific nature of the Reserve, provide for possibilities to carry-over unused funds beyond those set out in the Financial Regulation, thus maximising the Reserve’s capacity to address adverse consequences of the withdrawal of the United Kingdom from the Union on the Member States, including on regional and local level, and their economies.

⁷ 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 (OJ L 193, 30.7.2018, p. 1).

- (11) In order to enable Member States to deploy the additional resources and to ensure sufficient financial means to swiftly implement measures under the Reserve, a substantial amount thereof should be disbursed as pre-financing, in three instalments, in 2021, 2022 and 2023. The allocation method for the resources of the Reserve should take into account the importance of trade with the United Kingdom, the importance of fisheries in the United Kingdom exclusive economic zone, and the importance of the neighbouring links for the maritime border regions and their communities, based on reliable and official statistics. Given the unique nature of the event that the withdrawal of the United Kingdom from the Union constitutes and the uncertainty that has surrounded key aspects of the relationship between the United Kingdom and the Union after the expiry of the transition period, it is difficult to anticipate the appropriate measures Member States will have to take rapidly to counter the effects of the withdrawal. It is therefore necessary to grant Member States flexibility and in particular to allow the Commission to adopt the financing decision providing the pre-financing without the obligation pursuant to Article 110(2) of the Financial Regulation to provide a description of the concrete actions to be financed.
- (12) Prior to the payment of the first instalment of pre-financing, Member States should notify the Commission of the identity of the bodies designated and of the body to which the pre-financing shall be paid, and confirm that the systems' descriptions have been drawn up, within two months of the entry into force of this Regulation.
- (13) To ensure equal treatment of all Member States, there should be one single deadline applicable to all Member States for the submission of applications for a financial contribution from the Reserve. The specific nature of the instrument and the relatively short implementation period justify the establishment of a tailor-made reference period and would make disproportionate the requirement for Member States to provide the documents required in paragraphs 5, 6 and 7 of Article 63 of the Financial Regulation, on an annual basis. Given that at the same time, the risks for the Union budget are mitigated by the requirement for a making use of solid management and control system already existing in, or where appropriate, to be set up by Member States, it is justified to derogate from the obligation to submit the required documents in February or March of each year. In order to enable the Commission to check the correctness of the use of the financial contribution of the Reserve, Member States should also be required to submit, as part of the application, implementation reports providing more detail on the actions financed, describing and justifying the adverse consequences of the withdrawal on the businesses and economic sectors, the elements of accounts, a summary of the final audit reports and of controls carried out, a management declaration as well as an opinion of an independent audit body, drawn up in accordance with internationally accepted audit standards.

- (14) Pursuant to paragraphs 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016⁸, there is a need to evaluate the Reserve on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burden on national, regional and local authorities. These requirements, where appropriate, should include measurable indicators, as a basis for the evaluation of the Reserve.
- (15) To ensure equal treatment of all Member States and consistency in the evaluation of the applications, the Commission should assess the applications in a package. It should look in particular into the eligibility and the accuracy of the expenditure declared, the direct link of the measures taken to the adverse consequences of the withdrawal and the measures put in place by the Member State concerned to avoid double funding. The Commission should assess the content of the implementation report in a proportionate manner taking into account the total expenditure included in the application. Upon assessment of the applications for a financial contribution from the Reserve, the Commission should clear the pre-financing paid, recover the unused amount, and decide on payments up to the limits of the provisional allocation. Given the extent of the expected economic shock, the unused amounts from the provisional allocation should be made available to Member States whose total accepted amount exceeds their respective provisional allocation.
- (15a) Given the unprecedented and exceptional nature of the Reserve and its purpose, the Commission should assist Member States in order to help them identifying measures to counter the adverse consequences of the withdrawal of the United Kingdom, including on how to assess the direct link of the expenditure with the withdrawal of the United Kingdom from the Union.

⁸ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p. 1).

- (16) In order to ensure the proper functioning of shared management, Member States should establish a management and control system, designate and notify the Commission of the bodies responsible for the management of the financial contribution from the Reserve as well as a separate independent audit body. It should be possible for the Member States to make use of existing designated bodies, at the appropriate territorial level and systems set up for the purpose of the management and control of cohesion policy funding or the European Union Solidarity Fund. It is necessary to specify the responsibilities of the Member States and lay down the specific requirements for the bodies designated.
- (16a) To enhance the protection of the Union's budget, the Commission should make available an integrated and interoperable information and monitoring system including a single data-mining and risk-scoring tool to access and analyse the relevant data, and the Commission should encourage its use with a view to a generalised application by Member States.
- (16b) In order to reduce-administrative burden, Member States may reimburse those who benefit from a contribution from the Reserve through simplified cost options such as flat rates, lump sums or unit costs as a reliable proxy to real costs.

