

COMMISSION IMPLEMENTING DECISION (EU, Euratom) 2022/2544**of 19 December 2022****establishing the arrangements for the administration and implementation of the EU borrowing and debt management operations under the diversified funding strategy and related lending operations**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to 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 ⁽¹⁾, and in particular Article 220a thereof,

Whereas:

- (1) Regulation (EU, Euratom) 2022/2434 of the European Parliament and of the Council ⁽²⁾ amended Regulation (EU, Euratom) 2018/1046 (the 'Financial Regulation') by establishing the diversified funding strategy as a single funding method for the implementation of borrowing and debt management operations carried out by the Commission. Article 220a of the Financial Regulation is to apply to programmes of financial assistance for which the basic acts enter into force on or after 9 November 2022. The diversified funding strategy is not to apply to existing programmes, under which borrowing and lending operations should continue to be carried out under the traditional back-to-back method, in accordance with Article 220 of the Financial Regulation. The back-to-back method might also apply, by way of exception, to new financial assistance programmes and shall apply to any Euratom programmes.
- (2) Pursuant to Article 220a of the Financial Regulation, the Commission is to establish the necessary arrangements for the implementation of the diversified funding strategy. These arrangements should comprise a governance framework, risk management procedures and a cost allocation methodology, which should ensure that all costs incurred by the Union that relate to financial assistance are to be borne by the beneficiary country. It is therefore necessary to establish the arrangements applicable to borrowing and debt management operations carried out by the Commission under the diversified funding strategy and to the related lending operations.
- (3) The Commission has applied for the first time the diversified funding strategy to borrowing operations in the context of NextGenerationEU ('NGEU'), the Union's temporary instrument to support the economic recovery from the COVID-19 crisis. This has allowed the successful mobilisation of funds for non-repayable support and loans under Regulation (EU) 2021/241 of the European Parliament and of the Council ⁽³⁾ and other Union programmes referred to in Article 2(2) of Council Regulation (EU) 2020/2094 ⁽⁴⁾.

⁽¹⁾ OJ L 193, 30.7.2018, p. 1.

⁽²⁾ Regulation (EU, Euratom) 2022/2434 of the European Parliament and of the Council of 6 December 2022 amending Regulation (EU, Euratom) 2018/1046 as regards the establishment of a diversified funding strategy as a general borrowing method (OJ L 319, 13.12.2022, p. 1).

⁽³⁾ Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility (OJ L 57, 18.2.2021, p. 17).

⁽⁴⁾ Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ L 433 I, 22.12.2020, p. 23).

- (4) The governance model and the processes needed for the implementation of the diversified funding strategy under NGEU have been established in accordance with Commission Implementing Decision C(2021) 2502 ⁽⁵⁾. These arrangements include among others a governance framework, risk management and compliance procedures. A cost allocation methodology was developed in Commission Implementing Decision (EU) 2021/1095 ⁽⁶⁾. It is appropriate to base the arrangements for the implementation of the diversified funding strategy pursuant to Article 220a of the Financial Regulation on the governance model for NGEU.
- (5) Although this Decision should apply mainly to operations carried out under the diversified funding strategy, it is appropriate to extend some of the arrangements laid down therein to operations carried under the back-to-back method. This approach would ensure consistency across the different programmes, to the extent applicable. It would also guarantee that all operations are covered by the highest standard of rules, in accordance with the principle of sound financial management. This should be the case for arrangements relating to risk management and compliance procedures.
- (6) An annual borrowing decision should set out the elements of the planned borrowing operations under the diversified funding strategy over a period of one year. In particular, it should determine the dimensions of the borrowing and debt management operations to be undertaken with a view to framing the overall exposure of the Union's budget and of loan beneficiaries. To this end, it should set a range for maximum issuance amounts of long-term funding for all purposes, a maximum outstanding amount of short-term funding, the maximum average maturity of the Union's long-term funding, a limit for the final outstanding amount per issuance and, if applicable, the maximum amount of Commission issuances which can be held on its own account and can be used as an additional funding source or to support the secondary market.
- (7) In order to ensure that the required funds are available to meet commitments under the related financial assistance programmes as they fall due for payment, borrowing and debt management operations under the diversified funding strategy should be undertaken on the basis of biannual funding plans. The funding plans would frame those operations during this period by reference to the payments that must be made to implement the related programmes. The establishment of the funding plan should therefore ensure a direct link to the payment needs to satisfy the expenditure commitments that have been entered into under the corresponding basic acts. The funding plan should be established based on the limits set out in the annual borrowing decision. The funding plan is the basis to inform market participants of the indicative funding plans in the period ahead.
- (8) By fixing an indicative maximum amount of borrowing covering, as a rule, a period of six months, and establishing certain other key parameters of the planned operations, the funding plan would also ensure higher predictability of issuances, while maintaining flexibility and providing for transparency in the markets. The targeted investor base needs information about upcoming issuances and an indication on the timing to prepare investment planning on their side.
- (9) The annual borrowing decision and the funding plan should serve as a basis for information by the Commission to the European Parliament and the Council in accordance with Article 220a(2) of the Financial Regulation, as well as for communication to the markets and to the public. Furthermore, the Commission should report to the European Parliament and the Council about all aspects of its borrowing and debt management strategy, in a comprehensive manner and on a regular basis, pursuant to Article 220a(2) of the Financial Regulation.
- (10) The definition of accurate and meaningful funding plans under the diversified funding strategy depends on the regular and timely communication of information by authorising officers responsible for the implementation of the financial assistance programmes within the time frames and amounts for expected payment approvals. This information should be communicated to the Directorate-General for the Budget, as the service responsible for the definition and implementation of the funding plans, through the Commission financial forecasting tool.

