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2024/0234 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing the Ukraine Loan Cooperation Mechanism and providing exceptional macro-financial assistance to Ukraine

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The EU is steadfast in its support to Ukraine, whose future lies within the EU. The EU supports Ukraine's independence, sovereignty and territorial integrity within its international recognised borders and is unwavering in its commitment to provide political, financial, economic, humanitarian, military and diplomatic support[1]. In light of the escalating Russian aggression, it is necessary to act swiftly to ensure Ukraine has access to the resources it urgently needs. This proposal is designed to ensure the establishment of a new mechanism before the end of this year to mobilise funds for Ukraine and also provides for exceptional Macro-Financial Assistance (MFA) to address those urgent needs.

On 24 February 2022, Russia launched a full-scale military invasion of Ukraine, with devastating consequences for Ukraine and its people. Russia's recent escalation of its brutal war of aggression against Ukraine confirms its readiness to violate the fundamental rights of Ukraine to independence, sovereignty and territorial integrity within its internationally recognised borders, and to destroy its viability as a State. The bravery, courage and determination shown by the Ukrainian people to defend their country deserve profound respect and gratitude.

The EU, together with its Member States, has unequivocally condemned Russia's actions and has offered unprecedented support to Ukraine. The EU, its Member States and European Financial Institutions have together provided wide-ranging assistance to Ukraine and its people since the outbreak of the war, amounting to EUR 118 billion. This reflects the EU's commitment to help Ukraine for as long as it takes and as intensely as needed.

However, Russia's intensified aggression has increased Ukraine's financing needs. It is clear that additional sources of funding both from the EU and the international community will be needed. Ukraine's financing needs for 2025 will outstrip existing projections by the International Monetary Fund (IMF), whose fourth review of the IMF Programme assumed the war would conclude by the end of 2024. This assumption looks increasingly unlikely, and Ukraine's recently adopted budget declaration, developed in cooperation with the IMF, adds a projected additional USD 12 billion to its financing needs for 2025, bringing the total to USD 38 billion. Whilst Ukraine has been implementing measures to increase revenues and reduce non-essential expenditure, there is now limited room for additional cuts, and little scope for domestic measures to address the additional needs. Further broad-based tax increases could harm economic activity, already at extra risk following ongoing attacks on key energy and other infrastructure, and labour shortages caused by the continued displacement of people and mobilisation of soldiers. Swift financial support is vital to help Ukraine maintain essential state functions, ensure macroeconomic stability and rehabilitate critical infrastructure. These needs come on top of significant requirements for medium-term recovery and reconstruction.

In their summit statement of 14 June 2024[2], G7 Leaders reaffirmed their determination to continue providing military, budget, humanitarian, and reconstruction support to Ukraine. To this end, G7 Leaders announced the launch of the Extraordinary Revenue Acceleration Loans

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[1] European Council Conclusions, 27 June 2024; EUCO 15/24.
[2] Apulia G7 Leaders' Communiqué, 14 June 2024.

for Ukraine, to make available approximately USD 50 billion in additional funding by the end of 2024.

The proposal put forward today takes this step forward by ensuring that continued support to Ukraine can come through a collective approach of the international community. This will be enabled by the creation of a mechanism that provides support to Ukraine to service and repay loans from G7 partners alongside a new exceptional MFA loan from the EU.

Leveraging extraordinary revenues to support loans to Ukraine

As part of the sanctions imposed by the EU on Russia in response to its actions in Ukraine, assets of the Central Bank of Russia held by financial institutions in the Member States have been immobilised since February 2022[3]. The assets held in the EU, worth approximately EUR 210 billion, represent the majority of such immobilised assets worldwide. The prohibition of transactions on these assets generates an extraordinary and unexpected cash accumulation on the balance sheets of central securities depositories[4]. Depending on the level of interest rates, the extraordinary revenues have been estimated at up to EUR 4-5 billion a year.

These unexpected and extraordinary revenues do not constitute sovereign assets, and do not have to be made available to the Central Bank of Russia under applicable rules, even after the immobilisation ends. As they result from the implementation of the restrictive measures[5], central securities depositories cannot expect to gain from them.

Council Decision (CFSP) 2024/577[6] provided for measures applying from 15 February 2024, laying down rules for the setting aside of the extraordinary revenues stemming from the immobilisation. This was followed in May 2024 by measures for the use of the ensuing net profits for the benefit of Ukraine[7]. These are currently being used in the form of a financial contribution to support both military and reconstruction objectives. At present, Union restrictive measures provide that 90% of the financial contribution is allocated to the European Peace Facility and 10% to the Ukraine Facility. This reflects Ukraine's urgent military needs. The relevant rules on restrictive measures allow, however, for a revision of this allocation.

A Ukraine Loan Cooperation Mechanism

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[3] Council Decision (CFSP) 2022/335 of 28 February 2022 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, OJ L 57, 28.2.2022, p. 4.

[4] Central securities depositories are defined under Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012, OJ L 257, 28.8.2014, p. 1.

[5] In particular, the prohibition laid down in Article 1a(4) of Council Decision 2014/512/CFSP of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine and Article 5a(4) of Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, OJ L 229, 31.7.2014, p. 1.

[6] Council decision (CFSP) 2024/577 of 12 February 2024 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, OJ L, 2024/577, 14.2.2024.

[7] Council Decision (CFSP) 2024/1470 of 21 May 2024 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, OJ L, 2024/1470, 22.5.2024.

In June 2024, the European Council invited the Commission, the High Representative and the Council to take work forward to provide additional funding for Ukraine by the end of the year. In line with the results of the G7 summit, this would take the form of loans serviced and repaid by future flows of the extraordinary revenues. The European Council made clear that this construction was designed to make possible the servicing and repayment not only of an EU loan, but also those of other G7 partners. The European Council also concluded that Russia's assets should remain immobilised until Russia ceases its war of aggression against Ukraine and compensates it for the damage caused by the war. This represents a commitment to maintain the immobilisation of the assets and therefore the collection of the financial contribution raised on the extraordinary profits, offering a source of funds to service and repay loans of Ukraine until such time as compensation from Russia is available to pay off the loans.

The current proposal will support G7 partners in issuing loans to Ukraine in parallel to the EU's exceptional MFA loan, with a view to reaching the total amount envisaged at the G7 summit. Specifically, this proposal would create a Ukraine Loan Cooperation Mechanism to provide Ukraine with non-repayable financial support to assist it in repaying loans provided by G7 partners. The repayment of the loans would be supported by proceeds from future flows of the extraordinary profits stemming from Russia's immobilised assets in the Union, as well as being open to other sources, including extraordinary revenues generated in other relevant jurisdictions.

The Ukraine Loan Cooperation Mechanism would disburse these received amounts on a regular basis, so that Ukraine can cover the principal and interest of eligible loans to the EU and other G7 lenders on a pro-rata basis according to the principal of each loan.

Residual risk is carried by each lender for their respective loans. A loan agreement with Ukraine will clarify that once compensation is paid by the aggressor, these funds will ensure repayment of the loans by Ukraine. Since the loans are underpinned by the revenues from the immobilised Russian assets, they will not add to the debt burden of Ukraine.

To operationalise the Ukraine Loan Cooperation Mechanism, the allocation of the amount paid by central security depositories as set out in Council Decision (CFSP) 2024/1470 and Annex XLI to Council Regulation (EU) No 833/2014 will have to be adjusted. The Commission and High Representative are preparing the legal proposals for implementing acts modifying the allocation. Furthermore, in order to smoothen the payment profile of all Union budget support to Ukraine, the Ukraine Facility's payment schedule may be amended. The Commission is monitoring the total level of financial support to Ukraine and may prepare a proposal to amend this payment schedule as and if necessary.

The coming months will be decisive to demonstrate the collective G7 commitment in the form of such loans, requiring a coordinated international effort and close cooperation among international partners. It is urgent to adopt the proposals before end October, so that the Union loan can be released before the end of 2024 for future disbursements in tranches and allow using the already granted headroom guarantee.

EU financial assistance to Ukraine

This proposal will complement support already under way. The EU, its Member States and European Financial Institutions have together provided over EUR 118 billion in grants and loans supporting the Ukrainian war effort, its economy, helping to maintain basic services and offer early reconstruction, humanitarian assistance and help to those fleeing the war. As part of the military assistance, the EU is providing EUR 6.1 billion in military support through the European Peace Facility, which will increase in 2024 using revenues from immobilised Russian assets. Of the total amount, over EUR 45 billion have been provided or guaranteed by the EU budget in budget support, as well as humanitarian and emergency assistance. This includes EUR 25.2 billion of disbursements under four macro-financial assistance operations to help Ukraine address urgent financing needs, and EUR 12.2 billion in disbursements thus far under the Ukraine Facility.

The EU's substantial macro-financial assistance to Ukraine in 2022 and 2023 has made a major contribution to Ukraine's macroeconomic stability. The stabilisation of public finances has allowed Ukraine to maintain essential services for its people, as well as freeing up resources for the imperative of military defence against the Russian aggression. It has also helped to advance the implementation of crucial economic reforms. In 2024, Ukraine's proven reform track-record paved the way for the adoption of the EUR 50 billion Ukraine Facility, a medium-term instrument to provide Ukraine with a continued, predictable and flexible source of financing to 2027, while ensuring that Ukraine continues essential reforms, particularly in view of its accession path. In this context, the Ukrainian authorities adopted the Ukraine Plan, the overarching reform agenda for the period 2024-2027. Financing under the Facility will help Ukraine to keep its administration running, provide basic public services, and support recovery and reconstruction. The Ukraine Plan contains key reforms and investments that can boost sustainable economic growth and attract investments, to amplify the country's growth potential in the medium-to-long term. In 2024 alone, the Facility is expected to disburse EUR 16 billion under its Pillar I, mainly subject to the timely and successful implementation of the Ukraine Plan measures, making it not only an important source of financing, but also the key framework underpinning Ukraine's reform efforts.

This proposal provides for exceptional MFA to address the increased needs. This assistance will be delivered in a predictable, continuous, orderly, and timely manner to finance immediate needs, rehabilitate critical infrastructure, and offer initial support for sustainable post-war reconstruction, supporting Ukraine on its path towards European integration. Disbursement will be linked to preconditions and policy conditions to be set out in a Memorandum of Understanding between the Commission and Ukraine ('MoU'). Those conditions should be consistent with the qualitative and quantitative steps contained in the Ukraine Plan.

The EU contribution through the exceptional MFA will provide fiscal space to Ukraine to make its spending choices according to its most urgent needs, including its recovery and reconstruction as well as its self-defence against Russia's war of aggression. In that context, it is appropriate that Ukraine takes a commitment to promote the cooperation with the Union on the recovery, reconstruction and modernisation of Ukraine's defence industry, in line with the objectives of the European Defence Industry Programme (EDIP) and other relevant Union instruments.

