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2019/0186 (APP)

Proposal for a

COUNCIL REGULATION

on measures concerning the implementation and financing of the general budget of the Union in 2020 in relation to the withdrawal of the United Kingdom from the Union

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The United Kingdom has decided to leave the European Union, invoking the procedure in Article 50 of the Treaty on European Union (TEU). Following a request by the United Kingdom, the European Council (Article 50) agreed on 11 April 2019[1] to extend further[2] the period provided for in Article 50(3) TEU until 31 October 2019. Unless the United Kingdom ratifies the Withdrawal Agreement by 31 October 2019 or requests a third extension, to which the European Council (Article 50) agrees by unanimity, the period under Article 50(3) TEU will end then. The United Kingdom will then be a third country as of 1 November 2019 without an agreement to ensure an orderly withdrawal.The Commission continues to consider that an orderly withdrawal of the United Kingdom from the Union on the basis of the Withdrawal Agreement is the best outcome.

The Communication of 12 June 2019 on the 'State of play of preparations of contingency measures for the withdrawal of the United Kingdom from the European Union'[3] recalled that, in line with the approach which the European Council (Article 50) has emphasised throughout the process, all actors must continue to prepare for all possible outcomes, including a withdrawal without an agreement. It concluded that the Commission would continue to monitor political developments and assess if any extension of the adopted measures would be needed. This proposal is an extension to 2020 of the contingency framework for the Union budget laid down in Council Regulation (EU, Euratom) 2019/1197 of 9 July 2019 on measures concerning the implementation and financing of the general budget of the Union in 2019 in relation to the withdrawal of the United Kingdom from the Union[4]. The proposal lays down rules on the relations between the Union, on the one hand, and the United Kingdom and its beneficiaries, on the other, as regards the financing and implementation of the budget in 2020.

Since the notification by the United Kingdom of its withdrawal intention, the European Union has consistently stated that the Union and the United Kingdom are bound to honour their respective obligations resulting from the whole period of the United Kingdom's membership in the Union. This principle was recalled in the European Council's conclusions of 29 April 2017, and reflected in the introduction to the Withdrawal Agreement[5]. The absence of a withdrawal agreement at the withdrawal date would not affect that guiding principle.

A withdrawal without an agreement would leave the budgetary relations between the Union and the UK without agreed legal arrangements. Such a legal vacuum would create considerable uncertainty and difficulties for the implementation of the Union's budgets for 2019 and 2020, for all UK beneficiaries and in some cases also for beneficiaries of the other Member States. In line with the Commission's overall approach, this proposal is a contingency measure in response to this situation.

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1 European Council Decision (EU) 2019/584, OJ L 101, 11.4.2019, p. 1.

2 Following a request by the United Kingdom, the European Council decided a first extension on 22 March 2019 (European Council Decision (EU) 2019/476, OJ L 80I, 22.3.2019, p. 1).

3 COM/2019/276 final.

4 OJ L 189, 15.7.2019, p. 1.

5 Agreement on the withdrawal of the United Kingdom of great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, OJ, C 144I, 25.4.2019, p.1

After withdrawal, the Treaties and the secondary legislation will not be applicable to the United Kingdom. The United Kingdom or entities established in the United Kingdom will cease to be eligible to receive funding under those Union programmes, unless relevant provisions for participation of third countries are included in the legal acts of EU spending programmes.

The purpose of this proposal is to extend to 2020 the contingency framework under Regulation (EU, Euratom) 2019/1197 and, consequently, to avoid, or at least minimise, the most significant disruptions for beneficiaries of EU spending programmes and other actions at the time of withdrawal and until the end of 2020, also with the expectation that this will facilitate a financial settlement between the Union and the United Kingdom.

The proposed contingency framework provides for the possibility to maintain throughout 2020 the eligibility to benefit from Union financing for the United Kingdom and United Kingdom entities under legal commitments entered into before the withdrawal date or between the withdrawal date and the end of 2019, in application of Regulation (EU, Euratom) 2019/1197. This is subject to the condition that the United Kingdom makes a written commitment to contribute to the financing of the budget for 2020 under the terms set in this proposal. In addition, the United Kingdom should commit in writing to accept the controls and audits which cover the entire implementation period of the programmes or the actions. Under these conditions, the financial interests of the Union will be protected.

