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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the Brexit Adjustment Reserve - Outcome of the European Parliament's first reading (Strasbourg, 13 to 16 September 2021)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the Joint declaration on practical arrangements for the codecision procedure¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this file at first reading.

In this context, the rapporteur Pascal ARIMONT (EPP, BE) presented a compromise amendment (amendment number 107) to the abovementioned proposal for a Regulation on behalf of the Committee on Regional Development. This amendment had been agreed during the informal contacts referred to above. No other amendments were tabled.

¹ OJ C 145, 30.6.2007, p. 5.

II. VOTE

When it voted on 15 September 2021, the plenary adopted the compromise amendment (amendment number 107) to the abovementioned proposal for a Regulation. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto².

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

² The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in *bold and italics*. The symbol "■" indicates deleted text.

P9_TA(2021)0373

Brexit Adjustment Reserve ***I

European Parliament legislative resolution of 15 September 2021 on the proposal for a regulation of the European Parliament and of the Council establishing the Brexit Adjustment Reserve (COM(2020)0854 – C9-0433/2020 – 2020/0380(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2020)0854),
- having regard to Article 294(2), Article 322 and the third paragraph of Article 175 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0433/2020),
- having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
- having regard to the opinion of the Court of Auditors of 25 February 2021¹,
- having regard to the opinion of the European Economic and Social Committee of 25 February 2021²,
- having regard to the opinion of the Committee of the Regions of 19 March 2021³,
- having regard to the provisional agreement approved by the committee responsible under Rule 74(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 30 June 2021 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
- having regard to Rule 59 of its Rules of Procedure,
- having regard to the European Council conclusions, agreed at its special meeting of 17-21 July 2020, to provide for the establishment of a new special Brexit Adjustment Reserve,

¹ OJ C 101, 23.3.2021, p.1.

² OJ C 155, 30.4.2021, p. 52.

³ OJ C175, 7.5.2021, p. 69.

- having regard to the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community,
 - having regard to Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012,
 - having regard to the opinions of the Committee on Budgets and the Committee on Fisheries,
 - having regard to the report of the Committee on Regional Development (A9-0178/2021),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P9_TC1-COD(2020)0380

Position of the European Parliament adopted at first reading on 15 September 2021 with a view to the adoption of Regulation (EU) 2021/... 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), point (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 Committee⁴,

Having regard to the opinion of the Committee of the Regions⁵,

Having regard to the opinion of the Court of Auditors⁶,

Acting in accordance with the ordinary legislative procedure⁷,

⁴ OJ C 155, 30.4.2021, p. 52.

⁵ OJ C175, 7.5.2021, p. 69.

⁶ OJ C 101, 23.3.2021, p. 1.

⁷ Position of the European Parliament of 15 September 2021.

Whereas:

- (1) The Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community⁸ (the ‘Withdrawal Agreement’) entered into force on 1 February 2020. The transition period referred to in Article 126 of the Withdrawal Agreement **ended on** 31 December 2020. During the transition period, the Union and the United Kingdom of Great Britain and Northern Ireland (**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 a reality with broad** and far-reaching consequences for businesses, **particularly for small and medium-sized enterprises (SMEs) and their workers, as well as for local communities**, public administrations **and citizens**. **Since 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.

⁸ 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 L 29, 31.1.2020, p. 7).

- (4) *The Union is also committed to sustainable fisheries management in line with the objectives of the Common Fisheries Policy established by Regulation (EU) No 1380/2013 of the European Parliament and of the Council⁹, including the principle of achieving maximum sustainable yield for all stocks according to the best available scientific advice, as well as ending overfishing, restoring populations of harvested species and protecting the marine environment, as also provided for by international commitments.*
- (5) A Brexit Adjustment Reserve (the ‘Reserve’) should be established to provide support to counter the adverse consequences of the withdrawal of the United Kingdom from the Union in Member States, regions and sectors, in particular in those that are worst affected by the withdrawal, and thus to mitigate the related *negative* impact on 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 Member States at national, regional or local levels, 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 of the Reserve for the provision of dedicated support to local and regional coastal communities.*
- (6) *Where Member States choose to support measures to maintain and create jobs, they should aim at quality employment.*

⁹ Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

- (7) *The objectives of the Reserve should be pursued in line with the objective of promoting sustainable development as set out in Article 11 of the Treaty on the Functioning of the European Union (TFEU), taking into account the United Nations Sustainable Development Goals, the Paris Agreement adopted under the United Nations Framework Convention on Climate Change¹⁰ (the ‘Paris Agreement’), which was approved by the Union on 5 October 2016¹¹, the ‘do no significant harm’ principle within the meaning of Article 17 of Regulation (EU) 2020/852 of the European Parliament and of the Council¹², the European Green Deal, the Digital Agenda for Europe, as well as the principle of partnership and the principles set out in the European Pillar of Social Rights, including the inherent contribution of the Reserve to the elimination of inequalities, and to the promotion of gender equality and gender mainstreaming, while ensuring respect for fundamental rights.*
- (8) In order to *counter the adverse consequences of the withdrawal of the United Kingdom from the Union*, Member States, when designing support measures *and allocating the financial contribution from the Reserve*, should *support private and public entities adversely affected by the withdrawal, including SMEs and their workers, as well as the self-employed, as they now face barriers to trade flows, an increase in administrative and custom procedures, and a 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 that objective.

¹⁰ OJ L 282, 19.10.2016, p.4.