⁽⁵⁾ Commission Implementing Decision of 14 April 2021 establishing the necessary arrangements for the administration of the borrowing operations under Council Decision (EU, Euratom) 2020/2053 and for the lending operations related to loans granted in accordance with Article 15 of Regulation (EU) 2021/241 of the European Parliament and of the Council.

⁽⁶⁾ Commission Implementing Decision (EU) 2021/1095 of 2 July 2021 establishing the methodology for allocating costs related to borrowing and debt management operations under NextGenerationEU (OJ L 236, 5.7.2021, p. 75).

- (11) The diversified funding strategy should seek to obtain the most advantageous financial conditions for the Union, through the sound planning and smooth execution of transactions on the best possible terms in the prevailing market conditions. Given the need to raise funding in order to allow disbursements to be made to the respective programmes, the Commission has limited discretion as regards the timing of market transactions. The diversified funding strategy would equip the Commission with a wider range of funding techniques, including short-term financing, allowing it to reduce market execution risk when required to raise funds in more adverse market circumstances.
- (12) Funding instruments under the diversified funding strategy should include, inter alia, a variety of benchmark bonds and EU-Bills. Borrowing operations under the diversified funding strategy should be organised as auctions, syndicated transactions or private placements, whichever is most appropriate given the size and nature of the operations.
- (13) The diversified funding strategy should include the ability to issue short-term instruments and maintain a liquidity buffer, enabling the Commission to absorb mismatches in timing between borrowing and disbursements, and to meet a disbursement request in case of adverse funding conditions. Short-term borrowing operations via EU-Bills should be implemented through regular auctions to provide flexibility and efficiency. Those auctions should be organised in such a manner as to ensure a transparent and predictable issuer status of the Union and an equal treatment of participants.
- (14) Debt management operations under the diversified funding strategy enable better management of interest rate and other financial risks. It is therefore appropriate to allow the use of derivatives such as swaps to manage interest rate or other financial risks in relation to loans for the beneficiary countries, while always respecting the principle of budgetary balance, or enter into secured or unsecured money market transactions with debt management offices of Member States, supranational institutions, national public sector agencies, credit institutions and investment firms with an appropriate credit standing or central counterparties. In this context, the Commission should also be authorised to buy back and/or hold its own bonds for the purposes of liquidity management and supporting liquidity in the market for EU bonds.
- (15) Lending operations should be carried out in accordance with the relevant basic act and the corresponding loan agreements. It is appropriate to lay down minimum conditions under which loans are disbursed. It should also be ensured that beneficiary countries bear all costs related to the loan incurred by the Union in accordance with a methodology laid down by the Commission in a separate decision complemented by detailed guidelines for calculating such costs.
- (16) Beneficiary countries should be offered the possibility to request the Commission to arrange loans at a fixed hedging of interest rate. This would require the Commission to use financial instruments such as interest rate swaps in order to offer fixed rate loans. The costs for managing risks with derivatives should be borne by the beneficiary country.
- (17) Borrowing operations under existing financial assistance programmes are carried out under the 'EU-Euratom Debt Issuance Programme' established in 2019 and updated in 2021 (the 'Debt Issuance Programme'). This includes, inter alia, an Offering Circular containing all the required information to the markets according to the applicable legislation, and operational and contractual arrangements with counterparties that are instrumental to borrowing activities. Borrowing operations under the diversified funding strategy should be carried out under the Debt Issuance Programme, following the introduction of the necessary amendments in the existing documentation.
- (18) In order to implement borrowing and debt management operations under the diversified funding strategy, appropriate operational capacities should be established, including transaction settlement capacities, an auction platform, and the possibility to have recourse to repurchase transactions and swaps.
- (19) In order to carry out borrowing and debt management operations under the diversified funding strategy and related lending operations, the Commission should open dedicated accounts exclusively for the purpose of these operations. The same considerations as for the accounts for NGEU operations should apply to these accounts. In particular, to address the liquidity risk stemming from these operations, secure and purpose-specific prudential cash holdings for payments should be established. The requirement to hold such a dedicated prudential cash buffer represents an integral and indispensable part of the risk management approach for a diversified funding strategy. In order to

