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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2020) 139 final
Subject:	Proposal for a Council Regulation on the establishment of a European instrument for temporary support to mitigate unemployment risks in an emergency (SURE) following the COVID-19 outbreak

Delegations will find attached document COM(2020) 139 final.

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2020/0057 (NLE)

Proposal for a

COUNCIL REGULATION

on the establishment of a European instrument for temporary support to mitigate unemployment risks in an emergency (SURE) following the COVID-19 outbreak

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Since the first cases of COVID-19 contagion, the European Union has been working tirelessly to support Member States and their citizens in addressing the crisis. The Commission has activated its general rapid alert system "ARGUS" for crisis coordination and the Crisis Coordination Committee meets regularly to coordinate the actions of all the relevant departments and services of the Commission and of the EU agencies. The Commission has also established a coordinating response team at political level, composed of the five Commissioners responsible for the most affected policies. Following the EU leaders' videoconferences on the response to the COVID-19 outbreak on 10, 17, and 26 March 2020, the Commission is further stepping up its response to the COVID-19 outbreak, on all fronts. In this respect, the Commission has published a Communication to the European Parliament, the European Council, the Council, the European Central Bank, the European Investment Bank and the Eurogroup for a "coordinated economic response to the COVID-19 outbreak" on 13 March 2020. In the economic sphere, the Commission proposed the Coronavirus Response Investment Initiative (CRII) to flexibly use the EU Structural Funds to respond to the rapidly emerging needs in the most exposed sectors, such as healthcare, SMEs and labour markets, and help the most affected territories in Member States and their citizens. This proposal was meanwhile adopted and entered into force on 30 March. The Commission has also adopted a Temporary Framework for State aid to enable Member States to use the full flexibility foreseen under State aid rules to support their economies. Moreover, the Commission has also called on the Council to ensure that the Union institutions activate the general escape clause under the Stability and Growth Pact, and the Union institutions will apply that clause as part of the strategy of the Union to respond quickly, forcefully and in a coordinated fiscal manner to the COVID-19 pandemic.

The crisis we face because of the COVID-19 pandemic has a very significant human dimension, as well as a major negative socio-economic impact. It is therefore essential that the Union and its Member States act decisively and collectively, in a spirit of solidarity to contain the spread of the virus and to help patients, to counter the economic fallout and to mitigate the negative social impacts. As part of that joint coordinated response, the Commission proposal to extend the scope of the EU Solidarity Fund (EUSF) to include major public health emergencies and to define specific operations eligible for financing was also adopted enhancing Union solidarity to Member States in dealing with the emergency situation.

As announced in the Communication of 13 March 2020, the Union also stands ready to support Member States where possible in alleviating the employment impact for individuals and the hardest hit sectors. The new instrument for temporary Support to mitigate Unemployment Risks in an Emergency (SURE) proposed to the Council is an additional temporary instrument to allow for Union financial assistance up to EUR 100 billion in the form of loans from the Union to affected Member States. The contingent liability arising from those loans from the Union will be made compatible with the EU budget constraints with guarantees from Member States to the Union budget, representing 25% of the loans granted provided by each Member State in line with their respective share in total Gross National Income of the Union. SURE will be an additional financial assistance, coming on top of national measures and further to the regular grant support provided for similar purposes under the European Social Fund.

The SURE instrument should be available to Member States that need to mobilise significant financial means to fight the negative economic and social consequences of the COVID-19 outbreak on their territory. The establishment of SURE is a further tangible expression of Union solidarity, whereby the Member States agree to support each other through the Union by making additional financial resources available through loans. The SURE instrument will provide financial assistance to Member States to address sudden increases in public expenditure for the preservation of employment. Specifically, the SURE instrument will act as a second line of defence, supporting short-time work schemes and similar measures, to help Member States protect jobs and thus employees and self-employed against the risk of unemployment and loss of income. Short-time work schemes are public programmes that allow firms experiencing economic difficulties to temporarily reduce the hours worked while providing their employees with income support from the State for the hours not worked. Similar schemes exist for income replacement to the self-employed in emergency situations. Conditions to determine when a Member State can benefit from support under this instrument should be established by reference to the sudden severe increase in actual and possibly also planned public expenditure, for the preservation of employment, caused by the COVID-19 outbreak and be directly related to the creation or extension of short time work schemes and other similar measures taken in response to it.

SURE will take the form of a lending scheme underpinned by a system of guarantees from Member States. This system will allow the Union to:

(1) expand the volume of loans that can be provided by the SURE instrument to Member States requesting financial assistance under the instrument;

(2) ensure that the contingent liability for the Union arising from the instrument is compatible with the Union budget constraints.

For the approach to serve the intended purpose, Member States must provide credible, irrevocable and callable guarantees to the Union in line with the respective shares in the total Gross National Income of the Union. The system of guarantees will avoid the need for up-front cash contributions from Member States while providing the credit enhancement required to ensure a high credit rating and protect the resources of the Union budget.

In addition to the provision of Member State guarantees, other safeguards are built into the framework in order to ensure the financial solidity of the scheme:

- A rigorous and conservative approach to financial management;
- A construction of the portfolio of loans that limits concentration risk, annual exposure and excessive exposure to individual Member States, whilst ensuring sufficient resources could be granted to Member States most in need; and
- Possibilities to roll over debt.

