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**COMMISSION DECISION**

**of 14.4.2021**

**on specific internal rules on the implementation of borrowing, debt management and lending operations and of the primary dealer network established by Commission Decision C(2021) 2500**

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## **on specific internal rules on the implementation of borrowing, debt management and lending operations and of the primary dealer network established by Commission Decision C(2021) 2500**

THE EUROPEAN COMMISSION,

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

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

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<sup>1</sup>, and in particular Article 60 thereof,

Whereas:

- (1) To help address the economic and social consequences of the COVID-19 crisis, the Commission has been empowered by Article 5(1), point a), of Council Decision (EU, Euratom) 2020/2053<sup>2</sup> to borrow funds on capital markets on behalf of the Union up to EUR 750 000 million in 2018 prices. In accordance with Council Regulation (EU) 2020/2094<sup>3</sup> these amounts are to finance the European Union recovery instrument that will support the recovery in the aftermath of the COVID-19 crisis. The Union will provide repayable and non-repayable support to Member States under numerous programmes, and in particular will support public investments and reforms under the Recovery and Resiliency Facility ('RRF') as established by Council Regulation (EU) 2021/241<sup>4</sup>.
- (2) The Commission is already empowered to act as borrower on the capital markets on behalf of the Union to finance loans for financial assistance granted in accordance with Council Regulation (EU) No 407/2010<sup>5</sup>, Council Regulation (EC) No 332/2002<sup>6</sup>, 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, in

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<sup>1</sup> OJ L 193, 30.7.2018, p. 1.

<sup>2</sup> Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom (OJ L 424, 15.12.2020, p.1).

<sup>3</sup> 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 pandemic (OJ L 433 I, 22.12.2020, p. 23).

<sup>4</sup> 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, 18.02.2021, p. 17).

<sup>5</sup> Council Regulation (EU) No 407/2010 of 11 May 2010 establishing a European financial stabilisation mechanism (OJ L 118, 12.5.2010, p. 1).

<sup>6</sup> 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).

particular, Council Regulation (EC, Euratom) No 480/2009<sup>7</sup>, Council Regulation (EC, Euratom) No 2728/94<sup>8</sup> and Decision (EU) No 2020/701 of the European Parliament and of the Council<sup>9</sup>, and Council Regulation (EU) No 2020/672<sup>10</sup>.

- (3) The Commission is also authorised by Decision 77/270/Euratom of the Council<sup>11</sup> to borrow funds on the capital markets on behalf of the European Community of Atomic Energy (Euratom) to finance certain investment projects in the atomic energy industry in the Member States and in some third countries of Central and Eastern Europe.
- (4) In accordance with Article 282(3) of Regulation (EU, Euratom) 2018/1046 ('Financial Regulation'), the provisions of Title X of the Financial Regulation regarding financial assistance started to apply as of 1 January 2021, which is the date of entry into application of the post-2020 multiannual financial framework under Council Regulation (EU, Euratom) 2020/2093<sup>12</sup>.
- (5) The borrowing operations come under the scope of budgetary implementation within the meaning of the Financial Regulation as borrowing will either be repaid by the Union budget in the case provided for in Article 5(2) of Council Decision (EU, Euratom) 2020/2053, or guaranteed by it in the case of loans, in which case an expenditure from the budget is a possible consequence of the liability entered into. General rules for the borrowing and lending operations for financial assistance are set out in Article 220 of the Financial Regulation.
- (6) Under Article 60 of the Financial Regulation the Commission delegates the powers of budget implementation within its departments. Given that the borrowing, debt management and lending operations come within the wider scope of budget implementation, and given the need to establish a unified framework of budgetary delegated powers for borrowing operations under Article 5(1) of Council Decision (EU, Euratom) 2020/2053 and lending operations under Article 15(4) of Regulation (EU) 2021/241, it is necessary to delegate budget implementation powers to an authorising officer by delegation for the implementation of those borrowing, debt management and lending operations.
- (7) Commission Decision C(2018) 5120 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 ('Internal Rules') lays down the rules on the implementation of the general budget. It is appropriate to define the extent to which the Internal Rules should apply in respect of borrowing, debt management and lending operations and in respect of the implementation of the primary dealers network established under Commission Decision C(2021) 2500, as

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<sup>7</sup> 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).

<sup>8</sup> 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).

<sup>9</sup> Decision (EU) 2020/701 of the European Parliament and of the Council of 25 May 2020 on providing macro-financial assistance to enlargement and neighbourhood partners in the context of the COVID-19 pandemic (OJ L 165, 27.5.2020, p. 31).

