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'I' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 2)
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) - Confirmation of the final compromise text with a view to agreement

I. INTRODUCTION

1. On 28 May 2020, following the COVID-19 outbreak, the Commission adopted a proposal for a Regulation 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, known as REACT-EU[1].

[1] Doc. 8408/20 + ADD1.

2. The overarching objective of REACT-EU is to prevent the widening of disparities and uneven recovery processes between Members States and regions, to reinforce their crisis response capacity and to help their economies and societies to prepare the foundations for a swift recovery.

II. STATE OF PLAY

3. The Commission proposal for REACT-EU was presented to the Structural Measures Working Party under the Croatian Presidency. The detailed examination of REACT-EU took place under the Croatian and German Presidencies. The Permanent Representatives Committee endorsed a (partial) mandate for negotiations with the European Parliament on REACT-EU on 22 July 2020[2].

4. The partial mandate for negotiations was updated to take account of the European Council Conclusions adopted in the special meeting of the European Council of 17, 18, 19, 20 and 21 July 2020, resulting on a full mandate for negotiations endorsed by the Permanent Representatives Committee on 5 October 2020[3].

5. Inter-institutional negotiations with the European Parliament on the file took place between September and November 2020, with several technical meetings and three political trilogues on 24 September, 14 October and 18 November. At the last trilogue on 18 November, a provisional common understanding on the REACT-EU Regulation was reached between the co-legislators at political level.

6. The Structural Measures Working Party has been duly informed and consulted about the progress and the outcome of the negotiations. At its meeting on 26 November 2020, the working party had no objections to the final compromise text agreed between the two co-legislators.

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[2] Doc. 9426/20.
[3] Doc. 10853/20.

III. CONCLUSION

7. The Permanent Representatives Committee is invited to:

- confirm the agreement reached at trilogue level in favour of the compromise package concerning the proposal for a Regulation 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), as set out in the Annex to this note;

- allow the Presidency to inform the European Parliament of the agreement reached. The intention is to process this sectoral file in the light of progress on the overall MFF package.

ANNEX

REGULATION (EU) 2020/...
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of

amending Regulation (EU) No 1303/2013 as regards exceptional 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 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 Articles 177 and 322(1)(a) thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee[4],

Having regard to the opinion of the Committee of the Regions[5],

Having regard to the opinion of the Court of Auditors,

Acting in accordance with the ordinary legislative procedure,

Whereas:

[4] OJ C , , p. .
[5] OJ C , , p. .

(1) Member States have been affected by the ***economic, social and health*** crisis due to the 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 due to the sudden and important increase in public investments needed in their 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. The closure of internal borders also had a severe impact on economic cooperation, in particular in border areas, affecting the commuting of workers and the viability of 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 1303/2013 and (EU) No 1301/2013 were amended on 30 March 2020 to allow more flexibility in the implementation of the operational programmes supported by the European Regional Development Fund ('ERDF'), the European Social Fund ('ESF') and the Cohesion Fund (the 'Funds') and by the European Maritime and Fisheries Fund ('EMFF'). However, as the serious negative effects on Union economies and societies worsened, both Regulations were amended again on 23 April 2020 to provide 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.

(3) In order to redress huge shocks to the economy ***and mitigate its 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 spreading and the risks of an asymmetric recovery stemming from the different national means available in different Member States ***which resulted*** in serious impacts on the functioning of the Internal Market, the European Council endorsed on 23 April 2020 the “Roadmap for recovery” with a strong investment component, called for the establishment of the European Recovery Fund and***, as restated in the conclusions of the European Council from 21 July 2020,*** mandated the Commission to analyse the needs so that the resources would be targeted towards the sectors and geographical parts of the Union most affected, while clarifying also the link with the Multiannual Financial Framework for 2021-2027.

(4) In accordance with Regulation [European Recovery Instrument] and within the limits of resources allocated therein, recovery and resilience measures under the European Investment and Structural 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 [ERI]. ▌

(5) An additional exceptional amount of 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 Member States and regions most impacted in crisis repair in the context of the COVID-19 pandemic ***and its social consequences*** or preparing a green, digital and resilient recovery of the economy, with a view to deploying resources quickly to the real economy through the existing operational programmes. Resources ▌ for 2021 and 2022 stem from the European Union Recovery Instrument. Part of the additional resources should be allocated to technical assistance at the initiative of the Commission. The Commission should set out the breakdown of the remaining additional 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 current crisis on their economies and societies. ***Before the application of the allocation method concerning the additional resources for the year 2021 and for support to 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 shall 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 crisis, the breakdown should be revised in 2021 on the basis of the same allocation method using the latest statistical data available by 19 October 2021 to distribute the 2022 tranche of the additional resources.