ensure that these critical cash holdings are not subject to any counterparty risk arising from failure of the institution with whom these reserves are kept, it is imperative that these prudential cash holdings be held with a central bank. Those cash holdings should be held in a dedicated account with the ECB and should be kept to the lowest level needed to meet upcoming payments during a short-term period, but may vary in amount as a function of the issuance and disbursement schedule. A contract on fiscal agency services should be concluded with the ECB allowing the coverage of the related costs.

- (20) Furthermore, a risk management and compliance framework for borrowing, debt management and lending operations should ensure the protection of the financial interests of the Union and ensure that all activities are conducted in a manner consistent with the highest standards of integrity, probity and sound financial and risk management. In that respect, the role of Chief Risk Officer previously established under Commission Decision C(2021) 2502 should be extended to apply to all operations under the diversified funding strategy under this Decision. The Chief Risk Officer should be supported by the Risk and Compliance Committee in the fulfilment of her or his tasks.
- (21) The Chief Risk Officer, in accordance with best practices and recognised international standards should draw up a High Level Risk and Compliance Policy that contains risk and compliance guidelines for the implementation of the operations in full independence.
- (22) In particular, the Chief Risk Officer should ensure that operations comply with the High Level Risk and Compliance Policy and that risks related to these operations are identified, understood, managed, and reported to the Chief Risk Officer. In carrying out those tasks, the Chief Risk Officer should be supported by a Compliance Officer, who should report directly to the Chief Risk Officer on matters regarding conformity with rules, procedures and prevention of money laundering and terrorist financing.
- (23) To ensure that arrangements applicable to all operations implemented through the diversified funding strategy are uniform, it is appropriate to repeal Decision C(2021) 2502.
- (24) To ensure that the upcoming borrowing operations under the instrument to provide support to Ukraine ⁽⁷⁾ will benefit from the diversified funding strategy, this Decision 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*,

HAS ADOPTED THIS DECISION:

CHAPTER 1

SUBJECT MATTER AND DEFINITIONS

Article 1

Subject matter and scope

1. This Decision establishes the arrangements for the implementation of the diversified funding strategy for borrowing and debt management operations within the scope of Article 220a of the Financial Regulation, as well as to the related lending operations.
2. Chapter 4 shall also apply to borrowing and lending operations carried out according to the back-to-back method.

⁽⁷⁾ Regulation (EU) 2022/2463 of the European Parliament and of the Council of 14 December 2022 establishing an instrument for providing support to Ukraine for 2023 (macro-financial assistance +) (OJ L 322, 16.12.2022. p. 1).