¹¹ Council Decision (EU) 2016/1841 of 5 October 2016 on the conclusion, on behalf of the European Union, of the Paris Agreement adopted under the United Nations Framework Convention on Climate Change (OJ L 282, 19.10.2016, p. 1).

¹² Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

- (9) *Reflecting the importance of tackling climate change in accordance with the Union's commitments to implement the Paris Agreement and the United Nations Sustainable Development Goals, the Union funds and programmes are intended to contribute to mainstreaming climate actions and to the achievement of an overall target of 30 % of the Union budget expenditure supporting climate objectives. The 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.*
- (10) It is important to clearly specify any exclusions from support provided by the Reserve. *In addition to the exclusion of entities that benefit from the withdrawal of the United Kingdom from the Union, 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.*
- (11) *In order to reduce the administrative burden, technical assistance for the management, monitoring, information and communication, control and audit of the Reserve could be implemented through a flat rate based on the amount of eligible expenditure accepted by the Commission. Technical assistance could be used to help local, regional and national authorities to implement the Reserve by assisting SMEs, in particular, which due to their size lack the resources and knowledge to overcome the increased administrative burden and costs* related to the withdrawal of the United Kingdom from the Union.

- (12) 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 Member States and their economies and, **■** *where* appropriate, the *measures carried out by Member States to mitigate the expected negative effects of the withdrawal* prior to the end of the transition period, the reference period **■** should start on 1 *January* 2020 and be concentrated for a limited period of **4 years**.
- (13) *The Commission should provide the European Parliament and the Council with an assessment analysing the impact of the withdrawal of the United Kingdom from the Union on Union businesses and economic sectors while taking into account the effects of currency fluctuations on trade.*
- (14) 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 Council¹³ (the ‘Financial Regulation’). It is therefore appropriate to determine the principles and specific obligations that Member States should respect, in particular the principles of sound financial management, transparency and non-discrimination and the absence of conflict of interest.
- (15) *Member States should ensure the coordinated use of the Reserve with other Union funds and programmes, including through consultations with the relevant local and regional authorities, as appropriate.*

¹³ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

- (16) Horizontal financial rules adopted by the European Parliament and by the Council on the basis of Article 322 TFEU apply to this Regulation. Those rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the Union budget, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also include a general regime of conditionality for the protection of the Union budget *as established in Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council*¹⁴.
- (17) 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 counter the adverse consequences of the withdrawal of the United Kingdom from the Union on Member States, *including at regional and local levels*, and their economies.

¹⁴ Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget (OJ L 433 I, 22.12.2020, p. 1).

- (18) 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 methodology for the resources of the Reserve* should take into account ■ the importance of fisheries in the United Kingdom's exclusive economic zone, the importance of trade with the United Kingdom *and the importance of the neighbouring links for the maritime border regions with the United Kingdom and their communities*, based on reliable and official statistics. Given the unique nature of the withdrawal of the United Kingdom from the Union and the uncertainty that has surrounded key aspects of the relationship between the Union and the United Kingdom after the end of the transition period, it is difficult to anticipate the appropriate measures that 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 actions to be financed.
- (19) Within 2 months from the date of the entry into force of this Regulation and prior to the payment of the *first instalment of* pre-financing, Member States should notify the Commission of the identity of the designated bodies and of the body to which the pre-financing shall be paid, and confirm that the descriptions of the management and control systems for the Reserve have been drawn up.

- (20) 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 Reserve 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, on an annual basis, the documents required in Article 63(5), (6) and (7) of the Financial Regulation. Given also that the risks for the Union budget are mitigated by the requirement to *make use* for the Reserve *of a* reliable management and control system *already existing in Member States or, where appropriate*, to be set up by Member States, it is justified to derogate from the obligation of Member States to submit the required documents by February or March of each year. In order to enable the Commission to check the correctness of the use of the financial contribution from the Reserve, Member States should also be required to submit, as part of the application for a financial contribution from the Reserve, implementation reports providing more detail on the actions financed, *which describe the adverse consequences of the United Kingdom's withdrawal from the Union on 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.

- (21) Pursuant to paragraphs 22 and 23 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making¹⁵, the Reserve should be evaluated on the basis of information collected in accordance with specific monitoring requirements, while avoiding administrative burden, in particular on *national, regional and local authorities*, and overregulation. Those requirements, where appropriate, should include measurable indicators as a basis for evaluating the effects of the Reserve on the ground.
- (22) To ensure equal treatment of all Member States and consistency in the evaluation of the applications for a financial contribution from the Reserve, the Commission should assess the applications as a package. It should look in particular into the eligibility and the accuracy of the expenditure declared, the direct link of the *adverse* consequences of the United Kingdom's withdrawal from the Union with the ■ measures carried out, and the arrangements 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 for a financial contribution from the Reserve.* 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.*

¹⁵ OJ L 123, 12.5.2016, p. 1.

- (23) *Given the exceptional and specific nature of the Reserve and its objectives, the Commission should assist Member States in order to help them identify measures to counter the adverse consequences of the withdrawal of the United Kingdom from the Union, including on how to assess the direct link of the expenditure with the withdrawal.*
- (24) In order to ensure the proper functioning of shared management, Member States should establish a management and control system for the Reserve. Each Member State should designate a body *or, where required by the Member State constitutional framework, bodies* responsible for the management of the Reserve, and a separate independent audit body, and notify the Commission of the identity of the designated *body or* bodies. *It should be possible for the* Member States *to* make use of existing ■ designated *bodies, at the appropriate territorial level,* and management and control systems that are already in place for the purpose of the implementation of cohesion policy funding or the European Union Solidarity Fund established by Council Regulation (EC) No 2012/2002¹⁶. It is necessary to specify the responsibilities of Member States and lay down the specific requirements for the designated bodies.

