Commission Implementing Regulation (EU) 2016/1617 of 8 September 2016 derogating in respect of claim year 2016 from the third subparagraph of Article 75(1) of Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards the level of advance payments for direct payments and area-related and animal-related rural development measures and from the first subparagraph of Article 75(2) of that Regulation as regards direct payments

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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 75(3) thereof,

Whereas:

(1) Pursuant to the third subparagraph of Article 75(1) of Regulation (EU) No 1306/2013, from 16 October to 30 November Member States may pay advances of up to 50 % for direct payments under Regulation (EU) No 1307/2013 of the European Parliament and of the Council[(2)] and up to 75 % for area-related and animal-related support measures under Regulation (EU) No 1305/2013 of the European Parliament and the Council[(3)].

(2) Article 75(2) of Regulation (EU) No 1306/2013 provides that payments referred to in paragraph 1 of that Article, including advances for direct payments, shall not be made before the administrative and on-the-spot checks to be carried out pursuant to Article 74 of that Regulation have been finalised. However, as regards area-related and animal-related support measures under rural development, Article 75(2) of Regulation (EU) No 1306/2013 allows advances to be paid after the administrative checks pursuant to Article 59(1) of that Regulation have been finalised.

(3) The ongoing severity of the economic situation in certain agricultural sectors, and particularly in the dairy market, still generates serious financial difficulties and cash-flow problems for beneficiaries.

(4) In addition, the administrative difficulties encountered in the first year of implementation of the new legal framework for the direct payments schemes and rural

development measures continue to exist in some Member States and have delayed the execution of payments to the beneficiaries for claim year 2015 in some Member States.

(5) In a view of the exceptional nature of those combined circumstances and the resulting financial difficulties for beneficiaries, it is necessary to alleviate those difficulties by derogating from the third subparagraph of Article 75(1) of Regulation (EU) No 1306/2013 in order to allow Member States to pay a higher level of advances to beneficiaries for claim year 2016.

(6) Moreover, due to the new requirements linked to the preparation of the application process for claim year 2016, the administration of the single application, aid applications and payment claims and applications for allocation of payment entitlements or the increase of the value of payment entitlements under the basic payment scheme has been delayed. As a consequence, the necessary checks are likely to be completed later than usual.

(7) It is therefore necessary to derogate from the first subparagraph of Article 75(2) of Regulation (EU) No 1306/2013 in order to allow advances for direct payments to be made after the administrative checks as specified in Articles 28 and 29 of Commission Implementing Regulation (EU) No 809/2014[(4)] are completed. It is however imperative that such a derogation will not impede the sound financial management and the requirement of a sufficient level of assurance. Accordingly, Member States making use of that derogation are responsible for taking all necessary measures to ensure that overpayments are avoided and that any undue amounts are quickly and actually recovered. Moreover, the use of that derogation should be covered by the management declaration referred to in Article 7(3)(b) of Regulation (EU) No 1306/2013 for financial year 2017.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Committee on the Agricultural Funds, the Committee for Direct Payments and the Rural Development Committee,

HAS ADOPTED THIS REGULATION:

Article 1

By way of derogation from the third subparagraph of Article 75(1) of Regulation (EU) No 1306/2013, in respect of claim year 2016 Member States may pay advances of up to 70 % for the direct payments listed in Annex I to Regulation (EU) No 1307/2013 and of up to 85 % for the support granted under rural development as referred to in Article 67(2) of Regulation (EU) No 1306/2013.

Article 2

By way of derogation from the first subparagraph of Article 75(2) of Regulation (EU) No 1306/2013, in respect of claim year 2016 Member States may pay advances for the direct payments listed in Annex I to Regulation (EU) No 1307/2013 after the administrative checks as referred to in Article 74 of Regulation (EU) No 1306/2013 have been finalised.