To ensure a sound financial underpinning, the MFA loan to Ukraine should (in the same way as the MFA+ instrument and the loan part of the Ukraine Facility which have provided financial support to Ukraine since 2023) be backed by a guarantee from the EU budget headroom, i.e., the budgetary space above the ceiling for payments of the multiannual financial framework (MFF) up to the limit of the own resources ceiling. This would provide a high degree of protection and reassurance to investors, and avoid the provisioning of loans or establishment of national guarantees, without requiring changes to the size or ceilings of the

MFF[8]. Therefore, the decision on the release of the new MFA loan should be taken before the end of this year.

- **Consistency with existing policy provisions in the policy area**

The support under the MFA operation will be consistent with and complementary to activities financed under Regulation (EU) 2024/792[9], Regulation (EU) 2021/947[10] and Regulation (EC) No 1257/96[11] in line with the respective objectives, intervention logic and rules of these instruments.

In particular, the MFA loan comes in addition and is complementary to the support provided by the EU under the Ukraine Facility. Specific attention is paid to the consistency and mutual reinforcement of the MFA operation and the implementation of the Facility. Most notably, the release of the MFA loan will be linked to the satisfactory fulfilment of the policy conditions laid down in an MoU, which will be consistent with the qualitative and quantitative steps contained in the Annex to the Council Implementing Decision (EU) 2024/1447 on the approval of the assessment of the Ukraine Plan[12], and any amendments thereof until the entry into force of the MoU. Moreover, the sound financial management and control mechanism established under the Ukraine Facility as well as the rights, responsibilities and obligations provided in the Framework Agreement under the Facility that should ensure the Union's financial interest should be applied for the purpose of the MFA loan.

- **Consistency with other Union policies**

The support under the Ukraine Loan Cooperation Mechanism will be consistent with the application of restrictive measures (sanctions) against Russia. It will also be consistent with the European Council Conclusions from 27 June 2024, inviting the Commission, High Representative and the Council to take work forward on providing additional funding to Ukraine by the end of the year, in the form of loans serviced and repaid by future flows of the extraordinary revenues, together with G7 partners, to support Ukraine's current and future military, budget and reconstruction needs.

Furthermore, the candidate status granted by the European Council on 23 June 2022 and the decision by the 14-15 December 2023 European Council to open accession negotiations with Ukraine anchor Ukraine firmly on its European path. This is why the whole EU response in support of Ukraine's resilience and recovery – including through the Ukraine Loan Cooperation Mechanism and the MFA operation, which will in turn be consistent with and

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8 This is possible given the amendment to Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027, OJ L 433I, 22.12.2020, p. 11. This allowed contingent liabilities stemming from financial assistance to Ukraine available for 2023 and 2024 to be treated in the same way as financial assistance for Member States.

9 Regulation (EU) 2024/792 of the European Parliament and of the Council of 29 February 2024 establishing the Ukraine Facility.

10 Regulation (EU) 2021/947 of the European Parliament and of the Council of 9 June 2021 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe, amending and repealing Decision No 466/2014/Union of the European Parliament and of the Council and repealing Regulation (EU) 2017/1601 of the European Parliament and of the Council and Council Regulation (EC, Euratom) No 480/2009, (OJ L 209, 14.6.2021, p. 1).

11 Council Regulation (EC) No 1257/96 of 20 June 1996 concerning humanitarian aid (OJ L 163, 2.7.1996, p. 1).

12 Council Implementing Decision (EU) 2024/1447 of 14 May 2024 on the approval of the assessment of the Ukraine Plan, OJ L, 2024/1447, 24.5.2024.

supporting the implementation of the Ukraine Facility – will also contribute to the early phase of Ukraine's pre-accession process.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

Article 212 TFEU is an appropriate legal basis for financial assistance programmes granted by the Union for third countries, which are not development countries, and is a legal basis that has been used for previous MFA loans.

• Subsidiarity (for non-exclusive competence)

The subsidiarity principle is respected as the need for a common response in providing support to Ukraine on adequate scale cannot be sufficiently achieved by the Member States alone and, by reasons of its scale and effect, can be better achieved by the EU. The main reasons are the fiscal capacity and budgetary constraints faced at the national level and the need for strong donor coordination in order to maximise the scale and effectiveness of the support, while limiting the burden on the administrative capacity of Ukrainian authorities, which is very stretched in the current circumstances. The EU is in a unique position to deliver external assistance to Ukraine to cover urgent financing needs, notably by providing concessional short-term and long-term relief in the form of loans and of non-repayable financial support in a predictable, continuous, orderly and timely manner.

• Proportionality

The Ukraine Loan Cooperation Mechanism and the MFA operation are proposed as a targeted response to the specific circumstances of Ukraine due to the Russian war of aggression.

The continued unprovoked and unjustified military aggression by Russia requires granting of additional financial assistance to Ukraine in line with the objectives and modalities described under this proposal.

The proposed financial support to Ukraine is considered adequate in size, based on the elevated funding needs, while taking into account the high uncertainty of the war circumstances.

The overall amount of funding made available to Ukraine through the exceptional MFA operation and eligible bilateral loans, that will be serviced and repaid by future flows of extraordinary revenues through the Ukraine Loan Cooperation Mechanism, conforms to an initiative by the G7 that ensures broad international burden sharing with partners, and does not go beyond what is necessary for the sought purpose to support Ukraine's projected budgetary needs.

• Choice of the instrument

A Regulation is the appropriate instrument as it provides directly applicable rules for the implementation of the Ukraine Loan Cooperation mechanism and the macro-financial assistance.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

The proposal follows a series of macro-financial assistance operations provided to Ukraine since 2015. Past ex-post evaluations of previous MFA operations to Ukraine have shown that in general they were highly relevant in terms of their objectives, financial envelope and policy conditions. In particular, MFA operations proved crucial to support Ukraine in addressing its balance-of-payment problems and implementing key structural reforms to stabilise the economy and enhance the sustainability of its external position. They allowed for fiscal savings and financial benefits, and acted as a catalyst for additional financial support and investor confidence. The conditionality attached to the MFA operations was found complementary to the related IMF programmes. It created a politically reinforcing effect that contributed to the mobilisation of the Ukrainian authorities around essential reforms, especially in structural policy areas that are less covered by other international donor programmes.

The MFA+ instrument in 2023 brought total financial support up to the maximum level of EUR 18 billion, which helped Ukraine cover its immediate funding needs in 2023 by means of a stable, predictable and sizeable financial support instrument. This funding was instrumental in maintaining macroeconomic stability and the underpinning reform conditionality allowed for broad-ranging improvements in the country's structural economic fabric. Notably, this included the strengthening of the independence of the Specialised Anti-Corruption Prosecutor's Office, an enhancement of the functioning of legal institutions such as through the appointment of a head of the anti-corruption authority and the improvement of the selection process for judges. Moreover, Ukraine improved the bankruptcy and insolvency framework and also made significant advances towards a more efficient energy system and in promoting a better business climate.

- **Stakeholder consultations**

The proposal delivers on the calls by the international community to remain strongly committed to helping Ukraine meet its urgent short-term financing needs, as well as supporting its long-term recovery and reconstruction priorities. It follows up on the commitment made at the G7 Summit in Apulia on 14 June 2024 to launch "Extraordinary Revenue Acceleration (ERA) Loans for Ukraine", in order to make available approximately USD 50 billion in additional funding to Ukraine by the end of the year 2024. In the preparation of this proposal, the Commission services have consulted with international financial institutions and other bilateral (including Member States and G7 members) and multilateral donors, with significant expertise, including as regards the Ukrainian economy. The Commission has also been in regular contact with the Ukrainian authorities.

A formal stakeholder consultation could not be carried out due to the urgency of preparing the proposal so that it can be adopted in a timely manner by the co-legislators to render it operational by end of 2024. This will allow to take advantage of opportunities for financing which will expire at the end of 2024, as well as answering the new and growing economic and financial needs caused by Russia's war of aggression which will have to be met, as well as recovery and reconstruction. The EU will ensure appropriate communication and visibility around the objectives and the actions delivered within the scope of the Ukraine Loan Cooperation Mechanism and the MFA operation, in Ukraine, within the Union, and beyond.

- **Collection and use of expertise**

The proposal builds on thirty years long experience with macro-financial assistance as well as on experience with Union's external action support.

The Commission based this proposal on a careful analysis, also building on inputs from international financial institutions and other competent international institutions, of the financial needs and broader macro-financial situation of Ukraine. This includes discussions on a regular basis of the latest projections of Ukraine's funding needs within international fora, such as the G7 and the Ukraine Donor Platform, as well as continuous direct contact with the Ukrainian authorities.

- **Impact assessment**

Due to the urgent nature of the proposal, which is designed to provide urgent assistance by the end of the year to a country at war, no impact assessment could be carried out. The ex-ante assessment of needs proposed to be covered by the loans supported under the Ukraine Loan Cooperation Mechanism (including the MFA operation itself) inter alia draw upon recent data from the International Monetary Fund. The support under the MFA operation should build upon the lessons learned from and the achievements of the MFA operations with Ukraine since 2015, including the Emergency and Exceptional MFA operations in 2022 and MFA+ instrument in 2023 in the specific circumstances of the ongoing war. Moreover, the policy conditionality of the MFA loan should be consistent with the steps in the Ukraine Plan and further strengthen incentives for its implementation.

- **Regulatory fitness and simplification**

The proposal is not linked to regulatory fitness and simplification.

- **Fundamental rights**

A precondition for granting support under the MFA loan is that Ukraine continues to respect effective democratic mechanisms and its institutions, including a multi-party parliamentary system, and the rule of law, and to guarantee respect for human rights, including those of persons belonging to minorities.

The reform-commitment and strong political will by the Ukrainian authorities is a positive sign, in particular as evidenced by the European Council granting candidate status to Ukraine in June 2022 and the European Council decision of December 2023 to open accession negotiations with Ukraine, by the renewed successful completion of the structural policy conditionality attached to the recent MFA operations to Ukraine and the beginning of implementation of the Ukraine Plan. Since the Russian aggression, the Ukrainian authorities have shown an impressive degree of resilience and have remained committed to pursue these reforms in a transparent manner and working towards EU standards and in line with the country's path towards EU integration.

To that end, the precondition for an MFA operation is considered to be satisfied at present. At the same time, the continuous adherence to this precondition will be further ensured by specific conditions in the future loan agreement for the MFA operation. The same precondition for support is applicable to the implementation of the Ukraine Plan.

4. BUDGETARY IMPLICATIONS

The proposal is fully compatible with the ceilings of the 2021-2027 multiannual financial framework (MFF).

