

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

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⁽¹⁾ 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⁽²⁾ and in Regulation (EU) No 229/2013 of the European Parliament and of the Council⁽³⁾, in respect of calendar years N-1 or earlier made after the payment deadline will only be

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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.

[^{F13a} By way of derogation from paragraph 2, during financial year 2015, in the case of direct payments listed in Annex I to Council Regulation (EC) No 73/2009, 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 2014 no later than 15 October 2015 and the remainder of the threshold exceeds 2 %, that remainder shall be reduced to 2 %;
- (b) in the case of Member States applying the Single Payment Scheme in accordance with Chapter 3 of Title III of Regulation (EC) No 73/2009, direct payments, other than payments provided for in Regulation (EU) No 228/2013 of the European Parliament and of the Council⁽⁴⁾ and in Regulation (EU) No 229/2013 of the European Parliament and of the Council⁽⁵⁾, in respect of calendar years 2013 or earlier made after the payment deadline will only be eligible for financing by the EAGF if the total amount of direct payments made within financial year 2015, where applicable corrected to amounts before the adjustment provided for in Article 11 of Regulation (EC) No 73/2009 or in Article 26 of Regulation (EU) No 1306/2013, does not exceed the ceiling set out in Annex VIII to Regulation (EC) No 73/2009 in respect of calendar year 2014 and taking into account the amounts resulting from the application of Article 136b of Regulation (EC) No 73/2009 for calendar year 2014 as set out in Annex VIIIa to that Regulation;
- (c) in the case of Member States applying the Single Area Payment Scheme as laid down by Article 122 of Regulation (EC) No 73/2009, direct payments in respect of calendar years 2013 or earlier made after the payment deadline will only be eligible for financing by the EAGF if the total amount of direct payments made within financial year 2015, where applicable corrected to amounts before the adjustment provided for in Article 11 of Regulation (EC) No 73/2009 or in Article 26 of Regulation (EU) No 1306/2013, does not exceed the sum of individual ceilings laid down for direct payments in respect of calendar year 2014 for the Member State concerned;
- (d) expenditure exceeding the limits referred to in point (a), (b) or (c) 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) or (c) 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.

Textual Amendments

- F1** Inserted by [Commission Delegated Regulation \(EU\) 2015/160 of 28 November 2014 amending Delegated Regulation \(EU\) No 907/2014 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.](#)

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.

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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.

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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⁽⁶⁾ 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.

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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.

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- (1) 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).
- (2) 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).
- (3) 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).
- (4) [^{F1}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).]
- (5) [^{F1}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).]
- (6) 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).

Textual Amendments

- F1** Inserted by [Commission Delegated Regulation \(EU\) 2015/160 of 28 November 2014 amending Delegated Regulation \(EU\) No 907/2014 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.](#)

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