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#### **INFORMATION NOTE**

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

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Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 1303/2013 as regards exceptional additional resources and implementing arrangements under the Investment for growth and jobs goal to provide assistance for fostering crisis repair in the context of the COVID-19 pandemic and preparing a green, digital and resilient recovery of the economy (REACT-EU)  
- Outcome of the European Parliament's first reading  
(Brussels, 14 to 18 December 2020)

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#### **I. INTRODUCTION**

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure<sup>1</sup>, 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.

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<sup>1</sup> OJ C 145, 30.6.2007, p. 5.

In this context, REGI Chair, Younous OMARJEE (GUE/NGL, FR), presented a compromise amendment (amendment number 61) 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.

## II. VOTE

When it voted on 15 December 2020, the plenary adopted the compromise amendment (amendment number 61) 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 of 16 December 2020 as set out in the Annex hereto<sup>2</sup>.

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.

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<sup>2</sup> 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.

**Additional resources in the context of the COVID-19 pandemic: REACT-EU  
\*\*\*I**

**European Parliament legislative resolution of 16 December 2020 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 1303/2013 as regards exceptional additional resources and implementing arrangements under the Investment for growth and jobs goal to provide assistance for fostering crisis repair in the context of the COVID-19 pandemic and preparing a green, digital and resilient recovery of the economy (REACT-EU) (COM(2020)0451 – C9-0149/2020 – 2020/0101(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2020)0451),
- having regard to Article 294(2) and Articles 177 and 322(1)(a) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0149/2020),
- 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 13 July 2020<sup>3</sup>,
- after consulting the European Economic and Social Committee,
- having regard to the opinion of the Committee of the Regions of 14 October 2020<sup>4</sup>,

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<sup>3</sup> OJ C 272, 17.8.2020, p. 1.

<sup>4</sup> Not yet published in the Official Journal.

- having regard to the provisional agreement approved by the committee responsible under Rule 74(4) of its Rules of Procedure and the information from the Council on approval of 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 opinions of the Committee on Employment and Social Affairs and the Committee on Budgets,
  - having regard to the report of the Committee on Regional Development (A9-0150/2020),
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.

**Position of the European Parliament adopted at first reading on 16 December 2020 with a view to the adoption of Regulation (EU) 2020/... of the European Parliament and of the Council amending Regulation (EU) No 1303/2013 as regards additional resources and implementing arrangements ■ to provide assistance for fostering crisis repair in the context of the COVID-19 pandemic *and its social consequences* and for preparing a green, digital and resilient recovery of the economy (REACT-EU)**

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 Article 177 and point (a) of Article 322(1) 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 Court of Auditors<sup>5</sup>,

After consulting the European Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions<sup>6</sup>,

Acting in accordance with the ordinary legislative procedure<sup>7</sup>,

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<sup>5</sup> OJ C 272, 17.8.2020, p. 1.

<sup>6</sup> Opinion of 14 October 2020 (not yet published in the Official Journal).

<sup>7</sup> Position of the European Parliament of 16 December 2020.

Whereas:

- (1) Member States have been affected by the crisis resulting from the ***economic, social and health*** consequences of the COVID-19 pandemic in an unprecedented manner. The crisis hampers growth in Member States, which in turn aggravates the serious liquidity shortages which are due to the sudden and significant increase in public investments needed in Member States' health systems and other sectors of their economies. ***The crisis has also exacerbated the situation of people at risk of poverty, thus reducing the social cohesion in Member States. In addition, the closure of internal borders has had a severe impact on economic cooperation, in particular in border areas, affecting the commuting of workers and the viability of micro, small and medium-sized enterprises (SMEs).*** This has created an exceptional situation which needs to be addressed with specific, ***immediate and extraordinary*** measures ***that reach the real economy quickly.***

- (2) In order to respond to the impact of the crisis, Regulations (EU) No 1301/2013<sup>8</sup> and (EU) No 1303/2013<sup>9</sup> of the European Parliament and the Council were amended by Regulation (EU) 2020/460 of the European Parliament and of the Council<sup>10</sup> in order to allow for more flexibility in the implementation of operational programmes supported by the European Regional Development Fund (the 'ERDF'), the European Social Fund (the 'ESF') and the Cohesion Fund (collectively 'the Funds') and by the European Maritime and Fisheries Fund (the 'EMFF'). However, as the serious negative effects on Union economies and societies worsened, both Regulations were amended again by Regulation (EU) 2020/558 of the European Parliament and of the Council<sup>11</sup>. Those amendments have provided exceptional additional flexibility to enable the Member States to concentrate on the necessary response to the unprecedented crisis by enhancing the possibility to mobilise non-utilised support from the Funds and by simplifying procedural requirements linked to programme implementation and audits.

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<sup>8</sup> Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006 (OJ L 347, 20.12.2013, p. 289).

<sup>9</sup> Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320).

<sup>10</sup> Regulation (EU) 2020/460 of the European Parliament and of the Council of 30 March 2020 amending Regulations (EU) No 1301/2013, (EU) No 1303/2013 and (EU) No 508/2014 as regards specific measures to mobilise investments in the healthcare systems of Member States and in other sectors of their economies in response to the COVID-19 outbreak (Coronavirus Response Investment Initiative) (OJ L 99, 31.3.2020, p. 5).

