Commission Delegated Regulation (EU) 2016/141 of 30 November 2015 amending Delegated Regulation (EU) No 639/2014 as regards certain provisions on the payment for young farmers and on voluntary coupled support and derogating from Article 53(6) of Regulation (EU) No 1307/2013 of the European Parliament and of the Council

COMMISSION DELEGATED REGULATION (EU) 2016/141

of 30 November 2015

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THE EUROPEAN COMMISSION,

Having regard to Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009[(1)], and in particular Articles 50(11) and 52(9) and Article 67(1) and (2) thereof,

Whereas:

(1) Pursuant to Article 50(1) of Regulation (EU) No 1307/2013 Member States are to grant an annual payment to young farmers who are entitled to a payment under the basic payment scheme or the single area payment scheme.

(2) Article 49(1) of Commission Delegated Regulation (EU) No 639/2014[(2)] lays down the conditions for a legal person to be granted payment to young farmers. In particular, point (b) of the first subparagraph of that provision provides that a young farmer needs to exercise effective and long-term control over the legal person in terms of decisions related to management, benefits and financial risks either solely or jointly together with other farmers.

(3) It is appropriate to allow Member States to decide whether such effective and long-term control may be held by young farmers jointly together with other farmers or rather by young farmers only. Indeed, the Member States are better placed to decide whether, in view of the effectiveness and the outreach of the scheme, while taking into consideration national circumstances and in view of the potential for reducing the administrative burden linked to checks, legal persons controlled jointly by young farmers and other farmers who do not meet the young farmer conditions should be granted the young farmers payment. Such possibility also enables Member States to better align the provisions for access to young farmer support under Regulation (EU) No 1307/2013 and under Regulation (EU) No 1305/2013 of the European Parliament and of the Council[(3)]. As the reasons for allowing Member States to take such decisions

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are structural, it is appropriate to provide that they be taken only once. Such decisions should be taken at the latest prior to the opening of the application period in 2017.

(4) In view of those considerations, Member States should decide, taking due account of general principles of Union law, whether or not to require sole control by young farmers for those legal persons or groups of natural persons which have already received the payment for young farmers in the past where the control was exercised jointly together with farmers who are not young farmers.

(5) It is further appropriate to clarify that such effective and long-term control is to be held in each year in respect of which the legal person applies for the payment under the young farmers scheme.

(6) Pursuant to Chapter 1 of Title IV of Regulation (EU) No 1307/2013, Member States may grant coupled support to farmers under the conditions laid down in that Chapter. That Chapter is supplemented by Chapter 5 of Delegated Regulation (EU) No 639/2014.

(7) The second subparagraph of Article 53(2) of Delegated Regulation (EU) No 639/2014 lays down rules in relation to the per unit amount of coupled support. For the sake of better targeting and thus making a more effective use of coupled support, it is appropriate to allow economies of scale to be taken into account and, accordingly, modulated per unit amounts within a single measure to be fixed.

(8) In light of the introduction of modulated per unit amounts within a single measure, it is appropriate to modify the requirements on the information to be notified by Member States in accordance with Annex I to Delegated Regulation (EU) No 639/2014.

(9) In accordance with Article 52(5) of Regulation (EU) No 1307/2013, coupled support may only be granted to the extent necessary to create an incentive to maintain current levels of production in the sectors or regions concerned. In view of this requirement, point 3(i) of Annex I to Delegated Regulation (EU) No 639/2014 provides that Member States are to notify the amounts for the financing of each voluntary coupled support measure. For the sake of an efficient use of the financial resources available for coupled support, it is appropriate, however, to allow for certain flexibility in the use of those amounts per measure in the form of transfers of funds between measures.