¹⁶ Council Regulation (EC) No 2012/2002 of 11 November 2002 establishing the European Union Solidarity Fund (OJ L 311, 14.11.2002, p. 3).

- (25) *To enhance the protection of the Union 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 should encourage its use with a view to a generalised application by Member States.*
- (26) *In order to reduce administrative burden, Member States could reimburse those who benefit from a financial contribution from the Reserve through simplified cost options, such as flat rates, lump sums or unit costs, where these are a reliable proxy to real costs.*

- (27) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council¹⁷ and Council Regulations (EC, Euratom) No 2988/95¹⁸, (Euratom, EC) No 2185/96¹⁹ and (EU) 2017/1939²⁰, the financial interests of the Union are to be protected through proportionate measures, including measures relating to the prevention, detection, correction and investigation of irregularities, including fraud, to the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, the imposition of administrative penalties. In particular, in accordance with Regulations (Euratom, EC) No 2185/96 and (EU, Euratom) No 883/2013, the European Anti-Fraud Office (OLAF) has the power to 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. The European Public Prosecutor's Office (EPPO) is empowered, in accordance with Regulation (EU) 2017/1939, *where relevant*, to investigate and prosecute criminal offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council²¹. 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, grant the necessary rights and access to the Commission, OLAF, the Court of Auditors and, in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, the EPPO, *where relevant*, and ensure that any third parties involved in the implementation of Union funds grant equivalent rights.

¹⁷ 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).

¹⁸ 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).

¹⁹ 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).

²⁰ 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).

²¹ 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).

- (28) *With a view to alleviating the negative impact on businesses and economic sectors, and to avoid administrative bottlenecks*, Member States *and regions* should *target their information campaigns to* raise awareness of the Union contribution from the Reserve and, since transparency, communication and visibility activities are essential in making Union action visible on the ground, inform **█** *the public* accordingly. Those activities should be based on accurate and updated information.
- (29) In order to enhance transparency on the use of the Union contribution from the Reserve, the Commission should provide a final report **█** on the implementation of the Reserve *to the European Parliament, to the Council, to the European Economic and Social Committee and to the Committee of the Regions*.
- (30) 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.
- (31) The European Data Protection Supervisor was consulted in accordance with Article 42 of Regulation (EU) 2018/1725 of the European Parliament and of the Council²² and delivered an opinion on 14 April 2021.

²² 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).

- (32) Since the objectives of this Regulation, namely 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, nevertheless with different severity among regions and sectors, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of the action, be better achieved at Union level, 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 those objectives.
- (33) In light of the overriding need to counter without delay 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 the withdrawal, and to mitigate the related negative impact on the economic, social and territorial cohesion, 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*,

HAVE ADOPTED THIS REGULATION:

Chapter I
General provisions

Article 1
Subject matter

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

Article 2
Objectives

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

Article 3
Definitions

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

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

- (5) ‘total errors’ means *the sum of the projected random errors and, if applicable, delimited systemic errors and uncorrected anomalous errors*;
- (6) ‘total error rate’ means total errors divided by the audit population;
- (7) ‘residual error rate’ means the total *errors* less the financial corrections applied by the Member State ■ to reduce the risks identified by the independent audit body ■, divided by the expenditure to be *declared in the application* for a financial contribution from the Reserve;
- (8) ‘relocation’ means a transfer of the same or similar activity or part thereof within the meaning of Article 2, point (61a), of Commission Regulation (EU) No 651/2014²³;
- (9) ‘territories with special status’, *in the context of this Regulation, means, where appropriate, the British Overseas Territories and the Crown Dependencies.*

²³ 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).

Article 4

Geographical coverage and resources of the Reserve

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

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

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

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

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

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

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

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

Chapter II

Eligibility, technical assistance and exclusion from support

Article 5

Eligibility

1. The financial contribution from the Reserve shall only support **■** measures specifically carried out by Member States, ***including at regional and local levels***, to contribute to the objectives set out in Article 2 **■** and may cover **■** in particular the following:
 - (a) measures to ***support private and public*** businesses, ***in particular SMEs, the self-employed, local communities and organisations*** adversely affected by the withdrawal of the United Kingdom from the Union;
 - (b) measures to support the economic sectors most ***adversely*** affected by the withdrawal of the United Kingdom from the Union;
 - (c) measures to support businesses, ***regional*** and local communities ***and organisations, including small-scale coastal fisheries***, dependent on fishing activities in United Kingdom waters, ***in waters of territories with special status or in waters covered by fisheries agreements with coastal states where fishing opportunities for Union fleets have been reduced as a result of the United Kingdom's withdrawal from the Union***;
 - (d) measures to support ***job creation and protection***, including ***green jobs***, short-time work schemes, re-skilling and training in sectors most ***adversely*** affected by the withdrawal of the United Kingdom from the Union;

