Commission Implementing Regulation (EU) 2018/1146 of 7 June 2018 amending Implementing Regulation (EU) 2017/892 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the fruit and vegetables and processed fruit and vegetables sectors and Regulation (EC) No 606/2009 laying down certain detailed rules for implementing Council Regulation (EC) No 479/2008 as regards the categories of grapevine products, oenological practices and the applicable restrictions

COMMISSION IMPLEMENTING REGULATION (EU) 2018/1146

of 7 June 2018

amending Implementing Regulation (EU) 2017/892 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the fruit and vegetables and processed fruit and vegetables sectors and Regulation (EC) No 606/2009 laying down certain detailed rules for implementing Council Regulation (EC) No 479/2008 as regards the categories of grapevine products, oenological practices and the applicable restrictions

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007[(1)], and in particular Article 38, Article 182(1) and (4) and Article 223 thereof,

Having regard to Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agriculture policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008[(2)], and in particular Article 62(2) thereof

Whereas:

(1) Commission Implementing Regulation (EU) 2017/892[(3)] establishes rules for the application of Regulation (EU) No 1308/2013 with regard to the fruit and vegetables and processed fruit and vegetables sectors. Regulation (EU) 2017/2393 of the European Parliament and of the Council[(4)] has amended Regulation (EU) No 1308/2013 in particular as regards the aid in the fruit and vegetables sector. Therefore, Implementing Regulation (EU) 2017/892 should reflect the amendments to the relevant provisions of Regulation (EU) No 1308/2013.

(2) Implementing rules regarding national financial assistance in the fruit and vegetables sector should be updated.

(3) Details for implementation of the increase of the limit of Union financial assistance from 50 % to 60 % in Member States where producer organisations market less than 20 % of fruit and vegetables production referred to in Article 34(3)(f) of Regulation (EU) No 1308/2013 and in particular the details of the calculation of the degree of organisation of producers in a Member State should be laid down to ensure that the applications for aid and the verification of the conditions for the increase are implemented coherently throughout the Union.

(4) It should also be clarified that promotion of the products as a crisis measure includes diversifying and consolidating the fruit and vegetables markets.

(5) Provisions relating to annual reports on producer organisations, associations of producers organisations, including transnational organisations, and producer groups, and on operational funds, operational programmes and recognition plans should be simplified. These reports should enable the Commission to adequately monitor the sector.

(6) Conditions for the application of the import duties referred to in Article 182 of Regulation (EU) No 1308/2013 which may apply to imports of certain fruit and vegetables should be clarified.

(7) Where an association of producer organisations or transnational association of producer organisation implements an operational programme Member States should ensure that double funding is avoided, and that appropriate checks are carried out for the actions implemented at the level of the association of producer organisations as well as at the level of its producer organisation members, as required under Regulation (EU) No 1306/2013.

(8) Annexes I and II to Implementing Regulation (EU) 2017/892 should be updated to simplify Part A of the Annual Report of Member States, common performance indicators and to remove the common baseline indicators.

(9) Implementing Regulation (EU) 2017/892 should therefore be amended accordingly.

(10) Point 3 of Section A of Part I of Annex VIII of Regulation (EU) No 1308/2013 sets out an obligation for Member States to notify the Commission of any increase in the limits laid down in point 2 of that section. Commission Regulation (EC) No 606/2009[(5)] should be amended to provide for the details concerning the submission of this information by Member States to the Commission.

(11) This Regulation should apply from the same day as Regulation (EU) 2017/2393. However, provisions that concern reporting should apply from 1 January 2019 to give Member States and the economic operators concerned sufficient time to implement the amendments set out in this Regulation. The flexibility for producer organisations provided for by the new measures and actions should apply brought by the transitional provisions must be implemented together with retroactivity in order to coincide with the application date of Regulation (EU) 2017/2393 so that the application of the amendments in Regulation (EU) No 1308/2013 is respected.

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2018/1146. (See end of Document for details)*

(12) The conditions for the application of the new measures and actions eligible for Union financial assistance set out in Regulation (EU) No 1308/2013 should apply from the date of application of the amendments to that Regulation introduced by Regulation (EU) 2017/2393 to ensure market stability for producer organisations and their members, in particular given that those measures concern mainly crisis management and prevention and to enable them to fully benefit from the new measures. To safeguard legitimate expectations, producer organisations may choose to continue their operational programmes under the previous legal framework or to modify their operational programmes to benefit from the new measures and actions eligible for Union financial assistance as set out in Regulation (EU) No 1308/2013.

(13) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Common Organisation of the Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Implementing Regulation (EU) 2017/892

Implementing Regulation (EU) 2017/892 is amended as follows:

(1) The following new Article 8a is inserted:

Article 8a

Implementation of increase of the limit of the Union financial assistance from 50 % to 60 %

1 The increase of the limit of the Union financial assistance from 50 % to 60 % for an operational programme or part of an operational programme of a recognised producer organisation as referred to in Article 34(3)(f) of Regulation (EU) No 1308/2013 shall be granted if:

a the conditions as referred to in Article 34(3)(f) of Regulation (EU) No 1308/2013 are met in each year of implementation of the operational programme and subject to the procedure referred to Article 9(2)(g) of this Regulation;

b a request is made by a recognised producer organisation at the time of submission of its operational programme.