<sup>10</sup> Council Regulation (EU) 2020/672 of 19 May 2020 on the establishment of a European instrument for temporary support to mitigate unemployment risks in an emergency (SURE) following the COVID-19 outbreak (OJ L 159, 20.5.2020, p. 1).

<sup>11</sup> Council Decision (77/270/Euratom) of 29 March 1977 empowering the Commission to issue Euratom loans for the purpose of contributing to the financing of nuclear power stations (OJ L 88, 6.4.1977, p. 9).

<sup>12</sup> 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).

this is necessary for the effective execution of borrowing, lending and debt management operations.

- (8) The Director-General of the Directorate-General for the Budget should be designated as the authorising officer by delegation in respect of the borrowing, debt management and lending operations and in respect of the implementation of the primary dealers network. Given the close link to the borrowing, it is also appropriate to designate him or her as authorising officer by delegation in respect of the external assigned revenue under Article 3(1) of Council Regulation (EU) 2020/2094.
- (9) The content of the delegation should refer to the tasks necessary to carry out borrowing, debt management and lending operations, and in particular to the set-up of relevant agreements with public or private credit institutions and national or international central securities depositories required for the conclusion of transaction settlement and the set-up of borrowing documentation. The content of the delegation should also define the appropriate staff to whom the tasks can be subdelegated. It should further cover tasks related to loan agreements. It should also include the acts necessary for the operation of the primary dealer network, which should in particular consist of the admission to, suspension of membership and exclusion from the primary dealer network, as well as setting of the general terms and conditions, fee schedule and the selection of primary dealers to whom requests for proposals should be sent for acting as lead or co-lead managers in syndicated transactions primary dealers. Finally, it should contain the necessary measures for the implementation of Decision C(2021) 2502.
- (10) Detailed rules for carrying out of borrowing, debt management and lending operations should be established by the Director-General of the Directorate-General for the Budget by means of internal rules, inclusive guidelines, technical guidance, methodologies and templates. It is appropriate consulting other central services, the accounting officer and the Chief Risk Officer.
- (11) Since the implementation of the primary dealer network established under Commission Decision C(2021) 2500 can only start once the primary dealer network is set up, this Decision should apply to borrowing, debt management and lending activities of the Commission launched after the date of the first publication of the list of primary dealers.
- (12) It is appropriate aligning the application of this decision with the application of the decision C(2021) 2500. In the meantime, rules laid down in Decision C(2005) 2992 should continue to apply to the borrowing and lending operations falling within its scope on a transitional basis. In order to ensure the continuity of the borrowing and lending operations, designations of staff members and of signatories granted under Decision C(2005) 2992, as well as internal rules, guidelines, manuals, templates or similar documents related to borrowing and lending operations adopted under decision C(2005) 2992 should remain valid, until they are progressively replaced,

HAS DECIDED AS FOLLOWS:

## SECTION 1

### SUBJECT MATTER AND DEFINITIONS

#### *Article 1*

##### *Subject matter*

This Decision lays down specific internal rules on delegation of budgetary powers for borrowing, debt management and lending operations and in relation to the Commission Decision C(2021) 2500.

#### *Article 2*

##### *Definitions*

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

- (a) ‘borrowing operations’ means operations on the markets, in particular debt issuances to borrow, including roll-over borrowing;
- (b) ‘debt management operations’ means market operations related to the debt resulting from the borrowing operations to optimise the structure of outstanding debt and to mitigate interest rate, liquidity and other financial risks;
- (c) ‘lending operations’ means operations related to the implementation of loans and credit lines for financial assistance under Article 220 of the Financial Regulation.

## SECTION 2

### COMMON PROVISIONS FOR BORROWING, DEBT MANAGEMENT AND LENDING OPERATIONS AND FOR PRIMARY DEALERS NETWORK

#### *Article 3*

##### *Application of Internal Rules*

The Internal Rules shall apply to borrowing, debt management and lending operations and for the implementation of the primary dealers network, subject to the rules laid down in this Decision.

By derogation from the first paragraph, Title III and Title IV of the Internal Rules shall not apply to borrowing, debt management and lending operations.