- (e) measures to ensure the functioning of border, customs, sanitary and phytosanitary, security and fisheries controls, as well as the collection of indirect taxation, including additional personnel *and their training*, and infrastructure;
- (f) measures to facilitate regimes for certification and authorisation of products, to assist in meeting establishment requirements, to facilitate labelling and marking, for example for safety, health and environmental standards, as well as to assist in mutual recognition;
- (g) measures for communication, information and awareness-raising of citizens and businesses about changes to their rights and obligations stemming from the withdrawal of the United Kingdom from the Union;
- (h) *measures aimed at the reintegration of Union citizens as well as persons having the right to reside on the territory of the Union who left the United Kingdom, as a result of the withdrawal of the United Kingdom from the Union.*

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

3. When designing support measures, Member States shall take into account the varied impact of the withdrawal of the United Kingdom from the Union on different regions and local communities and focus financial contribution from the Reserve on those most *adversely* affected by the withdrawal, *while taking into account the partnership principle and encouraging a multi-level dialogue with local and regional authorities and communities of regions and sectors that are most adversely affected by the withdrawal, social partners and civil society, where relevant, and in accordance with their institutional, legal and financial framework.*
4. *When designing support measures in the field of fisheries, Member States shall take into account the objectives of the Common Fisheries Policy, making sure that those measures contribute to the sustainable management of fish stocks and shall endeavour to support fishers most adversely affected by the United Kingdom's withdrawal from the Union, including small-scale coastal fisheries.*
5. The measures referred to in paragraph 1 shall comply with applicable law.
6. Measures eligible under paragraph 1 may receive support from other Union funds and programmes provided that such support does not cover the same cost.

7. Member States shall repay the contribution from the Reserve to an action comprising investment in infrastructure or productive investment, if within 5 years of the final payment to the recipients of the financial contribution from the Reserve or within the period of time set out in State aid rules, where applicable, that action is subject to any of the following:
- (a) a cessation of a productive activity or a transfer of a productive activity outside the Member State in which it received financial contribution from the Reserve;
 - (b) a change in ownership of an item of infrastructure which gives to a firm or a public body an undue advantage;
 - (c) a substantial change affecting its nature, objectives or implementation conditions which would result in undermining its original objectives.

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

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

Article 6

Technical assistance

- 1. 2,5 % of the financial contribution from the Reserve for each Member State shall be paid as technical assistance for the management, monitoring, information and communication, control and audit of the Reserve, including at regional and local levels, as appropriate.*
- 2. Technical assistance shall be calculated as a flat rate by applying the factor of 25/975 to the amount of eligible expenditure accepted by the Commission pursuant to Article 12(2), point (a).*

Article 7

Exclusion from support

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

■

Chapter III
Financial management

Article 8
Implementation and forms of Union funding

1. The financial contribution from the Reserve to a Member State shall be implemented within the framework of shared management in accordance with Article 63 of the Financial Regulation.
2. Member States shall use the financial contribution from the Reserve to implement the measures referred to in Article 5 to provide non-repayable forms of support. The Union contribution shall take the form of reimbursement of eligible costs actually incurred and paid by *public authorities in Member States, including payments to public or private entities, for measures carried out, and of flat-rate financing for technical assistance.*
3. Commitments and payments under this Regulation shall be made subject to the availability of funding.
4. By way of derogation from Article 63(5), (6) and (7) of the Financial Regulation, the documents referred to in those provisions shall be submitted once, pursuant to Article 10 of this Regulation.
5. By way of derogation from Article 12 of the Financial Regulation, unused commitment and payment appropriations under this Regulation shall be automatically carried over and may be used until 31 December **2026**. The appropriations carried over shall be consumed first in the following financial year.

Article 9
Pre-financing

- I.**
1. Subject to receipt of the information required under Article 14(1), point (d), of this Regulation, the Commission shall, by means of an implementing act, set out the breakdown of the resources referred to in Article 4(3), point (a), of this Regulation per Member State. That implementing act shall constitute a financing decision within the meaning of Article 110(1) of the Financial Regulation and the legal commitment within the meaning of that Regulation. By way of derogation from Article 110(2) of the Financial Regulation, that financing decision shall not contain a description of the actions to be financed.
 2. ***The budgetary commitments of the Union in respect of each Member State shall be made by the Commission in annual instalments during the period between 1 January 2021 and 31 December 2023.***

By way of derogation from Article 111(2) of the Financial Regulation, the budgetary commitments for the first instalment shall follow the adoption of the implementing act constituting the legal commitment by the Commission.
 3. The Commission shall pay the **2021 instalment of the** pre-financing within **30** days of the date of the adoption of the implementing act referred to in paragraph **I** of this Article. ***The instalments of the pre-financing for 2022 and 2023 shall be paid by the Commission by 30 April 2022 and 30 April 2023, respectively. The pre-financing*** shall be cleared in accordance with Article 12.
 4. Amounts allocated but not paid as pre-financing shall be carried over and shall be used for additional payments pursuant to Article 12(6).

Article 10

Submission of applications for a financial contribution from the Reserve

1. Each Member State shall submit to the Commission an application for a financial contribution from the Reserve by 30 September **2024**. The Commission shall assess those applications and establish whether *the remaining provisional allocation and* additional amounts are due to Member States or if any amounts are to be recovered from Member States in accordance with Article 12.
2. Where a Member State does not submit an application for a financial contribution from the Reserve by 30 September **2024**, the Commission shall recover the total amount paid as pre-financing to that Member State.

