EUROPEAN UNION

THE EUROPEAN PARLIAMENT **THE COUNCIL**

Brussels, 25 November 2022
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2022/0370 (COD) **PE-CONS 62/22**

FIN 1202
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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU, Euratom) 2018/1046 as regards the establishment of a diversified funding strategy as a general borrowing method

REGULATION (EU, Euratom) 2022/…
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of …

amending Regulation (EU, Euratom) 2018/1046 as regards the establishment of a diversified funding strategy as a general borrowing method

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 322(1) thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a 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[1],

Acting in accordance with the ordinary legislative procedure[2],

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1 Opinion of 22 November 2022 (not yet published in the Official Journal).
2 Position of the European Parliament of 24 November 2022 (not yet published in the Official Journal) and decision of the Council of ... 2022.

Whereas:

(1) Article 220 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council[1] (the 'Financial Regulation') provides that the Commission is empowered, in the relevant basic act, to borrow on behalf of the Union or Euratom for the purpose of on-lending the corresponding amounts to beneficiary Member States or third countries under the conditions applicable to the borrowings. In that regard, the cash flows between the borrowed funds and the loans are matched one-to-one. This means that the Union must carry out market operations based on disbursement needs for each specific case of lending, which limits the possibility to coherently plan various borrowing operations and to structure maturities to achieve the best costs.

(2) Financing individual programmes of financial assistance through separate funding methods creates cost and complexity as different programmes of financial assistance compete for a limited number of funding opportunities. It fragments the supply of Union debt securities and reduces liquidity and investor interest in the separate programmes, even though all Union debt securities have the same high credit quality. Financial assistance should thus be organised under a single funding method that enhances the liquidity of Union bonds and the attractiveness and cost-effectiveness of Union issuance.

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[1] 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).

(3) The need for a single funding method is emphasised in particular in the context of financial support to Ukraine given its urgent financing needs. Recent experience with the funding needs for Ukraine has highlighted the disadvantages of a fragmented approach to the organisation of the Union's debt. In order to strengthen the Union's position as an issuer of euro-denominated debt, it is of paramount importance that all new issuance be organised through a single funding method.

(4) The model for a single funding method, and most elements of the infrastructure needed for its implementation, have already been established in the form of a diversified funding strategy under Council Decision (EU, Euratom) 2020/2053[1]. That strategy has allowed the successful mobilisation of funds for grants and loans under Regulation (EU) 2021/241 of the European Parliament and of the Council[2] and for a range of other Union programmes referred to in Council Regulation (EU) 2020/2094[3]. In view of the expected complexity of operations needed to satisfy the urgent financing needs of Ukraine, and to anticipate possible future borrowing and lending operations, it is appropriate to establish a diversified funding strategy as the single funding method for implementation of borrowing operations.

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1 Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom (OJ L 424, 15.12.2020, p. 1).

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

3 Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ L 433I, 22.12.2020, p. 23).

(5) The use of a diversified funding strategy should allow the flexible implementation of the funding programme, while fully respecting the principles of budgetary neutrality and budgetary balance as set out in Article 310(1) of the Treaty on the Functioning of the European Union (TFEU). The costs of the funding programme should be fully borne by the beneficiaries based on a single cost allocation methodology that ensures the transparent and proportional allocation of costs. Repayment obligations should remain with the beneficiaries of the financial assistance, in compliance with Article 220(5), point (e), of the Financial Regulation.

(6) The implementation of a diversified funding strategy would require a single set of rules to be followed in respect of all borrowing and lending programmes relying on it. Those rules should therefore be added to horizontal financial rules laid down in the Financial Regulation, adopted by the European Parliament and the Council on the basis of Article 322 TFEU.

(7) A diversified funding strategy should provide the Commission with more flexibility concerning the timing and the maturity of single funding transactions and allow regular and steady disbursements to different beneficiary countries. Such a strategy should be based on the pooling of funding instruments. This would give the Commission flexibility to organise payments to the beneficiaries independently of market conditions at the time of disbursement, while also reducing the risk that the Commission would have to raise fixed amounts in volatile or adverse conditions.

(8) Giving the Commission that flexibility would require putting into place a common liquidity pool. Such a centralised liquidity function would render the Union's funding capacity more resilient, and able to withstand temporary mismatches between all inflows and outflows, based on a robust liquidity forecasting capacity.

(9) The Commission should implement all necessary transactions aiming at a regular capital market presence, at achieving the best possible funding costs and at facilitating transactions in debt securities of the Union and Euratom.

(10) In extending the diversified funding strategy to a wider range of programmes, it is therefore appropriate for the Commission to establish the necessary arrangements for its implementation. Those arrangements should comprise a governance framework, risk management procedures, and a cost allocation methodology, which should respect Article 220(5), point (e), of the Financial Regulation. To ensure transparency, the Commission should regularly and comprehensively inform the European Parliament and the Council about all aspects of its borrowing and debt management strategy.

(11) The Financial Regulation should therefore be amended.

(12) In the interest of legal certainty and clarity in respect of already granted financial assistance and in respect of financial assistance under Regulation (EU) …/… of the European Parliament and of the Council[1+], this Regulation should only apply to programmes of financial assistance the basic acts of which enter into force on or after 9 November 2022.

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1 Regulation (EU) …/… of the European Parliament and of the Council of … establishing an instrument for providing support to Ukraine for 2023 (macro-financial assistance +) (OJ L …, …, p. …).

\+ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 63/22 (2022/0371(COD)) and insert the number, date and OJ reference of that Regulation in the footnote.

(13) In view of the urgency entailed by the exceptional circumstances caused by Russia's unprovoked and unjustified war of aggression against Ukraine, it is considered to be appropriate to invoke the exception to the eight-week period provided for in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the Treaty on European Union, to the TFEU and to the Treaty establishing the European Atomic Energy Community.

(14) In light of the situation in Ukraine, 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:

Article 1

Regulation (EU, Euratom) 2018/1046 is amended as follows:

(1) in Article 220, paragraphs 2 and 7 are deleted;

(2) the following article is inserted:

'*Article 220a*
Diversified funding strategy

1. The Commission shall implement a diversified funding strategy comprising the borrowings authorised under Article 5(1) of Council Decision (EU, Euratom) 2020/2053* and, except in duly justified cases, borrowing and debt management operations to fund programmes of financial assistance. The diversified funding strategy shall be implemented through all necessary transactions aiming at a regular capital market presence, shall be based on pooling of funding instruments and shall make use of a common liquidity pool.

2. The Commission shall establish the necessary arrangements for the implementation of the diversified funding strategy. The Commission shall regularly and comprehensively inform the European Parliament and the Council about all aspects of its borrowing and debt management strategy.

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* Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom (OJ L 424, 15.12.2020, p. 1).'.

Article 2

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

It shall apply to programmes of financial assistance for which the basic acts enter into force on or after 9 November 2022.

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*