The funding of the Ukraine Loan Cooperation Mechanism requires an adjustment of rules for the allocation of the financial contribution from central securities depositories established under Union restrictive measures. The amounts transferred to the Ukraine Loan Cooperation Mechanism will constitute external assigned revenue in accordance with Article 21(5) of the Financial Regulation. Furthermore, the Ukraine Loan Cooperation Mechanism may be funded by amounts received as additional financial contributions from Member States, third countries or other sources. Such contributions will constitute external assigned revenue in accordance with Article 21(2), point (a)(ii), (d) and (e) respectively of the Financial Regulation.

The exceptional MFA loan will make available support of up to EUR 35 billion in loans in one instalment that is available for release until 31 December 2024. This requires that the relevant conditionalities are met by Ukraine in 2024.

The funds may be disbursed in one or more tranches. The disbursement of all such tranches will take place by 31 December 2025 at the latest.

Further details on the budgetary implications are provided in the Legislative Financial Statement attached to this proposal.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

For the purposes of implementing the Ukraine Loan Cooperation Mechanism, the Commission will enter into an agreement with Ukraine setting out the conditions and obligations to receive and use the non-repayable financial support.

Additionally, the European Union should make the exceptional MFA loan available to Ukraine, thereby contributing to the efforts by Ukraine's international partners, notably expressed by the G7 Leaders in June 2024 in Apulia, to cover its budgetary needs. The support will contribute to covering the residual external funding gap of Ukraine in 2024-2025 and is planned to be disbursed in one instalment that can be disbursed in several tranches. The release of the instalment will be conditional on the satisfactory fulfilment of policy conditions as agreed in the MoU and referred to in this proposal. The Commission will work closely with the national authorities to monitor relevant developments and the application of the requirements and policy conditions, as agreed in the MoU. The support will be managed by the Commission. Specific provisions on the prevention of fraud and other irregularities, consistent with the Financial Regulation, are applicable, in line with the Framework Agreement concluded under the Ukraine Facility. Additionally, the management and control systems as proposed under the Ukraine Plan established under Regulation (EU) 2024/792 of the European Parliament and of the Council of 29 February 2024 establishing the Ukraine Facility will be applied for the MFA loan.

Finally, the Commission will submit to the European Parliament and to the Council a report on the implementation of the Union's support to Ukraine under the Ukraine Loan Cooperation Mechanism and the MFA operation, including an evaluation. Not later than 31 December 2027, the Commission will submit to the European Parliament and to the Council an ex-post evaluation report, assessing the results and efficiency of the completed Union's support under the MFA operation and the extent to which it has contributed to the aims of the support.

- **Detailed explanation of the specific provisions of the proposal**

Chapter I of the Regulation concerns its general provisions.

Article 1 provides the subject matter of the Regulation, which is the establishment of the Ukraine Loan Cooperation Mechanism and the provision of exceptional macro-financial assistance to Ukraine.

Article 2 provides for the definitions applicable under the Regulation.

Chapter II of the Regulation concerns the Ukraine Loan Cooperation Mechanism.

Article 3 defines the purpose of the Ukraine Loan Cooperation Mechanism.

Article 4 describes the financing of the support under the Ukraine Loan Cooperation Mechanism, including how Member States and interested third countries and parties may contribute to the Ukraine Loan Cooperation Mechanism.

Article 5 describes the available support under the Ukraine Loan Cooperation Mechanism.

Article 6 sets the eligibility criteria against which the Commission will assess whether a bilateral loan is eligible under the Ukraine Loan Cooperation Mechanism and provides that the Commission approves the eligibility of bilateral loans to the Ukraine Loan Cooperation Mechanism.

Article 7 stipulates that the Commission will conclude with Ukraine a ULCM Agreement for the Implementation of the Ukraine Loan Cooperation Mechanism and provides information on its content and amendment.

Article 8 provides how the support under the Ukraine Loan Cooperation Mechanism is released.

Chapter III of the Regulation concerns the exceptional macro-financial assistance.

Article 9 describes the support available under the Union's macro-financial assistance, including its form, implementation and availability.

Article 10 sets the amount of the Union's macro-financial assistance.

Article 11 provides for compliance with the preconditions necessary for the disbursement of macro-financial assistance.

Article 12 stipulates that the Commission will conclude with Ukraine a Memorandum of Understanding and provides information on its content and timing.

Article 13 lays out the conditions and process for releasing the MFA loan.

Article 14 empowers the Commission, on behalf of the Union, to borrow the necessary funds on the capital markets or from financial institutions.

Article 15 regulates the MFA loan agreement and its content.

Article 16 regulates the governance through committee procedures.

Chapter IV of the Regulation concerns final provisions.

Article 17 regulates the information provision to the European Parliament and to the Council.

Article 18 regulates the entry into force.

2024/0234 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing the Ukraine Loan Cooperation Mechanism and providing exceptional macro-financial assistance to Ukraine

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 212 thereof,

Having regard to the proposal from the European Commission,

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

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Since the start of Russia's unprovoked and unjustified war of aggression against Ukraine on 24 February 2022, the Union, its Member States and European financial institutions have mobilised unprecedented support for Ukraine's economic, social and financial resilience. That support combines support from the Union budget, including exceptional macro-financial assistance and support from the European Investment Bank (EIB) and the European Bank for Reconstruction and Development (EBRD), fully or partially guaranteed by the Union budget, as well as further financial support by Member States.

(2) The provision by the Union of macro-financial assistance of up to EUR 18 billion under Regulation (EU) 2022/2463 of the European Parliament and of the Council[13] was considered an appropriate response to Ukraine's financing gap for 2023 and helped to mobilise significant financing from other donors and international financial institutions. This constituted a major contributing factor to Ukraine's macroeconomic and financial resilience at a critical time.

(3) On 29 February 2024, Regulation (EU) 2024/792 of the European Parliament and the Council[14] established the Ukraine Facility as an exceptional medium-term instrument that brings together the bilateral support provided by the Union to Ukraine, ensuring coordination and efficiency. Over the period 2024 to 2027, the Ukraine Facility helps address Ukraine's financing needs and contributes to its recovery, reconstruction and modernisation needs, while at the same time supporting Ukraine's reforms effort as part of its accession path to the Union. The Ukraine Facility has put into action the

[13] Regulation (EU) 2022/2463 of the European Parliament and of the Council of 14 December 2022 establishing an instrument for providing support to Ukraine for 2023 (macro-financial assistance +) (OJ L 322, 16.12.2022, p. 1, ELI: http://data.europa.eu/eli/reg/2022/2463/oj).

[14] Regulation (EU) 2024/792 of the European Parliament and of the Council of 29 February 2024 establishing the Ukraine Facility (OJ L, 2024/792, 29.2.2024, ELI: http://data.europa.eu/eli/reg/2024/792/oj).

Union's unwavering commitment to providing continued financial support to Ukraine and its people.

(4) Russia's war of aggression against Ukraine has caused tremendous damages in Ukraine, with estimated recovery and reconstruction costs of USD 486 billion as of 31 December 2023[15]. Moreover, Ukraine has lost access to international financial markets and experienced a significant drop in public revenue, while public expenditure has increased substantially. Against this background, substantive funding needs for the coming years can be established.

(5) On 30 March 2023, the International Monetary Fund (IMF) agreed with Ukraine a USD 15.6 billion four-year programme under the Extended Fund Facility (EFF) to sustain economic and financial stability at a time of exceptionally high uncertainty, restore debt sustainability, and promote reforms that support Ukraine's recovery in the post-war period. The programme, together with financing assurances from the G7 Leaders, the Union and other donors, is designed to address Ukraine's balance of payments financing needs and restore medium-term external viability. To date, Ukraine has successfully completed four reviews under the EFF, thus underscoring the Ukrainian authorities' steadfast commitment to conduct reforms and prudent policies. The baseline total financing gap over the programme period is estimated by the IMF at USD 121.9 billion.

(6) In view of the exceptionally elevated uncertainty surrounding the outlook, the IMF has also presented an updated downside scenario on the occasion of the fourth programme review, which factors in the economic shock from a more intense war running into 2025. As a consequence of the adverse impact on economic sentiment, migration, increasing pressure on energy supply, impairment of export capacities, and notably defence spending, the total financing gap under this downside scenario would risk increasing to USD 140.7 billion over the IMF programme period. Given the continued intensity of the war, and the damage to Ukraine's critical civilian infrastructure from increased large-scale attacks by the Russian aggressor, Ukraine needs to mobilise significant additional resources for its budgetary and long-term recovery and reconstruction priorities. As of this and given that a residual financing gap remains over and above the resources already provided by the Union and other donors and institutions, including the IMF, the Union should continue to provide an appropriate response.

(7) The G7 Leaders, in their Communiqué of 14 June 2024, reaffirmed their unwavering support for Ukraine, and their strong commitment to helping Ukraine meet its urgent short term financing needs as well as supporting its long-term recovery and reconstruction priorities. To this end, G7 Leaders announced the launch of the "Extraordinary Revenue Acceleration" loans for Ukraine, in order to make available approximately USD 50 billion in additional funding to Ukraine's military, budget and reconstruction needs by the end of 2024. G7 Leaders announced their intention to provide financing that will be serviced and repaid by future flows of extraordinary revenues stemming from the immobilisation of Russian sovereign assets held in the European Union and other relevant jurisdictions.

(8) In its conclusions of 27 June 2024, the European Council invited the Commission, the High Representative and the Council to take work forward, while addressing all relevant legal and financial aspects, in order to provide additional funding for Ukraine

[15] Ukraine - Third Rapid Damage and Needs Assessment (RDNA3); February 2022 – December 2023.

by the end of the year in the form of loans serviced and repaid by future flows of the extraordinary revenues together with G7 partners as discussed by G7 Leaders, to support Ukraine's current and future military, budget and reconstruction needs. The European Council also stated that, subject to Union law, Russia's assets should remain immobilised until Russia ceases its war of aggression against Ukraine and compensates it for the damage caused by this war.

(9) In the context of Russia's continued aggression against Ukraine, it is necessary to ensure that Ukraine is provided with sufficient and continuous financial support. To that end, a Ukraine Loan Cooperation Mechanism should be established to provide Ukraine with non-repayable financial support with a view to assisting the country to repay loans provided to support Ukraine. That Ukraine Loan Cooperation Mechanism should receive resources, including from future flows of the extraordinary profits stemming from Russia's immobilised assets, and disburse those resources on a regular basis to Ukraine to cover the principal, interest and any other related costs of loans. Furthermore, in order for the Union itself to directly help Ukraine meet its financing needs, the Union should provide exceptional Macro-Financial Assistance (the 'MFA') to Ukraine, where that exceptional MFA should be supported by the Ukraine Loan Cooperation Mechanism.

(10) Council Decision (CFSP) 2024/1470[16] amending Council Decision (CFSP) 2014/512 states that "The restrictive measures linked to the prohibition of transactions related to the management of the assets and reserves of the Central Bank of Russia should remain in place until Russia ceases its war of aggression against Ukraine and compensates Ukraine for the damage caused by this war."

