

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

## 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.

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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

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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.

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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,

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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. <sup>[F1]</sup>As regards substantive testing, including the sampling methods, the certification bodies may apply dual-purpose testing between audit objectives.]
- 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).

#### Textual Amendments

- F1** Substituted by [Commission Implementing Regulation \(EU\) 2018/56 of 12 January 2018 amending Implementing Regulation \(EU\) No 908/2014 laying down rules for the application of Regulation \(EU\)](#)

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## 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;

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- (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.

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## 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.



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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.

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

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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;

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- 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;

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- 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>(2)</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,

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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).

#### *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>(3)</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>(4)</sup>.

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## 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>(6)</sup>;
- 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.

[<sup>F2</sup>However, all expenditure paid by paying agencies to the beneficiaries in accordance with Article 65(2) of Regulation (EU) No 1303/2013 until the end of the last period, as specified in the first subparagraph of this paragraph, 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 approval 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, except for financing plan adjustments as referred to in Article 23(2) of this Regulation.]

[<sup>F3</sup>As regards financial instruments set up in accordance with Article 38(1)(b) and (c) of Regulation (EU) No 1303/2013, the expenditure shall be declared in respect of the reference periods referred to in the first subparagraph once the conditions for each subsequent application for interim payment as laid down in Article 41(1) of that Regulation are met.]

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 [<sup>F4</sup>Without prejudice to Article 83 of Regulation (EU) No 1303/2013, where the authorising officer by sub-delegation requires further verifications, due to incomplete or unclear

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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, the Member State concerned shall, upon request by the authorising officer by sub-delegation, 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.

#### **Textual Amendments**

- F2** Substituted by [Commission Implementing Regulation \(EU\) 2015/583 of 13 April 2015 amending Implementing Regulation \(EU\) No 908/2014 as regards declarations of expenditure for rural development programmes and transparency.](#)
- F3** Substituted by [Commission Implementing Regulation \(EU\) 2019/936 of 6 June 2019 amending Implementing Regulations \(EU\) No 808/2014, \(EU\) No 809/2014 and \(EU\) No 908/2014 as regards financial instruments set up under the programmes for rural development.](#)
- F4** Substituted by [Commission Implementing Regulation \(EU\) 2016/1786 of 7 October 2016 amending Implementing Regulation \(EU\) No 908/2014 as regards declarations of expenditure for rural development programmes.](#)

### *Article 23*

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

[<sup>F51</sup> The Union contribution to be paid in respect of the eligible public expenditure shall be calculated as follows:

- a as regards rural development programmes referred to in Article 15 of Regulation (EC) No 1698/2005: for each reference period referred to in Article 22(2) of this Regulation on the basis of the EAFRD contribution rate for each priority mentioned in the financing plan in force on the first day of that period;
- b as regards rural development programmes referred to in Article 6 of Regulation (EU) No 1305/2013: for each reference period referred to in Article 22(2) of this Regulation

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on the basis of the EAFRD contribution rate for each measure, type of operation with a specific EAFRD contribution rate and technical assistance mentioned in the financing plan 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.

By way of derogation from the first subparagraph, for rural development programmes modified in accordance with Article 70(4c) of Regulation (EC) No 1698/2005, the Union contribution shall be calculated on the basis of the EAFRD contribution rate for each priority mentioned in the financing plan in force on the last day of the reference 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 to be paid under the rural development programme exceeds the total programmed for a measure, as regards the rural development programmes referred to in Article 6 of Regulation (EU) No 1305/2013, or a priority, as regards the rural development programmes referred to in Article 15 of Regulation (EC) No 1698/2005, the amount to be paid shall be reduced to the amount programmed for that measure or priority. 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.

#### **Textual Amendments**

- F5** Substituted by [Commission Implementing Regulation \(EU\) 2015/2222 of 1 December 2015 amending Implementing Regulation \(EU\) No 908/2014 as regards declarations of expenditure, conformity clearance and the content of the annual accounts.](#)

## *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:



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- 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.

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## 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

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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. [<sup>F6</sup>Member States may decide not to recover the interest when the amount of interest does not exceed EUR 5.]

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.

#### **Textual Amendments**

- F6** Inserted by [Commission Implementing Regulation \(EU\) 2018/56 of 12 January 2018 amending Implementing Regulation \(EU\) No 908/2014 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.](#)

### *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

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- 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>(6)</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;

<sup>[F12]</sup> 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 submitted electronically in accordance with the format and under the conditions established by the Commission pursuant to Article 24.

Those documents shall bear a compulsory electronic signature within the meaning of Regulation (EU) No 910/2014 of the European Parliament and of the Council<sup>(7)</sup>. For the

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documents related to financial year 2017, the Commission may accept signed documents transmitted in electronic form.]

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.

#### Textual Amendments

- F1** Substituted by [Commission Implementing Regulation \(EU\) 2018/56 of 12 January 2018 amending Implementing Regulation \(EU\) No 908/2014 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.](#)

### Article 31

#### Form and content of the accounting information

[<sup>F1</sup> The form and content of the accounting information referred to in Article 30(1)(c) shall be made available by the Commission to Member States by way of models through information systems.

The models and the related technical specifications for the accounting information shall be made available, and updated by the Commission, after having informed the Committee on the Agricultural Funds, prior to the beginning of each financial year.

The technical specifications shall include:

- a the yearly data requirements for the individual accounting information (X Table);
- b the specification for the transfer of the computer files concerning EAGF and EAFRD expenditure;
- c the data field descriptions (aide-memoire);
- d the structure of the EAFRD budget codes.]

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.

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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.

#### **Textual Amendments**

- F1** Substituted by [Commission Implementing Regulation \(EU\) 2018/56 of 12 January 2018 amending Implementing Regulation \(EU\) No 908/2014 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.](#)

### *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.

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.