(10) Such flexibility should however not affect the compliance of the support with the requirements of Regulation (EU) No 1307/2013, including the requirements to be considered as falling within the 'Blue Box' of the Agreement on Agriculture concluded during the Uruguay Round of multilateral trade negotiations. In particular, transfers of funds between measures should not create an incentive to produce beyond current levels of production. Furthermore, such transfers should not result in the support measures notified to the Commission pursuant to Article 54 of Regulation (EU) No 1307/2013 and Article 67 of Delegated Regulation (EU) No 639/2014 becoming void.

(11) In order to ensure the correct application of the rules on voluntary coupled support, Member States should notify the Commission of their decisions to transfer funds between voluntary coupled support measures. Such notification should also include a justification that the transfer does not create an incentive for production increase for the purposes of Article 52(5) of Regulation (EU) No 1307/2013 and that the transfer

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does not result in the decisions notified to the Commission pursuant to Article 54 of Regulation (EU) No 1307/2013 and Article 67(1) and (2) of Delegated Regulation (EU) No 639/2014 becoming void.

(12) Article 54 of Delegated Regulation (EU) No 639/2014 aims at avoiding accumulation of support by different coupled support measures with an identical objective. For the sake of clarity, it is appropriate to specify that no such accumulation of support exists where the same farmer benefits from different coupled support measures in the same sector or region if those measures target different types of farming or specific agricultural sectors within that sector or region.

(13) Pursuant to Article 52(1) of Delegated Regulation (EU) No 639/2014, the regions referred to in Article 52(3) of Regulation (EU) No 1307/2013 are to be defined by the Member States in accordance with objective and non-discriminatory criteria. It is appropriate to include the respective notification obligations into Annex I to Delegated Regulation (EU) No 639/2014.

(14) On the basis of the experience gained from the notifications made in August 2014 and in order to simplify the Member States' notifications, it is appropriate to remove the notification obligation in point 3(d) of Annex I to Delegated Regulation (EU) No 639/2014 concerning the criteria fixed for the purpose of defining the targeted sectors and productions.

(15) Delegated Regulation (EU) No 639/2014 should therefore be amended accordingly.

(16) In accordance with Article 53(6) of Regulation (EU) No 1307/2013, Member States may, by 1 August 2016, review their decisions on voluntary coupled support. With the introduction of the possibility to fix modulated per unit amounts within a single measure, it is appropriate to derogate from that provision so as to allow, when certain conditions are fulfilled, a corresponding review of decisions relating to those measures that were notified by 1 August 2014 with effect from 2016.

(17) As this Regulation concerns aid applications relating to calendar year 2016 and subsequent years, it is appropriate that it applies from 1 January 2016,

HAS ADOPTED THIS REGULATION:

Article 1

Amendment of Delegated Regulation (EU) No 639/2014

Delegated Regulation (EU) No 639/2014 is amended as follows:

(1) Article 49 is amended as follows:

(a) in the first subparagraph of paragraph 1, point (b) is replaced by the following:

(b) a young farmer within the meaning of Article 50(2) of Regulation (EU) No 1307/2013 exercises effective and long-term control over the legal person in terms of decisions related to management, benefits and financial risks in each year in respect of which the legal person applies for the

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payment under the young farmers scheme. Where several natural persons, including person(s) who are not young farmer(s), participate in the capital or management of the legal person, the young farmer(s) shall in each year in respect of which the legal person applies for the payment under the young farmers scheme be capable of exercising such effective and long-term control either solely or jointly together with other farmers, subject to paragraph 1a of this Article.;

(b) the following paragraph 1a is inserted:

1a. By way of derogation from point (b) of the first subparagraph of paragraph 1, Member States may decide that, as of calendar year 2016 or 2017, the young farmer(s) shall exercise the effective and long-term control referred to in that point solely. Such a decision shall be taken before the date of opening of the application period for the first year to which it applies and it shall be taken only once. No such decision shall be possible after the date of opening of the application period for calendar year 2017.

Where Member States use the derogation provided for in the first subparagraph, for determining the date of setting up referred to in Article 50(2)(a) and Article 50(5) of Regulation (EU) No 1307/2013, the period in which the young farmer exercised control jointly together with other farmers in accordance with point (b) of the first subparagraph of paragraph 1 of this Article in the calendar years preceding the calendar year as of which the derogation is applied shall be taken into account.