*Article 2***Definitions**

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

- (1) 'borrowing operations' means operations on the markets, in particular debt issuances to borrow, including roll-over borrowing;
- (2) 'debt management operations' means market operations related to the debt resulting from the borrowing operations to optimise the structure of outstanding debt, to mitigate interest rate, liquidity and other financial risks and operations to support secondary market liquidity;
- (3) 'lending operations' means operations related to the implementation of loans and credit lines for financial assistance under Article 220 of the Financial Regulation;
- (4) 'disbursement' means the passing of proceeds obtained through borrowing and debt management operations to finance repayable or non-repayable support to a beneficiary;
- (5) 'programme authorising officer' means the authorising officer responsible, in accordance with Annex I to the Internal Rules established by Commission Decision C(2018) 5120 ⁽⁸⁾, for the implementation of the budget lines of a financial assistance programme and a programme financed under Article 2(2) of Regulation (EU) 2020/2094, in so far as it implements measures referred to in Article 1(2) of that Regulation;
- (6) 'swap' means swap as defined in Section 1, point 10, of Annex III to Commission Delegated Regulation (EU) 2017/583 ⁽⁹⁾;
- (7) 'derivatives' means derivatives as defined in Article 2(5) of Regulation (EU) No 648/2012 of the European Parliament and of the Council ⁽¹⁰⁾;
- (8) 'repurchase transaction' or 'reverse repurchase transaction' mean repurchase transaction or reverse repurchase transaction as defined in Article 3(9) of Regulation (EU) 2015/2365 of the European Parliament and of the Council ⁽¹¹⁾;
- (9) 'buy-sell back transaction' or 'sell-buy back transaction' mean buy-sell back transaction and sell-buy back transaction as defined in Article 3(8) of Regulation (EU) 2015/2365;
- (10) 'syndicated transaction' means a transaction whereby financing is offered by a group of lenders, referred to as a syndicate, to a single borrower;
- (11) 'auction' means the issuance process of the Union and Euratom debt securities based on competitive bids through an auction platform;
- (12) 'long-term funding' means funding by borrowing operations for a term of more than one year, excluding the amounts held on own account;
- (13) 'short-term funding' means funding by borrowing operations for a term below or equal to one year and the use of unsecured money market transactions and secured money market transactions using securities held on own account.

⁽⁸⁾ Commission Decision C(2018) 5120 final of 3 August 2018 on the Internal Rules on the implementation of the general budget of the European Union (European Commission section) for the attention of the Commission departments.

⁽⁹⁾ Commission Delegated Regulation (EU) 2017/583 of 14 July 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on transparency requirements for trading venues and investment firms in respect of bonds, structured finance products, emission allowances and derivatives (OJ L 87, 31.3.2017, p. 229).

⁽¹⁰⁾ Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).

⁽¹¹⁾ Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012 (OJ L 337, 23.12.2015, p. 1).

CHAPTER 2

BORROWING, DEBT MANAGEMENT AND LENDING OPERATIONS

SECTION 1

Funding strategy

Article 3

Annual borrowing decision

1. The Commission shall adopt a framework borrowing decision which sets the maximum limits for the borrowing operations and debt management operations, which shall cover a period of one year ('annual borrowing decision').
2. The annual borrowing decision shall set out the following funding parameters:
 - (a) the maximum annual amount of long-term funding based on expected volumes of planned disbursements and of refinancing needs;
 - (b) the maximum outstanding amount of short-term funding, including through the issuance of EU-Bills, the use of unsecured money market transactions, based on the expected needs for liquidity management, temporary funding and, where relevant, the use of secured money market transactions using own issuances held on own account including to support the secondary market in EU bonds;
 - (c) the maximum final outstanding amount per issuance reflecting the concentration risk at maturity;
 - (d) the maximum average maturity of long-term funding;
 - (e) if appropriate, the maximum outstanding amount of own issuances which can be held on the Commission's own account and can be used for secured money market transactions or to support the secondary market in EU bonds.
3. The following factors shall be taken into consideration for the preparation of the annual borrowing decision:
 - (a) the requirements stemming from the underlying basic acts, in particular basic acts referred to in Article 220(1) of the Financial Regulation;
 - (b) the payment obligations to service outstanding debt and repayment of the principal, in accordance with the annual work programme and taking into account the financial programming;
 - (c) the compatibility with the limits set out in the Decision (EU, Euratom) 2020/2053 and, as appropriate, Council Regulation (EU, Euratom) 2020/2093 ⁽¹²⁾, and with the limits of maximum duration or maximum average maturity set out in the underlying basic act. In respect of NGEU, those limits shall be those set out in Article 6 of Decision (EU, Euratom) 2020/2053 for the additional own resources ceiling of 0,6 percentage points of the Member States' GNIs, and, for the case of planned repayment of borrowing from the Union's budget, with the limit set out in Article 5(2), third subparagraph, of that Decision;
 - (d) the loan maturities set out in the loan agreements concluded between the Commission and the beneficiary country;
 - (e) other factors relevant for the determination of the borrowing and debt management operations.
4. The annual borrowing decision shall be adopted before the commencement of the period covered by it.