(11) On 21 May 2024, the Council amended Council Regulation (EU) No 833/2014[17], which gives effect to certain measures provided for in Decision (CFSP) 2024/1470. Those measures comprise the rules on how the net profits ensuing from the unexpected and extraordinary revenues accruing to central securities depositories as a result of the implementation of the prohibition laid down in Article 1a(4) of Council Decision 2014/512/CFSP[18] and Article 5a(4) of Regulation (EU) No 833/2014 should be directed to support Ukraine, including through Union programmes which are financed from the Union budget, consistent with applicable contractual obligations, and in accordance with Union and international law, in coordination with partners. In particular, central securities depositories holding assets and reserves of the Central Bank of Russia with a total value exceeding EUR 1 million are to make a financial contribution to the Union equivalent to 99.7 % of extraordinary net profits arising from the immobilisation of Russian assets and accumulating since 15 February 2024.

(12) This contribution is due as long as the restrictive measures linked to the prohibition of transactions related to the management of the assets and reserves of the Central Bank

[16] Council Decision (CFSP) 2024/1470 of 21 May 2024 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, (OJ L, 2024/1470, 22.5.2024, ELI: http://data.europa.eu/eli/dec/2024/1470/oj).

[17] Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, (OJ L 229, 31.7.2014, p. 1, ELI: http://data.europa.eu/eli/reg/2014/833/oj).

[18] Council Decision 2014/512/CFSP of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (OJ L 229, 31.7.2014, p. 13, ELI: http://data.europa.eu/eli/dec/2014/512/oj).

of Russia are in place, and thus until Russia ceases its war of aggression against Ukraine and compensates Ukraine for the damage caused by this war.

(13) On […], the percentage of the amounts of the financial contribution due by central securities depositories to be used to support Ukraine through Union programmes set out in Decision (CFSP) 2014/512 was adjusted to […]%. On the same date, the allocation of the amounts of the financial contribution paid to the Union budget as external assigned revenues, set out in Annex XLI of Council Regulation (EU) 833/2014, was adjusted to allocate […]% of that contribution to the Ukraine Loan Cooperation Mechanism. The Union has therefore taken the necessary steps to ensure the continued use of the financial contribution for the Ukraine Loan Cooperation Mechanism.

(14) Extraordinary revenues stemming from the immobilisation of Russian sovereign assets held in other relevant jurisdictions than the European Union may be provided to support the Ukraine Loan Cooperation Mechanism. To this end, it should be possible for third countries or other sources to contribute to the Ukraine Loan Cooperation Mechanism. Additionally, Member States may on a voluntary basis contribute towards the Ukraine Loan Cooperation Mechanism, notably from revenues that accrue to the State stemming from the immobilisation of Russian sovereign assets. Such contributions should constitute external assigned revenue within the meaning of Article 21(2), points (a)(ii), (d) and (e), of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council[19] (the 'Financial Regulation'). Furthermore, third countries may directly use extraordinary revenues stemming from the immobilisation of Russian sovereign assets within their jurisdiction to reduce the repayment needs of any respective bilateral loan provided to Ukraine, and thus supporting the Ukraine Loan Cooperation Mechanism by reducing the total level of support that would be required for that loan.

(15) Support under the Ukraine Loan Cooperation Mechanism should be available to cover the overall amount of principal, interest and any other related costs of the loan taken by Ukraine through the signature of the MFA loan agreement, as well as through bilateral loan agreements with lenders acting under the auspices of the G7 "Extraordinary Revenue Acceleration Loans for Ukraine" initiative as enshrined in the G7 Communiqué adopted on 14 June 2024 in Apulia.

(16) The support under the Ukraine Loan Cooperation Mechanism should be available and provided in a manner to ensure equal access both for bilateral lenders and the Union's exceptional MFA loan. The provision of bilateral loans through an intermediary should not preclude their eligibility for the purposes of this Regulation. The non-repayable financial support should be allocated to Ukraine to repay the MFA loan and eligible bilateral loans in proportion of the principal of the respective loan against the sum of the principal of the MFA loan and all the eligible bilateral loans. The allocation should be readjusted once the respective loans, including interest and any other related costs, have been fully repaid by Ukraine, in such a way that any future resources are allocated to remaining loans in proportion to the principal of the MFA loan or eligible

[19] 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, ELI: http://data.europa.eu/eli/reg/2018/1046/oj).

bilateral loan against the sum of the principal of all remaining loans. The principal of each loan should be considered as the initial principal committed in the respective loan documentation and not take into consideration other factors, such as repayments, additional financing or any capitalised amounts.

(17) In order to ensure that bilateral loans provided by bilateral lenders can swiftly and efficiently be supported by the Ukraine Loan Cooperation Mechanism, the Commission should assess, and where relevant approve for support, the bilateral loans to be provided by lenders acting under the auspices of the G7 “Extraordinary Revenue Acceleration Loans for Ukraine”. Where such bilateral loan agreements are in draft form or have not yet entered into force, the Commission should monitor the entry into force of such agreements. In order to ensure a timely disbursement of bilateral loans to Ukraine, bilateral loan agreements should be submitted to the Commission by 1 June 2025 and should enter into force by 30 June 2025.

(18) The release of support under the Ukraine Loan Cooperation Mechanism should be contingent on the conclusion of an agreement between the Commission and Ukraine on the detailed provisions for the implementation of that Mechanism, and on the positive assessment by the Commission of a request for non-repayable financial support submitted by Ukraine. Ukraine should provide the Commission the necessary information to ensure that the Ukraine Loan Cooperation Mechanism supports bilateral loans up to the total amount due to the bilateral lender concerned. Exceptionally, the Commission could for duly justified reasons also assess requests for payments from bilateral lenders.

(19) In addition to the support under the Ukraine Loan Cooperation Mechanism, an exceptional MFA loan should be provided to support macro-financial stability in Ukraine, and to ease Ukraine’s external financing constraints, in particular with a view to covering the country’s financing needs. Given the urgent nature of those financing needs, the MFA loan should be available in 2024.

(20) The MFA should provide support in the form of a loan of up to EUR 35 billion. In order to cater for the potential requests for support of bilateral loans under the Ukraine Loan Cooperation Mechanism whilst ensuring the sound financial management of the Union support available under this Regulation, the amount of the MFA loan should be adjusted taking into account bilateral loans to Ukraine approved as eligible under the Ukraine Loan Cooperation Mechanism, together with the principal amount indicated in stated intentions of third countries communicated to the Commission under the auspices of the G7 “Extraordinary Revenue Acceleration Loans for Ukraine” initiative. This adjustment should take place provided that the total amount of all loans for which support under this Regulation has been sought would exceed EUR 45 billion.

(21) The support to Ukraine under the MFA loan should be additional and complementary to the Union support provided under Regulation (EU) 2024/792. The Commission should, wherever possible, seek to minimise the administrative and reporting burden on Ukraine.

(22) The support to Ukraine under the MFA loan should be made available under the precondition that Ukraine continues to uphold and respect effective democratic mechanisms, including a multi-party parliamentary system and the rule of law, and to guarantee respect for human rights, including those of persons belonging to minorities. That precondition should also apply to requests for disbursement from the Ukraine Loan Cooperation Mechanism as they pertain to the MFA loan. The same precondition

applies to the support provided under Regulation (EU) 2024/792 and the Commission should conduct its assessment together for the two instruments.

(23) The Commission should duly take into account Council Decision 2010/427/EU[20] and the role of the European External Action Service where appropriate.

(24) The MFA loan provided under this Regulation should be linked to policy conditions to be set out in a Memorandum of Understanding between the Commission and Ukraine (‘MoU’). Those conditions should be consistent with the qualitative and quantitative steps contained in the Annex to the Council Implementing Decision (EU) 2024/1447[21], and any amendments thereof made by the time the MoU is adopted. Additionally, the MoU should include a commitment by Ukraine to promote cooperation with the Union on the recovery, reconstruction and modernisation of Ukraine’s defence industry, in line with the objectives of the European Defence Industry Programme (EDIP) and other relevant Union programmes. The necessary steps should also be taken to ensure coordination and complementarity of the bilateral loans, including the exceptional MFA loan, with the other donors. In this regard, the Ukraine Donor Platform should be used as an already established forum for such exchange.

(25) In order to ensure uniform conditions of implementation and for reasons of efficiency, the Commission should be empowered to negotiate such conditions with the Ukrainian authorities under the supervision of the committee of representatives of the Member States in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[22]. Considering the potentially important impact of assistance of more than EUR 90 million, it is appropriate that the examination procedure be used for operations above that threshold. Considering the amount of the Union’s macro-financial assistance to Ukraine, the examination procedure should apply to the adoption of the MoU, and to any reduction or cancellation of the assistance.

(26) The release of the single instalment under the MFA loan should be contingent on the positive assessment by the Commission of a request for funds submitted by Ukraine. The assessment of the policy conditions set out in the MoU should be without prejudice to the assessment of the fulfilment of aligned conditions under other Union programmes and instruments.

(27) In view of the principle of sound financial management, and to facilitate the Ukrainian authorities’ liquidity management and ensure predictability, the Commission should ensure that tranches are disbursed throughout the course of 2024 and 2025, avoiding to the extent possible significant deviations of disbursed amounts from quarter-to-quarter. The disbursement of those tranches should where appropriate be aligned with the timing of disbursements of loan or non-repayable financial support under Pillar I of the Ukraine Facility in accordance with Regulation (EU) 2024/792. Furthermore, it is appropriate to provide for the possibility to reassess the funding needs of Ukraine and to reduce or cancel the loan support if those needs decrease fundamentally during

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[20] Council Decision 2010/427/EU of 26 July 2010 establishing the organisation and functioning of the European External Action Service (OJ L 201, 3.8.2010, p. 30, ELI: http://data.europa.eu/eli/dec/2010/427/oj).

[21] Council Implementing Decision (EU) 2024/1447 of 14 May 2024 on the approval of the assessment of the Ukraine Plan (OJ L, 2024/1447, 24.5.2024, ELI: http://data.europa.eu/eli/dec_impl/2024/1447/oj).

[22] Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission’s exercise of implementing powers (OJ L 55, 28.2.2011, p. 13, ELI: http://data.europa.eu/eli/reg/2011/182/oj).

the period of the availability of the support under the MFA compared to the initial projections.