The United Kingdom and United Kingdom entities, as well as entities from the other Member States whose eligibility is affected by the UK withdrawal, would continue benefiting from the Union financing under the conditions of this proposal. This would mitigate the most significant disruptions of the withdrawal on existing agreements and decisions. It would allow for an orderly budget implementation of legal commitments with the United Kingdom and United Kingdom entities signed or adopted before the date of withdrawal or between the withdrawal date and the end of 2019, in application of Regulation (EU, Euratom) 2019/1197.

Furthermore, as the United Kingdom would finance its share of the budget 2020, and in line with the objective of implementing fully the multiannual financial framework 2014-2020 decided while the United Kingdom was a member of the Union, the United Kingdom and United Kingdom entities would be eligible in 2020 for the purposes of conditions set in any calls, tenders, contests or any other procedure which may lead to financing from the Union's budget. This would not apply in case there are restrictions in relation to security or to actions involving the European Investment Bank or the European Investment Fund. Such Union funding would be limited to eligible expenditure incurred in 2020, except for public procurement contracts signed before the end of 2020 in application of Title VII of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ('the Financial Regulation'), which would continue to be implemented in accordance with their terms, and except for the United Kingdom agricultural direct payment scheme for the claim year 2020, which will be excluded from eligibility.

The proposed contingency framework would also allow financing of actions in which Member States and Member States' entities are beneficiaries where the eligibility depends on the United Kingdom being a Member State or results from Regulation (EU, Euratom) 2019/1197, provided that these specific actions are implemented under legal commitments signed or adopted before the date of withdrawal or in 2019 in application of Regulation (EU, Euratom) 2019/1197.

This eligibility of the United Kingdom and United Kingdom entities would only start applying after the conditions laid down in this proposal have been fulfilled, including that the United Kingdom has made its first payment to the EU budget for 2020. The contingency framework

providing for the eligibility of United Kingdom and United Kingdom entities would cease to apply if the United Kingdom discontinues the payments or where significant deficiencies have been observed in the execution of the controls and audits.

The contribution from the United Kingdom is based on the draft budget for 2020 as proposed on 5 July 2019 for 28 Member States[6] and would be adjusted to take into account the level of payment appropriations under the adopted budget. It is reasonable that no Member State is in a less favourable position as regards their contribution than laid down in the budget for 2020 as proposed, following the adoption of this Regulation. Therefore, to ensure the beneficial effect of this Regulation for all Member States, a specific amount would be deducted before that contribution is entered in the Union budget. Such specific amount would benefit the Member States which would otherwise be at a disadvantage following the adoption of this Regulation, as further specified in dedicated practical arrangements setting out the distribution of the payments due and entrusting the Commission with the disbursement of the specific amount.

The proposal is without prejudice to negotiating an agreement with the United Kingdom on a financial settlement covering the entirety of mutual obligations. If no agreement is reached in 2019 or 2020, the situation at the beginning of 2021 will be equivalent to the one at the withdrawal date for the mutual commitments undertaken by the Union and the United Kingdom. In any event the Union and the United Kingdom would need to honour their respective obligations resulting from the whole period of the United Kingdom membership in the Union.

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

This proposal aims at minimising the negative impact of the withdrawal of the United Kingdom for the Union budget and for the implementation of the policies of the Union.

- **Consistency with other Union policies**

This proposal is is part of the Union preparedness and contingency plan to mitigate the most significant disruptions of a withdrawal of the United Kingdom from the Union without a withdrawal agreement and fully consistent with the Council mandate for the negotiations with the United Kingdom on its withdrawal from the Union.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Article 352 TFEU and Article 203 of the Euratom Treaty allow the Union to adopt appropriate measures if actions by the Union should prove necessary, within the framework of the policies, to attain one of the objectives set out in the Treaties, and the Treaties have not provided the necessary powers. The proposed Regulation constitutes a measure allowing transition following the withdrawal of a Member State with regard to financing and implementation of actions from the Union budget in a situation in which no agreement has been concluded with that State. Such measure is necessary in order to implement the Union's budget for 2020, which was proposed on 5 July 2019 for 28 Member States, allow to receive the payments from the withdrawing Member State, as well as provide a solution for the ongoing actions financed from the Union's budget for the United Kingdom and United Kingdom's beneficiaries and for new actions justified by the contribution of the United Kingdom to the budget 2020. The Treaties do not provide for the necessary powers for the

[6] COM/2019/400 final of 5.7.2019.

