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NOTE

From:	General Secretariat of the Council
To:	Delegations
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Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No 1306/2013 - <i>Analysis of the final compromise texts with a view to agreement</i>

1. On 1 June 2018, the European Commission published a set of three legislative proposals laying down the legislative framework for the CAP for the period 2021–2027.

The three proposed regulations were:

- the CAP Strategic Plan Regulation (covering a proposed new delivery model with more subsidiarity for Member States, direct payments to farmers, rural development support and sectoral support programmes);
- the Horizontal Regulation (on financing, managing and monitoring the CAP);
- the Amending Regulation (amending regulations on the Single Common Market Organisation, on quality schemes for agri-food products, on aromatised wines and on specific measures for outermost regions and smaller Aegean islands).

On 23 October 2020, the European Parliament adopted its position on the Horizontal Regulation and the Council reached agreement on its General Approach on 20 October 2020.

2. The interinstitutional negotiations began with a joint trilogue on 10 November 2020, where the co-legislators presented their positions on all three CAP reform proposals and, for the Horizontal Regulation, concluded with a joint trilogue on 24-25 June 2021. There were nine trilogues dedicated specifically to the Horizontal Regulation, which resulted in agreement on the consolidated text of the draft Regulation set out in the Annex to this document.
3. In the light of the above, the Presidency invites the Special Committee on Agriculture, at its meeting on 23 July 2021:
 - a) to confirm its agreement on the consolidated text in the form of the draft Horizontal Regulation set out in the Annex to this document;
 - b) to agree that the SCA Chair should write to the Chair of the Committee on Agriculture and Rural Development of the European Parliament, informing him that, should the European Parliament adopt its position at first reading, in accordance with Article 294(3) TFEU, in the form set out in the annex (which would be annexed to the letter), and subject to revision by the lawyer/linguists of both institutions, the Council would, in accordance with Article 294(4) TFEU, approve the European Parliament's position and the act would be adopted in the wording which corresponds to the European Parliament's position.

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**on the financing, management and monitoring of the common agricultural policy and
repealing Regulation (EU) No 1306/2013**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 43(2) and 322 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the Court of Auditors,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions entitled 'The Future of Food and Farming' of 29 November 2017 concludes that the Common Agricultural Policy (hereinafter 'CAP') should continue to step up its response to future challenges and opportunities, by boosting employment, growth and investment, fighting and adapting to climate change and bringing research and innovation out of the laboratories and onto fields and markets. The CAP should furthermore address citizens' concerns regarding sustainable agriculture production.

¹ OJ C , , p. .

² OJ C , , p. .

- (1c) In accordance with Article 208 of the Treaty on the Functioning of the European Union (TFEU), the implementation of the CAP should take account of the objectives of the 2030 Agenda for Sustainable Development, including the Union's obligations on climate change mitigation and development cooperation.
- (3) The CAP's compliance-driven delivery model should be adjusted to ensure a greater focus on results and performance. Accordingly the Union should set the basic policy objectives, types of intervention and basic Union requirements while greater responsibility and accountability for meeting those objectives should be borne by the Member States. As a consequence, there is a need to ensure greater subsidiarity and flexibility in order to take better account of the local conditions and needs. Accordingly, under the new delivery model, Member States should be responsible for tailoring their CAP interventions in line with their specific needs and basic Union requirements in order to maximize their contribution to Union CAP objectives. Member States should also establish and design the compliance and control framework for beneficiaries, including with good agricultural and environmental conditions (GAEC) and statutory management requirements (SMRs), to continue to ensure a common approach and a level playing field between Member States.

- (4) The CAP encompasses various interventions and measures, many of which are covered by the CAP Strategic Plans referred to in Title III of Regulation (EU) .../... of the European Parliament and of the Council³ [the CAP Strategic Plan Regulation]. Others still follow the traditional compliance logic. It is important to provide financing for all interventions and measures in order to contribute to the achievement of the objectives of the CAP. Those interventions and measures have certain elements in common, therefore their financing should be dealt with in the same set of provisions. However, where necessary those provisions should allow for different treatment. Regulation (EU) No 1306/2013 of the European Parliament and of the Council⁴ governed two European agricultural Funds, namely the European Agricultural Guarantee Fund ('EAGF') and the European Agricultural Fund for Rural Development ('EAFRD') (hereinafter the "Funds"). Those Funds should be maintained in this Regulation. In view of the scope of the reform, it is appropriate to replace Regulation (EU) No 1306/2013.
- (5) The provisions of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council [New Financial Regulation]⁵, in particular those governing shared management with Member States, the function of accredited bodies and the budgetary principles, should apply to the interventions and measures set out in this Regulation.

³ Regulation (EU) .../... of the European Parliament and of the Council of [...] [...] (OJ L [...], [...], p. [...]).

⁴ 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 (OJ L 347, 20.12.2013, p. 549).

⁵ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012. (OJ L 193, 30.7.2018, p. 1).

- (6) In order to harmonise practices amongst Member States in the application of the force majeure clause, this Regulation should make provision, where appropriate, for exemptions from the CAP rules in cases of force majeure and exceptional circumstances, as well as provide for a non-exhaustive list of possible cases of force majeure and exceptional circumstances to be recognised by the national competent authorities. National competent authorities should take decisions on force majeure or exceptional circumstances on a case by case basis, on the basis of relevant evidence.
- (6a) Furthermore, this Regulation should provide, where appropriate, for exemptions from the CAP rules in cases of force majeure and exceptional circumstances in cases of meteorological event only when such event can cause such severe damages to the beneficiary's holding that it can be comparable to a natural disaster.
- (7) The general budget of the Union (the Union's budget) should finance the CAP expenditure, including expenditure on the CAP Strategic Plan interventions under Title III of Regulation (EU) .../...[CAP Strategic Plan Regulation], either directly through the Funds or in the context of shared management with the Member States. The types of expenditure that can be financed using the Funds should be specified.
- (8) In order to achieve the objectives of the CAP laid down in Article 39 of the Treaty on the Functioning of the European Union (the 'Treaty'), and to comply with the principle of shared management, as provided for in Article 59 of Regulation (EU, Euratom) No 966/2012, Member States should ensure that the necessary governance systems are in place. Provision should therefore be made for designating the competent authority, paying agency, coordinating body and certification body.

- (9) It is necessary to provide for the accreditation of paying agencies and coordinating bodies by Member States and for the establishment of the procedures for obtaining management declarations, the annual clearance report, an annual summary of the final audit reports, and performance reports, and for obtaining the certification of management and monitoring systems, of reporting systems and the certification of annual accounts by independent bodies. Moreover, in order to ensure the transparency of the system of checks to be carried out at national level, in particular as regards procedures for authorisation, validation and payment and to reduce the administrative and audit burden for the Commission and for the Member States where accreditation of each individual paying agency is required, the number of authorities and bodies to which those responsibilities are delegated should be restricted while respecting the constitutional provisions of each Member State. Similarly, when the constitutional framework provides for regions, the Member States should also have the possibility to have regional paying agencies, under certain conditions.
- (10) Where a Member State accredits more than one paying agency, it should designate a single public coordinating body in order to ensure consistency in the management of Funds, to provide for a liaison between the Commission and the various accredited paying agencies, and to ensure that the information requested by the Commission concerning the operations of several paying agencies is provided promptly. The coordinating body should also take and coordinate actions with a view to resolving any deficiencies of a common nature encountered at national level and should keep the Commission informed of any follow-up, and should ensure harmonised application of the Union rules, taking account of any limitation or restrictions due to constitutional provisions in place.
- (11) Involving paying agencies that have been accredited by the Member States is a crucial prerequisite under the new delivery model for having reasonable assurance that the objectives and targets set out in the relevant CAP Strategic Plans will be reached by the interventions financed by the Union's budget. It should, therefore, be explicitly provided in this Regulation that only expenditure effected by accredited paying agencies can be reimbursed from the Union's budget. In addition, the expenditure financed by the Union for the interventions referred to in the CAP Strategic Plan Regulation should have a corresponding output regarding and should comply with the basic Union requirements and the governance systems.

- (11a) In order to have an overview of public and private Certification Bodies and to have up-to-date information on the active Certification Bodies, the Commission should receive information from the Member States and keep an up-to-date registry of those bodies. The Commission should communicate annually the list of the appointed certification bodies to the Parliament.
- (12) In the context of respecting budget discipline, it is necessary to define the annual ceiling for the expenditure financed by the EAGF by taking into account the maximum amounts laid down for that Fund under the multiannual financial framework provided for in Council Regulation (EU, Euratom)[COM(2018)322 final – MFF Regulation]⁶.
- (13) Budget discipline also requires the annual ceiling for expenditure financed by the EAGF to be respected in all circumstances and at every stage of the budget procedure and of the execution of the budget. Consequently, it is necessary for the national ceiling for the direct payments for each Member State set out in Regulation (EU) .../... [CAP Strategic Plan Regulation] to be regarded as a financial ceiling for such direct payments for the Member State concerned and for the reimbursement of those payments to remain within this financial ceiling.

⁶ Regulation (EU, Euratom) No [New MFF Regulation]

- (14) With a view to ensuring that the amounts for the financing of the CAP comply with the annual ceilings, the financial discipline mechanism by which the level of direct support is adjusted, should be maintained. An agricultural reserve should be maintained to support the agricultural sector in the event of market developments or major crises affecting the agricultural production or distribution. Article 12(2)(d) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union foresees that non-committed appropriations may be carried over to the following financial year only. In order to significantly simplify the implementation for beneficiaries and national administrations, a roll-over mechanism should be used, using any unused amounts of the reserve for crises in the agricultural sector established in 2022. For this purpose, a derogation from Article 12(2)(d) is necessary, allowing for non-committed appropriations of the agricultural reserve to be carried over to finance the agricultural reserve in the following financial years until 2027. Furthermore, as regards the financial year 2022, a derogation is necessary as the total unused amount of the crisis reserve available at the end of year 2022 should be carried over to the year 2023 to the corresponding line of the new agricultural reserve without being fully returned to the budgetary lines which cover direct payment interventions under the CAP Strategic Plan. However, in order to maximise the amounts to be reimbursed to farmers in 2023, all other availabilities under the EAGF sub-ceiling for 2023 set in Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027 should be used first to set up the new agricultural reserve in 2023.
- (15) In order to avoid an excessive administrative burden for national administrations and farmers, to simplify procedures as much as possible and limit the complexity of aid application forms, provision should be made that reimbursement of the amounts carried over from the preceding financial year in relation to financial discipline applied should not take place either where financial discipline is applied for a second subsequent year (year N+1), or where the overall amount of non-committed appropriations represents less than 0,2% of the EAGF annual ceiling.

- (17) The measures taken to determine the financial contribution from the Funds in respect of the calculation of financial ceilings do not affect the powers of the budgetary authority designated by the Treaty. Those measures should therefore be based on the financial envelopes fixed in accordance with the Interinstitutional Agreement of [...] [COM(2018) 322 final- MFF Regulation].
- (18) Budget discipline also requires a continuous examination of the medium-term budget position. The Commission should propose, if necessary, appropriate measures to the legislator in order to ensure that Member States respect of the ceilings provided for in Regulation (EU, Euratom) .../... of the European Parliament and of the Council [COM(2018) 322 final MFF Regulation]. Furthermore, the Commission should make full use of its management powers at all times to ensure compliance with the annual ceiling and, if necessary, should propose appropriate measures to the European Parliament and to the Council or to the Council to redress the budget position. If, at the end of a budget year, the annual ceiling cannot be complied with as a result of the reimbursements requested by the Member States, the Commission should be empowered to take measures allowing the provisional distribution of the available budget among the Member States in proportion to their as yet unpaid requests for reimbursement, as well as measures ensuring compliance with the ceiling fixed for the year concerned. Payments for that year should be charged to the following budget year and the total amount of Union financing per Member State should be definitively established, as should compensation between Member States in order to ensure that the established amount is complied with.
- (19) When implementing the budget, the Commission should operate a monthly early-warning and monitoring system for agricultural expenditure so that, if there is a risk of the annual ceiling being exceeded, the Commission may at the earliest opportunity take the appropriate measures under the management powers at its disposal and propose other measures if those measures appear to be insufficient. A periodic report by the Commission to the European Parliament and to the Council should compare the evolution of the expenditure effected to date in relation to the profiles and should give an assessment of the foreseeable implementation for the remainder of the budget year.

- (20) In respect of the EAGF, the financial resources required to cover the expenditure effected by the accredited paying agencies, should be provided to the Member States by the Commission in the form of reimbursements against the booking of the expenditure effected by those agencies. It is also necessary to provide that until such reimbursements have been made, in the form of monthly payments, financial resources are to be mobilised by the Member States depending on the needs of their accredited paying agencies. It should explicitly be laid down in this Regulation that the administrative and personnel costs of the Member States and the beneficiaries involved in the implementation of the CAP are to be borne by themselves.
- (21) In order to provide the Commission with, in particular, the means to manage agricultural markets, to facilitate the monitoring of agricultural expenditure and to monitor agricultural resources in the medium and long term, including environment and climate resilience and progress toward relevant Union targets, the use of the agro-meteorological system and the acquisition and improvement of satellite data should be provided for.
- (21a) The Commission should be provided with the means to monitor markets taking account Union objectives and commitments including Policy Coherence for Development, contributing to transparency of markets.
- (22) As regards the financial management of the EAFRD, provision should be made with regard to budget commitments, payment deadlines, decommitment and interruptions. Rural development interventions are financed from the Union's budget on the basis of commitments made in annual instalments. Member States should be able to draw on the Union Funds provided for as soon as the CAP Strategic Plans are approved. A suitably restricted prefinancing system is therefore needed, to ensure a steady flow of funds so that payments to beneficiaries under the interventions are made at the appropriate time.

- (23) Apart from prefinancing, it is also necessary to make a distinction between interim payments and the payment of balances by the Commission to the accredited paying agencies. It is also necessary to lay down detailed rules governing those payments. The automatic decommitment rule should help speed up execution of interventions and contribute to sound financial management. The rules governing the national frameworks of Member States with regional interventions as set out in Regulation (EU) .../... of the European Parliament and of the Council⁷[CAP Strategic Plan Regulation] also provide a tool for Member States to ensure execution and sound financial management.
- (24) Member States should ensure that Union aid be paid to beneficiaries in good time so that they may use it efficiently. A failure by the Member States to comply with the payment deadlines laid down in Union law might create serious difficulties for the beneficiaries and could jeopardise the Union's yearly budgeting. Therefore, expenditure made without respecting deadlines for payments should be excluded from Union financing. In accordance with the principle of proportionality, the Commission should be empowered to provide for exceptions from this general rule with regard to both Funds.
- (24a) The principle of proportionality, as set out in Article 5 of the Treaty on European Union, should be complied with by the Commission when exercising its responsibilities relating to the implementation of the Union budget. Furthermore, it is necessary for the arrangements for the implementation and use of the Funds to respect that principle of proportionality and to take into account the overall aim of reducing the administrative burden on bodies involved in the management and control of the programmes.
- (25) In accordance with the architecture and the key characteristics of the new CAP delivery model the eligibility of payments made by Member States for Union financing should no longer depend on the legality and regularity of payments to individual beneficiaries. Instead, as regards types of interventions referred to in Regulation (EU).../...[CAP Strategic Plan Regulation], and without prejudice to the specific , eligibility rules for the crop-specific payment for cotton set out in that Regulation, Member States' payments should be eligible if they are matched by corresponding output and in compliance with the applicable basic Union requirements.

⁷ Regulation (EU) .../... of the European Parliament and of the Council of [...] [...] (OJ L [...], [...], p. [...]).

- (26) Regulation (EU) No 1306/2013 provided for reductions and suspensions of monthly or interim payments for the purpose of supporting the control of legality and regularity. With the new delivery model those tools should be used to support performance based delivery. The difference between reductions and suspensions should also be clarified.
- (27) The procedure for reducing EAGF payments for non-compliance with financial ceilings set by Union law should be streamlined and aligned with the one used for EAFRD payments in this context.
- (28) Member States should send the annual accounts, an annual performance report on the implementation of the CAP Strategic Plan, the annual summary of the final audit reports and the management declaration to the Commission by 15 February every year. Where these documents are not sent, thus preventing the Commission from clearing the accounts for the concerned paying agency or checking the eligibility of the expenditure against reported outputs, the Commission should be empowered to suspend the monthly payments and to interrupt the quarterly reimbursement until the outstanding documents are received.
- (29) A new form of payment suspension should be introduced for situations of abnormally low outputs. Where the outputs reported are at an abnormally low level in comparison with the declared expenditure, and where Member States cannot provide good and comprehensible reasons for this situation, the Commission should be empowered to, in addition to reducing the expenditure for the financial year N-1 suspend future expenditure related to the intervention for which the output was abnormally low. Such suspensions should be subject to confirmation in the annual performance clearance decision.

