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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.



## II

*(Non-legislative acts)*

## REGULATIONS

**COMMISSION DELEGATED REGULATION (EU) No 906/2014****of 11 March 2014****supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to public intervention expenditure**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 <sup>(1)</sup>, and in particular Article 20(2) and (3) thereof,

Whereas:

- (1) In accordance with point (a) of Article 4(1) of Regulation (EU) No 1306/2013, intervention measures regulating agricultural markets are to be financed by the Union under the terms of the sectoral agricultural legislation. As regards public intervention measures, the amount to be financed by the Union is determined by the annual accounts drawn up by the paying agencies.
- (2) Public intervention expenditure may vary substantially. It is therefore necessary to specify for each category of operation which expenditure is eligible for Union financing and, in particular, under what terms that expenditure can be covered. For this purpose, eligibility conditions and the methods for calculating eligible expenditure should be laid down. It should be further specified when such expenditure is to be booked on the basis of the elements actually recorded by the paying agencies or on the basis of standard amounts established by the Commission.
- (3) To allow Member States whose currency is not the euro to consolidate their expenditure and costs in their national currency and in euro in a harmonised way, the terms under which public storage operations are recorded in their accounts and the exchange rate applicable should be specified.
- (4) The valuation of public storage operations also depends on the type of operations and on the applicable sectoral agricultural legislation. A general rule should therefore be established providing that the value of the quantities bought in and sold is to be equal to the sum of the payments and receipts made or to be made for physical operations, together with specific rules and special cases to be taken into consideration.

<sup>(1)</sup> OJ L 347, 20.12.2013, p. 549.

- (5) The measures in this Regulation replace the relevant provisions laid down in Commission Regulation (EC) No 884/2006 <sup>(1)</sup>, which has been repealed by Commission Delegated Regulation (EU) No 907/2014 <sup>(2)</sup>,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

##### **Subject matter**

This Regulation lays down the conditions and rules applicable to the financing by the European Agricultural Guarantee Fund (EAGF) of expenditure on intervention measures related to public storage.

#### *Article 2*

##### **Intervention measures in the form of public storage**

Intervention measures in the form of public storage may comprise buying-in, storage, transport and transfer of stocks, and the sale and disposal by other means of agricultural products under the terms laid down by the applicable sectoral agricultural legislation and by this Regulation.

#### *Article 3*

##### **Financing of intervention expenditure incurred in the context of public storage operations**

1. In the context of the public storage operations referred to in Article 2, the EAGF shall finance the following expenditure under the heading of intervention, provided that the corresponding expenditure has not otherwise been fixed under the applicable sectoral agricultural legislation:

- (a) the financing costs for funds mobilised by the Member States to buy in products, in accordance with the calculation methods set out in Annex I;
- (b) expenditure on physical operations relating to buying-in, sale or other forms of transfer of products (entry, storage and removal of products under public storage schemes), as referred to in Annex II, based on uniform standard amounts for the Union, calculated in accordance with the methods set out in Annex III;
- (c) expenditure on physical operations not necessarily connected with buying-in, sale or other forms of transfer of products, on the basis of standard amounts or non-standard amounts in accordance with the provisions laid down by the Commission under the sectoral agricultural legislation relating to the products concerned and Annex IV;
- (d) expenditure resulting from transport inside or outside the territory of the Member State or from export, on the basis of standard amounts or non-standard amounts, to be approved in accordance with the procedure referred to in Article 229(2) of Regulation (EC) No 1308/2013 of the European Parliament and of the Council <sup>(3)</sup>;
- (e) depreciation of stored products, in accordance with the calculation methods set out in Annex V;

<sup>(1)</sup> Commission Regulation (EC) No 884/2006 of 21 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the financing by the European Agricultural Guarantee Fund (EAGF) of intervention measures in the form of public storage operations and the accounting of public storage operations by the paying agencies of the Member States (OJ L 171, 23.6.2006, p. 35).

<sup>(2)</sup> Commission Delegated Regulation (EU) No 907/2014 of 11 March 2014, supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, securities and use of euro (see page 18 of this Official Journal).

<sup>(3)</sup> Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).

- (f) the differences (gains and losses) between the accounting value and the price of disposal of the products, or differences resulting from other factors.

2. In the case of Member States whose currency is not the euro, without prejudice to the specific rules and operative events provided for in the Annexes to this Regulation or in the agricultural legislation, expenditure as referred to in points (b) and (c) of paragraph 1 of this Article calculated on the basis of amounts fixed in euro and expenditure or revenue incurred in national currency under this Regulation shall be converted, as the case may be, into national currency or into euro on the basis of the last exchange rate established by the European Central Bank before the accounting year during which the operations are recorded in the accounts of the paying agency.

For the purposes of this Regulation, accounting year means the period referred to in point (a) of Article 3(3) of Delegated Regulation (EU) No 907/2014.

#### *Article 4*

##### **Valuation of public storage operations**

1. The value of the quantities bought in and sold shall be equal to the sum of the payments or receipts made or to be made for physical operations, except in the case of the specific provisions referred to in this Article and subject to:

(a) Annex VI, for missing quantities;

(b) Annex VII, for deteriorated or destroyed products;

(c) Annex VIII, for products which have entered storage but the taking-over of which has been refused.

2. The value of the quantities bought in shall be determined for the quantities of products entering storage, on the basis of the public intervention price, taking account of increases, premiums, reductions, percentages and coefficients applicable to the public intervention price at the time of purchase in accordance with the criteria laid down in the sectoral agricultural legislation.

However, in the cases and situations referred to in Annex VI and points 2(a) and (c) of Annex VII, increases, premiums, reductions, percentages and coefficients shall not be taken into consideration.

The value of products which have deteriorated or have been destroyed, either due to natural disasters or to too long a period of storage as referred to in point 2 of Annex VII to this Regulation, shall be determined by an implementing act of the Commission. That act shall be adopted in accordance with the examination procedure referred to in Article 229(2) of Regulation (EU) No 1308/2013.

3. Without prejudice to Annex V, the value of the products made available and financed under the Fund for European Aid to the Most Deprived shall be the public intervention price applicable on 1 October of each year. For the Member States whose currency is not the euro, the accounting value of intervention products shall be converted into national currency at the exchange rate applicable on 1 October of that year.

Where intervention products are transferred from one Member State to another, the supplier Member State shall record the product delivered as a zero entry in the accounts and the Member State of destination shall record it as a receipt in the month of dispatch, using the price calculated in accordance with the first subparagraph.

4. The costs paid or charged when products are bought in for the physical operations referred to in point (c) of Article 3(1), in accordance with the Union rules, shall be entered in the accounts as expenditure or revenue relating to technical costs, separately from the buying-in price.

5. In the financial accounts referred to in point (a) of Article 3(3) of Delegated Regulation (EU) No 907/2014, quantities in storage at the end of the accounting year and to be carried forward to the next accounting year shall be valued at their average book value (carry-over value), as determined by the monthly account of the last month of the accounting year.

6. Quantities entering storage which are found not to meet the conditions for storage shall be entered in the accounts at the time of removal from storage as a sale at the price at which they were bought in.

However, if at the time of actual removal from storage the conditions are met for application of point (b) of Annex VI, the Commission shall be consulted in advance on the removal of the goods.

7. Where an account shows a positive balance, this shall be deducted from the expenditure for the current accounting year.

8. Where there is a change in the standard amounts, the time allowed for payment, interest rates or other calculation elements after the first day of a month, the new elements shall apply to physical operations with effect from the following month.

#### *Article 5*

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

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

Done at Brussels, 11 March 2014.

*For the Commission*  
*The President*  
José Manuel BARROSO

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## ANNEX I

**CALCULATION OF RATES FOR THE REIMBURSEMENT OF FINANCING COSTS**

(Article 3(1)(a))

**I. APPLICABLE INTEREST RATES**

1. For the purposes of calculating the financing costs to be borne by the EAGF for the funds mobilised by the Member State for buying in products, the Commission shall fix a uniform interest rate in accordance with Article 20(4) of Regulation (EU) No 1306/2013 throughout the Union at the beginning of every accounting year. The uniform interest rate shall correspond to the average of the 3-month and 12-month forward Euribor rates, recorded during a 6-month reference period which is to be determined by the Commission, with a weighting of one-third and two-thirds respectively.
2. In order to determine the interest rates applicable for a given accounting year, the Member States shall notify the Commission, at its request, of the average interest rate they actually bore during the reference period referred to in point 1 no later than the deadline referred to in that request. The notification shall be made using the form made available to the Member States by the Commission.

In the absence of any notification from a Member State, in the form and by the deadline referred to in the first subparagraph, the interest rate borne by that Member State shall be considered to be 0 %.

In the situation where a Member State declares that it did not bear any interest costs because it did not have agricultural products in public storage during the reference period, the Commission shall fix that rate on the basis of the average reference interest rates during the reference period referred to in the first paragraph of this point plus one percentage point. These reference interest rates shall be:

- (a) For Member States whose currency is the euro, the Euro interbank borrowing offered rate three months (EURIBOR);
- (b) For Member States whose currency is not the euro, the interbank borrowing offered rate three months applicable in each Member State (IBOR).

If the reference interest rates or the Euribor rates referred to in point (a) are not all available for the entire reference period, the available rates for that period shall be used.

3. For each Member State concerned, the interest rate determined on the basis of the provisions of point (b) shall be compared with the uniform interest rate fixed on the basis of the provisions of point (a). The interest applicable to each Member State shall be the lower of these two interest rates.

The interest rates fixed in the Commission Implementing Regulation adopted on the basis of Article 20(4) of Regulation (EU) No 1306/2013 for each accounting year shall be rounded to 1 decimal.

**II. CALCULATION OF FINANCING COSTS**

1. The calculation of the financing costs shall be subdivided according to the validity periods of the interest rates fixed by the Commission in accordance with Part I.
2. The financing costs referred to in Article 3(1)(a) shall be calculated by applying the Member State's interest rate to the average value per tonne of the product bought in, and then multiplying the product thus obtained by the average stock for the accounting year.

The average value per tonne of product shall be calculated by dividing the sum of the values of the products in store on the first day of the accounting year and of products bought in during that year by the sum of the quantities of products in store on the first day of the accounting year and of products bought in during the accounting year.

The average stock for the accounting year shall be calculated by dividing the sum of the stock at the beginning of each month and the stock at the end of each month by a number equal to twice the number of months in the accounting year.

3. Where a depreciation coefficient is fixed for a product in accordance with point 1 of Annex V, the value of the products bought in during the accounting year shall be calculated by deducting from the buying-in price the depreciation amount obtained by applying this coefficient.
4. In the case of products for which a second depreciation has been fixed pursuant to the second subparagraph of point 3 of Annex V, the calculation of average stocks shall be made before the actual date of each depreciation taken into account for the purposes of the average value.
5. Where the rules governing common market organisations stipulate that payment for a product bought in by an paying agency may not be effected until at least one month has elapsed from the date of taking over, the average stock calculated shall be reduced by a quantity resulting from the following calculation:

$$\frac{Q \times N}{12}$$

where

Q = quantities bought in during the accounting year,

N = number of months of minimum period before payment.

For the purposes of this calculation, the minimum period given in the rules shall be taken as the period for payment. A month shall be considered as consisting of 30 days. Any part of a month longer than 15 days shall be considered a whole month; any part of a month equal to or less than 15 days shall not be taken into account for this calculation.

Where the calculation of average stock at the end of the accounting year gives a negative result once the reduction referred to in the first subparagraph has been effected, that amount shall be deducted from the average stock calculated for the following accounting year.

### III. SPECIAL RULES UNDER THE RESPONSIBILITY OF THE PAYING AGENCIES

1. Where, for the sale of products by paying agencies, the rules governing the common market organization or notices of invitation to tender allow the purchaser of such products a period in which to remove them once payment has been made, and where such period exceeds 30 days, the financing costs calculated in accordance with Part II shall be reduced, in the accounts of the paying agencies, by the amount obtained from the following calculation:

$$\frac{V \times J \times i}{365}$$

where

V = the amount paid by the purchaser,

J = the number of days between receipt of payment and removal of the product, minus 30 days,

i = the interest rate applicable during the accounting year.



2. In the case of sales of agricultural products by paying agencies based on specific Union regulations, where the actual period for payment after removal of such products exceeds 30 days, the financing costs calculated in accordance with Part II shall be increased in the accounts of the paying agencies by the amount obtained from the following calculation:

$$\frac{M \times D \times i}{365}$$

where

M = the amount to be paid by the purchaser,

D = the number of days between removal of the product and receipt of payment, minus 30 days,

i = the interest rate applicable during the accounting year.

3. At the end of each accounting year, the financing costs referred to in paragraphs 1 and 2 shall be entered in the accounts for that agricultural financial year for the number of days to be considered until that date and the remainder shall be entered under the following accounting year.
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## ANNEX II

**PHYSICAL OPERATIONS COVERED BY THE STANDARD AMOUNTS**

(Article 3(1)(b))

**Cereals and rice****I. ACCEPTANCE AND ENTRY INTO STORAGE**

- (a) physical movement of cereals from means of transport to arrival at storage cell (silo or store compartment) - first transfer;
- (b) weighing;
- (c) sampling/analysis/establishment of quality.

**II. STORAGE**

- (a) rent of premises at contract price;
- (b) insurance costs (unless included under (a));
- (c) pest control costs ensuring the initial quality of the product in store (unless included under (a));
- (d) annual inventory (unless included under (a));
- (e) ventilation, if any (unless included under (a)).

**III. REMOVAL FROM STORAGE**

- (a) weighing of cereals;
- (b) sampling/analysis (if chargeable to intervention);
- (c) physical removal and loading of cereals onto first means of transport.

**Beef/veal****I. ACCEPTANCE OF DELIVERY, BONING AND ENTRY INTO STORAGE (BONED MEAT)**

- (a) quality control of bone-in meat;
- (b) weighing of bone-in meat;
- (c) handling;
- (d) contract cost of boning, including:
  - (i) initial chilling;
  - (ii) transport from the intervention storage place to cutting premises (unless seller delivers goods to cutting premises);
  - (iii) boning, trimming, weighing, packaging and rapid freezing;
  - (iv) temporary storage of cuts; loading, carriage and re-entry to the intervention storage place's cold store;

(v) cost of packaging materials: polythene bags, cardboard boxes, stockinettes;

(vi) value of bones, pieces of fat and other trimmings left at the cutting premises (receipts to be deducted from costs).

## II. STORAGE

(a) rent of premises at contract price;

(b) insurance costs (unless included under (a));

(c) temperature control (unless included under (a));

(d) annual inventory (unless included under (a)).

## III. REMOVAL FROM STORAGE

(a) weighing;

(b) quality check (if responsibility of intervention authorities);

(c) transfer of meat from cold store to store's loading bay.

### **Butter**

## I. ACCEPTANCE AND ENTRY INTO STORE

(a) movement of butter from means of transport on arrival at store to storage cell;

(b) weighing and identification of packages;

(c) sampling/quality check;

(d) entry into cold store and freezing;

(e) second sampling/quality check at end of test period.

## II. STORAGE

(a) rent of premises at contract price;

(b) insurance costs (unless included under (a));

(c) temperature control (unless included under (a));

(d) annual inventory (unless included under (a)).

## III. REMOVAL FROM STORAGE

(a) weighing and identification of packages;

(b) movement of butter from cold room to store loading bay if means of transport is a container, or loaded at store bay if means of transport is a lorry or railway wagon.

## IV. SPECIFIC LABELLING OR MARKING

If such labelling is compulsory under the Union law on disposal.

**Skimmed-milk powder**

## I. ACCEPTANCE AND ENTRY INTO STORE

- (a) movement of skimmed-milk powder from means of transport on arrival to storage chamber;
- (b) weighing;
- (c) sampling/quality check;
- (d) check on marking and packaging.

## II. STORAGE

- (a) rent of premises at contract price;
- (b) insurance costs (unless included under (a));
- (c) temperature control (unless included under (a));
- (d) annual inventory (unless included under (a)).

## III. REMOVAL FROM STORAGE

- (a) weighing;
- (b) sampling/inspection of goods (if responsibility of intervention authorities);
- (c) movement of skimmed-milk powder to loading bay of store and loading, excluding stowage, on means of transport if a lorry or railway wagon; movement of skimmed-milk powder to loading bay of store if another means of transport, e.g. container.

## IV. SPECIFIC LABELLING OR MARKING

If such labelling is compulsory under the Union law on disposal.

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## ANNEX III

## STANDARD AMOUNTS FOR THE UNION

(Article 3(1)(b))

## I. STANDARD AMOUNTS APPLICABLE

1. Standard amounts to apply throughout the Union shall be established, by product, on the basis of the lowest costs recorded during a reference period beginning on 1 October of year n and ending on 30 April the following year.
2. 'Costs recorded' means the costs for the physical operations referred to in Annex II which took place during the reference period, on the basis of either individual invoices for these operations or a contract signed to cover them. If a stock of a given product exists during the reference period without there having been either entries or removals, the reference costs in the storage contracts for that product may also be used.

The costs for accepting and entry in storage (I) and for removal from storage (III) shall be declared per tonne of product involved for each individual action (a, b, c,...) as defined in Annex II. The costs for storage (II) shall be declared on a per month basis for each tonne stored for each individual action (a, b, c,...) as defined in Annex II.

3. The Member States shall notify the Commission no later than 10 May of the costs mentioned in point 2 relating to the operations referred to in Annex II borne during the reference period. The standard amounts referred to in point 1 shall be established in euro on the basis of the weighted average of these costs recorded during the reference period in at least four Member States with the lowest costs for a given physical operation, if the latter correspond to at least 33 % of the average total stored quantities of the product in question during the reference period. Otherwise, the costs of other Member States shall be included in the weighting until the percentage attains 33 % of the stored quantities.
4. If fewer than four Member States place a given product in public storage, the standard amounts for that product shall be established on the basis of the costs recorded in the Member States concerned. However, the final standard amount for that product cannot differ from the amount established for the previous year by more than 2 %.
5. If the costs for a product in storage declared by a Member State and used in the calculation referred to in points 3 and 4 are more than twice the arithmetic mean of the costs declared for this calculation by the other Member States, then that cost shall be reduced to the level of the arithmetic mean.
6. The costs used for the calculation referred to in points 3 and 4 shall be weighted on the basis of the quantities stored by the Member States included in the calculation.
7. The costs declared by Member States whose currency is not the euro shall be converted into euro on the basis of the average conversion rate for their currency during the reference period referred to in point 1.

## II. SPECIAL PROVISIONS

1. The standard cost of removal from storage may be increased by an amount to be calculated by the Commission in accordance with Article 20(4) of Regulation (EU) No 1306/2013 provided that the Member State submits a declaration, covering the entire accounting year involved and the entire stock of the product in question, that it will not apply the tolerance limits referred to in Article 4(2) of Delegated Regulation (EU) No 907/2014 and will stand guarantee for the quantity.

This declaration shall be addressed to the Commission and shall reach it before it receives the first monthly declaration of the accounting year concerned or, if the product in question is not in intervention storage at the beginning of the accounting year, not later than the month following that in which the product first enters storage.

The increase provided for in the first subparagraph shall be calculated by multiplying the reference threshold of the product concerned, as referred to in Article 7 of Regulation (EU) No 1308/2013, by the tolerance limit for that product fixed in Annex IV to Delegated Regulation (EU) No 907/2014.

2. The standard amounts established for the cost of entry into and removal from stores of all products in storage except for beef/veal shall be reduced by the following coefficients if the quantities concerned are not physically moved.

Product	Entry in storage	Removal from storage
Cereals	36,50 %	22,80 %
Rice	17,50 %	20,30 %
Butter	25,90 %	22,20 %
Skimmed milk powder	21,00 %	35,10 %

3. The Commission may roll over the standard amounts fixed previously for a product where there was no public storage or there will be no public storage for the current accounting year.
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## ANNEX IV

**SPECIFIC ELEMENTS TO TAKE INTO ACCOUNT FOR EXPENDITURE AND REVENUE RELATING TO BEEF AND VEAL**

(Article 3(1)(c))

For the purposes of Annex VI and points 2(a) and (c) of Annex VII, the basic price to be used for de-boned beef is the reference threshold, as referred to in Article 7 of the Regulation (EU) No 1308/2013, multiplied by a coefficient of 1,47.

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## ANNEX V

**DEPRECIATION OF PRODUCTS IN STORAGE**

(Article 3(1)(e))

1. If, for a given product, the estimated selling price in public intervention storage is lower than the buying in price, a depreciation percentage, called the 'k coefficient' shall be applied at the time of buying in. It shall be fixed for each product at the beginning of each accounting year in accordance with Article 20(4) of Regulation (EU) No 1306/2013.
2. The depreciation percentage shall not exceed the difference between the buying in price and the estimated disposal price for each product concerned.
3. At the time of buying in, the Commission may restrict the depreciation to a fraction of the percentage calculated in accordance with point 2. That fraction may not be less than 70 % of the depreciation decided in accordance with point 1.

In such cases, the Commission shall conduct a second depreciation at the end of each accounting year in accordance with the method set out in point 5.

4. In the case of depreciations as referred to in the second subparagraph of point 3, the Commission shall fix overall depreciation amounts by product and by Member State before the beginning of the following accounting year.

To that end, the estimated selling price for products in storage shall be compared to the estimated carry-over value by product and by Member State. The overall depreciation amounts by product and by Member State concerned shall be obtained by multiplying the differences between the estimated carry-over values and the estimated selling prices by the estimated quantities in storage at the end of the accounting year.

5. The estimate of quantities in public storage and the carry-over values by product and by Member State shall be based on a notification from the Member States, sent to the Commission no later than 7 September of year n+1, relating to products in storage at 30 September of that year, including the following elements:

- the quantities bought in during the period from 1 October of year n to 31 August of year n+1;
- the quantities in storage at 31 August of year n+1;
- the value in euro of the products in storage at 31 August of year n+1;
- the estimated quantities in storage at 30 September of year n+1;
- the estimated quantities bought in between 1 and 30 September of year n+1;
- the estimated value in euro of the quantities bought in between 1 and 30 September of year n+1.

6. The values in national currency notified by the Member States whose currency is not the euro with a view to calculating the depreciation at the end of an accounting year shall be converted into euro using the rates applicable at the time the overall depreciation amounts are calculated for the end of that accounting year.
  7. The Commission shall notify the overall depreciation amounts by product to each of the Member States concerned so that they can include these in their final monthly declaration of expenditure to the EAGF for the accounting year concerned.
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## ANNEX VI

**VALUATION OF MISSING QUANTITIES**

(Article 4(1)(a))

Subject to the specific rules laid down in Annex IV, the value of missing quantities shall be calculated as follows:

- (a) Where the tolerance limits, referred to in Article 4(2) of Delegated Regulation (EU) No 907/2014 for the storage or processing of products are exceeded, or where quantities are found to be missing due to theft or other identifiable causes, the value of missing quantities shall be calculated by multiplying these quantities by the reference threshold, as referred to in Article 7 of Regulation (EU) No 1308/2013, in force for the standard quality for each product on the first day of the accounting year in which the tolerance limits are exceeded or in which quantities are found to be missing, increased by 5 %.
- (b) If, on the day the quantities are found to be missing, the average market price for the standard quality in the Member State of storage is higher than 105 % of the basic reference threshold, as referred to in Article 7 of Regulation (EU) No 1308/2013, the contractors shall reimburse to the intervention agencies the market price recorded by the Member State, increased by 5 %.

The average market price shall be determined by the Member State on the basis of the information in its regular notifications to the Commission.

The differences between the amounts collected by applying the market price and the amounts booked to the EAGF by applying the reference threshold, as referred to in Article 7 of Regulation (EU) No 1308/2013, shall be credited to the EAGF at the end of the accounting year among the other elements of credit.

- (c) Where quantities are found to be missing after the products have been transferred or transported from an intervention storage place or a storage place designated by the paying agency to another place, and where no specific value is fixed under the relevant Union legislation, the value of those missing quantities shall be determined in accordance with point (a).
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## ANNEX VII

**VALUATION OF PRODUCTS WHICH HAVE DETERIORATED OR BEEN DESTROYED**

(Article 4(1)(b))

1. Unless specific Union rules provide otherwise, a product shall be deemed to have deteriorated if it no longer meets the quality requirements applicable when it was bought in.
2. The value of products which have deteriorated or been destroyed shall be calculated depending on the type of cause, as follows:
  - (a) accidents, unless special provisions in Annex IV provide otherwise: the value of the products shall be calculated by multiplying the quantities affected by the basic reference threshold, as referred to in Article 7 of Regulation (EU) No 1308/2013, in force for the standard quality on the first day of the current accounting year, reduced by 5 %;
  - (b) natural disasters: the value of the quantities affected shall be determined by an implementing act of the Commission to be adopted pursuant to the third subparagraph of Article 4(2);
  - (c) poor conservation conditions due in particular to unsuitable storage methods: the value of the product shall be accounted for in accordance with points (a) and (b) of Annex VI;
  - (d) too long a period of storage: the book value of the product shall be determined on the basis of the selling price at the time of sale of the product by an implementing act of the Commission to be adopted pursuant to the third subparagraph of Article 4(2).

The decision on the sale of the product shall be taken in accordance with the agricultural legislation applicable to the product in question. The receipts from sales shall be taken into account for the month during which removal occurred.

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## ANNEX VIII

**ACCOUNTING RULES APPLICABLE TO PRODUCTS WHICH HAVE ENTERED STORAGE, BUT TAKING-OVER OF WHICH HAS BEEN REFUSED**

(Article 4(1)(c))

1. Unless specific Union rules provide otherwise, entry, removal, storage and financing costs already entered in the accounts for each of the rejected quantities shall be deducted and taken into account separately, as follows:
    - (a) the entry and removal costs to be deducted shall be calculated by multiplying the rejected quantities by the sum of the respective standard amounts in the month of removal;
    - (b) expenditure on storage to be deducted shall be calculated by multiplying the rejected quantities by the number of months which elapse between entry and removal and by the standard amount for the month of removal;
    - (c) the financing costs to be deducted shall be calculated by multiplying the rejected quantities by the number of months which elapse between entry and removal, after deduction of the number of months of delay in payment applicable at the time of entry, by the rate of financing applicable during the month of removal divided by 12 and by the average book value of the stocks carried over at the beginning of the accounting year or by the average book value of the stocks of the first month of declaration if no average book value of stocks carried over exists.
  2. The costs referred to in point 1 shall be booked under the physical operations in the month of removal.
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**COMMISSION DELEGATED REGULATION (EU) No 907/2014****of 11 March 2014****supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, securities and use of euro**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 <sup>(1)</sup>, and in particular Articles 8(1), 40, 46(1), 46(2), 46(3), 46(4), 53(3), 57(1), 66(3), 79(2), 106(5) and (6) and 120 thereof,

Whereas:

- (1) Regulation (EU) No 1306/2013 has laid down the basic provisions concerning, inter alia, the accreditation of paying agencies and coordination bodies, the obligations of the paying agencies as regards public intervention, the financial management and the clearance procedures, securities and use of euro. In order to ensure the smooth functioning of the new legal framework, certain rules have to be adopted to supplement the provisions laid down by Regulation (EU) No 1306/2013 in the areas concerned. The new rules should replace the existing Commission Regulations (EC) No 883/2006 <sup>(2)</sup>, (EC) No 884/2006 <sup>(3)</sup>, (EC) No 885/2006 <sup>(4)</sup>, (EC) No 1913/2006 <sup>(5)</sup>, (EU) No 1106/2010 <sup>(6)</sup>, (EU) No 282/2012 <sup>(7)</sup>, which were based on Council Regulations already replaced by Regulation (EU) No 1306/2013. For the sake of clarity and legal certainty, Regulations (EC) No 883/2006, (EC) No 884/2006, (EC) No 885/2006, (EC) No 1913/2006, (EU) No 1106/2010 and Commission Implementing Regulation (EU) No 282/2012 should be repealed.
- (2) In accordance with Article 7 of Regulation (EU) No 1306/2013 paying agencies should only be accredited by Member States if they comply with certain minimum criteria established at Union level. Those criteria should cover four basic areas: internal environment, control activities, information and communication, and monitoring. Member States should be free to lay down additional accreditation criteria to take account of any specific features of a paying agency. Furthermore, rules should be laid down as regards the criteria for the accreditation of coordinating bodies referred to in Article 7(4) of Regulation (EU) No 1306/2013.
- (3) Public intervention measures may be financed only if the concerned expenditure is incurred by the paying agencies designated by the Member States as being responsible for certain obligations with respect to public intervention. However, performance of tasks relating, in particular, to the administration and checking of intervention measures,

<sup>(1)</sup> OJ L 347, 20.12.2013, p. 549.

<sup>(2)</sup> Commission Regulation (EC) No 883/2006 of 21 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the keeping of accounts by the paying agencies, declarations of expenditure and revenue and the conditions for reimbursing expenditure under the EAGF and the EAFRD (OJ L 171, 23.6.2006, p. 1).

<sup>(3)</sup> Commission Regulation (EC) No 884/2006 of 21 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the financing by the European Agricultural Guarantee Fund (EAGF) of intervention measures in the form of public storage operations and the accounting of public storage operations by the paying agencies of the Member States (OJ L 171, 23.6.2006, p. 35).

