Commission Implementing Regulation (EU) 2015/2333 of 14 December 2015 amending Implementing Regulation (EU) No 809/2014 laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system, rural development measures and cross compliance

COMMISSION IMPLEMENTING REGULATION (EU) 2015/2333

of 14 December 2015

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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 Articles 58(4), 62(2)(a) to (d), (g) and (h) and Article 78(a) to (d) and (f) thereof,

Whereas:

(1) Article 10 of Commission Implementing Regulation (EU) No 809/2014[(2)] sets out rules for the granting of advances for direct payments where financial discipline referred to in Article 8 of Regulation (EU) No 1307/2013 of the European Parliament and of the Council[(3)] applies in respect of the relevant claim year. In order to ensure the uniform application of those rules in all Member States, it is appropriate to clarify that financial discipline should not be taken into account for the calculation of advances for direct payments, given that the final adjustment rate to be set by 1 December may not yet be known at the moment of paying advances.

(2) In order to enhance the correctness of the aid application or payment claim, it should be explicitly stated that Member States are able to introduce, on a voluntary basis, a system of 'preliminary checks' that will inform beneficiaries about potential non-compliances and will allow them to change their aid applications and payments claim in time in order to avoid reductions and administrative penalties. Full administrative checks will still have to be carried out before payment is made. In order to avoid a different treatment between farmers of the same Member State, such system should be applied at the Member State level, not at holding level. Since that system is based on the existence of the geo-spatial aid application, it can only be applied once such a system is fully in place in the Member State concerned. As the responsibility of submitting a correct aid application or payment claim remains with the beneficiary, any results of 'preliminary checks' should be without prejudice to the subsequent results of the

administrative cross-checks. Such system can be applied at regional level provided that the pre-established form and corresponding graphic material referred to in Article 72(3) of Regulation (EU) No 1306/2013 provided through a GIS-based interface, enabling the processing of the spatial and alphanumerical data of the areas declared, are set up at regional level.

(3) The possibility that a group of farmers applying for support under some of the rural development measures is treated as the beneficiary (hereinafter referred to as 'collective') is relevant especially for agro-environment-climate measures as referred to in Article 28 of Regulation (EU) No 1305/2013 of the European Parliament and of the Council[4] implemented at the level of habitat, such as biodiversity and nature conservation measures. A legal framework should therefore be provided for the management and control of such collectives. In order to give further flexibility to those beneficiaries to facilitate a result-oriented approach, Member States should also be given the possibility to combine this system with a system of real-time notification of commitments, where the beneficiaries would notify commitments planned no later than 14 days before they are actually carried out. Tailor-made checks should complete the mechanism.

(4) As regards the fulfilment of the greening obligations, beneficiaries need to declare the use of agricultural parcels at the latest by the final date for submission of the single application or aid application as referred to in Article 13 of Implementing Regulation (EU) No 809/2014. However, during growing season the beneficiary might need to adapt the cultivation plan as regards the crop or its location. Therefore, beneficiaries should be given the possibility to modify, in duly justified circumstances, and for the purpose of the greening only, their declaration with respect to the agricultural parcels declared. This possibility should be applicable provided that it does not have an effect on the status of compliance with the greening obligations with respect to the initial declaration.

(5) The on-the-spot control sample of beneficiaries who are exempted from the greening requirements is currently not selected according to the sampling methodology via the cascade mechanism as set out in Article 34 of Implementing Regulation (EU) No 809/2014. As a consequence, it is not counted against the sample of beneficiaries applying for the basic payment scheme or the single area payment scheme, contrary to the sample of beneficiaries who are subject to the greening requirements. In order to increase the efficiency of the sample selection and to lower the number of beneficiaries to be checked on-the-spot, this sample should be selected according to the same sampling methodology.

(6) The on-the-spot control sample for animal-aid schemes is currently not selected according to the sampling methodology via the cascade mechanism as set out in Article 34 of Implementing Regulation (EU) No 809/2014. In order to further increase the efficiency of the sample selection and to minimise the number of beneficiaries to be checked on-the-spot, it should be provided that this sample can be selected according to the same sampling methodology.

(7) In order to reduce the administrative burden and to increase the efficiency of the selection of samples for on-the-spot checks, it is appropriate to provide for the explicit possibility for Member States to combine the sample selection for on-the-spot checks under the direct payment schemes and some rural development support measures covered by the integrated administration and control system ('integrated system'). As the direct payments and rural development populations do not fully match one to one, Member States need to ensure the representativeness of the resulting samples.

(8) The current rules on the selection of the control sample for the purpose of on-the-spot checks within the integrated system do not include a provision on the type of sampling selection which should apply to the additional beneficiaries to be selected where the ecological focus areas are not identified in the identification system for agricultural parcels. It is appropriate to provide for that this additional sample is to be selected on the basis of a risk analysis.

(9) When applying the current provisions on the reduction of the control rate for the purpose of on-the-spot checks within the integrated system in respect of claim years 2015 and 2016, only those Member States which have implemented a voluntary system for the certification of the error rate by their certification body in the last years can actually benefit from a possible reduction of the control rate. For all other Member States, the first opportunity to reduce the control rate starts only as from claim year 2017. For that reason, it is appropriate to open the possibility to reduce the control rates for certain direct payments to other Member States that in respect of claim year 2016 certify their error rates in accordance with the new methodology drawn up at Union level taking account of Article 7(4) of Commission Implementing Regulation (EU) No 908/2014[(5)] from financial year 2015.