(28) The loan agreement to be concluded between the Commission and the Ukrainian authorities should contain provisions aligned with the rights, responsibilities and obligations provided in the Framework Agreement referred to in Article 9 of Regulation (EU) 2024/792 signed between the EU and Ukraine that entered into force on 20 June 2024. This will ensure that that the Union's financial interests linked to the Union's exceptional macro-financial assistance are protected efficiently, providing the appropriate measures relating to the prevention of, and fight against, fraud, corruption and any other irregularities linked to the assistance. It will also, in accordance with the Financial Regulation, grant the necessary rights and access to the Commission, OLAF, the European Court of Auditors and, where applicable the European Public Prosecutor's Office, including from third parties involved in the implementation of Union funds during and after the availability period of the exceptional macro-financial assistance. Ukraine should also report irregularities in relation to the use of the funds to the Commission, in line with the procedures provided in the Framework Agreement.

(29) In the context of Ukraine's financing needs, it is appropriate to organise the financial assistance under the diversified funding strategy provided for in Article 220a of the Financial Regulation and established as a single funding method therein, which is expected to enhance the liquidity of Union bonds and the attractiveness and cost-effectiveness of Union issuance.

(30) By way of derogation from Article 31(3) of Regulation (EU) 2021/947 of the European Parliament and of the Council[23], the financial liability from loans under this Regulation should not be supported by the External Action Guarantee, established by that Regulation. Support in the form of loans under this Regulation should constitute financial assistance within the meaning of Article 220(1) of the Financial Regulation. Given that the financial assistance of the MFA loan is available in 2024 and is authorised in accordance with Article 220(1) of the Financial Regulation, it is appropriate that the guarantee for financial assistance to Ukraine is mobilised over and above the multiannual financial framework (MFF) ceilings and up to the limits of the ceilings referred to in Article 3(1) and (2) of Council Decision (EU, Euratom) 2020/2053[24] in accordance with Article 2(3) of Council Regulation (EU, Euratom) 2020/2093[25]. In considering the financial risks and the budgetary coverage, no provisioning should be constituted for the support in the form of loans under this Regulation, to be guaranteed over and above the MFF ceilings, and, by way of derogation from Article 211(1) of the Financial Regulation, no provisioning rate should be set.

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[23] Regulation (EU) 2021/947 of the European Parliament and of the Council of 9 June 2021 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe, amending and repealing Decision No 466/2014/EU of the European Parliament and of the Council and repealing Regulation (EU) 2017/1601 of the European Parliament and of the Council and Council Regulation (EC, Euratom) No 480/2009 (OJ L 209, 14.6.2021, p. 1, ELI: http://data.europa.eu/eli/reg/2021/947/oj).

[24] 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, pp. 1, ELI: http://data.europa.eu/eli/dec/2020/2053/oj).

[25] Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027 (OJ L 433I 22.12.2020, p. 11, ELI: http://data.europa.eu/eli/reg/2020/2093/oj).

(31) Given the difficult situation of Ukraine caused by Russia's war of aggression and to support Ukraine on its long-term stability path, it is appropriate for the Union to provide a loan to Ukraine on highly concessional terms with a sufficiently long duration to accommodate the capacities of the guarantee over and above the ceilings.

(32) The Union's support to Ukraine under this Regulation should be managed by the Commission.

(33) In order to ensure that the European Parliament and the Council are able to follow the implementation of this Regulation, the Commission should regularly inform them of developments relating to that support and provide them with the relevant documents.

(34) In order to ensure the continued effectiveness of the arrangements established by this Regulation, the Commission should regularly review their adequacy and report to the European Parliament and to the Council, thereby guaranteeing transparency and accountability.

(35) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.

(36) Since the objectives of this Regulation, namely to provide support to Ukraine to cover financing needs, notably by providing concessional short-term and long-term relief in the form of a loan and of non-repayable financial support, cannot be sufficiently achieved by the Member States but can rather, by reasons of their scale and effect, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

(37) In view of the urgency entailed by the exceptional circumstances caused by Russia's unprovoked and unjustified war of aggression, 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 Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community.

(38) 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:

Chapter I

General Provisions

Article 1

Subject matter

This Regulation establishes the Ukraine Loan Cooperation Mechanism ('the Mechanism') and makes available to Ukraine exceptional macro-financial assistance with a view to supporting Ukraine in covering its financing needs.

Article 2

Definitions

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

(1) ‘Union support’ means the MFA Loan and non-repayable financial support available under this Regulation;

(2) ‘bilateral loan’ means a loan given directly or indirectly by a third country as a lender (also ‘bilateral lender’) to the benefit of Ukraine;

(3) ‘eligible bilateral loan’ means a bilateral loan approved as eligible under the Mechanism by the Commission;

(4) ‘MFA Loan’ means the exceptional financial support made available by the Union to Ukraine in the form of a loan under Chapter III;

(5) ‘MFA Loan Agreement’ means the loan agreement signed by the Commission, on behalf of the Union, and Ukraine under Chapter III;

(6) ‘other related costs’ means any costs or fees due under the MFA Loan and the respective bilateral loan.

Chapter II

Ukraine Loan Cooperation Mechanism

Article 3

Purpose

The purpose of the Mechanism shall be to provide Ukraine with non-repayable financial support with a view to assisting Ukraine to repay the MFA Loan and eligible bilateral loans. To achieve this purpose, the Mechanism shall receive resources and disburse them on a regular basis to Ukraine to cover the principal, interest and any other related costs of the MFA Loan and eligible bilateral loans. In its operations, the Mechanism shall ensure equal access both for bilateral lenders and the Union.

Article 4

Financing

(1) The Mechanism shall be endowed with resources made available by:

(a) amounts transferred in accordance with Annex XLI to Council Regulation (EU) No 833/2014, which shall constitute external assigned revenue in accordance with Article 21(5) of the Financial Regulation; and

(b) amounts received as financial contributions from Member States, third countries or other sources. Such contributions shall constitute external assigned revenue in accordance with Article 21(2), points (a)(ii), (d) and (e) respectively of the Financial Regulation.

(2) For all contributions referred to in paragraph 1, point (b), a contribution agreement shall be concluded between the Commission, on behalf of the Union, and the contributor. The contribution agreement shall contain, in particular, provisions concerning the payment conditions. The Commission shall inform the European Parliament and the Council simultaneously and without delay of the concluded contribution agreements.

Article 5

Available support

(1) The non-repayable financial support under the Mechanism shall be available under the conditions set out in Articles 6 to 8 to assist Ukraine to repay the principal, interest and any other related costs of:

(a) the MFA Loan; and

(b) the eligible bilateral loans.

(2) The non-repayable financial support shall be allocated to assist Ukraine to repay the loans referred to in paragraph 1 in proportion to the principal of each loan expressed in euro against the sum of the principal of the MFA Loan and all the eligible bilateral loans expressed in euro. Once the MFA Loan or an eligible bilateral loan has been fully repaid by Ukraine, including interest and any other related costs, such allocation shall be adjusted so that any future resources are allocated to remaining loans in proportion to the principal of each loan expressed in euro against the sum of the principal of all remaining loans expressed in euro.

(3) The Commission shall adopt a decision establishing the allocation provided in paragraph 2 between the MFA Loan and eligible bilateral loans. The Commission shall use the principal of each eligible bilateral loan expressed in euro as referred to in Article 6(5)(b). The Commission shall amend this decision to include each bilateral loan without delay upon entry into force of the respective bilateral loan. The Commission may amend that decision to proportionally reduce the allocation to a bilateral loan should that bilateral loan not be fully disbursed within the deadline set out in Article 6(2)(c).

(4) The overall amount of principal of the loans referred to in paragraph 1 shall not exceed EUR 45 billion.

(5) The non-repayable financial support under the Mechanism shall be carried out in euro.

(6) All payments shall be subject to the availability of resources referred to in Article 4(1).

(7) The Union shall not assume any liability for the repayment of the eligible bilateral loans.

Article 6

Commission implementing decision on the eligibility of the bilateral loans

(1) Should Ukraine wish to request support under the Mechanism to assist it to repay a bilateral loan, Ukraine shall submit to the Commission the text of the relevant bilateral loan agreement by 1 June 2025 at the latest.

(2) The Commission shall without delay assess the eligibility of the bilateral loan under the Mechanism in accordance with the following criteria:

(a) the bilateral loan agreement was not signed before [*date of adoption of the proposal*];

(b) the counterparty to the bilateral loan is acting under the auspices of the G7 “Extraordinary Revenue Acceleration Loans for Ukraine” initiative; and

(c) the bilateral loan is to be fully disbursed to the benefit of Ukraine before 31 December 2027. Such disbursements may be linked to the completion of policy conditions.

For the purposes of the assessment, the Commission may seek additional information from Ukraine.

(3) A suspensive condition in a bilateral loan agreement that provides that such agreement does not enter into force before the approval by the Commission of the eligibility of the bilateral loan or before the entry into force of the agreement referred to in Article 7 shall not prevent the positive assessment of the bilateral loan.

(4) The Commission shall approve by means of an implementing decision the eligibility of the bilateral loan.

(5) The Commission implementing decision under paragraph 4 shall set out:

(a) the bilateral lender;

(b) the principal of the bilateral loan expressed in euro; to the extent necessary, the principal of the bilateral loan shall also be expressed in the currency of the respective bilateral loan, where the conversion rate for the bilateral loan to euro shall be the daily euro exchange rate published in the C series of the Official Journal of the European Union on [*date of adoption of the proposal*]; and

(c) the justification for the positive assessment of the bilateral loan.

(6) The sum of principals of all bilateral loans approved by the Commission in accordance with this Article and the MFA Loan shall at all times respect the amount referred to in Article 5(4).

(7) The Commission may repeal the implementing decision referred to in paragraph 4 if the bilateral loan agreement does not enter into force by 30 June 2025.

(8) In case of a negative assessment, the Commission shall communicate a duly justified assessment to Ukraine.

Article 7

Agreement for the Implementation of the Ukraine Loan Cooperation Mechanism

(1) The non-repayable financial support referred to in Article 5 shall only be granted to Ukraine after the Commission has concluded an agreement with Ukraine (‘the ULCM Agreement’).

(2) The ULCM Agreement shall contain in particular the following elements:

(a) the obligation of Ukraine to use the non-repayable financial support for the repayment of the principal, interest and any other related costs of the MFA Loan or eligible bilateral loans;

(b) the bank accounts of all bilateral lenders, to which payments of the non-repayable financial support related to their respective bilateral loans shall be made by the Commission;

(c) for the payments of the non-repayable financial support related to the MFA Loan, provisions ensuring that the Union shall use these amounts to directly repay the MFA Loan;

(d) dedicated provisions reflecting Article 5(7) and ensuring that the Union shall not be held liable for any damage caused by Ukraine or by any third parties in the implementation of the eligible bilateral loans, including as a consequence of the implementation of the Mechanism, and specifically where the amounts referred to in Article 4(1) vary over time or cease;

(e) the obligation of Ukraine to obtain from the bilateral lenders and provide, without delay, to the Commission the proof of:

(a) entry into force of each bilateral loan agreement; and

(b) discharge of each repayment obligation, including, to the extent necessary, the applicable conversion rate used.