<sup>(4)</sup> Commission Regulation (EC) No 885/2006 of 21 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the accreditation of paying agencies and other bodies and the clearance of the accounts of the EAGF and of the EAFRD (OJ L 171, 23.6.2006, p. 90).

<sup>(5)</sup> Commission Regulation (EC) No 1913/2006 of 20 December 2006 laying down detailed rules for the application of the agri-monetary system for the euro in agriculture and amending certain regulations (OJ L 365, 21.12.2006, p. 52).

<sup>(6)</sup> Commission Regulation (EU) No 1106/2010 of 30 November 2010 establishing the list of measures to be excluded from the application of Council Regulation (EC) No 485/2008 on scrutiny by Member States of transactions forming part of the system of financing by the European Agricultural Guarantee Fund (OJ L 315, 1.12.2010, p. 16).

<sup>(7)</sup> Commission Implementing Regulation (EU) No 282/2012 of 28 March 2012 laying down common detailed rules for the application of the system of securities for agricultural products (OJ L 92, 30.3.2012, p. 4).

with the exception of payment of aid, may be delegated in accordance with the second subparagraph of Article 7(1) of Regulation (EU) No 1306/2013. It should also be possible for several paying agencies to perform these tasks. It should also be laid down that the management of certain public storage measures may be entrusted to third parties, whether public or private bodies, under the responsibility of the paying agency. It is therefore appropriate to specify the scope of the responsibility of the paying agencies in this context, specify their obligations and determine under what conditions and according to which rules the management of certain public storage measures may be entrusted to third parties, whether public or private bodies. In this case, it should be provided that the bodies concerned must act under contract on the basis of general obligations and principles which should be laid down.

- (4) Union agricultural legislation includes, for the European Agricultural Guarantee Fund (EAGF), periods for payment of aids to beneficiaries which must be complied with by Member States. Payments effected outside those periods are to be regarded as ineligible for Union payments, and therefore cannot be the subject of reimbursement by the Commission, as provided for in Article 40 of Regulation (EU) No 1306/2013. The analysis of late payments of aid by Member States has shown that a number of these are due to additional checks by Member States related to contentious claims, appeals and other national legal disputes. In accordance with the principle of proportionality, a fixed margin related to expenditure should be laid down within which no reductions of the monthly payments are to be made for these cases. In addition, once this margin is exceeded, in order to modulate the financial impact in proportion to the delay incurred in payment, provision should be made for the Commission to proportionally reduce the Union payments according to the length of delay in payment recorded. Payments of aid before the earliest possible date of payment as provided for in the Union agricultural legislation cannot be justified by the same reasons as payments after the latest possible date of payment. Therefore, no proportional reduction should be foreseen for these early payments. However, an exception should be provided for cases where Union agricultural legislation foresees the payment of an advance up to a certain maximum amount.
- (5) The Commission is to make payments at monthly or other regular intervals to the Member States on the basis of declarations of expenditure sent by the latter. It should, however, take into account the revenue received by the paying agencies on behalf of the Union budget. The conditions under which certain types of expenditure and revenue effected under the EAGF and the EAFRD are to be offset should therefore be laid down.
- (6) If the Union budget has not been adopted by the beginning of the financial year, under the third subparagraph of Article 16(2) of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council<sup>(1)</sup>, payments may be made monthly per chapter to a maximum of one twelfth of the allocated appropriations in the chapter in question of the preceding financial year. To allocate the available appropriations fairly among the Member States, provision should be made for the monthly payments under the EAGF and the interim payments under the EAFRD to be made in this case as a percentage of the declarations of expenditure submitted by each Member State and for the balance not used in a given month to be reallocated in Commission decisions on subsequent monthly or interim payments.
- (7) The exchange rates applicable should be laid down according to whether or not an operative event has been defined in the sectoral agricultural legislation. To avoid the application, by the Member States which have not adopted the euro, of different exchange rates in accounts of revenue received or aid paid to beneficiaries in a currency other than the euro, on the one hand, and in the declaration of expenditure drawn up by the paying agency, on the other, the Member States concerned should apply the same exchange rate in their declarations of expenditure under the EAGF as that used when collecting that revenue or making those payments to beneficiaries. Moreover, to simplify the administrative formalities as regards recoveries for more than one operation, a single exchange rate should apply when entering these recoveries into the accounts.
- (8) In order to enable the Commission to verify that Member States respect their obligation to protect the financial interest of the Union and to ensure an efficient application of the conformity clearance procedure provided for in Article 52 of Regulation (EU) No 1306/2013 provisions should be laid down concerning the criteria and methodology to apply corrections. The different types of corrections referred to in Article 52 of Regulation (EU) No 1306/2013 should be defined and principles should be laid down on how the circumstances of each case will be taken into account to determine the amounts of correction. Moreover, rules should be established on how recoveries made by the Member States from the beneficiaries will be credited to the funds.

<sup>(1)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

- (9) Regulation (EU) No 1306/2013 provides for the scrutiny of the commercial documents of those entities receiving or making payments relating directly or indirectly to the system of financing by the EAGF, in order to ascertain whether transactions forming part of the system of financing by the EAGF have actually been carried out and have been executed correctly. It is appropriate to exclude from the application of that Regulation those measures which are by their nature unsuited to *ex post* control by way of scrutiny checks of commercial documents, as well as measures which are concerned with payments that are either area related or unrelated to commercial documents that can be subject to scrutiny.
- (10) Numerous provisions in agricultural regulations of the Union require that a security be given to ensure payment of a sum due if an obligation is not met. However, experience has shown that this requirement is in practice interpreted in widely differing ways. Therefore, in order to avoid unequal competitive conditions, the conditions applying to that requirement should be laid down.
- (11) The costs of lodging a security, incurred by both the party giving the security and the competent authority, may be out of proportion to the sum whose payment the security guarantees if that sum is below a certain limit. Competent authorities should therefore have the right to waive the requirement of a security for payment of a sum below that limit. Furthermore, the competent authority should be empowered to waive the requirement of a security where the nature of the person required to meet the obligations makes that requirement unnecessary.
- (12) A competent authority should have the right to refuse a security offered where it considers it to be unsatisfactory.
- (13) Regulation (EU) No 1306/2013 has strengthened the rules requiring that a security be lodged to ensure the payment of a sum due if an obligation is not met. That single horizontal legal framework should be supplemented with uniform rules on *force majeure*, on forfeiting or releasing the security. Commission Regulation (EC) No 376/2008 <sup>(1)</sup> and Commission Regulation (EC) No 612/2009 <sup>(2)</sup> contain rules on the releasing and forfeiture of securities in the field of import and export licences and of the system of export refunds. The new rules provided by this Regulation should also apply in those sectors. For reason of clarity and legal certainty, the relevant provisions in Regulations (EC) No 376/2008 and (EC) No 612/2009 should be deleted.
- (14) Under Regulation (EU) No 282/2012 a distinction was made between primary, secondary, and subordinate requirements, while a limited number of Commission Regulations refers to primary requirements only. Non-fulfilment of a requirement resulted in full or proportional forfeiture of security covering that requirement according to complicated calculation methods which were the basis for confusion. While respecting the principle of proportionality, a simplified approach on forfeiture should adhere to the practical situation in which an obligation was either not fulfilled, or not timely fulfilled, or the proof of fulfilment of the obligation was not submitted within the time-frame set.
- (15) Many provisions in agricultural legislation of the Union provide that the security given is forfeited if any obligation secured is breached, without making any distinction between the types of infringement. In the interests of equity, a distinction should be drawn between the consequences of breaching different obligations. In particular, provision should be made for forfeiture of only a part of the security in specific cases.
- (16) No distinction between the consequences of failure to meet an obligation should be made based on whether or not an advance payment has been received. Accordingly, securities given against advances should be covered by separate rules.
- (17) The operative events for the exchange rates applicable to the different situations which arise within the framework of sectoral agricultural legislation should be laid down, without prejudice to any specific definitions or exemptions provided for in the rules for the sectors concerned on the basis of the criteria mentioned in Article 106(5) of Regulation (EU) No 1306/2013.

<sup>(1)</sup> Commission Regulation (EC) No 376/2008 of 23 April 2008 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products (OJ L 114, 26.4.2008, p. 3).

<sup>(2)</sup> Commission Regulation (EC) No 612/2009 of 7 July 2009 on laying down common detailed rules for the application of the system of export refunds on agricultural products (OJ L 186, 17.7.2009, p. 1).

- (18) For all the prices or amounts to be determined within the framework of trade with third countries, acceptance of the customs declaration is the operative event most suited to achieving the commercial objective concerned. The same applies to export refunds and to the determination of the entry price of fruit and vegetables into the Union, on the basis of which products are classed in the Common Customs Tariff. This operative event should therefore be adopted.
- (19) For production refunds, the operative event for the exchange rate is, as a general rule, linked to the completion of certain specific formalities. In order to harmonise the rules, it should be laid down that the operative event is the date on which products are declared to have reached the required destination, where such a destination is required, and in all other cases the acceptance of the application for payment of the refund by the paying agency.
- (20) For aid granted by quantity of product marketed or to be used in a specific way, the obligation to be complied with for the purposes of granting the aid is an event that guarantees the appropriate use of the products in question. The taking over of the products by the operator concerned is a prerequisite allowing the competent authorities to carry out the required checks or inspections on the operator's accounts and guaranteeing uniform treatment of the files. The operative event for the exchange rate should therefore be established in relation to the taking over of the products.
- (21) For other aid granted in the agricultural sector, situations may differ widely. However, such aid is always granted on the basis of an application and within deadlines laid down by the legislation. The operative event for the exchange rate in this case should therefore be established as the deadline for the submission of applications.
- (22) Regarding supports, aids and premiums in the wine sector, the operative event for the exchange rate should be linked, depending on the situation, to the starting date of the wine year, the completion of certain operations or a specific date. The operative event to be taken into account should therefore be specified for each situation.
- (23) The situations to be taken into account for the purposes of determining the operative event are very different from sector to sector. The operative event should therefore be laid down in accordance with the specific nature of each of the situations and measures covered by those agricultural sectors, in particular for the aid in the milk and milk products sector, the School Fruit Scheme, the sugar sector, promotion measures, some measures under the fruit and vegetables sector.
- (24) Regarding amounts of a structural or environmental character as referred to in Regulation (EU) No 1305/2013 of the European Parliament and of the Council <sup>(1)</sup>, and amounts approved in accordance with Council Regulation (EC) No 1698/2005 <sup>(2)</sup>, the payments of which are assured by the rural development programmes approved under Regulation (EU) No 1305/2013, the amounts are laid down for a marketing year or a calendar year. The commercial objective is therefore reached if the operative event for the exchange rate is established for the year concerned. Based on this, the operative event should be set at 1 January of the year in which the decision to grant aid is taken.
- (25) Regarding advances and securities, the amounts to be paid or the guaranteed amounts are fixed in euro in accordance with the sectoral agricultural legislation. The exchange rate applicable to these amounts must therefore be close to the date of payment of the advance or the date on which the securities are lodged. If the securities are used, the amount of those securities must also cover all the risks for which they were set up. The operative event for the exchange rate should in these circumstances be defined on the basis either of the day on which the amount of the advance is fixed or the security is lodged, or the date on which these are paid.

<sup>(1)</sup> Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 (OJ L 347, 20.12.2013, p. 487).

<sup>(2)</sup> Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (OJ L 277, 21.10.2005, p. 1).



- (26) In accordance with Council Regulation (EC) No 1290/2005 <sup>(1)</sup>, the automatic decommitment of a budget commitment for a rural development programme for the period 2007-2013 that has not been used is made by the Commission at the end of the second year following that of the budget commitment. Regulation (EU) No 1306/2013 has changed the rule by providing the automatic decommitment at the end of the third year following that of the budget commitment. For reason of consistency, for the rural development programmes for the period 2007-2013 the rule of N+2 should continue to apply and a transitional rule should be provided accordingly. In the same way, the interim payments for the rural development programmes for the period 2007-2013 should continue to be subject to the respect of the total EAFRD contribution to each priority for the entire period covered by the programme concerned. Moreover, in order to ensure continuity in the management of those programmes, these transitional rules should apply from 1 January 2014,

HAS ADOPTED THIS REGULATION:

#### CHAPTER I

#### PAYING AGENCIES AND OTHER BODIES

##### *Article 1*

##### **Conditions for the accreditation of paying agencies**

1. Paying agencies carrying out the management and control of expenditure as provided for in Article 7(1) of Regulation (EU) No 1306/2013 shall provide, in respect of payments made by them and as regards communicating and keeping information, sufficient guarantees that:

- (a) the eligibility of requests and, in the framework of rural development, the procedure for allocating aid, as well as their compliance with Union rules are checked before payment is authorised;
- (b) accurate and exhaustive accounts are kept of the payments made;
- (c) the checks laid down by Union legislation are made;
- (d) the requisite documents are presented within the time limits and in the form set out by Union rules;
- (e) the documents are accessible and kept in a manner which ensures their completeness, validity and legibility over time, including with regard to electronic documents within the meaning of Union rules.

2. Member States shall accredit as paying agencies departments or bodies which fulfil the conditions laid down in paragraph 1. Furthermore, in order to be accredited, a paying agency shall have an administrative organisation and a system of internal control which comply with the criteria set out in Annex I ('accreditation criteria') regarding

- (a) internal environment;
- (b) control activities;
- (c) information and communication;
- (d) monitoring.

Member States may lay down further accreditation criteria to take account of the size, responsibilities and other specific features of the paying agency.

<sup>(1)</sup> Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy (OJ L 209, 11.8.2005, p. 1).



*Article 2***Conditions for the accreditation of coordinating bodies**

1. Where more than one paying agency is accredited, in accordance with Article 7(4) of Regulation (EU) No 1306/2013, the Member State concerned shall, by a formal act at ministerial level, decide on the accreditation of the coordinating body after it has satisfied itself that the administrative arrangements of that body offer sufficient assurance that it is capable of fulfilling the tasks referred to in that Article.

2. In order to be accredited, the coordinating body shall have procedures in place to ensure that:

- (a) declarations to the Commission are based on information from properly authorised sources;
- (b) declarations to the Commission are properly authorised before transmission;
- (c) a proper audit trail exists to support the information transmitted to the Commission;
- (d) a record of information received and transmitted is securely stored, either in paper or in computerised format.

*Article 3***Obligations of the paying agency as regards public intervention**

1. The paying agencies referred to in Article 7(1) of Regulation (EU) No 1306/2013 shall manage and ensure control of the operations linked to intervention measures relating to public storage for which they are responsible, under the terms laid down in Annex II to this Regulation and, where appropriate, in the sectoral agricultural legislation, in particular on the basis of the minimum checking rates fixed in that Annex.

The paying agencies may delegate their powers in this connection to intervention agencies which meet the conditions of approval laid down in point 1.C of Annex I to this Regulation or act through other paying agencies.

2. The paying agencies or intervention agencies may, without prejudice to their overall responsibility relating to public storage:

- (a) entrust the management of certain public storage measures to natural or legal persons storing bought-in agricultural products ('storers');
- (b) mandate natural or legal persons to carry out certain specific tasks laid down by the sectoral agricultural legislation.

If the paying agencies entrust the management to storers as referred to in point (a) of the first subparagraph, such management shall be carried out under storage contracts on the basis of the obligations and general principles set out in Annex III.

3. The obligations of paying agencies with regard to public storage shall be, in particular, as follows:

- (a) to keep stock accounts and financial accounts for each product covered by an intervention measure involving public storage, based on the operations they carry out from 1 October of one year to 30 September of the following year, this period being referred to as an 'accounting year';
- (b) to keep an up-to-date list of the storers with whom they have concluded public storage contracts. This list shall contain references allowing the exact identification of all storage points, their capacity, the number of warehouses, cold stores and silos, and drawings and diagrams thereof;

- (c) to make available to the Commission the standard contracts used for public storage, the rules laid down for the taking-over of products, their storage and removal from the storehouses of the storers, and the rules applicable to the liability of storers;
- (d) to keep centralised, computerised stock accounts of all stocks, covering all storage places, all products and all the quantities and qualities of the different products, specifying in each case the weight (net and gross, where applicable) or the volume;
- (e) to perform all operations relating to the storage, conservation, transport or transfer of intervention products in accordance with Union and national legislation, without prejudice to the responsibility of the purchasers, of the other paying agencies involved in an operation and of any other persons acting on instruction in this regard;
- (f) to conduct checks on places where intervention stocks are held, throughout the year, at irregular intervals and without prior warning. However, provided that the purpose of the control is not jeopardised, advance notice may be given, strictly limited to the minimum time period necessary. Such notice shall not exceed 24 hours, except in duly justified cases;
- (g) to conduct an annual stocktaking in accordance with Article 4.

Where, in a Member State, management of the public storage accounts for one or more products is carried out by more than one paying agency, the stock accounts and financial accounts referred to in points (a) and (d) shall be consolidated at Member State level before the corresponding information is notified to the Commission.

4. The paying agencies shall take all the necessary steps to ensure:

- (a) that products covered by Union intervention measures are properly conserved by checking the quality of stored products at least once a year;
- (b) the integrity of intervention stocks.

5. The paying agencies shall inform the Commission immediately:

- (a) of cases where extending the storage period of a product is likely to result in its deterioration;
- (b) of quantitative losses or deterioration of the product due to natural disasters.

Where situations referred to in points (a) and (b) of the first subparagraph are applicable, the Commission shall adopt the appropriate decision:

- (a) as regards the situations referred to in point (a) of the first subparagraph, in accordance with the examination procedure referred to in Article 229(2) of Regulation (EU) No 1308/2013 of the European Parliament and of the Council <sup>(1)</sup>;
- (b) as regards the situations referred to in point (b) of the first subparagraph, in accordance with the examination procedure referred to in Article 116(3) of Regulation (EU) No 1306/2013.

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<sup>(1)</sup> Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).

6. The paying agencies shall bear any financial consequences of poor conservation of products covered by Union intervention measures, in particular those resulting from unsuitable storage methods. Without prejudice to any recourse against storers, the paying agencies shall bear financial responsibility for failure to comply with their undertakings or obligations.

7. The paying agencies shall make the public storage accounts and all documents, contracts and files drawn up or received in the context of intervention operations permanently available to Commission agents or persons mandated by the Commission, either electronically or at the premises of the paying agencies.

#### *Article 4*

##### **Inventory**

1. During each accounting year, the paying agencies shall draw up an inventory for each product which has been the subject of Union intervention.

They shall compare the results of the inventory with the accounting data. Any differences in quantities found, and the amounts resulting from differences in quality found during checks, shall be accounted for in accordance with the rules adopted pursuant to Article 46(6)(a) of Regulation (EU) No 1306/2013.

2. For the purposes of paragraph 1, missing quantities resulting from normal storage operations shall be equal to the difference between the theoretical stock shown by the accounts inventory, on the one hand, and the actual physical stock as established on the basis of the inventory provided for in paragraph 1 or the stock shown as remaining on the books after the physical stock of a store has been exhausted, on the other hand and shall be subject to the tolerance limits set out in Annex IV.

#### CHAPTER II

##### **FINANCIAL MANAGEMENT**

#### *Article 5*

##### **Non-Compliance with the latest payment deadline**

1. As regards the European Agricultural Guarantee Fund (EAGF), pursuant to the exceptions referred to in the first paragraph of Article 40 of Regulation (EU) No 1306/2013 and in accordance with the principle of proportionality, expenditure effected after the payment deadlines shall be eligible for Union payments under the conditions laid down in paragraphs 2 to 6 of this Article.

2. Where expenditure effected after the deadlines is equal to 5 % or less of the expenditure effected before the deadlines, no reduction of the monthly payments shall be made.

Where expenditure effected after the deadlines is above the threshold of 5 %, all further expenditure effected late shall be reduced in accordance with the following rules:

- (a) expenditure effected in the first month following the month in which the payment deadline expired, shall be reduced by 10 %,
- (b) expenditure effected in the second month following the month in which the payment deadline expired, shall be reduced by 25 %,
- (c) expenditure effected in the third month following the month in which the payment deadline expired, shall be reduced by 45 %,
- (d) expenditure effected in the fourth month following the month in which the payment deadline expired, shall be reduced by 70 %,

- (e) expenditure effected later than the fourth month following the month in which the payment deadline expired, shall be reduced by 100 %.

3. By way of derogation from paragraph 2, in the case of the direct payments falling under the ceiling referred to in Article 7 of Regulation (EU) No 1307/2013 of the European Parliament and of the Council <sup>(1)</sup> the following conditions shall apply:

- (a) where the threshold referred to in the first subparagraph of paragraph 2 has not been used in full for payments made in respect of calendar year N no later than 15 October of year N + 1 and the remainder of the threshold exceeds 2 %, that remainder shall be reduced to 2 %;
- (b) during a financial year N+1, direct payments, other than payments provided for in Regulation (EU) No 228/2013 of the European Parliament and of the Council <sup>(2)</sup> and in Regulation (EU) No 229/2013 of the European Parliament and of the Council <sup>(3)</sup>, in respect of calendar years N-1 or earlier made after the payment deadline will only be eligible for financing by EAGF if the total amount of direct payments made within financial year N+1, where applicable corrected to amounts before the adjustment provided for in Article 26 of Regulation (EU) No 1306/2013, does not exceed the ceiling laid down in Annex III of Regulation (EU) No 1307/2013 in respect of calendar year N, in accordance with Article 7 of that Regulation;
- (c) expenditure exceeding the limits referred to in point (a) or (b) shall be reduced by 100 %.

The amounts of the reimbursements referred to in Article 26(5) of Regulation (EU) No 1306/2013 shall not be taken into account to check whether the condition laid down in point (b) of the first subparagraph of this paragraph is fulfilled.

4. The Commission shall apply a different time scale from those laid down in paragraphs 2 and 3, and/or lower reductions or no reduction at all, if exceptional management conditions are encountered for certain measures or if justified reasons are advanced by the Member States.

However, the first subparagraph shall not apply for expenditure exceeding the limit referred to in point (b) of paragraph 3.

5. Checks on compliance with the payment deadlines, in the context of the monthly payments, shall be made twice each financial year:

- (a) on expenditure effected by 31 July,
- (b) on expenditure effected by 15 October.

Any overrun of deadlines in August, September and October shall be taken into account in the accounts clearance decision referred to in Article 51 of Regulation (EU) No 1306/2013.

6. The reductions referred to in this Article shall be applied without prejudice to the subsequent decision on conformity clearance, as referred to in Article 52 of Regulation (EU) No 1306/2013.

<sup>(1)</sup> 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).

<sup>(2)</sup> Regulation (EU) No 228/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in the outermost regions of the Union and repealing Council Regulation (EC) No 247/2006 (OJ L 78, 20.3.2013, p. 23).

<sup>(3)</sup> Regulation (EU) No 229/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in favour of the smaller Aegean islands and repealing Council Regulation (EC) No 1405/2006 (OJ L 78, 20.3.2013, p. 41).

*Article 6***Non-Compliance with earliest date of payment**

As regards EAGF, if Member States are allowed to pay advances up to a certain maximum amount before the earliest payment date fixed in the agricultural sectorial legislation, any expenditure paid above this maximum amount shall be considered as expenditure made before the earliest payment date. However, in accordance with the exceptions referred to in the first paragraph of Article 40 of Regulation (EU) No 1306/2013, that expenditure shall be eligible for Union payments subject to a reduction of 10 %.

*Article 7***Compensation by paying agencies**

1. In its decision on the monthly payments to be adopted pursuant to Article 18(3) of Regulation (EU) No 1306/2013, the Commission shall pay the balance of the expenditure declared by each Member State, less the assigned revenue which that Member State has included in the same declaration of expenditure. This set-off shall be regarded as equivalent to collection of the corresponding revenue.

Commitment appropriations and payment appropriations generated by assigned revenue shall be open once this revenue has been assigned to budget lines. Assignment shall take place when the assigned revenue is entered into the accounts, within two months after receipt of the statements sent by the Member States, in accordance with the rules referred to in Article 43(4) of Regulation (EU) No 1306/2013.

2. If the sums referred to in Article 43(1) point (c) of Regulation (EU) No 1306/2013 were withheld before the payment of the aid concerned by the irregularity or negligence, they shall be deducted from the corresponding expenditure.

3. The amounts of the European Agricultural Fund for Rural Development (EAFRD) contributions recovered from beneficiaries under the rural development programme concerned during each reference period shall be deducted from the amount to be paid by the EAFRD in the declaration of expenditure for that period.

4. The greater or lesser amounts resulting, where applicable, from the clearance of accounts referred to in Article 51 of Regulation (EU) No 1306/2013 that may be re-used for the rural development programme shall be added to or deducted from the amount of the EAFRD contribution when the first declaration after the clearance of accounts decision is drawn up.

5. Financing by the EAGF shall be equal to the expenditure, calculated on the basis of the information notified by the paying agency, after deduction of any revenue accruing from the intervention measures, validated by the computerised system set up by the Commission and included by the paying agency in its declaration of expenditure.

*Article 8***Late adoption of Union budget**

1. As regards EAGF, if the Union budget has not been adopted by the beginning of the budgetary year, the monthly payments referred to in Article 18 of Regulation (EU) No 1306/2013 shall be granted as a percentage of the declarations of expenditure received from each Member State, laid down for each chapter of expenditure and within the limits laid down in Article 16 of Regulation (EU, Euratom) No 966/2012. The Commission shall take into account the balance of amounts not reimbursed to the Member States in decisions on subsequent reimbursements.

2. As regards EAFRD, if the Union budget has not been adopted by the beginning of the budgetary year:

(a) the interim payments referred to in Article 36 of Regulation (EU) No 1306/2013 shall be granted proportionally to the credits available as a percentage of the declarations of expenditure received for each rural development program. The Commission shall take the balance of amounts not reimbursed to the Member States into account in the subsequent interim payments.

- (b) as regards the budget commitments referred to in Article 33 of Regulation (EU) No 1306/2013, the first annual instalments following the adoption of the rural development programmes shall respect the order of adoption of those programmes. The budget commitments for the subsequent annual instalments shall be made in the order of the programmes having exhausted the respective commitments. The Commission may make partial annual commitments to the rural development programmes if the available commitment appropriations are limited. The remaining balance for those programmes shall be committed first once additional commitment appropriations become available.

#### *Article 9*

##### **Deferral of monthly payments**

The Commission, having informed the Member States concerned, may defer the monthly payments referred to in Article 18 of Regulation (EU) No 1306/2013 to the Member States where the communications as referred to in point (c) (i) and (ii) of Article 102(1) of that Regulation arrive late or contain discrepancies which necessitate further checks.

#### *Article 10*

##### **Suspension of payment in case of late submission**

1. The suspension of payments referred to in Article 42 of Regulation (EU) No 1306/2013 shall apply to the measures listed in Annex V to this Regulation.
2. As regards expenditure under EAGF, the following rates of suspension of payments shall apply:
  - (a) if the results of the controls have not been sent by 15 October, 1 % of the expenditure for which the relevant information has not been sent in time;
  - (b) if the results of the controls have not been sent by 1 December, 1,5 % of the expenditure for which the relevant information has not been sent in time.
3. As regards expenditure under EAFRD, the following rates of suspension of payments shall apply:
  - (a) if the results of the controls have not been sent by 15 October, 1 % of the expenditure for which the relevant information has not been sent in time;
  - (b) if the results of the controls have not been sent by 15 January, 1,5 % of the expenditure for which the relevant information has not been sent in time.

#### *Article 11*

##### **Applicable exchange rate for drawing up declarations of expenditure**

1. In accordance with Article 106(4) of Regulation (EU) No 1306/2013, as regards EAGF, for drawing up their declarations of expenditure, Member States which have not adopted the euro shall apply the same exchange rate as that which they used to make payments to beneficiaries or receive revenue, in accordance with Chapter V and the sectoral agricultural legislation. For the clearance decisions referred in Articles 51 and 52 of Regulation (EU) No 1306/2013 Member States shall use the first exchange rate established by the European Central Bank after the date of adoption of those decisions.

In cases other than those referred to in the first subparagraph, in particular for promotion programmes approved under Council Regulation (EC) No 3/2008 <sup>(1)</sup> and for promotion measures in the wine sector, as well as for operations for which an operative event has not been laid down by the sectoral agricultural legislation, the applicable exchange rate shall be the last-but-one exchange rate established by the European Central Bank before the month in respect of which the expenditure or assigned revenue is declared.

<sup>(1)</sup> Council Regulation (EC) No 3/2008 of 17 December 2007 on information provision and promotion measures for agricultural products on the internal market and in third countries (OJ L 3, 5.1.2008, p. 1).

2. As regards the rural development programs, for drawing up their declarations of expenditure, Member States which do not form part of the euro zone shall apply, for each payment or recovery operation, the last-but-one exchange rate established by the European Central Bank prior to the month in which the operations are registered in the accounts of the paying agency.

### CHAPTER III

## CLEARANCE OF ACCOUNTS AND OTHER CHECKS

### Article 12

#### **Criteria and methodology for applying corrections in the framework of conformity clearance**

1. For the purpose of adopting the decision pursuant to Article 52(1) of the Regulation (EU) No 1306/2013 on the amounts to be excluded from Union financing, the Commission shall distinguish between those amounts or parts of the amounts identified as amounts unduly spent and those determined by applying extrapolated or flat rate corrections.