(17) In accordance with the Financial Regulation, Council Regulation (EC, Euratom) No 2988/95⁹, Council Regulation (Euratom, EC) No 2185/96¹⁰ and Council Regulation (EU) 2017/1939¹¹, the financial interests of the Union are to be protected through proportionate measures, including the prevention, detection, correction and investigation of irregularities and fraud, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, the imposition of administrative sanctions. In particular, in accordance with Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council¹² and Regulation (Euratom, EC) No 2185/96, the European Anti-Fraud Office (OLAF) may carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. In accordance with Regulation (EU) 2017/1939, where relevant, the European Public Prosecutor's Office (EPPO) may investigate and prosecute fraud and other criminal offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council¹³. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the Union's financial interests, to grant the necessary rights and access to the Commission, OLAF, the EPPO, where relevant, and the European Court of Auditors and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights.

⁹ Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

¹⁰ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

¹¹ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

¹² Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

¹³ Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

- (18) With a view to alleviating the negative impact on businesses and economic sectors, to avoid administrative bottlenecks, Member States and regions should target their information campaigns to raise awareness on the Union contribution from the Reserve and inform accordingly the public as transparency, communication and visibility activities are essential in making Union action visible on the ground. Those activities should be based on accurate and updated information.
- (19) In order to enhance transparency on the use of the Union contribution, the Commission should provide a final report on the implementation of the Reserve to the European Parliament, the Council, the Committee of the Regions and the European Economic and Social Committee.
- (20) In order to ensure uniform conditions for setting out the financial resources available to each Member State, implementing powers should be conferred on the Commission.
- (21) The European Data Protection Supervisor was consulted in accordance with Article 42 of Regulation (EU) 2018/1725 of the European Parliament and of the Council¹⁴ and delivered an opinion on [...¹⁵].
- (22) The objectives of this Regulation are to maintain economic, social and territorial cohesion and to provide a solidarity tool for Member States when dealing with the effects of the withdrawal of the United Kingdom from the Union which affects the Union as a whole though with different severity among regions and sectors. These objectives cannot be sufficiently achieved by the Member States alone but can rather, by reason of the scale and effects of the action, be better achieved at Union level. Thus, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (23) In order to allow for the prompt application of the measures provided for, this Regulation should enter into force as a matter of urgency,

HAVE ADOPTED THIS REGULATION:

¹⁴ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

¹⁵ OJ C... .

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 for the implementation of the Reserve, including for the eligibility of expenditure, for management and control, and the financial management.

Article 2
Definitions

For the purposes of this Regulation, the following definitions shall 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 Union law, or of national law relating to its application, resulting from an act or omission by any public or private entity involved in the implementation of the contribution from the Reserve, including Member State authorities, which has, or would have, the effect of prejudicing the budget of the Union by charging an unjustified item of expenditure to the budget of the Union;
- (4) ‘total error rate’ means total errors (being the sum of the projected random errors and, if applicable, delimited systemic errors and uncorrected anomalous errors), divided by the audit population;
- (5) ‘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;

- (5a) 'systemic irregularity' means any irregularity, which may be of a recurring nature, with a high probability of occurrence in similar types of measures.
- (6) 'Relocation' means a transfer of the same or similar activity or part thereof within the meaning of Article 2(61a) of Commission Regulation (EU) No 651/2014¹⁶.
- (6a) "Special Status Territories", in the context of this Regulation, means, where appropriate, the British Overseas Territories and the Crown Dependencies;

Article 3

Objectives

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 those that are most adversely affected by that withdrawal, and to mitigate the related negative impact on the economic, social and territorial cohesion.

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 UN Sustainable Development Goals, the Paris Climate Agreement and the "do no significant harm" principle.

Article 4

Geographical coverage and resources for the Reserve

1. All Member States shall be eligible for support from the Reserve.
2. The maximum resources for the Reserve shall be EUR 5 000 000 000 in 2018 prices.
3. The resources referred to in paragraph 2 shall be provisionally allocated pursuant to the method set out in Annex I. They shall be made available as follows:
 - (a) a pre-financing amount of EUR 4 000 000 000 in 2018 prices shall be made available and paid in three instalments of EUR 1 600 000 000 in 2021, EUR 1 200 000 000 in 2022 and EUR 1 200 000 000 in 2023 in accordance with Article 8;
 - (b) remaining provisionally allocated amount of EUR 1 000 000 000 in 2018 prices shall be made available in 2025 in accordance with Article 11.