- (30) As regards the multi-annual performance monitoring the Commission should also have the power to suspend payments. Accordingly in cases of delayed or insufficient progress towards targets, set out in the national CAP Strategic Plan and where the Member State cannot provide duly justified reasons, the Commission should be empowered to request the Member State concerned to take the necessary remedial actions in accordance with an action plan to be established in consultation with the Commission and containing clear progress indicators together with the timeframe during which the progress achieved, by means of an implementing act. Where the Member State fails to submit or to implement the action plan, where the action plan is manifestly insufficient to remedy the situation or if it has not been modified in accordance with the written request of the Commission, the Commission should have the power to suspend the monthly or interim payments, by means of an implementing act. The Commission should reimburse the suspended amounts when, on the basis of the performance review or on the basis of the voluntary notification made during the budget year by the Member States on the advancement of the action plan and of the corrective action taken to remedy to the shortfall, satisfactory progress towards targets is achieved.
- (31) As had been the case under Regulation (EU) No 1306/2013, the Commission should be empowered to suspend payments when serious deficiencies exist in the governance systems, including non-compliance with Union basic requirements and unreliability of reporting. It is, however, necessary to review the conditions for suspending payments in order to make the mechanism more efficient. The financial consequences of such suspensions should be decided in an ad-hoc conformity procedure.
- (32) Competent national authorities should make the CAP payments provided for by Union law to the beneficiaries in full.
- (33) In order to allow reuse of certain types of CAP-related revenue for the CAP purposes, they should be qualified as assigned revenue. The list of sums contained in Article 43 of Regulation (EU) No 1306/2013 should be amended and those provisions should be harmonised and merged with the existing provisions on assigned revenue.

- (34) Regulation (EU) No 1306/2013 contains a list of information measures related to the CAP and their objectives and fixes the rules on their financing and on the implementation of the corresponding projects. The specific provisions relating to the objectives and types of information measures to be financed should be carried over into this Regulation.
- (35) The financing of measures and interventions under the CAP is largely subject to the principle of shared management. To ensure that Union Funds are soundly managed, the Commission should perform checks on how the Member State authorities responsible for making payments manage the Funds. It is appropriate to define the nature of the checks to be performed by the Commission, to specify the terms of its responsibilities for implementing the Union's budget and to clarify the Member States' cooperation obligations.
- (36) In order to enable the Commission to fulfil its obligation to check the existence and proper functioning of management and inspection systems for Union expenditure in the Member States, provision should be made, irrespective of the inspections carried out by Member States themselves, for checks to be carried out by persons authorised by the Commission to act on its behalf who should be able to request assistance from the Member States in their work.
- (37) Information technology needs to be used as extensively as possible in order to produce the information to be sent to the Commission. When carrying out checks, the Commission should have full and immediate access to expenditure information recorded in both paper and electronic form.
- (38) In order to apply the requirements of the [new] Financial Regulation in relation to the cross-reliance on audits and to reduce the risk of overlap between audits by various institutions, and to minimise the cost of controls and the administrative burden on the beneficiaries and the Member States, it is necessary to set out rules concerning the single audit approach and provide for the possibility for the Commission to take assurance from the work of reliable certification bodies, taking due account of the principles of single audit and proportionality in relation to the level of risk to the budget of the Union.

- (38a) For the implementation of the single audit approach, where generally the Commission should take assurance from the work of the certification bodies, and taking account of its own risk assessment of the need for checks by the Commission in the Member State concerned, the Commission may carry out checks where it has informed the Member State concerned that it cannot rely on the work of the certification body. This does not exclude that the Commission, in order to perform its responsibilities under Article 317 of the Treaty, may carry out checks where serious deficiencies in the functioning of the governance systems may exist, which are not followed up by the Member State.
- (39) In order to establish the financial relationship between the accredited paying agencies and the Union's budget, the Commission should clear the accounts of the paying agencies annually, in the framework of the annual financial clearance. The decision relating to the clearance of accounts should be limited to the completeness, accuracy and veracity of the accounts and should not cover the conformity of the expenditure with Union law.
- (40) In line with the new delivery model, an annual performance clearance should be established in order to check the eligibility of the expenditure in relation to the reported outputs. In order to tackle situations where the expenditure declared does not have corresponding reported outputs and the Member States cannot provide justifications for this deviation, a mechanism of reduction of payments should be put in place.
- (41) The Commission is responsible for the implementation of the Union's budget in cooperation with Member States in accordance with Article 317 of the Treaty. The Commission should thus be empowered to decide, by means of implementing acts, whether the expenditure effected by the Member States is in conformity with Union law. Member States should be afforded the right to justify their decisions to make payments and should have recourse to conciliation where there is no common agreement between them and the Commission. In order to give Member States legal and financial assurances as to expenditure effected in the past, a limitation period should be set for the Commission to decide which financial consequences should follow from the non-conformity.

- (41a) Member States are obliged, under Article 9 of Regulation (EU) SPR, to implement the CAP Strategic Plans, as approved by the Commission in accordance with Articles 106 and 107 of that Regulation. Since this obligation constitutes a basic Union requirement, the Commission may, where serious deficiencies in a Member State's implementation of its CAP Strategic plan are detected, decide to exclude the expenditure at risk, affected by such deficiencies, from EU financing
- (42) In order to safeguard the financial interests of the Union's budget, systems should be put in place by Member States in order to satisfy themselves that interventions financed by the Funds are actually carried out and are executed correctly, while maintaining the current robust framework for sound financial management. The systems should include performing checks on beneficiaries by assessing their compliance with the eligibility criteria and other conditions, and obligations set out in the National Strategic Plans and applicable Union rules. In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council, Council Regulation (Euratom, EC) No 2988/95 , Council Regulation (Euratom, EC) No 2185/96 and Council Regulation (EU) 2017/1939, the financial interests of the Union are to be protected through proportionate measures, including the prevention, detection, correction and investigation of irregularities including fraud, the recovery of Funds lost, wrongly paid or incorrectly used and, where appropriate, the imposition of administrative sanctions. Moreover, in accordance with Regulation (EU, Euratom) No 883/2013 and Regulation (Euratom, EC) No 2185/96 the European Anti-Fraud Office (OLAF) may carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. In accordance with Regulation (EU) 2017/1939, the European Public Prosecutor's Office (EPPO) may investigate and prosecute fraud and other criminal offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council. In accordance with the Financial Regulation, any person or entity receiving Union Funds is to fully cooperate in the protection of the Union's financial interests, to grant the necessary rights and access to the Commission, OLAF, the EPPO and the European Court of Auditors (ECA) and to ensure that any third parties involved in the implementation of Union Funds grant equivalent rights. Member States should have the systems in place allowing them to report to the Commission, for the purpose of enabling OLAF to exercise its powers and ensure an efficient analysis of cases of irregularity, on

detected irregularities and other cases of non-compliance with the conditions established by Member States in the CAP Strategic Plan, including fraud and on their follow-up as well as on the follow-up of OLAF investigations. To ensure the effective examination of complaints concerning the Funds, Member States should have in place the necessary arrangements. In accordance with the principle of subsidiarity, Member States should, upon request of the Commission, examine complaints submitted to the Commission falling within the scope of their CAP Strategic Plan and should inform the Commission of the results of these examinations. The Commission should ensure that complaints directly lodged with it are adequately followed up, in accordance with the discretionary power the Commission enjoys in deciding which cases to pursue.⁸

- (42a) In order to assist the Member States in ensuring effective protection of the financial interests of the Union, the Commission should make available to them a data-mining tool to assess risks. In order to assess the use of the single data mining tool and its interoperability with a view to its generalised use by Member States, the Commission should present a report by 2025, accompanied, if necessary, by appropriate proposals.
- (43) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 of the Treaty on the Functioning of the European Union apply to this Regulation. These rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes, indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also concern the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States, as the respect for the rule of law is an essential precondition for sound financial management and effective Union funding.

⁸ See in particular: judgment of 6 December 1989 in Case C-329/88, *Commission v Greece* ECR 4159; judgment of 1 June 1994 in Case C-317/92, *Commission v Germany* ECR I 2039; judgment of 6 October 2009 in Case C-562/07, *Commission v Spain* ECR I-9553; judgment of 14 September 1995 in Case T-571/93; *Lefebvre and others v Commission* ECR II 2379; judgment of 19 May 2009 in Case C-531/06, *Commission v Italy* ECR I 4103

- (44) It is appropriate to ensure that the refusal or recovery of payments as a result of non-compliance with public procurement rules reflects the gravity of such non-compliance and respects the principle of proportionality, as expressed, for example, in the relevant guidelines established by the Commission for financial corrections to be made to expenditure financed by the Union under shared management for non-compliance with such rules. It is further appropriate to clarify that such non-compliance affects the legality and regularity of the transactions only up to the level of the part of the aid not to be paid or to be withdrawn.
- (45) Various provisions of the sectoral agricultural legislation require that security be lodged to ensure the payment of a sum due if an obligation is not met. In order to strengthen the framework for securities, a single horizontal rule should apply to all those provisions.
- (46) Member States should set up and operate an integrated administration and control system (the "integrated system") for certain interventions provided for in Regulation (EU) .../... [CAP Strategic Plan Regulation] and for the measures referred to in Chapter IV of Regulations (EU) No 228/2013 of the European Parliament and of the Council⁹ and in Chapter IV of Regulation (EU) No 229/2013 of the European Parliament and of the Council¹⁰ respectively. In order to improve the effectiveness and monitoring of Union support, Member States should be authorised to make use of the integrated system for other Union interventions.
- (46a) To ensure a level playing field between beneficiaries in different Member States, certain general rules should be introduced on controls and penalties at Union level.

⁹ Regulation (EU) No 228/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in the outermost regions of the Union and repealing Council Regulation (EC) No 247/2006 (OJ L 78, 20.3.2013, p. 23).

¹⁰ Regulation (EU) No 229/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in favour of the smaller Aegean islands and repealing Council Regulation (EC) No 1405/2006 (OJ L 78, 20.3.2013, p. 41).

- (47) The existing main elements of the integrated system and, in particular, the provisions concerning a system for identifying agricultural parcels, a geo-spatial and an animal-based application system, a system for identifying and registering payment entitlements, a system for recording the identity of beneficiaries and a control and penalties system should be maintained. Member States should continue to use data or information products provided by the Copernicus programme, in addition to information technologies such as GALILEO and EGNOS in order to ensure that comprehensive and comparable data is available throughout the Union for the purposes of monitoring agri-environment-climate policy, including the CAP's impact, environmental performance, and progress towards Union targets, and for the purposes of boosting the use of full, free and open data and information captured by Copernicus Sentinels satellites and services. To this end, the integrated system should include also an area monitoring system.
- (48) The integrated system, as part of the governance systems which should be in place in order to implement the CAP, should ensure that the aggregate data provided in the annual performance reporting is reliable and verifiable. Given the importance of a properly functioning integrated system, it is necessary to set quality requirements. Member States should carry out an annual quality assessment of the identification system for agricultural parcels, of the geo-spatial application system and of the area monitoring system. Member States should also address any deficiencies and, if so requested by the Commission, set up an action plan.
- (49) The Communications from the Commission on 'The future of food and farming', the 'European Green Deal', the 'Farm to Fork Strategy – for a fair, healthy and environmentally-friendly food system' and the 'EU Biodiversity Strategy for 2030' set out the bolstering of environmental care and climate action and the contributing to the achievement of Union environmental and climate objectives and targets as a strategic orientation of the future CAP. Hence, sharing Land Parcel Identification System and other Integrated Administration and Control System data has become necessary for environmental and climate purposes at national and Union level. Provision should therefore be made for sharing the data collected through the integrated system, which is relevant for environmental and climate purposes, between Member States' public authorities and with the Union institutions and bodies. In order to increase efficiency in using data available to different public authorities for the production of European statistic, it should also be provided that data from the integrated system has to be made available for statistical purposes to bodies which are part of the European Statistical System.

- (50) The scrutiny of commercial documents of undertakings that receive or make payments can be a very effective means of surveillance of transactions forming part of the system of financing by the EAGF. That scrutiny supplements other checks already carried out by the Member States. Furthermore, national provisions relating to scrutiny may be more extensive than those provided for by Union law.
- (51) The documents that should be used as a basis for such scrutiny should be selected in such a way as to enable a full scrutiny to be carried out. The undertakings to be scrutinised should be chosen on the basis of the nature of the transactions carried out under their responsibility and the breakdown per sector of the undertakings receiving or making payments should be selected according to their financial importance in the system of financing by the EAGF.
- (52) It is necessary to set out the empowerment of the officials responsible for carrying out the scrutiny and to define the obligations on undertakings to make commercial documents available to such officials for a specified period, as well as to supply any information that may be requested of them by the officials. It should also be possible for commercial documents to be seized in certain cases.
- (53) Having regard to the international structure of agricultural trade and in the interest of the proper functioning of the internal market, it is necessary to organise cooperation among the Member States. It is also necessary to set up a centralised documentation system at Union level concerning undertakings established in third countries and which receive or make payments.
- (54) While the Member States are responsible for adopting their own scrutiny programmes, it is necessary for those programmes to be communicated to the Commission so that it can assume its supervisory and coordinating role, ensuring that the programmes are adopted on the basis of appropriate criteria and guaranteeing that the scrutiny is concentrated on sectors or undertakings where the risk of fraud is high. It is essential that each Member State designates a department that is responsible for monitoring the scrutiny of commercial documents and for coordinating that scrutiny. Those designated departments should be independent of the departments that carry out the scrutiny prior to payment. Information collected during that scrutiny should be protected by confidentiality to protect business secrets.

- (55) Conditionality is an important element of the CAP, which ensures that payments promote a high degree of sustainability and ensure a level playing field for farmers within and between Member States, in particular with regard to its social, environmental and climate elements but also concerning public health and animal welfare. This implies that controls should be carried out and, where necessary, penalties should be applied to ensure the effectiveness of the conditionality system. To ensure such a level playing field between beneficiaries in different Member States, certain general rules on conditionality, and controls and penalties related to non-compliance should be introduced at Union level.
- (56) To ensure that conditionality is enforced by Member States in a harmonised way, it is necessary to provide for a minimum control rate at Union level, while the organisation of competent control bodies and controls should be at the discretion of Member States.
- (57) While Member States should be allowed to set out the details on penalties, those penalties should be proportionate, effective and dissuasive and should be without prejudice to other penalties laid down under Union or national law. To ensure the proportionality, effectiveness and dissuasive effect of the penalties, it is appropriate to lay down the rules for the application and calculation of such penalties. Taking into account the Judgement of the Court of 27 January 2021, *De Ruiter*, C-361/19¹¹, to ensure the link between the farmer's behaviour and the penalty, it should be laid down that, as a general rule, the calculation of the penalty should be done on the basis of the payments granted or to be granted in the calendar year in which the non-compliance occurred. However, when the nature of the finding does not allow for the year in which the non-compliance occurred to be established, in order to ensure the effectiveness of the penalty system, it is necessary to establish that, for those cases the calculation of the penalty should be done on the basis of the payments granted or to be granted in the calendar year in which the non-compliance was found. To ensure an effective and coherent approach by Member States, it is necessary to provide for a minimum penalty rate at Union level for non-compliance occurring for the first time due to negligence, while reoccurrence should lead to a higher percentage and intentionality may result in the total exclusion from the payment. To ensure proportionality of the penalties, where the non-compliance is of a minor nature and occurs for the first time, Member States should be allowed to introduce an early warning system.

¹¹ ECLI:EU:C:2021:7.

- (57a) The social conditionality mechanism should be based on the enforcement procedures that are carried out by the competent enforcement authorities or bodies responsible for controls and working and employment conditions and applicable labour standards. Such enforcement procedures may take various forms depending on the national system. The outcome of the controls and the enforcement procedure should be communicated to the Paying Agencies along with a ranked assessment of the gravity of the breach of the legislation.
- (57b) When applying social conditionality in the CAP Strategic Plans and in the respective agreements between the Paying Agencies and competent enforcement authorities or bodies for working and employment conditions and applicable labour standards, great care should be taken to respect the autonomy of the enforcement authorities or bodies and the specific manner in which social and employment legislation and applicable labour standards are implemented and enforced in each Member State. The mechanism should remain independent from and should not affect the functioning of the particular social model of each Member State, nor should it in any way affect the independence of the judiciary. To that end, a clear separation of responsibilities should be ensured between the competent enforcement authorities or bodies for employment and social legislation and applicable labour standards on the one hand and the agricultural paying agencies on the other, the role of the latter being execution of payments and application of penalties. The autonomy of social partners should be fully respected as well as their right to negotiate and conclude collective agreements. Their autonomy should also be respected when social partners are responsible to carry out controls on working conditions.
- (58) To ensure a level playing field between Member States and the effectiveness and dissuasive effect of the penalty system for conditionality, the Commission should be empowered to adopt delegated acts on the application and calculation of such penalties.
- (59) To ensure harmonious cooperation between the Commission and the Member States regarding the financing of CAP expenditure and, more particularly, to allow the Commission to monitor the financial management by the Member States and to clear the accounts of the accredited paying agencies, it is necessary for the Member States to retain specific information and to communicate it to the Commission.