In order to determine the amounts that may be excluded from Union financing, when finding that expenditure has not been incurred in conformity with Union law, and concerning EAFRD, in conformity with the applicable Union and national law, the Commission shall use its own findings and shall take into account the information made available by the Member States during the conformity clearance procedure carried out in accordance with Article 52 of Regulation (EU) No 1306/2013.

2. The Commission shall base the exclusion on the identification of the amounts unduly spent only if those amounts may be identified with proportionate effort. Where the Commission cannot identify the amounts unduly spent with proportionate effort, Member States may, within the time-periods set by the Commission during the conformity clearance procedure, submit data concerning the verification of those amounts on the basis of an examination of all individual cases potentially affected by the non-conformity. The verification shall cover the entire expenditure incurred in breach of applicable law and charged to the Union budget. The data submitted shall include all individual amounts which are ineligible due to that non-conformity.

3. Where the amounts unduly spent cannot be identified in accordance with paragraph 2, the Commission may determine the amounts to be excluded by applying extrapolated corrections. To enable the Commission to determine the relevant amounts, Member States may, within the time-periods set by the Commission during the conformity clearance procedure, submit a calculation of the amount to be excluded from Union financing by extrapolating through statistical means the results of checks carried out on a representative sample of those cases. The sample shall be drawn from the population for which the identified non-conformity is reasonably expected to occur.

4. In order to take into consideration the results submitted by Member States as referred to in paragraphs 2 and 3, the Commission shall be in a position to:

- (a) assess the methods retained for identifying or extrapolating, which shall be clearly described by the Member States;
- (b) check the representativeness of the sample referred to in paragraph 3;
- (c) check the content and results of the identification or extrapolation submitted to it;
- (d) obtain sufficient and relevant audit evidence regarding the underlying data.

5. When applying paragraph 3, the Member States may use the paying agencies' control statistics as confirmed by the certification body, or such body's assessment of the level of error in the context of its audit referred to in Article 9 of Regulation (EU) No 1306/2013, provided that:

- (a) the Commission is satisfied with the work carried out by the certification bodies, both in terms of audit strategy and concerning the content, extent and quality of the actual audit work;



(b) the scope of the certification bodies' work is consistent with the scope of the conformity clearance enquiry in question, in particular with regard to the measures or schemes;

(c) the amount of the penalties that should have been applied was taken into account in the assessments.

6. Where the conditions for determining the amounts to be excluded from Union financing as referred to in paragraphs 2 and 3 are not met or the nature of the case is such that the amounts to be excluded cannot be determined on the basis of those paragraphs, the Commission shall apply the appropriate flat-rate corrections, taking into account the nature and gravity of the infringement and its own estimation of the risk of financial damage caused to the Union.

The level of flat-rate correction shall be established by taking into consideration in particular the type of non-conformity identified. To this effect control deficiencies shall be divided between those relating to key and ancillary controls as follows:

(a) Key controls shall be the administrative and on-the-spot checks necessary to determine the eligibility of the aid and the relevant application of reductions and penalties;

(b) Ancillary controls shall be all other administrative operations required to correctly process claims.

If, in the framework of the same conformity clearance procedure, different non-conformities which would individually lead to distinct flat-rate corrections are established, then only the highest flat-rate correction shall apply.

7. When establishing the level of flat-rate corrections, the Commission shall specifically take into account the following circumstances demonstrating a higher gravity of the deficiencies revealing a greater risk of loss for the Union's budget:

(a) one or more key controls are not applied or are applied so poorly or so infrequently that they are deemed ineffective in determining the eligibility of the claim or in preventing irregularities; or

(b) three or more deficiencies are detected with respect to the same control system; or

(c) the Member State's application of a control system is found to be absent or gravely deficient, and there is evidence of wide-spread irregularity and negligence in countering irregular or fraudulent practices; or

(d) a correction has already been applied to that Member State for similar deficiencies in the same sector, account taken however of the corrective or compensating measures already taken by the Member State.

8. Where a Member State submits certain objective elements, which do not fulfil the requirements laid down in paragraphs 2 and 3 of this Article, but which demonstrate that the maximum loss for the funds is limited to a sum lower than what would derive from the application of the flat-rate proposed, the Commission shall use the lower flat-rate to decide on the amounts to be excluded from Union financing pursuant to Article 52 of Regulation (EU) No 1306/2013.

9. Amounts effectively recovered from the beneficiaries and credited to the funds before a relevant date, to be established by the Commission in the course of the conformity clearance procedure, shall be deducted from the amount that the Commission decides to exclude from Union financing pursuant to Article 52 of Regulation (EU) No 1306/2013.



*Article 13***Obligation following recovery procedures**

Following the completion of the recovery procedures referred to in the first subparagraph of Article 54(2) of Regulation (EU) No 1306/2013, the Member States shall:

- (a) credit to the EAGF fifty percent of the amounts recovered, after deduction of the recovery costs as provided for in the second paragraph of Article 55 of that Regulation;
- (b) credit to the EAFRD fifty percent of amounts either recovered after the closure of the rural development programme or recovered before the closure of the programme but which could not be reallocated in accordance with Article 56 of Regulation (EU) No 1306/2013.

*Article 14***Scrutiny of transactions**

The system of scrutiny established by Chapter III of Title V of Regulation (EU) No 1306/2013 shall not apply to the measures listed in Annex VI to this Regulation.

## CHAPTER IV

**SECURITIES**

## SECTION 1

***Scope and Use of terms****Article 15***Scope**

This Chapter shall apply in all cases where the sectoral agricultural legislation provides for a security whether or not the particular term 'security' is used.

This Chapter shall not apply to securities given to ensure payment of import and export duties referred to in Council Regulation (EEC) No 2913/92 <sup>(1)</sup>.

*Article 16***Terms used in this Chapter**

For the purposes of this Chapter:

- (a) 'competent authority' means either a party authorised to accept a security or a party authorised to decide in accordance with the relevant regulation if a security is to be released or forfeited;
- (b) 'block security' means a security made available to the competent authority with the purpose of ensuring that more than one obligation is met;
- (c) 'the relevant part of the sum secured' means the part of the sum secured corresponding to the quantity for which a requirement has been breached.

<sup>(1)</sup> Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, p. 1).

## SECTION 2

**Requirement of a Security**

## Article 17

**Responsible party**

A security shall be given by or on behalf of the party responsible for paying the sum of money due if an obligation is not met.

## Article 18

**Waiver of a security requirement**

1. The competent authority may waive the security requirement where the party responsible for meeting the obligation is either:

- (a) a public body responsible for executing the duties of a public authority; or
- (b) a private body executing duties referred to in point (a) under State supervision.

2. The competent authority may waive the security requirement where the value of the sum secured is less than EUR 500. In that case, the party concerned shall undertake in writing to pay a sum equal to the security waived if the corresponding obligation is not met.

In applying the first subparagraph, the value of the security shall be calculated as comprising all the relevant obligations linked with a same operation.

## Article 19

**Conditions applying to securities**

1. The competent authority shall refuse to accept or shall require the replacement of any security which it considers inadequate or unsatisfactory or which does not provide cover for a sufficient period.

2. Where cash is deposited by transfer, it shall not be regarded as establishing a security until the competent authority is satisfied that it has the amount at its disposal.

3. A cheque for a sum whose payment is guaranteed by a financial institution recognised for that purpose by the Member State of the competent authority concerned shall be treated as a cash deposit. The competent authority need not to present such a cheque for payment until the period for which it is guaranteed is about to expire.

A cheque, other than as referred to in the first subparagraph, shall constitute a security only when the competent authority is satisfied that it has the amount at its disposal.

- 4. Any charges by a financial institution shall be borne by the party giving the security.
- 5. No interest shall be paid to the party giving a security in the form of a cash deposit.

## Article 20

**Use of euro**

1. Securities shall be constituted in euro.

2. If the security is accepted in a Member State which has not adopted the euro, the amount of the security in euro shall be converted into the applicable national currency in accordance with the provisions of Chapter V. The undertaking corresponding to the security and any amount withheld in the event of irregularities or breaches shall remain fixed in euro.

*Article 21***The guarantor**

1. The guarantor shall have his officially registered residence or an establishment in the Union and, subject to the provisions of the Treaty concerning freedom to supply services, be approved by the competent authority of the Member State in which the security is given. The guarantor shall be bound by a written guarantee.
2. The written guarantee shall state at least:
  - (a) the obligation or, in the case of a block security, the type(s) of obligation against whose fulfilment it guarantees the payment of a sum of money;
  - (b) the maximum liability to pay that the guarantor accepts;
  - (c) that the guarantor undertakes jointly and severally with the party responsible for meeting the obligation to pay, within 30 days upon demand by the competent authority, any sum, within the limit of the guarantee, due once a security is declared forfeit.
3. Where a written block security has already been given, the competent authority shall determine the procedure to be followed by which all or part of the block security shall be allocated to a particular obligation.

*Article 22***Application of force majeure**

Any person responsible for an obligation covered by a security claiming that the non-respect of the obligation is due to *force majeure* shall prove to the satisfaction of the competent authorities that *force majeure* applies. If the competent authority recognises a case of *force majeure*, the obligation is cancelled for the sole purpose of releasing the security.

*SECTION 3****Release and forfeiture of securities other than those referred to in Section 4****Article 23***Forfeiting of securities**

1. The obligation mentioned in Article 66(1) of Regulation (EU) No 1306/2013 is the requirement to perform or to refrain from performing an action, basic to the purposes of the Regulation imposing it.
2. If an obligation is not fulfilled and no time limit for fulfilment has been given, the security shall be forfeited when the competent authority establishes that it was not fulfilled.
3. If the fulfilment of an obligation is subject to a certain time limit, and the fulfilment took only place beyond that time limit, the security shall be forfeited.

In such case the security shall be forfeited for 10 % at once and further an additional percentage over the remaining balance shall be applied for:

- (a) 2 % per calendar day exceeding the time limit if the obligation concerns the importing of products into a third country;
- (b) 5 % per calendar day exceeding the time limit if the obligation concerns the leaving of products of the customs territory of the Union.

4. If an obligation is fulfilled timely, and the presentation of the proof of fulfilment is subject to a fixed time limit, the security covering that obligation shall be forfeited for each calendar day exceeding that time limit according to the formula  $0,2/\text{time limit in days}$  set and taking account of Article 25.

If the proof referred to in the first subparagraph consists of the submission of a used or expired import or export licence, or the submission of the proof of products having left the custom territory of the Union, the security to be forfeited shall be 15 % if that proof is submitted after the fixed time limit referred to in the first subparagraph but at the latest on the 730th calendar day after the expiry date of the licence. After those 730 calendar days, the remaining security shall be forfeited in whole.

If the proof referred to in the first subparagraph consists of the submission of a used or expired export licence with advance fixing of the refunds, the security to be forfeited shall be:

- (a) 10 % if the licence is submitted between the 61th and 90th calendar days after the date of expiry of the licence;
- (b) 50 % if the licence is submitted between the 91st and 120th calendar day after the date of expiry of the licence;
- (c) 70 % if the licence is submitted between the 121st and 150th calendar day after the date of expiry of the licence;
- (d) 80 % if the licence is submitted between the 151st and 180th calendar day after the date of expiry of the licence;
- (e) 100 % if the licence is submitted after the 180th calendar day after the date of expiry of the licence.

5. The amount of security to be forfeited shall be rounded to the first lower amount in whole euro or the applicable national currency.

#### *Article 24*

##### **Releasing of securities**

1. Once the proof as laid down by the specific Union rules that an obligation has been fulfilled, or the security has been partially forfeited in accordance with Article 66(2) of Regulation (EU) No 1306/2013 and Article 23 of this Regulation, the security, or where applicable, the remainder of the security shall be released without delay.

2. A security shall on request be released in part where the relevant evidence has been furnished in relation to part of a quantity of product, provided that that part is not less than any minimum quantity specified in the regulation requiring the security, or, in the absence, as specified by the Member State.

3. Where no time period is laid down for producing the evidence needed to release a sum secured, such period shall be 365 calendar days from the time limit specified for respecting the obligation for which the security was lodged. Where no such time limit is specified, the period shall be 365 calendar days from the date by which all obligations have been fulfilled.

The period laid down in the first subparagraph shall not exceed 1 095 calendar days from the time the security was assigned to a particular obligation.

#### *Article 25*

##### **Thresholds**

1. The total sum forfeited shall not exceed 100 % of the relevant part of the sum secured.

2. The competent authority may waive the forfeiture of an amount less than EUR 100, provided that similar national provisions for comparable cases are laid down by law, regulation or administrative action.

## SECTION 4

***Securities with respect to advance payments***

## Article 26

**Scope**

The provisions of this Section shall apply in all cases where specific Union rules provide that a sum may be advanced before the obligation established to obtain any aid or advantage has been met.

## Article 27

**Release of securities**

1. The security shall be released:
  - (a) either when final entitlement to the sum granted as an advance has been established;
  - (b) or when the sum granted, plus any addition provided for in the specific Union rules, has been repaid.
2. Once the deadline for proving final entitlement to the sum granted has passed without production of evidence of entitlement, the competent authority shall immediately follow the procedure for forfeiting the security.

However, where specific Union rules so provide, evidence may still be produced after that date against partial repayment of the security.

## CHAPTER V

**USE OF EURO**

## Article 28

**Export refunds and trade with third countries**

1. For amounts relating to imports and for export taxes, fixed in euro by Union law relating to the common agricultural policy and applicable by the Member States in national currency, the conversion rate shall be specifically equal to the rate applicable pursuant to Article 18(1) of Regulation (EEC) No 2913/92.
2. For export refunds fixed in euro and for prices and amounts expressed in euro in Union agricultural legislation regarding trade with third countries, the operative event for the exchange rate shall be the acceptance of the customs declaration.
3. For the purpose of calculating the standard import value of fruit and vegetables referred to in Article 136(1) of Implementing Regulation (EU) No 543/2011 <sup>(1)</sup>, in order to determine the entry price referred to in Article 137(1) of that Regulation, the operative event for the exchange rate for the representative prices used to calculate that standard value and the amount of the reduction referred to in Article 134(3) of that Regulation shall be the day to which the representative prices relate.

## Article 29

**Production refunds and specific types of aid**

1. For production refunds fixed in euro by Union legislation, the operative event for the exchange rate shall be the date on which it is declared that the products have reached the destination required, as the case may be, by that legislation. In cases where no such destination is required, the operative event shall be the acceptance of the application for payment of the refund by the paying agency.

<sup>(1)</sup> Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors (OJ L 157, 15.6.2011, p. 1).

2. For aid granted by quantity of marketed product or product to be used in a specific way, without prejudice to Articles 30 to 33, the operative event for the exchange rate shall be the first operation which guarantees, after the products are taken over by the operator concerned, the appropriate use of the products in question and entails grant of the aid.

3. For private storage aid the operative event for the exchange rate shall be the first day of the period in respect of which the aid relating to one and the same contract is granted.

4. For aid other than that referred to in paragraphs 2 and 3 of this Article and in Articles 30 and 31, the operative event for the exchange rate shall be the deadline for the submission of applications.

#### *Article 30*

##### **Wine sector**

1. The operative event for the exchange rate shall be the first day of the wine year in which the support is granted for the following:

(a) restructuring and conversion of vineyards referred to in Article 46 of Regulation (EU) No 1308/2013;

(b) setting-up of mutual funds referred to in Article 48 of Regulation (EU) No 1308/2013;

(c) harvest insurance referred to in Article 49 of Regulation (EU) No 1308/2013.

2. For the aids paid for the voluntary or obligatory distillation of by-products of wine-making, referred to in Article 52 of Regulation (EU) No 1308/2013, the operative event for the exchange rate shall be the first day of the wine year in which the by-product is delivered.

3. For investments referred to in Article 50 of Regulation (EU) No 1308/2013 and the innovation in the wine sector referred to in Article 51 of Regulation (EU) No 1308/2013, the operative event for the exchange rate shall be 1 January of the year in which the decision to grant the aid is taken.

4. For green harvesting operations referred to in Article 47 of Regulation (EU) No 1308/2013, the operative event for the exchange rate shall be the day on which the green harvesting operation takes place.

#### *Article 31*

##### **Amounts and payments in the milk and milk products sector**

1. For aid granted for supplying certain milk products to pupils as referred to in Article 1 of Commission Regulation (EC) No 657/2008 <sup>(1)</sup>, the operative event for the exchange rate shall be the first day of the period to which the payment application referred to in Article 11 of that Regulation relates.

2. For the payment of the levy referred to in Article 1 of Commission Regulation (EC) No 595/2004 <sup>(2)</sup>, for a given twelve-month period within the meaning of Chapter III of Title I of Part II of Council Regulation (EU) No 1234/2007 <sup>(3)</sup>, the operative event for the exchange rate shall be 1 April following the period concerned.

<sup>(1)</sup> Commission Regulation (EC) No 657/2008 of 10 July 2008 laying down detailed rules for applying Council Regulation (EC) No 1234/2007 as regards Community aid for supplying milk and certain milk products to pupils in educational establishments (OJ L 183, 11.7.2008, p. 17).

<sup>(2)</sup> Commission Regulation (EC) No 595/2004 of 30 March 2004 laying down detailed rules for applying Council Regulation (EC) No 1788/2003 establishing a levy in the milk and milk products sector (OJ L 94, 31.3.2004, p. 22).

<sup>(3)</sup> Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (OJ L 299, 16.11.2007, p. 1).

3. For the transport costs referred to in Article 30(3) of Commission Regulation (EU) No 1272/2009 <sup>(1)</sup>, the operative event for the exchange rate shall be the day on which the valid offer has been received by the competent authority.

#### Article 32

##### **Amounts and payments of aid linked to the implementation of the School Fruit Scheme**

For aid granted for the supply of fruit and vegetable, processed fruit and vegetable and banana products to children as referred to in Article 1 of Commission Regulation (EC) No 288/2009 <sup>(2)</sup>, the operative event for the exchange rate shall be 1 January preceding the period referred to in Article 4(1) of that Regulation.

#### Article 33

##### **Minimum price for beet, surplus levy and production charge in the sugar sector**

For the production charge on sugar, for the minimum beet price, and for the surplus levy referred to in Articles 128, 135 and 142 respectively of Regulation (EU) No 1308/2013, the operative event for the exchange rate shall be 1 October of the marketing year in respect of which the prices and amounts are applied or paid.

#### Article 34

##### **Amounts of a structural or environmental character and overheads of operational programmes**

1. For the amounts referred to in Annex II to Regulation (EU) No 1305/2013, as well as for the amounts relating to measures approved under Regulation (EC) No 1698/2005, for which the payments to beneficiaries are assured by the rural development programmes approved under Regulation (EU) No 1305/2013, the operative event for the exchange rate shall be 1 January of the year in which the decision to grant the aid is taken.

However, where, under Union rules, payment of the amounts referred to in the first subparagraph is staggered over several years, the operative event for the exchange rate for each of the annual instalments shall be 1 January of the year for which the instalment in question is paid.

2. For the sums referred to in point 2(a) of Annex IX to Implementing Regulation (EU) No 543/2011, intended to cover overheads specifically related to the operational funds or programmes referred to in Articles 32 and 33 of Regulation (EU) No 1308/2013, the operative event for the exchange rate shall be 1 January of the year to which these overheads relate.

#### Article 35

##### **Amounts linked to the authorisation to grant national financial assistance to producer organisations in the fruit and vegetables sector and the partial reimbursement of this national financial assistance**

1. For the request of the authorisation to grant the national financial assistance referred to in Article 35 of Regulation (EU) No 1308/2013, the operative event shall be the deadline for the submission of the request to the Commission, as laid down in Article 92(1) of Implementing Regulation (EU) No 543/2011.

2. For the Union reimbursement of the national financial assistance according to Article 95 of Implementing Regulation (EU) No 543/2011, the operative event for the exchange rate shall be the deadline for the submission of aid applications by producer organisations to the competent authorities of the Member States according to Article 69(1) of Regulation (EU) No 543/2011.

<sup>(1)</sup> Commission Regulation (EU) No 1272/2009 of 11 December 2009 laying down common detailed rules for the implementation of Council Regulation (EC) No 1234/2007 as regards buying-in and selling of agricultural products under public intervention (OJ L 349, 29.12.2009, p. 1).

<sup>(2)</sup> Commission Regulation (EC) No 288/2009 of 7 April 2009 laying down detailed rules for applying Council Regulation (EC) No 1234/2007 as regards Community aid for supplying fruit and vegetables, processed fruit and vegetables and banana products to children in educational establishments, in the framework of a School Fruit Scheme (OJ L 94, 8.4.2009, p. 38).

*Article 36***Other amounts and prices**

For prices or amounts other than those referred to in Articles 28 to 35, or amounts linked to those prices, expressed in euro in Union legislation, or expressed in euro by a tendering procedure, the operative event for the exchange rate shall be the day on which one of the following legal acts occurs:

- (a) for purchases, when the valid offer has been received;
- (b) for sales, when the valid offer has been received;
- (c) for withdrawals of products in the fruit and vegetables sector, the day on which the withdrawal takes place;
- (d) for non-harvesting and green harvesting operations in the fruit and vegetables sector, the day on which the non-harvesting and green harvesting operation takes place;
- (e) for costs of transport, processing or public storage and for amounts allocated to studies as part of a tendering procedure, the final day for the submission of tenders;
- (f) for the recording of prices, amounts or tenders on the market, the day in respect of which the price, amount or tender is recorded;
- (g) for penalties linked to non-compliance with agricultural legislation, the date of the act of the competent authority which establishes the facts;
- (h) for turnover or amounts relating to production volumes, the start of the reference period laid down by agricultural legislation.

*Article 37***Payment of advances**

For advances, the operative event for the exchange rate shall be the operative event applicable to the price or amount to which the advance relates, where this event has occurred by the time the advance is paid, or, in other cases, the date of setting in euro of the advance or, failing that, the date of payment of the advance. The operative event for the exchange rate shall be applied to advances without prejudice to the application to the entire price or amount in question of the operative event for that price or amount.

*Article 38***Securities**

For securities, the operative event for the exchange rate shall be the date on which the security is lodged.

However, the following exceptions shall apply:

- (a) for securities relating to advances, the operative event for the exchange rate shall be the operative event as defined for the amount of the advance, where that event has occurred by the time the security is paid;
- (b) for securities relating to the submission of tenders, the operative event for the exchange rate shall be the day on which the tender is submitted;
- (c) for securities relating to the performance of tenders, the operative event for the exchange rate shall be the closing date of the invitation to tender.



*Article 39***Scrutiny of transactions**

The amounts in euro appearing in Chapter III of Title V of Regulation (EU) No 1306/2013 shall be converted, where appropriate, into national currencies by applying the rate of exchange operating on the first working date of the year when the scrutiny period begins and published in the C series of the *Official Journal of the European Union*.

*Article 40***Determination of the exchange rate**

When an operative event is fixed under Union legislation, the exchange rate to be used shall be the most recent rate set by the European Central Bank (ECB) prior to the first day of the month in which the operative event occurs.

However, in the following cases, the exchange rate to be used shall be:

- (a) for the cases referred to in Article 28(2) of this Regulation in which the operative event for the exchange rate is the acceptance of the customs declaration, the rate referred to in Article 18(1) of Regulation (EEC) No 2913/92;
- (b) for intervention expenditure incurred in the context of public storage operations, the rate resulting from the application of Article 3(2) of Commission Delegated Regulation (EU) No 906/2014 <sup>(1)</sup>;
- (c) for the minimum price for beet referred to in Article 33 of this Regulation, the average rate established by the European Central Bank (ECB) for the month prior to the operative event.

## CHAPTER VI

**FINAL PROVISION***Article 41***Transitional provisions**

1. Where a paying agency, accredited in accordance with Regulation (EU) No 1290/2005, assumes responsibility for expenditure for which it was not previously responsible, it shall be accredited with the new responsibilities by 1 January 2015.
2. The measures listed in the Annex to Regulation (EC) No 1106/2010 shall not be subject to the system of scrutiny established by Chapter III of Title V of Regulation (EU) No 1306/2013 for the purpose of the scrutiny in respect of expenditure prior to financial year 2014.
3. Where in specific legislation reference is made to primary, secondary, or subordinate requirements as referred to in Regulation (EU) No 282/2012, Article 23(2), (3) and (4) of this Regulation shall apply.
4. For the rural development programmes referred to in Article 15 of Regulation (EC) No 1698/2005:
  - (a) the provisions of Article 38(1) of Regulation (EU) No 1306/2013 shall apply for the budget commitments not used by 31 December of the second year following that of the budget commitment. In Article 38 of that Regulation the references made to year N+3 shall be regarded as references to year N+2;

<sup>(1)</sup> Commission Delegated Regulation (EU) No 906/2014 of 11 March 2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to public intervention expenditure. (see page 1 of this Official Journal).

(b) the interim payments made by the Commission shall be subject, as referred to in point (b) of Article 36(3) of Regulation (EU) No 1306/2013, to no overrun of the total EAFRD contribution to each priority for the entire period covered by the programme concerned;

(c) for the purpose of applying Articles 37 and 38 of Regulation (EU) No 1306/2013, the final eligibility date of expenditure shall be the one laid down in Article 71(1) of Regulation (EC) No 1698/2005.

5. For the purpose of applying Article 54(1) and (2) of Regulation (EU) No 1306/2013, for the cases reported or to be reported to the Commission in respect of financial years 2013 and 2014, as referred to in point (h) of Article 6 of Regulation (EC) No 885/2006, the financial year of the primary finding of irregularity in the sense of Article 35 of Regulation (EC) No 1290/2005 shall continue to be taken into account. For the cases for which no primary administrative or judicial finding of irregularity was established before 16 October 2014, the provisions of Article 54(1) and (2) of Regulation (EU) No 1306/2013 shall apply.

As regards EAFRD, for the purpose of clearing the accounts in accordance with Article 51 of Regulation (EU) No 1306/2013, the provisions of Article 54(2) of that Regulation shall apply starting with the clearance of the accounts for financial year 2014.

#### *Article 42*

#### **Amendment to Regulation (EC) No 376/2008**

Paragraphs 6 and 7 of Article 34 of Regulation (EC) No 376/2008 are deleted.

However, those provisions shall continue to apply for the securities validly lodged under that Regulation before the entry into force of this Regulation.

#### *Article 43*

#### **Amendment to Regulation (EC) No 612/2009**

Article 47(3) of Commission Regulation (EC) No 612/2009 is deleted.

However, those provisions shall continue to apply for the securities validly lodged under that Regulation before the entry into force of this Regulation.

#### *Article 44*

#### **Repeal**

Regulations (EC) No 883/2006, (EC) No 884/2006, (EC) No 885/2006, (EC) No 1913/2006, (EU) No 1106/2010 and (EU) No 282/2012 are repealed.

However, the following shall apply:

(a) Regulation (EU) No 282/2012 shall continue to apply for the securities validly lodged under that Regulation before the entry into force of this Regulation;

(b) Article 4 of Regulation (EC) No 883/2006 shall continue to apply to expenditure effected until 15 October 2014;

(c) Article 11 and Chapter III of Regulation (EC) No 885/2006 shall continue to apply until 31 December 2014.

*Article 45***Entry into force and application**

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

Article 41(4) shall apply from 1 January 2014.

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

Done at Brussels, 11 March 2014.

*For the Commission*  
*The President*  
José Manuel BARROSO

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## ANNEX I

**ACCREDITATION CRITERIA**

(Article 1)

**1. INTERNAL ENVIRONMENT****(A) Organisational structure**

The paying agency's organisational structure shall allow it to execute the following main functions in respect of EAGF and EAFRD expenditure:

- (i) Authorisation and control of payments to establish that the amount to be paid to a beneficiary is in conformity with Union rules, which shall include, in particular, administrative and on-the-spot controls;
- (ii) Execution of payments of the authorised amount to beneficiaries (or their assignees) or, in the case of rural development, the Union co-financing part;
- (iii) Accounting to record all payments in the paying agency's separate accounts for EAGF and EAFRD expenditure, in the form of an information system, and the preparation of periodic summaries of expenditure, including the monthly (for EAGF), quarterly (for EAFRD) and annual declarations to the Commission. The paying agency's accounts shall also record the assets financed by the Funds, in particular concerning intervention stocks, uncleared advances, securities and debtors.

The paying agency's organisational structure shall provide for clear assignment of authority and responsibility at all operational levels and for separation of the three functions referred to in the first paragraph, the responsibilities of which shall be defined in an organisational chart. It shall include the technical services and the internal audit service referred to under point 4.

**(B) Human-resource standard**

The agency shall ensure that:

- (i) Appropriate human resources are allocated to carry out operations and existence of appropriate technical skills as required at different operational levels.
- (ii) The division of duties is such that no official has responsibility for more than one of the responsibilities for authorising, paying or accounting of sums charged to the EAGF or to the EAFRD, and no official performs any of those tasks without the supervision of a second official.
- (iii) The responsibilities of each official are defined in a written job description, including the setting of financial limits to his/her authority.
- (iv) Staff training is appropriate at all operational levels, including fraud awareness, and there is a policy for rotating staff in sensitive positions, or alternatively for increased supervision.
- (v) Appropriate measures are taken to avoid a conflict of interests where a person occupying a position of responsibility or a sensitive position with regard to the verification, authorisation, payment and accounting of claims or payment request also fulfils other functions outside the paying agency.