¹⁶ 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).

- (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 waters that belong to the UK Exclusive Economic Zone (EEZ) pursuant to Annex I, shall spend at least 50% of this 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 above purpose 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 Art 11(2)(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.

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

Chapter II Eligibility

Article 5 Eligibility

- (1) The financial contribution from the Reserve shall only support measures specifically taken by Member States including at regional and local level to contribute to the objectives referred to in Article 3 and may cover in particular the following:
- (a) measures to support private and public businesses, in particular SMEs, self-employed, local communities and organisations adversely affected by the withdrawal;

- (b) measures to support the most adversely affected economic sectors;
 - (c) measures to support businesses, regional and local communities and organisations, including the small scale coastal fisheries, dependent on fishing activities in the United Kingdom waters, in the waters of its territories with special status or in the waters covered by fisheries agreements with coastal states where fishing opportunities for EU 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 adversely affected sectors;
 - (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 its 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;
 - (g) measures for communication, information and awareness-raising of citizens and businesses about changes stemming from the withdrawal to their rights and obligations.
 - (h) measures aimed at the re-integration of EU 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;
2. Expenditure shall be eligible for a financial contribution from the Reserve if it is incurred and paid by authorities in the Member States, at national, regional or local level, including payments to public or private entities, during the reference period for measures carried out in the Member State concerned 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 support from the Reserve on those most adversely affected, while taking into account the partnership principle and encouraging a multi-level dialogue with local and regional authorities and communities of regions and sectors most adversely affected, social partners and civil society, where relevant and in accordance with their institutional, legal and financial framework.

- 3a. When designing support measures in the field of fisheries, Member States shall take into account the objectives of the Common Fisheries Policy, making sure those measures contribute to the sustainable management of fish stocks and shall endeavour to support fishers most adversely affected by the United Kingdom withdrawal from the Union, including small-scale coastal fisheries.
4. The measures referred to in paragraph 1 shall comply with applicable law.
5. Measures eligible under paragraph 1 may receive support from other Union programmes and instruments provided that such support does not cover the same cost.
6. The Member State shall repay the contribution from the Reserve to an action comprising investment in infrastructure or productive investment, if within five years of the final payment to the recipients of the financial contribution 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 or transfer of a productive activity outside the Member State in which it received support;
 - (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.

The Member State may reduce the time limit set out in the first subparagraph to three years in cases concerning the maintenance of investments or jobs created by small and medium-sized enterprises.

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

Article 5a
Technical assistance

1. 2.5% of the contribution from the Reserve for each Member State shall be paid as technical assistance for the management, monitoring, information and communication and control and auditing of the Reserve, including at the regional and local level, 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 11(2)(a).

Article 6
Exclusion from support

The Reserve shall not support:

- (a) value added tax;
- (b) expenditure supporting relocation as defined in Article 2(6);

Chapter III
Financial management

Article 7
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 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 the Member States, including payments to public or private entities, for measures carried out and of flat-rate financing for technical assistance.
3. Commitments and payments under this Regulation shall be made subject to the availability of funding.
4. By derogation from paragraphs 5, 6 and 7 of Article 63 of the Financial Regulation, the documents referred to in those provisions shall be submitted once, pursuant to Article 10 of this Regulation.

5. By 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 8
Pre-financing

1. Subject to receipt of the information required under Article 13(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)(a) as well as the minimum amount of resources that shall be spent in accordance with Article 4(4) new 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 include a description of the actions to be financed.
2. 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. 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 11.
3. Amounts allocated but not paid as pre-financing shall be carried over and shall be used for additional payments pursuant to Article 11(6).

Article 9
Submission of applications for a financial contribution from the Reserve

1. The Member States shall submit an application to the Commission for a financial contribution from the Reserve by 30 September 2024. The Commission shall assess this application and establish whether the remaining provisional allocation and additional amounts are due to Member States or any amounts should be recovered from the Member States in accordance with Article 11.
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 10

Content of the application for a financial contribution

1. The application 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 level, including the territorial distribution of the expenditure at NUTS level 2 where relevant, and the values of output indicators for the measures supported. It shall be accompanied by the documents referred to in paragraphs 5, 6 and 7 of Article 63 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;
 - (b) a description of the measures taken 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 measures taken 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.
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 submitted to the Commission, as a result of the implemented corrective actions.