- (60) For the purposes of compiling the data to be sent to the Commission, and to enable the Commission to have full immediate access to expenditure data in both paper and electronic form, suitable rules on the presentation and transmission of data, including rules on time limits, need to be laid down.
- (61) As personal data or business secrets might be affected by the application of the national control systems and the conformity clearance, Member States and the Commission should guarantee the confidentiality of the information received in that context.
- (62) In the interests of sound financial management of the Union's budget and impartiality of treatment at both Member State and beneficiary level, rules on the use of the euro should be laid down.
- (63) The rate of exchange of the euro into national currencies may vary in the course of the period during which an operation is carried out. Therefore, the rate applicable to the amounts concerned should be determined taking into account the event through which the economic objective of the operation is achieved. The rate of exchange applied should be that applicable for the date on which that event occurs. It is necessary to specify this operative event or to waive its application, whilst complying with certain criteria and in particular those concerning the rapidity with which currency movements are passed on. Special rules should be laid down for dealing with exceptional monetary situations arising either within the Union or on the world market and requiring immediate action to ensure that the arrangements established under the CAP operate effectively.
- (64) Member States that have not adopted the euro should have the option of making payments for expenditure resulting from the CAP legislation in euro rather than in national currency. Specific rules are needed to ensure that this option does not lead to any unjustified advantage for parties making or receiving payment.

- (65) Union law concerning the protection of individuals with regard to the processing of personal data and on the free movement of such data, in particular Regulations (EC) No 45/2001¹² and (EU) 2016/679 of the European Parliament and of the Council¹³, should be applicable to the collection of personal data by the Member States and the Commission for the purposes of carrying out their respective management, control, audit and monitoring and evaluation obligations under this Regulation.
- (66) The publication of the name of the beneficiaries of the Funds provides a means of reinforcing the public control of the use of the Funds and is necessary to ensure an adequate level of protection of the Union's financial interest. That is achieved partly by the preventive and deterrent effect of such publication, partly by discouraging individual beneficiaries from irregular behaviour and also partly by reinforcing the personal accountability of the farmers for use of public funds received. The publication of the relevant information is consistent with recent case-law of the Court of Justice of the European Union and also with the approach as set out in Regulation (EU, Euratom) No 966/2012.
- (66a) Considering the need for greater transparency regarding distribution of EAGF and EAFRD CAP funds, including on ownership structures linked to CAP beneficiaries, the list of beneficiaries of CAP funds, published ex-post by Member State, should also allow for the identification of groups of undertakings. This would significantly contribute to the monitoring of ownership structures and facilitate the investigation of potential misuse of Union funds, conflicts of interest and corruption.
- (67) In this context the role played by civil society, including by the media and non-governmental organisations and their contribution to reinforcing the administrations' control framework against fraud and any misuse of public funds, should be properly recognised.

¹² Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

¹³ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

- (68) Regulation (EU) .../...[CPR Regulation¹⁴] lays down rules providing for transparency in implementing the European Structural and Investment Funds and in the communication of programmes under the Funds. To ensure coherence, it should be provided that those rules apply also to beneficiaries of EAFRD and EAGF interventions, where relevant.
- (69) If the objective of the public control of the use of the money from the Funds is to be achieved, a certain level of information about beneficiaries needs to be brought to the attention of the public. That information should include data on the identity of the beneficiary, the amount awarded and the fund from which it comes, and the purpose and nature of the type of intervention or measure concerned. The publication of that information should be made in such a way as to cause less interference with the beneficiaries' right to respect for their private life, and to their right to protection of their personal data, both rights which are recognised in Articles 7 and 8 of the Charter of Fundamental Rights of the European Union.
- (70) Publishing details about the measure or the intervention entitling the farmer to receive aid and about the nature and the purpose of the aid provides the public with concrete information on the subsidised activity and the purpose for which the aid was granted. Providing such oversight to the public would have a preventive and deterrent effect and would help to protect the financial interest of the Union.
- (71) Publishing such information together with the general information provided for in this Regulation, enhances transparency regarding the use of Union Funds in the CAP, thus contributing to the visibility and better understanding of that policy. It enables citizens to participate more closely in the decision-making process and guarantees that the administration enjoys greater legitimacy, and is more effective and is more accountable to the citizen. It also brings concrete examples of the provision of "public goods" by farming to the attention of citizens, thereby underpinning the legitimacy of state support for the agricultural sector.

¹⁴ Regulation (EU) No.../...

- (72) It follows, therefore, that providing for the general publication of the relevant information does not go beyond what is necessary in a democratic society in view of the need to protect the Union's financial interests as well as the overriding objective of the public oversight of the use of the money from the Funds.
- (73) In order to comply with data protection requirements, beneficiaries of the Funds should be informed of the publication of their data before that publication takes place. They should also be informed that that data may be processed by auditing and investigating bodies of the Union and Member States for the purposes of safeguarding the Union's financial interests. Furthermore, the beneficiaries should be informed about their rights under Regulation (EU) 2016/679 and the procedures applicable for exercising these rights.
- (74) In order to supplement or amend certain non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(75) In order to supplement certain non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission. With a view to ensure the sound operation of the paying agencies and coordinating bodies, the funding by the EAGF of the public intervention expenditure and the proper management of the appropriations entered in the Union's budget for the EAGF, that empowerment should be in respect of the accreditation of the paying agencies and coordinating bodies, the obligations of the paying agencies as regards public intervention, the rules on the content of the management and control responsibilities of the paying agencies. Furthermore that empowerment should also cover the rules for the calculation of financial discipline to be applied by Member States to farmers, the types of measures to be financed by the Union's budget under public intervention and the reimbursement conditions, the eligibility conditions and calculation methods based on the information actually observed by the paying agencies or based on flat-rates determined by the Commission, or based on flat-rate or non-flat-rate amounts provided for by the sectoral agricultural legislation, the valuation of the operations in connection with public intervention and the measures to be taken in the case of loss or deterioration of products under the public intervention, and on the determination of the amounts to be financed. In order to enable the Commission to make expenditure effected before the earliest possible date of payment or after the latest possible date of payment eligible for Union financing, while limiting the financial impact of doing that empowerment should also cover derogations from the ineligibility of payments made by the paying agencies to the beneficiaries before the earliest or the latest possible date of payment. In addition, that empowerment should cover the rate of suspension of payments in relation to the annual clearances, the rate and duration of suspension of payments and the condition for reimbursing or reducing those amounts with regard to the multi-annual performance monitoring. That empowerment should also cover the interventions or measures for which the Member States may pay advances, with the aim to ensure continuity with the rules set in Regulation (EU) No 1306/2016 and the relevant implementing and delegated rules, while at the same time respecting the financial limits of point b) of Article 11 (2) of Regulation (EU, Euratom) 2018/1046. To take account of revenue collected by paying agencies for the Union's budget when making payments on the basis of the expenditure declarations submitted by Member States that empowerment should also cover the conditions under which certain types of expenditure and revenue under the Funds are to be compensated. Moreover, and with a view to enable the equitable distribution of the appropriations

available between the Member States that empowerment should cover the methods applicable to the commitments and the payment of the amounts if the Union's budget has not been adopted by the beginning of the financial year or if the total amount of the commitments scheduled exceeds the threshold laid down in Article 170(3) of the Financial Regulation.

- (75a) Furthermore, that empowerment should in order to ensure the correct and efficient application of the provisions relating to on-the-spot checks and access to documents and information n, cover the specific obligations to be complied with by Member States with regard to checks and access to documents and information, the criteria for justifications from the Member States and the methodology and criteria for applying reductions in relation to the annual performance clearance, and the criteria and methodology for applying financial corrections in the context of the conformity clearance procedure.
- (75b) Moreover, in order to ensure that the checks are carried out correctly and efficiently and that the eligibility conditions are verified in an efficient, coherent and non-discriminatory manner which protects the financial interest of the Union that empowerment should cover, where the proper management of the system so requires, rules on additional requirements with respect to customs procedures, and in particular to those laid down in Regulation (EU) No 952/2013 of the European Parliament and of the Council¹, rules on securities, ensuring a non- discriminatory treatment, specifying the responsible party in the event that an obligation is not met, laying down the specific situations in which the competent authority may waive the requirement of a security, the conditions applying to the security to be lodged and the guarantor, the conditions for lodging and releasing that security, the specific conditions related to the security lodged in connection with advance payments, and on the setting out of the consequences of breaching the obligations for which a security has been lodged.
- (75c) In addition, regarding the integrated system, that empowerment should cover rules on the quality assessment of the identification system for agricultural parcels, of the geo-spatial application system and of the area monitoring system and definitions, basic features and rules on the identification system for agricultural parcels, on the system for the identification of beneficiaries and on the system for the identification and registration of payment entitlements.

- (75d) Furthermore, in order to respond to changes in sectoral agricultural legislation and to ensure the efficiency of the system of ex-post controls, that empowerment should cover rules on the interventions excluded from the scrutiny of transactions, Moreover, in order to specify the operative event or to fix it for reasons peculiar to the market organisation or the amount in question and to avoid the application by the Member States which have not adopted the euro of different exchange rates in accounts of revenue received or aid paid to beneficiaries in a currency other than the euro, on the one hand, and in the establishment of the declaration of expenditure drawn up by the paying agency, on the other, that empowerment should cover rules on the operative event and the exchange rate to be used by the Member States not using the euro, and on the exchange rate applicable when declarations of expenditure are drawn up and when public storage operations are recorded in the accounts of the paying agency, on measures to safeguard the application of Union law if exceptional monetary practices related to national currency are likely to jeopardise it.
- (75e) In order to amend certain non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of the threshold under which undertakings should be scrutinized only for specific reasons.
- (75f) The empowerment should enable the Commission to ensure smooth transition from the arrangements provided for in Regulation (EU) No 1306/2013.

- (76) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹⁵. Those powers should relate to the rules: on the procedures for the issuing, withdrawing and reviewing accreditation of paying agencies and coordinating bodies as well as for the supervision of the accreditation of paying agencies; on the work and checks underlying the management declaration of the paying agencies; the functioning of the coordinating body and the notification of information to the Commission by that coordinating body, on the tasks of the certification bodies, including the checks to be carried out and bodies subject to those checks, and on the certificates and the reports, together with the documents accompanying them, to be drawn up by those bodies.
- (77) The implementing powers of the Commission should also cover: the audit principles on which the opinions of the certification bodies are based, including an assessment of the risks, internal controls and the level of audit evidence required, the audit methods to be used by the certification bodies, having regard to international standards on auditing to deliver their opinions.
- (78) The implementing powers of the Commission should also cover: the setting of the amounts for the financing of public intervention measures, rules relating to the financing of the acquisition by the Commission of the satellite data required for the area monitoring system and the measures taken by the Commission through remote-sensing applications used for the area monitoring system, the procedure for the carrying out of the acquisition by the Commission of those satellite data and the area monitoring system, the framework governing the acquisition, enhancing and utilisation of satellite images and meteorological data, and the applicable deadlines.

¹⁵ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (79) The implementing powers of the Commission should also cover: in the context of the financial discipline procedure, the fixing of the adjustment rate for the direct payments interventions and its adaptation as well as the terms and conditions applicable to appropriations carried over in accordance with Article 12(2)(d) of Regulation (EU, Euratom) No [New Financial Regulation] in order to finance the direct payments interventions; in the context of the budget discipline procedure, the provisional setting of the amount of the payments and the provisional distribution of the available budget among the Member States and the determining of the monthly payments which the Commission makes on the basis of a declaration of expenditure.
- (80) Furthermore, the implementing powers of the Commission should cover: the setting of the period within which the accredited paying agencies are to establish and forward, to the Commission, intermediate declarations of expenditure relating to rural development interventions as well as rules on the procedure and other practical arrangements concerning the proper functioning of the payment deadlines mechanism; the reduction and suspension of the monthly or interim payments to Member States as well as rules on the elements of actions plans and the procedure for setting them up. They should also cover rules which are necessary and justifiable in an emergency in order to resolve specific problems in relation to payment periods and the payment of advances, details on the keeping of separate accounts by the paying agencies; specific conditions applying to the information to be booked in the accounts kept by the paying agencies; rules on the financing and accounting of intervention measures in the form of public storage, and other expenditure financed by the Funds, the terms and conditions governing the implementation of the automatic decommitment procedure.

- (81) Moreover, the implementing powers of the Commission should cover: the procedures relating to the cooperation obligations to be complied with by the Member States as regards the checks carried out by the Commission and access to information; the conditions under which the supporting documents relating to payments made are to be kept, the annual financial clearance, including the measures to be taken in connection with the adoption and implementation of those implementing acts, the annual performance clearance, including the measures to be taken in connection with the adoption and implementation of those implementing acts, and the information exchange between the Commission and the Member States, the procedures and the deadlines to be respected, the conformity clearance procedure, including the measures to be taken in connection with the adoption and implementation of those implementing acts, the information exchange between the Commission and the Member States, the deadlines to be respected and the rules regarding the conciliation procedure, the exclusion from Union financing of amounts charged to the Union's budget and the forms of notification and communication to be made by the Member States to the Commission in relation to recoveries for non-compliance.
- (82) The implementing powers of the Commission should also cover: rules aiming at reaching a uniform application of Member States' obligations regarding the protection of the financial interests of the Union and the necessary rules aiming at reaching a uniform application of checks in the Union.
- (83) Furthermore, the implementing powers of the Commission should cover: the form of the securities to be lodged and the procedure for lodging the securities, for accepting them, and for replacing the original securities; the procedures for the release of securities and the notification to be made by Member States or by the Commission in the context of securities.
- (84) The implementing powers of the Commission should also cover: rules on the form, content and arrangements for transmitting or making available to the Commission the assessment reports on the quality of the identification system for agricultural parcels, of the geo-spatial application system and of the area monitoring system, and on the remedial actions to be implemented by the Member States with regard to deficiencies revealed in those systems, and basic features and rules on the aid application system and the area monitoring system, including its phasing-in.

- (85) The implementing powers of the Commission should also cover rules aiming at ensuring a uniform application of the rules on the scrutiny of commercial documents. They should also cover rules pertaining to communication of information by Member States to the Commission and measures to safeguard the application of Union law if exceptional monetary practices related to national currency are likely to jeopardise it.
- (86) Furthermore, the implementing powers of the Commission should cover rules on the form and the timescale of the publication of the beneficiaries of the Funds, the uniform application of the obligation to inform the beneficiaries that their data will be made public and the cooperation between the Commission and Member States in the context of the publication of the beneficiaries of the Funds.
- (87) The advisory procedure should be used for the adoption of certain implementing acts. With regard to implementing acts involving the calculation of amounts by the Commission the advisory procedure enables the Commission to fully assume its responsibility of managing the budget and aims to increase efficiency, predictability and rapidity, when complying with the time limits and the budgetary procedures. With regard to implementing acts related to payments made to the Member States and the operation of the clearance of accounts procedure and annual performance clearance, the advisory procedure enables the Commission to fully assume its responsibility of managing the budget and verifying the annual accounts of the national paying agencies with a view to accepting such accounts or, in the case of expenditure not effected in compliance with Union rules, to excluding such expenditure from Union financing. The examination procedure should be used for the adoption of the other implementing acts.
- (88) The Commission should be empowered to adopt implementing acts without applying Regulation (EU) No 182/2011 concerning the setting of the net balance available for EAGF expenditure, the determination of monthly payments it should make on the basis of the declaration of expenditure from the Member States and the supplementary payments or deductions in the context of the procedure for monthly payments.
- (89) Regulation (EU) No 1306/2013 should therefore be repealed.

- (90) To enable a smooth transition between the rules laid down by Regulation (EU) No 1306/2013 and those laid down by this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of laying down transitional provisions.
- (91) The European Data Protection Supervisor was consulted and adopted an opinion.¹⁶
- (92) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States given the links between it and the other instruments of the CAP and the limits on the financial resources of the Member States, but can rather, by reason of the multiannual guarantee of Union finance and by concentrating on its priorities, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS REGULATION:

Title I

Scope and definitions

Article 1

Scope

This Regulation lays down rules, in particular, on:

- (a) the financing of expenditure under the Common Agricultural Policy (CAP);
- (b) the management and control systems to be put in place by the Member States;
- (c) clearance and conformity procedures.

