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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
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Subject:	Proposal for a COUNCIL REGULATION amending Regulation (EU, Euratom) No 1311/2013 laying down the multiannual financial framework for the years 2014-2020

Delegations will find attached document COM(2016) 604 final.

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Brussels, 14.9.2016
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2016/0283 (APP)

Proposal for a

COUNCIL REGULATION

**amending Regulation (EU, Euratom) No 1311/2013 laying down the multiannual
financial framework for the years 2014-2020**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

In the first years of the multiannual financial framework (MFF) for the years 2014-2020, the Union has been confronted with unforeseen challenges of an unprecedented scale resulting from instability in its neighbourhood occasioning security threats and mass migratory movements.

In its Communication on the "Mid-Term Review/Revision of the Multiannual Financial Framework 2014-2020 – An EU Budget Focused on Results"¹ the Commission has assessed the functioning and use made of special instruments in the first two to three years of implementation of the MFF.

In order to mobilise additional financial means for measures contributing to tackle the above mentioned challenges, wide use has been made of all budgetary availabilities, including redeployments, margins and special instruments, and new instruments such as European Union Trust Funds and the Facility for Refugees in Turkey were set up to draw additional funding whilst respecting the constraints set by the MFF. Compared with the previous period the special instruments laid down in Regulation No 1311/2013² ("MFF Regulation") have considerably increased the flexibility of the MFF, allowing the Union to take decisive action. However, as these challenges persist, the Union's continued capacity to react swiftly in emergency situations is at stake.

Against this background, the European Parliament called for bold steps to enhance the Union budget's flexibility³, whilst informal Council discussions also pointed at the need to enhance the ability of the current MFF to respond to unforeseen events⁴.

2. LEGAL BASIS AND CONTENT OF THE PROPOSAL

The present proposal is based on Article 2 of the MFF Regulation which provides that the mid-term review of the MFF shall, as appropriate, be accompanied by a legislative proposal for the revision of this Regulation. Such a revision shall not reduce the pre-allocated national envelopes, without prejudice to the adjustment of the cohesion policy envelopes made in accordance with Article 7 of the MFF Regulation⁵.

Taking into account the use made of special instruments since the beginning of the MFF period and the new challenges the Union has been and continues to be confronted with, the Commission proposes to amend the MFF Regulation in order to increase the annual maximum

¹ COM(2016)603 of 14.09.2016.

² 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).

³ European Parliament resolution of 6 July 2016 on the preparation of the post-electoral revision of the MFF 2014-2020: Parliament's input ahead of the Commission's proposal (2015/2353(INI)), P8_TA-PROV(2016)0309.

⁴ Dutch Presidency report: Towards a forward-looking and flexible Multiannual Financial Framework, 30.5.2016, <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2016/05/30/voorzitterschapverslag-over-mfk/voorzitterschapsverslag-over-mfk.pdf>.

⁵ For that adjustment, see: Technical Adjustment of the financial framework for 2017 in line with movements in GNI and adjustment of cohesion policy envelopes, COM(2016) 311 final, 30.6.2016.

amounts set for the Emergency Aid Reserve (Article 9) and the Flexibility Instrument (Article 11) and to introduce a new special instrument for setting up a European Union Crisis Reserve financed from de-committed appropriations to allow the Union to react rapidly to crises, such as the current migration crisis, as well as to events with serious humanitarian or security implications. In parallel with the present proposal, the Commission proposes to amend the Interinstitutional Agreement on cooperation in budgetary matters and on sound financial management⁶ in order to provide for the mobilisation procedure of the new Crisis Reserve.

Furthermore, it is proposed to remove the limitations in time and scope of the Global margin for commitments (Article 14).

Concerning the Global margin for payments, it is proposed to remove the annual caps set for 2018-2020 (Article 5.2) to allow for the full mobilisation, in the later years of the MFF, of the large margins in payments left unused in 2016 and 2017 should it prove necessary, and therefore ensure specific and maximum flexibility.

3. BUDGETARY IMPLICATIONS

The present proposal has no immediate budgetary implications. Special instruments are mobilised and appropriations entered in the annual budget subject to the procedures laid down in the MFF Regulation, the relevant basic acts (see Article 3, paragraph 2 of that Regulation) and the Interinstitutional Agreement on budgetary discipline, on cooperation in budgetary matters and on sound financial management.

⁶ Interinstitutional Agreement between the European Parliament, the Council and the Commission of 2 December 2013 on budgetary discipline, cooperation in budgetary matters and on sound financial management (OJ C 373, 20.12.2013, p. 1).