(f) the obligation of Ukraine to agree with each bilateral lender that any amounts provided by Ukraine to repay the loan that do not immediately discharge repayment obligations, shall remain available until such time as repayment obligations fall due, with any interest accrued on that amount also available to be used to discharge obligations under the bilateral loan agreement;

(g) the obligation of Ukraine to accompany each payment request with:

(a) details of remaining amounts due under each bilateral loan agreement; and

(b) details of amounts referred to in point (f).

(h) the express authorisation for bilateral lenders to exceptionally make a request for payment in line with Article 8(6), provided that the information referred to in point (g) of this paragraph is submitted by the bilateral lenders; and

(i) any other requirements needed for the implementation of the Mechanism.

(3) To the extent necessary, the ULCM Agreement shall be amended following the entry into force of any Commission decision adopted pursuant to Article 6(4).

Article 8

Disbursement of the non-repayable financial support

(1) Ukraine may submit to the Commission twice a year a request for non-repayable financial support in respect of the MFA Loan and eligible bilateral loans.

(2) The Commission shall assess Ukraine's request on the basis of the following requirements:

(a) compliance with the precondition set out in Article 11, which shall only be applicable as regards the MFA Loan;

(b) confirmation that the total value of disbursements in respect of the MFA Loan or each eligible bilateral loan, together with any interest accrued thereon, does not exceed the total amount due to that lender; and

(c) compliance with the obligations of the ULCM Agreement.

(3) Subject to the availability of resources referred to in Article 4(1), where the Commission makes a positive assessment, it shall adopt without undue delay a decision authorising the disbursement of the non-repayable financial support, including the amount disbursed to support the repayment of each eligible bilateral loan and the amount made available to support the repayment of the MFA Loan. The amount disbursed shall equal the amount of resources available on the basis of Article 4(1). That amount disbursed shall be allocated in accordance with the Commission decision referred to in Article 5(3).

(4) In the event that the amount made available to Ukraine to support the repayment of the MFA Loan is higher than the amount due for repayment, the excess amount may be used for early repayment of the loan in accordance with Article 15(2), point (e), or may be retained by the Union for the exclusive purpose to support the repayment of the MFA Loan in the future. Any interest accrued thereon shall also be available to support this purpose.

(5) Where the Commission gives a negative assessment to the request, it shall, without delay, inform Ukraine, giving reasons for its assessment.

(6) Without prejudice to paragraphs 1 and 2, the Commission may for duly justified reasons exceptionally assess requests for payment submitted by the bilateral lenders, in particular should the Commission have taken a decision in accordance with Article 11(4) or should Ukraine not be in compliance with the obligations of the ULCM Agreement.

Chapter III

Macro-Financial Assistance

Article 9

Making available of the Union's exceptional macro-financial assistance

(1) The Union shall make available to Ukraine exceptional macro-financial assistance, with a view to supporting Ukraine in covering financing needs. The Union's exceptional macro-financial assistance shall be provided to Ukraine in the form of loans. The assistance shall contribute to covering Ukraine's financing gap as identified in cooperation with international financial institutions.

(2) The release of the Union's exceptional macro-financial assistance shall be managed by the Commission based on its assessment of the precondition referred to in Article 11 and the implementation of the policy conditions included in the Memorandum of Understanding ('MoU') referred to in Article 12(1).

(3) The MFA Loan to Ukraine shall be available until 31 December 2024. It shall be made available by the Commission in one instalment, which may be disbursed in one or more tranches. The disbursement of all such tranches shall take place by 31 December 2025 at the latest.

Article 10

Amount

(1) The MFA Loan to Ukraine shall be for a maximum amount of EUR 35 billion. However, where, at the moment of the adoption of the Commission decision on the release of the instalment referred to in Article 13, the sum of this maximum amount and of the principal amount of eligible bilateral loans already approved by the Commission in accordance with Article 6, and of the principal amount indicated in stated intentions of third countries communicated to the Commission under the auspices of the G7 "Extraordinary Revenue Acceleration Loans for Ukraine" initiative, exceed EUR 45 billion, the maximum amount of the MFA Loan shall be reduced by the value of the excess.

(2) If the financing needs of Ukraine decrease fundamentally during the period of the availability of the Union's exceptional macro-financial assistance, including in the event of a settlement of Ukraine's war damages by Russia, the Commission, acting in accordance with the examination procedure referred to in Article 16, may reduce the amount of the assistance or cancel it.

(3) The MFA Loan shall have a maximum duration of 45 years.

Article 11

Precondition for support

(1) A precondition for granting the exceptional macro-financial assistance shall be that Ukraine continues to uphold and respect effective democratic mechanisms, including a multi-party parliamentary system and the rule of law, and to guarantee respect for human rights, including the rights of persons belonging to minorities.

(2) The Commission services and the European External Action Service shall monitor the fulfilment of the precondition set out in paragraph 1, in particular before the instalment is released and tranches are disbursed, taking, as appropriate, duly into account the Commission's regular enlargement report. The Commission shall take into account the relevant recommendations of international bodies, such as the Council of Europe and its Venice Commission, in this process. The Commission shall inform the Council of the fulfilment of the precondition set out in paragraph 1 before the instalment is released and before tranches are disbursed to Ukraine.

(3) Paragraphs 1 and 2 of this Article shall apply in accordance with Council Decision 2010/427/EU[26].

(4) The assessment referred to in paragraph 2 shall be conducted together with the assessment provided for in Article 5 of Regulation (EU) 2024/792[27].

(5) Where the Commission finds that the precondition is not met or is no longer met, it shall suspend disbursements of the exceptional macro-financial assistance and the

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[26] Council Decision 2010/427/EU of 26 July 2010 establishing the organisation and functioning of the European External Action Service (OJ L 201, 3.8.2010, p. 30).

[27] Regulation (EU) 2024/792 of the European Parliament and of the Council of 29 February 2024 establishing the Ukraine Facility (OJ L, 2024/792, 29.2.2024).

release of non-repayable support referred to in Article 8 as it pertains to the MFA Loan.

Article 12

Memorandum of Understanding

(1) The Commission shall agree with Ukraine on policy conditions to which the Union's exceptional macro-financial assistance is to be linked. Those policy conditions shall be set out in a MoU.

(2) The policy conditions in the MoU shall be consistent with the qualitative and quantitative steps contained in the Annex to the Council Implementing Decision (EU) 2024/1447 on the approval of the assessment of the Ukraine Plan, and any amendments thereof. The policy conditions in the MoU shall additionally include a commitment to promote cooperation with the Union on the recovery, reconstruction and modernisation of Ukraine's defence industry, in line with the objectives of the European Defence Industry Programme (EDIP) and other relevant Union programmes.

(3) The Commission shall approve the signature of the MoU and of its amendments by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16(2).

Article 13

Decision on release

(1) Ukraine shall submit a request for funds ahead of the release of the instalment, accompanied by a report in accordance with the provisions of the MoU.

(2) The Commission shall decide on the release of the instalment subject to its assessment of the following requirements:

(a) compliance with the precondition set out in Article 11; and

(b) satisfactory fulfilment of the policy conditions set out in the MoU.

(3) The disbursement of tranches may be aligned with the timing of disbursements of loan or non-repayable financial support under Pillar I of the Ukraine Facility in accordance with Regulation (EU) 2024/792.

Article 14

Borrowing and lending operations

(1) In order to finance the exceptional macro-financial assistance, the Commission shall be empowered, on behalf of the Union, to borrow the necessary funds on the capital markets or from financial institutions in accordance with Article 220a of the Financial Regulation.

(2) By way of derogation from Article 31(3), second sentence, of Regulation (EU) 2021/947, the financial assistance provided to Ukraine in the form of loans shall not be supported by the External Action Guarantee. No provisioning for the MFA Loan

shall be constituted and, by way of derogation from Article 211(1) of the Financial Regulation, no provisioning rate as a percentage of the amount referred to in Article 10 of this Regulation shall be set.

(3) Amounts suspended in accordance with Article 11(4) shall be available, to the extent necessary, to support the repayment of Union borrowing operations. The use of such resources in this manner shall not release Ukraine from its liability to repay the loan in accordance with the terms of the MFA Loan Agreement.

Article 15

MFA Loan Agreement

(1) The detailed financial terms of the Union's exceptional macro-financial assistance shall be laid down in the MFA Loan Agreement.

(2) In addition to the elements laid down in Article 220(5) of the Financial Regulation, the MFA Loan Agreement shall contain requirements:

(a) that the rights, responsibilities and obligations provided in the Framework Agreement referred to in Article 9 of Regulation (EU) 2024/792 apply to the MFA Loan Agreement and the funds therein;

(b) that Ukraine utilises the same management and control systems as proposed in the Ukraine Plan established under Regulation (EU) 2024/792;

(c) ensuring that the Union is entitled to early repayment of the loan where it has been established that, in relation to the management of the Union's exceptional macro-financial assistance, Ukraine has engaged in any act of fraud or corruption or any other illegal activity detrimental to the financial interests of the Union;

(d) that Ukraine continues to respect the conditions specified in Article 11(1);

(e) that the excess amount referred to in Article 8(4) may be used in full or in part for the early repayment of the MFA Loan at the initiative of the Commission or, subject to the approval of the Commission, upon request of Ukraine; and

(f) that define the modalities of repayment, based on a waterfall structure. Firstly, that non-repayable support made available for the MFA Loan from the Mechanism authorised in accordance with Article 8 is used to directly repay the MFA Loan. Secondly, if no or only partial non-repayable support is provided for reasons of insufficient amounts, amounts retained by the Union in accordance with Article 8(4), shall be used to directly repay the MFA Loan. Thirdly, if the above amounts are insufficient, that in the event of an agreement being reached to provide Ukraine with war reparations or any equivalent financial settlement of war damages, Ukraine shall use such resources for the servicing of the MFA Loan. Fourthly, if the above amounts are insufficient, Ukraine shall remain liable for any remaining amount due.

(3) Non-compliance with the terms of the MFA Loan Agreement shall constitute a ground for the Commission to suspend or cancel the release of the instalment or tranches, or, where warranted, demand early repayment of the MFA Loan.

(4) The MFA Loan Agreement shall be made available, upon request, simultaneously to the European Parliament and the Council.

Article 16

Committee procedure

(1) The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

(2) Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Chapter IV

Final Provisions

Article 17

Information to the European Parliament and to the Council

(1) The Commission shall inform the European Parliament and the Council of developments regarding the implementation of this Regulation, including disbursements under the Mechanism and the MFA Loan and shall provide those institutions with the relevant documents in due time. This information should be provided in line with the inter-institutional arrangements agreed under the Ukraine Facility, including the Ukraine Facility Dialogue.