¹⁶ OJ C , , p.[...]. . .

Article 2

Definitions

For the purposes of this Regulation, the following definitions apply:

- (a) "irregularity" means an irregularity within the meaning of Article 1(2) of Regulation (EC, Euratom) No 2988/95;
- (b) "governance systems" means the governance bodies referred to in Chapter II of Title II of this Regulation and the basic Union requirements laid down in this Regulation and Regulation (EU) .../... [CAP Strategic Plan Regulation], including Member States' obligations with regard to the effective protection of the financial interests of the Union referred to in Article 57 of this Regulation, the implementation of their CAP Strategic Plan as approved by the Commission referred to in Article 9 of Regulation (EU) .../... [CAP Strategic Plan Regulation] and the reporting system put in place for the purposes of the annual performance report referred to in Article 121 of Regulation (EU) .../... [CAP Strategic Plan Regulation];
- (c) "basic Union requirements" means the requirements laid down in Regulation (EU) .../... [CAP Strategic Plan Regulation] and in this Regulation, in Regulation (EU) 2018/1046 (Financial Regulation) and in Directive 2014/24/EU (Public Procurement Directive);
- (ca) "serious deficiencies in the proper functioning of the governance systems" means the existence of a systemic weakness, taking into account its recurrence, gravity and compromising effect on the correct declaration of expenditure, the reporting on performance, or the respect of Union law;
- (cc) "output indicator" means output indicator as referred to in paragraph 1 of Article 7 of Regulation (EU) .../... [Strategic Plans Regulation];
- (cd) "result indicator" means result indicator as referred to in paragraph 1 of Article 7 of Regulation (EU) .../... [Strategic Plans Regulation];

- (cf) "intermediate body" means intermediate body as defined in point g of Article 3 of Regulation (EU) .../... [Strategic Plans Regulation];
- (cg) "action plan" means, for the purposes of Articles 39 and 40 of this Regulation, a plan established by a Member State, on the request of, and in consultation with, the Commission, in the event that serious deficiencies are identified in the functioning of the Member State's governance systems or in the circumstances referred to in Article 121a [CAP Strategic Plan Regulation], containing the necessary remedial actions and the relevant timetable for its implementation, as further provided for in Articles 39 and 40 of this Regulation.

Article 3

Exemptions in cases of force majeure and exceptional circumstances

For the purposes of the financing, management and monitoring of the CAP, "force majeure" and "exceptional circumstances" may, in particular, be recognised in the following cases:

- (a) a severe natural disaster or severe meteorological event gravely affecting the holding; where such a severe natural disaster or severe meteorological event gravely affects a well-determined area, the Member State concerned may consider that whole area as gravely affected by that disaster or event.
- (b) the accidental destruction of livestock buildings on the holding;
- (c) an epizootic, a plant disease outbreak or the presence of a plant pest affecting part or all of the beneficiary's livestock or crops respectively;
- (d) expropriation of all or a large part of the holding if that expropriation could not have been anticipated on the day of lodging the application;
- (e) the death of the beneficiary;
- (f) long-term professional incapacity of the beneficiary.

Title II

General provisions on agricultural Funds

CHAPTER I

Agricultural Funds

Article 4

Funds financing agricultural expenditure

The financing of the various interventions and measures falling under the CAP from the general budget of the Union (the Union's budget) shall be made by:

- (a) the European Agricultural Guarantee Fund ('EAGF');
- (b) the European Agricultural Fund for Rural Development ('EAFRD').

Article 5

EAGF expenditure

1. The EAGF shall be implemented either through shared management between the Member States and the Union or directly, as laid down in paragraphs 2 and 3.
2. In the context of shared management, the EAGF shall finance the following expenditure:
 - (a) measures regulating or supporting agricultural markets, as laid down in Regulation (EU) No 1308/2013;¹⁷
 - (b) the Union's financial contribution to the sectoral interventions as referred to in Chapter 3 of Title III of Regulation (EU).../...[CAP Strategic Plan Regulation];

¹⁷ Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).

- (c) direct payments interventions to farmers under the CAP Strategic Plan referred to under Article 14 of Regulation (EU) .../...[CAP Strategic Plan Regulation];
- (d) the Union's financial contribution to information and promotion measures for agricultural products on the internal market of the Union and in third countries, undertaken by Member States, and which are selected by the Commission;
- (e) the Union's financial contribution to the specific measures for agriculture in the outermost regions of the Union as referred to in Regulation (EU) No 228/2013 and to the specific measures for agriculture in favour of the smaller Aegean islands as referred to in Regulation (EU) No 229/2013.

3. The EAGF shall finance the following expenditure in direct management:

- (a) the promotion of agricultural products, either directly by the Commission or through international organisations;
- (b) measures taken in accordance with Union law to ensure the conservation, characterisation, collection and utilisation of genetic resources in agriculture;
- (c) the establishment and maintenance of agricultural accounting information systems;
- (d) agricultural survey systems, including surveys on the structure of agricultural holdings.

Article 6

EAFRD expenditure

The EAFRD shall be implemented in shared management between the Member States and the Union. It shall finance the Union's financial contribution to the CAP Strategic Plan rural development interventions referred to in Chapter 4 of Title III of Regulation (EU) .../...[CAP Strategic Plan Regulation] and actions referred to in Article 112 of that Regulation.

Article 7

Other expenditure, including technical assistance

The Funds may, either on the initiative of the Commission or on its behalf, each directly finance the preparatory, monitoring, administrative and technical support activities, and the evaluation, audit and inspection, required to implement the CAP. In particular, they shall include:

- (a) measures required for the analysis, management, monitoring, information exchange and implementation of the CAP, including assessing its impacts, environmental performance and progress towards Union targets, as well as measures relating to the implementation of control systems and technical and administrative assistance;
- (b) the acquisition by the Commission of satellite data required for the area monitoring system in accordance with Article 22;
- (c) the actions taken by the Commission through remote-sensing applications used for the monitoring of agricultural resources in accordance with Article 23;
- (d) measures required to maintain and develop methods and technical means for information, interconnection, monitoring and control of the financial management of the Funds used to finance the CAP;
- (e) provision of information on the CAP in accordance with Article 44;
- (f) studies on the CAP and evaluations of measures financed by the Funds, including the improvement of evaluation methods and the exchange of information on best practices under the CAP and consultations with the relevant stakeholders, as well as studies carried out with the European Investment Bank (EIB);
- (g) where relevant, contribution to executive agencies that are set up in accordance with Council Regulation (EC) No 58/2003¹⁸ acting in connection with the CAP;

¹⁸ Council Regulation (EC).No 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes (OJ L11, 16.1.2003, p. 1).

- (h) contribution to measures relating to the dissemination of information, raising awareness, promoting cooperation and exchanging experiences with the relevant stakeholders at Union level, and taken in the context of rural development interventions, including the networking of the parties concerned;
- (i) information technology networks focusing on information processing and exchange, including corporate information technology systems needed in connection with the management of the CAP;
- (j) measures required for the development, registration and protection of logos within the framework of the Union quality policies as laid down in Article 44(2) of Regulation (EU) No 1151/2012 of the European Parliament and of the Council¹⁹ and for the protection of intellectual property rights linked to it, and the necessary information technology (IT) developments.

CHAPTER II

Governance bodies

Article 7a

Competent authority

1. Member States shall designate a competent authority at ministerial level responsible for:
 - (a) the issuing, reviewing and withdrawing of accreditation of paying agencies referred to in Article [8(2)];
 - (b) the issuing, reviewing and withdrawing of the accreditation of the coordinating body referred to in Article [10a];
 - (c) appointing and withdrawing the appointment of a certification body referred to in Article 11, while ensuring the continuous appointment of such a body;

¹⁹ Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs (OJ L 343, 14.12.2012, p. 1).

- (d) carrying out the tasks assigned to the competent authority under this Chapter.
2. On the basis of an examination of the criteria to be adopted by the Commission in accordance with Article 12(1), the competent authority shall, by way of a formal act, decide:
- (a) on the issuing or, following a review, the withdrawal of the accreditation of the paying agency and the coordinating body;
- (b) on the appointment and withdrawal thereof, of the certification body, while ensuring continuous appointment of such a body.
3. The competent authority shall inform the Commission without delay of all accreditations and withdrawals of accreditation of the paying agency and the coordinating body, as well as of the appointment and withdrawal thereof, of the certification body.
4. The Commission shall promote the exchange of best practice between the Member States, in particular as regards the work of the governance bodies under this Chapter.

Article 8

Paying agencies

1. Paying agencies shall be departments or bodies of the Member States and, if applicable, of regions responsible for the management and control of expenditure referred in Article 5(2) and Article 6.

With the exception of making payment, the carrying out of those tasks may be delegated.

2. Member States shall accredit, as paying agencies, departments or bodies which have an administrative organisation and a system of internal control which provide sufficient guarantees that payments are legal, regular and properly accounted for. To this end, paying agencies shall comply with minimum conditions for the accreditation with regard to the internal environment, control activities, information and communication and monitoring laid down by the Commission pursuant to point (a) of Article 10(1).

Each Member State shall, taking into account its constitutional provisions restrict the number of its accredited paying agencies as follows:

- (a) to a single agency at national level or, where applicable, one per region; and
- (b) to a single agency for the management of both EAGF and EAFRD expenditure where paying agencies exist only at national level.

By way of derogation from the second subparagraph, Member States may maintain the paying agencies which have been accredited before 15 October 2020, provided they are in compliance with the accreditation criteria to be confirmed by the competent authority through the decision referred to in Art. 7a(2).

However, where paying agencies are established at regional level, Member States shall, in addition, either accredit a paying agency at national level for aid schemes which, by their nature, have to be managed at national level or Member States shall confer the management of these schemes on their regional paying agencies.

Paying agencies which did not manage EAGF or EAFRD expenditure for at least three years shall have their accreditation withdrawn.

Member States shall not appoint any new additional paying agency after the date of entry into force of this Regulation, except for cases referred to in point (a) of the second subparagraph where, taking into account the constitutional provisions, additional regional paying agencies may be necessary.

3. For the purposes of Article 63(5) and (6) of Regulation (EU, Euratom) 2018/1046 ('the Financial Regulation'), the person in charge of the accredited paying agency shall, by 15 February of the year following the financial year concerned, draw up and provide the Commission with the following:

- (a) the annual accounts for the expenditure incurred in carrying out the tasks entrusted to their accredited paying agency, as provided for in point (a) of Article 63(5) of the Financial Regulation, accompanied by the requisite information for their clearance in accordance with Article 51;

- (b) the annual performance report, referred to in Article 52(1) of this Regulation and Article 121 of Regulation (EU) .../...[CAP Strategic Plan Regulation] showing that the expenditure was made in accordance with Article 35;
- (ba) an annual summary of the final audit reports and of controls carried out, an analysis of the nature and extent of errors and weaknesses identified in systems, as well as corrective action taken or planned, as provided for in point (b) of Article 63(5) of the Financial Regulation;
- (c) a management declaration as provided for in Article 63(6) of the Financial Regulation, as to:
 - (i) the fact that the information is properly presented, complete and accurate, as provided for in point (a) of Article 63(6) of the Financial Regulation,
 - (ii) the proper functioning of the governance systems put in place, with the exception of the Competent Authority as referred to in Article 7a, the Certification Body as referred to in Article 11 and the Coordinating Body as referred to in Article 10a of this Regulation, ensure that the expenditure was made in accordance with Article 35 of this Regulation, as provided for in points (b) and (c) of Article 63(6) of the Financial Regulation.

The deadline of 15 February referred to in the first subparagraph may be exceptionally extended by the Commission to 1 March, upon request by the Member State concerned, as provided for in the second subparagraph Article 63(7) of the Financial Regulation.

5. Where an accredited paying agency does not meet or no longer meets one or more of the accreditation criteria referred to in paragraph 2, the Member State, acting on its own initiative or at the request of the Commission, shall withdraw that accreditation unless the paying agency makes the necessary changes within a period to be determined by the competent authority depending on the severity of the problem.

6. The paying agencies shall manage and ensure the control of the operations linked to public intervention for which they are responsible and they shall retain overall responsibility in that field.

Where support is provided through a financial instrument which is implemented by the EIB or another international financial institution in which a Member State is a shareholder, the paying agency shall rely on a control report, which the EIB or other international institution shall provide supporting the payment applications submitted.

7. For the purpose of Article 31, for EAFRD expenditure, an additional performance report shall be provided, by 30 of June 2030, in accordance with paragraphs 3 and 4, covering the period until 31 December 2029.

Article 10

Commission powers

1. The Commission is empowered to adopt delegated acts in accordance with Article 100 to ensure the sound operation of the system provided for in Article 8 and Article 10a, supplementing this Regulation with rules on:
 - (a) the minimum conditions for the accreditation of the paying agencies referred to in Article 8(2) and of the coordinating bodies referred to in Article 10(a);
 - (b) the obligations of the paying agencies as regards public intervention, as well as the rules on the content of their management and control responsibilities.
2. The Commission shall adopt implementing acts laying down rules on:
 - (a) the procedures for issuing, withdrawing and reviewing accreditation of paying agencies and coordinating bodies, as well as the procedures for the supervision of the accreditation of paying agencies;

- (b) the working arrangements and procedures for the checks underlying the management declaration of the paying agencies, referred to in point (c) of Article 8(3), as well as its structure and format;
- (c) the functioning of the coordinating body and the notification of information to the Commission as referred to in Article 8(4).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).

Article 10a

Coordinating bodies

1. Where more than one paying agency is accredited in a Member State, that Member State shall appoint a public coordinating body, to which it shall assign the following tasks:
 - (a) to collect the information to be provided to the Commission and to send that information to the Commission;
 - (b) to supply the annual performance report referred to in [Article 52(1) of this Regulation and] Article 121 of Regulation (EU) .../... [CAP Strategic Plan Regulation];
 - (c) to take or coordinate actions with a view to resolving any deficiencies of a common nature and to inform the Commission of any follow-up;
 - (d) to promote and, where possible, ensure the harmonised application of Union rules.
2. As regards the processing of the information of a financial character referred to in point (a) of the first subparagraph, the coordinating body shall be subject to specific accreditation by the Member State.
3. The annual performance report provided by the coordinating body shall be covered by the scope of the opinion referred to in Article 11(1) and its transmission shall be accompanied by a management declaration covering the compilation of the entire report.

Article 11

Certification bodies

1. The certification body shall be a public or private audit body designated by the Member State for a minimum three year period, without prejudice to national law. Where it is a private audit body, and where the applicable Union or national law so requires, it shall be selected by the Member State by means of a public tendering procedure.

However, a Member State that designates more than one certification body may also appoint a public certification body at the national level to be responsible for coordination.

For the purposes of the first subparagraph of Article 63(7) of the Financial Regulation, the certification body shall provide an opinion, drawn up in accordance with internationally accepted audit standards, which shall establish whether:

- (a) the accounts give a true and fair view;
- (b) the Member States' governance systems put in place function properly, in particular:
 - (i) the governance bodies referred to in Articles, 8, 10a of this Regulation and Article 110 of Regulation (EU) .../... [CAP Strategic Plan Regulation].
 - (ii) the basic Union requirements laid down in this Regulation, in Regulation (EU) .../... [CAP Strategic Plan Regulation, Regulation (EU) 2018/1046 (Financial Regulation) and in Directive 2014/24/EU (Public Procurement Directive);
 - (iii) the reporting system put in place for the purposes of the annual performance report referred to in Article 121 of Regulation (EU) .../... [CAP Strategic Plan Regulation];
- (c) the performance reporting on output indicators for the purposes of the annual performance clearance referred to in Article 52 and the performance reporting on result indicators for the multiannual performance monitoring referred to in Article 115 of Regulation (EU) .../... [CAP Strategic Plan Regulation], demonstrating that Article 35 of this Regulation is complied with, is correct;

- (d) the expenditure for the measures laid down in Regulation (EU) No 1308/2013, Regulation (EU) No 228/2013, Regulation (EU) No 229/2013 and Regulation (EU) 1144/2014 for which reimbursement has been requested from the Commission is legal and regular.

That opinion shall also state whether the examination calls into question the assertions made in the management declaration referred to in point(c) of Article 8(3). The examination shall also cover the analysis of the nature and extent of errors and weaknesses identified in systems by audit and controls, as well as corrective action taken or planned by the Paying Agency as referred to in Article 8(3), point (ba).

Where support is provided through a financial instrument which is implemented by the EIB or another international financial institution in which a Member State is a shareholder, the certification body shall rely on the annual audit report drawn up by the external auditors of those institutions. Those institutions shall provide the annual audit report to the Member States.