**(C) Delegation**

(C.1) If the paying agency delegates any of its tasks to another body under Article 7 of Regulation (EU) No 1306/2013, the following conditions have to be fulfilled:

- (i) A written agreement must be concluded between the paying agency and that body specifying, apart from the delegated tasks, the nature of the information and the supporting documents to be submitted to the paying agency and the time limit within which they must be submitted. The agreement must enable the paying agency to comply with the accreditation criteria.
- (ii) The paying agency shall in all cases remain responsible for the efficient management of the Funds concerned. It remains fully responsible for the legality and regularity of the underlying transactions, including protecting the Union's financial interest, as well as for declaring the corresponding expenditure to the Commission and for preparing the accounts accordingly.
- (iii) The responsibilities and obligations of the other body, notably concerning the control and verification of the compliance with Union rules, shall be clearly defined.
- (iv) The paying agency shall ensure that the other body has effective systems for ensuring that it fulfils its tasks in a satisfactory manner.
- (v) The other body shall explicitly confirm to the paying agency that it in fact fulfils its tasks and shall describe the means employed.
- (vi) The paying agency shall regularly review the tasks delegated to confirm that the work performed is of satisfactory standard and that it is in compliance with Union rules.

(C.2) The conditions set out in points (C.1) (i), (ii), (iii) and (v) above shall apply *mutatis mutandis* in the cases where paying agency functions are performed by another body as part of its regular tasks on the basis of national legislation.

**2. CONTROL ACTIVITIES****(A) Procedures for authorising claims**

The paying agency shall adopt the following procedures:

- (i) The paying agency shall lay down detailed procedures for the receipt, recording and processing of claims, including a description of all documents to be used.
- (ii) Each official responsible for authorisation shall have at his/her disposal a detailed checklist of the verifications to be carried out, and shall attest in the supporting documents of the claim that those checks have been carried out. That attestation may be made by electronic means. There shall be evidence of systematic, such as sample, system or plan based review of the work by a senior staff member.
- (iii) A claim shall be authorised for payment only after sufficient checks have been carried out to ensure compliance with Union rules.

The checks shall include those required by the relevant Regulation governing the specific measure under which aid is claimed, and those required pursuant to Article 58 of Regulation (EU) No 1306/2013 to prevent and detect fraud and irregularity with particular regard to the risks incurred. For the EAFRD, there shall in addition be procedures for verifying that the conditions for the granting of aid, including contracting, have been respected and that all applicable Union and national rules, including those fixed in the rural development program, have been complied with.

- (iv) The management of the paying agency shall, at an appropriate level, be informed on a regular and timely basis of the results of administrative and on-the-spot checks carried out, so that the sufficiency of those controls may always be taken into account before a claim is settled.
- (v) The work performed shall be detailed in a report accompanying each claim, batch of claims or, if appropriate, in a report covering one marketing year. The report shall be accompanied by an attestation of the eligibility of the approved claims and of the nature, scope and limits of the work done. In addition, for the EAFRD there shall be an assurance that the criteria for the granting of aid, including contracting, have been respected and that all applicable Union and national rules, including those fixed in the rural development program, have been complied with. If any physical or administrative checks are not exhaustive, but performed on a sample of claims, the claims selected shall be identified, the sampling method described, the results of all inspections and the measures taken in respect of discrepancies and irregularities reported upon. The supporting documents shall be sufficient to provide assurance that all the required checks on the eligibility of the authorised claims have been performed.
- (vi) Where documents (in paper or electronic form) relating to the claims authorised and controls made are retained by other bodies, both those bodies and the paying agency shall set up procedures to ensure that the location of all such documents relevant to specific payments is recorded.

**(B) Procedures for payment**

The paying agency shall adopt the necessary procedures to ensure that payments are made only to bank accounts belonging either to beneficiaries or to their assignees. The payment shall be made by the paying agency's bank, or, as appropriate, a governmental payments office, within five working days of the date of charge to the EAGF or to the EAFRD. Procedures shall be adopted to ensure that all payments for which transfers are not executed are not declared to the Funds for reimbursement. If such payments have already been declared to the Funds these should be re-credited to the Funds via the next monthly/quarterly declarations or in the annual accounts at the latest. No payments shall be made in cash. The approval of the authorising official and/or his/her supervisor may be made by electronic means, provided an appropriate level of security over those means is ensured, and the identity of the signatory is entered into the electronic records.

**(C) Procedures for accounting**

The paying agency shall adopt the following procedures:

- (i) Accounting procedures shall ensure that monthly (for EAGF), quarterly (for the EAFRD) and annual declarations are complete, accurate and timely, and that any errors or omissions are detected and corrected, in particular through checks and reconciliations performed at regular intervals.
- (ii) The accounting for intervention storage shall ensure that the quantities and associated costs are correctly and promptly processed and recorded per identifiable lot and in the correct account at each stage from the acceptance of an offer to the physical disposal of the product, in compliance with the applicable regulations, and ensure that the quantity and nature of stocks at every location may be determined at any time.

**(D) Procedures for advances and securities**

Procedures shall be adopted to ensure that:

- (i) Payments of advances are separately identified in the accounting or subsidiary records.
- (ii) Guarantees are obtained only from financial institutions which fulfil the conditions of Chapter IV of this Regulation and which are approved by the appropriate authorities and which remain valid until cleared or called upon, on the simple request of the paying agency.
- (iii) The advances are cleared within the stipulated time limits and those overdue for clearing are promptly identified and the guarantees promptly called upon.

**(E) Procedures for debts**

All the criteria provided for in points (A) to (D) shall apply, *mutatis mutandis*, to levies, forfeited guarantees, reimbursed payments, assigned revenues etc. which the paying agency is required to collect on behalf of the EAGF and of the EAFRD.

The paying agency shall set up a system for the recognition of all amounts due and for the recording in a single debtor's ledger of all such debts prior to their receipt. The debtor's ledger shall be inspected at regular intervals and action shall be taken to collect debts that are overdue.

**(F) Audit trail**

The information regarding documentary evidence of the authorisation, accounting and payment of claims and handling of advances, securities and debts shall be available in the paying agency to ensure at all times a sufficiently detailed audit trail.

**3. INFORMATION AND COMMUNICATION****(A) Communication**

The paying agency shall adopt the necessary procedures to ensure that every change in the Union's regulations, and in particular the rates of aid applicable, are recorded and the instructions, databases and checklists updated in good time.

**(B) Information systems security**

- (i) Without prejudice to point (ii) below, information systems security shall be based on the criteria laid down in a version applicable in the financial year concerned of one of the following standards:

- International Standards Organisation 27002: Code of practice for Information Security controls (ISO);
- Bundesamt für Sicherheit in der Informationstechnik: IT-Grundschutzhandbuch/IT Baseline Protection Manual (BSI);
- Information Systems Audit and Control Association: Control objectives for Information and related Technology (COBIT).

- (ii) Starting on 16 October 2016, information systems security shall be certified in accordance with International Standards Organisation 27001: Information Security management systems – Requirements (ISO).

The Commission may authorise Member States to certify their information systems security in accordance with other accepted standards if those standards guarantee a level of security at least equivalent to that provided by ISO 27001.

For paying agencies responsible for the management and control of a yearly expenditure not higher than EUR 400 million, the Member State may decide not to apply the provisions of the first subparagraph. Those Member States shall continue to apply the provisions of point (i). They shall inform the Commission of their decision.

**4. MONITORING****(A) Ongoing monitoring via internal control activities**

The internal control activities shall cover at least the following areas:

- (i) Monitoring of the technical services and delegated bodies responsible for carrying out the controls and other functions to ensure a proper implementation of regulations, guidelines and procedures.

- (ii) Initiating of system changes in order to improve control systems in general.
- (iii) Reviewing claims and requests submitted to the paying agency as well as other information providing suspicion of irregularities.
- (iv) Monitoring procedures to prevent and detect fraud and irregularity with particular regard to those areas of CAP expenditure under the paying agency's competence which are exposed to a significant risk of fraud or other serious irregularities.

Ongoing monitoring is built into the normal, recurring operating activities of the paying agency. At all levels the daily operations and controls activities of the agency shall be monitored on an ongoing basis to ensure a sufficiently detailed audit trail.

**(B) Separate evaluations via an internal audit service**

The paying agency shall adopt in this respect the following procedures:

- (i) The internal audit service shall be independent of the paying agency's other departments and shall report directly to the paying agency's director.
  - (ii) The internal audit service shall verify that procedures adopted by the agency are adequate to ensure that compliance with Union rules is verified and that the accounts are accurate, complete and timely. Verifications may be limited to selected measures and to samples of transactions provided that an audit plan ensures that all significant areas, including the departments responsible for authorisation, are covered over a period not exceeding five years.
  - (iii) The internal audit service's work shall be performed in accordance with internationally accepted standards, shall be recorded in working papers and shall result in reports and recommendations addressed to the agency's top management.
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## ANNEX II

**OBLIGATIONS OF THE PAYING AGENCIES AND PHYSICAL INSPECTION PROCEDURES**

(Article 3)

**A. OBLIGATIONS OF THE PAYING AGENCIES****I. Checks***1. Frequency and representativeness*

Each storage point shall be inspected at least once every year in accordance with the rules set out in point B, to ascertain in particular:

- the procedure for collecting information on public storage;
- whether the accounting data held on the spot by the storer tallies with the information sent to the paying agency;
- the physical presence in the store of the quantities mentioned in the storer's accounting records and which served as a basis for the latest monthly statement provided by the storer, assessed visually or, in case of doubt or dispute, by weighing or measuring;
- the sound, fair and marketable quality of the products stored.

Physical presence shall be established by a sufficiently representative physical inspection, covering at least the percentages set out in point B and making it possible to conclude that the entire quantities listed in the stock accounts are actually present.

Checks on quality shall comprise visual, olfactory and/or organoleptic checks and, if there are any doubts, in-depth analyses.

*2. Additional checks*

If an anomaly is detected during the physical inspection, a further percentage of the quantities in intervention storage shall be inspected using the same method. If necessary, inspection may extend to weighing all the products in the lot or store being inspected.

**II. Inspection reports**

1. The internal inspection body of the paying agency or the body authorised by the latter shall draw up a report on each of the checks or physical inspections carried out.
2. The report shall contain at least the following information:
  - (a) the name of the storer, the address of the store visited and the description of the lots inspected;
  - (b) the date and time when the inspection began and ended;
  - (c) the place where the inspection took place and a description of the conditions of storage, packaging and accessibility;

- (d) the full identity of the persons conducting the inspection, their status and the terms of their authorisation;
  - (e) the inspection measures undertaken and procedures used to establish volume, such as measuring methods, calculations, interim and final results, and the conclusions drawn;
  - (f) for each lot or quality stored, the quantity in the paying agency's books, the quantity in the store's books and any discrepancies between the two sets of books;
  - (g) for each lot or quality physically inspected, the information referred to in point (f) and the quantity verified on the spot and any discrepancies, the lot or quality number, the pallets, boxes, silos, vats or other receptacles involved and the weight (both net and gross if appropriate) or volume;
  - (h) the statements made by the storer where there are discrepancies or differences;
  - (i) the place, date and signature of the person drawing up the report and of the storer or representative;
  - (j) any extended inspection conducted in the case of anomalies, specifying the percentage of the stored quantities covered by the extended inspection, discrepancies found and explanations given.
3. The reports shall be sent immediately to the head of the department responsible for keeping the accounts of the paying agency.
- Immediately after receipt of the report, the paying agency's accounts shall be corrected in the light of the discrepancies and differences detected.
4. The reports shall be kept at the head office of the paying agency and be available to Commission staff and persons authorised by the Commission.
5. A summary document shall be drawn up by the paying agency listing:

- the checks carried out, clearly indicating which are physical inspections (inventory checks),
- the quantities checked,
- the anomalies detected in relation to the monthly and annual statements, and the reasons for those anomalies.

The quantities checked and the anomalies detected shall be indicated for each product concerned, in terms of weight or volume and as a percentage of the total quantities held.

This summary document shall list separately the checks to verify the quality of the products stored. It shall be sent to the Commission at the same time as the annual accounts referred to in Article 7(3)(a) of Regulation (EU) No 1306/2013.

B. PHYSICAL INSPECTION PROCEDURE BY SECTOR OF THE COMMON AGRICULTURAL POLICY FOR THE CHECKS PROVIDED FOR IN POINT A

I. **Butter**

1. The sample of the lots to be checked shall represent at least 5 % of the total quantity in public storage. The lots to be checked shall be selected prior to the visit to the store on the basis of the paying agency's accounting data, but the storer shall not be informed.
2. The presence of the lots selected and their composition shall be verified on the spot by:
  - identifying the control numbers of the lots and boxes on the basis of purchase or entry notes,
  - weighing the pallets (one in 10) and the boxes (one per pallet),
  - visually checking the contents of a box (one in five pallets),
  - checking the condition of the packaging.
3. A description of the lots physically inspected and any shortcomings noted shall be included in the inspection report.

II. **Skimmed-milk powder**

1. The sample of the lots to be checked shall represent at least 5 % of the quantity in public storage. The lots to be checked shall be selected prior to the visit to the store on the basis of the paying agency's accounting data, but the storer shall not be informed.
2. The presence of the lots selected and their composition shall be verified on the spot by:
  - identifying the control numbers of the lots and bags on the basis of purchase or entry notes,
  - weighing the pallets (one in 10) and bags (one in 10),
  - visually checking the contents of a bag (one in five pallets),
  - checking the condition of the packaging.
3. A description of the lots physically inspected and any shortcomings noted shall be included in the inspection report.

III. **Cereals and Rice**

1. *Physical inspection procedure*

- (a) Selection of bins or storerooms to be checked, representing at least 5 % of the total quantity of cereals or rice in public storage.

Selection shall be based on the paying agency's stock records, but the storer shall not be informed.

(b) Physical inspection:

- verification of the presence of cereals or rice in the selected bins or storerooms,
- identification of the cereals or rice,
- inspection of storage conditions and check on the quality of the products stored in the conditions provided for in Regulation (EU) No 1272/2009 <sup>(1)</sup>,
- comparison of the place of storage and identity of the cereals or rice with the store's records,
- evaluation of the quantities stored by a method previously approved by the paying agency, a description of which shall be lodged at its head office.

(c) A plan of the warehouse and the measurements for each silo or storeroom shall be available at each storage point.

The cereals or rice shall be stored in such a way that their volume may be verified.

2. *Procedure where discrepancies are found*

Some tolerance is permitted when verifying the volume.

The rules laid down in Annex III, point II shall thus apply where the weight of the products stored as recorded during the physical inspection differs from the book weight by 5 % or more for cereals and for rice in the case of storage in silos or on-floor storage.

Where cereals or rice are stored in a warehouse, the quantities weighed on entry into storage may be recorded instead of those resulting from a volume assessment if the latter does not provide an adequate degree of accuracy and provided the difference between the two figures is not excessive.

The paying agency shall make use of this option where justified by circumstances, on a case-by-case basis and on its own responsibility. It shall indicate that it has done so in its inspection report, based on the following model:

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<sup>(1)</sup> Commission Regulation (EU) No 1272/2009 of 11 December 2009 laying down common detailed rules for the implementation of Council Regulation (EC) No 1234/2007 as regards buying-in and selling of agricultural products under public intervention (OJ L 349, 29.12.2009, p. 1).

(Indicative model)

## CEREALS — STOCK INSPECTION

Product:	Storer: Store, silo: Cell number:	Date:
Lot	Quantity stated in stock accounts	

## A. Stocks in silo

Chamber No	Volume stated in specification m <sup>3</sup> (A)	Free volume recorded m <sup>3</sup> (B)	Volume of stored cereals m <sup>3</sup> (A-B)	Specific gravity recorded kg/hl = 100	Weight of cereals or rice

Total (A): .....

## B. Stocks in on-floor storage

	Storeroom No	Storeroom No	Storeroom No
Area covered .....	..... m <sup>2</sup> } .....	..... m <sup>2</sup> } .....	..... m <sup>2</sup> } .....
	..... m <sup>3</sup> }	..... m <sup>3</sup> }	..... m <sup>3</sup> }
Height .....	..... m }	..... m }	..... m }
Corrections .....	..... m <sup>3</sup>	..... m <sup>3</sup>	..... m <sup>3</sup>
Volume .....	..... m <sup>3</sup>	..... m <sup>3</sup>	..... m <sup>3</sup>
Specific gravity ...	..... kg/hl	..... kg/hl	..... kg/hl
Total weight	..... tonnes	..... tonnes	..... tonnes

Total (B): .....

Total weight in the store: .....

Difference from book weight: .....

In %: .....

....., [date]

..... (Stamp and signature)

Paying agency inspector:

#### IV. **Beef And Veal**

1. The sample of the lots to be checked shall represent at least 5 % of the total quantity in public storage. The lots to be checked shall be selected prior to the visit to the store on the basis of the paying agency's accounting data, but the storer shall not be informed.
  2. In the case of boned meat, the presence of the lots selected and their composition shall be verified on the spot by:
    - identifying the lots and pallets and verifying the number of boxes,
    - checking the weight of 10 % of the pallets or containers,
    - checking the weight of 10 % of the boxes from each pallet weighed,
    - visually checking the contents of the boxes and the condition of the packaging in each box.

The pallets shall be chosen having regard to the different cuts in store.
  3. A description of the lots physically inspected and any shortcomings noted shall be included in the inspection report.
-

## ANNEX III

**OBLIGATIONS AND GENERAL PRINCIPLES RELATING TO STORERS' RESPONSIBILITIES, TO BE INCLUDED IN STORAGE CONTRACTS CONCLUDED BETWEEN PAYING AGENCIES AND STORERS**

(Article 3)

Storers shall be responsible for ensuring that the products covered by Union intervention measures are properly conserved. They shall bear the financial consequences of any failure to do so.

**I. QUALITY OF PRODUCTS**

Where the quality of intervention products in storage deteriorates as a result of poor or inappropriate storage conditions, the losses shall be borne by the storer and entered in the public storage accounts as a loss resulting from deterioration of the product due to storage conditions.

**II. MISSING QUANTITIES**

1. The storer shall be responsible for all discrepancies between the quantities in store and the details given in the stock statements sent to the paying agency.
2. Where the missing quantities exceed those allowed under the relevant tolerance limit(s), in accordance with Article 4, Annex II point B. III(2) and Annex IV, or under sectoral agricultural legislation, the entire amount shall be charged to the storer as an unidentifiable loss. Storers contesting the missing quantities may require the product to be weighed or measured, in which case they shall bear the costs of the operation unless it is found that the quantities declared are actually present or the difference does not exceed the relevant tolerance limit(s), in which case the costs of weighing or measuring shall be charged to the paying agency.

The tolerance limits provided for in Annex II, points B. III(2) shall apply without prejudice to the other tolerances referred to in the first subparagraph.

**III. SUPPORTING DOCUMENTS AND MONTHLY AND ANNUAL DECLARATIONS****1. Supporting documents and monthly declarations**

- (a) The documents relating to the entry, storage and removal of products used to draw up the annual accounts must be in the storer's possession and contain at least the following information:

- place of storage (with identification of the bin or vat where relevant),
- quantity carried over from the previous month,
- entries and removals by lot,
- stock at the end of the period.

These documents shall permit precise identification of the quantities in store at any time, and shall take account of purchases and sales that have been agreed but for which the corresponding entries or removals of stock have not yet occurred.

- (b) The documents relating to the entry, storage and removal of products shall be sent by the storer to the paying agency at least once a month, in support of a summary monthly stock statement. They shall must be in the paying agency's possession before the tenth day of the month following that to which the stock statement relates.
- (c) A specimen summary monthly stock statement (indicative model) is set out below. It shall be made available to storers in electronic form by the paying agencies.

**Monthly stock statement**

Products:		Storer: Store: No: Address:		Month:	
Lot	Description	Quantity (kg, tonnes, hl, boxes, items, etc.)		Date	Comments
		Entry	Exit		
	Quantity carried over				
	Quantity to be carried over				

(Stamp and signature)

Place and date:

Name:

**2. Annual declaration**

- (a) The storer shall prepare an annual stock declaration on the basis of the monthly statements described in point 1. It shall be sent to the paying agency no later than the 15 October following the closure of the accounting year.
- (b) The annual stock declaration shall give a summary of the quantities in store, broken down by product and place of storage, and shall give for each product the quantities in store, the lot numbers (except in the case of cereals), the year of their entry into store and an explanation of any anomalies detected.
- (c) A specimen summary annual stock declaration (indicative model) is set out below.

It shall be made available to storers in electronic form by the paying agencies.



**Annual stock statement**

Products:		Storer: Store: No: Address:	Year:
Lot	Description	Quantity and/or weight booked	Comments

(Stamp and signature)

Place and date:

Name:

**IV. COMPUTERISED STOCK ACCOUNTS AND AVAILABILITY OF INFORMATION**

Public storage contracts concluded between the paying agency and the storer shall contain provisions which make it possible to guarantee compliance with Union legislation.

They shall require the following:

- the keeping of computerised intervention stock accounts;
- direct, immediate availability of a permanent inventory;
- availability at all times of all the documents relating to the entry, storage and removal of stock and the accounting documents and records drawn up under this Regulation and held by the storer;
- permanent access to those documents for staff of the paying agency and the Commission, and for any person duly authorised by them.

**V. FORM AND CONTENT OF THE DOCUMENTS SENT TO THE PAYING AGENCY**

The form and content of the documents referred to in points 1 and 2 of paragraph III shall be established in accordance with Article 104 of Regulation (EU) No 1306/2013.

**VI. KEEPING OF DOCUMENTS**

Supporting documents relating to all public storage operations shall be kept by the storer for the full period required under the rules adopted based on Article 104 of Regulation (EU) No 1306/2013 for the clearance of accounts procedures, without prejudice to the relevant national provisions.

## ANNEX IV

**TOLERANCE LIMITS**

(Article 4)

1. Tolerance limits for quantity losses resulting from normal storage operations carried out in accordance with the rules is hereby fixed for each agricultural product which is the subject of a public storage measure, as follows:

- cereals 0,2 %
- paddy rice, maize 0,4 %
- skimmed-milk powder 0,0 %
- butter 0,0 %
- beef and veal 0,6 %

2. The percentage for allowable losses during boning of beef shall be 32. This percentage shall apply to all quantities boned during the accounting year.
3. The tolerance limits referred to in paragraph 1 shall be fixed as a percentage of the actual weight, without packaging, of the quantities entering storage and taken over during the accounting year in question, plus the quantities in storage at the beginning of that year.

These tolerances shall apply during the physical stock inspections. They shall be calculated, for each product, on the basis of all the quantities stored by a paying agency.

The actual weight at entry and removal shall be the recorded weight minus the standard packaging weight, as laid down in the conditions of entry or, where no such conditions have been laid down, minus the average packaging weight used by the agency.

4. The tolerance shall not cover losses in terms of number of packages or number of registered pieces.
5. Losses arising from theft or other identifiable losses shall not be included in the calculation of tolerance limits provided for in paragraphs 1 and 2.

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## ANNEX V

**Measures referred to in Article 10**

1. Schemes listed in Annex I to Regulation (EC) No 73/2009 and, as from 2016, schemes listed in Annex I to Regulation (EU) No 1307/2013;
2. Rural development measures under Titles I and II of Part II of Commission Regulation (EU) No 65/2011 <sup>(1)</sup> and the rural development measures referred to in Chapter I of Title III of Regulation (EU) No 1305/2013.

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<sup>(1)</sup> Commission Regulation (EU) No 65/2011 of 27 January 2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1698/2005, as regards the implementation of control procedures as well as cross-compliance in respect of rural development support measures (OJ L 25, 28.1.2011, p. 8).

## ANNEX VI

**Measures referred to in Article 14**

1. Restructuring and conversion of vineyards in accordance with Article 46 of Regulation (EU) No 1308/2013;
  2. Green harvesting in accordance with Article 47 of Regulation (EU) No 1308/2013;
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**COMMISSION IMPLEMENTING REGULATION (EU) No 908/2014****of 6 August 2014****laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, rules on checks, securities and transparency**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 <sup>(1)</sup>, and in particular Articles 8(2), 9(2), 23, 36(6), 46(5) and (6), 50(2), 53(1), 57(2), 62(2), 66(4), 88, 104, 114 thereof,

Whereas:

- (1) Regulation (EU) No 1306/2013 lays down the basic rules on the financing, management and monitoring of the Common Agricultural Policy, including on the accreditation of paying agencies and coordinating bodies, financial management and clearance procedures, control systems and penalties including scrutiny of transaction, securities and transparency. In order to ensure that the new legal framework established by that Regulation functions smoothly and applies uniformly, the Commission has been empowered to adopt certain rules in those areas. The new rules should replace the relevant provisions of Commission Regulations (EC) No 601/94 <sup>(2)</sup>, (EC) No 4/2004 <sup>(3)</sup>, (EC) No 883/2006 <sup>(4)</sup>, (EC) No 884/2006 <sup>(5)</sup>, (EC) No 885/2006 <sup>(6)</sup>, (EC) No 259/2008 <sup>(7)</sup> and Implementing Regulation (EU) No 282/2012 <sup>(8)</sup>. Regulations (EC) No 883/2006, (EC) No 884/2006, (EC) No 885/2006 and Implementing Regulation (EU) No 282/2012 were repealed by Commission Delegated Regulation (EU) No 907/2014 <sup>(9)</sup>. For the sake of clarity and legal certainty, Regulations (EC) No 601/94, (EC) No 4/2004 and (EC) No 259/2008 should be repealed by this Regulation.
- (2) Paying agencies should only be accredited by Member States if they comply with certain minimum criteria established at Union level as referred to in Article 1(2) of Delegated Regulation (EU) No 907/2014. Those accreditation criteria are set out in Annex I to Delegated Regulation (EU) No 907/2014. Rules should be laid down regarding the procedures for issuing, reviewing and withdrawing the accreditation of paying agencies and coordination bodies.

<sup>(1)</sup> OJ L 347, 20.12.2013, p. 549.

<sup>(2)</sup> Commission Regulation (EC) No 601/94 of 17 March 1994 for the application of Council Regulation (EC) No 165/94 as regards laying down detailed rules on co-financing by the Community of remote sensing checks on agricultural areas (OJ L 76, 18.3.1994, p. 20).

<sup>(3)</sup> Commission Regulation (EC) No 4/2004 of 23 December 2003 laying down detailed rules for the application of Council Regulation (EEC) No 4045/89 on scrutiny by Member States of transactions forming part of the system of financing by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (OJ L 2, 6.1.2004, p. 3).

<sup>(4)</sup> Commission Regulation (EC) No 883/2006 of 21 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the keeping of accounts by the paying agencies, declarations of expenditure and revenue and the conditions for reimbursing expenditure under the EAGF and the EAFRD (OJ L 171, 23.6.2006, p. 1).

<sup>(5)</sup> Commission Regulation (EC) No 884/2006 of 21 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the financing by the European Agricultural Guarantee Fund (EAGF) of intervention measures in the form of public storage operations and the accounting of public storage operations by the paying agencies of the Member States (OJ L 171, 23.6.2006, p. 35).

<sup>(6)</sup> Commission Regulation (EC) No 885/2006 of 21 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the accreditation of paying agencies and other bodies and the clearance of the accounts of the EAGF and of the EAFRD (OJ L 171, 23.6.2006, p. 90).

<sup>(7)</sup> Commission Regulation (EC) No 259/2008 of 18 March 2008 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the publication of information on the beneficiaries of funds deriving from the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD) (OJ L 76, 19.3.2008, p. 28).

<sup>(8)</sup> Commission Implementing Regulation (EU) No 282/2012 of 28 March 2012 laying down common detailed rules for the application of the system of securities for agricultural products (OJ L 92, 30.3.2012, p. 4).

<sup>(9)</sup> Commission Delegated Regulation (EU) No 907/2014 of 11 March 2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, securities and use of euro (see page 18 of this Official Journal).