(5a) Reflecting the importance of tackling climate change in line with the Union's commitments to implement the Paris Agreement and the United Nations Sustainable Development Goals, the Funds will contribute to mainstream climate actions and to the achievement of an overall target of 30% of the EU 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 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 REACT-EU resources to ERDF or ESF-type of operations according to their needs, the level of Member States' contributions towards this ambition may differ reflecting national priorities.

(6) 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 apply to this Regulation. These rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget 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***.

(6a) When measures are adopted to protect the Union budget, it is essential that the legitimate interests of final recipients and beneficiaries should be properly safeguarded.

(7) In order to allow maximum flexibility to Member States for 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 for using any additional resources to support aid for the most deprived ***and the Youth Employment Initiative*** 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 additional 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 additional resources, the commitments linked to those additional resources should only be decommitted at the closure of the operational programmes.

(7a) 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 the REACT-EU.

(8) Possibilities for financial transfers under the 'Investment for growth and jobs' goal between the ERDF and the ESF should also be introduced for the additional resources ▌ in accordance with Article 25a of Regulation (EU) No 1303/2013. Such transfers should affect neither the resources available under the European territorial cooperation goal nor the specific allocation for the Youth Employment Initiative.

(9) 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 of the European Parliament and of the Council[6], Member States should continue to be allowed to use the additional 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, particularly in the sectors most impacted by the COVID-19 pandemic and needing rapid revitalisation, such as tourism and culture***, in operations contributing to the transition towards a digital and green economy, infrastructure providing ***non-discriminatory*** basic services to citizens or economic support measures for those regions ▌ dependent on sectors most affected by the crisis. ***Stronger health cooperation, coordination and resilience should also be fostered. Furthermore, technical*** assistance should also be supported. It is appropriate that the additional 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 the additional resources.

(10) For the ESF, Member States should primarily use the additional resources to support ***access to the labour market and social systems, ensuring*** job maintenance, including through short-time work schemes and support to 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 at protecting employees and self-employed against the risk of unemployment while maintaining the same level of working and employment conditions and wages of the employees. The additional resources allocated to such schemes are to be used exclusively to support the workers. In the context of the COVID-19 pandemic and under the current circumstances, it should be possible to provide support to short-time work schemes for employees and the self-employed even when this support is not combined with active labour market measures, unless the latter are imposed by national law. This 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 Regulation (EU) 2020/460 and Regulation (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.***

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[6] 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 L99, 31.3.2020, p. 5); 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, 23.4.2020, p. 1).

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***, elderly, persons with disabilities, ethnic minorities*** and the ***homeless should be promoted.***

(10a) Furthermore, Member States should continue to pay special attention to and to use the additional resources, where appropriate, to support people living in rural, border, less developed, insular, mountainous, sparsely populated and outermost regions, as well as areas affected by industrial transition and depopulation.

(10b) 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 additional resources also to existing cross-border programmes under the European territorial cooperation goal.

(11) In order to ensure that Member States have sufficient financial means to swiftly implement 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, it is necessary to provide a higher level of initial pre-financing payment for the quick implementation of actions supported by the additional 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.

(12) Member States should have the flexibility to allocate the additional 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 allow quick implementation, only already designated authorities of existing operational programmes supported by the ERDF, the ESF, or the Cohesion Fund are 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.

(12a) The additional resources should be used in line with the sustainable development and "Do no harm" principles, taking into account the UN Sustainable Development Goals and the Paris Climate Agreement. 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.

(13) 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*** preparing a green, digital and resilient recovery of the economy, ***expenditure for operations should be eligible as of 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 additional resources.

(13a) 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.

(13b) In order to ensure continuity of implementation of certain operations supported by REACT-EU resources, the phasing provisions established in Regulation (EU) No 2018/XXX [new CPR] should apply.

(13c) Following the specific flexibility measures in response to the COVID-19 outbreak introduced into Regulation (EU) No 1303/2013 by Regulation (EU) 2020/558 of the European Parliament and of the Council, expenditure for completed or fully implemented operations that foster 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 supported under the corresponding new thematic objective should also be eligible, provided that the operations concerned started as of 1 February 2020.