2. The certification body shall have the necessary technical expertise, as well as knowledge of the CAP. It shall be operationally independent from the paying agency and the coordinating body concerned as well as from the authority which has accredited that agency and the bodies responsible for the implementation and the monitoring of the CAP.
3. The Commission shall adopt implementing acts laying down rules on the functioning of the certification bodies, including the checks to be carried out and the bodies subject to those checks, and on the certificates and the reports, together with the documents accompanying them, to be drawn up by those bodies.

The implementing acts shall also set out:

- (a) the audit principles on which the opinions of the certification bodies are based, including an assessment of the risks, internal controls and the level of audit evidence required;

- (b) the audit methods to be used, by the certification bodies, having regard to international standards on auditing, to deliver their opinions.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).

TITLE III

Financial management of the Funds

CHAPTER I

EAGF

Section 1

Budget discipline

Article 12

Budget ceiling

1. The annual ceiling for EAGF expenditure shall be constituted by the maximum amounts set for it under Regulation (EU, Euratom)[COM(2018) 322 final].
2. In the event that Union law provides for sums to be deducted from or added to the amounts referred to in paragraph 1, the Commission shall adopt implementing acts without applying the procedure referred to in Article 101, setting the net balance available for EAGF expenditure on the basis of the data referred to in Union law.

Article 13

Compliance with the ceiling

1. Where Union law provides for a financial ceiling in euro for agricultural expenditure in respect of a Member State, such expenditure shall be reimbursed subject to that limit set in euro, and, where Articles 37 to 40 apply, with any necessary adjustments.

2. Member States' allocations for direct payments interventions referred to in Article 81 of Regulation (EU).../[CAP Strategic Plan Regulation], corrected by the adjustments laid down in Article 15 of this Regulation, shall be deemed to be financial ceilings in euro.

Article 14

Agricultural reserve

1. An EU agricultural reserve ('the reserve') shall be established at the beginning of each year in the EAGF to provide additional support for the agricultural sector for the purpose of market management or stabilisation and to respond promptly in the case of crises affecting the agricultural production or distribution.

The appropriations for the reserve shall be entered directly in the Union's budget. Funds from the reserve shall be made available, in the financial year or years for which additional support is required, for the following measures:

- (a) measures to stabilise agricultural markets under Articles 8 to 21 of Regulation (EU) No 1308/2013;
 - (b) exceptional measures under Articles 219, 220, and 221 of Regulation (EU) No 1308/2013.
2. The amount of the agricultural reserve shall be EUR 450 million in current prices at the beginning of each year of the period 2023-2027, without prejudice to a higher amount being set in the Union's budget. The Commission may adjust the amount of the agricultural reserve during the year when appropriate in view of market developments or perspectives in the current or following year and taking into account available appropriations under the EAGF sub-ceiling.

In the event that such available appropriations are not sufficient, financial discipline may be used in accordance with Article 15 of this regulation, as a last resort, to fund the reserve up to the initial amount referred to in the first subparagraph.

By way of derogation from Article 12(2), 3rd subparagraph of the Financial Regulation, non-committed appropriations of the reserve shall be carried over to finance the reserve in the following financial years until 2027.

Moreover, by derogation from Article 12(2), 3rd subparagraph of the Financial Regulation, the total unused amount of the crisis reserve available at the end of year 2022 shall be carried over to the year 2023 without being fully returned to the budgetary lines which cover the actions referred to in point (c) of Article 5(2) and made available to the extent necessary for the financing of the agricultural reserve after taking into account appropriations available under the EAGF sub-ceiling. Should appropriations of the crisis reserve remain available after financing the agricultural reserve, these shall be returned to the budgetary lines which cover the actions referred to in point (c) of Article 5(2).

Article 15

Financial discipline

1. An adjustment rate for direct payments interventions referred to in point (c) of Article 5(2) of this Regulation and Union financial contribution to the specific measures referred to in point (f) of Article 5(2) of this Regulation and granted under Chapter IV of Regulation (EU) No 228/2013 and Chapter IV of Regulation (EU) No 229/2013, ("the adjustment rate") shall be determined by the Commission when the forecasts for the financing of the interventions and measures financed under that sub-ceiling for a given financial year indicate that the applicable annual ceilings will be exceeded.

The adjustment rate shall apply to payments to be granted to farmers for the interventions and specific measures referred to in the first subparagraph exceeding EUR 2 000 for the corresponding calendar year. For the purpose of this subparagraph, Article 15(2a) of Regulation (EU) No.../... [CAP Strategic Plan Regulation] shall apply mutatis mutandis.

The Commission shall, by 30 June of the calendar year in respect of which the adjustment rate applies, adopt implementing acts fixing the adjustment rate. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 101(2).

2. Until 1 December of the calendar year in respect of which the adjustment rate applies, the Commission may, on the basis of new information, adopt implementing acts adapting the adjustment rate set in accordance with paragraph 1. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 101(2).
3. Where financial discipline has been applied, the appropriations carried over in accordance with point (d) of Article 12(2) of the Financial Regulation shall be used to finance expenditure under point (c) of Article 5(2) of this Regulation, to the extent necessary to avoid the repeated application of financial discipline.

Where appropriations to be carried-over as referred to in the first subparagraph remain available, the Commission may, adopt implementing acts setting out per Member State the amounts of non-committed appropriations to be reimbursed to final beneficiaries unless the overall amount of non-committed appropriations available for reimbursement represents less than 0,2% of the annual ceiling for EAGF expenditure.

Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 101(2).

4. The amounts set by the Commission in accordance with the second subparagraph of paragraph 3 shall be reimbursed to final beneficiaries by Member States in accordance with objective and non-discriminatory criteria. Member States may apply a minimum threshold of amounts of reimbursement per final beneficiary.

The reimbursement referred to in the first subparagraph shall only apply to final beneficiaries in those Member States where financial discipline applied in the preceding financial year.

5. As a result of the gradual introduction of direct payments interventions provided for in Article 17 of Regulation (EU) No 1307/2013 , financial discipline shall apply to Croatia from 1 January 2022.

6. The Commission is empowered to adopt delegated acts in accordance with Article 100, which are necessary in order to ensure a coherent application of the financial discipline in the Member States, supplementing this Regulation with rules for calculating the financial discipline to be applied by Member States to farmers.

Article 16

Budget discipline procedure

1. Where, on drawing up the draft budget for financial year N, there appears to be a risk that the amount referred to in Article 12 for financial year N will be exceeded, the Commission shall propose to the European Parliament and to the Council or to the Council, the measures necessary to ensure compliance with that amount.
2. If at any time the Commission considers that there is a risk that the amount referred to in Article 12 will be exceeded and that it cannot take adequate measures to remedy the situation, it shall propose other measures to ensure compliance with that amount. Those measures are adopted by the Council where the legal basis of the relevant measure is Article 43(3) of the Treaty or by the European Parliament and the Council where the legal basis of the relevant measure is Article 43(2) of the Treaty.
3. Where, at the end of financial year N, reimbursement requests from the Member States exceed or are likely to exceed the amount referred to in Article 12, the Commission shall:
 - (a) consider the requests presented by Member States pro rata subject to the budget available, and adopt implementing acts setting provisionally the amount of the payments for the month concerned;
 - (b) determine, for all Member States, on or before 28 February of financial year N + 1, their situation with regard to Union financing for the financial year N;
 - (c) adopt implementing acts setting the total amount of Union financing broken down by Member State, on the basis of a single rate of Union financing, subject to the budget which was available for the monthly payments;

- (d) effect, at the latest when the monthly payments are made for March of year N+1, any compensation to be carried out with respect to Member States.

The implementing acts provided for in points (a) and (c) of the first subparagraph shall be adopted in accordance with the advisory procedure referred to in Article 101(2).

Article 17

Early-warning and monitoring system

In order to ensure that the budget ceiling referred to in Article 12 is not exceeded, the Commission shall implement a monthly early-warning and monitoring system in respect of EAGF expenditure.

To that end, at the beginning of each financial year, the Commission shall determine monthly expenditure profiles based, where appropriate, on average monthly expenditure during the previous three years.

The Commission shall periodically present a report to the European Parliament and to the Council in which the development of expenditure effected in relation to the profiles is examined and which contains an assessment of the forecasted implementation for the current financial year.

SECTION 2

FINANCING OF EXPENDITURE

Article 18

Monthly payments

1. The appropriations necessary to finance the expenditure referred to in Article 5(2) shall be made available to Member States by the Commission in the form of monthly payments, on the basis of the expenditure effected by the accredited paying agencies during a reference period.

2. Until the Commission transfers the monthly payments, the resources required to undertake expenditure shall be mobilised by the Member States according to the needs of their accredited paying agencies.

Article 19

Procedure for monthly payments

1. Without prejudice to Articles 51, 52 and 53, monthly payments shall be made by the Commission for expenditure effected by accredited paying agencies during the reference month.
2. Monthly payments shall be made to each Member State on or before the third working day of the second month following that in which the expenditure is effected, taking account of the reductions or suspensions applied under Articles 37 to 40 or any other corrections. Expenditure effected by Member States between 1 and 15 October shall count as having been made in the month of October. Expenditure effected between 16 and 31 October shall count as having been made in the month of November.
3. The Commission shall adopt implementing acts determining the monthly payments which it makes on the basis of a declaration of expenditure from the Member States and the information supplied in accordance with Article 88(1).
4. The Commission shall inform the Member State forthwith of any overrun of financial ceilings by the Member State.
5. The Commission shall adopt the implementing acts determining the monthly payments referred to in paragraph 3 without applying the procedure referred to in Article 101.
6. The Commission may adopt implementing acts determining supplementary payments or deductions adjusting the payments made in accordance with paragraph 3, without applying the procedure referred to in Article 101.

Article 20

Administrative and personnel costs

Expenditure relating to administrative and personnel costs effected by Member States and by beneficiaries of aid from the EAGF shall not be borne by the Fund.

Article 21

Public intervention expenditure

1. Where, within the framework of the common organisation of the markets, a sum per unit is not determined in respect of a public intervention, the EAGF shall finance the measure concerned on the basis of uniform standard amounts, in particular as regards funds originating in the Member States used for buying-in products, for material operations arising from storage and, where appropriate, for the processing of products eligible for intervention, as referred to in Article 11 of Regulation (EU) No 1308/2013.
2. The Commission is empowered to adopt delegated acts in accordance with Article 100 supplementing this Regulation with rules on:
 - (a) the type of measures eligible for Union financing and the reimbursement conditions;
 - (b) the eligibility conditions and calculation methods based on the information actually observed by the paying agencies or based on flat-rates determined by the Commission, or based on flat-rate or non-flat-rate amounts provided for by the sectoral agricultural legislation.
3. The Commission is empowered to adopt delegated acts in accordance with Article 100, supplementing this Regulation with rules on the valuation of operations in connection with public intervention, the measures to be taken in the case of loss or deterioration of products under the public intervention, and the determination of the amounts to be financed.
4. The Commission shall adopt implementing acts, fixing the amounts referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 101(2).

Article 22

Acquisition of satellite data

The list of satellite data required for the area monitoring system referred to in point (c) of Article 64(1) shall be agreed by the Commission and the Member States in accordance with the specification prepared by each Member State.

In accordance with point (b) of Article 7, the Commission shall supply that satellite data free of charge to the authorities competent for the area monitoring system or to suppliers of services authorised by those bodies to represent them.

The Commission shall remain the owner of the satellite data.

The Commission may entrust specialised entities to carry out tasks relating to techniques or working methods in connection with the area monitoring system referred to in point (c) of Article 64(1).

Article 23

Monitoring of agricultural resources

The actions financed pursuant to point (c) of Article 7 shall aim to give the Commission the means to:

- (a) manage Union agricultural markets in a global context;
- (b) ensure agri-economic and agri-environmental-climate monitoring of agricultural land use and agricultural land use change, including agro-forestry, and monitoring of the condition of soil, crops and agricultural landscapes/land so as to enable estimates to be made, in particular as regards yields and agricultural production and agricultural impacts associated with exceptional circumstances, and assessment of the resilience of agricultural systems and progress towards the relevant Sustainable Development Goals;
- (c) share the access to such estimates in an international context, such as the initiatives coordinated by United Nations organisations, including the constitution of greenhouse gas inventories under the UNFCCC, or other international agencies;

- (d) contribute to specific measures increasing the transparency of world markets , taking account of Union objectives and commitments;
- (e) ensure technological follow-up of the agri-meteorological system.

Pursuant to point (c) of Article 7 the Commission shall finance the actions concerning the collection or purchase of data needed to implement and monitor the CAP, including satellite data, geo-spatial data and meteorological data, the creation of a spatial data infrastructure and a website, the carrying out of specific studies on climatic conditions, remote sensing used to assist in the monitoring of agricultural land use change and soil health and the updating of agri-meteorological and econometric models. Where necessary, those actions shall be carried out in collaboration with EEA, JRC, national laboratories and bodies or with the involvement of the private sector.

Article 24

Implementing powers

The Commission may adopt implementing acts laying down:

- (a) rules relating to the financing pursuant to points (b) and (c) of Article 7;
- (b) the procedure under which the measures referred to in Articles 22 and 23 shall be carried out in order to meet the objectives assigned;
- (c) the framework governing the acquisition, enhancing and utilisation of satellite data and meteorological data, and the applicable deadlines.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).

Chapter II

EAFRD

SECTION 1

GENERAL PROVISIONS FOR EAFRD

Article 25

Provisions applying to all payments

1. Payments by the Commission of the EAFRD contribution referred to in Article 6 shall not exceed the budget commitments.

Without prejudice to Article 32(1), those payments shall be assigned to the earliest open budget commitment.

2. Article 110 of the Financial Regulation shall apply.

SECTION 2

EAFRD FINANCING UNDER THE CAP STRATEGIC PLAN

Article 26

Financial contribution from the EAFRD

The financial contribution from the EAFRD towards expenditure under CAP Strategic Plans shall be determined for each CAP Strategic Plan, within the ceilings established by Union law concerning support for CAP Strategic Plan interventions by the EAFRD.

Article 27

Budget commitments

1. The Commission decision adopting a CAP Strategic Plan shall constitute a financing decision within the meaning of Article 110(1) of the Financial Regulation and, once notified to the Member State concerned, a legal commitment within the meaning of that Regulation. This decision shall specify the contribution per year.
2. The Union's budget commitments in respect of each CAP Strategic Plan shall be made in annual instalments between 1 January 2023 and 31 December 2027. By way of derogation from Article 111(2) of the Financial Regulation, for each CAP Strategic Plan, the budget commitments for the first instalment shall follow the adoption of the CAP Strategic Plan by the Commission and its subsequent notification to the Member State. The budget commitments for subsequent instalments shall be made by the Commission before 1 May of each year, on the basis of the decision referred to in the first paragraph of this Article, except where Article 16 of the Financial Regulation applies.

For each CAP Strategic Plan, the budget commitments for the first instalment shall follow the adoption of the CAP Strategic Plan by the Commission.

The budget commitments for subsequent instalments shall be made by the Commission before 1 May of each year, on the basis of the decision referred to in the first paragraph of this Article, except where Article 16 of the Financial Regulation applies.

SECTION 3

FINANCIAL CONTRIBUTION TO RURAL DEVELOPMENT INTERVENTIONS

Article 28

Provisions applying to payments for rural development interventions

1. The appropriations necessary to finance the expenditure referred to in Article 6 shall be made available to Member States in the form of prefinancing, interim payments and the payment of a balance, as described in this Section.
2. The combined total of prefinancing and interim payments shall not exceed 95 % of the EAFRD's contribution to each CAP Strategic Plan.

When the ceiling of 95 % is reached, the Member States shall continue transmitting requests for payments to the Commission.

Article 29

Prefinancing arrangements

1. Following its decision to approve the CAP Strategic Plan, the Commission shall pay an initial prefinancing amount to the Member State for the entire duration of the CAP Strategic Plan. This initial pre-financing amount shall be paid in instalments as follows:
 - (a) in 2023: 1 % of the amount of support from the EAFRD for the entire duration of the CAP Strategic Plan;
 - (b) in 2024: 1 % of the amount of support from the EAFRD for the entire duration of the CAP Strategic Plan;
 - (c) in 2025: 1 % of the amount of support from the EAFRD for the entire duration of the CAP Strategic Plan.

If a CAP Strategic Plan is adopted in 2024 or later, the earlier instalments shall be paid without delay following such adoption.