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

The present proposal comes in addition to another Union law instrument to provide support to Member States in case of emergencies, namely Council Regulation (EC) No 2012/2002 of 11 November 2002 establishing the European Union Solidarity Fund (EUSF) ("Regulation (EC) No 2012/2002"). Regulation (EU) 2020/461 of the European Parliament and of the Council, which amends that instrument to extend its scope to cover major public health emergencies and to define specific operations eligible for financing, was adopted on 30 March.

Whereas, the EUSF is a permanent instrument, SURE would be of a temporary nature. The geographical scope is also different because SURE is limited to Member States and does not extend to countries negotiating their accession to the Union. The thematic scope of the two instruments, however, is consistent – addressing major crises resulting from public health threats, where the EUSF can be used on a permanent basis while the SURE instrument is confined to the particular case of the COVID-19 outbreak. Another difference is that the EUSF is grant-based and allows for advance payments. The SURE instrument is loan-based.

Mobilisation of Union financial assistance under the SURE instrument would be possible on a proposal by the Commission to the Council. The Member State concerned should request support. Before the Council grants financial assistance under the SURE instrument, the Commission should consult with the Member State concerned to assess the extent of the (realised or expected) sudden severe increase in public expenditure in the field of protection of employment. The Member State should provide evidence of this sudden severe increase in actual and possibly also planned expenditure when requesting support. The Council adopts an implementing decision approving the financial assistance, acting by qualified majority, if the conditions of this instrument are fulfilled. The Commission and the beneficiary Member State will conclude an implementation agreement. Relevant operations when examining the sudden increased expenditure remain limited to public emergency operations in the field of protection of employment caused by the COVID-19 outbreak. The resulting loans will help Member States to finance their increased public expenditure in the field of short-time work schemes and similar measures, to help them protect jobs and thus employees and self-employed against the risk of unemployment.

- **Consistency with other Union policies**

The proposal is part of a range of measures developed in response to the current COVID-19 pandemic such as the "Coronavirus Response Investment Initiative", and it complements other instruments that support employment such as the European Social Fund and the European Fund for Strategic Investments (EFSI)/InvestEU. It builds on a technique used for the European Financial Stabilisation Mechanism (EFSM) in the past financial crisis by the Union to provide on short notice financial assistance from the Union to Member States confronted with difficulties, or threatened by difficulties caused by an exceptional event beyond the Member State's control, and on the new framework to manage contingent liabilities foreseen in the Financial Regulation of 2018. By making use of borrowing and lending in this particular case of the COVID-19 outbreak for supporting Member States, this specific instrument could in particular be used by Member States as a second line of defence to finance short-time work schemes and similar measures, helping protect jobs and thus employees and self-employed against the risk of unemployment.

This temporary instrument should be seen as an emergency operationalisation of a European Unemployment Reinsurance Scheme in the specific context of the COVID-19 crisis, without prejudice to the possible subsequent establishment of a permanent instrument under a different legal basis in the TFEU.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis for this instrument is Article 122 of the Treaty on the Functioning of the European Union (TFEU). It is based on both paragraph (1) and paragraph (2) of Article 122 TFEU.

The COVID-19 outbreak is a sudden and exceptional event entailing a massive and disruptive impact on the Member States' economic systems calling for collective responses in a spirit of solidarity. The construction of the guarantee system based on voluntary contributions from Member States to the Union to underpin the financial assistance under the SURE instrument is based on Article 122(1) TFEU. This intervention would reflect in a spirit of solidarity a response by Member States with measures appropriate to the unprecedented economic situation, which the COVID-19 outbreak causes. It is therefore justified to base the guarantee scheme supporting the SURE instrument on Article 122(1) TFEU.

The organisation and management of the loan scheme is based on Article 122(2) TFEU, which allows the Council to provide on a temporary and ad hoc basis Union financial assistance, on a proposal from the Commission, to a Member State in difficulties or seriously threatened with severe difficulties caused by natural disasters or exceptional occurrences beyond its control subject to certain conditions. This legal base would underpin the lending component of the SURE instrument.

Article 122(2) TFEU has been used once before. During the financial crisis, it served as the legal basis for the establishment of a temporary European Financial Stabilisation Mechanism (EFSM) to help Member States that lost market access in full or in part due to severe deteriorating borrowing costs. The Union used that instrument to provide loans to Ireland, Portugal and a bridge-finance for Greece.

Article 122(2) TFEU can be used for any type of exceptional crisis event and is not confined to crises of a financial or financial stability nature only. The Council has a broad margin of discretion for assessing whether the conditions of this legal basis are fulfilled. This is manifestly the case for Member States that are most affected by the major public threat to health posed by the COVID-19 outbreak as well as by its economic and social consequences.

- **Subsidiarity (for non-exclusive competence)**

The proposal aims to support Member States confronted with a severe economic disturbance due to the exceptional event of the COVID-19 outbreak in order to show European solidarity with those Member States that are heavily affected, by providing Union financial assistance in the form of temporary loans. As a second line of defence, such financial assistance supports their governments' increased public expenditure on a temporary basis in respect of short-time work schemes and similar measures to help them protect jobs and thus employees and self-employed against the risk of unemployment and loss of income.

Such support would help the population affected, contributes to a rapid return to normal living conditions in the affected regions and mitigates the direct societal and economic impact caused by the present COVID-19 crisis.