<sup>11</sup> Regulation (EU) 2020/558 of the European Parliament and of the Council of 23 April 2020 amending Regulations (EU) No 1301/2013 and (EU) No 1303/2013 as regards specific measures to provide exceptional flexibility for the use of the European Structural and Investments Funds in response to the COVID-19 outbreak (OJ L 130, 24.4.2020, p. 1).

- (3) On 23 April 2020, the European Council endorsed the “Roadmap for recovery” in order to redress huge shocks to the economy *and to mitigate, on the one hand, the social and economic consequences for the Union* stemming from the exceptional restrictions put in place by Member States to contain the *spread of* COVID-19 and, on the other, the risk of an asymmetric recovery, stemming from the different national means available in different Member States, *which has, in turn,* had a serious impact on the functioning of the internal market. The Roadmap for recovery has a strong investment component and calls for the establishment of the European Recovery Fund. In addition, and *as restated in the conclusions of the European Council of 21 July 2020*, it mandates the Commission to analyse the needs so that the resources would be targeted towards those sectors and geographical parts of the Union that are most affected, while also clarifying the link with the Multiannual Financial Framework for 2021-2027.
- (4) In accordance with Council Regulation (EU) .../...<sup>12+</sup> and within the limits of the resources allocated therein, recovery and resilience measures under the European Structural and Investment Funds should be carried out to address the unprecedented impact of the COVID-19 crisis. Such additional resources should be used to ensure compliance with the time limits provided for in Regulation (EU) .../...<sup>++</sup>. ■

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<sup>12</sup> Council Regulation (EU) .../... of ... establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ ... p. ...).

<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in document st 9971/20 (2020/0111(NLE)) and insert the number, date, title and OJ reference of that Regulation in the footnote.

<sup>++</sup> OJ: Please insert in the text the number of the Regulation contained in document st 9971/20 (2020/0111(NLE)).



- (5) This Regulation lays down rules and implementing arrangements regarding the additional resources provided as Recovery Assistance for Cohesion and the Territories of Europe ('REACT-EU') to provide assistance for fostering crisis repair in the context of the COVID-19 pandemic and its social consequences and for preparing a green, digital and resilient recovery of the economy. Under REACT-EU, an additional exceptional amount of up to **EUR 47 500 000 000** in 2018 prices for budgetary commitment from the Structural Funds ■ for the years ■ 2021 and 2022 should be made available to support those Member States and regions that are most affected by crisis repair in the context of the COVID-19 pandemic *and its social consequences* and that are preparing a green, digital and resilient recovery of the economy ('REACT-EU resources'), with a view to deploying resources quickly to the real economy through the existing operational programmes. The REACT-EU resources stem from the European Union Recovery Instrument. Part of the REACT-EU resources should be allocated to technical assistance at the initiative of the Commission. The Commission should set out the breakdown of the REACT-EU resources for each Member State on the basis of an allocation method based on the latest available objective statistical data concerning Member States' relative prosperity and the extent of the effect of the COVID-19 crisis on their economies and societies. ***Before the application of the allocation method concerning the REACT-EU resources for the year 2021 and to provide support for the most important sectors following the COVID-19 crisis in certain Member States, an amount of EUR 100 000 000 and EUR 50 000 000 should be allocated to Luxembourg and Malta, respectively.*** The allocation method should include a dedicated additional amount for the outermost regions, given the specific vulnerability of their economies and societies. In order to reflect the evolving nature of the effects of the COVID-19 crisis, the breakdown should be revised in 2021 on the basis of the same allocation method and using the latest statistical data available by 19 October 2021 to distribute the 2022 tranche of the REACT-EU resources.

- (6) *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 will contribute to mainstream climate actions and to the achievement of an overall target of 30 % of the Union budget expenditure supporting climate objectives. REACT-EU is expected to contribute 25 % of the overall financial envelope to climate objectives. In line with the nature of REACT-EU as a crisis-repair instrument and the flexibility provided by this Regulation, including the lack of thematic concentration requirements and the possibility for Member States to direct the REACT-EU resources to support ERDF or ESF operations according to their needs, the level of Member States' contributions towards that ambition may differ depending on national priorities.*
- (7) 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. Those rules are laid down in Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council<sup>13</sup> (the 'Financial Regulation') and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes, indirect implementation 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.*

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

- (8) In order to allow maximum flexibility to Member States in tailoring crisis repair actions in the context of the COVID-19 pandemic *and its social consequences and* preparing a green, digital and resilient recovery of the economy, allocations should be established by the Commission at Member State level. Furthermore, the possibility *of* using any REACT-EU resources to support aid for the most deprived *and the Youth Employment Initiative (YEI)* should also be provided for. In addition, it is necessary to establish ceilings concerning the allocation to technical assistance at the initiative of the Member States while allowing maximum flexibility to the Member States as to its allocation within operational programmes supported by the ERDF or the ESF. *The operational strength of the ESF should be maintained when allocating the REACT-EU resources in the policy areas of employment, in particular youth employment in line with the reinforced Youth Guarantee, skills and education, social inclusion and health, with a particular focus on reaching out to disadvantaged groups and children.* Taking account of the expected quick spending of the REACT-EU resources, the commitments linked to these resources should only be decommitted at the closure of the operational programmes.