2. The total amount paid as prefinancing shall be reimbursed to the Commission if no expenditure is effected and no declaration of expenditure for the CAP Strategic Plan is sent within 24 months of the date on which the Commission pays the first instalment of the prefinancing amount. This prefinancing shall be offset against the earliest expenditure declared for the CAP Strategic Plan.
3. No additional prefinancing shall be paid or recovered where a transfer to or from the EAFRD has taken place in accordance with Article 90 of Regulation (EU) .../... [CAP Strategic Plan Regulation].
4. Interest generated on the prefinancing shall be used for the CAP Strategic Plan concerned and deducted from the amount of public expenditure indicated on the final declaration of expenditure.
5. The total prefinancing amount shall be cleared in accordance with the procedure referred to in Article 51 before the CAP Strategic Plan is closed.

Article 30

Interim payments

1. Interim payments shall be made for each CAP Strategic Plan. They shall be calculated by applying the contribution rate as referred to in Art. 85 of Regulation (EU).../...[CAP Strategic Plan Regulation] to the public expenditure effected for each type of intervention excluding payments made from additional national financing as referred to in Article 103(5) of that Regulation.

Interim payments shall also include the amounts referred to in the third subparagraph of Article 86(3) of Regulation (EU) No.../... [CAP Strategic Plan Regulation].

2. Subject to the availability of resources, the Commission shall, taking account of reductions or suspensions applied under Articles 37 to 40, make interim payments in order to reimburse the expenditure effected by accredited paying agencies in implementing the CAP Strategic Plans.

3. Where financial instruments are implemented in accordance with Article 53(1) of Regulation (EU).../... [CPR], the declaration of expenditure shall include the total amounts disbursed or, in the case of guarantees, the amounts set aside for guarantee contracts, by the managing authority, to final recipients as referred to in points (a), (b) and (c) of [Article 74(5) of Regulation (EU) .../... CAP Strategic Plan – eligibility rules or financial instruments].
4. Where financial instruments are implemented in accordance with Article 53(2) of Regulation (EU).../... [CPR], declarations of expenditures that include expenditure for financial instruments shall be submitted in accordance with the following conditions:
 - (a) the amount included in the first declaration of expenditure shall need to have been previously paid to the financial instrument and may be up to 30% of the total amount of the eligible public expenditure committed to the financial instruments under the relevant funding agreement;
 - (b) the amount included in subsequent declarations of expenditures submitted during the eligibility period as defined in Article 80(3) of Regulation (EU) .../... [CAP Strategic Plan Regulation] shall include the eligible expenditure as referred to in [Article 74(5) CAP plan – eligibility rules or financial instruments].
5. Amounts paid in accordance with point (a) of paragraph 4 shall be considered advances for the purpose of the last paragraph of Article 35. The amount included in the first declaration of expenditure, referred to in point (a) of paragraph 4, shall be cleared from Commission accounts no later than in the annual accounts for the last execution year for the relevant CAP Strategic Plan.
6. Each interim payment shall be made by the Commission, subject to compliance with the following requirements:
 - (a) transmission to the Commission of a declaration of expenditure signed by the accredited paying agency, in accordance with Article 88(1)(c);

- (b) no overrun of the total EAFRD contribution to each type of intervention for the entire period covered by the CAP Strategic Plan concerned;
 - (c) transmission to the Commission of the documents to be submitted, as referred to in Articles 8(3) and 11(1);
 - (d) transmission of annual accounts.
7. If one of the requirements laid down in paragraph 6 is not met, the Commission shall forthwith inform the accredited paying agency or the coordinating body, where one has been appointed. If one of the requirements laid down in point (a), (c) or (d) of paragraph 6 is not fulfilled, the declaration of expenditure shall be deemed inadmissible.
8. Without prejudice to Articles 51, 52 and 53, the Commission shall make interim payments within 45 days of registering a declaration of expenditure which meets the requirements laid down in paragraph 6 of this Article.
9. Accredited paying agencies shall establish interim declarations of expenditure relating to CAP Strategic Plans and forward these to the Commission, either directly or via the intermediary of the coordinating body, where one has been appointed, within periods to be set by the Commission.

The Commission shall adopt implementing acts laying down the periods for accredited paying agencies to establish and forward those intermediate declarations of expenditure. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).

Declarations of expenditure shall cover expenditure that the paying agencies have effected during each of the periods concerned. They shall also cover the amounts referred to in the third subparagraph of Article 86(3) of Regulation (EU) No.../... [CAP Strategic Plan Regulation]. However, in cases in which expenditure referred to in Article 80(2) of Regulation (EU) No.../... [CAP Strategic Plan Regulation] cannot be declared to the Commission in the period concerned, due to the pending approval by the Commission of an amendment to the CAP Strategic Plan as referred to in Article 107(9) of Regulation (EU) No.../... [CAP Strategic Plan Regulation], this expenditure may be declared in subsequent periods.

Interim declarations of expenditure in respect of expenditure effected from 16 October onwards shall be booked to the following year's budget.

10. Where the authorising officer by sub-delegation requires further verification, owing to incomplete or unclear information provided or arising from disagreement, differences of interpretation or any other inconsistency relating to a declaration of expenditure for a reference period, arising in particular from a failure to communicate the information required under Regulation (EU) .../... [CAP Strategic Plan Regulation] and Commission acts adopted under that Regulation, the Member State concerned shall, upon request by the authorising officer by sub-delegation, provide additional information within a period set in that request according to the seriousness of the problem.

The time limit for interim payments laid down in paragraph 8 may be interrupted for all or part of the amount for which payment is claimed, for a maximum period of six months, from the date on which the request for information is sent and until receipt of the information requested which is deemed satisfactory. The Member State may agree to extend the interruption period for a further three months.

Where the Member State concerned fails to respond to the request for additional information within the period set in that request or where the response is considered unsatisfactory or indicates that the applicable rules have not been complied with or that Union Funds have been improperly used, the Commission may suspend or reduce payments in accordance with Articles 37 to 40 of this Regulation.

Article 31

Payment of the balance and closure of the rural development interventions in the CAP Strategic Plan

1. After receiving the last annual performance report on the implementation of a CAP Strategic Plan, the Commission shall pay the balance, subject to the availability of resources, on the basis of the financial plan in force at the level of the types of EAFRD interventions, the annual accounts for the last execution year for the relevant CAP Strategic Plan and of the corresponding clearance decisions. Those accounts shall be presented to the Commission no later than six months after the final eligibility date of expenditure provided for in Article 80(3) of Regulation (EU) No.../...[CAP Strategic Plan Regulation] and shall cover the expenditure effected by the paying agency up to the last eligibility date of expenditure.
2. The balance shall be paid no later than six months from the date on which the information and documents referred to in paragraph 1 are considered to be admissible by the Commission and the last annual account has been cleared. Without prejudice to Article 32(5), the amounts still committed after the balance is paid shall be decommitted by the Commission within a period of six months.
3. If, by the time limit set out in paragraph 1, the Commission has not received the last annual performance report and the documents needed for clearance of the accounts of the last execution year of the Plan, the balance shall be automatically decommitted in accordance with Article 32.

Article 32

Automatic decommitment for CAP Strategic Plans

1. The Commission shall automatically decommit any portion of a budget commitment for rural development interventions in a CAP Strategic Plan that has not been used for the purposes of prefinancing or for making interim payments or for which no declaration of expenditure fulfilling the requirements laid down in Article 30(6)(a) and (c) has been presented to it in relation to expenditure effected by 31 December of the second year following that of the budget commitment.
2. The part of budget commitments that is still open on the last eligibility date for expenditure as referred to in Article 80(3) of Regulation (EU) .../[CAP Strategic Plan Regulation] for which no declaration of expenditure has been made within six months of that date shall be automatically decommitted.
3. In the event of legal proceedings or of an administrative appeal having suspensory effect, the period for automatic decommitment referred to in paragraph 1 or 2 shall, in respect of the amount relating to the operations concerned, be interrupted for the duration of those proceedings or that administrative appeal, provided that the Commission receives a substantiated notification from the Member State by 31 January of year N + 3.
4. The following shall be disregarded in calculating the automatic decommitment:
 - (a) that part of the budget commitments for which a declaration of expenditure has been made but for which reimbursement has been reduced or suspended by the Commission at 31 December of year N + 2;
 - (b) that part of the budget commitments which a paying agency has been unable to disburse for reasons of force majeure seriously affecting the implementation of the CAP Strategic Plan. National authorities claiming force majeure shall demonstrate the direct consequences on the implementation of all or part of the rural development interventions in the CAP Strategic Plan.

By 31 January, the Member State shall send to the Commission information on the exceptions referred to in the first subparagraph concerning the amounts declared by the end of the preceding year.

5. The Commission shall inform Member States in good time if there is a risk of automatic decommitment. It shall inform them of the amount involved as indicated by the information in its possession. The Member States shall have two months from receiving this information to agree to the amount in question or present observations. The Commission shall carry out the automatic decommitment not later than nine months after the last time-limit resulting from the application of paragraphs 1, 2 and 3.
6. In the event of automatic decommitment, the EAFRD contribution to the CAP Strategic Plan concerned shall be reduced, for the year in question, by the amount automatically decommitted. The Member State shall produce a revised financing plan splitting the reduction of the aid between the types of interventions for approval by the Commission. If it does not do so, the Commission shall reduce the amounts allocated to each type of intervention pro rata.

CHAPTER III

Common provisions

Article 33

Agricultural financial year

Without prejudice to special provisions on declarations of expenditure and revenue relating to public intervention laid down by the Commission pursuant to point (a) of the first subparagraph of Article 45(3), the agricultural financial year shall cover expenditure paid and revenue received and entered in the accounts of the Funds' budget by the paying agencies in respect of financial year "N" beginning on 16 October of year "N-1" and ending on 15 October of year "N".

Article 34

No double funding

Member States shall ensure that expenditure financed under the EAGF or the EAFRD shall not be the subject of any other financing under the Union's budget.

Under EAFRD, an operation may receive different forms of support from the CAP Strategic Plan and from other Funds as referred to in Article 1(1) of Regulation (EU) .../... [CPR] or Union instruments only if the total cumulated aid amount granted under the different forms of support does not exceed the highest aid intensity or aid amount applicable to that type of intervention as referred to in Title III of Regulation (EU) No.../... (CAP Strategic Plan Regulation). In such cases Member States shall not declare the same expenditure to the Commission for:

- (a) support from another Fund as referred to in Article 1(1) of Regulation (EU) .../... [CPR] or Union instrument; or
- (b) support from the same CAP Strategic Plan.

The amount of expenditure to be entered into a declaration of expenditure may be calculated on a pro rata basis, in accordance with the document setting out the conditions for support.

Article 35

Eligibility of expenditure incurred by the paying agencies

The expenditure referred to in Article 5(2) and Article 6 may be financed by the Union only if it has been effected by accredited paying agencies and, as regards types of interventions referred to in Regulation (EU) .../... [CAP Strategic Plan Regulation],

- (i) it is matched by a corresponding reported output, and
- (ii) it has been effected in accordance with the applicable governance systems, not extending to the eligibility conditions for individual beneficiaries laid down in the national CAP Strategic Plans.

Point (i) of the first paragraph shall not apply to advances paid to beneficiaries under types of interventions referred to in Regulation (EU) No.../...[CAP Strategic Plan Regulation].

Article 36

Compliance with payment deadlines

Where payment deadlines are laid down by Union law, any payment made to the beneficiaries by the paying agencies before the earliest possible date of payment and after the latest possible date of payment shall render those payments ineligible for Union financing.

The Commission is empowered to adopt delegated acts in accordance with Article 100, supplementing this Regulation with rules on the circumstances and conditions in which the payments referred to in the first paragraph of this Article may be deemed eligible, taking into account the principle of proportionality.

Article 37

Reduction of monthly and interim payments

1. Where the Commission establishes from declarations of expenditure or the information referred to in Article 88 that financial ceilings set by Union law have been exceeded, the Commission shall reduce the monthly or interim payments to the Member State in question in the framework of the implementing acts concerning the monthly payments referred to in Article 19(3) or in the framework of the interim payments referred to in Article 30.
2. Where the Commission establishes from declarations of expenditure or the information referred to in Article 88 that the payment deadlines referred to in Article 36 have not been complied with, the Member State shall be afforded the opportunity to submit its comments within a period which shall not be less than 30 days. Where the Member State fails to submit its comments within the said period or where the Commission has concluded that the response provided is manifestly insufficient, the Commission may reduce the monthly or interim payments to the Member State concerned in the framework of the implementing acts concerning the monthly payments referred to in Article 19(3) or in the framework of the interim payments referred to in Article 30.

3. Reductions under this Article shall be without prejudice to Article 51.
4. The Commission may adopt implementing acts laying down further rules on the procedure and other practical arrangements for the proper functioning of the mechanism provided for in Article 36. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).

Article 38

Suspension of payments in relation to the annual clearance

1. Where Member States do not submit the documents referred to in Articles 8(3) and 11(1) by the deadlines, as provided for in Article 8(3), the Commission may adopt implementing acts suspending the total amount of the monthly payments referred to in Article 19(3). The Commission shall reimburse the suspended amounts when it receives the missing documents from the Member State concerned, provided that the date of receipt is not later than six months after the deadline. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 101(2).

As regards the interim payments referred to in Article 30, declarations of expenditure shall be deemed inadmissible in accordance with paragraph 6 of that Article.

2. Where, in the framework of the annual performance clearance referred to in Article 52, the Commission establishes that the difference between the expenditure declared and the amount corresponding to the relevant reported output is more than 50% and the Member State cannot provide duly justified reasons, the Commission may adopt implementing acts suspending the monthly payments referred to in Article 19(3) or the interim payments referred to in Article 30. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 101(2).

The suspension shall be applied to the relevant expenditure in respect of the interventions which have been subject to the reduction referred to in Article 52(2) and the amount to be suspended shall not exceed the percentage corresponding to the reduction applied in accordance with Article 52(2). The amounts suspended shall be reimbursed by the Commission to the Member States or permanently reduced at the latest by means of the implementing act referred to in Article 52 relating to the year for which the payments were suspended. However, if Member States demonstrate that the necessary corrective actions have been taken, the Commission may lift the suspension earlier in a separate implementing act.

The Commission is empowered to adopt delegated acts in accordance with Article 100 supplementing this Regulation with rules on the rate of suspension of payments.

Before adopting the implementing acts referred to in paragraph (1) and the first subparagraph of paragraph (2), the Commission shall inform the Member State concerned of its intention and shall give the Member State the opportunity to submit its comments within a period which shall not be less than 30 days.

The implementing acts determining the monthly payments referred to in Article 19(3) or the interim payments referred to in Article 30 shall take account of the implementing acts adopted under this paragraph.

Article 39

Suspension of payments in relation to the multi-annual performance monitoring

1. Where in accordance with Article 121a(2) and (3) of Regulation (EU) .../...[CAP Strategic Plan Regulation], the Commission asks the Member State concerned to submit an action plan, that Member State shall establish such action plan in consultation with the Commission, including the intended remedial actions and clear progress indicators together with the timeframe during which the progress has to be achieved. That timeframe may extend beyond one financial year.

The Member State concerned shall respond within a period of two months after the Commission's request for an action plan.

Within a period of two months after receipt of the action plan from the Member State concerned, the Commission shall, where appropriate, inform that Member State in writing of its objections to the submitted action plan and request its modification. The Member State concerned shall comply with the action plan, as accepted by the Commission, and comply with the expected timeframe for its execution.

The Commission shall adopt implementing acts laying down further rules on the structure of the action plans and the procedure for setting up the action plans. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).

2. Where the Member State fails to submit or to implement the action plan referred to in paragraph 1 of this Article or if that action plan is manifestly insufficient to remedy the situation or if it has not been modified in accordance with the written request of the Commission as referred to in that paragraph, the Commission may adopt implementing acts suspending the monthly payments referred to in Article 19(3) or the interim payments referred to in Article 30.

By way of derogation from the first subparagraph of this paragraph, the request for an action plan by the Commission for the financial year 2025, as provided for in Article 121a(3) of Regulation (EU) ...I... [CAP Strategic Plan Regulation], shall not lead to a suspension of payments before the following performance review for the financial year 2026.

The suspension of payments referred to in the first subparagraph shall be applied in accordance with the principle of proportionality to the relevant expenditure related to the interventions, which were to be covered by that action plan.

The Commission shall reimburse the suspended amounts when, on the basis of the performance review referred to in Article 121a of Regulation (EU) ...I... [CAP Strategic Plan Regulation] or on the basis of the voluntary notification made during the budget year by the Member States on the advancement of the action plan and of the corrective action taken to remedy to the shortfall, satisfactory progress towards targets is achieved.

If the situation is not remedied by the end of the twelve month following the suspension of payments, the Commission may adopt an implementing act definitively reducing the amount suspended for the Member State concerned.

The implementing acts provided for in this paragraph shall be adopted in accordance with the advisory procedure referred to in Article 101(2).

Before adopting such implementing acts, the Commission shall inform the Member State concerned of its intention and shall ask it to respond within a period which shall not be less than 30 days.

