

Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community

PART FIVE

FINANCIAL PROVISIONS

Chapter 2

***THE UNITED KINGDOM'S CONTRIBUTION TO
AND PARTICIPATION IN THE UNION BUDGET***

Article 143

Contingent financial liabilities related to loans for financial assistance, EFSI, EFSF and the external lending mandate.

1 The United Kingdom shall be liable to the Union for its share of the contingent financial liabilities of the Union arising from financial operations that were:

- a decided upon by the European Parliament and the Council or by the European Commission before the date of entry in force of this Agreement, where such financial operations relate to loans for financial assistance decided in accordance with Council Regulation (EU) No 407/2010⁽¹⁾, Council Regulation (EC) No 332/2002⁽²⁾, or the decisions of the European Parliament and the Council providing macro-financial assistance to various countries on the basis of a provisioning in accordance with Council Regulation (EC, Euratom) No 480/2009⁽³⁾ or Council Regulation (EC, Euratom) No 2728/94⁽⁴⁾;
- b approved before the date of entry into force of this Agreement by the bodies, entities or persons that are directly entrusted with the implementation of financial operations in relation to budgetary guarantees that either were given in favour of the EIB through the EFSI in accordance with Regulation (EU) 2015/1017 or through the external lending mandate in accordance with Regulation (EC, Euratom) No 480/2009 or Regulation (EC, Euratom) No 2728/94 and Decision No 466/2014/EU of the European Parliament and of the Council⁽⁵⁾ or Decision No 1080/2011/EU of the European Parliament and of the Council⁽⁶⁾, or were given in favour of eligible counterparts (EFSF).

On 31 July 2019, the Union shall provide the United Kingdom with a specific report concerning those financial operations, providing, for each type of instrument, information on:

- a the financial liabilities arising from those financial operations on the date of entry into force of this Agreement;
- b where applicable, the provisions held on the date of entry into force of this Agreement in the respective guarantee funds or fiduciary accounts to cover the financial liabilities referred to in point (a) and the respective provisions committed and not yet paid.

In the consolidated accounts of the Union relating to the years 2019 and 2020, the payments made out of the provisions referred to in point (b) of the second subparagraph from the date of entry into force of this Agreement until 31 December 2019 and 2020,

respectively, shall be disclosed for the same financial operations as referred to in this paragraph but which are decided upon on or after the date of entry into force of this Agreement.

The liability of the United Kingdom to the Union in relation to the financial operations referred to in this paragraph shall not be affected by any restructuring of those financial operations. In particular, the financial exposure of the United Kingdom shall not increase, in nominal terms, in comparison with the situation immediately prior to the restructuring.

2 For the financial operations referred to in paragraph 1, the Union shall be liable to the United Kingdom for its share of:

- a any amounts recovered by the Union from defaulting debtors or related to undue payments; and
- b any net revenue resulting from the difference between financial and operational revenues and financial and operational expenses, entered as revenue, general or assigned, in the Union budget.

For revenue of the asset management of the provisioning of instruments having a provisioning, the Union shall calculate a percentage of revenue as the ratio between the net revenue of the asset management of the previous year and the total provisioning existing at the end of the previous year. The amount of the liability toward the United Kingdom for revenue of the asset management of the provisioning shall be the amount obtained by multiplying the United Kingdom's current provisioning as referred to in paragraph 5 by that percentage of revenue.

3 By 31 March 2021, for each instrument referred to in paragraph 1 that provides for provisioning from the Union's budget, the Union shall communicate to the United Kingdom:

- a its initial provisioning, calculated as the United Kingdom's share of the sum of:
 - (i) the provisions made in the corresponding guarantee fund by 31 December 2020;
 - (ii) the amount of provisions committed and not yet paid by 31 December 2020; and
 - (iii) the payments made from the date of entry into force of this Agreement until 31 December 2020 related to financial operations decided upon on or after the date of entry into force of this Agreement; and
- b its default provisioning rate, calculated as the ratio between the United Kingdom's initial provisioning for that instrument and the amount of the financial operations referred to in paragraph 1 as at 31 December 2020 decided upon before the date of entry into force of this Agreement.

4 On 31 March of each year, starting in 2021, until the amortisation, expiry or termination of the financial operations referred to in paragraph 1, the Union shall communicate to the United Kingdom information concerning those financial operations. The information shall contain, for each type of instrument:

- a the contingent liabilities outstanding at 31 December of the preceding year;
- b the payments made in the preceding year by the Union in relation to those financial operations and the amounts of such payments that have accumulated after 31 December 2020;
- c the United Kingdom's current provisioning and its current provisioning rate as set out in paragraph 5;

- d the reimbursements made to the United Kingdom in the preceding year in accordance with point (a) of paragraph 6 and the amounts of such reimbursements that have accumulated after 31 December 2020;
- e the amounts recovered and the net revenues entered in the Union budget as referred to in paragraph 2 for the preceding year;
- f if necessary, other useful information concerning the financial operations in the preceding year.