- **Proportionality**

The proposal respects the proportionality principle. It does not go beyond what is necessary to achieve the objectives sought by the instrument.

- **Choice of the instrument**

This act takes the form of a Regulation because the act creates a new specific and temporary instrument that could be used by any Member State and has to be binding in its entirety and directly applicable in all Member States. A Council Regulation for establishing financial assistance to Member States under Article 122(2) TFEU has been used in the past in the context of the financial crisis to establish procedures and practices to prepare and assess the requests of relevant Member States, and to implement such financial assistance in a rapid and effective manner. It ensures that subsequent implementing decisions by the Council to provide financial assistance to Member States take place under an appropriate and consistent framework. A Regulation applicable to all Member States is also the most appropriate legal instrument to organise the guarantee scheme underpinning the lending under the SURE instrument in view of the fact it is based on voluntary contributions by all Member States.

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

• Stakeholder consultations

Due to the urgency to prepare the proposal so that it can be adopted in a timely manner by the Council, a stakeholder consultation could not be carried out.

• Impact assessment

Due to the urgent nature of the proposal, no impact assessment was carried out.

4. BUDGETARY IMPLICATIONS

The Commission should be able to contract borrowings on the financial markets with the purpose of on-lending them to the Member State requesting financial assistance under the SURE instrument.

SURE will take the form of a lending scheme up to EUR 100 billion underpinned by a system of guarantees from Member States. This system will allow the Union to:

(1) expand the volume of loans that can be provided by the SURE instrument to Member States requesting financial assistance under the instrument;

(2) ensure that the contingent liability for the Union arising from the Instrument is compatible with the Union budget constraints.

For the approach to serve the intended purpose, Member States must provide credible, irrevocable and callable guarantees to the Union, in line with their respective share in the total Gross National Income of the Union. The system of guarantees will avoid the need for up-front cash contributions (paid-in capital) from Member States while providing the credit enhancement required to ensure a high credit rating and protect the resources of the Union.

In addition to the provision of Member State guarantees, other safeguards are built into the framework in order to ensure the financial solidity of the scheme:

- A rigorous and conservative approach to financial management;
- A construction of the portfolio of loans that limits concentration risk, annual exposure and excessive exposure to individual Member States whilst ensuring sufficient resources could be granted to Member States most in need; and
- Possibilities to roll over debt.

5. OTHER ELEMENTS

• Detailed explanation of the specific provisions of the proposal

Article 1 of the proposed Council Regulation provides for the establishment of the European Instrument for temporary Support to mitigate Unemployment Risks in an Emergency following the COVID-19 outbreak (SURE). This instrument would be ad hoc and temporary in view of its legal basis. It would provide financial assistance under Article 220 of the Financial Regulation in support of Member States confronted with a severe economic disturbance caused by the exceptional occurrence of the COVID-19 outbreak.

Article 2 of the proposed Regulation stresses the complementary nature of the SURE instrument. It should complement efforts undertaken by Member States at national level and covers part of the severe and sudden increase in public expenditure they face as a result of their efforts to address the direct negative consequences of the COVID-19 crisis. The use of the SURE instrument does not prevent the application of other relevant EU-instruments dealing with specific aspects of major threats to public health and financial support instrument, like for instance the EUSF.

Article 3 of the proposed Regulation lays down the conditions for activating the instrument. Member States may request financial assistance where their actual and possibly planned public expenditure has suddenly and severely increased in the field of employment due to national responses to the COVID-19 outbreak. Support under the SURE instrument should in particular support the increased financial burden of Member States for short-time work schemes and similar measures that help protect jobs and thus employees and self-employed against the risks of unemployment and loss of income.

Article 4 of the proposed Regulation determines firstly that financial assistance under the proposed SURE instrument will take the form of a loan granted to the Member State concerned. Secondly, it provides for the empowerment of the Commission to be able to contract borrowings on the financial markets with the purpose of on-lending them to the Member State concerned.

Article 5 of the proposed Regulation establishes the maximum amount of Union financial assistance that can be provided under the SURE instrument. It concerns an amount of up to EUR 100 billion.

Article 6 of the proposed Regulation establishes the procedure for granting swiftly financial assistance to Member States. Following a request by a Member State, the Commission would consult the Member State concerned to verify the extent of the increase in public expenditure that is directly related to the creation or extension of short-time work schemes and similar measures notably for self-employed. Such a consultation also helps the Commission to properly evaluate the terms of the loan. Elements such as the amount, the maximum average maturity, pricing, availability period of support and the technical modalities for implementation should be determined.

Articles 7 to 10 of the proposed Regulation contain the procedural rules for the disbursement and implementation of the loan support under the SURE instrument. More specifically, they deal with rules on the disbursement, the borrowing and lending operations, the prudential rules applicable to the portfolio of loans under the instrument, and the administration of the loans.

Article 11 of the proposed Regulation deals with the funding mechanism of the instrument. The lending to Member States under the instrument will be underpinned by a system of guarantees from Member States committed to the Union on a voluntary basis. This system will allow the Union to expand the volume of financial assistance by means of loans that could be provided to Member States under the SURE instrument. The guarantees committed to the Union should be irrevocable, unconditional and on demand and laid down in an agreement concluded between the Commission and the Member States. Such contributions would constitute external assigned revenue.