Union to adopt such transitory measures and therefore Article 352 TFEU and Article 203 of the Euratom Treaty are the appropriate legal basis.

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

The Union's budget 2020, which was proposed on 5 July 2019 for 28 Member States, will finance the actions and spending programmes under the multiannual financial framework 2014-2020 as they were adopted by the Union legislator. The objectives of the proposed action can thus only be achieved by a measure at Union level.

- **Proportionality**

The proposal does not exceed what is necessary to achieve the objectives of the measure, as it is limited to determining the conditions required for the establishment of eligibility of the United Kingdom and United Kingdom's entities. It is limited in time.

- **Choice of the instrument**

Given the need for a binding act which would be directly applicable proposing a regulation is the only adequate form.

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

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

It was not to possible to carry out a stakeholder consultation due to the urgency for preparing the proposal so that it can be adopted in time by the Council after obtaining the consent of the European Parliament in order to minimise the period of uncertainty for the beneficiaries and for the financing of the budget for 2020.

- **Impact assessment**

Due to the nature of the proposed measure, no impact assessment was carried out, in line with the Better Regulation Guidelines. The envisaged contingency framework would facilitate the smooth implementation of the budget 2020 and a possible future agreement with the United Kingdom on the respective obligations resulting from the whole period of the United Kingdom's membership in the Union.

4. BUDGETARY IMPLICATIONS

In case of a withdrawal without an agreement, this proposal would restore the eligibility of the United Kingdom and United Kingdom beneficiaries as long as the United Kingdom contributes to the budget for 2020. It would also allow receiving the United Kingdom's contributions as laid down in the draft budget for 2020, which was proposed on 5 July 2019 for 28 Member States, after adjusting those contributions to take into account the level of payment appropriations under the adopted budget.

The United Kingdom's acceptance of the conditions for the 2019 contingency framework and its written commitment to accept the necessary controls and audits would be conditions for the application of this contingency framework for 2020.

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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 352 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 203 thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the consent of the European Parliament[7],

Acting in accordance with a special legislative procedure,

Whereas:

(1) On 29 March 2017, the United Kingdom submitted the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union (TEU). The Treaties will cease to apply to the United Kingdom from the date of entry into force of the withdrawal agreement or, failing that, two years after that notification that is from 30 March 2019, unless the European Council, in agreement with the United Kingdom, unanimously decides to extend that period. The period has been extended twice, last time by European Council Decision (EU) 2019/584[8], which extended it until 31 October 2019. In the absence of a withdrawal agreement with the United Kingdom and of a further extension of the period referred to in Article 50(3) TEU a financial settlement with regard to the financial obligations following from the United Kingdom's membership in the Union needs to be agreed in a future international agreement between the United Kingdom and the Union.

(2) This Regulation is without prejudice to the respective obligations of the Union and the United Kingdom resulting from the whole period of the United Kingdom's membership in the Union.

(3) Council Regulation (EU, Euratom) 2019/1197[9] has laid down rules on the relations between the Union, on the one hand, and the United Kingdom and its beneficiaries, on the other, as regards the financing and implementation of the general budget of the Union ('the budget') in 2019. It is necessary to lay down rules on the relations

[7] Consent of […].

[8] European Council Decision (EU) 2019/584 taken in agreement with the United Kingdom of 11 April 2019 extending the period under Article 50(3)TEU, (OJ L 101, 11.04.2019, p.1).

[9] Council Regulation (EU, Euratom) 2019/1197 of 9 July 2019 on measures concerning the implementation and financing of the general budget of the Union in 2019 in relation to the withdrawal of the United Kingdom from the Union, (OJ L 189, 15.7.2019, p. 1).

between the Union, on the one hand, and the United Kingdom and its beneficiaries, on the other, also as regards the financing and implementation of the budget in 2020.