- (9) *As the COVID-19 pandemic has affected regions and municipalities in Member States differently, the involvement of regional and local actors from authorities, economic and social partners and civil society, in accordance with the partnership principle, is important for the preparation, implementation, monitoring and evaluation of crisis repair supported by REACT-EU.*
- (10) Possibilities for financial transfers under the Investment for growth and jobs goal between the ERDF and the ESF should also be introduced for the REACT-EU resources in accordance with Article 25a of Regulation (EU) No 1303/2013. Such transfers should not affect either the resources available under the European territorial cooperation goal or the specific allocation for the YEI.

- (11) In order to complement the actions already available under the scope of support of the ERDF, as extended by Regulations (EU) 2020/460 and (EU) 2020/558, Member States should continue to be allowed to use the REACT-EU resources primarily for investments in products and services for health services, ***including cross-border, and institutional, community and family-based care***, for providing support in the form of working capital or investment support to SMEs, ***including advisory support, in particular in the sectors most affected by the COVID-19 pandemic and needing rapid revitalisation, such as tourism and culture***, for ***investments*** contributing to the transition towards a digital and green economy, for ***investments in*** infrastructure providing ***non-discriminatory*** basic services to citizens, ***and for*** economic support measures for those regions ***which are most*** dependent on sectors most affected by the COVID-19 crisis. ***Stronger health cooperation, coordination and resilience should also be fostered. Furthermore, technical*** assistance should be supported. It is appropriate that the REACT-EU resources are focused exclusively under the new thematic objective “Fostering crisis repair in the context of the COVID-19 pandemic and ***its social consequences and*** preparing a green, digital and resilient recovery of the economy”, which should also constitute a single investment priority, to allow for simplified programming and implementation of these resources.

- (12) For the ESF, Member States should use the REACT-EU resources primarily to support *access to the labour market and social systems, ensuring* job maintenance, including through short-time work schemes and support to the self-employed *as well as entrepreneurs and freelancers, artists and creative workers. Short-time work schemes and similar measures, in particular for the self-employed, aim to protect employees and the self-employed against the risk of unemployment while maintaining the same level of working and employment conditions and wages of employees. The REACT-EU resources allocated to such schemes are to be used exclusively to support workers. In the context of the current exceptional circumstances caused by the COVID-19 pandemic, it should be possible to provide support to short-time work schemes for employees and the self-employed even when such support is not combined with active labour market measures, unless those measures are imposed by national law. That rule should also apply in a uniform manner to short-time work schemes which have been supported in accordance with Regulation (EU) No 1303/2013, as amended by Regulations (EU) 2020/460 and (EU) 2020/558 following the COVID-19 crisis, and which continue to be supported under the dedicated investment priority “Fostering crisis repair in the context of the COVID-19 pandemic and its social consequences and preparing a green, digital and resilient recovery of the economy”. Union support to such short-time work schemes should be limited in time.*

- (13) *Support should also be provided for job creation and quality employment*, in particular for people in vulnerable situations, *and for social inclusion and poverty eradication* measures. *Youth employment measures should be extended in line with the reinforced Youth Guarantee. Investments in education, training and skills development, including reskilling and upskilling, in particular for disadvantaged groups, should be provided for. Equal access to social services of general interest, including for children, the elderly, persons with disabilities, ethnic minorities and the homeless should be promoted.*
- (14) *Furthermore, Member States should continue to pay special attention to people living in rural, border, less developed, insular, mountainous, sparsely populated and outermost regions, as well as in areas affected by industrial transition and depopulation and, where appropriate, use the REACT-EU resources towards supporting those people.*
- (15) *As the temporary closing of borders between Member States has led to significant challenges for cross-border communities and businesses, it is appropriate to allow Member States to allocate the REACT-EU resources also to existing cross-border programmes under the European territorial cooperation goal.*

- (16) In order to ensure that Member States have sufficient financial means to quickly implement crisis repair actions in the context of the COVID-19 pandemic and ***its social consequences and*** to prepare a green, digital and resilient recovery of the economy, it is necessary to provide a higher level of initial pre-financing payment for the quick implementation of actions supported by the REACT-EU resources. The initial pre-financing to be paid should ensure that Member States have the means to arrange for advance payments to beneficiaries where necessary and to reimburse beneficiaries quickly following the submission of payment claims.
- (17) It should be possible for Member States to allocate the REACT-EU resources to new dedicated operational programmes ***under the Investment for growth and jobs goal or to*** new priority axes within existing programmes ***under the Investment for growth and jobs and the European territorial cooperation goals***. In order to enable quick implementation, only already designated authorities of existing operational programmes supported by the ERDF, the ESF, or the Cohesion Fund should be allowed to be identified for new dedicated operational programmes. An ex ante evaluation by the Member States should not be required and the elements required for the submission of the operational programme to the Commission's approval should be limited.