Article 12 of the proposed Regulation sets a rule regarding the availability of the instrument. Union financial assistance under the SURE instrument will only be available as from the moment that all Member States have committed their guarantees to the Union.

Articles 13 and 14 of the proposed Regulation lay down rules on controls and audits and reporting.

Finally, Article 15 of the proposed Regulation makes clear that the instrument will not apply to the United Kingdom since under Article 143(1) of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community[1], the liability of the United Kingdom for its share of the contingent liabilities of the Union is limited to those contingent liabilities which arise from financial operations taken by the Union before the date of the withdrawal of the United Kingdom from the Union. Any contingent liability of the Union arising from financial assistance under this Regulation would be subsequent to the date of the withdrawal of the United Kingdom from the Union. Therefore, the United Kingdom should not participate in the financial assistance under this Regulation.

[1] OJ C 384 I, 12.11.2019, p. 1.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 122 thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Article 122(1) of the Treaty on the Functioning of the European Union ('TFEU') allows the Council to decide, on a proposal from the Commission and in a spirit of solidarity between Member States, upon measures appropriate to respond to the socio-economic situation following the COVID-19 outbreak.

(2) Article 122(2) TFEU enables the Council to grant Union financial assistance to a Member State that is in difficulties or is seriously threatened with severe difficulties caused by exceptional occurrences beyond its control.

(3) The Severe Acute Respiratory Syndrome coronavirus-2 (SARS-CoV-2), causing the coronavirus disease, named COVID-19 by the World Health Organisation (WHO), is a new strain of coronavirus not previously identified in humans. The global outbreak of that disease is evolving rapidly and it has been declared a pandemic by the WHO. From the beginning of the outbreak in the Union up until 30 March 2020, 334 396 cases and 22 209 deaths have been reported in the Member States.

(4) Member States have implemented extraordinary measures to contain the COVID-19 outbreak and its impact. The probability of further transmission of COVID-19 in the Union is considered high. In addition to public health impacts with substantial fatal outcomes, COVID-19 outbreaks have caused a massive and disruptive impact on the Member States' economic systems, have caused societal disruptions and have increased public expenditure in a growing number of Member States.

(5) That exceptional situation, which is beyond the control of the Member States and which has immobilised a substantial part of their labour force, has led to a sudden and severe increase in public expenditure of the Member States on short time work schemes for employees and similar measures notably for the self-employed. It is necessary to enable the Member States to address that sudden and severe increase in public expenditure until the COVID-19 outbreak and its impact on their labour force is under control.

(6) The creation of a European instrument for temporary support to mitigate unemployment risks in an emergency following the COVID-19 outbreak ('SURE') should enable the Union to respond to the crisis in the labour market in a coordinated, rapid, and effective manner and in a spirit of solidarity among Member States, thereby

alleviating the impact on employment for individuals and the most affected economic sectors mitigating the direct effects of this exceptional situation on public expenditure of the Member States.

(7) According to Article 220 of Regulation (EU, Euratom) 1046/2018 of the European Parliament and of the Council[2], financial assistance by the Union to Member States can take the form of loans. Those loans should be accorded to Member States where the COVID-19 outbreak has led to a sudden and severe increase in actual and possibly also planned public expenditure due to national measures adopted as from 1 February 2020. That date ensures equal treatment for all Member States and allows for coverage of their actual and possibly planned increases in spending relating to the effects on the labour markets of the Member States, irrespective of when the COVID-19 outbreak occurred in each specific Member State. The national measures adopted as from that date should be directly related to the creation or extension of short-time work schemes and to similar measures including for self-employed persons. Short-time work schemes are public programmes that under certain circumstances allow firms experiencing economic difficulties to temporarily reduce the hours worked by their employees, which are provided with public income support for the hours not worked. Similar schemes exist for income replacement for the self-employed. The Member State requesting financial assistance should provide evidence of the sudden and severe increase in actual and possibly also planned expenditure for short time work schemes or similar measures.

(8) In order to provide the affected Member States with sufficient financial means to enable them to deal with the impact of the COVID-19 outbreak on their labour market, the Union's borrowing and lending activities under SURE should be sufficiently large. The loans issued by the Union should therefore be financed by recourse to international capital markets.

(9) The COVID-19 outbreak has a massive and disruptive impact on the economic systems of each Member State. It therefore calls for collective contributions by Member States in the form of guarantees supporting the loans from the Union budget. Those guarantees are necessary to enable the Union to grant loans of a sufficient order of magnitude to Member States, to labour market policies which are under the greatest strain. To ensure that the contingent liability arising from those loans granted by the Union under SURE is compatible with the applicable multiannual financial framework and own resources ceilings, the guarantees provided by the Member States should be irrevocable, unconditional and on demand, while additional safeguards should enhance the robustness of the system.

(10) The additional safeguards to enhance the robustness of the system should consist of a conservative financial management, a maximum annual exposure, and a sufficient diversification of the loan portfolio.

(11) The loans granted under this instrument constitute financial assistance within the meaning of Article 220 of Regulation (EU, Euratom) 1046/2018. In accordance with Article 282(3), point (g), of Regulation (EU, Euratom) 1046/2018, Article 220 will

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[2] Regulation (EU, Euratom) 1046/2018 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 and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

apply to the loans granted under this instrument from the date of application of the post-2020 multiannual financial framework. However, it is appropriate that the requirements set out in Article 220(5) of Regulation (EU, Euratom) 1046/2018 apply to the borrowing and lending operations already as of the entry into force of this Regulation.