If Member States use that derogation, they shall decide whether or not to require sole control by young farmers for those legal persons or groups of natural persons which have already received payment under the young farmers scheme in the year(s) preceding the year as of which the derogation is used while a young farmer or young farmers exercised the control jointly together with farmers who were not young farmers;

(2) in Article 53(2), the following third subparagraph is added:

Without prejudice to Article 52(5) of Regulation (EU) No 1307/2013, for the per unit amount of support referred to in the second subparagraph of this paragraph, Member States may decide to apply modulated per unit amounts in respect of certain categories of farmers or at farm level in order to take into account economies of scale resulting from the size of the production structures in the targeted specific type of farming or specific agricultural sector, or, if the measure targets a region or an entire sector, in the region or sector concerned. Article 67(1) of this Regulation shall apply *mutatis mutandis* to the notification of such decisions.;

(3) the following Article 53a is inserted:

Article 53a

Transfer of funds between measures

1 Without prejudice to the requirements set out in Chapter I of Title IV of Regulation (EU) No 1307/2013, Member States may decide to use the amounts notified in accordance with point (3)(i) of Annex I to this Regulation for the purpose of financing one or several other support measures under Chapter I of Title IV of Regulation (EU) No 1307/2013 in respect of the same claim year.

A transfer of funds between support measures shall not result in a support measure notified to the Commission pursuant to Article 54 of Regulation (EU) No 1307/2013 and Article 67(1) and (2) of this Regulation becoming void.

2 Where the area or the number of animals eligible for support under a voluntary coupled support measure in the claim year concerned equals to or exceeds the quantitative limit notified in accordance with point (3)(j) of Annex I to this Regulation, the support measure shall not benefit from a transfer of funds from any other support measure(s).

3 Where the area or the number of animals eligible for support under a voluntary coupled support measure in the claim year concerned is lower compared to the quantitative limit notified in accordance with point (3)(j) of Annex I to this Regulation, a transfer of funds shall not result in the per unit amount becoming lower than the ratio between the amount fixed for the financing as notified in accordance with point (3)(i) of that Annex and the quantitative limit.

4 Where Member States grant coupled support for protein crops while using the possibility provided for in Article 53(3) of Regulation (EU) No 1307/2013, a transfer of funds shall not result in the support available for protein crops to be less than 2 % of the annual national ceiling set out in Annex II to that Regulation.

5 A decision to transfer funds between support measures shall be taken before the date of the first payment or payment of advances to farmers in respect of the voluntary coupled support. However, in respect of transfers from and to measures for which no payment has been made yet, such decision may be taken after that date, but no later than:

a the last day of the month in which the first payment or payment of advances to farmers in respect of the voluntary coupled support is made;

b 30 November where such first payment or payment of advances is made in the period from 16 to 31 October.

6 The competent authority of the Member State intending to take a decision to transfer funds between support measures shall inform farmers of a possible transfer before the date of opening of the application period.;

(4) in Article 54, paragraph 3 is replaced by the following:

3. Where support under a certain coupled support measure may also be granted under another coupled support measure, or under a measure implemented under other Union measures and policies, Member States shall ensure that the farmer concerned may receive support aiming at the objective referred to in Article 52(5) of Regulation (EU) No 1307/2013 under only one such measure per sector, region, specific type of farming or specific agricultural sector that is targeted in accordance with Article 52(3) of that Regulation.;

(5) in Article 66, the following paragraph 4 is added:

4. Member States shall notify the Commission of any decision taken pursuant to Article 49(1a) at the latest 15 days after the date on which such decision was taken.;

(6) in Article 67, the following paragraph 3 is added:

3. Member States shall notify the Commission of any decision taken pursuant to Article 53a(1) by the first day of the month following that in which the first payment