- (18) *The REACT-EU resources should be used in accordance with the sustainable development and “Do no harm” principles, taking into account the Paris Agreement and the UN Sustainable Development Goals. Furthermore, equality between men and women, gender mainstreaming and the integration of gender perspective should be taken into account and promoted throughout the implementation of operational programmes.*
- (19) With a view to alleviating the burden on public budgets regarding crisis repair in the context of the COVID-19 pandemic and *its social consequences and* the preparation of a green, digital and resilient recovery of the economy, *expenditure for operations should be eligible from 1 February 2020 and* Member States should be given the exceptional possibility to request a co-financing rate of up to 100 % to be applied to the separate priority axes of operational programmes providing support from the REACT-EU resources.
- (20) *While it is important to ensure that 31 December 2023 remains the end date for eligibility for the 2014-2020 programming period, it should be made clear that operations could still be selected for support in the course of 2023.*
- (21) *In order to ensure continuity of implementation of certain operations supported by the REACT-EU resources, the phasing provisions of a Regulation laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime and Fisheries Fund and financial rules for those and for the Asylum and Migration Fund, the Internal Security Fund and the Border Management and Visa Instrument should apply.*

- (22) *Following the specific flexibility measures in response to the COVID-19 outbreak introduced into Regulation (EU) No 1303/2013 by Regulation (EU) 2020/558, expenditure for physically completed or fully implemented operations that foster crisis repair in the context of the COVID-19 pandemic and its social consequences and prepare a green, digital and resilient recovery of the economy supported under the corresponding new thematic objective should also be eligible, provided that the operations concerned started from 1 February 2020.*

- (23) In order to enable Member States to quickly deploy the REACT-EU resources within the current programming period, it is justified to exempt, on an exceptional basis, Member States from the obligation to comply with ex ante conditionalities and requirements on the performance reserve and application of the performance framework, on thematic concentration, also in relation to the thresholds established for sustainable urban development for the ERDF, and requirements on preparation of a communication strategy for the REACT-EU resources. It is nevertheless necessary that Member States carry out at least one evaluation by 31 December 2024 to assess the effectiveness, efficiency, impact **and inclusiveness** of the REACT-EU resources as well as how these resources have contributed to achieving the goals of the new dedicated thematic objective. To facilitate the availability of comparable information at Union level, Member States **should be required, where appropriate**, to make use of the **COVID-19** programme-specific indicators made available by the Commission. In addition, while carrying out their responsibilities linked to information, communication and visibility, Member States and managing authorities should enhance the visibility of the exceptional measures and resources introduced by the Union, in particular by ensuring that potential beneficiaries, beneficiaries, participants, final recipients of financial instruments and the general public are aware of the existence, volume and additional support stemming from the REACT-EU resources.

- (24) With a view to allowing the REACT-EU resources to be targeted to the geographic areas where they are most needed, as an exceptional measure and without prejudice to the general rules for allocating Structural Funds resources, the REACT-EU resources allocated to the ERDF and the ESF should not be required to be broken down per category of region. However, Member States are expected to take into account the different regional needs and development levels in order to ensure ***that support is balanced between the needs of the regions and cities most affected by the impact of the COVID-19 pandemic and the need to maintain focus*** on less developed regions, in accordance with the objectives of economic, social and territorial cohesion set out in Article 174 TFEU. Member States should also involve local and regional authorities, as well as relevant bodies representing civil society and social partners, in accordance with the partnership ***principle***.
- (25) ***Except for those cases where derogations are provided for by this Regulation, expenditure under REACT-EU should be subject to the same obligations and safeguards as all cohesion funding. That includes respect for fundamental rights and compliance with the Charter of Fundamental Rights of the European Union as well as effective anti-fraud measures implemented with the support of existing anti-fraud agencies at Member State and Union level, such as the European Anti-Fraud Office and, where relevant, the European Public Prosecutor's Office.***

- (26) *When measures are adopted to protect the Union budget, it is essential that the legitimate interests of final recipients and beneficiaries be properly safeguarded.*
- (27) In order to facilitate the transfers authorised by the changes introduced under this Regulation, the condition laid down in point (f) of Article 30(1) of the Financial Regulation regarding the use of appropriations for the same objective should not apply in respect of those transfers.
- (28) Since the objective of this Regulation, namely to respond to the impact of the COVID-19 crisis by introducing flexibility measures in the field of providing support from the European Structural and Investment Funds, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of the proposed 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 to achieve that objective.
- (29) Given the urgency of the situation related to the COVID-19 pandemic, this Regulation should *enter* into force on the day following that of its publication in the *Official Journal of the European Union*.

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- (30) Regulation (EU) No 1303/2013 should therefore be amended accordingly.
- (31) Article 135(2) of 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<sup>14</sup> provides that amendments to Council Regulation (EU, Euratom) No 1311/2013<sup>15</sup> or Council Decision 2014/335/EU, Euratom<sup>16</sup> that are adopted on or after the date of entry into force of that Agreement are not to apply to the United Kingdom insofar as those amendments have an impact on the United Kingdom's financial obligations. The support under this Regulation for ■ 2021 and 2022 *is financed* from an increase of the own resources ceiling of the Union, which would have an impact on the United Kingdom's financial obligation. Therefore, this Regulation should not apply to or in the United Kingdom,

HAVE ADOPTED THIS REGULATION:

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<sup>14</sup> OL L 29, 31.1.2020, p. 7.