(14) In order to enable Member States to deploy the additional resources for crisis repair quickly in the context of the COVID-19 pandemic and ***its social consequences and*** preparing a green, digital and resilient recovery of the economy within the current programming period, it is justified to exempt, on an exceptional basis, Member States from the need 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 additional 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 additional resources as well as how they contributed to achieving the goals of the new dedicated thematic objective. To facilitate the availability of comparable information at Union level, Member States are ***required, where appropriate,*** to make use of the 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 additional resources.

(15) With a view to allow the targeting of these additional resources 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 additional resources allocated to the ERDF and the ESF are not 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 ***a balanced support between the needs of the areas 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 173 TFEU ***and on the regions and cities most affected by the pandemic***. Member States should also involve local and regional authorities, as well as relevant bodies representing civil society, in accordance with the partnership ***principle***.

(15a) 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. This 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 OLAF and, where relevant, the EPPO.

(16) In order to facilitate the transfers authorised by the changes introduced under this Regulation, the condition laid down in Article 30(1)(f) of the Financial Regulation regarding the use of appropriations for the same objective should not apply in respect of those transfers.

(17) Since the objectives of this Regulation, namely to respond to the impact of the public health 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 alone and can therefore, 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 those objectives.

(18) 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*.

▌

(20) Regulation (EU) No 1303/2013 should therefore be amended accordingly.

(21) 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[7] provides that amendments to Council Regulation (EU, Euratom) No 1311/2013[8] or Council Decision 2014/335/EU, Euratom[9] that are adopted on or after the date of entry into force of that Agreement shall not 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 and in the United Kingdom

HAVE ADOPTED THIS REGULATION

Article 1

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

1. the following Articles 92a and 92b are inserted:

"Article 92a
Resources from the European Union Recovery Instrument

Measures referred to in ***Article 1(2)*** of Regulation [ERI] shall be implemented under the Structural Funds with an amount of ***up to*** EUR ***47 500 000 000*** in ***2018*** prices referred to in ***Article 2(2)(a)(i)*** of that Regulation, subject to its ***Article 3(3), (4), (7)*** and (***9***).

These additional resources for 2021 and 2022 shall constitute external assigned revenues in accordance with Article 21(5) of the Financial Regulation.

Article 92b
Exceptional 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*** preparing a green, digital and resilient recovery of the economy (REACT-EU)

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7 OL L 29, 31.1.2020, p. 7.

8 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).

9 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).

1. The additional resources referred to in Article 92a ('the additional 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 additional resources to a cross-border co-operation programme under the European Territorial Cooperation goal in which they participate, where they agree that such allocations reflect their respective national priorities. The additional resources shall*** provide assistance for 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 (REACT-EU). The additional resources shall be used to implement technical assistance pursuant to paragraph 6 of this Article and the operations implementing the thematic objective in paragraph ***9*** of this Article.

2. ***The additional*** resources ***referred to in Article 92a*** shall be made available for budgetary commitment for the years 2021 to 2022 in addition to the global resources set out in Article 91 as follows:

   ▌

   – 2021: EUR ***37 500 000 000***;

   – 2022: EUR ***10 000 000 000***.

   ▌ These ▌ resources ▌ shall also support administrative expenditure up to EUR 18 000 000 in ***2018*** prices.

   Operations to be supported by REACT-EU resources may be selected for support up to the end of 2023. The phasing provisions set out in Regulation (EU) No 2018/XXX [new CPR] are applicable to operations supported by REACT-EU resources.

3. 0.35% of the additional 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 additional 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 additional resources for 2022 based on data available by 19 October 2021.

5. By way of derogation from the first subparagraph of Article 76, the budget commitments for the additional 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 subparagraph of Article 76 for the years 2021 and 2022 shall enter into force as of the date referred to in Article 4(3) of the [ERI Regulation].

The third and fourth subparagraphs of Article 76 shall not apply in respect of the additional 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 shall apply to the budgetary commitments based on the additional resources referred to in Article 92a. By derogation from Article 12(4)(c) of the Financial Regulation, the additional resources shall not be used for a succeeding programme or action.

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

Each Member State shall allocate the additional 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), ***part*** of the additional resources ***shall*** also be proposed to be used***, where the Member State 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 share of the additional resources may also be used to increase the support for the Youth Employment Initiative. 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 additional 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 EU level. This shall not apply to ERDF resources allocated to cross-border cooperation programmes under the European Territorial Cooperation goal.***

Article 30(5) shall not be applicable for the additional resources. These 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 for the same objective shall not apply in respect of these transfers. Transfers can only apply to the ongoing year or to future years in the financial plan.