The Commission is empowered to adopt delegated acts in accordance with Article 100 supplementing this Regulation with rules on the rate and duration of suspension of payments and the condition for reimbursing or reducing those amounts with regard to the multi-annual performance monitoring.

Article 40

Suspension of payments in relation to deficiencies in the governance systems

1. In case of serious deficiencies in the functioning of the governance systems, the Commission shall, where necessary ask the Member State concerned to submit an action plan including the necessary remedial actions and clear progress indicators. That action plan, shall be established in consultation with the Commission. The Member State concerned shall respond within a period of two months after the Commission's request in order to assess the need for an action plan.

The Commission shall adopt implementing acts laying down rules on the structure of the action plans and the procedure for setting up the action plans. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).

2. Where the Member State fails to submit or to implement the action plan referred to in paragraph 1 of this Article if that action plan is manifestly insufficient to remedy the situation or if it has not been implemented in accordance with the written request of the Commission as referred to in that paragraph, the Commission may adopt implementing acts suspending the monthly payments referred to in Article 19(3) or the interim payments referred to in Article 30.

The suspension shall be applied in accordance with the principle of proportionality to the relevant expenditure effected by the Member State where the deficiencies exist, for a period to be determined in the implementing acts referred to in the first subparagraph of this paragraph, which shall not exceed 12 months. If the conditions for the suspension continue to be met, the Commission may adopt implementing acts prolonging that period for further periods not exceeding 12 months in total. The amounts suspended shall be taken into account when adopting the implementing acts referred to in Article 53.

3. The implementing acts provided for in this paragraph shall be adopted in accordance with the advisory procedure referred to in Article 101(2).

Before adopting the implementing acts referred to in this paragraph, the Commission shall inform the Member State concerned of its intention and shall ask it to respond within a period which shall not be less than 30 days.

The implementing acts adopted under this paragraph shall be taken into account by implementing acts determining the monthly payments referred to in Article 19(3) or the interim payments referred to in Article 30

Article 41

Keeping separate accounts

Each paying agency shall keep a set of separate accounts for the appropriations entered in the Union's budget for the Funds.

Article 42

Payment to beneficiaries

1. Except where otherwise explicitly provided for in Union law, Member States shall ensure that payments relating to the financing provided for in this Regulation shall be disbursed in full to the beneficiaries.
2. Member States shall ensure that the payments under the interventions and measures referred to in Article 63(2) shall be made within the period from 1 December to 30 June of the following calendar year.

Notwithstanding the first subparagraph, Member States may:

- (a) prior to 1 December but not before 16 October, pay advances of up to 50 % for direct payments interventions and for the measures referred to in Chapter IV of Regulation (EU) No 228/2013 and in Chapter IV of Regulation (EU) No 229/2013 respectively;
 - (b) prior to 1 December pay advances of up to 75 % for the support granted under rural development interventions as referred to in Article 63(2).
3. Member States may decide to pay advances of up to 50% under the interventions referred to in Articles 68 and 71 of Regulation (EU) No.../...[CAP Strategic Plan Regulation].
4. The Commission is empowered to adopt delegated acts in accordance with Article 100 amending this Article by adding rules allowing Member States to pay advances as regards the interventions referred to in Chapter III of Title III of Regulation [CAP Strategic Plan Regulation] and as regards measures regulating or supporting agricultural markets as laid down in Regulation (EU) No 1308/2013 in order to ensure a coherent and non-discriminatory payment of advances.

- 4a. The Commission is empowered to adopt delegated acts in accordance with Article 100 supplementing this Article by setting up specific conditions for the payment of advances, to ensure a coherent and non-discriminatory payment of advances.
5. Upon the request of a Member State, in the event of an emergency, and within the limits of point b) of Article 11 (2) of Regulation (EU, Euratom) 2018/1046, the Commission shall adopt, where appropriate, implementing acts in relation to the application of this Article. Those implementing acts may derogate from paragraph 2, but only to the extent that, and for such a period, as is strictly necessary.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).

Article 43

Assignment of revenue

1. The following shall be "assigned revenue" within the meaning of Article 21 of the Financial Regulation:
- (a) as regards expenditure under both EAGF and EAFRD, sums under Articles 36, 52 and 53 of this Regulation and Article 54 of Regulation (EU) No 1306/2013 applicable in accordance with Article 102 of this Regulation and, as regards expenditure under the EAGF, sums under Article 54 and Article 51 of this Regulation, which must be paid to the Union's budget, including interest thereon;
 - (b) amounts corresponding to penalties applied in accordance with the rules on conditionality as referred to in Article 11 of Regulation (EU) .../... [CAP Strategic Plan Regulation], as regards expenditure under EAGF;
 - (c) any security, deposit or guarantee furnished pursuant to Union law adopted within the framework of the CAP, excluding rural development interventions, and subsequently forfeited. However, forfeited securities lodged when issuing export or import licences or under a tendering procedure for the sole purpose of ensuring that tenderers submit genuine tenders shall be retained by the Member States;

- (d) sums definitively reduced in accordance with Article 39(2).
2. The sums referred to in paragraph 1 shall be paid to the Union's budget and, in the event of reuse, shall be used exclusively to finance EAGF or EAFRD expenditure.
 3. This Regulation shall apply *mutatis mutandis* to assigned revenue referred to in paragraph 1.
 4. As regards the EAGF, Articles 113 of the Financial Regulation shall apply *mutatis mutandis* to the keeping of accounts on assigned revenue referred to in this Regulation.

Article 44

Information measures

1. The provision of information financed pursuant to point (e) of Article 7 shall aim, in particular, to help explain, implement and develop the CAP and to raise public awareness of its content and objectives including its interaction with the climate, environment and animal welfare. This is to inform citizens about the challenges faced in agriculture and food, to inform farmers and consumers, to restore consumer confidence following crises through information campaigns, to inform farmers and other parties active in rural areas and to promote a more sustainable Union model of agriculture, as well as to help citizens understand it.

It shall supply coherent, evidence-based, objective and comprehensive information, both inside and outside the Union, and outline the communication actions planned in the multiannual strategic plan for Agriculture and Rural Development.

2. The measures referred to in paragraph 1 may consist of:
 - (a) annual work programmes or other specific measures presented by third parties;
 - (b) activities implemented on the initiative of the Commission.

Those measures which are required by law or those measures already receiving financing under another Union action shall be excluded.

In order to implement activities as referred to in point (b) of the first subparagraph, the Commission may be assisted by external experts.

The measures referred to in the first subparagraph shall also contribute to the corporate communication of the Union's political priorities in so far as those priorities are related to the general objectives of this Regulation.

3. The Commission shall publish once a year a call for proposals respecting the conditions set out in the Financial Regulation.
4. The Committee referred to in Article 101(1) shall be notified of measures envisaged and taken pursuant to this Article.
5. The Commission shall present a report on the implementation of this Article to the European Parliament and to the Council every two years.

Article 45

Commission powers

1. The Commission is empowered to adopt delegated acts in accordance with Article 100 in order to supplement this Regulation concerning the conditions under which certain types of expenditure and revenue under the Funds are to be compensated.

If the Union's budget has not been adopted by the beginning of the financial year or if the total amount of the commitments scheduled exceeds the threshold laid down in Article 11(2) of the Financial Regulation, the Commission is empowered to adopt delegated acts in accordance with Article 100 supplementing this Regulation with rules on the method applicable to the commitments and the payment of the amounts.

2. The Commission may adopt implementing acts laying down further rules on the obligation laid down in Article 41 and the specific conditions applying to the information to be booked in the accounts kept by the paying agencies. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).

3. The Commission may adopt implementing acts laying down rules on:
- (a) the financing and accounting of intervention measures in the form of public storage, and other expenditure financed by the Funds;
 - (b) the terms and conditions governing the implementation of the automatic decommitment procedure.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).

Chapter IV

Clearance of accounts

SECTION 1

GENERAL PROVISIONS

Article 46

Single audit approach

In accordance with Article 127 of the Financial Regulation, the Commission shall take assurance from the work of the certification bodies referred to in Article 11 of this Regulation, unless it has informed the Member State that it cannot rely on the work of the certification body for a given financial year, and it shall take it into account in its risk assessment of the need for Commission audits in the Member State concerned. The Commission shall inform the Member State of the reasons why it cannot rely on the work of the certification body concerned.

Article 47

Checks by the Commission

1. Without prejudice to the checks carried out by Member States under national law, regulations and administrative provisions or Article 287 of the Treaty or to any check organised under Article 322 of the Treaty or based on Council Regulation (Euratom, EC) No 2185/96 or to Article 127 of the Financial Regulation, the Commission may organise checks in Member States with a view to verifying in particular:
 - (a) compliance of administrative practices with Union rules;
 - (b) whether the expenditure falling within the scope of Article 5(2) and Article 6 of this Regulation and corresponding to the interventions referred to in Regulation (EU) .../...[CAP Strategic Plan Regulation] have a corresponding output as reported in the annual performance report;
 - (c) whether the expenditure corresponding to the measures laid down in Regulation (EU) No 1308/2013, Regulation (EU) No 228/2013, Regulation (EU) No 229/2013 and Regulation (EU) No 1144/2014 have been effected and checked in accordance with applicable Union rules;
 - (d) whether the work of the certification body is carried out in accordance with Article 11 and for the purposes of Section 2 of this Chapter;
 - (e) whether a paying agency complies with the accreditation criteria laid down in Article 8(2) and whether the Member State correctly applies Article 8(5);
 - (f) whether a Member State implements the CAP Strategic Plan in accordance with Article 9 of Regulation (EU) .../... [CAP Strategic Plan Regulation];
 - (g) whether the action plans referred to in Article 40 are correctly implemented.

Persons authorised by the Commission to carry out checks on its behalf, or Commission agents acting within the scope of the powers conferred on them, shall have access to the books and all other documents, including documents and metadata drawn up or received and recorded on an electronic medium, relating to expenditure financed by the EAGF or the EAFRD.

The powers to carry out checks shall not affect the application of national provisions which reserve certain acts for agents specifically designated by national law. Without prejudice to the specific provisions of Regulation (EU, Euratom) No 883/2013 and Regulation (Euratom, EC) No 2185/96, persons authorised by the Commission to act on its behalf shall not take part, inter alia, in home visits or the formal questioning of persons on the basis of law of the Member State concerned. However, they shall have access to information thus obtained.

2. The Commission shall give sufficient prior notice of a check to the Member State concerned or to the Member State within whose territory the check is to take place, taking into account the administrative impact on paying agencies when organising checks. Agents from the Member State concerned may take part in such checks.

At the request of the Commission and with the agreement of the Member State, additional checks or inquiries into the operations covered by this Regulation shall be undertaken by the competent bodies of that Member State. Commission agents or persons authorised by the Commission to act on its behalf may take part in such checks.

In order to improve checks, the Commission may, with the agreement of the Member States concerned, request the assistance of the authorities of those Member States for certain checks or inquiries.

Article 48

Access to information

1. Member States shall make available to the Commission all information necessary for the smooth operation of the Funds and shall take all appropriate measures to facilitate the checks which the Commission deems appropriate in connection with the management of Union financing.
2. Member States shall communicate to the Commission at its request the laws, regulations and administrative provisions which they have adopted in order to implement the Union legal acts relating to the CAP, where those acts have a financial impact on the EAGF or the EAFRD.
3. Member States shall make available to the Commission information about irregularities within the meaning of Regulation (EC, Euratom) No 2988/95 and other cases of non-compliance with the conditions established by Member States in the CAP Strategic Plan, suspected fraud cases detected, and information about the steps taken pursuant to Section 3 of this Chapter to recover undue payments in connection with those irregularities and frauds. The Commission shall summarise and publish that information annually, communicating it to the European Parliament.

Article 49

Access to documents

The accredited paying agencies shall keep supporting documents relating to payments made and documents relating to the performance of the checks required by Union law, and shall make the documents and information available to the Commission.

Those supporting documents may be kept in electronic form under the conditions laid down by the Commission on the basis of Article 50(2).

Where those documents are kept by an authority acting under delegation from a paying agency and responsible for authorising expenditure, that authority shall send reports to the accredited paying agency on the number of checks made, their content and the measures taken in the light of their results.

This Article shall apply *mutatis mutandis* to the certification bodies.

Article 50

Commission powers

1. The Commission is empowered to adopt delegated acts in accordance with Article 100 which are necessary to ensure the correct and efficient application of the provisions relating to checks and access to documents and information set out in this Chapter, supplementing this Regulation with specific obligations to be complied with by the Member States under this Chapter and with rules on the criteria for determining the cases of irregularity within the meaning of Regulation (EU, Euratom) No 2988/95 and other cases of non-compliance with the conditions established by Member States in the CAP Strategic Plan, to be reported and the data to be provided.
2. The Commission may adopt implementing acts laying down rules on:
 - (a) the procedures relating to the cooperation obligations to be complied with by the Member States for the implementation of Articles 47 and 48;
 - (b) the conditions under which the supporting documents referred to in Article 49 are to be kept, including their form and the time period of their storage.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).

SECTION 2

CLEARANCE

Article 51

Annual financial clearance

1. Prior to 31 May of the year following the budget year in question and on the basis of the information referred to in points (a) and (c) of Article 8(3), the Commission shall adopt implementing acts, containing its decision on the clearance of the accounts of the accredited paying agencies, for the expenditure referred to in Article 5(2) and Article 6.

Those implementing acts shall cover the completeness, accuracy and veracity of the annual accounts submitted and shall be without prejudice to the content of the implementing acts subsequently adopted pursuant to Articles 52 and 53.

Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 101(2).

2. The Commission shall adopt implementing acts laying down rules on the actions necessary for the purposes of adoption and implementation of the implementing acts referred to in paragraph 1, including the rules on information exchange between the Commission and the Member States and the deadlines to be respected.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).

Article 52

Annual performance clearance

1. Where the expenditure referred to in Article 5(2) and Article 6 of this Regulation and corresponding to the interventions referred to in Title III of Regulation (EU) .../... [CAP Strategic Plan Regulation] does not have a corresponding output as reported in the annual performance report referred to in Article 10a and Article 8(3) of this Regulation and in Article 121 of Regulation (EU) .../... [CAP Strategic Plan Regulation], the Commission shall adopt implementing acts prior to 15 October of the year following the budget year in question determining the amounts to be reduced from Union financing. Those implementing acts shall be without prejudice to the content of the implementing acts subsequently adopted pursuant to Article 53 of this Regulation.

Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 101(2).

2. The Commission shall assess the amounts to be reduced on the basis of the difference between the annual expenditure declared for an intervention and the amount corresponding to the relevant reported output in accordance with the national CAP Strategic Plan and taking account of justifications provided by the Member State in the annual performance reports in accordance with Article 121(54) of Regulation (EU) No.../... [CAP Strategic Plan Regulation].
3. Before the adoption of the implementing act referred to in paragraph 1 of this Article, the Commission shall give the Member State an opportunity to submit its comments and justify any differences within a period which, where the documents in accordance with Article 10a, Article 8(3) and Article 11(1) have been submitted by the deadline, shall not be less than 30 days.
4. The Commission is empowered to adopt delegated acts in accordance with Article 100 supplementing this Regulation with rules on the criteria for justifications from the concerned Member State and the methodology and criteria for applying reductions.

5. The Commission shall adopt implementing acts laying down rules on the actions necessary for the purposes of adoption and implementation of the implementing acts referred to in paragraph 1, including the rules on information exchange between the Commission and the Member States and the deadlines to be respected.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).

Article 53

Conformity procedure

1. Where the Commission finds that the expenditure referred to in Article 5(2) and Article 6 has not been effected in conformity with Union law, the Commission shall adopt implementing acts determining the amounts to be excluded from Union financing

However, as regards the types of interventions referred to in Regulation (EU) .../... [CAP Strategic Plan Regulation] the exclusions from Union financing as referred to in the first subparagraph of this paragraph shall only apply in the case of serious deficiencies in the functioning of the Member States' governance systems.

The first subparagraph shall not apply to cases of non-compliance with the eligibility conditions for individual beneficiaries laid down in the national CAP Strategic Plans and national rules.

The implementing acts referred to in the first subparagraph of this paragraph shall be adopted in accordance with the advisory procedure referred to in Article 101(2).

2. The Commission shall assess the amounts to be excluded on the basis of the gravity of the deficiencies found. It shall take due account of the nature of the infringement and of the financial damage incurred by the Union.

3. Before the adoption of the implementing act referred to in paragraph 1, the Commission findings and the Member State's replies shall be notified in writing following which the two parties shall attempt to reach agreement on the action to be taken. Following this, the Member States shall be given the opportunity to demonstrate that the actual extent of the non-compliance is lower than the Commission's assessment.