(4) The Treaties do not provide powers other than those under Article 352 of the Treaty on the Functioning of the European Union (TFEU) and Article 203 of the Treaty establishing the European Atomic Energy Community for the adoption of the measures concerning the implementation and financing of the budget in 2020 in relation to the withdrawal of the United Kingdom from the Union without a withdrawal agreement.

(5) The United Kingdom and persons and entities established in the United Kingdom are participating in a number of Union programmes or actions on the basis of the United Kingdom's membership in the Union. The participation takes place on the basis of agreements with the United Kingdom or persons or entities established in the United Kingdom or decisions in favour of the United Kingdom or persons or entities established in the United Kingdom which constitute legal commitments.

(6) For many of those agreements and decisions, the rules governing the eligibility require the beneficiary to be a Member State or a person or entity established in a Member State. The eligibility of the United Kingdom or persons or entities established in the United Kingdom is in such cases linked to the United Kingdom being a Member State. The withdrawal of the United Kingdom from the Union without a withdrawal agreement therefore entails the loss of eligibility of such recipients of Union financing under the agreements and decisions. However, this does not concern cases where persons or entities established in the United Kingdom would participate in an action under, and subject to the conditions applicable under, the respective Union rules for persons and entities established in a third country.

(7) In case of a withdrawal without a withdrawal agreement, it would be beneficial both for the Union and its Member States and for the United Kingdom and persons and entities established in the United Kingdom to provide for the eligibility in 2020 of the United Kingdom and beneficiaries established in the United Kingdom to receive Union funds and for the participation of the United Kingdom in the financing of the budget for 2020. It would also be beneficial if the legal commitments signed and adopted before the date of withdrawal or in 2019 in application of Article 4 of Regulation (EU, Euratom) 2019/1197, could continue to be executed throughout 2020.

(8) It is therefore appropriate to lay down conditions under which the United Kingdom and persons and entities established in the United Kingdom could continue to be eligible in 2020 with regard to the agreements signed with them and the decisions adopted with regard to them until the date on which the Treaties cease to apply to and in the United Kingdom ('date of withdrawal') or in 2019 in application of Article 4 of Regulation (EU, Euratom) 2019/1197. The following conditions are required for the application of this Regulation: i) the United Kingdom has confirmed the commitment in writing to the Commission to continue to pay a contribution calculated on the basis of the estimated own resources from the United Kingdom as set out in the draft budget for 2020, as proposed on 5 July 2019, and adjusted to take into account the total amount of payment appropriations set out in the adopted budget for 2020; ii) that a first instalment has been paid by the United Kingdom; iii) that the United Kingdom has confirmed the commitment in writing to the Commission to allow audits and controls in full by the Union in compliance with the applicable rules; iv) and that the Commission has adopted the decision pursuant to Article 2(2) of Council Regulation (EU, Euratom) 2019/1197 and has not adopted a decision pursuant to Article 3(2) of

that Regulation. In view of the need for certainty, it is appropriate to limit the time for the fulfilment of the conditions. The Commission should adopt a decision on the fulfilment of the conditions.

(9) The condition as regards the contribution from the United Kingdom should be based on the draft budget for 2020 as proposed for 28 Member States and should be adjusted to take into account the total amount of payment appropriations under the adopted budget. It is reasonable that no Member State should be in a less favourable position as regards their contribution than laid down in the budget for 2020 as proposed, following the adoption of this Regulation. Therefore, to ensure the beneficial effect of this Regulation for all Member States, it is appropriate to deduct a specific amount from the amount of the contribution by the United Kingdom to be entered in the general budget of the Union. Such specific amount should benefit the Member States which would otherwise be at a disadvantage following the adoption of this Regulation, as further specified in dedicated practical arrangements setting out the distribution of the payments due and entrusting the Commission with the disbursement of the specific amount.