Proposal for a

COUNCIL REGULATION

amending Regulation (EU, Euratom) No 1311/2013 laying down the multiannual financial framework for the years 2014-2020

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 312 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,

Having regard to the consent of the European Parliament,

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

Acting in accordance with a special legislative procedure,

Whereas:

- (1) Special instruments have been extensively used in the first years of implementation of the 2014-2020 multiannual financial framework (MFF) set out in Council Regulation (EU, Euratom) No 1311/2013¹ to address new challenges which arose in the European neighbourhood and called for swift and comprehensive Union action to deal with their far-reaching humanitarian and security implications.
- (2) The circumstances which occasioned those extraordinary measures and the need to take further action persist, as shown by the recourse made, again, under the draft budget for the year 2017 to margins and special instruments, which reduces the budgetary availabilities to confront such situations in the remaining period of the MFF.
- (3) In order to implement specific and maximum possible flexibility and to ensure the sufficiency of payment ceilings to allow the Union to fulfil its obligations in compliance with Article 323 of the Treaty, the limitations set for the adjustment of payment ceilings for the years 2018-2020 need to be removed.
- (4) The Emergency Aid Reserve and the Flexibility Instrument need to be reinforced and the restrictions regarding the Global margins for commitments and payments removed

¹ 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).

in order to maintain a sufficient capacity for the Union to react to unforeseen circumstances.

- (5) A new special instrument establishing a European Union Crisis Reserve financed from de-committed appropriations needs to be provided for in order to allow the Union to react rapidly to crises, such as the current migration crisis, as well as to events with serious humanitarian or security implications.
- (6) Regulation (EU, Euratom) No 1311/2013 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU, Euratom) No 1311/2013 is amended as follows:

- (1) In Article 3, paragraph 2 is replaced by the following:
- (2) "2. The special instruments provided for in Articles 9 to 15 shall ensure the flexibility of the MFF and shall be laid down in order to allow the budget procedure to run smoothly. The commitment appropriations may be entered in the budget over and above the ceilings of the relevant headings laid down in the MFF where it is necessary to use the resources from the Emergency Aid Reserve, the European Union Solidarity Fund, the Flexibility Instrument, the European Globalisation Adjustment Fund, the Contingency Margin, the European Union Crisis Reserve, the specific flexibility to tackle youth unemployment and strengthen research and the global margin for commitments, in accordance with Council Regulation (EC) No 2012/2002², Regulation (EC) No 1309/2013 of the European Parliament and of the Council³, and the Interinstitutional Agreement on budgetary discipline, cooperation in budgetary matters and on sound financial management⁴."
- (3) In Article 5, paragraph 2 is deleted.
- (4) In Article 6(1), the following point (f) is added:

"(f) calculation of the de-committed appropriations made in year n-2 to be made available to the European Union Crisis Reserve provided for in Article 13a."
- (5) In Article 9, paragraph 2 is replaced by the following:

"2. The annual amount of the Reserve is fixed at EUR 500 million (2011 prices) and may be used up to year n+1 in accordance with the Financial Regulation. The Reserve shall be entered in the general budget of the Union as a provision. The portion of the annual amount stemming from the previous year shall be drawn on

² Council Regulation (EC) No 2012/2002 of 11 November 2002 establishing the European Union Solidarity Fund (OJ L 311, 14.11.2002, p. 3).

³ Regulation (EU) No 1309/2013 of the European Parliament and of the Council of 17 December 2013 on the European Globalisation Adjustment Fund (2014-2020) and repealing Regulation (EC) No 1927/2006 (OJ L 347, 20.12.2013, p. 855).

⁴ Interinstitutional Agreement between the European Parliament, the Council and the Commission of 2 December 2013 on budgetary discipline, cooperation in budgetary matters and on sound financial management (OJ C 373, 20.12.2013, p. 1).

first. That portion of the annual amount from year n which is not used in year n+1 shall lapse."

(6) In Article 11, paragraph 1 is replaced by the following:

"1. The Flexibility Instrument is intended to allow the financing, for a given financial year, of clearly identified expenditure which could not be financed within the limits of the ceilings available for one or more other headings. There shall be a ceiling on the annual amount available for the Flexibility Instrument of EUR 1000 million (2011 prices)."

(7) The following Article 13a is inserted:

"Article 13a

European Union Crisis Reserve

1. The European Union Crisis Reserve is intended to allow the Union to react rapidly to crises, as well as to events with serious humanitarian or security implications.

2. Without prejudice to Article [178] of the Financial Regulation, de-committed appropriations made during year n-2 will be made available to the European Union Crisis Reserve in the framework of the budgetary procedure for year n. The Reserve shall be entered in the general budget of the Union as a provision. The annual amount available shall be used up to year n+1 in accordance with the Financial Regulation. The portion of the annual amount stemming from year n shall be drawn up first. That portion from the annual amount from year n which is not used in year n+1 shall lapse."

(8) Article 14 is replaced by the following:

"Article 14

Global margin for commitments

1. Margins left available below the MFF ceilings for commitment appropriations shall constitute a Global MFF Margin for commitments, to be made available over and above the ceilings established in the MFF for the years 2016 to 2020.

2. Each year, as part of the technical adjustment provided for in Article 6, the Commission shall calculate the amount available. The Global MFF Margin or part thereof may be mobilised by the European Parliament and the Council in the framework of the budgetary procedure pursuant to Article 314 TFEU."

Article 2

This Regulation shall enter into force on the twentieth 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 Council
The President