2 For the purposes of the increase of the limit of the Union financial assistance from 50 % to 60 % for an operational programme or part of it, the rate of marketing of fruit and vegetable production by producer organisations referred to in Article 34(3)(f) of Regulation (EU) No 1308/2013 shall be calculated for each year of the duration of operational programme, as a portion of the value of production marketed by producer organisations in a given Member State, of the total value of the production of fruit and vegetables marketed in the given Member State for the reference period set out in Article 23(1) of Delegated Regulation (EU) 2017/891.

However, Member States applying the alternative method set out in Article 23(3) of Delegated Regulation (EU) 2017/891 shall calculate the rate of marketing of

fruit and vegetable production by producer organisations referred to in Article 34(3)(f) of Regulation (EU) No 1308/2013 for each year of the duration of operational programme, as a portion of the value of production marketed by producer organisations in a given Member State, of the total value of the production of fruit and vegetables marketed in the given Member State for the period from 1 January until 31 December of the year preceding the year in which the aid is approved according to Article 8 of this Regulation.

3 Member States shall notify the requesting producer organisation of the approved amount of aid, including the amount of the increase granted pursuant to Article 34(3)(f) of Regulation (EU) No 1308/2013, at the latest by 15 December of the year preceding the implementation of the operational programme, as set out in Article 8 of this Regulation.

4 Member States shall verify each year of the duration of the operational programme that the conditions for increase of the limit of the Union financial assistance from 50 % to 60 % as referred to in Article 34(3)(f) of Regulation (EU) No 1308/2013 are met.;

(2) In Article 4, paragraph (1)(a) is amended as follows:

(a) a description of the initial situation, based, where relevant, on the indicators listed in Table 4.1 of Annex II;;

(3) In Article 9, paragraphs 6 and 7 are replaced by the following:

6. Producer organisations shall submit an application for aid regarding actions that are implemented at the level of the producer organisations in the Member State where they are recognised. If they are members of a transnational association of producer organisations, the producer organisations shall provide the Member State where the transnational association of producer organisations has its headquarters with a copy of the application.

7 Transnational associations of producer organisations shall submit an application for aid regarding actions implemented at the level of the transnational association in the Member State where that association has its headquarters. Member States shall ensure that there is no double funding risk.;

(4) In Article 14, paragraph 1 is replaced by the following:

1. Member States shall adopt provisions on the conditions to be fulfilled by promotion and communication measures, including actions and activities aimed at diversification and consolidation on the fruit and vegetable markets, whether those measures relate to crisis prevention or crisis management. Those provisions shall allow for the rapid application of the measures when required.

The principal aim of those measures shall be enhancing the competitiveness of the products marketed by the producer organisations and their associations in the case of serious market disturbance, loss of consumer confidence or other related problems.

The specific objectives of the promotion and communication measures implemented by the producer organisations and their associations shall be:

a increasing awareness about the quality of agricultural products produced in the Union and about the high quality standards applicable to their production in the Union;

b increasing the competitiveness and consumption of agricultural products and of certain processed products produced in the Union and raising awareness about their quality both inside and outside the Union;

c increasing awareness about Union quality schemes both inside and outside the Union;

d increasing the market share of agricultural products and certain processed products produced in the Union, focusing on the markets in third countries that have the highest growth potential; and

e contributing to the recovery of normal market conditions in the Union market in the event of serious market disturbance, loss of consumer confidence or other related problems.;

(5) Chapter III is deleted;

(6) Article 21 is replaced by the following:

Article 21

Information and annual reports from producer groups, producer organisations and associations of producer organisations and annual reports from Member States

At the request of a competent authority of a Member State, producer groups formed pursuant to Article 125e of Regulation (EC) No 1234/2007, recognised producer organisations, associations of producer organisations, transnational associations of producer organisations and producer groups shall provide any relevant information needed for drawing up of the annual report referred to in Article 54(b) of Delegated Regulation (EU) 2017/891.The structure of the annual report is set out in Annex II to this Regulation.

Member States shall take the measures necessary to gather information on the number of members, the volume and the value of marketed production of producer organisations which have not submitted operational programmes. Producer organisations and producer groups referred to in Article 27 of Regulation (EU) No 1305/2013 shall be requested to provide the number of members, the volume and the value of the marketed production.;

(7) In Article 33, paragraphs 3 and 4 are replaced by the following:

3. The Member State in which the transnational association of producer organisations has its head office shall:

a have overall responsibility for the organisation of checks in respect of actions of the operational programme implemented at the level of the transnational association and of the operational fund of the transnational association and for the application of administrative penalties where such checks demonstrate that obligations have not been met; and

b ensure the coordination of checks and payments in respect of the actions of the operational programme of the transnational association implemented outside the territory of the Member State where its head office is.

4 The actions of the operational programmes shall comply with the national rules and with the national strategy of the Member State where, in accordance with Article 9, paragraphs 6 and 7, the application for aid is submitted.