(10) As long as the conditions for eligibility of the United Kingdom and persons and entities established in the United Kingdom under this Regulation continue to be fulfilled, it is also appropriate to provide for their eligibility, in 2020, for the purposes of conditions set in calls, tenders, contests or any other procedure which may lead to financing from the Union's budget, with the exception of specific cases related to security and to the loss of membership of the United Kingdom in the European Investment Bank, and to provide Union funding to them. Such Union funding should be limited to eligible expenditure incurred in 2020, except for public procurement contracts signed before the end of 2020 in application of Title VII of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council[10] ('the Financial Regulation'), which continue to be implemented in accordance with their terms, and except for the United Kingdom agricultural direct payment scheme for the claim year 2020, which should be excluded from eligibility. In line with the Financial Regulation, calls, tenders, contests or other procedures, as well as any ensuing agreements with, or decisions in favour of, the United Kingdom or persons or entities established in the United Kingdom, are to stipulate the conditions for eligibility and for continuation thereof by reference to this Regulation.

(11) It is also appropriate to provide that the eligibility of the United Kingdom and persons and entities established in the United Kingdom would continue under the conditions that the United Kingdom continues to pay the contribution for 2020 and that controls and audits can be carried out effectively. Where these conditions are no longer fulfilled, the Commission should take a decision establishing such failure. In such a case, the United Kingdom and persons and entities established in the United Kingdom should cease to be eligible for Union financing.

(12) It is also appropriate to provide for the continuation, in 2020, of eligibility of actions in which Member States or persons or entities established in the Member States receive Union funds and which are related to the United Kingdom. However, the potential non-acceptance by the United Kingdom of controls and audits should

[10] 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).

constitute an element to be taken into account for the purposes of sound financial management when assessing the implementation of such actions.

(13) The actions should continue to be implemented in compliance with the relevant rules governing such actions, including the Financial Regulation. It is therefore, necessary to treat the United Kingdom as a Member State for the purpose of the application of such rules.

(14) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can rather, as they concern the Union budget and programmes and actions implemented by the Union, 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 TEU. 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.

(15) In order to allow for a limited flexibility, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of a possible extension of the deadlines set out in points (a), (b) and (c) of the first subparagraph of Article 2(1), and amendments to the payment schedule. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[11]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts. Where, in the case of a risk of a serious disruption of the implementation and financing of the Union budget in 2020, imperative grounds of urgency so require, the delegated act should enter into force without delay and should apply as long as no objection is expressed by the European Parliament or the Council,

(16) To avoid most significant disruptions for beneficiaries of Union spending programmes and other actions at the date of the withdrawal of the United Kingdom from the Union, 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* and should apply from the day following that on which the Treaties cease to apply to and in the United Kingdom, unless a withdrawal agreement concluded with the United Kingdom has entered into force by that date. Given that this Regulation lays down measures concerning the implementation and financing of the budget of the Union for 2020, it should only apply to the eligibility for the year 2020,

HAS ADOPTED THIS REGULATION:

Article 1
Subject matter and scope

This Regulation lays down rules on the implementation and the financing of the general budget of the Union ('the budget') in 2020 in relation to the withdrawal of the United Kingdom from the Union without a withdrawal agreement and on actions under direct, indirect and shared management for which the eligibility is fulfilled through the membership

[11] OJ L 123, 12.5.2016, p. 1.

of the United Kingdom in the Union at the date on which the Treaties cease to apply to and in the United Kingdom ('date of withdrawal').

This Regulation applies without prejudice to the territorial cooperation programmes covered by Regulation (EU) 2019/491 of the European Parliament and of the Council[12] and to the learning mobility activities under the Erasmus+ programme covered by Regulation (EU) 2019/499 of the European Parliament and of the Council[13].

Article 2
Conditions for eligibility

1. Where the United Kingdom or a person or entity established in the United Kingdom receive Union funds under an action carried out in direct, indirect or shared management pursuant to legal commitments signed or adopted before the date of withdrawal or in 2019 in application of Article 4 of Regulation (EU, Euratom) 2019/1197 and eligibility under that action depends on the membership of the United Kingdom in the Union, they shall continue to be eligible for Union funding for eligible expenditure incurred in 2020 following the date of withdrawal, if the following conditions are met, and as long as no decision as referred to in Article 3(2) has entered into force:

   (a) the United Kingdom, on 1 January 2020 or within [7] calendar days after the entry into force of this Regulation or after the date of its application, whichever is the later, has confirmed in writing to the Commission that it will contribute in euros, in accordance with the payment schedule laid down in this Regulation, the amount resulting from the following formula: UK OR DB2020 + UK GNI key DB2020 x (PA B2020 – PA DB2020);

   (b) the United Kingdom, on 20 January 2020 or within [20] calendar days after the entry into force of this Regulation or after the date of its application, whichever is the later, has paid on the account determined by the Commission the first payment which corresponds to [3.5] twelfths of the amount referred to in point (a);

   (c) the United Kingdom, on 1 January 2020 or within [7] calendar days after the entry into force of this Regulation or after the date of its application, whichever is the later, has confirmed the commitment in writing to the Commission that it will continue to accept the controls and audits which cover the entire period of the programmes and actions in accordance with the applicable rules;

   (d) the Commission has adopted the decision pursuant to Article 2(2) of Regulation (EU, Euratom) 2019/1197 and has not adopted a decision pursuant to Article 3(2) of Regulation (EU, Euratom) 2019/1197; and

   (e) the Commission has adopted the decision referred to in paragraph 4 confirming that the conditions referred to in points (a), (b) and (c) of this subparagraph have been fulfilled.

[12] Regulation (EU) 2019/491 of the European Parliament and of the Council of 25 March 2019 in order to allow for the continuation of the territorial cooperation programmes PEACE IV (Ireland-United Kingdom) and United Kingdom-Ireland (Ireland-Northern Ireland-Scotland) in the context of the withdrawal of the United Kingdom from the Union (OJ L 85I , 27.3.2019, p. 1).

[13] Regulation (EU) 2019/499 of the European Parliament and of the Council of 25 March 2019 laying down provisions for the continuation of ongoing learning mobility activities under the Erasmus+ programme established by Regulation (EU) No 1288/2013, in the context of the withdrawal of the United Kingdom from the Union (OJ L 85I , 27.3.2019, p. 32).

2. For the purposes of the formula set out in point (a) of paragraph 1 the following shall apply:

(a) "UK OR DB2020" shall be the amount displayed in the line 'United Kingdom' and the column 'Total own resources' of table 7 of the part 'A. Introduction and financing of the general budget' of the revenue part of the budget for 2020 set out in the draft budget of the European Union for the financial year 2020, as proposed on 5 July 2019[14];

(b) "UK GNI key DB2020" shall be the amount displayed in the line 'United Kingdom' and the column 'GNI-based own resources' of table 7 of the part 'A. Introduction and financing of the general budget' of the revenue part of the budget for 2020 set out in the draft budget of the European Union for the financial year 2020, as proposed on 5 July 2019, divided by the amount displayed in the line 'Total' of the same column;

(c) "PA B2020 - PA DB2020" shall be the difference between the amount displayed in the line 'Total expenditure' and the column 'Budget 2020' of the table 'Expenditure' of the part 'A. Introduction and financing of the general budget' of the revenue part of the budget of the European Union for the financial year 2020 as adopted, and the amount displayed in the same line and the same column of the same table of the same part of the draft budget of the European Union for the financial year 2020, as proposed on 5 July 2019;

(d) However, if the budget 2020 is not definitively adopted by the date of entry into force of this regulation or by the date of its application, whichever is the later, the "PA B2020 - PA DB2020" shall be zero.

3. The amount referred to in point (a) of paragraph 1, after deduction of the amount of the first payment referred to in point (b) of paragraph 1, shall be broken down into equal instalments. The number of instalments shall correspond to the number of full months between the date of the first payment referred to in point (b) of paragraph 1 and the end of the year 2020.

The amount referred to in point (a) of paragraph 1 shall be entered in the general budget of the Union as other revenue after deduction of a specific amount aiming at ensuring the budgetary distribution as provided in the column 'Total own resources' of the table referred to in point (a) of paragraph 1 and subject to dedicated practical arrangements to that effect.

The commitment referred to in point (c) of the paragraph 1 shall include in particular the cooperation in the protection of the financial interests of the Union and the acceptance of the rights of the Commission, the Court of Auditors and the European Anti Fraud Office to access data and documents relating to Union contributions, and perform controls and audits.