Article 11

Clearance of the pre-financing and 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 10 and shall satisfy itself that the application is complete, accurate and true. When calculating the financial contribution due to the Member State from the Reserve, 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 5a(2);
 - (c) the sum of the amounts referred to in points (a) and (b) ('total accepted amount');
 - (d) whether the amounts provisionally allocated in accordance with Annex I ('provisional allocation') is due to the Member State, in line with paragraph 3, or whether amounts need to be recovered pursuant to paragraph 6.
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 respective pre-financing and pay any amount due within 30 days of adoption of the implementing act referred to in paragraph 2.

6. The Commission shall make any unused resources from the provisional allocations available to make additional payments by increasing proportionately the 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 8(4), the remaining part of the provisional allocation of a Member State whose total accepted amount is less than its provisional allocation and amounts resulting from recoveries carried out pursuant to the second sub-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, and in particular its Part I, Title IV, Chapter 6, Sections 3, 4 and 5. 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 more than the resources available according to the first subparagraph of this paragraph the contributions from the Reserve for the amounts exceeding the provisional allocations shall be reduced proportionately.

In case 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 general budget of the Union.

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

Article 12
Use of the euro

Any amounts declared in the application for a financial contribution to the Commission by Member States shall be denominated in euro. Member States which have not adopted the euro as their currency shall convert the amounts in the application for financial contribution 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 managing the Reserve.

Chapter IV
Management and control systems

Article 13
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 responsible or, when required by the Member State constitutional framework, bodies 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 system 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 body or bodies designated and of the body to which the pre-financing shall be paid, and confirming that the systems' descriptions have been drawn up, within two months of the entry into force of this Regulation;
 - (e) ensuring that expenditure supported under other Union programmes and instruments is not included for support from the Reserve;

- (f) preventing, detecting and correcting irregularities and fraud, and avoiding conflict of interest; these 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, for those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, with the EPPO.

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

The Member States and the Commission shall be allowed to process personal data only where necessary for the purpose of carrying out their respective obligations under this Regulation, and process personal data in accordance with Regulation (EU) 2016/679¹⁷ or Regulation (EU) 2018/1725, whichever is applicable.

2. For the purposes of points (a) and (b) of paragraph 1, the 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;

¹⁷ 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).

- (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 paragraphs 2 to 6 of Article 38 of the Financial Regulation;
 - (f) use an accounting system to record and store in an electronic form 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 five years following the deadline for submission of the application for a financial contribution, and transpose this obligation in agreements with other entities involved in the implementation of the Reserve;
 - (h) for the purposes of point (f) of paragraph 1, 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 system and carry out audits of financed measures in order to provide independent assurance to the Commission regarding the effective functioning of the management and control 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 the 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 judgment 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 all entities involved in the implementation of the Reserve with regard to the measures financed by the Reserve and shall have access to the supporting documents regarding the expenditure to be covered by the financial contribution from the Reserve.
- 5a. The Commission shall pay particular attention to the set-up of the system where Member States do not make use of existing bodies designated for the implementation of cohesion policy funding or the European Union Solidarity Fund and if risks are identified, shall carry out an assessment to ensure that the system functions effectively in ensuring the protection of the financial interests of the Union. The Commission shall inform the Member State of its provisional conclusions and give the Member State the possibility to present within two months its observations.

Article 14

Financial corrections

1. The financial corrections made by the Member State in accordance with Article 13(1), point (f), shall consist of cancelling all or part of the financial contribution from the Reserve. The Member State shall recover any amount lost as a result of an irregularity detected.
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 10 of this Regulation from Union financing and through the recovery of the amounts unduly paid in accordance with Article 101 of the Financial Regulation if irregularities are subsequently identified.

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 system 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 budget of the Union.
4. Prior to the application of financial corrections through the recovery of amounts unduly paid, the Commission shall inform the Member State of its assessment and invite the Member State to submit its observations within two months.

Chapter V
Final provisions

Article 15
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, on the role, the results and impact of the Union contribution from the Reserve through information and communication actions and, in this context, raise awareness about the changes resulting from the withdrawal of the United Kingdom.

Article 16
Evaluation and reporting

1. By 30 June 2027, the Commission shall carry out an evaluation to examine the effectiveness, efficiency, relevance, coherence and EU 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.
2. 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.

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

Article 17
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.

