Commission Implementing Regulation (EU) No 908/2014 of 6 August 2014 laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, rules on checks, securities and transparency

COMMISSION IMPLEMENTING REGULATION (EU) No 908/2014

of 6 August 2014

laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, rules on checks, securities and transparency

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 8(2), 9(2), 23, 36(6), 46(5) and (6), 50(2), 53(1), 57(2), 62(2), 66(4), 88, 104, 114 thereof,

Whereas:

(1) Regulation (EU) No 1306/2013 lays down the basic rules on the financing, management and monitoring of the Common Agricultural Policy, including on the accreditation of paying agencies and coordinating bodies, financial management and clearance procedures, control systems and penalties including scrutiny of transaction, securities and transparency. In order to ensure that the new legal framework established by that Regulation functions smoothly and applies uniformly, the Commission has been empowered to adopt certain rules in those areas. The new rules should replace the relevant provisions of Commission Regulations (EC) No 601/94[(2)], (EC) No 4/2004[(3)], (EC) No 883/2006[(4)], (EC) No 884/2006[(5)], (EC) No 885/2006[(6)], (EC) No 259/2008[(7)] and Implementing Regulation (EU) No 282/2012[(8)]. Regulations (EC) No 883/2006, (EC) No 884/2006, (EC) No 885/2006 and Implementing Regulation (EU) No 282/2012 were repealed by Commission Delegated Regulation (EU) No 907/2014[(9)]. For the sake of clarity and legal certainty, Regulations (EC) No 601/94, (EC) No 4/2004 and (EC) No 259/2008 should be repealed by this Regulation.

(2) Paying agencies should only be accredited by Member States if they comply with certain minimum criteria established at Union level as referred to in Article 1(2) of Delegated Regulation (EU) No 907/2014. Those accreditation criteria are set out in Annex I to Delegated Regulation (EU) No 907/2014. Rules should be laid down regarding the procedures for issuing, reviewing and withdrawing the accreditation of paying agencies and coordination bodies.

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) No 908/2014. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(3) Member States should keep their paying agencies under constant supervision. They should establish a system for the exchange of information to report and keep the competent authorities informed on suspected cases of non-compliance. A procedure should be put in place by which Member States are to deal with such cases, which should include the obligation to draw up a plan to remedy any identified deficiencies within a set time limit. In respect of expenditure effected by paying agencies whose accreditation is maintained by their Member State even though they have failed to implement such a plan within the set time limit the Commission should have the possibility to decide to pursue the deficiencies through the conformity clearance procedure provided for in Article 52 of Regulation (EU) No 1306/2013.

(4) Pursuant to point (b) of the first subparagraph of Article 7(3) of Regulation (EU) No 1306/2013, the persons in charge of accredited paying agencies are required to draw up management declarations as to the completeness, accuracy and veracity of the accounts and the proper functioning of the internal control systems, as well as to the legality and regularity of the underlying transactions. Rules should be laid down as regards the content and format of such management declarations.

(5) The rules for the functioning of the coordinating bodies referred to in Article 7(4) of Regulation (EU) No 1306/2013, as well as the tasks of the certification bodies referred to in Article 9 of that Regulation should be laid down. In addition, the content of the certificates and reports to be drawn up by the certification bodies should be specified in order to ensure that they are of assistance to the Commission in the clearance of accounts procedure.

(6) In order to ensure the proper management of the appropriations entered in the budget of the Union for the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD) ('the Funds'), paying agencies should keep separate accounts relating exclusively to payments made and revenues assigned from and to each Fund. To this end, the accounts kept by paying agencies should clearly show, for each of the Funds, the expenditure effected and revenue assigned under Article 4(1), Article 5 and Article 43 of Regulation (EU) No 1306/2013, and allow this expenditure and revenue to be linked to the resources made available to them under the Union budget.

(7) The common agricultural policy is financed in euro, while allowing Member States which have not adopted the euro to make payments to beneficiaries in their national currency. To enable all the expenditure and revenue to be consolidated, it is therefore necessary to provide that relevant paying agencies must be able to provide data relating to the expenditure and revenue in both euro and the currency in which the expenditure was incurred and the revenue received.