(2) By 30 June of each year, the Commission shall submit to the European Parliament and to the Council a report on the implementation of this Regulation in the preceding year, including an evaluation of that implementation. That report shall: (a) examine progress made in implementing the Union's exceptional macro-financial assistance; and (b) assess the economic situation and prospects of Ukraine, as well as progress made in implementing the policy measures referred to in Article 12(1). Where appropriate, in particular after the MFA Loan and all the eligible bilateral loan agreements have expired, the Commission shall include in that report a review of the adequacy of the arrangements contained in this Regulation.

(3) Not later than 31 December 2027, the Commission shall submit to the European Parliament and to the Council an ex-post evaluation report, assessing the results and efficiency of the completed Union's exceptional macro-financial assistance provided under this Regulation and the extent to which it has contributed to the aims of the assistance.

Article 18

Entry into force

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

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

Done at Brussels,

For the European Parliament *The President*	*For the Council* *The President*

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1 Title of the proposal/initiative

Proposal for a Regulation of the European Parliament and of the Council establishing the Ukraine Loan Cooperation Mechanism and providing macro-financial assistance to Ukraine

1.2 Policy area(s) concerned (Programme cluster)

Policy area: Economic and Financial Affairs

Activity: International economic and financial affairs1.3 The proposal/initiative relates to:

☒ a new action

☐ a new action following a pilot project/preparatory action[28]

☐ the extension of an existing action

☐ a merger or redirection of one or more actions towards another/a new action

1.4 Objective(s)

1.4.1 General objective(s)

To establish the Ukraine Loan Cooperation Mechanism and make available to Ukraine macro-financial assistance with a view to supporting Ukraine in covering its financing needs.

1.4.2 Specific objective(s)

To provide Ukraine with non-repayable financial support with a view to assisting Ukraine to repay the MFA Loan and bilateral loans provided to support Ukraine and thus contribute to macro-financial stability, and to ease the Country's external and internal financing constraints.

1.4.3 Expected result(s) and impact

Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.

- Support Ukraine's economic resilience and stability under the war circumstances.
- Contribute to covering the external funding needs of Ukraine, in the context of a significant deterioration of their external accounts brought about by the unprovoked and unjustified Russian invasion of Ukraine.
- Alleviate Ukraine's budgetary financing needs, as a continuation of the emergency assistance already provided.
- Contribute, through the Ukraine Loan Cooperation Mechanism, to the repayment of the MFA loan provided to Ukraine under this Regulation and bilateral loans.

1.4.4 Indicators of performance

Specify the indicators for monitoring progress and achievements.

The authorities of Ukraine will be required to provide a report on the compliance with the agreed policy conditions ahead of the disbursement of the instalment of the MFA loan. The

[28] As referred to in Article 58(2)(a) or (b) of the Financial Regulation.

Commission services will remain in close contact with the Ukraine Donor Platform to benefit from insights from ongoing activities of the respective donors.

The Commission services will continue to monitor public finance management, following the operational assessment of the financial circuits and administrative procedures in Ukraine, which was delivered in June 2020.

The EU Delegation will also provide regular reporting on issues relevant for the monitoring of the assistance. An annual report on the implementation of this Regulation, including disbursements of the Ukraine Loan Cooperation Mechanism and MFA loan, to the Council and European Parliament is foreseen. An ex-post evaluation of the Union's completed MFA assistance will be carried out by the Commission.

1.5 Grounds for the proposal/initiative

1.5.1 Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative

For the implementation of the Ukraine Loan Cooperation Mechanism, the Commission will enter into an agreement with Ukraine setting out the conditions and obligations to receive and use the non-repayable financial support. Support to assist Ukraine to repay loans provided by third countries under the Ukraine Loan Cooperation Mechanism will be conditional on the Commission's positive assessment of eligibility of the bilateral loans submitted by Ukraine. The release of the non-repayable financial support under the Ukraine Loan Cooperation Mechanism will be conditional on the Commission's approval of the requests for non-repayable financial support submitted by Ukraine or, exceptionally, by bilateral lenders.

The MFA loan will be conditional on the fulfilment of the precondition as well as policy conditions, listed in a Memorandum of Understanding (MoU) between the Commission and the authorities of Ukraine. The assistance will consist of one instalment, which may be disbursed in several tranches.

The MFA assistance will be managed by the Commission. Specific provisions on the prevention of fraud and other irregularities, consistent with the Financial Regulation, are applicable, including the relevant provisions on ensuring the Union's financial interest as laid down in the Framework Agreement under Regulation (EU) 2024/792. The Commission and the Ukrainian authorities would agree on the MoU setting out reporting requirements. The Commission will work closely with the international financial institutions and the national authorities, as well as third countries participating the Ukraine Multi-Donor Coordination Platform, to coordinate priorities and the conditionality of their respective support and to monitor relevant developments and the application of the requirements and conditions as agreed in the MoU.

1.5.2 Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.

This proposal responds to the need for a common response in providing support to Ukraine on an adequate scale, which cannot be sufficiently achieved by the Member States alone and can be better achieved by the EU. The main reasons are the fiscal capacity and budgetary constraints faced at the national level and the need for strong donor coordination in order to maximise the scale and effectiveness of the support, while limiting the burden on the administrative capacity of Ukrainian authorities, which is very stretched in the current circumstances.

The initiative is part of the EU's objective to provide short term liquidity support to Ukraine. It also reinforces actions by the Union for direct humanitarian, economic and defence support, as well as the Union's initiatives to coordinate multilateral actions.

The key added value of the Ukraine Loan Cooperation Mechanism, compared to other Union instruments, is to assist Ukraine to repay the MFA loan and eligible bilateral loans provided to support Ukraine. In doing so, it answers the call from the European Council in conclusions from 27 June 2024 to take work forward while addressing all relevant legal and financial aspects, in order to provide additional funding for Ukraine by the end of the year in the form of loans serviced and repaid by future flows of the extraordinary revenues.

The key added value of the MFA loans in comparison to other EU instruments is to swiftly alleviate the external financial constraints and to help ensure a continued stable macro-financial framework, including by promoting a sustained and sustainable balance of payments and budgetary situation, within an appropriate framework for reporting requirements.

1.5.3 Lessons learned from similar experiences in the past

Macro-financial assistance operations are subject to ex-post evaluation. Past ex-post evaluations of previous MFA operations to Ukraine have shown that in general they were highly relevant in terms of its objectives, budget and policy objectives. They proved crucial to support Ukraine in addressing its balance-of-payment problems and implementing key structural reforms to stabilise the economy and enhance the sustainability of its external position. They allowed for fiscal savings and financial benefits, as well as acted as a catalyst for additional financial support and investor confidence.

Given the innovative nature of the Ukraine Loan Cooperation Mechanism, no lessons learned could be identified. 1.5.4 Compatibility with the Multiannual Financial Framework and possible synergies with other appropriate instruments

The proposal is compatible with the ceilings of the 2021-2027 multiannual financial framework (MFF).

The Ukraine Loan Cooperation Mechanism will be financed by external assigned revenue.

The MFA support in the form of loans will be available until 31 December 2024, with the disbursements of tranches taking place by 31 December 2025. The resources for the MFA loan will be financed by borrowing.

In considering the financial risks and the budgetary coverage, no provisioning should be constituted for the support in the form of loans under this Regulation, to be guaranteed over and above the ceilings, and, by way of derogation from Article 211(1) of Regulation (EU, Euratom) 2018/1046, no provisioning rate should be set.

1.5.5 Assessment of the different available financing options, including scope for redeployment

By using loans, this MFA operation increases the effectiveness of the EU budget through the leverage effect and provides for the best cost-efficient option. The Commission is empowered to borrow funds from capital markets on behalf of both the European Union and Euratom using the guarantee of the EU budget. The aim is to obtain funds from the market at the best available rates due to the top credit status.

Further pressure on a strained EU budget due to provisioning requirements and complex arrangements, involving a multitude of ad hoc national guarantees, should be avoided. Therefore, the MFA loan will be guaranteed over and above the MFF ceilings. A unified and efficient system to secure the best borrowing conditions and extend market access for loan support has major advantages in the current market context.

1.6 Duration and financial impact of the proposal/initiative

☐ limited duration

☐ in effect from YYYY to YYYY;

☐ Financial impact from YYYY to YYYY for commitment appropriations and from YYYY to YYYY for payment appropriations.

☒ unlimited duration

Implementation with a start-up period from 01/10/2024 to 30/06/2025,

followed by full-scale operation.

1.7 Management mode(s) planned[29]

☒ **Direct management** by the Commission

☒ by its departments, including by its staff in the Union delegations;

☐ by the executive agencies

☐ **Shared management** with the Member States

☐ **Indirect management** by entrusting budget implementation tasks to:

☐ third countries or the bodies they have designated;

☐ international organisations and their agencies (to be specified);

☐ the EIB and the European Investment Fund;

☐ bodies referred to in Articles 70 and 71 of the Financial Regulation;

☐ public law bodies;

☐ bodies governed by private law with a public service mission to the extent that they are provided with adequate financial guarantees;

☐ bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that are provided with adequate financial guarantees;

☐ persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

If more than one management mode is indicated, please provide details in the 'Comments' section.

Comments

N/A

[29] Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: https://myintracomm.ec.europa.eu/budgweb/EN/man/budgmanag/Pages/budgmanag.aspx

2. MANAGEMENT MEASURES

2.1 Monitoring and reporting rules

Specify frequency and conditions.

The monitoring and reporting obligations under the Regulation (EU, Euratom) 2018/1046 apply.

The monitoring of the action by the Commission services will take place on the basis of the specific measures to be agreed with the Ukrainian authorities in a Memorandum of Understanding (MoU).

The MoU will include policy conditions that should be consistent with the qualitative and quantitative steps contained in the Annex to the Council Implementing Decision (EU) 2024/1447 on the approval of the assessment of the Ukraine Plan, and any amendments thereof.

The Commission will verify the fulfilment of the policy conditions set out in the MoU. The Commission will inform the European Parliament and the Council about the results of that verification.

By 30 June of each year, the Commission will submit to the European Parliament and to the Council a report on the implementation of this Regulation in the preceding year, including an evaluation of that implementation. That report will: (a) examine progress made in implementing the Union's macro-financial assistance; and (b) assess the economic situation and prospects of Ukraine, as well as progress made in implementing the policy conditions included in the MoU. Where appropriate, in particular after the MFA Loan and all the bilateral loan agreements have expired, the Commission will include in that report a review of the adequacy of the arrangements contained in this Regulation.

No later than 31 December 2027, the Commission will submit to the European Parliament and to the Council an *ex-post* evaluation report, assessing the results and efficiency of the completed Union's support under the MFA operation and the extent to which it has contributed to the aims of the assistance.

2.2 Management and control system(s)

2.2.1 Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed

The actions to be financed under this proposal will be implemented under direct management by the Commission, as it concerns financial support provided directly to the State.