(12) In order to make the contingent liability arising from loans granted by the Union under this instrument compatible with the applicable multiannual financial framework and own resources ceilings, it is necessary to lay down prudential rules, including the possibility of rolling over the borrowings contracted on behalf of the Union.

(13) Given their particular financial implications, the decisions to grant Union financial assistance pursuant to this Regulation require the exercise of implementing powers, which should be conferred on the Council.

(14) Article 143(1) of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community[3] limits the liability of the United Kingdom for its share of the contingent liabilities of the Union to those contingent liabilities which arise from financial operations taken by the Union before the date of the withdrawal of the United Kingdom from the Union. Any contingent liability of the Union arising from financial assistance under this Regulation would be subsequent to the date of the withdrawal of the United Kingdom from the Union. Therefore, the United Kingdom should not participate in the financial assistance under this Regulation.

(15) As the instrument is of a temporary nature addressing the COVID-19 outbreak, the Commission should review every six months whether the exceptional circumstances causing the severe economic disturbances in Member States still exist.

(16) Given the impact of the COVID-19 outbreak and the need for an urgent response to the consequences of that outbreak, this Regulation should enter into force on the date of its publication in the Official Journal of the European Union,

HAS ADOPTED THIS REGULATION:

Article 1

Establishment of the European instrument for temporary support to mitigate unemployment risks in an emergency (‘the Instrument’)

1. The European instrument for temporary support to mitigate unemployment risks in an emergency (SURE), hereinafter “the Instrument”, to address the impact of the COVID-19 outbreak and its socio-economic consequences, is hereby established.

2. This Regulation lays down the conditions and procedures enabling the Union to provide financial assistance to a Member State, which is experiencing, or is seriously threatened with, a severe economic disturbance caused by the COVID-19 outbreak for the financing of short-time work or similar measures aimed to protect employees and self-employed and thus reduce the incidence of unemployment and loss of income.

[3] OL L 29, 2020 1 31, p. 7.

Article 2

Complementary nature of the Instrument

The Instrument shall complement the national measures taken by affected Member States by providing financial assistance to help them cope with the sudden and severe increase in actual and possibly also planned public expenditure intended to mitigate the direct economic and negative social effects of the exceptional occurrence caused by the COVID-19 outbreak.

Article 3

Conditions for using the Instrument

1. A Member State may request Union financial assistance where its actual and possibly also planned public expenditure has suddenly and severely increased as of 1 February 2020 due to the adoption of national measures directly related to short time work schemes and similar measures to address the economic and social effects of the exceptional occurrence caused by the COVID-19 outbreak.

2. Beneficiary Member States shall use the Union financial assistance under this Instrument in support of national schemes supporting short-time work or similar measures.

Article 4

Form of financial assistance

The financial assistance referred to in Article 3 shall take the form of a loan granted to the Member State concerned. To that end, and in accordance with a Council implementing decision adopted pursuant to Article 6(1), the Commission shall be empowered to borrow on the capital markets or with financial institutions on behalf of the Union at the most appropriate time so as to optimise the cost of funding and preserve its reputation as the Union's issuer in the markets.

Article 5

Maximum amount of financial assistance

The maximum amount of financial assistance referred to in Article 3 shall not exceed EUR 100 000 000 000 for all Member States.

Article 6

Procedure for requesting financial assistance

1. The financial assistance referred to in Article 3 shall be made available by a decision adopted by the Council by means of an implementing act, on a proposal from the Commission.

2. Before submitting a proposal to the Council, the Commission shall consult the Member State concerned without undue delay to verify the sudden and severe increase in actual and possibly also planned expenditure directly related to short time working schemes and similar measures in the Member State requesting support, which are linked to the exceptional occurrence caused by the COVID-19 outbreak. To that end, the Member State concerned shall provide the Commission with

appropriate evidence. In addition, the Commission shall verify the fulfilment of the prudential rules referred to in Article 9.

3. The decision to make available the financial assistance referred to in Article 3 shall contain:

(a) the amount of the loan, its maximum average maturity, its pricing formula, its maximum number of instalments, its availability period and the other detailed rules needed for the granting of the financial assistance;

(b) an assessment of the compliance by the Member State with the conditions referred to in Article 3;

(c) a description of the national short-time scheme(s) or similar measures that may be financed.

Article 7

Disbursement of the loan

The loan referred to in Article 6(3) shall be disbursed in instalments.

Article 8

Borrowing and lending operations

1. The borrowing and lending operations referred to in Article 4 shall be carried out in euro.

2. The characteristics of the loan referred to in Article 6(3), point (a), shall be agreed in a Loan Agreement between the beneficiary Member State and the Commission. That agreement shall contain the provisions referred to in Article 220(5) of Regulation (EU, Euratom) 1046/2018.

3. At the request of the beneficiary Member State and where circumstances permit an improvement in the interest rate on the loan, the Commission may refinance all or part of its initial borrowing or restructure the corresponding financial conditions.

4. The Economic and Financial Committee shall be kept informed of a refinancing or restructuring as referred to in paragraph 3.

Article 9

Prudential rules applicable to the portfolio of loans

1. The share of loans granted to the three Member States representing the largest share of loans granted shall not exceed 60% of the amount referred to in Article 5.