(8) The expenditure co-financed by the Union budget and the national budgets as support for rural development under the EAFRD is based on programmes broken down into measures, specific contribution rate and focus area. In accordance with the principle of sound financial management, that expenditure should be monitored and entered into the accounts on this basis so that all operations can be identified by programme, measure, specific contribution rates and focus areas. Doing so will ensure, that correspondence

***Changes to legislation:** There are outstanding changes not yet made to Commission Implementing Regulation (EU) No 908/2014. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

between the expenditure effected and the financial resources assigned can be verified. In that context the elements to be taken into account by the paying agencies should be specified. In particular, paying agencies should clearly show the origin of public and Union Funds in the accounts in relation to the financing effected. In addition, the amounts to be recovered from beneficiaries and the amounts which have been recovered should be identified and shown in relation to the original operations.

(9) Member States mobilise the resources needed to finance EAGF expenditure referred to in Article 4(1) of Regulation (EU) No 1306/2013 before the Commission finances that expenditure in the form of monthly reimbursements of the expenditure effected. Alternatively, Member States receive an advance payment for EAFRD expenditure to be later cleared with the annual financial clearance pursuant to Article 51 of Regulation (EU) No 1306/2013. To ensure sound management of financial flows Member States should gather the information necessary to demonstrate the completeness, accuracy and veracity of the expenditure effected for these monthly reimbursements and keep it at the Commission's disposal as and when expenditure and revenue are effected or transmit it to the Commission at regular intervals. The information should be provided to the Commission by Member States at intervals adapted to the management method of each Fund. Providing information at such intervals should not affect the obligation of the Member States to keep the complete information gathered for the proper monitoring of expenditure at the Commission's disposal for verification.

(10) The general obligations on paying agencies regarding the keeping of accounts cover the data required for the management and control of Union Funds. However, those obligations do not cover requirements as regards the reimbursement of expenditure and the details that must be provided to the Commission in order to obtain such reimbursement. The information and details relating to expenditure to be financed by the Funds which must be sent to the Commission at regular intervals should therefore be specified. Notifications of information by Member States to the Commission must enable it to use the information sent directly and as effectively as possible for the management of the Funds accounts and the relevant payments. To achieve this objective, all information to be made available or to be communicated between the Member States and the Commission should be sent electronically.

(11) Under point (c) of the first subparagraph of Article 102(1) of Regulation (EU) No 1306/2013, for measures relating to operations financed by the Funds, declarations of expenditure, which also act as payment requests, must also be sent to the Commission accompanied by the requisite information. To allow Member States and the paying agencies to draw up those declarations of expenditure in accordance with harmonised rules, and to allow the Commission to take payment requests into consideration, the conditions under which that expenditure may be taken into account under the respective EAGF and EAFRD budgets should be laid down. Such conditions should specify the rules that apply to the recording of expenditure and revenue, in particular the assigned revenue and any corrections to be made, and to their actual declaration.

(12) Where, on the basis of the declarations of expenditure received from the Member States under the EAGF, the total advance commitments which could be authorised under

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) No 908/2014. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Article 170(3) of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council[10] exceeds 75 % of the appropriations for the current financial year, the Commission is required to reduce those amounts. In accordance with the principle of sound financial management, that reduction must be shared among all Member States proportionally, on the basis of the declarations of expenditure received from them. To allocate the available appropriations fairly among the Member States, provision should be made for monthly payments under the EAGF to be reduced by a percentage, laid down for each chapter, of the declarations of expenditure submitted by each Member State and for the balance not used in a given month to be reallocated by Commission decisions in subsequent monthly payments.

(13) After approving the monthly payments, the Commission should place at the Member States' disposal the resources necessary to cover expenditure to be financed by the Funds, in accordance with practical arrangements and conditions to be laid down on the basis of information communicated to the Commission by Member States and the information systems set up by the Commission.