<sup>15</sup> Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 (OJ L 347, 20.12.2013, p. 884).

<sup>16</sup> Council Decision 2014/335/EU, Euratom of 26 May 2014 on the system of own resources of the European Union (OJ L 168, 7.6.2014, p. 105).

## Article 1

Regulation (EU) No 1303/2013 is amended as follows:

1. the following Articles are inserted:

“Article 92a

REACT-EU resources

*The measures referred to in Article 1(2) of Council Regulation (EU) .../...<sup>+</sup> shall be implemented under the Structural Funds with an amount of **up to** EUR 47 500 000 000 in 2018 prices as referred to in point (a)(i) of Article 2(2) of that Regulation, subject to its Article 3(3), (4), (7) and (9).*

*These additional resources for 2021 and 2022, stemming from the European Union Recovery Instrument, shall provide assistance for fostering crisis repair in the context of the COVID-19 pandemic and its social consequences and for preparing a green, digital and resilient recovery of the economy ('REACT-EU resources').*

As provided for in Article 3(1) of Regulation (EU) .../...<sup>+</sup>, the REACT-EU resources shall constitute external assigned revenues for the purpose of Article 21(5) of the Financial Regulation.

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<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in document st9971/20 (2020/0111(NLE)).

<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in document st9971/20 (2020/0111(NLE)).

Article 92b

■ Implementing arrangements for the REACT-EU resources

1. The REACT-EU resources shall be made available under the Investment for growth and jobs goal.

*By way of derogation from Article 94, Member States shall also jointly allocate part of their REACT-EU resources to cross-border co-operation programmes under the European territorial cooperation goal in which they participate, if they agree that such allocations reflect their respective national priorities.*

The REACT-EU resources shall be used to implement technical assistance pursuant to paragraph 6 of this Article and the operations implementing the thematic objective referred to in the first subparagraph of paragraph 9 of this Article.



2. **The** REACT-EU resources shall be made available for budgetary commitment for the years **2021** and 2022, in addition to the global resources set out in Article 91, as follows:

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- 2021: EUR **37 500 000 000**;
- 2022: EUR **10 000 000 000**.

■ **The** REACT-EU resources ■ shall also support administrative expenditure up to EUR 18 000 000 in **2018** prices.

*Operations to be supported by the REACT-EU resources may be selected for support up to the end of 2023. The phasing provisions set out in a Regulation laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime and Fisheries Fund and financial rules for those and for the Asylum and Migration Fund, the Internal Security Fund and the Border Management and Visa Instrument are applicable to operations supported by the REACT-EU resources.*

3. 0,35 % of the REACT-EU resources shall be allocated to technical assistance at the initiative of the Commission, *with a special focus on Member States hit harder by the COVID-19 pandemic and Member States with lower absorption and implementation rates.*

4. The Commission shall adopt a decision, by means of implementing acts, setting out the breakdown of the REACT-EU resources as appropriations from the Structural Funds for ■ 2021 for each Member State in accordance with the criteria and methodology set out in Annex VIIa. That decision shall be revised in 2021 to set out the breakdown of the REACT-EU resources for 2022 based on data available by 19 October 2021.
5. By way of derogation from the first paragraph of Article 76, the budget commitments for the REACT-EU resources in respect of each operational programme concerned shall be made for each Fund for the years ■ 2021 and 2022.

The legal commitment referred to in the second paragraph of Article 76 for the years 2021 and 2022 shall enter into force on or after the date referred to in Article 3(3) of Regulation (EU) .../...<sup>+</sup>.

The third and fourth paragraphs of Article 76 shall not apply in respect of the REACT-EU resources.

By way of derogation from Article 14(3) of the Financial Regulation, the de-commitment rules set out in Chapter IV of Title IX of Part II and in Article 136 of this Regulation shall apply to the budgetary commitments based on the REACT-EU resources. By way of derogation from point (c) of Article 12(4) of the Financial Regulation, the REACT-EU resources shall not be used for a succeeding programme or action.

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<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in document ... (2020/0111(NLE)).

By way of derogation from Articles 86(2) and 136(1) of this Regulation, the commitments for the REACT-EU resources shall be decommitted in accordance with the rules to be followed for the closure of the programmes.

Each Member State shall allocate the REACT-EU resources available for programming under the ERDF and the ESF to operational programmes *or to cross-border cooperation programmes, involving local and regional authorities, as well as relevant bodies representing civil society and social partners, in accordance with the partnership principle.*

By way of derogation from Article 92(7), a *part* of the REACT-EU resources *shall* also be proposed to be used, *if the Member State concerned considers it appropriate*, to increase the support for the Fund for European Aid to the Most Deprived ('FEAD'), *in order to address the situation of those who have been hit to an unprecedented degree by the COVID-19 crisis. A part of the REACT-EU resources may also be used to increase the support for the YEI. In both cases, the increase may be proposed* before or at the same time as the allocation to the ERDF and the ESF.