## Article 4

### *Implementation of borrowing, debt management and lending operations*

1. Borrowing operations shall be carried out in accordance with the relevant basic act and with the borrowing decisions adopted thereunder. Borrowing operations referred to in Article 5(1) of Council Decision (EU, Euratom) 2020/2053 shall be carried out in accordance with Decision C(2021) 2502.
2. Borrowing and debt management operations shall be carried out solely through primary dealers referred to in Commission Decision C(2021) 2500, with the exception of any such activities taking place through public institutions or electronic platforms, where the selection of financial counterparties is beyond the control of the Commission.
3. Lending operations, in particular disbursements of instalments or tranches shall be carried out in accordance with the relevant loan agreement and the relevant basic act. In addition, lending operations referred to in Article 15(4) of Regulation (EU) 2021/241 shall be carried out in accordance with Decision C(2021) 2502.
4. The borrowing, debt management and lending operations shall be carried out in accordance with the principle of sound financial management, the internal control standards and the High Level Risk and Compliance Policy referred to in Decision C(2021) 2502 to ensure the proper management of these activities, in particular observance of prudential limits, separation of responsibilities, checking of operations by at least two people ('four-eyes principle'), continuity of operations and regular information to management.
5. For the borrowing, debt management and lending operations, specific IT, accounting and registration tools may be used.

## Article 5

### *Powers of authorising officer exercised by the Director-General for the Budget*

1. The Director-General of the Directorate-General for the Budget shall be the authorising officer by delegation in respect of borrowing, debt management and lending operations referred to in Article 220 of the Financial Regulation, in Article 5(1) of Council Decision (EU, Euratom) 2020/2053 and Euratom loans to third parties.
2. The Director-General of the Directorate-General for the Budget shall be the authorising officer by delegation in respect of the implementation of the primary dealers network as established under Commission Decision C(2021) 2500.
3. The Director-General of the Directorate-General for the Budget shall be the authorising officer by delegation in respect of the external assigned revenue under Article 3(1) of Council Regulation (EU) 2020/2094.

## Article 6

### *Content of delegation of powers*

1. In addition to the content of delegation of powers as laid down in Article 4 of the Internal Rules, the powers which the Commission delegates to the Director-General of the Directorate-General for the Budget in its capacity as authorising officer by delegation<sup>13</sup> to implement borrowing, debt management and lending operations allow him or her, in particular to:
  - (a) negotiate, review, sign, publish, implement and oversee the execution of agreements, transactions or documentation, including with public or private entities required for the execution of those operations, in particular through auctions, syndicated transactions and private placements;
  - (b) implement and oversee the execution of loan agreements;
  - (c) designate the signatories of borrowing documentation among authorising officers by subdelegation, propose to the accounting officer the signatories of accounts on which are operated the borrowing, debt management and lending operations and communicate to the credit institutions the names and specimen signatures of the officials;
  - (d) implement Commission Decision C(2021) 2500, in particular decide on the admission to the primary dealer network, suspend and exclude from the membership, and adopt the General Terms and Conditions on the EU primary dealers;
  - (e) adopt all necessary measures for the implementation of Decision C(2021) 2502, in particular adopt the NGEU funding plan as provided for in Article 4 of that Decision and issue regular instructions regarding the amounts to be raised through debt issuance as provided for in Article 6 of that Decision.
2. The Director-General of the Directorate-General for Budget shall establish the internal rules, inclusive guidelines, technical guidance, methodologies and templates for carrying out of borrowing, debt management and lending operations in accordance with the principles laid down in Article 4(4) and for the implementation of the primary dealers network established by Commission Decision C(2021) 2500.

The Secretariat-General, the accounting officer, the Chief Risk Officer and the Legal Service shall be consulted on those rules.
3. The Director-General of the Directorate-General for Budget shall report twice a year by 30 June and 31 December to the Commission on the borrowing and lending operations other than carried out under Article 5(1) Council Decision (EU, Euratom) 2020/2053 and under Article 15(4) of Regulation (EU) 2021/241.

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<sup>13</sup> In accordance with the financial circuits in his/her department.

## SECTION 3

### TRANSITIONAL AND FINAL PROVISIONS

#### *Article 7*

##### *Cessation of application of decision C(2005) 2992 in respect of borrowing and lending operations and transitional provision*

Decision C(2005) 2992 shall cease to apply to the borrowing and lending operations falling within its scope as of the date referred to in Article 8(2).

However, all designations of staff members to sign borrowing documentation on behalf of the European Union and the European Atomic Energy Community, and of signatories of accounts for borrowing, debt management and lending operations or connected to such operations, granted under decision C(2005) 2992, and all internal rules, guidelines, manuals, templates or similar documents related to borrowing and lending operations adopted under decision C(2005) 2992, valid on the date of entry into application of this decision, shall remain valid as of that date.

#### *Article 8*

##### *Final provision*

1. This Decision shall enter into force on the date of its adoption.
2. It shall apply to borrowing, debt management and lending activities of the Commission launched after the date of the first publication of the list of primary dealers in accordance with Article 11 of Commission Decision C(2021) 2500.

Done at Brussels, 14.4.2021

*For the Commission*  
*Johannes HAHN*  
*Member of the Commission*