Article 11

Content of the application for a financial contribution from the Reserve

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

2. The implementation report for the Reserve shall include:
- (a) a description of the *negative* impact of the withdrawal of the United Kingdom from the Union in economic, social, *territorial and, where appropriate, environmental* terms, including an identification of the *sectors*, regions, areas and, *where relevant, local communities* most *adversely* affected by the withdrawal;
 - (b) a description of the measures *carried out* to counter the adverse consequences of the withdrawal of the United Kingdom from the Union, of the extent to which those measures alleviated the regional and sectoral impact referred to in point (a), and how they were implemented;
 - (c) a justification of the eligibility of the expenditure incurred and paid, and its direct link to the withdrawal of the United Kingdom from the Union;
 - (d) a description of the arrangements put in place to avoid double funding and to ensure complementarity with other Union instruments and national funding;
 - (e) a description of the contribution of the measures to climate change mitigation and adaptation.
3. The summary referred to in Article 63(5), point (b), of the Financial Regulation shall set out the total error rate and residual error rate for the expenditure entered in the application for a financial contribution from the Reserve submitted to the Commission, as a result of the corrective actions taken.

Article 12

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

1. The Commission shall assess the application referred to in Article 11 and shall satisfy itself that the application is complete, accurate and true. When calculating the financial contribution from the Reserve due to the Member State, the Commission shall exclude from Union financing expenditure for measures which were implemented or for which disbursements have been made in breach of applicable law.
2. Based on *its* assessment, the Commission shall, by means of an implementing act, establish the following:
 - (a) the ■ amount of eligible ■ expenditure *accepted*;
 - (b) the *amount of technical assistance calculated in accordance with Article 6(2)*;
 - (c) *the sum of the amounts referred to in points (a) and (b) ('total accepted amount')*;
 - (d) whether *the amount provisionally allocated in accordance with the implementing act under Article 4(5) ('provisional allocation')* is due to the Member State in accordance with paragraph 3 of this Article, or whether amounts need to be recovered pursuant to paragraph 6 of this Article.
3. Where the *total* accepted amount exceeds ■ the amount of pre-financing *paid*, an ■ amount shall be due to that Member State from the allocation referred to in Article 4(3), point (b), *up to the amount of the provisional allocation for that Member State.*

■

4. With regard to the ■ amounts due pursuant to paragraph 3 of this Article, the implementing act referred to in paragraph 2 of this Article shall constitute a financing decision within the meaning of Article 110(1) of the Financial Regulation and the legal commitment within the meaning of that Regulation.
5. The Commission shall clear the pre-financing and pay any ■ amount due to Member States within **30** days of adoption of the implementing act referred to in paragraph 2.
6. *The Commission shall make any unused resources from the provisional allocations available as additional payments by increasing proportionately the financial contribution from the Reserve to Member States whose total accepted amount exceeds their provisional allocation. The unused resources shall consist of amounts carried over pursuant to Article 9(4), the remaining part of the provisional allocation of a Member State whose total accepted amount is lower than its provisional allocation and amounts resulting from recoveries carried out pursuant to the second subparagraph of this paragraph.*

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

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

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

7. The Commission shall, by means of an implementing act, set out the additional amounts due pursuant to the *first subparagraph* of paragraph 6 of this Article. That implementing act shall constitute a financing decision within the meaning of Article 110(1) of the Financial Regulation and the legal commitment within the meaning of that Regulation. The Commission shall pay any additional amount due within **30** days of adoption of that implementing act.
8. Prior to the adoption of the implementing acts referred to in paragraphs 2 and 7, the Commission shall inform the Member State concerned of its assessment and invite that Member State to submit its observations within 2 months of informing the Member State of its assessment.

Article 13

Use of the euro

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

Chapter IV

Management and control systems for the Reserve

Article 14

Management and control

1. When executing tasks relating to the implementation of the Reserve, Member States shall take all the necessary measures, including legislative, regulatory and administrative measures, to protect the financial interests of the Union, namely by:
 - (a) designating a body *or, where required by the Member State constitutional framework, bodies* responsible for the management of the financial contribution from the Reserve and an independent audit body in accordance with Article 63(3) of the Financial Regulation, and supervising such bodies;
 - (b) setting up management and control systems for the Reserve in accordance with the principles of sound financial management and ensuring that those systems function effectively;

- (c) drawing up a description of the management and control systems for the Reserve in accordance with the template set out in Annex III, keeping the description up to date and making it available to the Commission on request;
- (d) notifying the Commission of the identity of the designated **body or** bodies and of the body to which the pre-financing shall be paid, and confirming that the descriptions of the management and control systems for the Reserve have been drawn up, by ... [2 months from the date of the entry into force of this Regulation];
- (e) ensuring that expenditure supported under other Union funds and programmes is not included for support from the Reserve;
- (f) preventing, detecting and correcting irregularities and fraud, and avoiding conflict of interest ■ ; *those actions comprise the collection of information on the beneficial owners of the recipients of funding in accordance with point 4(a) of Annex III; the rules related to the collection and processing of such data shall comply with applicable data protection rules;*
- (g) cooperating with the Commission, OLAF, the Court of Auditors and, in respect of those Member States participating in enhanced cooperation, the EPPO pursuant to Regulation (EU) 2017/1939.

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

Member States and the Commission shall be allowed to process personal data only where it is necessary for the purpose of meeting their respective obligations under this Regulation and shall process personal data in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council²⁴ or Regulation (EU) 2018/1725, whichever is applicable.