The non-repayable support under the Ukraine Loan Cooperation Mechanism will be made available by the Commission, subject to the availability of amounts in the Ukraine Loan Cooperation Mechanism.

The release of tranches can be organised flexibly and swiftly in the course of 2024 and 2025. To facilitate the Ukrainian authorities' liquidity management and ensure predictability, the Commission intends to ensure that tranches are released throughout the course of 2024 and 2025, avoiding to the extent possible significant deviations of amounts from quarter-to-quarter. The disbursement of tranches may be aligned with the timing of disbursements of loan or non-repayable financial support under Pillar I of the Ukraine Facility in accordance with Regulation (EU) 2024/792.

The MFA loan should be released subject to the respect of preconditions and satisfactory fulfilment of the policy conditions.

2.2.2 Information concerning the risks identified and the internal control system(s) set up to mitigate them

There are political, fiduciary and policy risks related to the proposed operation. A key risk to the operation stems from the continuation of the war caused by the Russian unjustified and unprovoked invasion of Ukraine, which could have a further negative impact on Ukraine's macroeconomic stability and administrative capacity.

Secondly, future flows of extraordinary revenues stemming from the immobilisation of Russian sovereign assets held in the European Union are subject to a number of assumptions. Should those assumptions not materialise, the Ukraine Loan Cooperation Mechanism may not achieve its full potential impact.

Thirdly, there is a risk that the loans could be used in a fraudulent way. As the proposal is not designated to specific expenses (contrary to project financing, for example), this risk is related to factors such as the general quality of management systems in the National Bank of Ukraine and the Ministry of Finance, administrative procedures, control and oversight functions, the security of IT systems and the appropriateness of internal and external audit capabilities.

Fourthly, in the event that non-repayable support from the Ukraine Loan Cooperation Mechanism is insufficient to repay the MFA loan and that other repayment sources are not possible, risk stems from the possibility that Ukraine will fail to service the MFA loan, which could be caused for example by a significant additional deterioration of the balance of payments and fiscal position of the partner.

Internal control systems

The operations will be liable to verification, control and auditing procedures under the responsibility of the Commission, including the European Anti-Fraud Office (OLAF), and by the European Court of Auditors as foreseen by Article 129 of the Financial Regulation. The payment is subject to monitoring by the Commission's staff. The disbursement relating to the operations may be subject to additional independent ex-post (documentary and/or on-the-spot) verifications by officials of the ex-post control team of the relevant Commission department. Such verifications may also be initiated at the request of the responsible authorising officer by delegation. Interruptions and suspensions of payments, financial corrections (implemented by Commission), and recoveries may be practiced where needed (it has not occurred so far) and are to be explicitly foreseen in the agreements with Ukraine.

2.2.3 Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)

The control systems in place have ensured an effective error rate for the macro-financial assistance type of payments so far of 0%. There are no known cases of fraud, corruption or illegal activity. Operations have a clear intervention logic, one that allows the Commission to evaluate their impact. The controls enable the confirmation of assurance and of attainment of policy objectives and priorities.

2.3 Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures, e.g. from the Anti-Fraud Strategy.

To mitigate the risks of fraudulent use several measures have been and will be taken. The detailed terms of the non-repayable support under the Ukraine Loan Cooperation Mechanism, will be set out in a legal agreement signed between the Commission and Ukraine. The legal agreement will establish the obligation of Ukraine to use the non-repayable financial support for the repayment of the principal, interest and any other related cost of the MFA Loan or eligible bilateral loans, as well as to obtain from the bilateral lenders and provide, without delay, to the Commission the proof of discharge of each payment obligation.

Furthermore, a Loan Agreement is to be concluded between the Commission and Ukraine in accordance with Article 220 of Regulation (EU, Euratom) 2018/1046. The Loan Agreement will provide a set of provisions on inspection, fraud prevention, audits and recovery of funds in case of fraud or corruption. In particular, the Loan Agreement will include provisions for the Commission to carry out checks, for the Court of Auditors to carry out audits and for the European Public Prosecutor's Office to exercise its competences, in accordance with Articles 129 and 220 of Regulation (EU, Euratom) 2018/1046.

The MFA operation will be subject the specific provisions for the protection of the financial interests of the Union as established under the Framework Agreement under the Ukraine Facility.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1 Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

New budget lines requested

<u>In order</u> *of multiannual financial framework headings and budget lines.*

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
		Diff./Non-diff.	from EFTA countries	from candidate countries	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
6	Operational expenditure budget line: **14 11 01** – *Ukraine Loan Cooperation Mechanism*	Diff	YES	YES	YES	YES

3.2 Estimated financial impact of the proposal on appropriations

3.2.1 Summary of estimated impact on operational appropriations

The purpose of the Mechanism shall be to provide Ukraine with non-repayable financial support with a view to assisting Ukraine to repay the MFA Loan and bilateral loans provided to support Ukraine.

The Mechanism shall receive resources and disburse them on a regular basis to Ukraine to cover the principal, interest and any other related costs of the MFA Loan and bilateral loans.

Amounts transferred to the Ukraine Loan Cooperation Mechanism by any potential amendment Annex XLI to Council Regulation (EU) No 833/2014, as well as amounts stemming from specific voluntary contributions from Member States, third countries or other sources, will be used to provide Ukraine with non-repayable support with a view to assisting Ukraine to repay the MFA Loan and bilateral loans provided to support Ukraine.

Ukraine Loan Cooperation Mechanism (assumption: commitment appropriations equal payment appropriations)	Year **2024**	Year **2025**	Year **2026**	Year **2027**
• Operational appropriations (of which)				
14 11 01 – *Ukraine Loan Cooperation Mechanism*	pm	pm	pm	pm

Heading of multiannual financial framework	**7**	'Administrative expenditure'

This section should be filled in using the 'budget data of an administrative nature' to be firstly introduced in the Annex to the Legislative Financial Statement (Annex V to the internal rules), which is uploaded to DECIDE for interservice consultation purposes.

EUR million (to three decimal places)

		Year **N**	Year **N+1**	Year **N+2**	Year **N+3**	Enter as many years as necessary to show the duration of the impact (see point 1.6)			**TOTAL**
DG: <…….>									
○ Human resources									
○ Other administrative expenditure									
TOTAL DG <…….>	Appropriations								

TOTAL appropriations under HEADING 7 of the multiannual financial framework	(Total commitments = Total payments)								

3.2.2 Summary of estimated impact on administrative appropriations

☒ The proposal/initiative does not require the use of appropriations of an administrative nature

☐ The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

	Year **2024**	Year **2025**	Year **2026**	Year **2027**		**TOTAL**
HEADING 7 of the multiannual financial framework						
Human resources						
Other administrative expenditure						
Subtotal HEADING 7 of the multiannual financial framework						
Outside HEADING 7[30] of the multiannual financial framework						
Human resources						
Other expenditure of an administrative nature						
Subtotal outside HEADING 7 of the multiannual financial framework						
TOTAL						

The appropriations required for human resources and other expenditure of an administrative nature will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

30 Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

Estimated requirements of human resources

☒ The proposal/initiative does not require the use of human resources.

☐ The proposal/initiative requires the use of human resources, as explained below:

Estimate to be expressed in full time equivalent units

	2024	2025	2026	2027	Enter as many years as necessary to show the duration of the impact (see point 1.6)		
○ Establishment plan posts (officials and temporary staff)							
20 01 02 01 (Headquarters and Commission's Representation Offices)							
20 01 02 03 (Delegations)							
01 01 01 01 (Indirect research)							
01 01 01 11 (Direct research)							
Other budget lines (specify)							
○ External staff (in Full Time Equivalent unit: FTE)[31]							
20 02 01 (AC, END, INT from the 'global envelope')							
20 02 03 (AC, AL, END, INT and JPD in the delegations)							
XX 01 xx yy zz [32] - at Headquarters							
XX 01 xx yy zz [32] - in Delegations							
01 01 01 02 (AC, END, INT - Indirect research)							
01 01 01 12 (AC, END, INT - Direct research)							
Other budget lines							
TOTAL							
○ External staff (in Full Time Equivalent unit: FTE) - AC, AL, END, INT and JED [33] Other budget line: Assigned revenue							
Financed from assigned revenue – at Headquarters							
Financed from assigned revenue – in Delegation							
TOTAL							

XX is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary staff	
External staff	

[31] AC= Contract Staff; AL = Local Staff; END= Seconded National Expert; INT = agency staff; JPD= Junior Professionals in Delegations.

[32] Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

[33] AC= Contract Staff; AL = Local Staff; END = Seconded National Expert; INT = agency staff; JPD= Junior Professionals in Delegations.

3.2.3 Compatibility with the current multiannual financial framework

Loans will be funded from borrowings of the EU on the financial markets.

☒can be fully financed through redeployment within the relevant heading of the Multiannual Financial Framework (MFF).

☐ requires use of the unallocated margin under the relevant heading of the MFF and/or use of the special instruments as defined in the MFF Regulation.

☐requires a revision of the MFF.

3.2.4 Third-party contributions

The proposal/initiative:

☐does not provide for co-financing by third parties[34]

☒ provides for the co-financing by third parties estimated below:

Appropriations in EUR million (to three decimal places)

	Year **N**[35]	Year **N+1**	Year **N+2**	Year **N+3**	Enter as many years as necessary to show the duration of the impact (see point 1.6)			Total
Specify the co-financing body	*p.m.*	*p.m.*	*p.m.*	*p.m.*	*p.m.*	*p.m.*	*p.m.*	*p.m.*
TOTAL appropriations co-financed	*p.m.*	*p.m.*	*p.m.*	*p.m.*	*p.m.*	*p.m.*	*p.m.*	*p.m.*

[34] Third parties' contributions will be in the form of assigned revenue presented in the section below.

[35] Year N is the year in which implementation of the proposal/initiative starts. Please replace "N" by the expected first year of implementation (for instance: 2021). The same for the following years.

3.3 Estimated impact on revenue

☐ The proposal/initiative has no financial impact on revenue.

☒The proposal/initiative has the following financial impact:

☐ on own resources

☑on other revenue

please indicate, if the revenue is assigned to expenditure lines ☑

EUR million (to three decimal places)

Budget revenue line:	Appropriations available for the current financial year	Impact of the proposal/initiative[36]						
		Year **N**	Year **N+1**	Year **N+2**	Year **N+3**	Enter as many years as necessary to show the duration of the impact (see point 1.6)		
Item 6642 Ukraine Loan Cooperation Mechanism — Assigned Revenue	*p.m.*	*p.m.*	*p.m.*	*p.m.*	*p.m.*	*p.m.*	*p.m.*	*p.m.*

For assigned revenue, specify the budget expenditure line(s) affected.

See section 3.2.1 above.

[36] As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. after deduction of 25 % for collection costs.