(10) Article 42 of Implementing Regulation (EU) No 809/2014 sets out rules as regards the on-the-spot checks of livestock aid applications and payment claims under animal-related support measures that are to be carried out during the retention period for animals. Those rules aim at ensuring that the respect of the retention period obligation can be checked adequately. However, it is appropriate to give Member States the possibility to decide that on-the-spot checks are to be spread where the retention period starts before an aid application or payment claim is submitted or where it cannot be fixed in advance.

(11) Implementing Regulation (EU) No 809/2014 should therefore be amended accordingly.

(12) The amendments made by this Regulation should apply to aid applications, applications for support or payment claims relating to claim years or premium periods starting as from 1 January 2016. However, taking into account the fact that beneficiaries might need to adapt the cultivation plan as regards the crop or its location in claim year 2015, the provision allowing Member States to authorise the beneficiary to modify the content of the single application as regards the use of the agricultural parcels should apply from 1 January 2015. In addition, taking into account the difficulties encountered in claim year 2015 by the Member States having set up such a retention period, the provision allowing to spread on-the-spot checks where the retention period starts before an aid

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2015/2333. (See end of Document for details)*

application or payment claim is submitted or where it cannot be fixed in advance should also apply from 1 January 2015.

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

HAS ADOPTED THIS REGULATION:

Article 1

Amendment of Implementing Regulation (EU) No 809/2014

Implementing Regulation (EU) No 809/2014 is amended as follows:

(1) Article 10 is replaced by the following:

Article 10

Advances for direct payments

Where a Member State pays advances for direct payments in accordance with Article 75 of Regulation (EU) No 1306/2013, the adjustment rate for financial discipline referred to in Article 8 of Regulation (EU) No 1307/2013 shall not be taken into account for calculating those advance payments.

The balance payment to be granted to beneficiaries as from 1 December shall take into account the adjustment rate for financial discipline applicable to the relevant claim year for the total amount of direct payments in relation to that year.

(2) In Article 11, the following paragraphs 4 and 5 are added:

4. Where the integrated system provides for the pre-established form and the corresponding graphic material referred to in Article 72(3) of Regulation (EU) No 1306/2013 through a GIS-based interface, enabling the processing of the spatial and alphanumerical data of the areas declared (hereinafter referred to as "geo-spatial aid application form"), Member States may decide to introduce a system of preliminary cross-checks (hereinafter referred to as "preliminary checks"), which shall include at least the cross-checks referred to in points (a), (b) and (c) of the first subparagraph of Article 29(1) of this Regulation. The results shall be notified to the beneficiary within a period of 26 calendar days after the final date of submission of the single application, aid application or payment claims referred to in Article 13 of this Regulation. However, where this period of 26 calendar days expires before the final date for notification of amendments in accordance with Article 15(2) of this Regulation, the results shall be notified to the beneficiary at the latest the calendar day following the final date for notification of amendments of the year concerned.

Member States may decide to carry-out such preliminary checks at regional level, provided that the system using the geo-spatial aid application form is set up at regional level.

5 Where the beneficiary is a group of persons applying for support for agri-environment-climate operations as referred to in Article 28 of Regulation (EU) No 1305/2013 (hereinafter referred to as "collective"), the Member State may decide to derogate from the requirement in Article 14 of this Regulation that the payment claim

is to contain all information necessary to establish eligibility for the support and from the restriction in Article 13 of this Regulation that all relevant data for the proper administrative and financial management of the support is to be submitted by the final date of submission of the payment claim, by introducing a simplified annual payment claim (hereinafter referred to as "collective claim") that shall be submitted by a collective.

Articles 2, 3, 4, 9, 11, 13, 15 and 16, 17(1) and (3) to (9), and Articles, 21, 24, 25, 27, 28, 29, 35, 38, 39, 40, 42, 43 and 45 of this Regulation and Articles 4, 12 and 13 of Regulation (EU) No 640/2014 shall apply *mutadis mutandis* in respect of the particular requirements established in view of the collective claim.

For collectives, Member States shall include a description of the administrative arrangements in the rural development programme.

(3) In Article 14, the following paragraph 4 is added:

4. For the purpose of the payment for agricultural practices beneficial for the climate and the environment in accordance with Chapter 3 of Title III of Regulation (EU) No 1307/2013, Member States may authorise the beneficiary to modify, in duly justified circumstances, the content of the single application as regards the use of the agricultural parcels, provided that this does not put the beneficiary in a more favourable position with regard to the fulfilment of the greening obligations based on the initial application. Member States may decide to set a final date for the notification of these modifications to the competent authority.

Where the competent authority has already informed the beneficiary of any case of non-compliance in the single application or payment claim or where it has given notice to the beneficiary of its intention to carry out an on-the-spot check or where an on-the-spot check reveals any non-compliance, modifications in accordance with the first subparagraph shall not be authorised in respect of the agricultural parcels affected by the non-compliance.

(4) The following Article 14a is inserted:

Article 14a

Collective claims

1 Where a Member State uses the option to introduce collective claims, Article 14 shall not apply in respect of such collective claims.

2 The collective shall submit one collective claim per year.

3 The collective claim shall contain all information necessary to establish eligibility for the support, with the exception of information in respect of the commitments covered by the agri-environment-climate operations as referred to in Article 28 of Regulation EU (No) 1305/2013. The collective claim shall contain in particular:

a the identity of the collective;

b the unique identification of each participating member of the collective;

c a reference to the application for support submitted by the collective;

d details of the agri-environment-climate operations concerned;