5 By 31 March of each year, for each instrument referred to in paragraph 1, where the basic act establishes provisioning from the Union budget, the Union shall:

- a calculate the United Kingdom's current provisioning, defined as the amount of the United Kingdom's initial provisioning reduced by:
 - (i) the United Kingdom's share of the accumulated payments referred to in point (b) of paragraph 4 made from the Union budget after 31 December 2020 in relation to financial operations decided upon before the date of entry into force of this Agreement;
 - (ii) the United Kingdom's share of the amount of decommitments made in the previous years on the outstanding commitments referred to in point (a)(ii) of paragraph 3 of this Article, as communicated pursuant to Article 140(3);
 - (iii) the accumulated level of reimbursements made to the United Kingdom as of 1 January 2021, as referred to in point (d) of paragraph 4;
- b communicate to the United Kingdom the current provisioning rate defined as the ratio between the United Kingdom's current provisioning and the amount of financial operations referred to in point (a) of paragraph 4.

6 Every year from 2022 onwards:

- a if the United Kingdom's current provisioning rate for an instrument exceeds its default provisioning rate for that instrument, the Union shall be liable to the United Kingdom for that instrument for the amount obtained by multiplying the amount of the financial liabilities referred to in point (a) of paragraph 4 by the difference between the current provisioning rate and the default provisioning rate. The Union's liability shall not exceed the United Kingdom's current provisioning as calculated in paragraph 5;
- b if, in a given year, the United Kingdom's current provisioning rate for an instrument becomes negative, the United Kingdom shall be liable to the Union for that instrument for the amount of the negative current provisioning. In the following years, the United Kingdom shall be liable to the Union for that instrument for its share of the payments made as communicated in accordance with point (b) of paragraph 4 of this Article and the United Kingdom's share of the amount of decommitments made in the previous year on the outstanding commitments referred to in point (a)(ii) of paragraph 3 of this Article, as communicated pursuant to Article 140(3).

7 If the United Kingdom's current provisioning is positive once the Union's financial operations related to an instrument referred to in paragraph 1 are extinguished, the Union shall be liable to the United Kingdom for the amount of the United Kingdom's current provisioning as calculated in accordance with paragraph 5.

8 After 31 December 2020, if payments are made from the Union budget for the financial operations referred to in paragraph 1 in relation to an instrument for which the basic act does not establish provisioning, the United Kingdom shall be liable to the Union for that instrument for its share of the payments made as communicated in accordance with point (b) of paragraph 4.

9 For the purposes of this Article, where financial liabilities, payments, recoveries or other amounts relate to financial operations referred to in paragraph 1 but it cannot be directly determined whether they arise from a particular financial operation as a result of the application of risk mutualisation or subordination mechanisms, the relevant financial liabilities, payments, recoveries or other amounts that are required to be determined for the application of this Article shall be calculated on a pro-rata basis based on the ratio between the amount of financial operations decided upon or approved before the date of entry into force of this Agreement on 31 December of the year before the calculation is made and the total amount of financial operations on the latter date.

10 Where financial operations as referred to in paragraph 1 are non-amortising, such financial operations shall be considered after 10 years as amortising in proportion to the amortisation of the remaining amortising operations.

- (1) Council Regulation (EU) No 407/2010 of 11 May 2010 establishing a European financial stabilisation mechanism ([OJ L 118, 12.5.2010, p. 1](#)).
- (2) Council Regulation (EC) No 332/2002 of 18 February 2002 establishing a facility providing medium-term financial assistance for Member States' balances of payments ([OJ L 53, 23.2.2002, p. 1](#)).
- (3) Council Regulation (EC, Euratom) No 480/2009 of 25 May 2009 establishing a Guarantee Fund for external actions ([OJ L 145, 10.6.2009, p. 10](#)).
- (4) Council Regulation (EC, Euratom) No 2728/94 of 31 October 1994 establishing a Guarantee Fund for external actions ([OJ L 293, 12.11.1994, p. 1](#)).
- (5) Decision No 466/2014/EU of the European Parliament and the Council of 16 April 2014 granting an EU guarantee to the European Investment Bank against losses under financing operations supporting investment projects outside the Union ([OJ L 135, 8.5.2014, p. 1](#)).
- (6) Decision No 1080/2011/EU of the European Parliament and of the Council of 25 October 2011 granting an EU guarantee to the European Investment Bank against losses under loans and loan guarantees for projects outside the Union and repealing Decision No 633/2009/EC ([OJ L 280, 27.10.2011, p. 1](#)).