4. The Commission shall adopt a decision on whether the conditions laid down in points (a), (b) and (c) of paragraph 1 have been fulfilled.

5. The Commission is empowered to adopt delegated acts in accordance with Article 7 concerning the extension of the deadlines set in points (a), (b) and (c) of paragraph 1 of this Article.

[14] COM (2019) 400 final of 5 July 2019.

Where, in the case of a risk of serious disruption of the implementation and financing of the Union budget in 2020, imperative grounds of urgency so require, the procedure provided for in Article 8 shall apply to delegated acts adopted pursuant to this paragraph.

Article 3
Continuation of eligibility of United Kingdom and of persons and entities established in the United Kingdom

1. The eligibility of the United Kingdom and persons and entities established in the United Kingdom established in accordance with Article 2 shall continue in the year 2020 as long as the following conditions are fulfilled:

   (a) the United Kingdom has, following the first payment made in accordance with Article 2(1)(b), paid on the account determined by the Commission the monthly instalment referred to in Article 2(3) on the first working day of each month until August 2020;

   (b) the United Kingdom has paid on the account determined by the Commission on the first working day of September 2020 the remaining monthly instalments referred to in Article 2(3), unless the Commission communicates to the United Kingdom a different payment schedule for this payment by 31 August 2020; and

   (c) no significant deficiencies have been observed in the execution of the controls and audits referred to in Article 2(1)(c).

2. Where one or more of the conditions referred to in paragraph 1 are not fulfilled, the Commission shall adopt a decision to that effect. That decision shall be published in the *Official Journal of the European Union*.

   As of the date of entry into force of the decision referred to in the first subparagraph of this paragraph, the United Kingdom and persons and entities established in the United Kingdom shall cease to be eligible under paragraph 1 of this Article, and under Articles 2 and 4, actions shall cease to be eligible under Article 6(2), and Article 5 shall cease to apply.

3. The Commission is empowered to adopt delegated acts in accordance with Article 7 concerning a different payment schedule for the payments referred to in points (a) and (b) of paragraph 1 of this Article.

   Where, in the case of a risk of a serious disruption of the implementation and financing of the Union budget in 2020, imperative grounds of urgency so require, the procedure provided for in Article 8 shall apply to delegated acts adopted pursuant to this paragraph.

Article 4
Participation in calls and eligibility of resulting expenditures

1. As of the date of entry into force of the decision referred to in Article 2(1)(e), and as long as no decision as referred to in Article 3(2) has entered into force, the United Kingdom or persons and entities established in the United Kingdom shall be eligible in 2020 for the purposes of conditions set in any calls, tenders, contests or any other procedure which may lead to financing from the Union's budget to the same extent

as Member States and persons or entities established in the Member States, and be eligible for Union funding for eligible expenditure incurred in 2020.

Notwithstanding the first subparagraph:

(a) contracts signed in application of Title VII of the Regulation (EU, Euratom) 2018/1046 ('the Financial Regulation') until the end of 2020 shall be implemented in accordance with their terms and until their end date;

(b) expenditure in respect of the United Kingdom direct payments scheme for the claim year 2020 pursuant to Regulation (EU) No 1307/2013 of the European Parliament and of the Council[15] shall not be eligible for Union funding.

2. Notwithstanding paragraph 1, the United Kingdom or persons or entities established in the United Kingdom shall not be eligible under Regulation (EU) No 1309/2013 of the European Parliament and of the Council[16], as amended by Regulation XXX, for actions covering workers made redundant and self-employed persons whose activity has ceased as a consequence of a withdrawal without an agreement and under Council Regulation (EC) No 2012/2002[17] establishing the European Union Solidarity Fund, as amended by Regulation XXX, for actions covering serious financial burden inflicted on Member States directly imputable to a withdrawal without a withdrawal agreement.

3. The first subparagraph of paragraph 1 shall not apply:

(a) where the participation is limited to the Member States and persons or entities established in the Member States for security reasons;

(b) to financial operations carried out within financial instruments managed directly or indirectly under Title X of the Financial Regulation or to financial operations guaranteed by the Union budget under the European Fund for Strategic Investments (EFSI) established by Regulation (EU) 2015/1017 of the European Parliament and of the Council[18] or under the European Fund for Sustainable Development (EFSD) established by Regulation (EU) 2017/1601 of the European Parliament and of the Council[19].