- (3) Member States should keep their paying agencies under constant supervision. They should establish a system for the exchange of information to report and keep the competent authorities informed on suspected cases of non-compliance. A procedure should be put in place by which Member States are to deal with such cases, which should include the obligation to draw up a plan to remedy any identified deficiencies within a set time limit. In respect of expenditure effected by paying agencies whose accreditation is maintained by their Member State even though they have failed to implement such a plan within the set time limit the Commission should have the possibility to decide to pursue the deficiencies through the conformity clearance procedure provided for in Article 52 of Regulation (EU) No 1306/2013.
- (4) Pursuant to point (b) of the first subparagraph of Article 7(3) of Regulation (EU) No 1306/2013, the persons in charge of accredited paying agencies are required to draw up management declarations as to the completeness, accuracy and veracity of the accounts and the proper functioning of the internal control systems, as well as to the legality and regularity of the underlying transactions. Rules should be laid down as regards the content and format of such management declarations.
- (5) The rules for the functioning of the coordinating bodies referred to in Article 7(4) of Regulation (EU) No 1306/2013, as well as the tasks of the certification bodies referred to in Article 9 of that Regulation should be laid down. In addition, the content of the certificates and reports to be drawn up by the certification bodies should be specified in order to ensure that they are of assistance to the Commission in the clearance of accounts procedure.
- (6) In order to ensure the proper management of the appropriations entered in the budget of the Union for the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD) ('the Funds'), paying agencies should keep separate accounts relating exclusively to payments made and revenues assigned from and to each Fund. To this end, the accounts kept by paying agencies should clearly show, for each of the Funds, the expenditure effected and revenue assigned under Article 4(1), Article 5 and Article 43 of Regulation (EU) No 1306/2013, and allow this expenditure and revenue to be linked to the resources made available to them under the Union budget.
- (7) The common agricultural policy is financed in euro, while allowing Member States which have not adopted the euro to make payments to beneficiaries in their national currency. To enable all the expenditure and revenue to be consolidated, it is therefore necessary to provide that relevant paying agencies must be able to provide data relating to the expenditure and revenue in both euro and the currency in which the expenditure was incurred and the revenue received.
- (8) The expenditure co-financed by the Union budget and the national budgets as support for rural development under the EAFRD is based on programmes broken down into measures, specific contribution rate and focus area. In accordance with the principle of sound financial management, that expenditure should be monitored and entered into the accounts on this basis so that all operations can be identified by programme, measure, specific contribution rates and focus areas. Doing so will ensure, that correspondence between the expenditure effected and the financial resources assigned can be verified. In that context the elements to be taken into account by the paying agencies should be specified. In particular, paying agencies should clearly show the origin of public and Union Funds in the accounts in relation to the financing effected. In addition, the amounts to be recovered from beneficiaries and the amounts which have been recovered should be identified and shown in relation to the original operations.
- (9) Member States mobilise the resources needed to finance EAGF expenditure referred to in Article 4(1) of Regulation (EU) No 1306/2013 before the Commission finances that expenditure in the form of monthly reimbursements of the expenditure effected. Alternatively, Member States receive an advance payment for EAFRD expenditure to be later cleared with the annual financial clearance pursuant to Article 51 of Regulation (EU) No 1306/2013. To ensure sound management of financial flows Member States should gather the information necessary to demonstrate the completeness, accuracy and veracity of the expenditure effected for these monthly reimbursements and keep it at the Commission's disposal as and when expenditure and revenue are effected or transmit it to the Commission at regular intervals. The information should be provided to the Commission by Member States at intervals adapted to the management method of each Fund. Providing information at such intervals should not affect the obligation of the Member States to keep the complete information gathered for the proper monitoring of expenditure at the Commission's disposal for verification.

- (10) The general obligations on paying agencies regarding the keeping of accounts cover the data required for the management and control of Union Funds. However, those obligations do not cover requirements as regards the reimbursement of expenditure and the details that must be provided to the Commission in order to obtain such reimbursement. The information and details relating to expenditure to be financed by the Funds which must be sent to the Commission at regular intervals should therefore be specified. Notifications of information by Member States to the Commission must enable it to use the information sent directly and as effectively as possible for the management of the Funds accounts and the relevant payments. To achieve this objective, all information to be made available or to be communicated between the Member States and the Commission should be sent electronically.
- (11) Under point (c) of the first subparagraph of Article 102(1) of Regulation (EU) No 1306/2013, for measures relating to operations financed by the Funds, declarations of expenditure, which also act as payment requests, must also be sent to the Commission accompanied by the requisite information. To allow Member States and the paying agencies to draw up those declarations of expenditure in accordance with harmonised rules, and to allow the Commission to take payment requests into consideration, the conditions under which that expenditure may be taken into account under the respective EAGF and EAFRD budgets should be laid down. Such conditions should specify the rules that apply to the recording of expenditure and revenue, in particular the assigned revenue and any corrections to be made, and to their actual declaration.
- (12) Where, on the basis of the declarations of expenditure received from the Member States under the EAGF, the total advance commitments which could be authorised under Article 170(3) of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council <sup>(1)</sup> exceeds 75 % of the appropriations for the current financial year, the Commission is required to reduce those amounts. In accordance with the principle of sound financial management, that reduction must be shared among all Member States proportionally, on the basis of the declarations of expenditure received from them. To allocate the available appropriations fairly among the Member States, provision should be made for monthly payments under the EAGF to be reduced by a percentage, laid down for each chapter, of the declarations of expenditure submitted by each Member State and for the balance not used in a given month to be reallocated by Commission decisions in subsequent monthly payments.
- (13) After approving the monthly payments, the Commission should place at the Member States' disposal the resources necessary to cover expenditure to be financed by the Funds, in accordance with practical arrangements and conditions to be laid down on the basis of information communicated to the Commission by Member States and the information systems set up by the Commission.
- (14) A condition for the reimbursement of public intervention expenditure incurred by paying agencies is the inclusion in their declarations of expenditure, of the values and amounts booked during the month following the month to which the public storage operations relate. In order to ensure that the reimbursement procedure runs smoothly, it is necessary to specify how such information, which is necessary to calculate costs and expenditure, is to be notified to the Commission.
- (15) In accordance with Article 3(3) of Delegated Regulation (EU) No 907/2014, public intervention stock accounting must make it possible to ascertain both the amount of Union financing paid out and the situation of intervention stocks. To that end, paying agencies should be required to keep separate stock accounts and financial accounts, containing the elements necessary to monitor stocks and ensure the financial management of expenditure and revenue generated by public intervention measures.
- (16) With respect to public intervention storage measures, paying agencies are required to record in their accounts elements relating to quantities, values and certain averages. However, there exist circumstances in which certain operations and expenditure should not be entered in the accounts, or should be booked in accordance with specific rules. In order to ensure equal treatment and protect the Union's financial interests, such circumstances should be specified, including where applicable the arrangements for entering the operations and expenditure in the accounts.

<sup>(1)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

- (17) The date on which the different elements of expenditure and revenue resulting from public intervention storage measures are to be entered in the accounts depends on the type of operation to which they relate and can be determined under the applicable sectoral agricultural legislation. In this context, it is necessary to adopt a general rule specifying the different elements that are to be entered in the accounts on the date on which the physical operation resulting from the intervention measure takes place, and specifying the special cases to be taken into consideration.
- (18) In the interest of sound financial management, Member States should provide the Commission with forecasts of the amounts still to be funded by the EAFRD for an agricultural financial year and estimates of funding requests for the following financial year. That information should be sent to the Commission in sufficient time to enable it to meet its obligations, and in any event twice a year, not later than 31 January and 31 August each year.
- (19) In accordance with Article 36(6) of Regulation (EU) No 1306/2013, the deadlines for drawing up the declarations of expenditure on operations under the EAFRD must be set. In view of the specific characteristics of the accounting rules which apply to the EAFRD, the use of prefinancing and the financing of the measures by calendar year, provision should be made for that expenditure to be declared at intervals adapted to these specific conditions.
- (20) Exchanges of information and documents between Member States and the Commission, and the provision and notification of information from the Member States to the Commission are generally carried out electronically. In order to improve the way such exchanges of information relating to the Funds are dealt with and to extend their use, information systems were set up in accordance with Regulation (EC) No 883/2006. Such systems should continue to be used and further implemented after informing the Member States via the Committee on the Agricultural Funds.
- (21) The conditions under which information is processed by those information systems and the form and content of documents which have to be communicated under Regulation (EU) No 1306/2013 have to be adjusted frequently in line with changes to the applicable rules or management requirements. Uniform rules for the presentation of the relevant documents to be sent in by Member States should also be laid down. To achieve those objectives and to simplify procedures and ensure that the information systems concerned can be made operational rapidly, the form and content of the documents should be laid down on the basis of standardised models and protocols, which should be adapted and updated by the Commission after informing the Committee on the Agricultural Funds.
- (22) Pursuant to Article 58 of Regulation (EU) No 1306/2013, Member States through their paying agencies are responsible for the management and control of the Funds' expenditure. The data on financial operations should therefore be communicated or entered in the information systems and updated under the responsibility of the paying agencies, by the paying agencies themselves or the bodies to which that function has been delegated, where applicable via the accredited coordinating body.
- (23) Certain documents or declarations provided for in the first subparagraph of Article 102(1) of Regulation (EU) No 1306/2013 or the Commission acts adopted for the purposes of that Article require the signature of an authorised person or the approval of a person at one or more of the stages of the procedure in question. In such cases, the information systems set up for the communication of those documents should make it possible to identify each person unambiguously and provide reasonable assurance that the contents of the documents, including as regards the stages of the procedure, cannot be altered. That should apply, in particular, as regards the declarations of expenditure and the management declaration attached to the annual accounts referred to in point (c)(iii) of the first subparagraph of Article 102(1) of Regulation (EU) No 1306/2013 and the documents communicated by electronic means under these procedures.
- (24) Pursuant to point (e) of Article 58(1) of Regulation (EU) No 1306/2013, Member States through their paying agencies are responsible for recovering undue payments plus interest. In order to ensure an effective and proper application of those provisions, it is appropriate to lay down harmonised rules as regards the interest applicable to



the recovery of undue payments. Without prejudice to points (a) and (b) of the first subparagraph of Article 54(3) of Regulation (EU) No 1306/2013, the obligation for the Member States to recover undue amounts can be executed in different ways. Without prejudice to any other enforcement action provided for in national law, an effective and cost-efficient means of debt recovery is to deduct any outstanding amounts from future payments to the debtor, once the debt has been established in accordance with national legislation. It should therefore be compulsory for Member States to apply that debt recovery method and common conditions for its application should be laid down.

- (25) Detailed provisions should be laid down for both the procedure for the clearance of accounts provided for in Article 51 of Regulation (EU) No 1306/2013 and the conformity clearance procedure provided for in Article 52 of that Regulation, including a mechanism whereby the resulting amounts are, as the case may be, deducted from or added to one of the subsequent payments made to Member States by the Commission.
- (26) With respect to the clearance of accounts procedure provided for in Article 51 of Regulation (EU) No 1306/2013, it is necessary to specify the content of the paying agencies' annual accounts and to establish a date for the transmission of those accounts and other relevant documents to the Commission. The period during which paying agencies must keep the supporting documents regarding all expenditure and assigned revenues at the disposal of the Commission should also be clarified. Moreover, it should be specified that the Commission establishes the form and content of the accounting information to be forwarded by paying agencies.
- (27) In order to ensure that in normal cases the conformity clearance procedure is concluded within a reasonable period of time, it is appropriate to lay down specific time periods for the different stages of the procedure to be respected by the Commission and Member States. At the same time, however, it should be possible for the Commission to extend those time periods where necessary in view of the complexity of a case under investigation. The conformity clearance procedure should give Member States the right to adversarial proceedings and properly assess the information necessary for the Funds' risk evaluation.
- (28) In accordance with Article 59(5) of Regulation (EU) No 1306/2013, Member States are required to ensure a minimum level of on-the-spot checks needed for an effective management of the risk. However, Member States are allowed, under their responsibility, to reduce the minimum level of those on-the-spot checks when the management and control systems have been found to function properly and the error rates remain at an acceptable level. While the necessary minimum levels of on-the-spot checks are to be provided for in the sectoral agricultural legislation, horizontal rules regarding the possibility of reducing the minimum level of on-the-spot checks, applicable to all measures financed by the Funds, and the applicable conditions, should be laid down. In addition to these horizontal rules, the sectoral agricultural legislation may provide for additional rules.
- (29) It is further appropriate to lay down rules concerning the performance by Member States of the scrutiny of transactions referred to in Article 80 of Regulation (EU) No 1306/2013, in particular the selection of undertakings, rate and the calendar for the scrutiny.
- (30) In accordance with Chapter III of Title V of Regulation (EU) No 1306/2013 on the scrutiny of transactions, Member States have to send to the Commission a number of communications. As the standardisation of the form and content of such communications facilitates their use and ensures a uniform approach, it is appropriate to adopt detailed rules as to their form and content. Furthermore, rules on the conservation of commercial documents, on the joint actions involving mutual assistance referred to in Article 83 of Regulation (EU) No 1306/2013, as well as on the special departments referred to in Article 85 of that Regulation should be laid down.
- (31) Delegated Regulation (EU) No 907/2014 lays down rules supplementing the legal framework on securities, in particular as regards the requirement to lodge a security, the conditions applying to securities, as well as rules on lodging, releasing and forfeiting a security. To ensure a uniform application of those rules, provisions should be laid down on the form and the procedures for lodging and releasing a security, as well as on the exchange of information and the communications required in that respect.

- (32) In accordance with Chapter IV of Title VII of Regulation (EU) No 1306/2013 on transparency, Member States are required to publish annually the beneficiaries of the Funds, and, inter alia, the amounts received by each beneficiary under each of those Funds. To that end, and in accordance with Article 111 of Regulation (EU) No 1306/2013, the form of that publication should be laid down. That publication should not go further than what is necessary in order to reach the transparency objectives pursued.
- (33) The publication should be in accordance with the information held by paying agencies in their books and records and should concern payments received in the preceding financial year. The information should be presented to the public in a clear, harmonised and searchable manner by 31 May.
- (34) Pursuant to point (c) of the first subparagraph of Article 111(1) of Regulation (EU) No 1306/2013, the amounts of payment corresponding to each measure financed by the Funds received by a beneficiary are to be published. However, to ensure the respect of the obligation laid down in Article 112 of that Regulation, it is also necessary to set the thresholds below which the name of beneficiaries will not be published.
- (35) In accordance with point (b) of the first subparagraph of Article 111(1) of Regulation (EU) No 1306/2013 the publication of the beneficiaries of the Funds is required to identify the municipality in which a beneficiary is resident or is registered. This information should also be made available in respect of beneficiaries that are natural persons and whose names are not to be published in accordance with Article 112 of that Regulation. However, if, due to the limited number of beneficiaries residing or registered in a given municipality, the publication of the municipality would have the effect of identifying a beneficiary that is a natural person provisions should be laid down to avoid disproportionate and unnecessary violations of privacy.
- (36) Publication of the information should be implemented via the internet in the form of a search tool which ensures that the public at large is in the position to consult it. The search tool should permit to search on the basis of certain criteria and the results of the search should be presented in an easily accessible form.
- (37) To comply with applicable data protection requirements, beneficiaries of the Funds should be informed of the publication of their data before the publication takes place. The information should be provided to the beneficiaries through the application forms for aid or when the data are collected. As regards expenditure incurred in the financial years 2014 and 2015, in so far as information relating to beneficiaries is not available at the time the personal data is collected, beneficiaries should still be informed within a reasonable period of time before publication actually takes place.
- (38) In order to facilitate public access to the data published, Member States should establish websites containing information relating to beneficiaries of Funds and the thresholds referred to in Article 112 of Regulation (EU) No 1306/2013. In view of the different organisational structures within Member States, they should determine which body is responsible for setting up and maintaining the single website and publishing the data. The Commission should set up a website that contains links to the Member States' websites.
- (39) Article 10 of this Regulation should apply to expenditure incurred and assigned revenue received by Member States as from 16 October 2014 in order to provide for the continuity of reporting within the same financial year.
- (40) In order to ensure consistency in the treatment of ongoing conformity clearance procedures, the time periods provided for in Article 34(3) and 34(4) of this Regulation, should not apply to those procedures, for which the communication in accordance with Article 11(1) of Regulation (EC) No 885/2006 is sent before 1 January 2015.
- (41) Since Chapter IV of Title VII of Regulation (EU) No 1306/2013 on transparency applies to payments made from the financial year 2014 onwards, the relevant provisions of this Regulation should apply to those payments.

- (42) With a view to allowing Member States sufficient time for implementation, the information transmitted in accordance with Annex II, columns V1 and V2, should be provided starting with financial year 2016.
- (43) The measures provided for in this Regulation are in accordance with the opinion of the Committee on the Agricultural Funds,

HAS ADOPTED THIS REGULATION:

#### CHAPTER I

#### PAYING AGENCIES AND OTHER BODIES

##### *Article 1*

##### **Procedure for the accreditation of paying agencies**

1. Member States shall designate an authority at ministerial level responsible for:
  - (a) the issuing, reviewing and withdrawing of accreditation of paying agencies;
  - (b) carrying out the tasks assigned to the competent authority under this Chapter.
2. The competent authority shall, by way of a formal act, decide on the issuing or, after review, the withdrawal of the accreditation of the paying agency on the basis of an examination of the accreditation criteria referred to in Article 1(2) of Delegated Regulation (EU) No 907/2014 ('the accreditation criteria'). The competent authority shall inform the Commission of accreditations and withdrawals of accreditations without delay.
3. The competent authority shall appoint an audit body to carry out an examination before any accreditation is granted (pre-accreditation review). The audit body shall be an audit authority, or other public or private organisation or organisational unit of an authority with the requisite proficiency, skills and capacity to carry out audits. The audit body shall be independent from the paying agency to be accredited.

The examination (pre-accreditation review) to be carried out by the audit body shall cover, in particular:

- (a) the procedures and systems in place for the authorisation and execution of payments;
- (b) the division of duties and the adequacy of internal and external control in respect of transactions financed by the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD), hereinafter together referred to as 'the Funds';
- (c) the extent to which the procedures and systems put in place are apt to safeguard the Union budget including risk-based anti-fraud measures;
- (d) the security of information systems;
- (e) the maintenance of accounting records.

The audit body shall prepare a report detailing the audit work carried out, the results of that work and its assessment as to whether the paying agency complies with the accreditation criteria. The report shall be provided to the competent authority which shall then issue the accreditation act where it is satisfied that the paying agency complies with the accreditation criteria.

4. Where the competent authority considers that the paying agency does not comply with the accreditation criteria, it shall inform the paying agency of the specific conditions it is required to fulfil before accreditation may be granted.

Pending the implementation of any necessary changes in order to fulfil such specific conditions, accreditation may be granted provisionally for a period to be determined taking into account the severity of the problems identified, which shall not exceed 12 months. In duly justified cases, the Commission may, upon request of the Member State concerned, grant an extension of that period.

5. The information provided for in point (a) of the first subparagraph of Article 102(1) of Regulation (EU) No 1306/2013 shall be communicated immediately after the paying agency is first accredited and in any case before any expenditure effected by it is charged to the Funds. That information shall be accompanied by declarations and documents concerning:

- (a) the responsibilities vested in the paying agency;
- (b) the allocation of responsibilities between the departments of the paying agency;
- (c) the relationship of the paying agency with other bodies, public or private, which are responsible for implementing any measures under which the paying agency charges expenditure to the Funds;
- (d) the procedures by which claims by beneficiaries are received, verified, and validated, and by which expenditure is authorised, paid and accounted for;
- (e) the provisions concerning the security of information systems;
- (f) the report of the pre-accreditation review carried out by the audit body referred to in paragraph 3.

6. The Commission shall inform the Committee on the Agricultural Funds of paying agencies accredited in each Member State.

## *Article 2*

### **Review of accreditation**

1. The competent authority shall keep the paying agencies for which it is responsible under constant supervision, on the basis of, in particular, the certificates and reports drawn up by the certification body referred to in Article 9 of Regulation (EU) No 1306/2013, and shall follow-up on any deficiencies identified.

Every three years, the competent authority shall report in writing to the Commission on its supervision of paying agencies and monitoring of their activities. The report shall include a review of the paying agencies' continuous compliance with the accreditation criteria, together with a summary of the actions taken to remedy the deficiencies. The competent authority shall confirm whether a paying agency for which it is responsible continues to comply with the accreditation criteria.

2. Member States shall establish a system that ensures that any information suggesting that a paying agency does not comply with the accreditation criteria is communicated to the competent authority without delay.

3. Where the competent authority has determined that an accredited paying agency no longer respects one or more of the accreditation criteria in a manner that is liable to hinder the fulfilment of the tasks set out in Article 1(1) of Delegated Regulation (EU) No 907/2014, the competent authority shall put the paying agency's accreditation under probation without delay. It shall draw up a plan including actions and deadlines to remedy the deficiencies found within a period to be determined according to the severity of the problem, which shall not exceed 12 months from the date on which the accreditation is put under probation. In duly justified cases, the Commission may, upon request of the Member State concerned, grant an extension of that period.

4. The competent authority shall inform the Commission of its decision to place a paying agency's accreditation under probation, of the plan drawn up pursuant to paragraph 3 and, subsequently, of the progress in the implementation of such plans.

5. If the accreditation is withdrawn, the competent authority shall without delay accredit another paying agency which fulfils the conditions laid down in Article 7(2) of Regulation (EU) No 1306/2013 to ensure that payments to beneficiaries are not interrupted.

6. Where the Commission finds that the competent authority has not complied with its obligation to draw up a remedial plan pursuant to paragraph 3 or that the paying agency continues to be accredited without having fully implemented such a plan within the determined period, it shall request the competent authority to withdraw the accreditation of that paying agency unless the necessary changes are made within a period to be determined by the Commission according to the severity of the problem. In such a situation, the Commission may decide to pursue the deficiencies through the conformity clearance procedure in accordance with Article 52 of Regulation (EU) No 1306/2013.

#### *Article 3*

##### **Management declaration**

1. The management declaration referred to in point (b) of the first subparagraph of Article 7(3) of Regulation (EU) No 1306/2013 shall be drawn up in due time for the certification body to issue the opinion referred to in Article 9(1) of that Regulation.

The management declaration shall be in the form set out in Annex I to this Regulation and may be qualified by reservations quantifying the potential financial impact. In the event that reservations are expressed, the declaration shall include a remedial action plan and a precise a time frame for its implementation.

2. The management declaration shall be based on an effective supervision of the management and control system in place throughout the year.

#### *Article 4*

##### **Coordinating body**

1. The coordinating body referred to in Article 7(4) of Regulation (EU) No 1306/2013 shall act as the Commission's sole interlocutor for the Member State concerned for all questions relating to the Funds as regards:

- (a) the dissemination of information and guidelines relating to the functions and operations of the paying agencies to those paying agencies and to bodies responsible for the implementation of such guidelines, as well as the promotion of their harmonised application;
- (b) the communication to the Commission of the information referred to in Articles 7 and 102 of Regulation (EU) No 1306/2013;
- (c) the availability to the Commission of a full record of all accounting information required for statistical and control purposes.

2. A paying agency may act as a coordinating body provided that the two functions are kept separate.
3. In performing its tasks, the coordinating body may, in accordance with national procedures, call on other administrative bodies or departments, particularly on those with accounting or technical expertise.
4. The confidentiality, integrity and availability of all computer data held by the coordinating body shall be ensured by measures adapted to the administrative structure, staffing and technological environment of each coordinating body. The financial and technological effort shall be proportionate to the actual risks incurred.
5. The communications provided for in point (a) of the first subparagraph of Article 102(1) of Regulation (EU) No 1306/2013 shall be made immediately after the coordinating body is first accredited and, in any case, before any expenditure for which it is responsible is charged to the Funds. It shall be accompanied by the accreditation document of the body as well as information on the administrative, accounting and internal control conditions relating to its operation.

#### *Article 5*

##### **Certification**

1. The competent authority shall designate the certification body provided for in Article 9 of Regulation (EU) No 1306/2013.
2. The certification body shall organise its work in an effective and efficient manner, and carry out its checks within an appropriate time frame, taking into account the nature and the timing of the transactions for the financial year concerned.
3. The opinion to be provided by the certification body in accordance with Article 9(1) of Regulation (EU) No 1306/2013 shall be drawn up annually.

That opinion shall be based on the audit work to be carried out in accordance with Articles 6 and 7 of this Regulation.

4. The certification body shall draw up a report of its findings. The report shall cover the functions delegated. The report shall state whether, for the period covered by the report:

- (a) the paying agency complied with the accreditation criteria;
- (b) the paying agency's procedures were such as to give reasonable assurance that the expenditure charged to the Funds was effected in compliance with Union rules, thus ensuring that the underlying transactions were legal and regular, and that recommendations for improvements, if any, have been followed up;
- (c) the annual accounts referred to in Article 29 of this Regulation were kept in accordance with the books and records of the paying agency;
- (d) the statements of expenditure and of intervention operations were a materially true, complete and accurate record of the operations charged to the Funds;
- (e) the financial interests of the Union were properly protected as regards advances paid, guarantees obtained, intervention stocks and amounts to be collected.

The report shall include information on the number and qualifications of staff conducting the audit, the work done, the number of transactions examined, the level of materiality and confidence obtained, any weaknesses found and recommendations made for improvement and the operations of both the certification body and other audit bodies, internal and external to the paying agency, from which all or part of the certification body's assurance on the matters reported was gained.

#### *Article 6*

##### **Audit principles**

1. The certification audit shall be carried out in accordance with internationally accepted auditing standards.
2. The certification body shall prepare an audit strategy that sets the scope, timing and direction of the certification audit, the audit methods and the sampling methodology. An audit plan shall be developed in respect of each financial year audited based on the estimated audit risk. Upon request, the certification body shall provide the Commission with the audit strategy and the audit plan.
3. The reasonable level of audit assurance to be achieved from audit testing shall be obtained through assessing the control system, including compliance testing and substantive testing of expenditure, made up of test of details and analytical procedures.
4. The Commission shall establish guidelines which contain, in particular:
  - (a) further clarification and guidance in respect of the certification audit to be performed;
  - (b) the determination of the reasonable level of audit assurance to be achieved from audit testing.

#### *Article 7*

##### **Audit methods**

1. The audit methods relevant to the certification audit shall be defined in the audit strategy provided for in Article 6(2).
2. To achieve the audit objectives and to provide the opinion as set out in Article 9(1) of Regulation (EU) No 1306/2013, the audit steps shall include systems audits, substantive testing, and the verification of reconciliations on financial and management declarations.
3. Substantive testing of expenditure shall cover the verification of legality and regularity of the underlying transactions at the level of the final beneficiaries. For those purposes, the certification body may accompany the paying agency when it carries out secondary level on-the-spot checks. The certification body may not accompany the paying agency when it carries out initial on-the-spot checks, with the exception of those situations, where it would be physically impossible to re-verify the initial check carried out by the paying agency. As regards substantive testing, the certification bodies may use an integrated sampling approach.
4. The Commission shall provide further conditions and guidance on designing the audit procedures, sampling integration, planning and carrying out the on-the-spot re-verification of transactions through the guidelines as referred to in Article 6(4).



## CHAPTER II

## FINANCIAL MANAGEMENT OF THE FUNDS

## SECTION 1

**General provisions***Article 8***Paying agencies' accounts**

1. Each paying agency shall keep a set of accounts covering only the expenditure and revenue referred to in Article 4(1), Article 5 and Article 43 of Regulation (EU) No 1306/2013 and the use of the funds made available to it to defray the corresponding expenditure. Those accounts shall enable the financial data for the EAGF and the EAFRD to be distinguished and provided separately.

2. The paying agencies of the Member States which have not adopted the euro shall keep accounts covering the amounts expressed in the currency in which the expenditure was incurred and the revenue received. However, to enable all their expenditure and revenue to be consolidated, they must be able to provide the corresponding data in national currency and in euro.

3. As regards the EAFRD, each paying agency designated for a rural development programme shall keep accounts enabling all the operations for each programme and each measure to be identified. Such accounts shall include in particular:

- (a) the amount of public expenditure and the amount of the Union contribution paid for each operation;
- (b) the amounts to be recovered from beneficiaries for irregularities or negligence found;
- (c) the amounts recovered, with an indication of the original operation.

## SECTION 2

**EAGF accounts***Article 9***Provision of information by Member States**

Member States shall collect and keep available for the Commission information on total expenditure effected and assigned revenue received each week as follows:

- (a) by the third working day of each week at the latest, information on total expenditure effected and assigned revenue received from the beginning of the month until the end of the preceding week;
- (b) by the third working day of the month at the latest, where the week runs over two months, information on total expenditure effected and assigned revenue received during the preceding month.

*Article 10***Communication of information by Member States**

1. In accordance with points (c)(i) and (ii) of the first subparagraph of Article 102(1) of Regulation (EU) No 1306/2013, Member States shall send to the Commission, electronically, the following information and documents, subject to Articles 11 and 12 of this Regulation:

- (a) by the third working day of each month at the latest, information on total expenditure effected and assigned revenue received during the preceding month, on the basis of the model made available by the Commission to Member States through information systems, and any information explaining any substantial difference between the estimates drawn up in accordance with paragraph 2(a)(iii) of this Article and expenditure effected and assigned revenue received;



(b) by the 12th day of each month at the latest, the declaration of expenditure referred to in Article 18(3) of Regulation (EU) No 1306/2013. However, the communication on expenditure effected and assigned revenue received between 1 and 15 October shall be sent by 27 October.

2. The declaration of expenditure referred to in paragraph 1(b) shall consist of:

(a) a statement, drawn up by each paying agency on the basis of the model made available by the Commission to Member States through information systems, broken down according to the nomenclature of the Union budget and by type of expenditure and revenue, based on a detailed nomenclature made available to the Member States covering:

(i) the expenditure effected and assigned revenue received during the preceding month;

(ii) total expenditure effected and assigned revenue received from the beginning of the financial year until the end of the preceding month;

(iii) estimates of expenditure and assigned revenue, covering, as appropriate:

— the current month and the following two months only,

— the current month, the following two months and to the end of the financial year;

(iv) additional data, if needed;

(b) a summary, made by the Member State concerned on the basis of the model made available by the Commission to Member States through information systems, of the data referred to in point (a), for all that Member State's paying agencies;

(c) the accounts evidencing expenditure and revenue relating to public intervention, as referred to in Article 19(2).