(14) A condition for the reimbursement of public intervention expenditure incurred by paying agencies is the inclusion in their declarations of expenditure, of the values and amounts booked during the month following the month to which the public storage operations relate. In order to ensure that the reimbursement procedure runs smoothly, it is necessary to specify how such information, which is necessary to calculate costs and expenditure, is to be notified to the Commission.

(15) In accordance with Article 3(3) of Delegated Regulation (EU) No 907/2014, public intervention stock accounting must make it possible to ascertain both the amount of Union financing paid out and the situation of intervention stocks. To that end, paying agencies should be required to keep separate stock accounts and financial accounts, containing the elements necessary to monitor stocks and ensure the financial management of expenditure and revenue generated by public intervention measures.

(16) With respect to public intervention storage measures, paying agencies are required to record in their accounts elements relating to quantities, values and certain averages. However, there exist circumstances in which certain operations and expenditure should not be entered in the accounts, or should be booked in accordance with specific rules. In order to ensure equal treatment and protect the Union's financial interests, such circumstances should be specified, including where applicable the arrangements for entering the operations and expenditure in the accounts.

(17) The date on which the different elements of expenditure and revenue resulting from public intervention storage measures are to be entered in the accounts depends on the type of operation to which they relate and can be determined under the applicable sectoral agricultural legislation. In this context, it is necessary to adopt a general rule specifying the different elements that are to be entered in the accounts on the date on which the physical operation resulting from the intervention measure takes place, and specifying the special cases to be taken into consideration.

(18) In the interest of sound financial management, Member States should provide the Commission with forecasts of the amounts still to be funded by the EAFRD for an

***Changes to legislation:** There are outstanding changes not yet made to Commission Implementing Regulation (EU) No 908/2014. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

agricultural financial year and estimates of funding requests for the following financial year. That information should be sent to the Commission in sufficient time to enable it to meet its obligations, and in any event twice a year, not later than 31 January and 31 August each year.

(19) In accordance with Article 36(6) of Regulation (EU) No 1306/2013, the deadlines for drawing up the declarations of expenditure on operations under the EAFRD must be set. In view of the specific characteristics of the accounting rules which apply to the EAFRD, the use of prefinancing and the financing of the measures by calendar year, provision should be made for that expenditure to be declared at intervals adapted to these specific conditions.

(20) Exchanges of information and documents between Member States and the Commission, and the provision and notification of information from the Member States to the Commission are generally carried out electronically. In order to improve the way such exchanges of information relating to the Funds are dealt with and to extend their use, information systems were set up in accordance with Regulation (EC) No 883/2006. Such systems should continue to be used and further implemented after informing the Member States via the Committee on the Agricultural Funds.

(21) The conditions under which information is processed by those information systems and the form and content of documents which have to be communicated under Regulation (EU) No 1306/2013 have to be adjusted frequently in line with changes to the applicable rules or management requirements. Uniform rules for the presentation of the relevant documents to be sent in by Member States should also be laid down. To achieve those objectives and to simplify procedures and ensure that the information systems concerned can be made operational rapidly, the form and content of the documents should be laid down on the basis of standardised models and protocols, which should be adapted and updated by the Commission after informing the Committee on the Agricultural Funds.

(22) Pursuant to Article 58 of Regulation (EU) No 1306/2013, Member States through their paying agencies are responsible for the management and control of the Funds' expenditure. The data on financial operations should therefore be communicated or entered in the information systems and updated under the responsibility of the paying agencies, by the paying agencies themselves or the bodies to which that function has been delegated, where applicable via the accredited coordinating body.

(23) Certain documents or declarations provided for in the first subparagraph of Article 102(1) of Regulation (EU) No 1306/2013 or the Commission acts adopted for the purposes of that Article require the signature of an authorised person or the approval of a person at one or more of the stages of the procedure in question. In such cases, the information systems set up for the communication of those documents should make it possible to identify each person unambiguously and provide reasonable assurance that the contents of the documents, including as regards the stages of the procedure, cannot be altered. That should apply, in particular, as regards the declarations of expenditure and the management declaration attached to the annual accounts referred to in point (c)