2. For the purposes of paragraph 1, points (a) and (b), Member States may make use of bodies, *at the appropriate territorial level*, and management and control systems already in place for the implementation of cohesion policy funding or the European Union Solidarity Fund.
3. The body *or bodies* responsible for *the management of* the financial contribution from the Reserve shall:
 - (a) ensure the functioning of an effective and efficient internal control system;
 - (b) establish criteria and procedures for the selection of measures to be financed and determine the conditions for a financial contribution from the Reserve;

²⁴ 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).

- (c) verify that the measures financed from the Reserve are implemented in accordance with applicable law and the conditions for a financial contribution from the Reserve, and that the expenditure is based on verifiable supporting documents;
- (d) establish effective measures to avoid double funding of the same costs by the Reserve and other sources of Union funding;
- (e) ensure ex post publication in accordance with Article 38(2) to (6) of the Financial Regulation;
- (f) use an accounting system to record and store electronically data on the expenditure incurred to be covered by the financial contribution from the Reserve that provides accurate, complete and reliable information in a timely manner;
- (g) keep available all supporting documents regarding expenditure to be covered by the financial contribution from the Reserve for a period of 5 years following the deadline for submission of the application for a financial contribution from the Reserve, and include that obligation in agreements with other entities involved in the implementation of the Reserve;
- (h) for the purposes of paragraph 1, point (f), collect information in an electronic standardised format to allow for the identification of recipients of a financial contribution from the Reserve and their beneficial owners in accordance with Annex III.

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

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

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

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

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

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

Article 15

Financial corrections

1. The financial corrections made by Member States in accordance with Article 14(1), point (f), shall consist of cancelling all or part of the financial contribution from the **Reserve**. Member States shall recover any amount lost as a result of an irregularity detected.
2. The Commission shall take appropriate action to ensure that the financial interests of the Union are protected through the exclusion of irregular amounts submitted to the Commission in the application referred to in Article 11 of this Regulation from Union financing and if irregularities are subsequently identified through the recovery of the amounts unduly paid in accordance with Article 101 of the Financial Regulation.

3. The Commission shall base its financial corrections on individual cases of identified irregularity and shall take account of whether an irregularity is systemic. Where it is not possible to quantify precisely the amount of irregular expenditure, or where the Commission concludes that the management and control system for the Reserve is not working effectively to safeguard the legality and regularity of the expenditure, the Commission shall apply a flat rate or extrapolated financial correction. The Commission shall respect the principle of proportionality by taking account of the nature and gravity of the irregularity and its financial implications for the Union budget.
4. Prior to the *application of financial corrections through the* recovery of amounts unduly paid **■**, the Commission shall inform the Member State concerned of its assessment and invite that Member State to submit its observations within 2 months of informing the Member State of its assessment.

Chapter V

Final provisions

Article 16

Information and communication

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

Article 17

Evaluation and reporting

1. ***By June 2024, the Commission shall inform the European Parliament and the Council on the state of play of the implementation process of this Regulation, based on available information.***
2. By 30 June **2027**, the Commission shall carry out an evaluation to examine the effectiveness, efficiency, relevance, coherence and Union added value of the Reserve. The Commission may make use of all relevant information already available in accordance with Article 128 of the Financial Regulation.
3. By 30 June **2028**, the Commission shall submit to the European Parliament, to the Council, ***to the European Economic and Social Committee and to the Committee of the Regions*** a report on the implementation of the Reserve.

Article 18

Entry into force

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

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

Done at ...,

For the European Parliament

For the Council

The President

The President

ANNEX I

Allocation methodology for the *resources* of the Reserve set out in Article 4(3)

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

1. Each Member State's share of *the resources* of the Reserve is determined as the sum of a factor linked to the fish caught in the *United Kingdom's* exclusive economic zone, *a factor linked to trade with the United Kingdom*, and a factor linked to *the population of maritime border regions* with the United Kingdom.
2. The factor linked to fish caught in the United Kingdom's exclusive economic zone is used to allocate EUR **656 452 200**. The factor linked to trade with the United Kingdom is used to allocate EUR **4 540 461 050**. *The factor linked to maritime border regions with the United Kingdom is used to allocate EUR 273 521 750. Each of those amounts is expressed in current prices.*
3. The factor linked to the fish caught in the United Kingdom's exclusive economic zone is obtained on the basis of the following criteria and by applying the following steps:
 - (a) share of each Member State of the total value of the fish caught in the United Kingdom's exclusive economic zone;
 - (b) those shares are increased for Member States with fisheries that have an above average dependency on the fish caught in the United Kingdom's exclusive economic zone and decreased for the Member States that have a below average dependency as follows:

- (i) for each Member State, the value of fish caught in United Kingdom's exclusive economic zone as a percentage of the total value of fish caught by that Member State is expressed as an index of the Union average ('index of dependency');
- (ii) the initial share of the value of fish caught in the United Kingdom's exclusive economic zone is adjusted by multiplying it with the Member State's index of dependency *raised to the power of 75 %*;
- (iii) those adjusted shares are rescaled to ensure that the sum of all Member States' shares equals 100 %.