2. The amounts due by the Union in a given year shall not exceed 10% of the amount referred to in Article 5.

3. Where a Member State fails to make a repayment, the Commission may roll over the associated borrowings contracted on behalf of the Union.

Article 10

Administration of the loans

1. The Commission shall establish the necessary arrangements for the administration of the loans with the ECB.

2. The beneficiary Member State shall open a special account with its national central bank for the management of the financial assistance received. It shall also transfer the principal and the interest due under the loan to an account of the Union with the ECB twenty TARGET2 business days prior to the corresponding due date.

Article 11

Contributions in the form of guarantees from Member States

1. Member States may contribute to the Instrument by counter-guaranteeing the risk borne by the Union.

2. Contributions from Member States shall be provided in the form of irrevocable, unconditional and on demand guarantees.

   The Commission shall conclude an agreement with a contributing Member State on the irrevocable, unconditional and on demand guarantees. The agreement shall set out the payment conditions.

3. Calls on guarantees provided by Member States shall be made on a *pari passu* basis. Where a Member State fails to honour a call in time, the Commission shall have the right to make additional calls on guarantees provided by other Member States on a *pari passu* basis up to the overall contributed amounts. Member States shall be reimbursed for such additional contributions from recovered amounts.

4. Contributions referred to in paragraph 1 shall constitute external assigned revenue within the meaning of Article 21(5) of Regulation (EU, Euratom) 1046/2018 to this Instrument.

Article 12

Availability of the Instrument

1. The financial assistance referred to in Article 3 shall only become available after all Member States have contributed to the Instrument with contributions referred to in Article 11(1) for an amount representing at least 25 per cent of the amount referred to in Article 5, provided that the relative shares of contributions of each Member State of the overall amount of Member States contributions correspond to the relative shares of Member States in the total Gross National Income of the Union, as resulting from the column (1) of Table 3 of Part A "Introduction and financing of the general budget of the Union", of the revenue part of the budget for 2020 set out in the general budget of the European Union for the financial year 2020, as adopted on 27 November 2019[4].

2. The Commission shall inform the Council when the Instrument becomes available.

Article 13

Control and audits

The agreement referred to in Article 8(1) shall contain the necessary provisions regarding controls and audits as required by Article 220(5) of Regulation (EU, Euratom) 1046/2018.

[4] Definitive adoption (EU, Euratom) 2020/227 of the European Union's general budget for the financial year 2020, (OJ L 57, 27.02.2020. p.1).

Article 14

Reporting

The Commission shall forward to the European Parliament, the Economic and Financial Committee, the Employment Committee and to the Council, within six months following the entry into force of this Regulation and six months thereafter in the context of Article 250 of Regulation (EU, Euratom) 1046/2018, a report on the use of financial assistance and continuation of the exceptional occurrences that justify the application of this Regulation.

Article 15

Applicability

This Regulation shall not be applicable to and in the United Kingdom. References to Member States in this Regulation shall not be understood as including the United Kingdom.

Article 16

Entry into force

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

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

Done at Brussels,

For the Council
The President

LEGISLATIVE FINANCIAL STATEMENT

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Proposal for a Council Regulation on the establishment of a European Instrument for temporary Support to mitigate Unemployment Risks in an Emergency (SURE) following the COVID-19 outbreak

1.2. Policy area(s) concerned in the ABM/ABB structure[5]

Not applicable

1.3. Nature of the proposal/initiative

X The proposal/initiative relates to **a new action**

☐ The proposal/initiative relates to **a new action following a pilot project/preparatory action**[6]

☐ The proposal/initiative relates to **the extension of an existing action**

☐ The proposal/initiative relates to **an action redirected towards a new action**

1.4. Objective(s)

1.4.1. The Commission's multiannual strategic objective(s) targeted by the proposal/initiative

Not applicable. The proposed Regulation is an emergency measure put forward by the Commission to the Council with a view to provide Union financial assistance to Member States in a spirit of solidarity in order to help them protect employment through support to short time work schemes for employees and similar measures for self-employed following the COVID-19 outbreak.

1.4.2. Specific objective(s) and ABM/ABB activity(ies) concerned

<u>Specific objective No</u> Not applicable <u>ABM/ABB activity(ies) concerned</u> Not applicable

5 ABM: activity-based management; ABB: activity-based budgeting.

6 As referred to in Article 54(2)(a) or (b) of the Financial Regulation.

1.4.3. Expected result(s) and impact

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

The aim of the proposed SURE instrument is to lay down the rules enabling the Union to provide financial assistance to a Member State, which is experiencing, or is seriously threatened with, a severe economic disturbance caused by the COVID-19 crisis for the financing of short-time work or similar measures aimed to protect employees and self-employed and thus reduce the incidence of unemployment.

Specifically, the SURE instrument will act as a second line of defence, supporting short-time work schemes and similar measures, to help Member States protect jobs and thus employees and self-employed against the risk of unemployment. Conditions to determine when a Member State can benefit from support under this instrument should be established by reference to the sudden severe increase in actual and possibly also planned public expenditure caused by the COVID-19 outbreak and be directly related to the creation or extension of short time work schemes and other similar measures taken in response to it.

1.4.4. Indicators of results and impact

Specify the indicators for monitoring implementation of the proposal/initiative.

