Commission Implementing Regulation (EU) 2016/2073 of 23 November 2016 on the reimbursement, in accordance with Article 26(5) of Regulation (EU) No 1306/2013 of the European Parliament and of the Council, of the appropriations carried over from financial year 2016

COMMISSION IMPLEMENTING REGULATION (EU) 2016/2073

of 23 November 2016

on the reimbursement, in accordance with Article 26(5) of Regulation (EU) No 1306/2013 of the European Parliament and of the Council, of the appropriations carried over from financial year 2016

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008[(1)], and in particular Article 26(6) thereof,

After consulting the Committee on the Agricultural Funds,

Whereas:

(1) In accordance with Article 169(3) of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council[(2)] non-committed appropriations relating to the actions financed by the European Agricultural Guarantee Fund (EAGF) as referred to in Article 4(1) of Regulation (EU) No 1306/2013 may be carried over to the following financial year. Such carry-over is limited to 2 % of the initial appropriations and to the amount of the adjustment of direct payments as referred to in Article 8 of Regulation (EU) No 1307/2013 of the European Parliament and of the Council[(3)] which was applied during the preceding financial year. It may lead to an additional payment to the final recipients who were subject to that adjustment.

(2) In accordance with Article 26(5) of Regulation (EU) No 1306/2013, by way of derogation from Article 169(3) of Regulation (EU, Euratom) No 966/2012, Member States are to reimburse the carry-over referred to in Article 169(3) of Regulation (EU, Euratom) No 966/2012 to the final recipients who are subject to the adjustment rate in the financial year to which the appropriations are carried over. That reimbursement only applies to final beneficiaries in those Member States where financial discipline applied[(4)] in the preceding financial year.

(3) When setting the amount of the carry-over to be reimbursed, in accordance with Article 26(7) of Regulation (EU) No 1306/2013 the amounts of the reserve for crises in the agricultural sector referred to in Article 25 of that Regulation, not made available for crisis measures by the end of the financial year, are to be taken into account.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2016/2073. (See end of Document for details)*

(4) In accordance with Article 1(1) of Regulation (EU) 2015/1146 of the European Parliament and of the Council[(5)], financial discipline is applied to direct payments in respect of calendar year 2015 to establish the crisis reserve of EUR 441,6 million. The crisis reserve has not been called on in financial year 2016.

(5) On the basis of the Member States' declarations of expenditure for the period from 16 October 2015 to 15 October 2016, the financial discipline reduction actually applied by the Member States in financial year 2016 amounts to EUR 435 million.

(6) Consequently, unused appropriations corresponding to the amount of financial discipline applied in financial year 2016 of EUR 435 million, which remains within the limit of 2 % of the initial appropriations, can be carried over to financial year 2017 following a decision of the Commission in accordance with the fifth subparagraph of Article 169(3) of Regulation (EU, Euratom) No 966/2012.

(7) In order to ensure that the reimbursement of those appropriations to the final recipients remains proportionate to the amount of the financial discipline adjustment, it is appropriate that the Commission determines the amounts available to the Member States for the reimbursement.

(8) To avoid compelling Member States to make an additional payment for that reimbursement, this Regulation needs to apply from 1 December 2016. Consequently, the amounts established by this Regulation are definitive and apply, without prejudice to the application of reductions in accordance with Article 41 of Regulation (EU) No 1306/2013, to any other corrections taken into account in the monthly payment decision concerning the expenditure effected by the paying agencies of the Member States for October 2016, in accordance with Article 18(3) of Regulation (EU) No 1306/2013 and to any deductions and supplementary payments to be made in accordance with Article 18(4) of that Regulation or to any decisions which will be taken within the framework of the clearance of accounts procedure.

(9) In accordance with Article 169(3) of Regulation (EU, Euratom) No 966/2012 the non-committed appropriations may be carried over to the following financial year only. It is therefore appropriate for the Commission to determine eligibility dates for the expenditure of the Member States in relation to the reimbursement in accordance with Article 26(5) of Regulation (EU) No 1306/2013, taking into account the agricultural financial year as defined in Article 39 of that Regulation.

(10) In order to take into account the short time span between the communication of the execution of 2016 EAGF appropriations under shared management for the period from 16 October 2015 to 15 October 2016 by the Member States and the need to apply this Regulation from 1 December 2016, this Regulation should enter into force on the date of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

The amounts of the appropriations that will be carried over from financial year 2016 in accordance with Article 169(3) of Regulation (EU, Euratom) No 966/2012 and that in

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accordance with Article 26(5) of Regulation (EU) No 1306/2013 are made available to the Member States for the reimbursement to the final recipients who are subject to the adjustment rate in financial year 2017, are laid down in the Annex to this Regulation.

The amounts that will be carried over are subject to the carry-over decision of the Commission in accordance with the fifth subparagraph of Article 169(3) of Regulation (EU, Euratom) No 966/2012.

Article 2

Member States' expenditure in relation to the reimbursement of the appropriations carried over shall only be eligible for Union financing if the relevant amounts have been paid to the beneficiaries before 16 October 2017.

Article 3

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

It shall apply from 1 December 2016.

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