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15 Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 (OJ L 347, 20.12.2013, p. 608).

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

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

18 Regulation (EU) 2015/1017 of the European Parliament and of the Council of 25 June 2015 on the European Fund for Strategic Investments, the European Investment Advisory Hub and the European Investment Project Portal and amending Regulations (EU) No 1291/2013 and (EU) No 1316/2013 — the European Fund for Strategic Investments (OJ L 169, 1.7.2015, p. 1).

19 Regulation (EU) 2017/1601 of the European Parliament and of the Council of 26 September 2017 establishing the European Fund for Sustainable Development (EFSD), the EFSD Guarantee and the EFSD Guarantee Fund (OJ L 249, 27.9.2017, p. 1).

Article 5
Other necessary adaptations

If the conditions laid down in Article 2(1) are fulfilled, and as long as no decision as referred to in Article 3(2) has entered into force, for the purpose of the application of any rules governing the actions carried out under the legal commitments referred to in Article 2(1), the calls referred to in Article 4 and the actions carried out under the legal commitments signed or adopted following the calls referred to in Article 4, which are necessary to give effect to Articles 2(1) and 4(1), the United Kingdom shall be treated as a Member State, subject to the provisions of this Regulation.

However, the United Kingdom or United Kingdom representatives shall not be allowed to participate in any committee assisting in the management under the rules of the relevant basic act, or expert groups or other bodies advising on the programmes or on the actions, with the exception of monitoring or similar committees specific for the particular operational, national or similar programmes in shared management.

Article 6

Eligibility of actions that relate to the United Kingdom, where the Member States or persons or entities established in the Member States receive the Union funds

1. Actions under direct, indirect and shared management for which the Member States or persons or entities established in the Member States receive Union funds under legal commitments signed or adopted before the date of withdrawal or in 2019 in application of Article 4 of Regulation (EU, Euratom) 2019/1197 and for which the eligibility is fulfilled through the membership of the United Kingdom in the Union at the date of withdrawal or through the eligibility of the United Kingdom in application of Article 4 of Regulation (EU, Euratom) 2019/1197, shall be eligible for Union funding for eligible expenditure incurred in 2020 as of the date of withdrawal.

2. Actions for which the eligibility condition of a minimum number of participants from different Member States in a consortium is fulfilled at the date of withdrawal through a member of the consortium which is a person or entity established in the United Kingdom, shall be eligible for Union funding for eligible expenditure incurred in 2020 where the conditions of Article 2(1) are fulfilled and as long as no decision as referred to in Article 3(2) has entered into force.

3. The non-fulfilment of the condition referred to in Article 2(1)(c) or a Commission decision as referred to in Article 3(2) concerning the non-fulfilment of conditions referred to in point (c) of Article 3(1), shall be taken into account by the responsible authorising officer for the purposes of assessment of a possible serious deficiency in complying with the main obligations in the implementation of the legal commitment referred to in paragraph 1 of this Article.

Article 7
Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles 2 and 3 shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Regulation.

3. The delegation of power referred to in Articles 2 and 3 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Articles 2 and 3 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of one month of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by one month at the initiative of the European Parliament or of the Council.

Article 8
Urgency procedure

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 7(6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.

Article 9
Transitional provision

By derogation from point (b) of the second subparagraph of Article 4(1) of Regulation (EU, Euratom) 2019/1197, expenditure in respect of the United Kingdom direct payment scheme for the claim year 2019 pursuant to Regulation (EU) No 1307/2013 shall be eligible for Union funding, after the Commission adopted the decision referred to in Article 2(4) of this Regulation, unless it adopts a decision referred to in Article 3(2) of this Regulation.

Article 10
Entry into force and application

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

It shall apply from the date following that on which the Treaties cease to apply to and in the United Kingdom pursuant to Article 50(3) of the TEU.

However, this Regulation shall not apply if a withdrawal agreement concluded with the United Kingdom in accordance with Article 50(2) of the TEU has entered into force by the date referred to in the second paragraph of this Article.

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

Done at Brussels,

For the Council
The President