Not applicable

1.5. Grounds for the proposal/initiative

1.5.1. Requirement(s) to be met in the short or long term

The proposed SURE instrument is based on Article 122 (1) and (2) TFEU.

This legal basis prescribes that:

- appropriate measures can be taken by the Union to respond in a spirit of solidarity between Member States to a specific economic situation.

- Union financial assistance can be granted when a Member State is faced with difficulties or threatened by difficulties caused by an exceptional occurrence beyond its control but subject to conditions.

Currently, Member States are facing a severe economic disturbance caused by the COVID-19 outbreak which has strong negative socio-economic impacts in Member States .

1.5.2. Added value of EU involvement

The proposal aims to offer financial support in a spirit of European solidarity with those Member States that are heavily affected. Such financial assistance supports on a temporary basis Member States' increased public expenditure as is by means of loans lines for creating or extending short-time work schemes and other similar measures. It serves as a second-line of defence for Member States being faced with increased public expenditure to preserve employment of employees and self-employed. Such EU support helps the population of the affected Member States, contributes to a rapid return to normal living conditions in the affected regions and mitigates the direct societal and economic impact caused by this particular COVID-19 crisis.

1.5.3. Lessons learned from similar experiences in the past

When the Union was confronted with a grave financial crisis a decade ago, the legal basis of Article 122 of the Treaty on the Functioning of the European Union (TFEU) has proven it is added value to mobilise at short notice financial assistance from the Union to Member States faced with difficulties caused by an exceptional event beyond their control. The Union adopted on this legal basis Regulation (EU) No 407/2010 of the Council of 11 May 2010 establishing a European Financial Stabilisation Mechanism (EFSM). This instrument provided Union financial assistance to Portugal, Ireland and a bridge financing to Greece by means of back-to-back-loans. The legal basis and the technique are however not confined to financial crisis events only but to any exceptional occurrence beyond Member States' control and could therefore also be used in this particular crisis event of the COVID-19 outbreak.

1.5.4. Compatibility and possible synergy with other appropriate instruments

The proposed SURE instrument complements the "Coronavirus Response Investment Initiative", the proposed enlargement of the scope of the European Union Solidarity Fund, and other instruments so support employment such as the European Social Fund and Invest EU.

1.6. **Duration and financial impact**

X Proposal/initiative of **limited duration**

– ☐ Proposal/initiative in effect from [DD/MM]YYYY to [DD/MM]YYYY

– ☐ Financial impact from YYYY to YYYY

☐ Proposal/initiative of **unlimited duration**

– Implementation with a start-up period from YYYY to YYYY,

– followed by full-scale operation.

1.7. **Management mode(s) planned**[7]

X 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 208 and 209 of Regulation (EU, Euratom) 1046/2018;

– ☐ public law bodies;

– ☐ bodies governed by private law with a public service mission to the extent that they provide 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 provide 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

The proposed Regulation is based on Article 122 TFEU. Hence, it can only be of a temporary nature. However, it is in current exceptional circumstances of the COVID-19 outbreak impossible to tell how long this situation lasts and for how long it will generate economic impact on working people in Member States.

7 Details of management modes and references to Regulation (EU, Euratom) 1046/2018 may be found on the BudgWeb site: http://www.cc.cec/budg/man/budgmanag/budgmanag_en.html

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

The proposed Regulation provides for a reporting clause (Article 14). The Commission should forward to the Economic and Financial Committee, the Employment Committee and to the Council, within one year following the entry into force of this Regulation and where appropriate every year thereafter, a report on the use of financial assistance and continuation of the exceptional occurrences that justify the adoption and application of this Regulation.

2.2. Management and control system

2.2.1. Risk(s) identified

The proposed Regulation lays down prudential rules to manage the risks related to the loan portfolio (Article 6 and 9)

2.2.2. Information concerning the internal control system set up

2.2.3. Estimate of the costs and benefits of the controls and assessment of the expected level of risk of error

2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures.

The proposed Regulation lays down control and audit rules (Article 13). The Commission shall ensure that the necessary provisions regarding controls and audits are provided for in the agreement concluded with the beneficiary Member State for the purposes of implementing Union financial assistance under the SURE instrument. The rules of Article 220 of the Financial Regulation apply.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

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

- Existing budget lines

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

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number [...][Heading...................................... ......]	Diff./Non-diff.[8]	from EFTA countries[9]	from candidate countries[10]	from third countries	within the meaning of Article 21(2)(b) of Regulation (EU, Euratom) 1046/2018
	[...][XX.YY.YY.YY]	Diff./Non-diff.	YES/NO	YES/NO	YES/NO	YES/NO

- 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			
	Number [...][Heading...................................... ......]	Diff./Non-diff.	from EFTA countries	from candidate countries	from third countries	within the meaning of Article 21(2)(b) of Regulation (EU, Euratom) 1046/2018
	[...][XX.YY.YY.YY]		YES/NO	YES/NO	YES/NO	YES/NO

8 Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.
9 EFTA: European Free Trade Association.
10 Candidate countries and, where applicable, potential candidate countries from the Western Balkans.

3.2. Estimated impact on expenditure

[This section should be filled in using the **spreadsheet on budget data of an administrative nature** (second document in annex to this financial statement) and uploaded to CISNET for interservice consultation purposes.]