⁽¹²⁾ Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027 (OJ L 433 I, 22.12.2020, p. 11).

5. The annual borrowing decision may be amended in particular in case of serious risk that the maximum average maturity could not be respected for reason of under-execution of issuances of the amounts of long-term funding or in case of the change to one or more factors referred to in paragraph 3.
6. The Commission shall communicate the annual borrowing decision to the European Parliament and the Council.

Article 4

Funding plan

1. The funding plan shall fix an indicative target for the funds to be raised through borrowing operations and managed through debt management operations, which shall cover as a rule a period of six months.
2. The funding plan shall indicate the planned borrowing operations and, as the case may be, debt management operations, to be carried out under the diversified funding strategy. Within the limits set out in the annual borrowing decision and taking into account the factors referred to in Article 3(3) and financial conditions in the primary and secondary market, the funding plan shall include, inter alia, the following funding parameters:
 - (a) the maximum expected amount of short-term and long-term funding for the period;
 - (b) the weighted maximum average maturity of long-term funding to be undertaken;
 - (c) an upper bound on the expected average liquidity to be available as reserve to meet payment needs for the planned period;
 - (d) if appropriate, the maximum outstanding amount of own issuances which can be held on the Commission's own account and can be used for secured money market transactions or to support the secondary market.

When establishing the funding plan, the opinion of the Chief Risk Officer referred to in Article 18(2)(a) shall be duly taken into account.

3. The funding plan shall be adopted before the commencement of the period covered by it.
4. The funding plan may be amended in case of substantial change to one or more factors referred to in Article 3(3).
5. On the basis of the adopted funding plan, the Commission shall inform the European Parliament and the Council.

Article 5

Communication of projected disbursement needs for the purposes of preparing and implementing the funding plan

1. The funding plan shall be established on the basis of up-to-date information, to be provided to the Directorate-General for the Budget by programme authorising officers, regarding the schedule of expected payments over the course of the six months period in question. The information provided shall be to the extent possible accurate and reliable.
2. One month before the adoption of the funding plan, programme authorising officers shall provide a detailed projection of disbursement needs for the respective programmes.
3. Programme authorising officers shall provide to the extent possible regular, accurate and reliable updates of the information provided in respect of projected disbursements, including changes in timelines for completion of procedures for payment approvals.
4. Programme authorising officers shall use the electronic system for the communication and updating of information on projected disbursement needs for the transmission of the information on payment forecasts provided for in Article 11(2)(h) for the purposes of communicating information required under paragraphs 1 to 3 of this Article.

*Article 6***Implementation of the borrowing operations and debt management operations**

1. The individual borrowing operations shall be undertaken in line with the latest applicable update of the funding plan for the period in question.

Based on the regular updates, provided under Article 5(3), of the information regarding the amounts and expected timing for approval of disbursements from programme authorising officers, the Director-General of the Directorate-General for the Budget shall issue regular instructions regarding the amounts to be raised through debt issuance.

2. The instructed amounts shall be raised by applying the diversified funding strategy defined in Article 7 while respecting the funding parameters of the funding plan set out in Article 4(2).

The borrowing operations and debt management operations shall respect the principle of sound financial management, which comprises the appropriate segregation of roles and responsibilities, information and reporting flows aimed at guaranteeing the independent oversight and accountability, and the legality and regularity of all transactions. Those operations shall be carried out in accordance with best practice in the market and respecting market conventions.

*Article 7***Diversified funding strategy**

1. In implementing the diversified funding strategy, the Commission services shall apply the following principles, as appropriate, in full respect of the principle of sound financial management, to borrow the required funding to meet in due time the needs of the relevant programmes for repayable and non-repayable support, and to manage the resulting debt as efficiently and expeditiously as possible, while seeking to obtain the most advantageous financial conditions under the prevailing market conditions for the Union budget and beneficiary countries, and aiming at regular capital market presence:

- (a) borrowing operations and debt management operations may be conducted on the primary market, on the secondary market and on money markets;
- (b) borrowing operations shall be organised through a set of individual borrowings of different maturities, ranging from short-term to long-term funding;
- (c) borrowing operations may be organised through a mix of syndicated transactions and auctions, and private placements, in both cases relying on the services of credit institutions and investment firms who are members of the primary dealers network established under Commission Decision (EU, Euratom) 2021/625 ⁽¹³⁾;
- (d) the resulting debt may be rolled-over for the sake of maturity management;
- (e) cash flow mismatches and liquidity risk shall be managed through measures of short-term liquidity management of amounts held on a dedicated account using secured and unsecured money market transactions.