Following their initial allocation, the REACT-EU resources may, at the request of a Member State for amendment of an operational programme pursuant to Article 30(1), be transferred between the ERDF and the ESF, irrespective of the percentages referred to in points (a), (b) and (c) of Article 92(1), ***keeping the overall operational strength of the ESF at Union level. This subparagraph shall not apply to ERDF resources allocated to cross-border cooperation programmes under the European territorial cooperation goal.***

Article 30(5) shall not apply to the REACT-EU resources. Those resources shall be excluded from the basis of calculation for the purposes of the ceilings established in that paragraph.

For the purposes of the application of point (f) of Article 30(1) of the Financial Regulation, the condition that appropriations are to be for the same objective shall not apply in respect of such transfers. Such transfers may only apply to the ongoing year or to future years in the financial plan.

The requirements laid down in Article 92(4) of this Regulation shall not apply to the initial allocation or the subsequent transfers of the REACT-EU resources.

The REACT-EU resources shall be implemented in accordance with the rules of the Fund to which they are allocated or transferred.

6. Up to 4 % of the total REACT-EU resources under the ERDF and the ESF may be allocated to technical assistance *at the initiative of the Member States*, under any existing operational programme supported from the ERDF or the ESF or *a* new operational programme *or programmes* referred to in paragraph 10.

*Up to 6 % of the additional ERDF resources allocated to a cross-border cooperation programme under the European territorial cooperation goal pursuant to the second subparagraph of paragraph 1 may be allocated to technical assistance.*

7. By way of derogation from Articles 81(1) and 134(1), the initial pre-financing to be paid following the Commission decision adopting an operational programme or approving the amendment to an operational programme for the allocation of the REACT-EU resources shall be **11** % of the REACT-EU resources allocated to programmes for the year **2021**.

For the purpose of applying Article 134(2) to the annual pre-financing in the years 2021, 2022 and 2023, the amount of the support from the Funds for the whole programming period to the operational programme shall include the REACT-EU resources.

The amount paid as additional initial pre-financing referred to in the first subparagraph shall be totally cleared from the Commission accounts not later than when the operational programme is closed.

8. The REACT-EU resources not allocated to technical assistance shall be used under the thematic objective referred to in the first subparagraph of paragraph 9 to support operations that foster crisis repair in the context of the COVID-19 pandemic **and its social consequences and** prepare a green, digital and resilient recovery of the economy.

Member States may allocate the REACT-EU resources either to one or more separate priority axes within an existing operational programme or programmes ***under the Investment for growth and jobs goal or within an existing cross-border cooperation programme or programmes under the European territorial cooperation goal***, or to a new operational programme or programmes referred to in paragraph 10 of this Article ***under the Investment for growth and jobs goal***. By way of derogation from Article 26(1), the programme shall cover the period until 31 December 2022, subject to paragraph 4 of this Article.

For the ERDF, the REACT-EU resources shall be used primarily to support investments in products and services for health services *or in social infrastructure*, to provide support in the form of working capital or investment support to SMEs' *investments in sectors with a high job creation potential*, to support investments contributing to the transition towards a digital and green economy, to support investments in infrastructure providing basic services to citizens, and to support economic support measures in the regions which are most dependent on sectors most affected by the COVID-19 crisis.

For the ESF, the REACT-EU resources shall be used primarily to support *access to the labour market by maintaining jobs of employees and of the self-employed*, including through short-time work schemes ■ even when that support is not combined with active labour market measures, unless those measures are imposed by national law. The REACT-EU resources shall ■ support job creation *and quality employment*, in particular for people in vulnerable situations, *and extend* youth employment measures *in line with the reinforced Youth Guarantee. Investments in* education, training *and* skills development *shall be directed to address* the twin green and digital *transitions*.

*The REACT-EU resources shall also support social systems contributing to social inclusion, anti-discrimination and poverty eradication measures, with a particular focus on child poverty and enhance equal access to social services of general interest, including for children, the elderly, persons with disabilities, ethnic minorities and the homeless.*

9. With the exception of technical assistance referred to in paragraph 6 of this Article and of the REACT-EU resources used for the FEAD *or for the YEI* referred to in the seventh subparagraph of paragraph 5 of this Article, the REACT-EU resources shall support operations under the new thematic objective “Fostering crisis repair in the context of the COVID-19 pandemic and *its social consequences and* preparing a green, digital and resilient recovery of the economy”, complementing the thematic objectives set out in Article 9.

The thematic objective referred to in the first subparagraph of this paragraph shall be available exclusively for the programming of the REACT-EU resources. By way of derogation from points (b), (c) and (d) of Article 96(1) *of this Regulation and from Article 8(1) of Regulation (EU) No 1299/2013*, it shall not be combined with other investment priorities.



The thematic objective referred to in the first subparagraph of this paragraph shall also constitute the single investment priority for the programming and implementation of the REACT-EU resources from the ERDF and the ESF.

Where one or more separate priority axes are established corresponding to the thematic objective referred to in the first subparagraph of this paragraph within an existing operational programme, the elements listed in points (b)(v) and (vii) of Article 96(2) *of this Regulation and in points (b)(v) and (vi) of Article 8(2) of Regulation (EU) No 1299/2013* shall not be required for the description of the priority axis in the revised operational programme.