The requirements laid down in Article 92(4) shall not apply to the initial allocation or their subsequent transfers.

Amounts allocated to the YEI in accordance with Article 92(5) under the Investment for growth and jobs goal shall not be affected.

The additional 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 additional 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 operational 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 paragraph 1 may be allocated to technical assistance.

7. By way of derogation from Article 81(1) and Article 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 additional resources shall be ***11%*** of the additional resources allocated to programmes for the year ***2021*** under the new thematic objective referred to in paragraph ***9*** of this Article.

For the purpose of applying Article 134(2) for 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 additional 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 additional resources not allocated to technical assistance shall be used under the thematic objective set out in paragraph ***9*** to support operations 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.

Member States may allocate the additional 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 referred to in paragraph ***10 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 above.

For the ERDF, the additional resources shall primarily be used to support investment in products and services for health services***, 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***, investments contributing to the transition towards a digital and green economy, investments in infrastructure providing basic services to citizens, and economic measures in the regions which are most dependent on sectors most affected by the crisis.

For the ESF, the additional resources shall primarily be used to support ***access to the labour market by maintaining jobs of employees and self-employed,*** including through short-time work schemes ▌ even when that support is not combined with active labour market measures, unless the latter are imposed by national law. The additional 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.***

Additional resources shall also support social systems contributing to social inclusion, anti-discrimination and poverty eradication measures, with a particular focus on child poverty and to 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 and of the additional resources used for the FEAD ***or for the Youth Employment Initiative*** referred to in the seventh subparagraph of paragraph 5, the additional 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 shall exclusively be available for the programming of the additional 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 shall also constitute the single investment priority for the programming and implementation of the additional 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 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 Article 96(2)(d) ***of this regulation and in Article 8(2)(d) of Regulation (EU) No 1299/2013*** shall set out the allocation of the additional 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), requests for the amendment of a programme submitted by a Member State shall be duly justified and shall in particular set out 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 preparing a green, digital and resilient recovery of the economy. They 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 paragaph ***9***. No ex ante evaluation as set out in Article 55 shall be required.

By way of derogation from Article 96(2)(a), 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*** preparing a green, digital and resilient recovery of the economy.

Where such a new operational programme is established, only authorities designated under on-going 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 point (b)(v) and (vii) of the first subparagraph of paragraph 2, in paragraph 4, in point (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.

10a. By way of derogation from Article 65(9), expenditure for operations supported under the thematic objective set out in paragraph 9 shall be eligible as of 1 February 2020.

11. 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 additional resources programmed under the thematic objective referred to in 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 additional 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 paragraph ***9*** of this Article.

12. The following provisions shall not apply to the additional resources:

(a) requirements on thematic concentration 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 as of 1 February 2020 and that foster 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 supported under the thematic objective referred to in paragraph 9.

(f) 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 as set out in Article 12(4) of Regulation (EU) No 1299/2013 for operations supported by the additional resources under the European Territorial cooperation goal, cooperation of beneficiaries in at least two fields shall be sufficient.

13. 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 additional 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 to ensure full transparency, using, where appropriate, social media.

The reference 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 additional resources.";

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

"▌ Article 92a and Article 92b shall not apply to and in the United Kingdom. References to Member States in those provisions shall be understood as not including the United Kingdom."

3. A new Annex VIIa is added.

Article 1 a

The Commission shall provide the European Parliament and the Council with an evaluation on 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 its 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 2

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.

ANNEX

A new Annex VIIa is added:

"ANNEX VIIa

Methodology on the allocation of exceptional additional resources ▌ to provide assistance for 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 per Member State – Article 92b(4)

Allocation method for the exceptional additional resources

The exceptional additional resources shall be distributed between the Member States according to the following methodology:

1. Each Member State's provisional share from the additional 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 so obtained 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, as well as

      (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, as well as

      (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.

In case 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 indent (i) of point a).

In case 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 indent (i) of point b) and indent (i) of point c).

2. The rules described 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 exceptional additional resources for the ***year*** 2021:

   a) For 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 additional resources for the ***year*** 2021 in the total additional resources for the years ▌ 2021 and 2022.

   Before the application of the method described in paragraphs 1 and 2 concerning the additional 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.***

Additionally, an amount corresponding to an aid intensity of EUR 30 per inhabitant will 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 will receive through the distribution of the national budget.***

The remaining amount for the year ***2021*** will 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 exceptional additional 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 additional resources for the year 2022 in the total additional resources for the years ▌ 2021 and 2022.”.