2. Where required to ensure a better management of interest rate and other financial risks arising in the execution of the diversified funding strategy, the Commission services may also use debt management operations that may consist of using derivatives such as swaps to manage interest rate or other financial risks, or may imply entering into secured or unsecured money market transactions with debt management offices of Member States, supranational institutions, national public sector agencies, credit institutions and investment firms with an appropriate credit standing and central counterparties. For this purpose, the Commission services may buy back and hold its own bonds. In particular, swaps may only be used for the hedging of interest rate risks borne by countries benefitting from loans. The costs for managing risks with derivatives shall be borne by the beneficiary of the risk management operation.

⁽¹³⁾ Commission Decision (EU, Euratom) 2021/625 of 14 April 2021 on the establishment of the primary dealer network and the definition of eligibility criteria for lead and co-lead mandates for syndicated transactions for the purposes of the borrowing activities by the Commission on behalf of the Union and of the European Atomic Energy Community (OJ L 131, 16.4.2021, p. 170).

SECTION 2

Lending operations

Article 8

Lending operations

The implementation of lending operations shall be carried out in accordance with the specific rules laid down in the relevant basic act, as well as the conditions laid down in the loan agreements concluded between the Commission and the beneficiary country in accordance with the relevant basic act.

Article 9

Disbursements and acceleration of the loan

The disbursement of loan instalments or tranches shall be done as efficiently and expeditiously as possible, subject to availability of funding. The loan agreements shall contain an unconditional and irrevocable commitment of the beneficiary country to bear all costs related to the borrowing, including administrative costs, and to repay the principal amount and interests and may allow the use of derivatives, in particular swaps.

Loan agreements under Regulation (EU) 2021/241 shall contain an acceleration clause that entitles the Commission to ask for early repayment of the loan, inter alia, in accordance with Articles 22(5) and 24(9) of Regulation (EU) 2021/241 and for recovery of pre-financing not cleared.

Article 10

Costs of the loan

All costs, inclusive those associated with the management of interest rate and other financial risks, incurred by the Union in relation to the borrowing of funds for the loans shall be borne by the beneficiary countries, in accordance with Article 220 of the Financial Regulation and the relevant basic acts and shall be calculated according to a methodology laid down by the Commission in Commission Implementing Decision (EU, Euratom) 2022/2545 ⁽¹⁴⁾, complemented by specific guidelines, in full respect of the principles of transparency and equal treatment.

Any costs incurred by the Union for derivatives shall be borne by the beneficiary country.

The costs shall be regularly invoiced to the beneficiary country.

SECTION 3

Implementation and reporting

Article 11

Establishment of operational capacities

1. The implementation of the borrowing and debt management operations under the diversified funding strategy and the related lending operations shall incorporate the establishment and management of the operational capacities ensuring that the systems put in place uphold sound financial management and are subject to robust risk management and documentation of processes and decisions.

⁽¹⁴⁾ Commission Implementing Decision (EU, Euratom) 2022/2545 of 19 December 2022 on establishing the framework for allocating costs related to borrowing and debt management operations under the diversified funding strategy (see page 123 of this Official Journal).

2. These operational capacities shall in particular include:
- (a) negotiating, reviewing and signing of agreements with public or private credit institutions and national or international central securities depositories required for the conclusion of transaction settlement;
 - (b) reviewing, amending, changing, redrafting and finalising the borrowing documentation, including the documentation under the Debt Issuance Programme;
 - (c) establishing arrangements and rules for the organisation of auctions, including agreements with external providers of systems and constant oversight of the performance of auctions;
 - (d) implementing individual borrowing transactions through syndicated transactions, auctions and private placements;
 - (e) calculating costs incurred in accordance with the methodology to be laid down by the Commission in specific guidelines to be charged to the Union's budget and to the beneficiary countries in the context of lending operations;
 - (f) establishing arrangements and negotiating, reviewing and signing of agreements, including agreements with counterparties and trading system providers, required for conducting the following transactions and instruments:
 - (i) repurchase transactions or reverse-repurchase transactions, buy-sell back transactions or sell-buy back transactions and other transactions giving rise to liabilities;
 - (ii) derivatives, such as swaps, for the purpose of management and hedging of risks for the sole purpose of loans.
 - (g) carrying out secondary market transactions, unsecured and secured money market transactions, including those referred to in points (f)(i) and (ii) above;
 - (h) establishing and managing the electronic system for the communication and updating of information on projected disbursements needs referred to in Article 5(4).