The revised financing plan set out in point (d) of Article 96(2) *of this Regulation and in point (d) of Article 8(2) of Regulation (EU) No 1299/2013* shall set out the allocation of the REACT-EU resources for the *year* 2021 and, where applicable, for 2022 without identifying amounts for the performance reserve and with no breakdown per category of regions.

By way of derogation from Article 30(1) of this Regulation, requests for the amendment of a programme submitted by a Member State shall be duly justified and shall in particular set out the expected impact of the changes to the programme on fostering crisis repair in the context of the COVID-19 pandemic *and its social consequences* and on preparing a green, digital and resilient recovery of the economy. Those requests shall be accompanied by the revised programme.

10. By way of derogation from Article 26(4), **■** new dedicated operational *programmes under the Investment for growth and jobs goal* may be drawn up by Member States under the new thematic objective referred to in the first subparagraph of paragraph **9 of this Article**. No ex ante evaluation as set out in Article 55 shall be required.

By way of derogation from point (a) of Article 96(2), where such a new operational programme is established, the justification shall set out the expected impact of the operational programme on fostering crisis repair in the context of the COVID-19 pandemic and *its social consequences and* on preparing a green, digital and resilient recovery of the economy.

Where such a new operational programme is established, only authorities already designated under ongoing operational programmes supported by the ERDF, the ESF and the Cohesion Fund may be identified by the Member States for the purposes of point (a) of Article 96(5).

The elements set out in points (b)(v) and (vii) of the first subparagraph of paragraph 2, in paragraph 4, in points (b) and (c) of paragraph 6 and in paragraph 7 of Article 96 shall not be required for such new operational programme. The elements set out in Article 96(3) shall only be required where corresponding support is provided.

*By way of derogation from Article 29(3) and (4) and Article 30(2), the Commission shall do its utmost to approve any new dedicated operational programme or any amendment to an existing programme within 15 working days of its submission by a Member State.*

11. *By way of derogation from Article 65(2) and (9), expenditure for operations supported under the thematic objective referred to in the first subparagraph of paragraph 9 of this Article shall be eligible from 1 February 2020.*
12. By way of derogation from the first and second subparagraphs of Article 120(3), a co-financing rate of up to 100 % may be applied to the priority axis or axes supported by the REACT-EU resources programmed under the thematic objective referred to in the first subparagraph of paragraph 9 of this Article. ***Further to the common indicators set out in the Fund-specific rules, Member States shall also, where appropriate, make use of COVID-19 programme-specific indicators made available by the Commission.***

By way of derogation from **Articles** 56(3) and 114(2), the Member States shall ensure that by 31 December 2024 at least one evaluation on the use of the REACT-EU resources is carried out to assess their effectiveness, efficiency, impact and, ***where applicable, inclusiveness and non-discrimination, including from a gender perspective, and*** how they contributed to the thematic objective referred to in the first subparagraph of paragraph 9 of this Article.

13. The following provisions shall not apply to the REACT-EU resources:
- (a) thematic concentration requirements including thresholds established for sustainable urban development as set out in this Regulation or the Fund-specific rules, by way of derogation from Article 18;
  - (b) ex ante conditionalities, by way of derogation from Article 19 and the Fund-specific rules;
  - (c) requirements on the performance reserve and application of the performance framework, by way of derogation from Articles 20 and 22, respectively;

■

- (d) *Article 65(6) for operations that started from 1 February 2020 and that foster crisis repair in the context of the COVID-19 pandemic and its social consequences and prepare a green, digital and resilient recovery of the economy supported under the thematic objective referred to in the first subparagraph of paragraph 9 of this Article;*
- (e) requirements to prepare a communication strategy, by way of derogation from Article 116 and point (a) of Article 115(1).

*By way of derogation from the requirements set out in Article 12(4) of Regulation (EU) No 1299/2013 for operations supported by the REACT-EU resources under the European territorial cooperation goal, cooperation of beneficiaries in at least two fields shall be sufficient.*

14. While carrying out their responsibilities linked to information, communication and visibility in accordance with Article 115(1) and (3) and with Annex XII, Member States and managing authorities shall ensure that potential beneficiaries, beneficiaries, participants, final recipients of financial instruments and the general public are aware of the existence, volume and additional support stemming from the REACT-EU resources.

***The Member States and managing authorities shall make clear to citizens that the operation in question is funded as part of the Union’s response to the COVID-19 pandemic and shall ensure full transparency, using, where appropriate, social media.***

The references to the “Fund”, “Funds” or “ESI Funds” in Section 2.2 of Annex XII shall be **■** complemented by a reference to ***“funded as part of the Union’s response to the COVID-19 pandemic”***, where financial support is provided to operations from the REACT-EU resources.

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\* Council Regulation (EU) .../... of ... establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ ... p. ...).<sup>+</sup>;

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<sup>+</sup> OJ: Please insert in the text the number, date and OJ reference of the Regulation contained in document st9971/20 (2020/0111(NLE)).

2. in Article 154, the following subparagraph is added:

“ Articles 92a and 92b shall not apply to or in the United Kingdom. References to Member States in those provisions shall be understood as not including the United Kingdom.”