3. All the financial information required under this Article shall be communicated in euro.

#### *Article 11*

#### **General rules on the declaration of expenditure and on assigned revenue**

1. Without prejudice to the special provisions on declarations of expenditure and revenue relating to public storage referred to in Article 12, expenditure and assigned revenue declared by paying agencies in respect of a given month shall correspond to payments and receipts actually effected during that month.

That expenditure and revenue shall be entered in the accounts of the EAGF budget in respect of financial year N.

However:

(a) expenditure which may be paid prior to the implementation of the provision permitting it to be wholly or partially borne by the EAGF may be declared only:

— in respect of the month during which the provision in question was implemented,

or

— in respect of the month following implementation of that provision;

- (b) assigned revenue which the Member State owes the Commission shall be declared in respect of the month during which the time limit for payment of the corresponding amounts, laid down in Union legislation, expires;
- (c) corrections decided by the Commission under the clearance of accounts and the conformity clearance shall be deducted from or added to the monthly payments referred to, as appropriate, in Article 33(2) or Article 34(8) directly by the Commission. However, Member States shall include the amounts corresponding to those corrections in the declaration drawn up for the month for which the corrections are made.

2. Expenditure and assigned revenue shall be taken into consideration on the date on which the account of the paying agency was debited or credited. However, for payments, the date to be taken into consideration may be the date on which the agency concerned issued the payment document and sent it to a financial institution or to the beneficiary. Each paying agency shall use the same method throughout the financial year.

3. Expenditure and assigned revenue declared in accordance with paragraph 1 may incorporate corrections to the amounts declared for previous months in the same financial year.

Where corrections to assigned revenue lead, at paying agency level, to the declaration of negative revenue assigned for a budget line, surplus corrections shall be carried over to the following month. They shall, where appropriate, be settled when the accounts for the year concerned are cleared.

4. Payment orders which are not executed and payments debited to the account, then re-credited, shall be shown in the accounts as deductions from expenditure in respect of the month during which the failure to execute or the cancellation is reported to the paying agency.

5. Where payments due under the EAGF are encumbered by claims, they shall be deemed to have been effected in their entirety for the purpose of applying paragraph 1:

- (a) on the date of the payment of the sum due to the beneficiary, if the claim is less than the expenditure settled;
- (b) on the date of set-off, if the expenditure is less than or equal to the claim.

6. Cumulative data relating to expenditure and assigned revenue that can be charged to a specific financial year, to be submitted to the Commission by 27 October at the latest, may be corrected only in the annual accounts to be sent to the Commission in accordance with point (c)(iii) of the first subparagraph of Article 102(1) of Regulation (EU) No 1306/2013.

#### *Article 12*

#### **Special rules on declarations of expenditure relating to public storage**

1. The operations to be taken into consideration for drawing up declarations of expenditure relating to public storage shall be those entered at the end of a given month in the accounts of the paying agency which have taken place from the beginning of the accounting year within the meaning of point (a) of the first subparagraph of Article 3(3) of Delegated Regulation (EU) No 907/2014 up to the end of that month.

2. Such declarations of expenditure shall comprise the values and amounts determined in accordance with Articles 17 and 18 of this Regulation and Article 4 of Commission Delegated Regulation (EU) No 906/2014 <sup>(1)</sup> entered in the accounts by paying agencies during the month following that to which the operations relate.

<sup>(1)</sup> Commission Delegated Regulation (EU) No 906/2014 of 11 March 2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to public intervention expenditure (see page 1 of this Official Journal).

However:

- (a) in the case of operations carried out in the course of September, the values and amounts shall be entered in the accounts by paying agencies by 15 October at the latest;
- (b) in the case of the overall depreciation amounts referred to in point (e) of Article 3(1) of Delegated Regulation (EU) No 906/2014, the amounts shall be entered in the accounts on the date laid down in the decision providing for them.

#### *Article 13*

##### **Payment decision by the Commission**

1. On the basis of the data sent in accordance with point (b) of Article 10(1) of this Regulation, the Commission shall decide to make the monthly payments pursuant to Article 18(3) of Regulation (EU) No 1306/2013, without prejudice to the corrections which may be made by means of subsequent decisions in accordance with Articles 51 and 52 of Regulation (EU) No 1306/2013, and taking into account the reductions and suspensions decided in accordance with Article 41 of that Regulation.
2. If the total expenditure declared by Member States for the following financial year exceeds three quarters of the total appropriations for the current financial year, the advance commitments referred to in Article 170(3) of Regulation (EU, Euratom) No 966/2012 and the corresponding monthly payments shall be granted in proportion to the declarations of expenditure, up to a maximum of 75 % of the appropriations for the current financial year. The Commission shall take the balance of amounts not reimbursed to Member States into account in decisions on subsequent reimbursements.

#### *Article 14*

##### **Making resources available to Member States**

1. By deciding to make the monthly payments, the Commission shall place at the disposal of the Member States, within the framework of the budget appropriations, the resources needed to cover expenditure to be financed by the EAGF, less the corresponding amount of assigned revenue, in the account opened by each Member State.

When the payments to be made by the Commission, minus the assigned revenue, lead to a negative amount for a Member State, the surplus deductions shall be carried over to the following months.

2. Each Member State shall notify the Commission of the name and number of the account referred to in paragraph 1 in accordance with the format made available to it by the Commission.

#### *Article 15*

##### **Communication under public intervention**

1. Paying agencies shall transmit to the Commission:
  - (a) at the Commission's request, the documents and information referred to in Article 3(7) of Delegated Regulation (EU) No 907/2014 and the additional national administrative provisions adopted for the application and management of intervention measures;
  - (b) by the day provided for in point (b) of Article 10(1) of this Regulation, the information on public storage, on the basis of the models made available by the Commission to Member States through information systems.
2. The relevant information systems referred to in Article 24 shall be used to perform the notifications and information exchanges and to draw up the documents relating to public intervention expenditure.

*Article 16***Content of the public storage accounts to be kept by paying agencies**

1. The stock accounts provided for in point (a) of the first subparagraph of Article 3(3) of Delegated Regulation (EU) No 907/2014 shall contain the following categories of elements, shown separately:

- (a) the quantities of products recorded on entry into and removal from storage, with or without physical movement;
- (b) the quantities used for free distribution to the most deprived persons under the Fund for European Aid to the Most Deprived, and accounted for under Article 4(3) of Delegated Regulation (EU) No 906/2014, distinguishing those which are the subject of a transfer to another Member State;
- (c) quantities taken as samples, distinguishing samples taken by purchasers;
- (d) the quantities which, after checking by visual examination in the context of the annual stock-taking or during the inspection after taking into intervention, may no longer be repackaged and are the subject of direct sales;
- (e) quantities missing, for identifiable or unidentifiable reasons, including those corresponding to the legal tolerance limits;
- (f) quantities which have deteriorated;
- (g) surplus quantities;
- (h) missing quantities exceeding the tolerance limits;
- (i) quantities which have entered into storage and been found not to meet the requirements and for which taking-over has therefore been refused;
- (j) net quantities in storage at the end of each month or accounting year, which are carried forward to the next month or accounting year.

2. The financial accounts provided for in point (a) of the first subparagraph of Article 3(3) of Delegated Regulation (EU) No 907/2014 shall contain:

- (a) the value of the quantities referred to in point (a) of paragraph 1 of this Article, showing separately the value of the quantities bought in and of the quantities sold;
- (b) the book value of the quantities used or taken into account under the free distribution arrangements referred to in point (b) of paragraph 1 of this Article;
- (c) the financing costs referred to in point (a) of Article 3(1) of Delegated Regulation (EU) No 906/2014;
- (d) expenditure on physical operations as referred to in points (b) and (c) of Article 3(1) of Delegated Regulation (EU) No 906/2014;

- (e) amounts resulting from depreciation as referred to in point (e) of Article 3(1) of Delegated Regulation (EU) No 906/2014;
- (f) the amounts collected or recovered from sellers, purchasers and storers, other than those referred to in Article 20(2) of this Regulation;
- (g) the amount from direct sales carried out after the annual stock-taking or following checks after products are taken into intervention storage;
- (h) losses and gains on removals of products, taking account of depreciation as referred to in point (e) of this paragraph;
- (i) other debits and credits, in particular those corresponding to the quantities referred to in points (c) to (g) of paragraph 1 of this Article;
- (j) the average book value, expressed per tonne or per hectolitre, as the case may be.

#### Article 17

##### **Accounting related to public intervention**

1. The elements referred to in Article 16 shall be booked for the quantities, values, amounts and averages actually recorded by paying agencies or for the values and amounts calculated on the basis of the standard amounts established by the Commission.
2. The records and calculations referred to in paragraph 1 shall be made subject to the application of the following rules:
  - (a) the removal costs relating to quantities for which quantitative losses or deterioration have been recorded, in accordance with the rules laid down in Annexes VI and VII to Delegated Regulation (EU) No 906/2014, shall be entered in the accounts only for the quantities actually sold and removed from storage;
  - (b) quantities recorded as missing on transfer between Member States shall not be deemed to have entered storage in the Member State of destination and shall not be covered by standard entry costs;
  - (c) the standard entry and removal costs fixed for transport and transfer shall be entered in the accounts if those costs are not considered, under the Union rules, to be an integral part of the transport costs;
  - (d) unless specific Union rules provide otherwise, amounts accruing from sales of products which have deteriorated and any other amounts received in this context shall not be entered in the EAGF account records;
  - (e) any surplus quantities recorded shall be entered in the accounts as a negative amount, in the missing quantities in the stock situation and movements. Those quantities shall be included when determining the quantities exceeding the tolerance limit;
  - (f) samples other than those taken by purchasers shall be entered in the accounts in accordance with point 2(a) of Annex VII to Delegated Regulation (EU) No 906/2014.
3. Corrections made by the Commission, as regards the elements referred to in Article 16 for the current accounting year, shall be notified to the Committee on the Agricultural Funds. They may be notified to the Member States on the occasion of a monthly payment decision or, failing that, at the time of the decision on the clearance of accounts. They shall be entered in the accounts by paying agencies under the terms of that decision.

*Article 18***Dates for entering expenditure and revenue and product movements in the accounts for public intervention**

1. The various items of expenditure and revenue shall be entered in the accounts on the date on which the physical operation under the public intervention measure takes place and by using the exchange rate as referred to in Article 3(2) of Delegated Regulation (EU) No 906/2014.

However, the following dates shall apply in the cases set out below:

- (a) the date of receipt, in the case of amounts received or recovered, as referred to in points (f) and (g) of Article 16(2) of this Regulation;
  - (b) the date of actual payment of costs relating to physical operations, where such costs are not covered by standard amounts.
2. The various elements relating to the physical movement of products and the management of stocks shall be entered in the accounts on the date on which the physical operation under the intervention measure takes place.

However, the following dates shall apply in the cases set out below:

- (a) the date of taking-over of products by the paying agency, in accordance with Article 31(2) and Article 33 of Commission Regulation (EU) No 1272/2009 <sup>(1)</sup>, for quantities entering public storage without any change in the place of storage;
- (b) regarding missing or deteriorated and surplus quantities, the date of the finding as to the facts in the case of missing or deteriorated and surplus quantities;
- (c) the date of actual removal from storage, in the case of direct sales of products remaining in storage which can no longer be repackaged after visual examination in the context of the annual stock-taking or during the inspection after taking into intervention;
- (d) the last day of the accounting year, for any losses exceeding the tolerance limit referred to in Article 4(2) of Delegated Regulation (EU) No 907/2014.

*Article 19***Amount financed under public intervention**

1. The amount to be financed under the intervention measures referred to in Article 2 of Delegated Regulation (EU) No 906/2014 shall be determined on the basis of the accounts drawn up and kept by paying agencies in accordance with point (a) of the first subparagraph of Article 3(3) of Delegated Regulation (EU) No 907/2014, and to which the various items of expenditure and revenue referred to in Article 16 of this Regulation are debited and credited, respectively, taking account where necessary of amounts of expenditure fixed under the sectoral agricultural legislation.

2. Paying agencies or coordinating bodies as appropriate shall transmit to the Commission, each month and each year, by electronic means, on the basis of the models made available by the Commission to Member States through information systems, the information needed for the financing of public storage expenditure and the accounts evidencing expenditure and revenue relating to public storage in the form of tables (P-STO tables), by the day provided for in point (b) of Article 10(1) and by the date provided for in Article 30(2).

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<sup>(1)</sup> Commission Regulation (EU) No 1272/2009 of 11 December 2009 laying down common detailed rules for the implementation of Council Regulation (EC) No 1234/2007 as regards buying-in and selling of agricultural products under public intervention (OJ L 349, 29.12.2009, p. 1).

*Article 20***Declarations of public intervention expenditure and revenue**

1. Financing by the EAGF under the intervention measures referred to in Article 2 of Delegated Regulation (EU) No 906/2014 shall be equal to the expenditure, calculated on the basis of the information notified by the paying agency, after deduction of any revenue accruing from the intervention measures, validated by the information system set up by the Commission and included by the paying agency in its declaration of expenditure drawn up in accordance with Article 12 of this Regulation.

2. Sums recovered in accordance with Article 54 of Regulation (EU) No 1306/2013 and amounts received or recovered from sellers, purchasers and storers, which meet the criteria laid down in Article 43 of that Regulation shall be declared to the EAGF budget under the conditions laid down in point (a) of Article 10(2) of this Regulation.

*SECTION 3***EAFRD accounts***Article 21***Forecast of funding requirements**

For each rural development programme as referred to in Article 6 of Regulation (EU) No 1305/2013 of the European Parliament and of the Council<sup>(1)</sup>, and in accordance with point (c)(ii) of the first subparagraph of Article 102(1) of Regulation (EU) No 1306/2013, Member States shall send to the Commission, twice per year, by 31 January and 31 August at the latest, their forecasts of the amounts to be funded by the EAFRD for the financial year. In addition, Member States shall send an updated estimate of their funding requests for the following financial year.

Those forecasts and that updated estimate shall be sent by means of structured data using information system SFC2014, provided for in Chapter I of Commission Implementing Regulation (EU) No 184/2014<sup>(2)</sup>.

*Article 22***Declarations of expenditure**

1. Paying agencies shall declare expenditure for each rural development programme as referred to in Article 6 of Regulation (EU) No 1305/2013.

For each rural development measure, paying agencies shall specify in a declaration of expenditure:

- (a) the amount of eligible public expenditure for which the paying agency has actually paid the corresponding EAFRD contribution during each of the reference periods specified in paragraph 2 of this Article;
- (b) the additional information on financial instruments as referred to in Title IV of Part Two of Regulation (EU) No 1303/2013 of the European Parliament and of the Council<sup>(3)</sup>;

<sup>(1)</sup> Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 (OJ L 347, 20.12.2013, p. 487).

<sup>(2)</sup> Commission Implementing Regulation (EU) No 184/2014 of 25 February 2014 laying down pursuant to Regulation (EU) No 1303/2013 of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund, the terms and conditions applicable to the electronic data exchange system between the Member States and the Commission and adopting pursuant to Regulation (EU) No 1299/2013 of the European Parliament and of the Council on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal, the nomenclature of the categories of intervention for support from the European Regional Development Fund under the European territorial cooperation goal (OJ L 57, 27.2.2014, p. 7).

<sup>(3)</sup> Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320).



(c) the additional information on advances paid to beneficiaries as referred to in Article 75(1) of Regulation (EU) No 1306/2013;

(d) the amount recovered during the current period as referred to in paragraph 2 of this Article.

2. Once the Commission has approved a rural development programme, Member States shall send to the Commission, in accordance with point (c)(i) of the first subparagraph of Article 102(1) of Regulation (EU) No 1306/2013, their declarations of expenditure by the following deadlines:

(a) by 30 April at the latest in the case of expenditure in the period 1 January to 31 March;

(b) by 31 July at the latest in the case of expenditure in the period 1 April to 30 June;

(c) by 10 November at the latest in the case of expenditure in the period 1 July to 15 October;

(d) by 31 January at the latest in the case of expenditure in the period 16 October to 31 December.

However, all expenditure paid by paying agencies to the beneficiaries in accordance with Article 65(2) of Regulation (EU) No 1303/2013 prior to the approval of a rural development programme as referred to in Article 6 of Regulation (EU) No 1305/2013 is made under the Member States' responsibility and shall be declared to the Commission in the first declaration of expenditure following the adoption of that programme. The same rule shall apply *mutatis mutandis* in case of amendment of a rural development programme as referred to in Article 11 of Regulation (EU) No 1305/2013.

3. Declarations of expenditure shall be entered in the form of structured data by paying agencies for rural development programmes in information system SFC2014, provided for in Chapter I of Implementing Regulation (EU) No 184/2014.

4. Where the Commission requires further verifications due to incomplete or unclear information provided or disagreements, differences of interpretation or any other inconsistency relating to a declaration of expenditure for a reference period, resulting in particular from the failure to communicate the information required under Regulation (EU) No 1305/2013 and Commission acts adopted under that Regulation, or in view of serious indications that expenditure included in the declaration of expenditure may be affected by an irregularity or that there may be deficiencies in the functioning of the management and control system for rural development, the Member State concerned shall, upon request by the Commission, provide additional information within a period set in that request according to the seriousness of the problem.

The time limit for interim payments laid down in Article 36(5) of Regulation (EU) No 1306/2013 may be interrupted for all or part of the amount for which payment is claimed, from the date on which the request for information is sent until receipt of the information requested, but no later than the maximum period laid down in Article 83(1) of Regulation (EU) No 1303/2013.

Where the Member State concerned fails to respond to the request for additional information within the period set in that request or if the response is considered unsatisfactory or indicates that the applicable rules have not been complied with or that Union funds have been improperly used, the Commission may suspend or reduce payments in accordance with Article 41 of Regulation (EU) No 1306/2013.

5. Expenditure declared in respect of a period may contain corrections to data declared in respect of the preceding declaration periods of the same financial year.



Correction to expenditure and assigned revenue to be charged to the financial year not introduced in the declarations mentioned in the paragraphs 2(a), (b) and (c) may be corrected only in the annual accounts to be sent to the Commission in accordance with point (c)(iii) of the first subparagraph of Article 102(1) of Regulation (EU) No 1306/2013.

#### Article 23

##### **Calculation of the amount to be paid**

1. The Union contribution to be paid in respect of the eligible public expenditure shall be calculated for each measure and for each reference period on the basis of the financing plan as referred to in point (h) of Article 8(1) of Regulation (EU) No 1305/2013 in force on the first day of that period. The calculation shall take account of the corrections to the Union contribution as declared in the declaration of expenditure for that period.
2. Without prejudice to the ceiling provided for in Article 34(2) of Regulation (EU) No 1306/2013, where the combined total of the Union contribution paid to the rural development programme exceeds the total programmed for a rural development measure, the amount to be paid shall be reduced to the amount programmed for that measure. Any Union contribution excluded as a result may be paid later provided that an adjusted financing plan has been submitted by the Member State and accepted by the Commission.
3. The Union contribution shall be paid by the Commission, subject to resource availability, into the account(s) opened by each Member State.

Each Member State shall notify the Commission of the account name or numbers in accordance with the format made available to it by the Commission.

#### SECTION 4

##### ***Common provisions for the EAGF and EAFRD***

#### Article 24

##### **Electronic exchange of information and documents**

1. The Commission shall define the information systems enabling electronic exchanges of documents and information between it and the Member States for the communications and consultation of information provided for in Article 102 of Regulation (EU) No 1306/2013 and the necessary arrangements for their application. It shall inform the Member States of the general conditions for implementing those systems via the Committee on the Agricultural Funds.
2. The information systems referred to in paragraph 1 shall be able to process in particular:
  - (a) the data required for financial transactions, in particular those relating to the monthly and annual accounts of paying agencies, declarations of expenditure and revenue and the transmission of information and documents referred to in Article 3 of Delegated Regulation (EU) No 907/2014 and Articles 10, 11, 14, 15, 19, 20, 23 and 29 of this Regulation;
  - (b) documents of common interest enabling the monthly and annual accounts to be monitored and the information and documents which paying agencies must make available to the Commission to be consulted;
  - (c) the Union texts and Commission guidelines on the financing of the Common Agricultural Policy by authorities accredited and designated under Regulation (EU) No 1306/2013, and the guidelines on the harmonised application of the relevant legislation.
3. The form and content of the documents referred to in Articles 10, 19, 20, 23 and points (a), (b) and (d) of 30(1) shall be made available by the Commission to Member States by way of models through information systems.

Those models shall be adapted and updated by the Commission, after having informed the Committee on the Agricultural Funds.

4. The information systems referred to in paragraph 1 may contain the tools required for storing the data and for managing the accounts of the Funds by the Commission, and those required for calculating flat-rate expenditure or expenditure requiring the use of uniform methods, in particular as regards financial costs and depreciation.

5. Data on financial transactions shall be communicated, entered and updated in the information systems referred to in paragraph 1 under the responsibility of paying agencies, by paying agencies themselves or by bodies to which that function has been delegated, where applicable via the coordinating bodies accredited in accordance with Article 7(4) of Regulation (EU) No 1306/2013.

6. Where a document or procedure provided for in Regulation (EU) No 1306/2013 or Commission acts adopted under that Regulation require the signature of an authorised person or the approval of a person at one or more of the stages of that procedure, the information systems set up for the communication of such documents must make it possible to identify each person unambiguously and provide reasonable assurance that the contents of the documents, including as regards the stages of the procedure, cannot be altered, in accordance with Union legislation. As regards the declarations of expenditure and the management declaration annexed to the annual accounts referred to in points (c)(i) and (iii) of the first subparagraph of Article 102(1) of Regulation (EU) No 1306/2013, the documents sent electronically shall also be kept in their original form by the paying agencies or, where applicable, by the coordinating bodies accredited in accordance with Article 7(2) and (4) of that Regulation.

7. The electronic and digitised documents shall be kept for the whole of the period provided for in Article 32.

8. Where there is a malfunction in an information system or no stable connection, the Member State may, with the prior approval of the Commission, send the documents in another form, under the conditions laid down by the Commission.

#### *Article 25*

##### **Suspension of payment in case of late submission**

The implementing acts determining the monthly payments referred to in Article 18(3) of Regulation (EU) No 1306/2013 or the interim payments referred to in Article 36 of that Regulation shall take account of the suspension of payments decided in accordance with Article 42 of that Regulation.

#### *Article 26*

##### **Acquisition of satellite images**

1. For the purposes of Article 21 of Regulation (EU) No 1306/2013, each Member State shall inform the Commission by 1 November of each year at the latest, as to:

(a) whether it wishes the Commission to acquire the satellite images necessary for its programme of checks and/or for its Land Parcel Identification System Quality Assessment;

(b) the area to be checked and the number of planned control zones.

2. Member States requesting the Commission to obtain the satellite images shall finalise, in cooperation with the latter and before 15 January following the communication of information referred to paragraph 1, the zones to be covered and the timetable for obtaining those images.

3. The Commission shall supply free of charge to the authorised agents of the Member States the satellite images which it has acquired. Those agents must observe the provisions on copyright set out in the contracts with the suppliers and return the images on completion of the work.

4. If the total requests received by Member States exceed the budget available for the application of Article 21 of Regulation (EU) No 1306/2013, the Commission shall decide on a limitation of the satellite images to be provided, aiming at the most efficient use of the available resources.

### CHAPTER III

#### CLEARANCE OF ACCOUNTS

##### SECTION 1

##### *Recovery of Debts*

###### *Article 27*

##### **Interest applicable to recovery of undue payments**

1. Unless otherwise provided in sectoral agricultural legislation, the interest on undue payments to be recovered as a consequence of irregularity or negligence, shall be calculated for the period elapsing between the expiry of the payment deadline for the beneficiary indicated in the recovery order and the date of the repayment or deduction. The payment deadline shall not be set at more than 60 days after the recovery order.

2. The interest rate to be applied shall in any case not be lower than the interest rate provided for by national law for the recovery of comparable undue expenditures or for the collection of receivables due.

###### *Article 28*

##### **Recovery by offsetting**

Without prejudice to any other enforcement action provided for by national law, Member States shall off-set any outstanding debt of a beneficiary established in accordance with national law against any future payments to be made by the paying agency responsible for the recovery of the debt to that beneficiary.

##### SECTION 2

##### **Clearance**

###### *Article 29*

##### **Content of the annual accounts**

The annual accounts referred to in point (c)(iii) of the first subparagraph of Article 102(1) of Regulation (EU) No 1306/2013 shall include:

- (a) the assigned revenues referred to in Article 43 of that Regulation;
- (b) the expenditure of the EAGF after deduction of any undue payments not recovered at the end of the financial year other than those referred to in point (f) of this Article, including any interests thereon, summarised by item and sub-item of the Union budget;
- (c) the expenditure of the EAFRD, by programme, measure and specific contribution rate. The annual statement of expenditure shall also include information on the amounts recovered. Once a programme is closed, any undue payments not recovered other than those referred to in point (f) of this Article, including any interests thereon, shall be deducted from the expenditure of the financial year in question;

- (d) a table of differences by item and sub-item or, in the case of the EAFRD, by programme, measure, specific contribution rate and focus area, between the expenditure and the assigned revenues declared in the annual accounts and that declared for the same period in the documents referred to in point (b) of Article 10(1) of this Regulation, as far as the EAGF is concerned, and Article 22(2) of this Regulation, as far as the EAFRD is concerned, accompanied by an explanation for every difference;
- (e) separately, the amounts to be borne by, respectively, the Member State concerned and the Union in accordance with the first subparagraph of Article 54(2) and Article 54(3) of Regulation (EU) No 1306/2013;
- (f) the table of the undue payments yet to be recovered at the end of the financial year as a consequence of irregularities within the meaning of Article 1(2) of Council Regulation (EC, Euratom) No 2988/95 <sup>(1)</sup>, including any penalties provided for by the applicable sectoral Union rules and the interest thereon, following the model set out in Annex II to this Regulation;
- (g) an extract from the debtors ledger of the amounts to be recovered and credited to either the EAGF or the EAFRD other than those referred to in points (b), (c) and (f) of this Article, including any penalties and interest thereon, following the model set out in Annex III to this Regulation;
- (h) a summary of intervention operations and a statement of the quantity and location of stocks at the end of the financial year;
- (i) confirmation that expenditure, assigned revenues and the details of each movement of intervention storage is held on the paying agency's files and accounting records;
- (j) the closing balance at the end of the financial year of unused/un-cleared cumulated advances paid by Member States to beneficiaries, detailed for the EAGF by measure and for the EAFRD by programme, and for the latter, including the financial instruments. For the financial instruments, the closing balance concerns amounts paid by the Commission that have neither been used by Member States for payments to final recipients nor have been committed for guarantee contracts according to Article 42(1) of Regulation (EU) No 1303/2013.

#### Article 30

##### Transmission of information

1. For the purpose of the clearance of accounts pursuant to Article 51 of Regulation (EU) No 1306/2013, each Member State shall send to the Commission:

- (a) the items included in the annual accounts, as referred to in Article 29 of this Regulation;
- (b) the opinion and reports established by the certification body or bodies, as referred to in Article 5(3) and (4) of this Regulation;
- (c) complete records of all the accounting information required for statistical and control purposes;
- (d) the management declaration as referred to in Article 3 of this Regulation;

2. The documents and the accounting information referred to in paragraph 1 shall be sent to the Commission by 15 February at the latest of the year following the end of the financial year to which they relate. The documents referred to in points (a), (b) and (d) of that paragraph shall be sent in one copy together with an electronic copy in accordance with the format and under the conditions established by the Commission pursuant to Article 24.

<sup>(1)</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

3. At the request of the Commission or on the initiative of a Member State, further information concerning the clearance of accounts may be addressed to the Commission within a time period determined by the Commission, taking into account the amount of work required for providing that information. In the absence of such information, the Commission may clear the accounts on the basis of the information in its possession.

4. In duly justified cases, the Commission may accept a request for late submission of information, if that request is addressed to it before the submission deadline.

#### *Article 31*

##### **Form and content of the accounting information**

1. The form and content of the accounting information referred to in point (c) of Article 30(1) and the way it is to be forwarded to the Commission shall be those provided in accordance with Commission Implementing Regulation (EU) No 991/2013 <sup>(1)</sup>.

2. The accounting information shall be used by the Commission for the sole purposes of:

(a) carrying out its functions in the context of the clearance of accounts pursuant to Regulation (EU) No 1306/2013;

(b) monitoring developments and providing forecasts in the agricultural sector.

The European Court of Auditors and the European Anti-fraud Office (OLAF) shall have access to that information for the purpose of carrying out their duties.

3. Any personal data included in the accounting information collected shall only be processed for the purposes specified in paragraph 2. In particular, if accounting information is used by the Commission for the purpose referred to in point (b) of the first subparagraph of paragraph 2, the Commission shall make such data anonymous and process it in aggregated form only.

4. Any queries concerning the processing of their personal data shall be addressed by the persons concerned to the Commission as set out in Annex IV.