4. The factor linked to trade with the United Kingdom is obtained by applying the following steps:

- (a) each Member State's trade with the United Kingdom is expressed as share of the Union trade with the United Kingdom (trade is the sum of the imports and the exports of goods and services);
- (b) to assess the relative importance of the trade flows with the *United Kingdom* for each Member State, the sum of those trade flows is expressed as a percentage of the Member State's gross domestic product (GDP) and subsequently expressed as an index of the Union average ('index of dependency');
- (c) the initial share of trade with the United Kingdom is adjusted by multiplying it with the Member State's index of dependency *raised to the power of 75 %*;
- (d) those adjusted shares are rescaled to ensure that the sum of all Member States' shares equals 100 %;

- (e) the shares so obtained are adjusted by dividing them with the Member State's gross national income (GNI) per capita (in purchasing power parities) expressed as a percentage of the average GNI per capita of the Union (average expressed as 100 %);
- (f) the resulting shares are rescaled to ensure the sum of shares equals 100 %, whereby it is ensured that no Member State can have a share higher than 25% of the Union's total; the resources deducted due to that capping are redistributed to the other Member States, proportionally to their non-capped shares;
- (g) if that calculation leads to an allocation exceeding 0,36 % of a Member State's GNI (measured in euro), that Member State's allocation is capped at the level of 0,36 % of its GNI; the resources deducted due to that capping are redistributed to the other Member States, proportionally to their non-capped shares;
- (h) if the calculation referred to in point (g) results in an aid intensity of more than EUR 195/inhabitant, that Member State's allocation is capped at the level corresponding to an aid intensity of EUR 195/inhabitant; the resources deducted due to that capping are distributed to the Member States not capped under points (g) or (h), proportionally to their shares as calculated in point (g).

5. *The factor linked to the maritime border regions with the United Kingdom is obtained by calculating the share of each Member State in the total population of the maritime border regions with the United Kingdom. Maritime border regions with the United Kingdom are NUTS level 3 regions along border coastlines and other NUTS level 3 regions of which at least half of the population lives within 25 km of these border coastlines. Border coastlines are defined as coastlines that are located at a maximum of 150 km from the United Kingdom's coastline.*
6. *For the purposes of calculating the distribution of the resources of the Reserve:*
- (a) for the value of the fish caught in *United Kingdom's* exclusive economic zone, the reference period shall be from 2015 to 2018;
 - (b) for the value of the fish caught in the *United Kingdom's* exclusive economic zone as a share of total value of fish caught by a Member State, the reference period shall be from 2015 to 2018;
 - (c) for trade the reference period shall be from 2017 to 2019;
 - (d) for GNI the reference period shall be from 2017 to 2019;
 - (e) for GNI/capita (in purchasing power parities) the reference period shall be from 2016 to 2018;
 - (f) for GDP and for total population of the Member States the reference period shall be from 2017 to 2019;
 - (g) *for population of the NUTS level 3 regions the reference period shall be 2017.*

ANNEX II

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

1.	Member State		
2.	Date of application		
3.	Date of first expenditure	<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 ¹ or bodies responsible for the management of the financial contribution from the Reserve Responsible person and function Contact details		

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

7.	Independent audit body Responsible person and function Contact details	
8.	<i>Body or bodies to which tasks have been delegated, where applicable</i>	
9.	Short description of the areas and sectors affected by the withdrawal of the United Kingdom from the Union and the response measures put in place	
10.	<i>When carried out, a short description of the multi-level dialogue</i>	
11.	Total ■ expenditure incurred and paid before deductions	

12.	Amounts deducted by the Member State and the reasons for deduction	
13.	In particular, out of the amounts deducted under point 12., the amounts corrected as a result of audits of the measures financed	
14.	Total expenditure submitted for the financial contribution from the Reserve (EUR) (14= 11 – 12)	
15.	In national currency (where applicable)	<p><i>For Member States whose currency is not the euro: please convert all amounts into euro at the monthly accounting exchange rates established by the Commission published at:</i></p> <p><i>https://ec.europa.eu/info/funding-tenders/how-eu-funding-works/information-contractors-and-beneficiaries/exchange-rate-infoeuro_en</i></p>

16.	Monthly accounting exchange rates established by the Commission			
17.	<i>Territorial distribution of the expenditure at NUTS level 2 regions, where relevant</i>			
18.	Breakdown of expenditure submitted for the financial contribution from the Reserve, <i>including the amount of resources spent in accordance with Article 4(4)</i> (please provide a list of the individual actions financed under each measure and the related expenditure for each action) <i>Each expenditure item should be entered only once</i>	EUR	National currency (if applicable)	Output indicators (please provide a number)
18.1.	<i>Measures to support private and public businesses, in particular SMEs, the self-employed, local communities and organisations adversely affected by the withdrawal of the United Kingdom from the Union</i>			Enterprises (supported) Enterprises supported (advised) Population benefiting

18.2.	Measures to support the economic sectors most <i>adversely</i> affected by the withdrawal of the United Kingdom from the Union			Enterprises (supported) Enterprises supported (advised)
18.3.	<i>Measures</i> to support businesses, <i>regional</i> and local communities <i>and organisations, including small-scale coastal fisheries</i> , dependent on fishing activities in United Kingdom waters, <i>in waters of special status territories or in waters covered by fisheries agreements with coastal states where fishing opportunities for Union fleets have been reduced as a result of the United Kingdom's withdrawal from the Union</i>			Enterprises (supported) Enterprises supported (advised) Population benefiting