Article 12

Reporting on the implementation of borrowing, debt management and lending operations

The Commission shall establish a report twice per year on all aspects of its borrowing and debt management strategy, such as legal basis, outstanding amounts of bonds and bills, maturity profile, disbursed grants and loans, repayment schedule of the disbursed loans, cost of funding and the amount that the Commission intends to issue in the coming semester. The report shall be submitted to the European Parliament and the Council.

CHAPTER 3

ACCOUNTING AND THE ACCOUNTING OFFICER

Article 13

Account for management of proceeds

1. The proceeds related to the borrowing, debt management and lending operations shall be managed through an account opened by the Commission's Accounting Officer. The Accounting Officer shall delegate the management of this account to relevant services in the Directorate-General of the Budget who shall manage it in line with the rules, principles and procedures set out in this Decision.
2. The account shall be held with the ECB on the basis of a contract on fiscal agency services. It shall be used for dedicated prudential cash holdings which shall be adapted to the amounts of upcoming payments.

*Article 14***Accounting for borrowing, debt management and lending operations**

The Accounting Officer shall be responsible for ensuring the appropriate accounting for all borrowing, debt management and lending operations in accordance with the Union accounting rules and with Title XIII of the Financial Regulation.

*Article 15***Establishment of financial statements**

1. The Accounting Officer shall be responsible for the preparation of annual financial statements in respect of the borrowing, debt management and lending operations in accordance with the Union accounting rules and based on the information supplied by the programme authorising officers.
2. These financial statements shall be part of the consolidated annual accounts of the Union budget.

CHAPTER 4

RISK MANAGEMENT AND COMPLIANCE*Article 16***Role of Chief Risk Officer for borrowing, debt management and lending operations**

1. There shall be a Chief Risk Officer for borrowing, debt management and lending operations, whose powers and functions are laid down in the present decision.
2. The role of Chief Risk Officer is to ensure that the systems and processes used to implement the borrowing, debt management and lending operations are designed and implemented in a manner that ensures to the greatest extent possible the protection of the financial interests of the Union and the sound financial management of the borrowing, debt management and lending operations.
3. The role of Chief Risk Officer shall be exercised independently of the functions and tasks related to the planning, implementation, execution and accounting for operations. The Chief Risk Officer shall enjoy autonomy in carrying out the tasks and responsibilities described in this Chapter and shall be provided with the necessary resources.
4. The Chief Risk Officer shall report directly to the Member of the College responsible for the Budget with respect to the responsibilities set out in this Chapter.
5. A staff member entrusted with the role of Compliance Officer shall report directly to the Chief Risk Officer on matters set out in Article 17(4).

*Article 17***Establishment of a High Level Risk and Compliance Policy**

1. The Chief Risk Officer shall draw up a High Level Risk and Compliance Policy that shall identify the principal risks to the financial interests of the Union arising from the implementation of the borrowing, debt management and lending operations. In this context, the Chief Risk Officer shall take into account the principles for risk recognition and assessment, according to which an effective internal control system identifies and continuously assesses the principal risks.
2. The High Level Risk and Compliance Policy shall set the strategic risk objectives and shall provide the overarching framework for the risk management guidelines applicable to borrowing, debt management and lending operations.

3. The High Level Risk and Compliance Policy shall identify all associated risks, including liquidity, market, funding, credit, counterparty and operational risks, arising from the implementation of the borrowing, debt management and lending operations. The High Level Risk and Compliance Policy shall set for each risk the high-level risk appetite, the general methodologies to measure the risk exposure, the monitoring and reporting requirements as well as the escalation mechanism to be taken in case of breaches or non-compliance. It shall verify the solidity of procedures needed to ensure the probity, integrity and transparency of those operations and shall limit any financial or operational risk appropriately.
4. The High Level Risk and Compliance Policy shall include the following rules and procedures:
 - (a) rules and procedures to be respected by persons who are responsible for the operational implementation and execution of the diversified funding strategy, and;
 - (b) rules and procedures to prevent money laundering, terrorist financing, execution of borrowing, debt management and lending operations by entities incorporated in or established in jurisdictions listed under the relevant policy on non-cooperative jurisdictions or that are identified as high-risk countries pursuant to Article 9(2) of Directive (EU) 2015/849 of the European Parliament and of the Council⁽¹⁵⁾, or that do not effectively comply with Union or internationally agreed tax standards on transparency and exchange of information, breaches of sanction regimes and other relevant financial irregularities.
5. The High Level Risk and Compliance Policy shall be reviewed at least annually and revised if necessary.
6. The High Level Risk and Compliance Policy shall be submitted by the Chief Risk Officer to the Member of the College responsible for the Budget for approval.