3. The text set out in the Annex to this Regulation is inserted as Annex VIIa.

### *Article 2*

***The Commission shall provide the European Parliament and the Council with an evaluation of REACT-EU by 31 March 2025. That evaluation shall include information on the achievement of the objectives of REACT-EU, the effectiveness of the use of the REACT-EU resources, the types of actions financed, the beneficiaries and final recipients of the financial allocations, and its European added value in aiding the economic recovery.***

### Article 3

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*

*For the Council*

*The President*

*The President*

## ANNEX

“ANNEX VIIa

Methodology for the allocation of the REACT-EU resources ■ – Article 92b(4)

Allocation method for the REACT-EU resources

The REACT-EU resources shall be distributed between the Member States according to the following methodology:

1. Each Member State’s provisional share from the REACT-EU resources is determined as the weighted sum of the shares determined on the basis of the following criteria, weighted as indicated:
  - (a) A factor of GDP (weighting of 2/3) obtained by applying the following steps:
    - (i) share of each Member State of the total loss of real seasonally adjusted GDP expressed in EUR between the first semester of 2019 and the end of the applicable reference period for all Member States considered;



- (ii) adjustment of the shares obtained under point (i) by dividing them with the Member State's GNI per capita expressed as a percentage of the average GNI per capita of the EU-27 (average expressed as 100%).
- (b) A factor of unemployment (weighting of 2/9) expressed as the weighted average of:
  - (i) the share of the Member State in the total number of unemployed (weighting of 3/4) for all Member States considered in January 2020 and
  - (ii) the share of the Member State in the total increase in the number of persons unemployed (weighting of 1/4) between January 2020 and the end of the applicable reference period for all Member States considered.
- (c) A factor of youth unemployment (weighting of 1/9) expressed as the average of:
  - (i) the share of the Member State in the total number of young persons unemployed (weighting of 3/4) for all Member States considered in January 2020 and
  - (ii) the share of the Member State in the total increase in the number of young persons unemployed (weighting of 1/4) between January 2020 and the applicable reference period for all Member States considered.

If the Member State's real seasonally adjusted GDP expressed in EUR for the applicable reference period is higher than in the first semester of 2019, that Member State's data shall be excluded from the calculations in point (a)(i).

If the number of people unemployed (age group 15 to 74) or young people unemployed (age group 15 to 24) in the Member State for the applicable reference period is lower than in January 2020, that Member State's data shall be excluded from the calculations in points (b)(ii) and (c)(ii).

2. The rules set out in paragraph 1 shall not result in allocations per Member State for the whole period **2021** to 2022 higher than:
  - (a) for Member States whose average GNI per capita (in PPS) for the period 2015-2017 is above 109 % of the EU-27 average: 0,07 % of their real GDP of 2019;
  - (b) for Member States whose average GNI per capita (in PPS) for the period 2015-2017 is equal to or below 90 % of the EU-27 average: 2,60 % of their real GDP of 2019;

- (c) for Member States whose average GNI per capita (in PPS) for the period 2015-2017 is above 90 % and equal to or below 109 % of the EU-27 average: the percentage is obtained through a linear interpolation between 0,07 % and 2,60 % of their real GDP of 2019 leading to a proportional reduction of the capping percentage in line with the increase in prosperity.

The amounts exceeding the level set out in points (a) to (c) per Member State are redistributed proportionally to the allocations of all other Member States whose average GNI per capita (in PPS) is under 100 % of the EU-27 average. The GNI per capita (in PPS) for the period 2015-2017 is the one used for cohesion policy in the MFF 2021-2027 negotiations.

- 3. For the purposes of calculating the distribution of the REACT-EU resources for the *year* 2021:
  - (a) for the GDP the reference period shall be the first semester of 2020;
  - (b) for the number of people unemployed and the number of young people unemployed the reference period shall be the average of June to August 2020;
  - (c) the maximum allocation resulting from the application of paragraph 2 is multiplied by the share of the REACT-EU resources for the *year* 2021 in the total REACT-EU resources for the years ■ 2021 and 2022.

Before the application of the method described in paragraphs 1 and 2 concerning the REACT-EU resources for the year **2021**, *an amount of EUR 100 000 000 and EUR 50 000 000 shall be allocated to Luxembourg and Malta, respectively.*

***In addition***, an amount corresponding to an aid intensity of EUR 30 per inhabitant shall be allocated to the outermost NUTS level 2 regions from the allocation. That allocation will be distributed per region and Member State in a manner proportional to the total population of those regions. ***The additional allocation for the outermost regions shall be added to the allocation that every outermost region receives through the distribution of the national budget.***

The remaining amount for the year **2021** shall be distributed among Member States in accordance with the method described in paragraphs 1 and 2.

4. For the purposes of calculating the distribution of the REACT-EU resources for the year 2022:
  - (a) for GDP the reference period shall be the first semester of 2021;
  - (b) for the number of people unemployed and the number of young people unemployed the reference period shall be the average of June to August 2021;
  - (c) the maximum allocation resulting from the application of paragraph 2 is multiplied by the share of the REACT-EU resources for the year 2022 in the total REACT-EU resources for the years **2021 and 2022**.”.