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### 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

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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 <sup>[F1]</sup>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 five 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.

<sup>[F6]</sup>If a Member State notifies the Commission that a bilateral meeting is not required, the six-month period starts from the date of receipt by the Commission of the notification.]

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.



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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 [<sup>1</sup>third 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.

[<sup>F7</sup>8a For Member States which are subject to financial assistance under Council Regulation (EC) No 332/2002<sup>(8)</sup>, Council Regulation (EU) No 407/2010<sup>(9)</sup> and the Treaty establishing the European Stability Mechanism, the Commission may, at the Member State's request and after consultation of the Committee on the Agricultural Funds, adopt an implementing decision deferring, for a period not exceeding 24 months from the date of its adoption, the execution of decisions adopted after 1 May 2015 pursuant to Article 52 of Regulation (EU) No 1306/2013 ('deferral decision').

The deferral decision shall authorise the deductions to be made after the end of the deferral period in three annual instalments. Where the total amount subject to the deferral decision represents more than 0,02 % of the Member State's Gross Domestic Product, the Commission may authorise the reimbursement in maximum five annual instalments.

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The Commission may decide, at the Member State's request and after consultation of the Committee on the Agricultural Funds, to extend once, for a period not exceeding 12 months, the time period of deferral referred to in the first subparagraph.

The Member State benefitting from a deferral decision shall ensure that the deficiencies which have been the reasons for the deductions and which persist at the time of adoption of the deferral decision are being remedied on the basis of an action plan, established in consultation with the Commission, including deadlines and clear progress indicators. The Commission shall amend or repeal the deferral decision, taking into account the principle of proportionality, in one of the following cases:

- a the Member State fails to take the necessary actions to remedy the deficiencies as foreseen in the action plan;
- b the progress of the remedial actions is not sufficient according to the progress indicators; or
- c the outcome of the actions is not satisfactory.

8b The implementing decisions referred to in paragraphs 8 and 8a shall be adopted in accordance with the advisory procedure referred to in Article 116(2) of Regulation (EU) No 1306/2013.]

[<sup>F19</sup> In duly justified cases to be notified to the Member State concerned, the Commission may extend the time periods set out in paragraphs 2 to 5.]

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

[<sup>F8</sup>11 Where the time periods referred to in paragraphs 2, 3, 4 and 5 include fully or partially the month of August, the running of those time periods will be suspended during that month.]

#### Editorial Information

- X1** Substituted by [Corrigendum to 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 \(Official Journal of the European Union L 255 of 28 August 2014\)](#).

#### Textual Amendments

- F1** Substituted by [Commission Implementing Regulation \(EU\) 2018/56 of 12 January 2018 amending Implementing Regulation \(EU\) No 908/2014 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](#).
- F6** Inserted by [Commission Implementing Regulation \(EU\) 2018/56 of 12 January 2018 amending Implementing Regulation \(EU\) No 908/2014 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](#).
- F7** Inserted by [Commission Implementing Regulation \(EU\) 2015/775 of 18 May 2015 amending Implementing Regulation \(EU\) No 908/2014 as regards conformity clearance](#).
- F8** Inserted by [Commission Implementing Regulation \(EU\) 2015/2222 of 1 December 2015 amending Implementing Regulation \(EU\) No 908/2014 as regards declarations of expenditure, conformity clearance and the content of the annual accounts](#).

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### 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

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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.

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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 [<sup>XI</sup>third 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;

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

[<sup>F85</sup> Where the time periods referred to in paragraphs 1, 3 and 4 include fully or partially the month of August, the running of those time periods will be suspended during that month.]

#### **Editorial Information**

**X1** Substituted by [Corrigendum to 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 \(Official Journal of the European Union L 255 of 28 August 2014\)](#).

#### **Textual Amendments**

**F8** Inserted by [Commission Implementing Regulation \(EU\) 2015/2222 of 1 December 2015 amending Implementing Regulation \(EU\) No 908/2014 as regards declarations of expenditure, conformity clearance and the content of the annual accounts](#).

## 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

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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.

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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.



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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;

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- 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>(10)</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.

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.

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## 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.

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## 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.

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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

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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.

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## 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.

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## 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.

[<sup>F2</sup>However, Regulation (EC) No 259/2008 shall continue to apply to payments made for financial years 2012 and 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 until 31 May 2015 or until the information concerning the payments made for the financial year 2014 is published in accordance with Article 59(2) of this Regulation.]

#### Textual Amendments

- F2** Substituted by [Commission Implementing Regulation \(EU\) 2015/583 of 13 April 2015 amending Implementing Regulation \(EU\) No 908/2014 as regards declarations of expenditure for rural development programmes and transparency.](#)

## 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;



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- (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.

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- (1) 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).
- (2) 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).
- (3) 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).
- (4) 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).
- (5) 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).
- (6) 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).
- (7) [<sup>F1</sup>Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).]
- (8) [<sup>F7</sup>Council Regulation (EC) No 332/2002 of 18 February 2002 establishing a facility providing medium-term financial assistance for Member States' balances of payments (OJ L 53, 23.2.2002, p. 1).]
- (9) [<sup>F7</sup>Council Regulation (EU) No 407/2010 of 11 May 2010 establishing a European financial stabilisation mechanism (OJ L 118, 12.5.2010, p. 1).]
- (10) Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, p. 1).

#### Textual Amendments

- F1** Substituted by Commission Implementing Regulation (EU) 2018/56 of 12 January 2018 amending Implementing Regulation (EU) No 908/2014 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.
- F7** Inserted by Commission Implementing Regulation (EU) 2015/775 of 18 May 2015 amending Implementing Regulation (EU) No 908/2014 as regards conformity clearance.

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**Changes to legislation:**

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