Done at Brussels,

For the European Parliament

The President

For the Council

The President

ANNEX I

Allocation method for the resources of the Brexit Adjustment Reserve set out in Article 4(3)

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

1. Each Member State's share from the resources of the Brexit Adjustment Reserve is determined as the sum of a factor linked to the fish caught in the waters that belong to the UK's Exclusive Economic Zone (EEZ), a factor linked to trade with the UK, and a factor linked to the population of maritime border regions with the UK.
2. The factor linked to fish caught in the UK EEZ is used to allocate EUR 600 million. The factor linked to trade is used to allocate EUR 4 150 million. The factor linked to maritime border regions is used to allocate EUR 250 million. Each of these amounts is expressed in 2018 prices.
3. The factor linked to fisheries is determined on the basis of the following criterion and by applying the following steps:
 - a) share of each Member State of the total value of the fish caught in the UK EEZ;
 - b) these shares are increased for Member States with fisheries that have an above average dependency on the fish caught in the UK EEZ and decreased for the ones that have a below average dependency as following:
 - (i) for each Member State, the value of fish caught in UK EEZ as a percentage of the total value of fish caught by that Member State is expressed as an index of the EU average (index of dependency);
 - (ii) the initial share of the value of fish caught in the UK EEZ is adjusted by multiplying it with the Member State's index of dependency raised to the power of 75%;
 - (iii) these adjusted shares are rescaled to ensure that the sum of all Member States' shares equals 100%.
4. The factor linked to trade is obtained by applying the following steps:
 - a) each Member State's trade with the UK is expressed as share of the EU trade with the UK (trade is the sum of the imports and the exports of good and services);

- b) to assess the relative importance of these trade flows for each Member State, the sum of trade flows with the UK are expressed as a percentage of the Member State's GDP and subsequently expressed as an index of the EU average (index of dependency);
 - c) the initial share of trade with the UK is adjusted by multiplying it with the Member State's index of dependency; raised to the power of 75%;
 - d) these 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 GNI per capita (in purchasing power parities) expressed as a percentage of the average GNI per capita of the EU (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 EU total. The resources deducted due to this capping are redistributed to the other Member States, proportionally to their non-capped shares;
 - g) if this 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 this 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 this 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 is obtained by calculating the share of each Member State in the total population of maritime border regions with the UK. Maritime border regions are NUTS level 3 regions along border coastlines and other NUTS level 3 regions of which at least half of the regional population lives within 25 kilometres of the border coastlines. Border coastlines are defined as coastlines that are located at maximum 150 km from the UK coastline.

6. For the purposes of calculating the distribution of the resources of the Brexit Adjustment Reserve:
 - a) for the value of the fish caught in UK EEZ the reference period shall be 2015-2018;
 - b) for the value of the fish caught in the UK EEZ as a share of total value of fish caught by a Member State, the reference period shall be 2015-2018;
 - c) for trade the reference period shall be 2017-2019;
 - d) for GNI the reference period shall be 2017-2019;
 - e) for GNI/capita (in purchasing power parities) the reference period shall be 2016-2018;
 - f) for GDP and for total population of the Member States the reference period shall be 2017-2019.
 - g) For population of the NUTS level 3 regions the reference period shall be 2017.

ANNEX II

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

| | | | |
|----|---|----------------------|------------------|
| 1. | Member State | | |
| 2. | Date of application | | |
| 3. | Date of first expenditure | <i>Date incurred</i> | <i>Date paid</i> |
| 4. | Date of last expenditure | <i>Date incurred</i> | <i>Date paid</i> |
| 5. | Amount of pre-financing received (in EUR) | | |
| 6. | Body ¹⁸ responsible for managing the contribution from the Reserve Responsible person and function Contact details | | |
| 7. | Independent audit body Responsible person and function Contact details | | |

¹⁸ Where applicable in accordance with Article 13(1)(a), the information shall be provided for all bodies responsible for the management of the financial contribution from the Reserve.

| | | |
|-----|--|--|
| 7a | Body or bodies to which tasks from the Reserve have been delegated, where applicable | |
| 8. | Short description of the areas and sectors affected and the response measures put in place | |
| 8a | When carried out, a short description of the Multi-Level-Dialogue | |
| 9. | Total expenditure incurred and paid before deductions | |
| 10. | Amounts deducted by the Member State and the reasons for deduction | |

