

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. As regards substantive testing, the certification bodies may use an integrated sampling approach.
- 4 The Commission shall provide further conditions and guidance on designing the audit procedures, sampling integration, planning and carrying out the on-the-spot re-verification of transactions through the guidelines as referred to in Article 6(4).

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