5. The Commission shall ensure that the accounting information is kept confidential and secure.

#### *Article 32*

##### **Conservation of accounting information**

1. The supporting documents regarding the expenditure financed and the assigned revenues to be collected by the EAGF shall be kept at the Commission's disposal for at least three years following the year in which the Commission clears the accounts of the financial year concerned under Article 51 of Regulation (EU) No 1306/2013.

2. The supporting documents regarding the expenditure financed and the assigned revenues to be collected by the EAFRD shall be kept at the Commission's disposal for at least three years following the year in which the final payment by the paying agency has taken place.

<sup>(1)</sup> Commission Implementing Regulation (EU) No 991/2013 of 15 October 2013 laying down form and content of the accounting information to be submitted to the Commission for the purpose of the clearance of the accounts of the EAGF and EAFRD as well as for monitoring and forecasting purposes (OJ L 275, 16.10.2013, p. 7).

3. In the case of irregularities or negligence, the supporting documents referred to in paragraphs 1 and 2 shall be kept at the Commission's disposal for at least three years following the year in which the sums are entirely recovered from the beneficiary and credited to the Funds or in which the financial consequences of non-recovery are determined under Article 54(2) of Regulation (EU) No 1306/2013.

4. In the case of a conformity clearance procedure provided for in Article 52 of Regulation (EU) No 1306/2013, the supporting documents referred to in paragraphs 1 and 2 of this Article shall be kept at the Commission's disposal for at least one year following the year in which that procedure has been concluded or, if a conformity decision is the subject of legal proceedings before the Court of Justice of the European Union, for at least one year following the year in which those proceedings are concluded.

5. The supporting documents referred to in paragraphs 1 to 4 shall be kept at the Commission's disposal either in paper form, in electronic form and/or in both forms.

Documents may only be kept exclusively in electronic form if the national law of the Member State concerned permits the use of electronic documents as evidence of the underlying transactions in national court proceedings.

If the documents are kept in electronic form only, the system for doing so shall comply with Section 3(B) of Annex I to Delegated Regulation (EU) No 907/2014.

#### Article 33

##### **Financial clearance**

1. The Commission's decision on the clearance of accounts referred to in Article 51 of Regulation (EU) No 1306/2013 shall determine the amounts of expenditure effected in each Member State during the financial year concerned which shall be recognised as being chargeable to the Funds on the basis of the accounts referred to in Article 29 of this Regulation and any reductions and suspensions under Articles 41 of Regulation (EU) No 1306/2013.

The decision shall also determine the amounts to be charged to the Union and to the Member State concerned pursuant to Article 54(2) of Regulation (EU) No 1306/2013.

For the EAFRD, the amount determined by the clearance of accounts decision shall include the funds which are re-usable by reallocation by the Member State concerned pursuant to the second paragraph of Article 56 of Regulation (EU) No 1306/2013.

2. As regards the EAGF, the amount which, as a result of the clearance of accounts decision, is recoverable from or payable to each Member State shall be established by deducting the monthly payments in respect of the financial year concerned from the expenditure recognised for the same year in accordance with paragraph 1. The Commission shall deduct that amount from or add it to the monthly payment relating to the expenditure effected in the second month following the clearance of accounts decision.

As regards the EAFRD, the amount which, as a result of the clearance of accounts decision, is recoverable from or payable to each Member State shall be established by deducting the intermediate payments in respect of the financial year concerned from the expenditure recognised for the same year in accordance with paragraph 1.

The Commission shall deduct that amount from or add it to the first payment for which the declaration of expenditure is submitted by the Member State after the decision pursuant to Article 51 of Regulation (EU) No 1306/2013 has been adopted.

3. The Commission shall communicate to the Member State concerned the results of its verification of the information supplied, together with any amendments it proposes, by 30 April following the end of the financial year at the latest.

4. If, for reasons attributable to the Member State concerned, the Commission is unable to clear the accounts of a Member State before 31 May of the following year, the Commission shall notify that Member State of the additional inquiries it proposes to undertake pursuant to Article 47 of Regulation (EU) No 1306/2013.

5. Paragraphs 1 to 4 shall apply, *mutatis mutandis*, to assigned revenues within the meaning of Article 43 of Regulation (EU) No 1306/2013.

#### Article 34

##### Conformity clearance

1. In order to determine what amounts are to be excluded from Union financing, when finding that expenditure has not been incurred in conformity with Union rules, the Commission shall use its own findings and shall take into account the information made available by Member States, provided that the latter information is provided within the time limits set by the Commission in the framework of the conformity clearance procedure carried out in accordance Article 52 of Regulation (EU) No 1306/2013 and in conformity with this Article.

2. When, as a result of any inquiry, the Commission considers that expenditure was not effected in compliance with Union rules, it shall communicate its findings to the Member State concerned, specifying the corrective measures needed to ensure future compliance with those rules, and indicating the provisional level of financial correction which at that stage of the procedure it considers corresponds to its findings. That communication shall also schedule a bilateral meeting within four months after expiry of the period for reply by the Member State. The communication shall make reference to this Article.

The Member State shall reply within two months of receipt of the communication. In its reply the Member State shall have the opportunity, in particular, to:

- (a) demonstrate to the Commission that the actual extent of the non-compliance or the risk for the Funds is less than what was indicated by the Commission;
- (b) inform the Commission of the corrective measures it has undertaken to ensure compliance with Union rules and the effective date of their implementation.

In justified cases, the Commission may, upon reasoned request of the Member State, authorise an extension of the two month period by a maximum of two months. The request shall be addressed to the Commission before the expiry of that period.

If the Member State considers that a bilateral meeting is not required, it shall inform the Commission accordingly in its reply to the communication mentioned above.

3. In the bilateral meeting both parties shall endeavour to come to an agreement as to the measures to be taken as well as to the evaluation of the gravity of the infringement and of the financial damage caused to the Union budget.

The Commission shall within 30 working days of the bilateral meeting draw up the minutes and send them to the Member State. The Member State may send its observations to the Commission within 15 working days after receipt of the minutes.

The Commission shall within six months after sending the minutes of the bilateral meeting formally communicate its conclusions to the Member State on the basis of the information received in the framework of the conformity clearance procedure. That communication shall evaluate the expenditure to be excluded from Union financing under Article 52 of Regulation (EU) No 1306/2013 and Article 12 of Delegated Regulation (EU) No 907/2014. The communication shall make reference to Article 40(1) of this Regulation.



4. Where the Member State has made use of the conciliation procedure referred to in Article 40, the Commission shall communicate its conclusions to the Member State no later than six months after:

- (a) the receipt of the Conciliation Body report; or
- (b) the receipt of additional information from the Member State within the deadline referred to in the second subparagraph of Article 40(3), provided that the conditions set out in paragraph 6 of this Article are met.

5. In order to apply paragraphs 3 and 4 within the respective time periods, the Commission shall have available all information relevant at that particular step of the procedure. Where the Commission deems it lacks information, it may at any time within the time periods set out in paragraphs 3 and 4:

- (a) ask for additional information from the Member State, to which the Member State shall reply within two months of receipt of the communication; and/or
- (b) inform the Member State of its intention to carry out an additional audit mission to conduct the necessary verifications.

In that case, the time periods referred to in paragraphs 3 and 4 shall start again either on the receipt by the Commission of the requested additional information or from the last day of the additional audit mission.

6. When evaluating the expenditure to be excluded from Union financing, the information communicated by the Member State after the Commission's formal communication referred to in the second subparagraph of paragraph 3 may only be taken into account:

- (a) where it is necessary to avoid the gross overestimation of the financial damage caused to the Union budget; and
- (b) if the late transmission of the information is duly justified by external factors and does not jeopardise the timely adoption by the Commission of the decision pursuant to Article 52 of Regulation (EU) No 1306/2013.

7. The Commission, after having communicated its conclusions to the Member States in accordance with Article 34 paragraph 3 or 4 of this Regulation, shall adopt, where appropriate, one or more decisions under Article 52 of Regulation (EU) No 1306/2013 in order to exclude from Union financing expenditure affected by the non-compliance with Union rules. The Commission may pursue consecutive conformity clearance procedures until the Member State has actually implemented the corrective measures.

8. As regards the EAGF, the deductions from the Union financing shall be made by the Commission from the monthly payments relating to the expenditure effected in the second month following the decision pursuant to Article 52 of Regulation (EU) No 1306/2013.

As regards the EAFRD, the deductions from Union financing shall be made by the Commission from the payment for which the declaration of expenditure is submitted by the Member State after the decision pursuant to Article 52 of Regulation (EU) No 1306/2013 has been adopted.



However, at the Member State's request and after consultation of the Committee on the Agricultural Funds, the Commission may adopt a decision setting a different date for the deductions or authorising their reimbursement in instalments where this is warranted by the materiality of the deductions included in an implementing act adopted on the basis of Article 52 of Regulation (EU) No 1306/2013.

9. In duly justified cases to be notified to the Member State concerned, the Commission may extend the time periods set out in paragraphs 3 and 4.

10. Paragraphs 1 to 9 shall apply, *mutatis mutandis*, to assigned revenues within the meaning of Article 43 of Regulation (EU) No 1306/2013.

#### Article 35

##### **Decision not to start or pursue a conformity clearance inquiry**

1. The Commission may decide not to start or pursue a conformity clearance inquiry in accordance with Article 52 of Regulation (EU) No 1306/2013 where it expects that the possible financial correction, for the non-compliance identified as a result of an inquiry referred to in paragraph 2 of Article 34, would not exceed EUR 50 000 and 2 % of the relevant expenditure or the amounts to be recovered.

2. Where the Commission reduces the monthly payments in accordance with Article 41(1) of Regulation (EU) No 1306/2013, it may decide not to start or pursue a conformity clearance inquiry in accordance with Article 52 of that Regulation, provided that the Member State concerned has not expressed its objection to the application of this paragraph in the framework of the procedure provided for in Article 41(1) of that Regulation.

#### Article 36

##### **Conciliation Body**

For the purpose of the conformity clearance procedure provided for in Article 52 of Regulation (EU) No 1306/2013, a Conciliation Body shall be established. It shall perform the following tasks:

- (a) to examine any matter referred to it by a Member State which has received a formal communication from the Commission pursuant to the second subparagraph of Article 34(3) of this Regulation, including an evaluation of expenditure which the Commission intends to exclude from Union financing;
- (b) to try to reconcile the divergent positions of the Commission and the Member State concerned;
- (c) at the end of its examination, to draw up a report on the results of its reconciliation efforts, making any remarks it deems useful should all or some of the points of dispute remain unresolved.

#### Article 37

##### **Composition of the Conciliation Body**

1. The Conciliation Body shall be composed of at least five members selected among eminent persons offering every guarantee of independence and who are highly qualified in matters regarding the financing of the common agricultural policy, including rural development, or in the practice of financial audit.

They must be nationals of different Member States.

2. The chairperson, the members and the substitute members shall be appointed by the Commission for an initial term of office of three years after consultation of the Committee on the Agricultural Funds.

The terms of office may be renewed for a year at a time only, the Committee on the Agricultural Funds having been informed. However, if the chairperson to be appointed is already a member of the Conciliation Body, the initial term of office as chairperson shall be three years.

The names of the chairperson, the members and the substitute members shall be published in the 'C' series of the *Official Journal of the European Union*.

3. The members of the Conciliation Body shall be remunerated having regard to the time which they are required to dedicate to the task. Costs shall be compensated in accordance with the rules in force for Commission staff.
4. After expiry of the term of office, the chairperson and the members shall remain in office until they are replaced or their term of office is renewed.
5. The term of office of members who no longer meet the conditions required for the accomplishment of their duties with the Conciliation Body or who, for whatever reason, are unavailable for an indeterminate period may be terminated by the Commission after consultation of the Committee on the Agricultural Funds.

In that case, the member concerned shall be replaced for the remainder of the period for which that member was appointed by a substitute member, the Committee on the Agricultural Funds being informed.

If the chairperson's term of office is terminated, the member who is to perform the chairperson's duties for the remainder of the period for which the chairperson was appointed shall be appointed by the Commission after consultation of the Committee on the Agricultural Funds.

#### Article 38

##### **Independence of the Conciliation Body**

1. The members of the Conciliation Body shall carry out their duties independently, neither seeking nor accepting instructions from the Commission, any government or body.

The members shall not take part in the work of the Conciliation Body or sign a report if, in a previous office, they have been personally involved in the matter at issue.

2. Without prejudice to Article 287 of the Treaty, the members shall not disclose any information acquired by them in the course of their work for the Conciliation Body. Such information shall be confidential and covered by the obligation of professional secrecy.

#### Article 39

##### **Working arrangements**

1. The Conciliation Body shall meet at the headquarters of the Commission. The chairperson shall prepare and organise the work. In the chairperson's absence, and without prejudice to the first subparagraph of Article 37(5), the most senior member shall take the chair.

The secretariat of the Conciliation Body shall be provided by the Commission.

2. Without prejudice to the second subparagraph of Article 38(1), reports shall be adopted by an absolute majority of members present, the quorum for deliberations being three.

The reports shall be signed by the chairperson and members who have taken part in the deliberations. They shall be co-signed by the secretariat.

*Article 40***Conciliation procedure**

1. A Member State may refer a matter to the Conciliation Body within 30 working days of receipt of the Commission's formal communication referred to in the second subparagraph of Article 34(3) by sending a reasoned request for conciliation to the secretariat of the Conciliation Body.

The procedure to be followed and the address of the secretariat shall be notified to the Member States through the Committee on the Agricultural Funds.

2. A request for conciliation shall only be admissible where the amount envisaged to be excluded from the Union financing according to the Commission's communication either:

(a) exceeds EUR 1 million;

or

(b) represents at least 25 % of the Member State's total annual expenditure under the budget items concerned.

In addition, if during the preceding discussions the Member State claimed and demonstrated that the matter is one of principle relating to the application of Union rules, the chairperson of the Conciliation Body may declare a request for conciliation to be admissible. However, such a request shall not be admissible if it relates solely to a matter of legal interpretation.

3. The Conciliation Body shall conduct its investigations as informally and promptly as possible, basing itself solely on the evidence available to the Commission at the time when formal conclusions are communicated in accordance with Article 34(3) and giving the Commission and the national authorities concerned a fair hearing.

However, if the Member State considers it necessary to present in its request for conciliation information which has not yet been communicated to the Commission, the Conciliation Body may invite the Commission to assess that new information only if the conditions set out in Article 34(6) are met. The information shall be communicated to the Commission at the latest two months after the report referred to in point (c) of Article 36 has been sent.

4. Where, within four months of a case being referred to it, the Conciliation Body is not able to reconcile the positions of the Commission and the Member State, the conciliation procedure shall be deemed to have failed.

The report referred to in point (c) of Article 36 shall state the reasons why the positions could not be reconciled. It shall indicate whether any partial agreement was reached during the proceedings and whether the Conciliation Body invites the Commission to assess new information in accordance with the second subparagraph of paragraph 3.

The report shall be sent to:

(a) the Member State concerned;

(b) the Commission, for examination before communicating its conclusions to the Member State;

(c) the other Member States in the framework of the Committee on the Agricultural Funds.

## CHAPTER IV

## RULES ON CHECKS

## SECTION 1

*General rules*

## Article 41

**Reduction of on-the-spot checks**

1. Member States may decide to reduce the minimum level of on-the-spot checks, in accordance with Article 59(5) of Regulation (EU) No 1306/2013, where all of the following conditions are met:

- (a) the certification body has, in accordance with Article 9 of Regulation (EU) No 1306/2013, delivered an opinion validating both that the internal control system is functioning properly and that the error rate for the population concerned was below the materiality threshold of 2,0 % for at least the two consecutive financial years preceding the year in which the reduced control rate is intended to apply;
- (b) the Commission has not informed the Member State concerned that it cannot accept the opinion referred to in point (a) of this paragraph provided by the certification body in the context of Article 9 of Regulation (EU) No 1306/2013; and
- (c) the Commission:
  - (i) has not informed the Member State concerned in accordance with Article 52 of Regulation (EU) No 1306/2013 of weaknesses in the control system of the individual support scheme or measure concerned; or
  - (ii) is satisfied, when applying Article 34 of this Regulation, with the corrective measures taken by the Member State concerned where the latter was informed in accordance with Article 52 of Regulation (EU) No 1306/2013 of weaknesses in the control system of the individual support scheme or measure concerned and has informed the Member State accordingly.

2. Member States may decide to reduce the minimum level of on-the-spot checks in accordance with the levels and, where appropriate, the additional conditions laid down in sector-specific legislation.

Member States shall inform the Commission of their decision to reduce the minimum level of on-the-spot checks immediately after its adoption. This information shall indicate:

- (a) the support scheme or measure concerned;
- (b) the period of applying a reduced minimum level of on-the-spot checks;
- (c) the reduced minimum level of on-the-spot checks to be applied.

3. Where any of the cumulative conditions laid down in paragraph 1 or any additional condition provided for in sector-specific legislation is no longer met, Member States shall immediately revoke their decision to reduce the minimum level of on-the-spot checks and apply as of the following claim year the minimum level of on-the-spot checks established by the sectoral agricultural legislation.

## SECTION 2

**Scrutiny of transactions**

## Article 42

**Scrutiny by Member States**

1. The systematic scrutiny of the commercial documents of undertakings referred to in Article 80(1) of Regulation (EU) No 1306/2013 shall apply, for each period of scrutiny referred to in paragraph 4 of this Article, to a number of undertakings which may not be less than half the undertakings whose receipts or payments, or the sum thereof, under the system of financing by the EAGF, exceeded EUR 150 000 for the EAGF financial year preceding the beginning of the period of scrutiny in question.

2. In relation to each scrutiny period, Member States shall, without prejudice to their obligations laid down in Article 80(1) of Regulation (EU) No 1306/2013, select the undertakings to be scrutinised on the basis of a risk analysis for all measures where it is practicable to do so. Member States shall submit to the Commission their proposals for the use of the risk analysis at least six months before the beginning of the scrutiny period. The proposals shall include all relevant information concerning the approach, the techniques and the data used for the analysis, and the criteria and expected method of implementation of the checks to be carried out. The proposal shall be drawn up in accordance with Annex V to this Regulation. Each Member States shall take account of the Commission's comments on the risk-analysis proposal, which shall be given within eight weeks of receipt.

3. For measures for which a Member State considers the use of a risk analysis not to be practicable, it shall be compulsory for undertakings the sum of whose receipts or payments or the sum of those two amounts within the system of financing by the EAGF exceeded EUR 350 000 and which were not scrutinised in accordance with this Regulation and Chapter III of Title V of Regulation (EU) No 1306/2013 during either of the two preceding scrutiny periods, to be scrutinised.

4. The scrutiny period shall run from 1 July to 30 June of the following year. Scrutiny shall cover a period of at least 12 months ending during the previous scrutiny period; it may be extended for periods, to be determined by the Member State, preceding or following the 12-month period.

## Article 43

**Access to commercial documents**

Undertakings shall keep the commercial documents for at least three years, starting from the end of the year in which they were drawn up. Member States may prescribe a longer period for the retention of these documents.

## Article 44

**Joint actions**

The Commission, acting on its own initiative or on the basis of a proposal by a Member State, and with the agreement of the Member States concerned, may decide to coordinate joint actions involving mutual assistance between two or more Member States, as provided for in Article 83(1) of Regulation (EU) No 1306/2013.

## Article 45

**Mutual assistance**

1. During the first three months following the EAGF financial year of payment, Member States shall send a list of the undertakings referred to in Article 83(1) of Regulation (EU) No 1306/2013 to each Member State in which such an undertaking is established. The list shall contain all the details necessary to enable the Member State of destination to identify the undertakings and to undertake its scrutiny obligations. The Member State of destination shall be responsible for the scrutiny of such undertakings in accordance with Article 80 of Regulation (EU) No 1306/2013. A copy of each list shall be sent to the Commission.

The Member State receiving or making the payment may ask the Member State in which the undertaking is established to scrutinise some of the undertakings on that list in accordance with Article 80 of Regulation (EU) No 1306/2013, indicating why it is necessary to make such a request and in particular the risks associated with it.

The Member State receiving the request shall take due account of the risks associated with the undertaking, which shall be communicated by the requesting Member State.

The requested Member State shall inform the requesting Member State of the follow-up accorded to the request. Where scrutiny of an undertaking on the list takes place, the requested Member State that carried out the scrutiny shall inform the requesting Member State of the results of that scrutiny at the latest three months after the end of the scrutiny period.

An overview of such requests shall be sent to the Commission on a quarterly basis, within one month after the end of each quarter. The Commission may require that a copy of individual requests be provided.

The list of undertakings referred to in the first subparagraph shall be drawn up in accordance with the specimen form shown in Annex VI.

2. The list of undertakings referred to in Article 83(2) of Regulation (EU) No 1306/2013 shall be drawn up in accordance with the specimen form shown in Annex VII to this Regulation.

3. A request by a Member State for a scrutiny concerning an undertaking in another Member State, as referred to in the second subparagraph of paragraph 1 and in Article 83(3) of Regulation (EU) No 1306/2013, shall be drawn up in accordance with the specimen form shown in Annex VIII to this Regulation.

4. The information on the results of the scrutinies referred to in the second subparagraph of paragraph 1 and in Article 83(3) of Regulation (EU) No 1306/2013 shall be drawn up in accordance with the specimen form shown in Annex IX to this Regulation.

5. The overview of the requests referred to in the fifth subparagraph of paragraph 1 and in Article 83(3) of Regulation (EU) No 1306/2013, including the results of the scrutinies, shall be drawn up in accordance with the specimen form shown in Annex X to this Regulation.

6. The information to be provided under paragraph 1 shall be communicated in electronic form in the format provided for in Section 2 of Annex II to Implementing Regulation (EU) No 991/2013.

#### *Article 46*

#### **Annual programmes and reports**

1. The annual programme of scrutinies referred to in Article 84 of Regulation (EU) No 1306/2013 shall be drawn up in accordance with the specimen form shown in Annex XI to this Regulation.

2. The annual report referred to in Article 86(1) of Regulation (EU) No 1306/2013 shall set out any difficulties encountered and the measures taken to overcome them and put forward, where appropriate, suggestions for improvements.

It shall include detailed information on each of the aspects of the application of Chapter III of Title V of Regulation (EU) No 1306/2013 listed in Annex XII to this Regulation, set out in clearly identified sections under the headings referred to in that Annex.

3. The information to be submitted under this Article and Article 45 may be communicated in paper form or in electronic form, in a format to be agreed between the sender and the recipient.

4. The Commission shall evaluate annually the progress achieved in its annual financial report on the administration of the Funds referred to in Article 109 of Regulation (EU) No 1306/2013.

#### Article 47

##### **Special departments**

1. The special departments referred to in Article 85 of Regulation (EU) No 1306/2013 shall be responsible, in addition to the tasks referred to in that Article, for:

- (a) training the national officials responsible for carrying out the scrutiny referred to in this Section, to enable them to acquire sufficient knowledge to perform their duties;
- (b) administering the scrutiny reports and any other documents relating to the scrutinies carried out and provided for under Chapter III of Title V of Regulation (EU) No 1306/2013
- (c) the preparation and communication of the programmes referred to in Article 84 of Regulation (EU) No 1306/2013 and the reports referred to in Article 86(1) of that Regulation.

2. Special departments shall be entrusted by Member States with all the powers necessary to perform the tasks referred to in paragraph 1.

They shall consist of a sufficient number of officials who are suitably trained to carry out those tasks.

3. Member States where the minimum number of undertakings to control is less than 10 shall not be required to establish a special department.

#### CHAPTER V

##### **SECURITIES**

#### SECTION 1

##### ***Scope, information technology, force majeure***

#### Article 48

##### **Scope**

This Chapter shall apply in all cases where the sectoral agricultural legislation provides for a security, whether or not the particular term 'security' is used.

This Chapter shall not apply to securities given to ensure payment of import and export duties referred to in Council Regulation (EEC) No 2913/92 <sup>(1)</sup>.

#### Article 49

##### **e-Administration**

Communications, documents and securities may be produced, processed, and managed by using information technology (IT) on condition that the systems applicable are managed under the officially approved quality and security protocols fit for those systems.

<sup>(1)</sup> Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, p. 1).

If competent authorities cannot access required documents for verification because of differences in IT systems, those documents shall be printed out and certified as genuine by the authority competent for the management of those IT systems ('the issuing authority') or by an authority competent for certifying documents as true copy.

Such print-outs may be replaced by an electronic message between the issuing authority and the beneficiary or the competent authority, on condition that the issuing authority provides in an officially approved certification protocol ensuring the genuineness of the message.

#### Article 50

##### **Force majeure time limits**

1. This Article shall apply when a specific Regulation refers to it.
2. A request for recognition of a case of *force majeure* shall not be admissible if it is received by the competent authority more than 30 calendar days after:
  - (a) the date on which the operator was informed by the competent authority of the established non-fulfilment of the relevant obligation within the meaning of Article 23(2) of Delegated Regulation (EU) No 907/2014, the expiry of the time limit for the fulfilment of the relevant obligation as referred to in Article 23(3) of that Regulation or the expiry of the time limit for the presentation of the proof for the fulfilment of the relevant obligation as referred to in Article 23(4) of that Regulation;
  - (b) the closing date for submission of tenders in a third country where the tender is linked to an advanced fixing certificate for export refunds;
3. Operators shall, to the competent authority's satisfaction, provide proof of the circumstances which they consider to constitute *force majeure* within 181 calendar days of the expiry of the period in which the obligation had to be fulfilled completely. Operators may be granted further time if they are unable to produce proof within that time limit despite having acted with all due diligence to obtain and forward it.
4. Member States shall notify the Commission of the cases of *force majeure* they have recognised, providing the relevant information of each case.

#### SECTION 2

##### **Form of securities**

#### Article 51

##### **Form**

1. A security may be given:
  - (a) as a cash deposit as referred to in Article 19(2) and (3) of Delegated Regulation (EU) No 907/2014; and/or
  - (b) by providing a guarantor in accordance with Article 21 of Delegated Regulation (EU) No 907/2014.
2. At the discretion of the competent authority, a security may be given by:
  - (a) pledging cash deposits in a bank;
  - (b) pledging recognised claims against a public body or public funds, which are due and payable and against which no other claim has precedence; and/or



(c) pledging collateral negotiable in the Member State concerned provided they are issued or guaranteed by that Member State.

3. The competent authority may impose additional terms for accepting securities of the type listed in paragraph 2.

#### *Article 52*

##### **Negotiable collateral**

1. Collateral pledged in accordance with point (c) of Article 51(2) shall, at the time the security is given, have a disposable value of at least 115 % of the value of the security required.

2. A competent authority may accept a security as referred to in point (c) of Article 51(2) only if the party offering it undertakes, in writing, either to give an additional security or to replace the original security should the disposable value of the security in question have been for a period of three months below 105 % of the value of the security required. That written undertaking shall not be necessary where national law already so provides. The competent authority shall regularly review the value of such security.

3. The disposable value of a security as referred to in point (c) of Article 51(2) shall be assessed by the competent authority, taking into account any costs of disposal.

4. The disposable value of securities shall be assessed using the last available quotation.

5. The party giving the security shall, at the request of the competent authority, provide proof of its disposable value.

#### *Article 53*

##### **Replacement and assignment**

1. Any form of security may be replaced by another.

However, the agreement of the competent authority shall be required in the following cases:

(a) where the original security has been forfeited but not yet realised; or

(b) where the replacement security is of a type listed in Article 51(2).

2. A block security may be replaced by another block security on condition that the new block security covers at least that part of the original block security assigned at the time of replacement to ensure fulfilment of one or more obligations still outstanding.

3. As soon as part of a block security is assigned to a particular obligation, the balance of the block security remaining shall be noted.

#### *SECTION 3*

##### ***Release and forfeiture***

#### *Article 54*

##### **Partial release**

Where specific Union rules do not specify a minimum quantity, the competent authority may itself restrict the number of partial releases of any one security and may specify a minimum sum for any such release.

Before releasing all or part of a security the competent authority may require that a written request for release be provided.

In the case of securities covering more than 100 % of the sum required to be secured, that part of the security exceeding 100 % shall be released when the remainder of the sum secured is finally released or forfeited.

#### *Article 55*

#### **Forfeiture**

1. Once the competent authority is aware of circumstances giving rise to forfeiture of the security, in whole or in part, it shall without delay demand the party required to meet the obligation to pay the sum forfeited, allowing up to 30 days from the day of receipt of demand for payment.

Where payment has not been made at the end of that period, the competent authority shall:

- (a) without delay clear any security of the type described in Article 51(1)(a) to the appropriate account;
- (b) without delay require the guarantor referred to in Article 51(1)(b) to pay, allowing up to 30 days from the day of receipt of demand for payment;
- (c) without delay take steps to:
  - (i) convert the securities described in Article 51(2)(b) and (c) into money sufficient to recover the sum due;
  - (ii) clear pledged cash deposits referred to in Article 51(2)(a) to its own account.

The competent authority may without delay clear any security of the type described in Article 51(1)(a) to the appropriate account without first requiring the person concerned to effect payment.