18.4.	<i>Measures</i> to support job creation and protection, including green jobs , short-time work schemes, re-skilling and training in sectors most adversely affected by the withdrawal of the United Kingdom from the Union			Participants
18.5.	Measures to ensure the functioning of border, and security controls, including additional personnel and their training , and infrastructure			Additional Personnel (in FTE) Physical infrastructure adapted (m ²)

18.6.	Measures to ensure the functioning of customs and collection of indirect taxation, including additional personnel and their training, and infrastructure			Additional Personnel (in FTE) Physical infrastructure adapted (m ²)
18.7.	Measures to ensure the functioning of sanitary and phytosanitary and fisheries controls, including additional personnel and their training, and infrastructure			Additional Personnel (in FTE) Physical infrastructure adapted (m ²)

18.8.	Measures to facilitate regimes for certification and authorisation of products, to assist in meeting establishment requirements, to facilitate labelling and marking, for example for safety, health, environmental standards, as well as to assist in mutual recognition			Enterprises (supported) Enterprises supported (advised)
18.9.	Measures for communication, information and awareness-raising of citizens and businesses about changes to their rights and obligations stemming from the withdrawal of the United Kingdom from the Union			Enterprises supported (advised) Population covered
18.10.	<i>Measures aimed at the reintegration of Union citizens as well as persons having the right to reside on the territory of the Union who left the United Kingdom, as a result of the withdrawal of the United Kingdom from the Union</i>			<i>Persons</i>
18.11.	Other (please specify)			

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

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

I/We, the undersigned [name(s), first name(s), title(s) or function(s)], Head of the body responsible for the management of the financial contribution from the Reserve, based on the implementation of the Reserve during the reference period, based on my/our own judgement and on all information available to me/us at the date of the application submitted to the Commission, including the results from verifications carried out and from audits in relation to the expenditure included in the application submitted to the Commission in respect of the reference period, and taking into account my/our obligations under Regulation (EU) 2021/... of the European Parliament and of the Council²⁸⁺, hereby declare that:

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

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

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

²⁸ Regulation (EU) 2021/... of the European Parliament and of the Council of ... establishing the Brexit Adjustment Reserve (OJ L ...).

⁺ OJ: please insert in the text the number, and in the footnote the number, the date and the publication reference of the Regulation contained in this document (PE-CONS 59/21 - 2020/0380(COD)).

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

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

1. INTRODUCTION

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

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

in order to issue an audit opinion.

2. RESPONSIBILITIES OF THE BODY²⁹ RESPONSIBLE FOR THE MANAGEMENT OF THE FINANCIAL CONTRIBUTION FROM THE RESERVE

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

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

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

²⁹ *Where applicable in accordance with Article 14(1), point (a), the information shall be provided for all bodies responsible for the management of the financial contribution from the Reserve.*

3. RESPONSIBILITIES OF THE INDEPENDENT AUDIT BODY

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

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

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

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

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

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

4. SCOPE LIMITATION

Either

There were no limitations on the audit scope.

Or

The audit scope was limited by the following factors:

(a) ... ;

(b) ... ;

(c)

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

5. OPINION

Either (Unqualified opinion)

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

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

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

Or (Qualified opinion)

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

(1) The elements related to the accounts in the application

- the elements related to the accounts in the application give a true and fair view [where the qualification applies to the application, the following text is added:] except in the following material aspects:

(2) Legality and regularity of the expenditure included in the application

- the expenditure included in the application is legal and regular [where the qualification applies to the application, the following text is added:] except for the following aspects:

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

(3) The management and control system for the Reserve in place as at the date of this audit opinion

- the management and control system for the Reserve put in place functions properly [where the qualification applies to the management and control system for the Reserve, the following text is added:] except for the following aspects:

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

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

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

Or (Adverse opinion)

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

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

This adverse opinion is based on the following aspects:

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

and/or [delete as appropriate]

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

and/or [delete as appropriate]

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

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

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

Date:

Signature:

ANNEX III

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

1. GENERAL
 - 1.1. Information submitted by:
 - (a) Member State:
 - (b) Name and 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 for the Reserve)
 - (a) Body³⁰ responsible for *the management of the financial contribution from* the Reserve (name, address and contact point in the body):
 - (b) *The body or bodies to which tasks have been delegated (name, address and contact point in the body), where applicable:*
 - (c) The independent audit body (name, address and contact points in the body):
 - (d) Indicate how the principle of separation of functions between the bodies *referred to in points (a) and (c)* is respected:

³⁰ *Where applicable in accordance with Article 14(1), point (a), the information shall be provided for all bodies responsible for the management of the financial contribution from the Reserve.*

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

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

- (a) The status of the body *responsible for the management of the financial contribution from* the Reserve (national or regional body) and the body of which it is part:
- (b) Framework to ensure that an appropriate risk management exercise is conducted when necessary, and in particular in the event of major modifications to the management and control system:

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

- (a) Description of the functions and tasks carried out by the body *responsible for the management of the financial contribution from* the Reserve:
- (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 contractor³¹ and sub-contractor³², where the recipient is a contracting authority in accordance with the Union or national provisions on public procurement, and value of the contract,
 - the first name, last name and date of birth of beneficial owner³³, as defined by Article 3, point (6), of Directive (EU) 2015/849 of the European Parliament and of the Council³⁴, 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;

³¹ ***Information only required where public procurement procedures above the Union thresholds are concerned.***

³² ***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.***

³³ ***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.***

³⁴ 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).

- (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.
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