| | | |
|-----|---|--|
| 11. | In particular, out of the amounts deducted (10), the amounts corrected as a result of audits of the measures financed | |
| 12. | Total expenditure submitted for contribution from the Reserve (EUR) (12= 9 – 10) | |
| 13. | In national currency (where applicable) | <p><i>For Member States not using the Euro: please convert all amounts into Euro at the monthly accounting exchange rates established by the Commission published at:</i></p> <p>https://ec.europa.eu/info/funding-tenders/how-eu-funding-works/information-contractors-and-beneficiaries/exchange-rate-infoeuro_en</p> |
| 14. | Monthly accounting exchange rates established by the Commission | |
| 14a | Territorial distribution of the expenditure at NUTS level 2, where relevant | |

| | | | | |
|--------|---|--|--|---|
| 15.2. | Measures to support the most adversely affected economic sectors | | | Enterprises (supported) Enterprises supported (advised) |
| 15.3. | Measures to support businesses, regional and local communities and organisations, including the small scale coastal fisheries, dependent on fishing activities in the United Kingdom waters, in the waters of its territories with special status or in the waters covered by fisheries agreements with coastal states where fishing opportunities for EU fleets have been reduced as a result of the United Kingdom's withdrawal from the Union; | | | Enterprises (supported) Enterprises supported (advised) Population benefiting |
| 15.4. | Measures to support job creation and protection, including green jobs, short-time work schemes, re-skilling and training in adversely affected sectors; | | | Participants |
| 15.4.a | Measures aimed at the re-integration of EU 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; | | | Persons |

| | | | | |
|-------|--|--|--|--|
| 15.5. | Measures to ensure the functioning of border, and security controls, including additional personnel and its training, and infrastructure | | | Additional Personnel (in FTE) Physical infrastructure adapted (m ²) |
| 15.6. | Measures to ensure the functioning of customs and collection of indirect taxation, including additional personnel and infrastructure | | | Additional Personnel (in FTE) Physical infrastructure adapted (m ²) |

| | | | | |
|-------|---|--|--|--|
| 15.7. | Measures to ensure the functioning of sanitary and phytosanitary and fisheries controls, including additional personnel and infrastructure | | | Additional Personnel (in FTE) Physical infrastructure adapted (m ²) |
| 15.8. | Measures to facilitate certificates and authorisation of products, establishment requirements, labelling and marking, for example for safety, health, environmental standards, and mutual recognition | | | Enterprises (supported) Enterprises supported (advised) |

| | | | | |
|--------|---|---|--|---|
| 15.9. | Measures for communication, information and awareness-raising of citizens and businesses about changes stemming from the withdrawal to their rights and obligations | | | Enterprises supported (advised) Population covered |
| 15.10. | Other (please specify) | | | |
| 16. | Any complementary EU 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) | | | |
| 17. | 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 | | |

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

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 judgment 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 this Regulation, 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 these 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

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, and verified the management declaration, in order to issue an audit opinion.

2. RESPONSIBILITIES OF THE BODY¹⁹ 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 in regard to the functions and tasks provided for in Article 13.

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 put in place.

¹⁹ Where applicable in accordance with Article 13(1)(a), the information shall be provided for all bodies responsible for the management of the financial contribution from the Reserve.

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.

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,
- (iii) the management and control system functioned 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 in place as at the date of this audit opinion
- the management and control system put in place functioned properly [where the qualification applies to the management and control system, 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)

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 put in place functioned/did 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: [please specify]

The audit work carried out puts in doubt the assertions made in the management declaration for 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

1. GENERAL

1.1. Information submitted by:

- Member State:
- Name and e-mail 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).

- a) Body²⁰ responsible for the management of the financial contribution from the Reserve (name, address and contact point in the body):

²⁰ Where applicable in accordance with Article 13(1)(a), the information shall be provided for all bodies responsible for the management of the financial contribution from the Reserve.

- a) where applicable, the body or bodies to which tasks have been delegated (name, address and contact point in the body):
- b) The independent audit body (name, address and contact points in the body):
- c) Indicate how respect of the principle of separation of functions between the bodies referred to in points (a) and (b) is ensured.

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

2.1. Body 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.
- 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 contractor²¹ and sub-contractor²², where the recipient is a contracting authority in accordance with the Union or national provision on public procurement, and value of the contract;

²¹ Information only required where public procurement procedures above the EU thresholds are concerned.

²² 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.

the first name, last name and date of birth of beneficial owner²³, as defined by Article 3(6) of Directive (EU) 2015/849 of the European Parliament and of the Council²⁴, of the recipient or contractor referred to in the first and second indent of this point;

where appropriate, data on individual participants.

- 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.

²³ 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. [N.B.: A recital reflecting this provision may be included at a later stage].

²⁴ 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).