2. Without prejudice to paragraph 1,

- (a) where the decision to forfeit a security is taken but on appeal is subsequently postponed in accordance with national law, the party concerned shall pay interest on the sum actually forfeited over the period starting 30 days from the day of receipt of the demand for payment as referred to in paragraph 1 and ending on the day prior to the payment of the sum actually forfeited;
- (b) where following the outcome of the appeal procedure the party concerned is asked to pay within 30 days the sum forfeited, for the purposes of calculating interest the Member State may consider payment to be made on the 20th day following the date of such request;
- (c) the rate of interest applicable is calculated in accordance with national law, but shall in no case be lower than the interest rate applicable in case of recovery of national amounts;
- (d) paying agencies shall deduct the interest paid from EAGF or EAFRD expenditure in accordance with Regulation (EU) No 1306/2013;
- (e) Member States may claim periodically an increase of the security in respect of the interest involved.

3. Where a security has been forfeited and the amount already credited to the Funds and, following the outcome of an appeal procedure, the sum forfeited in whole or in part, including interest at a rate in accordance with national law, is to be repaid, the sum to be repaid shall be borne by the Funds, unless the repayment of the security is attributable to the negligence or serious mistake of administrative authorities or other bodies of the Member State.

#### SECTION 4

#### **Information**

##### *Article 56*

#### **Information on securities forfeiture, types of securities and guarantors**

1. Member States shall keep available for the Commission, for each year, the total number and sum of securities forfeited, whatever stage of the procedure set out in Article 55 has been reached, distinguishing in either case between those credited to the national budgets and those credited to the budget of the Union. That information shall be kept in relation to all securities forfeited for an amount greater than EUR 1 000 and each Union provision requiring that a security be given. The information shall cover both sums paid directly by the interested party and sums recovered by realising a security.

2. Member States shall keep at the Commission's disposal a list of:

- (a) the types of institutions authorised to act as guarantors and the requirements laid down in that respect;
- (b) the types of security accepted pursuant to Article 51(2) and the requirements laid down in that respect.

#### CHAPTER VI

#### **TRANSPARENCY**

##### *Article 57*

#### **Content of the publication**

1. The information referred to in Article 111(1)(c) and (d) of Regulation (EU) No 1306/2013 shall include:

- (a) the breakdown of the amounts of payments referred to in point (c) of that Article for each individual measure listed in Annex XIII of this Regulation, as well as the sum of the those amounts received by each beneficiary in the financial year concerned;
- (b) a description of the measures financed by the Funds, as referred to in point (d) of that Article and listed in Annex XIII of this Regulation, including the nature and the objective of each measure.

2. The amounts referred to in paragraph 1 are expressed in euro in Member States which have adopted the euro and in the national currency in other Member States.

3. Member States may publish more detailed information than that provided for in paragraphs 1 and 2, without prejudice to the necessary protection of privacy.

##### *Article 58*

#### **Publication of municipality**

Where the information to be published for the purposes of the third paragraph of Article 112 of Regulation (EU) No 1306/2013 would, due to the limited number of beneficiaries residing or registered in a given municipality, allow for the identification of a natural person as a beneficiary, the Member State concerned shall publish as information, for the purposes of point (b) of the first subparagraph of Article 111(1) of that Regulation, the next larger administrative entity of which the municipality in question is part of.

*Article 59***Form and date of publication**

1. The information to be made available on a single website as referred to in the second subparagraph of Article 111(1) of Regulation (EU) No 1306/2013 shall be accessible through a search tool allowing the users to search for beneficiaries by either name, or municipality as referred to in Article 58 of this Regulation, or amounts received or by measure or by a combination thereof and to extract all the corresponding information as a single set of data. That information shall be provided in the official language or languages of the Member State and/or in one of the three working languages of the Commission.
2. The information referred to in paragraph 1 shall be published by 31 May each year for the preceding financial year.
3. In accordance with that Article, the information shall remain available on the website for two years from the date of their initial publication.

*Article 60***Information of the beneficiaries**

The information of the beneficiaries referred to in Article 113 of Regulation (EU) No 1306/2013 shall be provided to the beneficiaries by including it in the application forms for receiving funds deriving from the Funds, or otherwise at the time when the data are collected.

By way of derogation from the first paragraph, as regards data related to payments received in the financial years 2014 and 2015, the information of the beneficiaries shall be provided at least two months before the date of publication.

*Article 61***Publication of thresholds related to the Small farmers scheme**

The amounts notified by Member States in accordance with the second paragraph of Article 112 of Regulation (EU) No 1306/2013 shall be published on the Union website referred to in Article 62(1) of this Regulation.

*Article 62***Cooperation between the Commission and Member States**

1. The Commission shall set up and maintain a Union website under its central internet address which includes links to the websites of Member States. The Commission shall provide updated internet links according to the information sent by Member States.
2. Member States shall provide the Commission with their websites' internet addresses as soon as they have been set up as well as any subsequent changes thereof having an influence on the accessibility of their websites from the Union website.
3. Member States shall nominate a body in charge of setting up and maintaining the single website referred to in Article 59(1). They shall inform the Commission of the name and address details of that body.

## CHAPTER VII

**FINAL PROVISIONS***Article 63***Repeal**

Regulations (EC) No 601/94, (EC) No 4/2004 and (EC) No 259/2008 are repealed.

However, Regulation (EC) No 259/2008 shall continue to apply to payments made for the financial year 2013. By way of derogation from Article 3(3) of that Regulation, the information referred to in that Article shall remain available on the website for one year from the date of its initial publication.

*Article 64***Entry into force and application**

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

However:

- (a) Article 10 shall apply for expenditure incurred and assigned revenue received by Member States from 16 October 2014;
- (b) Articles 34 to 40 shall apply as of 1 January 2015. However, the time periods provided for in Article 34(3) and (4) shall not apply to conformity clearance inquiries for which the communication under Article 11(1) of Regulation (EC) No 885/2006 was sent before 1 January 2015;
- (c) Chapter VI shall apply to payments made from the financial year 2014 onwards;
- (d) The information transmitted by Member States in accordance with Annex II, columns V1 and V2, shall be provided starting with financial year 2016.

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

Done at Brussels, 6 August 2014.

*For the Commission*

*The President*

José Manuel BARROSO

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## ANNEX I

**MANAGEMENT DECLARATION**

(Article 3)

I, ..., Director of the ... Paying Agency, present the accounts for this Paying Agency for the financial year 16/10/xx to 15/10/xx+1.

I declare, based on my own judgement and on the information at my disposal, including, inter alia, the results of work of the internal audit service, that:

- the accounts presented give, to the best of my knowledge, a true, complete and accurate view of the expenditure and receipts for the financial year referred to above. In particular, all debts, advances, guarantees and stocks known to me have been recorded in the accounts, and all receipts collected relating to the EAGF and the EAFRD have been properly credited to the appropriate funds;
- I have put in place a system which provides reasonable assurance on the legality and regularity of the underlying transactions, including that the eligibility of demands and, for rural development, the procedure for attributing aid, are managed, controlled and documented in conformity with Union rules;

The expenditure entered in the accounts was used for its intended purpose, as defined in Regulation (EU) No 1306/2013.

Furthermore, I confirm that effective and proportionate anti-fraud measures under Article 58 of Regulation (EU) No 1306/2013 are in place and take account of the risks identified.

That assurance is, however, subject to the following reservations:

Finally, I confirm that I am not aware of any undisclosed matter which could be damaging to the financial interest of the Union.

*Signature*

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MODEL TABLE REFERRED TO IN ARTICLE 29(g)

The information referred to in Article 29(g) shall be provided per paying agency by using the following table:

a	b	c	i	d	e	f	g	h
Paying Agency	Fund	Currency unit	Outstanding amount category (cross-compliance sanction, multi-annual sanction or others)	Balance 15 October N-1	New cases (year N)	Total recoveries (year N)	Total corrections including irrecoverable amounts (year N)	Amount to be recovered 15 October N



## ANNEX IV

**TRANSMISSION OF QUERIES REFERRED TO IN ARTICLE 31(4)**

Queries referred to in Article 31(4) shall be sent to:

— European Commission, DG AGRI-J1, B-1049 Brussels,

or

— AGRI-J1@ec.europa.eu.

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## ANNEX V

**INFORMATION TO BE CONTAINED IN THE ANNUAL RISK ANALYSIS REFERRED TO IN ARTICLE 42(2)****1. Assessment of the previous year's risk analysis**

Information shall be provided concerning the assessment of effectiveness of the previous year's risk analysis, including the evaluation of its strengths and weaknesses. Any possibilities for improvement shall be clearly identified and implementation thereof shall be considered.

**2. Library of information**

Information shall be provided on all sources of information taken into account in order to prepare and conduct the risk analysis. Particular reference shall be made to Commission Regulation (EC) No 612/2009 <sup>(1)</sup>.

**3. Selection procedure**

A description shall be provided of the procedure to be applied in order to select the undertakings to be scrutinised. A clear indication shall be made of the number/percentage of undertakings and sectors/measures to which risk analysis, random, automatic and/or manual selection shall be applied. Sectors/measures to be excluded shall be clearly identified and the reasons for exclusion shall be described.

**4. Risk factors and risk values to be applied**

Where risk analysis shall be applied, information shall be provided on all risk factors taken into consideration and the subsequent possible values assigned to those risk factors. That information shall be provided in accordance with the specimen tables provided below.

Risk factors and risk values applicable to all measures subject to risk analysis		
Risk factors	Risk values	
	Description	Values

Specific risk factors and risk values applicable to export refunds		
Risk factors	Risk values	
	Description	Values

Specific risk factors and risk values applicable to ... (sector/measure)		
Risk factors	Risk values	
	Description	Values

<sup>(1)</sup> Commission Regulation (EC) No 612/2009 of 7 July 2009 on laying down common detailed rules for the application of the system of export refunds on agricultural products (OJ L 186, 17.7.2009, p. 1).

**5. Weighting of risk factors**

Where appropriate, a description shall be provided of the procedure to be applied to weight the risk factors.

**6. Results of risk analysis**

Information shall be provided on how the results of risk analysis and the establishment of a 'scoring list' (for each specific sector/measure — where appropriate) will be reflected in the selection of undertakings into the final scrutiny plan.

Particular attention shall be given to the possibility of joint actions as provided under Article 44.

**7. Difficulties encountered and suggestions for improvement**

Information shall be provided on any difficulties encountered and the measures taken to overcome them or proposals to that end. Where appropriate, suggestions shall be made for improvement.

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## ANNEX VI

**LIST OF UNDERTAKINGS ESTABLISHED IN A MEMBER STATE OTHER THAN THAT IN WHICH PAYMENT OF THE AMOUNT IN QUESTION HAS OR SHOULD HAVE BEEN MADE OR RECEIVED**

(Article 45(1))

Member State in which payment was made or received .....

Date of dispatch of the list

Member State in which undertaking is established .....

(1) Name and address		(2) Nature of expenditure (show each payment separately by EAGF budgetary line and type of payment)	(3) Amount (in national currency) per individual payment which during the EAGF financial year was:		(4) Indicate whether inspection of the undertaking requested in accordance with Article 45 (see note A)
(i) of undertaking in Member State where established	(ii) to which payment made or from which payment received		(i) paid to undertaking	(ii) paid by undertaking	

## Notes:

- A. If so, a specific request must be sent, using the specimen form set out in Annex VIII, including all the information needed to enable the recipient to correctly identify the undertaking concerned.
- B. A copy of this list must be sent to the Commission.
- C. Where there are no undertakings established in other Member States as far as your country is concerned, this must be communicated to all other Member States and to the Commission.
- D. If a request for scrutiny of an undertaking in accordance with Article 45 is made subsequent to the dispatch of this list, a copy of the request, in accordance with Annex VIII, must be sent to the Commission.

## ANNEX VII

**LIST OF UNDERTAKINGS ESTABLISHED IN A THIRD COUNTRY FOR WHICH PAYMENT OF THE AMOUNT IN QUESTION HAS OR SHOULD HAVE BEEN MADE OR RECEIVED IN A MEMBER STATE**

(Article 45(2))

Member State in which payment was made or received .....

Date of dispatch of the list

Third country in which undertaking is established .....

(1) Name and address		(2) Nature of expenditure (show each payment separately by EAGF budgetary line and type of payment)	(3) Amount (in national currency) per individual payment which during the EAGF financial year was:		(4) Additional comments (e.g. itemise any difficulties in control, suspicion of irregularity, analysis of risk, etc.)
(i) of undertaking in third country where established	(ii) to which payment made or from which payment received		(i) paid to undertaking	(ii) paid by undertaking	

*Note:*

If there are no undertakings established in third countries as far as your country is concerned, a copy of this Annex must be sent to the Commission clearly indicating this to be the case.

## ANNEX VIII

## REQUEST FOR SCRUTINY UNDER ARTICLE 45(3)

Items marked with an asterisk must be completed in all cases; other items must be completed where appropriate

This request is based upon: Article 83(3) of Regulation (EU) No 1306/2013

A	(*) 1. Requesting Member State ..... (*) 2. Name of special department ..... (*) 3. Address ..... (*) 4. Telephone number ..... 5. Fax number ..... 6. E-mail ..... 7. Responsible official ..... 8. Name of control organisation responsible ..... 9. Address ..... 10. Telephone number ..... 11. Fax number ..... 12. E-mail ..... 13. Responsible official .....
B	(*) 1. Requested Member State ..... (*) 2. Organisation .....
C	(*) 1. Date of request ..... (*) 2. Scrutiny programme .....
D	Beneficiary data (*) 1. Name (a) in requesting Member State ..... (b) in requested Member State ..... (*) 2. Reference number ..... (*) 3. Address: (a) in requesting Member State ..... (b) in requested Member State .....
E	For requests under Article 45(3) only Payment data (*) 1. Paying agency ..... (*) 2. Payment reference number ..... (*) 3. Payment type ..... (*) 4. Amount (indicate currency) ..... (*) 5. Accounting date ..... (*) 6. Payment date ..... (*) 7. EAGF budget code (chapter — article — post — line) ..... (*) 8. Marketing year or period to which payment applies ..... (*) 9. Regulation serving as legal base for payment .....



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H	Scope and objective of control	
	1. Proposed scope	.....
	2. Objectives and their supporting technical details	.....
		.....
	(continue on separate sheet if necessary)	.....
		.....

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I	(*) List of supporting documents supplied	.....
		.....
	(continue on separate sheet if necessary)	.....
		.....
		.....

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## ANNEX IX

## RESULTS OF SCRUTINY UNDER ARTICLE 45(4)

**Scrutiny report following Mutual Assistance request under Chapter III of Title V of Regulation (EU) No 1306/2013**

NB. The bold items are identical to those used in Annex VIII.

**Identification****B.1. Requested Member State****2. Organisation**

3. Regional Office

4. Name of the controller

**A.1. Requesting Member State:****2. Name of special department:****8. Name control organisation responsible:**

14. Enquiry number/report reference:

**C.1. Date of request and reference number:****2. Scrutiny programme:**

3. Date of reply and reference number:

**D. Beneficiary data****1. Name**

(a) in requesting Member State:

(b) in requested Member State:

**2. Reference number**

(a) in requesting Member State:

(b) in requested Member State:

4. Other undertakings scrutinised:

**H. Scope and objective of control:****I. List of supporting documents supplied:**

J. Result:

**Scrutiny report**

1. Preparation/background/scope

2. Description of undertaking/system of control

3. Work done/Documents examined/Findings

4. Conclusions

5. Other observations/recommendations

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## ANNEX X

## OVERVIEW REFERRED TO IN ARTICLE 45(5)

Overview as provided for in the first subparagraph of Article 83(3) of Regulation (EU) No 1306/2013 of ... (Member State) on requests for scrutiny an on the results of scrutinies for the 1st [ ], 2nd [ ], 3rd [ ], 4th [ ] quarter 20...

## REQUESTS sent to:

Member State	Total Number per MS	REQUEST	
		Date Sent	Reference Number
<b>TOTAL</b>			

## REPLIES sent to:

Member State	Total Number per MS	REPLY	
		Date Sent	Reference Number
<b>TOTAL</b>			

## Notes on boxes:

Each request/reply sent during the quarter is to be included in the overview table

Where applicable additional rows are to be added

The reference number for replies sent is to be the same as the reference number on the corresponding request for inspection

\_\_\_\_\_

## ANNUAL PROGRAMME DOCUMENTS (ARTICLE 46(1))

SHEET A

## PROPOSED SCRUTINY PROGRAMME FOR THE PERIOD .....

(Article 84 of Regulation (EU) No 1306/2013)

## 1. Calculation of the minimum number of undertakings

A (1) The number of undertakings whose receipts or payments, or the sum thereof amounted to more than EUR 150,000 for the EAGF financial year ...

A (2) The minimum number

i.e.

x 1/2 =

## 2. Population from which the selection is made

The total number of undertakings having received or made payments subject to Chapter III of Title V of Regulation (EU) No 1306/2013 scrutiny during the financial year ... was as follows:

A (3) Total number

Total number whose receipts or payments, or the sum thereof, were in the following categories:

A (4) Exceeding EUR 350 000

A (5) EUR 350 000 or less, but not less than EUR 40 000

A (6) Less than EUR 40 000

## 3. Undertakings proposed for scrutiny:

A (7) Total number

A (8) Total based upon risk analysis

Total number whose receipts or payments, or the sum thereof, were in the following categories:

A (9) Exceeding EUR 350 000

A (10) EUR 350 000 or less, but not less than EUR 40 000

A (11) Less than EUR 40 000

## Notes on boxes:

A (4) It is compulsory to scrutinise undertakings in this category which were not scrutinised in accordance with Article 42(3) during the two scrutiny periods preceding that scrutiny period, unless the payments that they received were under a measure or measures for which risk analysis techniques of selection have been adopted.

A (9) Undertakings in this category are to be scrutinised only for specific reasons which are to be indicated in sheet D of this Annex.

(Article 84 of Regulation (EU) No 1306/2013)

## EAGF financial year ...

[illegible]

**PROPOSED SCRUTINY PROGRAMME FOR THE PERIOD**

(Article 84 of Regulation (EU) No 1306/2013)

Criteria adopted in drawing up the programme in the area of export refunds and other sectors where risk analysis selection techniques have been adopted where these differ from those included in the proposals for risk analysis sent to the Commission under Article 42(2).

Sector where scrutiny is proposed (show EAGF budget heading as set out in column B (1) of Sheet B of this Annex)	Comments on risk and selection criteria adopted (give brief details — e.g. detected irregularities or exceptional increase in expenditure)

**PROPOSED SCRUTINY PROGRAMME FOR THE PERIOD**

(Article 84 of Regulation (EU) No 1306/2013)

Proposed scrutinies, if any, of undertakings whose receipts or payments, or the sum thereof, were less than EUR 40,000 during the EAGF financial year .....

EAGF budget heading (as set out in column B (1) of Sheet B)	Number of undertakings that it is proposed to scrutinise	Specific reason for scrutiny

**PROPOSED SCRUTINY PROGRAMME FOR THE PERIOD**

(Article 84 of Regulation (EU) No 1306/2013)

TOTAL:	CONTROL BODY: .....
E (1) The total number of undertakings to be scrutinised: <div></div>	E (2) The number of undertakings to be scrutinised: <div></div>
CONTROL BODY: .....	CONTROL BODY: .....
E (3) The number of undertakings to be scrutinised: <div></div>	E (4) The number of undertakings to be scrutinised: <div></div>
CONTROL BODY: .....	CONTROL BODY: .....
E (5) The number of undertakings to be scrutinised: <div></div>	E (6) The number of undertakings to be scrutinised: <div></div>

**Notes on boxes:**

Where applicable, additional boxes e.g. E (7), E (8) etc. are to be added

## ANNEX XII

## ANNUAL REPORT DOCUMENTS (ARTICLE 46(2))

## PART I

**Information to be contained in the annual report provided for in Article 86(1) of Regulation (EU) No 1306/2013****1. Administration of Chapter III of Title V of Regulation (EU) No 1306/2013**

Information shall be provided concerning the administration of Chapter III of Title V of Regulation (EU) No 1306/2013, including changes to the organisations responsible for scrutinies and to the special department responsible for monitoring the application of that Regulation, as referred to in Article 85 thereof, and to the competences of those organisations.

**2. Legislative changes**

Information shall be provided regarding any national legislative changes relevant to the application of Chapter III of Title V of Regulation (EU) No 1306/2013 that have intervened since the previous annual report.

**3. Amendments to the scrutiny programme**

A description shall be provided of any amendments that were made to the scrutiny programme submitted to the Commission under Article 84(2) of Regulation (EU) No 1306/2013 since the date of submission of that programme.

**4. Application of the scrutiny programme covered by this report**

Information shall be provided on the application of the programme of scrutinies for the period ending on 30 June preceding the closing date for submission of the report, as referred to in Article 86(1) of Regulation (EU) No 1306/2013, including the following points, both in total and broken down by control body (where more than one control body carries out controls under that Regulation):

- (a) the number of undertakings scrutinised during the scrutiny period, in accordance with specimen form shown in Sheet A of Part II of this Annex;
- (b) the number of undertakings still in the course of being scrutinised, in accordance with specimen form shown in Sheet A of Part II of this Annex;
- (c) the number of undertakings that were not subject to scrutiny during the period in question as a result of the non-execution of some scrutinies, in accordance with specimen form shown in Sheet A of Part II of this Annex;
- (d) the reasons why the scrutinies referred to in point (c) were not carried out;
- (e) the breakdown, by amounts received by or paid to, and by measure, of the scrutinies referred to in points (a), (b), and (c), in accordance with the specimen form shown in Sheet B of Part II of this Annex;
- (f) the results of the scrutinies referred to in point (a), in accordance with specimen form shown in Sheet C of Part II of this Annex, including:
  - (i) the number of scrutinies for which irregularities were discovered, and the number of undertakings involved,
  - (ii) the nature of these irregularities,
  - (iii) the measure concerned where an irregularity was discovered,
  - (iv) the estimated financial consequence of each irregularity;



- (g) an indication of the average duration of scrutinies in person/days, indicating, where practicable, the time spent on planning, preparation, execution of controls, and reporting.

#### **5. Application of the scrutiny programmes preceding the one covered by this programme**

The report shall contain the results of the scrutinies carried out in respect of previous scrutiny periods, for which the results were not available at the time of the submission of the reports for those scrutiny periods, including for each previous scrutiny period, including:

- (a) the status of scrutinies communicated under point 4(b) and (c) in previous scrutiny reports, in accordance with the specimen form shown in Sheet D of Part II of this Annex;
- (b) the number of scrutinies through which irregularities were discovered, and the number of undertakings involved, in accordance with the specimen form shown in Sheet C of Part II of this Annex;
- (c) the nature of those irregularities, in accordance with the specimen form shown in Sheet C of Part II of this Annex;
- (d) the measure concerned where an irregularity was discovered, in accordance with the specimen form shown in Sheet C of Part II of this Annex;
- (e) the estimated financial consequence of each irregularity, in accordance with the specimen form shown in Sheet C of Part II of this Annex.

#### **6. Mutual assistance**

A summary of mutual assistance requests made and received under Chapter III of Title V of Regulation (EU) No 1306/2013.

#### **7. Resources**

Details on the resources available to carry out the scrutinies under Chapter III of Title V of Regulation (EU) No 1306/2013 shall be transmitted, including:

- (a) the number of staff, expressed in person/years, allocated to those scrutinies, per control body, and, where appropriate, per region;
- (b) training received by staff working on those scrutinies, with an indication of the proportion of the staff referred to in point (a) who have received such training, and the nature of the training itself; and,
- (c) computer equipment and tools at the disposal of staff working on those scrutinies.

#### **8. Difficulties in applying Chapter III of Title V of Regulation (EU) No 1306/2013**

Information shall be provided on any difficulties encountered in the application of Chapter III of Title V of Regulation (EU) No 1306/2013 and the measures taken to overcome them or proposals to that end.

#### **9. Suggestions for improvement**

Where appropriate, suggestions shall be made for the improvement, either of the application of Chapter III of Title V of Regulation (EU) No 1306/2013, or of that Chapter itself.

## PART II

SHEET A

**SCRUTINY REPORT FOR THE PERIOD .....**

(Article 86(1) of Regulation (EU) No 1306/2013)

TOTAL:

CONTROL BODY: .....

1 (A) The total number of undertakings to be scrutinised:

(B) The number of undertakings to be scrutinised:

2. (A) The total number of undertakings scrutinised:

(B) The number of undertakings scrutinised:

3. (A) The total number of undertakings in the course of scrutiny:

(B) The number of undertakings in the course of scrutiny:

4. (A) The total number of undertakings not yet scrutinised:

(B) The number of undertakings not yet scrutinised:

CONTROL BODY: .....

CONTROL BODY: .....

1. (C) The number of undertakings to be scrutinised:

(D) The number of undertakings to be scrutinised:

2. (C) The number of undertakings scrutinised:

(D) The number of undertakings scrutinised:

3. (C) The number of undertakings in the course of scrutiny:

(D) The number of undertakings in the course of scrutiny:

4. (C) The number of undertakings not yet scrutinised:

(D) The number of undertakings not yet scrutinised:

**Notes on boxes:**

Where applicable, additional boxes e.g. (E), (F) etc. are to be added

(Article 86(1) of Regulation (EU) No 1306/2013)

## Report of scrutinies in relation to EAGF budget headings in respect of the EAGF financial year ...

## Scrutiny programme ...

[illegible]

(Article 86(1) of Regulation (EU) No 1306/2013)

(Article 86(1) of Regulation (EU) No 1306/2013)

## Scrutiny programme ...

C(1) EAGF Budget Article or Item No.	C(2) Number of potential irregularities discovered	C(3) Number of payments concerned	C(4) Number of undertakings concerned	C(5) Estimated value of potential irregularities	C(6) Description and nature of each potential irregularity discovered, the reference number(s) of the undertaking(s) concerned and the OLAF reference number(s) (IMS notification numbers)
Totals:					

**SCRUTINY REPORT FOR THE PERIOD .....**

(Article 86(1) of Regulation (EU) No 1306/2013)

**Execution of scrutinies relating to preceding scrutiny programmes; scrutiny programme ...**

D(1) Number of undertakings declared in previous report as in the course of scrutiny:	<div></div>	D(2) Number of undertakings in D(1) for which scrutinies have been completed:	<div></div>	D(3) Number of undertakings in D(1) for which scrutinies are still in course	<div></div>
D(4) Value of transactions concerned in D(1):	<div></div>	D(5) Value of transactions concerned in D(2):	<div></div>	D(6) Value of transactions concerned in D(3):	<div></div>
D(7) Number of undertakings for which scrutinies in previous report were declared as not started:	<div></div>	D(8) Number of undertakings in D(7) for which scrutinies have been completed:	<div></div>	D(9) Number of undertakings in D(7) for which scrutinies are still in course:	<div></div>
				D(10) Number of undertakings in D(7) for which scrutinies have not been started:	<div></div>
D(11) Value of transactions concerned in D(7):	<div></div>	D(12) Value of transactions concerned in D(8):	<div></div>	D(13) Value of transactions concerned in D(9):	<div></div>
				D(14) Value of transactions concerned in D(10):	<div></div>

## ANNEX XIII

## MEASURES REFERRED TO IN ARTICLE 57

1. The support schemes set out in Annex I to Regulation (EU) No 1307/2013 of the European Parliament and of the Council <sup>(1)</sup>.
2. The following schemes and measures set out in Regulation (EU) No 1308/2013 of the European Parliament and of the Council <sup>(2)</sup>.
  - public intervention;
  - aid for private storage;
  - school fruit and vegetable scheme;
  - school milk scheme;
  - aid in fruit and vegetables sector;
  - support measures in the wine sector;
  - aid in the apiculture sector;
  - aid in the hops sector;
  - export refunds.
3. The aid in the silkworm sector provided for in Council Regulation (EC) No 1234/2007 <sup>(3)</sup>.
4. The information and promotion measures provided for in Council Regulation (EC) No 3/2008 <sup>(4)</sup>.
5. The measures provided for in Regulation (EU) No 228/2013 of the European Parliament and of the Council <sup>(5)</sup>, except those covered by Annex I to Regulation (EU) No 1307/2013.
6. The measures provided for in Regulation (EU) No 229/2013 of the European Parliament and of the Council <sup>(6)</sup>, except those covered by Annex I to Regulation (EU) No 1307/2013.
7. The measures provided for in Chapter I of Title III of Regulation (EU) No 1305/2013 and included in the rural development programme concerned.
8. The measures provided for in Chapter I of Title IV of Regulation (EC) No 1698/2005 <sup>(7)</sup> and included in the rural development programme concerned.

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<sup>(1)</sup> 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).

<sup>(2)</sup> Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).

<sup>(3)</sup> Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (OJ L 299, 16.11.2007, p. 1).

<sup>(4)</sup> Council Regulation (EC) No 3/2008 of 17 December 2007 on information provision and promotion measures for agricultural products on the internal market and in third countries (OJ L 3, 5.1.2008, p. 1).

<sup>(5)</sup> Regulation (EU) No 228/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in the outermost regions of the Union and repealing Council Regulation (EC) No 247/2006 (OJ L 78, 20.3.2013, p. 23).

<sup>(6)</sup> Regulation (EU) No 229/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in favour of the smaller Aegean islands and repealing Council Regulation (EC) No 1405/2006 (OJ L 78, 20.3.2013, p. 41).

<sup>(7)</sup> Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (OJ L 277, 21.10.2005, p. 1).



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