3.2.1. Summary of estimated impact on expenditure

EUR million (to three decimal places)

Heading of multiannual financial framework	Number	In accordance with Article 2(3) of the proposal for a COUNCIL REGULATION laying down the multiannual financial framework for the years 2021 to 2027[11], the necessary amounts shall be mobilised over and above the ceilings laid down in the MFF

DG: <…….>			Year **N**[12]	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**
• Operational appropriations										
Number of budget line	Commitments	(1)								
	Payments	(2)								
Number of budget line	Commitments	(1a)								
	Payments	(2a)								
Appropriations of an administrative nature financed from the envelope of specific programmes[13]										
Number of budget line		(3)								
TOTAL appropriations	Commitments	=1+1a +3								

11 COM/2018/322 final - 2018/0132.
12 Year N is the year in which implementation of the proposal/initiative starts.
13 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.

for DG <…….>	Payments	=2+2a +3								

• TOTAL operational appropriations	Commitments	(4)								
	Payments	(5)								
• TOTAL appropriations of an administrative nature financed from the envelope for specific programmes		(6)								
TOTAL appropriations under HEADING <….> of the multiannual financial framework	Commitments	-								
	Payments	-								

<u>If more than one heading is affected by the proposal / initiative:</u>

• TOTAL operational appropriations	Commitments	(4)								
	Payments	(5)								
• TOTAL appropriations of an administrative nature financed from the envelope for specific programmes		(6)								
TOTAL appropriations under HEADINGS 1 to 4 of the multiannual financial framework (Reference amount)	Commitments	=4+ 6								
	Payments	=5+ 6								

Heading of multiannual financial framework	**5**	'Administrative expenditure'

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 5 of the multiannual financial framework	(Total commitments = Total payments)								

EUR million (to three decimal places)

		Year **N**[14]	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**
TOTAL appropriations under HEADINGS 1 to 5 of the multiannual financial framework	Commitments								
	Payments								

14 Year N is the year in which implementation of the proposal/initiative starts.

3.2.2. Estimated impact on operational appropriations

– X☐ The proposal/initiative does not require the use of operational appropriations

– ☐ The proposal/initiative requires the use of operational appropriations, as explained below:

Commitment appropriations in EUR million (to three decimal places)

Indicate objectives and outputs ⇩			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**	
	OUTPUTS																	
	Type[15]	Average cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	Total No	Total cost
SPECIFIC OBJECTIVE No 1[16]…																		
- Output																		
- Output																		
- Output																		
Subtotal for specific objective No 1																		
SPECIFIC OBJECTIVE No 2 ...																		
- Output																		
Subtotal for specific objective No 2																		
TOTAL COST																		

15 Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

16 As described in point 1.4.2. 'Specific objective(s)…'

3.2.3. Estimated impact on appropriations of an administrative nature

3.2.3.1. Summary

– **X** ☐ 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 **N** [17]	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**
HEADING 5 of the multiannual financial framework								
Human resources								
Other administrative expenditure								
Subtotal HEADING 5 of the multiannual financial framework								
Outside HEADING 5[18] of the multiannual financial framework								
Human resources								
Other expenditure of an administrative nature								
Subtotal outside HEADING 5 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.

17 Year N is the year in which implementation of the proposal/initiative starts.

18 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.

3.2.3.2. Estimated requirements of human resources

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

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

Estimate to be expressed in full time equivalent units

		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)		
• Establishment plan posts (officials and temporary staff)								
XX 01 01 01 (Headquarters and Commission's Representation Offices)		2	2	2	2			
XX 01 01 02 (Delegations)								
XX 01 05 01 (Indirect research)								
10 01 05 01 (Direct research)								
• External staff (in Full Time Equivalent unit: FTE)[19]								
XX 01 02 01 (AC, END, INT from the 'global envelope')		1	1					
XX 01 02 02 (AC, AL, END, INT and JED in the delegations)								
XX 01 04 **yy** [20]	- at Headquarters							
	- in Delegations							
XX 01 05 02 (AC, END, INT - Indirect research)								
10 01 05 02 (AC, END, INT - Direct research)								
Other budget lines (specify)								
TOTAL		**3**	**3**	**2**	**2**			

DG BUDG 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	Issuance of securities in the capital markets (market analysis, prospectus, registration, investors relationship), management of proceeds, disbursements and reimbursements

19 AC= Contract Staff; AL = Local Staff; END= Seconded National Expert; INT = agency staff; JED= Junior Experts in Delegations.

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

External staff	

3.2.4. *Compatibility with the current multiannual financial framework*

– **X** ☐ The proposal/initiative is compatible the current multiannual financial framework.

– ☐ The proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.

Explain what reprogramming is required, specifying the budget lines concerned and the corresponding amounts. […]

– ☐ The proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework.

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts. […]

3.2.5. *Third-party contributions*

– The proposal/initiative does not provide for co-financing by third parties.

– The proposal/initiative provides for the co-financing estimated below:

Appropriations in 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
Specify the co-financing body								
TOTAL appropriations co-financed								

3.3. Estimated impact on revenue

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

– ☐ The proposal/initiative has the following financial impact:

  – ☐ on own resources

  – ☐ on miscellaneous revenue

EUR million (to three decimal places)

Budget revenue line:	Appropriations available for the current financial year	Impact of the proposal/initiative[21]						
		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)		
Article ………….								

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

[…]

Specify the method for calculating the impact on revenue.

[…]

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