Article 18

Role of the Chief Risk Officer

1. The Chief Risk Officer shall monitor that the High Level Risk and Compliance Policy is implemented in a comprehensive and consistent manner.
2. In particular, the Chief Risk Officer shall carry out the following tasks:
 - (a) issue an opinion on the draft funding plan;
 - (b) review internal rules and guidance documents issued by the Director-General of the Directorate-General for the Budget for the implementation of this Decision for consistency with the High Level Risk and Compliance Policy, that he or she may request to modify;
 - (c) establish and oversee continued compliance with robust processes for risk identification, quantification and monitoring;
 - (d) identify potential breaches of the High Level Risk and Compliance Policy or of other risk related guidelines, policies and limits and recommend possible steps to be taken in case of breaches or non-compliance.

Article 19

Reporting by the Chief Risk Officer

1. The Chief Risk Officer shall regularly report on material risks and on the compliance with rules and procedures set according to Article 17(4) to the Member of the College responsible for the Budget, to the Risk and Compliance Committee, to the Director-General of the Directorate-General for the Budget and to the Accounting Officer. The Chief Risk Officer shall also provide regular information on risks and limits to persons who are responsible for the operational execution of the diversified funding strategy.

⁽¹⁵⁾ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).

The Director-General of the Directorate-General for the Budget shall, without undue delay, take necessary measures to address those findings and provide explanations on the measures undertaken to the Chief Risk Officer.

When reporting to the Member of the College responsible for the Budget, the Chief Risk Officer may also, as appropriate, inform that Member about the findings referred to in the second subparagraph and about the deliberations of the Risk and Compliance Committee.

2. The Chief Risk Officer shall report on the implementation of the High Level Risk and Compliance Policy to the Commission once per year.

Article 20

Role of the Risk and Compliance Committee

1. A Risk and Compliance Committee shall be established to support the Chief Risk Officer in the conduct of responsibilities of that officer.

2. The Risk and Compliance Committee shall:

- (a) be consulted by the Chief Risk Officer on the High Level Risk and Compliance Policy;
- (b) support the Chief Risk Officer in the tasks referred to in Article 18(2), points (a), (b) and (c);
- (c) participate in evaluating, monitoring and approving practices regarding the implementation of the High Level Risk and Compliance Policy and relating to the risk management of the borrowing, debt management and lending operations;
- (d) support the Chief Risk Officer in assessing emerging risk exposures in connection with borrowing, debt management and lending operations, and be informed by the Chief Risk Officer about exceeding of limits set to reduce risks or non-compliance with the High Level Risk and Compliance Policy, and other risk related guidelines, policies and limits.

Article 21

Members and organisation of the Risk and Compliance Committee

1. Members of the Risk and Compliance Committee shall be the Chief Risk Officer, the Accounting Officer of the Commission, the Compliance Officer, two staff members from Directorates-General whose functions entail knowledge of risk management and of financial markets supervision, and two staff members of the Directorate-General for the Budget designated by the Director-General of the Directorate-General for the Budget.

2. The Chief Risk Officer shall invite two external experts to the meetings of the Risk and Compliance Committee. The external experts shall give opinions and participate in deliberations without voting rights on matters brought before the Committee.

3. The Risk and Compliance Committee shall, where possible, adopt positions on the basis of consensus or, when a consensus is not reached, on the basis of a simple majority of its members. In the event of a tied vote, the vote of the Chief Risk Officer shall be decisive.

4. The Risk and Compliance Committee shall adopt its rules of procedure.

CHAPTER 5

TRANSITIONAL AND FINAL PROVISION

Article 22

Repeal

Decision C(2021) 2502 is repealed.

References to the repealed decision shall be construed as references to this Decision.

Article 23

Entry into force

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

Done at Brussels, 19 December 2022.

For the Commission
The President
Ursula VON DER LEYEN