If agreement is not reached, the Member State may request the opening of a procedure aimed at reconciling, within a period of four months, each party's position. A report on the outcome of the procedure shall be submitted to the Commission. The Commission shall take into account the recommendations in the report before making a decision to refuse financing and shall provide justification where it decides not to follow those recommendations.

4. Financing shall not be refused for:
 - (a) expenditure as indicated in Article 5(2) which is effected more than 24 months before the Commission notifies the Member State in writing of its findings;
 - (b) expenditure on multiannual interventions falling within the scope of Article 5(2) or within the scope of the rural development interventions as referred to in Article 6, where the final obligation on the beneficiary occurs more than 24 months before the Commission notifies the Member State in writing of its findings;
 - (c) expenditure on rural development interventions, as referred to in Article 6, other than those referred to in point (b) of this paragraph, for which the payment or, as the case may be, the final payment, by the paying agency, is made more than 24 months before the Commission notifies the Member State in writing of its findings.
5. Paragraph 4 shall not apply in the case of:
 - (a) aids granted by a Member State for which the Commission has initiated the procedure laid down in Article 108(2) of the Treaty or infringements which the Commission has notified to the Member State concerned by a reasoned opinion in accordance with Article 258 of the Treaty;

- (b) infringements by Member States of their obligations under Chapter III of Title IV of this Regulation, provided that the Commission notifies the Member State in writing of its findings within 12 months following receipt of the Member State's report on the results of its checks on the expenditure concerned.
6. The Commission is empowered to adopt delegated acts in accordance with Article 100 supplementing this Regulation with rules on the criteria and methodology for applying financial corrections.
7. The Commission shall adopt implementing acts laying down rules on the actions necessary for the purposes of adoption and implementation of the implementing acts referred to in paragraph 1, including the rules on information exchange between the Commission and the Member States and the deadlines to be respected and the conciliation procedure provided for in paragraph 3, and including the establishment, tasks, composition and working arrangements of the conciliation body.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).

SECTION 3

RECOVERIES FOR NON-COMPLIANCE

Article 54

Provisions specific to the EAGF

Sums recovered by the Member States following the occurrence of irregularities and other cases of non-compliance by beneficiaries with the conditions of the interventions referred to in the CAP Strategic Plan and the interest thereon shall be made over to the paying agency and booked by it as revenue assigned to the EAGF in the month in which the sums are actually received.

Member States may, without prejudice to the first paragraph, instruct the paying agency, as the body responsible for the recovery of debt, to deduct any outstanding debts owed by a beneficiary from future payments to that beneficiary.

When the Union's budget is credited as referred to in the first paragraph, the Member State may retain 20 % of the corresponding amounts as flat rate recovery costs, except in cases of non-compliance attributable to its administrative authorities or other official bodies.

Article 55

Provisions specific to the EAFRD

1. Where irregularities and other cases of non-compliance by beneficiaries, and as regards financial instruments also by specific funds under holding funds or final recipients, with the conditions of the rural development interventions referred to in the CAP Strategic Plan are detected, Member States shall make financial adjustments by cancelling partially or, when justified, entirely the Union financing concerned. Member States shall take into consideration the nature and gravity of the non-compliance detected and the level of the financial loss to the EAFRD.

Amounts of the Union financing under the EAFRD which are cancelled and amounts recovered, and the interest thereon, shall be reallocated to other rural development operations in the CAP Strategic Plan. However, the cancelled or recovered Union Funds may be reused by Member States only for a rural development operation under the national CAP Strategic Plan and provided the funds are not reallocated to rural development operations which have been the subject of a financial adjustment.

Member States shall deduct any sums unduly paid as a result of an outstanding irregularity by a beneficiary, under the terms set out in this Article, from any future payments to the beneficiary by the paying agency.

However, the cancelled or recovered Union funds may be reused in their entirety by Member States only for a rural development operation under the national CAP Strategic Plan and provided the funds are not reallocated to rural development operations which have been the subject of a financial adjustment.

2. By way of derogation from the second subparagraph of paragraph 1, for rural development interventions receiving aid from financial instruments as referred to in Regulation (EU) .../...[CPR Article 52], a contribution cancelled as a result of an individual non-compliance, may be reused within the same financial instrument as follows:
- (a) where the non-compliance that gives rise to the cancellation of the contribution is detected at the level of the final recipient referred to in [CPR Article 2(17)] of Regulation (EU) .../..., only for other final recipients within the same financial instrument;
 - (b) where the non-compliance that gives rise to the cancellation of the contribution is detected at the level of the specific fund as referred to in [CPR Article 2(21)] of Regulation (EU) .../... within a holding fund as referred to in [CPR Article 2(20)] of Regulation (EU) .../..., only for other specific funds.

Article 56

Implementing powers

The Commission shall adopt implementing acts laying down rules on the possible off-setting of the amounts resulting from recovery of undue payments and the forms of notification and communication to be made by the Member States to the Commission in relation to the obligations set out in this Section.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).

TITLE IV

Control systems and penalties

Chapter I

General rules

Article 57

Protection of the financial interests of the Union

1. Member States shall, within the framework of the CAP, while respecting the applicable governance systems, adopt all legislative, regulatory and administrative provisions and take any other measures necessary to ensure effective protection of the financial interests of the Union including effective application of the eligibility of expenditure criteria laid down in Article 35. Those provisions and measures shall relate in particular to:
 - (a) checking the legality and regularity of operations financed by the Funds, including at the level of beneficiaries and as set out in the national strategic plans;
 - (b) ensuring effective prevention against fraud, especially in areas with a higher level of risk, and which will act as a deterrent, having regard to the costs and benefits and the proportionality of the measures;
 - (c) preventing, detecting and correcting irregularities and fraud;
 - (d) imposing penalties which are effective, dissuasive and proportionate in accordance with Union law, or failing this, national law, and bring legal proceedings to that effect, as necessary;
 - (e) recovering undue payments plus interest, and bring legal proceedings to that effect as necessary, including for irregularities within the meaning of Regulation (EU, Euratom) No 2988/95.

2. Member States shall set up efficient management and control systems in order to ensure compliance with the Union legislation governing Union interventions.

Member States shall take the actions necessary to ensure the proper functioning of their management and control systems and the legality and regularity of expenditure declared to the Commission.

To assist the Member States in this respect, the Commission shall make available to the Member States a data-mining tool to assess risks presented by projects, beneficiaries, contractors and contracts while ensuring minimal administrative burden and effective protection of the Union financial interest. That data-mining tool may also be used in order to avoid circumvention of rules as referred to in Article 60. By 2025, the Commission shall present a report which assesses the use of the single data mining tool and its interoperability in a view of its generalised use by Member States.

- 2a. Member States shall ensure the quality and reliability of the reporting system and of data on indicators.
- 2b. Member States shall ensure that beneficiaries of Funds provide them with the information necessary for their identification, including, where applicable, the identification of the group in which they participate, as defined in article 2 of Directive 2013/34/EU.
3. Member States shall take appropriate precautions ensuring that the penalties applied as referred to in point (d) of paragraph 1 are proportionate and graduated according to the severity, extent, duration and reoccurrence of the non-compliance found.

The arrangements set out by Member States shall ensure, in particular, that no penalties shall be imposed:

- (a) where the non-compliance is due to force majeure or exceptional circumstances as referred to in Article 3;
- (b) where the non-compliance is due to an error of the competent authority or another authority, and where the error could not reasonably have been detected by the person concerned by the administrative penalty;

- (c) where the person concerned can demonstrate to the satisfaction of the competent authority that he or she is not at fault for the non-compliance with the obligations referred to in paragraph 1 or if the competent authority is otherwise satisfied that the person concerned is not at fault.

Where the non-compliance with the conditions for the granting of the aid is due to force majeure or exceptional circumstances as referred to in Article 3, the beneficiary shall retain the right to receive aid.

- 3a. Member States may in their management and control systems include the possibility for aid applications and payment claims to be corrected after submission without an effect on the right to receive aid, provided that the elements or omissions to be corrected were made in good faith as recognised by the competent authority; and requires that the correction is made either before the applicant is informed of being selected for an on-the-spot check or the competent authority has taken its decision in respect of the application.
- 4. Member States shall introduce arrangements for ensuring the effective examination of complaints concerning the Funds and shall, upon request by the Commission, examine complaints submitted to the Commission falling within the scope of their CAP Strategic Plan. Member States shall inform the Commission of the results of those examinations. The Commission shall ensure that complaints directly lodged with it are adequately followed up. Where the Commission forwards a complaint to a Member State for follow-up, and the Member State fails to do so by the deadline set by the Commission, the Commission shall take the necessary steps with a view to obliging the Member State to respect its obligations under this paragraph.
- 5. Member States shall inform the Commission of the provisions adopted and measures taken under paragraphs 1 and 2.

Any conditions established by Member States to supplement the conditions laid down by Union rules for receiving support financed by the EAGF or the EAFRD shall be verifiable.

6. The Commission may adopt implementing acts, laying down rules necessary for the uniform application of this Article relating to the following:
- (a) the procedures, deadlines, exchange of information, requirements for the data mining tool and information to be collected on the identification of beneficiaries, in relation to the obligations as set out in paragraphs 1, 2 and 2b , respectively;
 - (b) the notification and communication to be made by the Member States to the Commission in relation to the obligations set out in paragraphs 3 and 4.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).

Article 58

Rules regarding checks to be carried out

1. The system set up by the Member States in accordance with Article 57(2) shall include systematic checks which shall also target the areas where the risk of errors is the highest.

Member States shall ensure that a level of checks needed for an effective management of the risks to the financial interest of the Union is carried out. The relevant authority shall draw its check sample from the entire population of applicants comprising, where appropriate, a random part and a risk-based part.

2. Checks of operations receiving aid from financial instruments as referred to in [CPR Article 52] of Regulation (EU) .../... shall be carried out only at the level of the holding fund and specific funds, and, in the context of guarantee funds, at the level of bodies delivering the underlying new loans.

Checks shall not be carried out at the level of the EIB or other international financial institutions in which a Member State is a shareholder.

3. The Commission is empowered to adopt delegated acts in accordance with Article 100 which are necessary to ensure that the checks are carried out correctly and efficiently and that the eligibility conditions are verified in an efficient, coherent and non-discriminatory manner which protects the financial interest of the Union, supplementing this Regulation with rules, where the proper management of that system so requires, on additional requirements with respect to customs procedures, and in particular to those laid down in Regulation (EU) No 952/2013 of the European Parliament and of the Council.
4. As regards measures referred to in the sectoral agricultural legislation other than Regulation (EU) .../... [CAP Strategic Plan Regulation], the Commission shall adopt implementing acts, laying down rules necessary for the uniform application of this Article, and in particular:
- (a) with regard to hemp as referred to in point c) of Article 4 of Regulation (EU) .../... [CAP Strategic Plan Regulation], rules on the specific control measures and methods for determining tetrahydrocannabinol levels;
 - (b) with regard to cotton as referred to in subsection 2 of Section 2 of Chapter 2 of Title III of Regulation (EU) .../... [CAP Strategic Plan Regulation], a system for checks of the approved interbranch organisations;
 - (c) with regard to wine as referred to in Regulation (EU) No 1308/2013, rules on the measurement of areas, on checks and on rules governing the specific financial procedures for the improvement of checks;
 - (d) the tests and methods to be applied in order to establish the eligibility of products for public intervention and private storage, and the use of tendering procedures, both for public intervention and for private storage;
 - (e) other rules on the checks to be conducted by the Member States, as regards the measures laid down in Chapter IV of Regulation (EU) No 228/2013 and in Chapter IV of Regulation (EU) No 229/2013 respectively.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).

Article 59

Non-compliance with public procurement rules

Where the non-compliance concerns national or Union rules on public procurement, Member States shall ensure that the part of the aid not to be paid or to be withdrawn shall be determined on the basis of the gravity of the non-compliance and in accordance with the principle of proportionality.

Member States shall ensure that the legality and regularity of the transaction shall only be affected up to the level of the part of the aid not to be paid or to be withdrawn.

Article 60

Circumvention clause

Without prejudice to specific provisions, Member States shall take effective and proportionate measures to avoid provisions of Union law to be circumvented and ensure, in particular, that no advantage provided for under sectoral agricultural legislation shall be granted in favour of a natural or legal person in respect of whom it is established that the conditions required for obtaining such advantages were created artificially, contrary to the objectives of that legislation.

Article 61

Compatibility of interventions for the purposes of checks in the wine sector

For the purposes of applying the interventions in the wine sector as referred to in Regulation (EU) .../... [CAP Strategic Plan Regulation], Member States shall ensure that the administration and control procedures applied to those interventions are compatible with the integrated system referred to in Chapter II of this Title as regards the following elements:

- (a) the identification systems for agricultural parcels;
- (b) the checks.

Article 62

Securities

1. The Member States shall, when the sectoral agricultural legislation so provides, request the lodging of a security giving the assurance that a sum of money will be paid or forfeited to a competent authority if a particular obligation under sectoral agricultural legislation is not fulfilled.
2. Except in cases of force majeure, the security shall be forfeited in whole or in part where the execution of a particular obligation is not carried out, or is carried out only partially.
3. The Commission is empowered to adopt delegated acts in accordance with Article 100 supplementing this Regulation with rules which ensure a non-discriminatory treatment, equity and the respect of proportionality when lodging a security. Those rules shall:
 - (a) specify the responsible party in the event that an obligation is not met;
 - (b) lay down the specific situations in which the competent authority may waive the requirement of a security;
 - (c) lay down the conditions applying to the security to be lodged and the guarantor and the conditions for lodging and releasing that security;
 - (d) lay down the specific conditions related to the security lodged in connection with advance payments;
 - (e) set out the consequences of breaching the obligations for which a security has been lodged, as provided for in paragraph 1, including the forfeiting of securities, the rate of reduction to be applied on release of securities for refunds, licences, offers, tenders or specific applications and when an obligation covered by that security has not been met either wholly or in part, taking into account the nature of the obligation, the quantity for which the obligation has been breached, the period exceeding the time limit by which the obligation should have been met and the time by which evidence that the obligation has been met is produced.

4. The Commission may adopt implementing acts laying down rules on:
- (a) the form of the security to be lodged and the procedure for lodging the security, for accepting it, and for replacing the original security;
 - (b) the procedures for the release of a security;
 - (c) the notifications to be made by Member States and by the Commission.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).

Chapter II

Integrated administration and control system

Article 63

Scope and definitions

1. Each Member State shall set up and operate an integrated administration and control system (the 'integrated system').
2. The integrated system shall apply to the area- and animal-based interventions listed in Chapters II and IV of Title III of Regulation (EU) .../... [CAP Strategic Plan Regulation] and to the measures referred to in Chapter IV of Regulation (EU) No 228/2013²⁰ and in Chapter IV of Regulation (EU) 229/2013²¹ respectively.
3. To the extent necessary, the integrated system shall also be used for the management and control of conditionality and interventions in the wine sector as laid down in Title III of Regulation (EU) .../... [CAP Strategic Plan Regulation].

²⁰ Regulation (EU) No 228/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in the outermost regions of the Union and repealing Council Regulation (EC) 247/2006 (OJ L 78, 20.3.2013, p. 23).

²¹ Regulation (EU) No 229/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in favour of the smaller Aegean islands and repealing Council Regulation (EC) No 1405/2006 (OJ L 78, 20.3.2013, p. 41).

4. For the purposes of this Chapter:

- (a) "geo-spatial application" means an electronic application form that includes an IT application based on a geographic information system that allows beneficiaries to spatially declare the agricultural parcels of the holding as defined in point (b) of Article 3 of Regulation (EU) .../... [CAP Strategic Plan Regulation] and non-agricultural areas claimed for payment;
- (b) "area monitoring system" means a procedure of regular and systematic observation, tracking and assessment of agricultural activities and practices on agricultural areas by Copernicus Sentinels satellite data or other data with at least equivalent value;
- (c) "system for the identification and registration of animals" means the system for the identification and registration of bovine animals laid down by Regulation (EC) No 1760/2000 of the European Parliament and of the Council¹ or the system for the identification and registration of ovine and caprine animals laid down by Council Regulation (EC) No 21/2004² or, where applicable, the system for the identification and registration of pigs laid down by Council Directive 2008/71/EC;³
- (d) "agricultural parcel" means a unit, as defined by Member States, of agricultural area as defined in accordance with point (b) of Article 4(1) of Regulation (EU) .../... [CAP Strategic Plan Regulation];
- (e) "geographic information system" means a computer system capable of capturing, storing, analysing, and displaying geographically referenced information;
- (f) "automatic claim system" means an application system for area- or animal-based interventions, in which the data required by the administration on at least individual areas or animals claimed for aid are available in official computerised databases managed by the Member State and are made available to the beneficiary where necessary.

Article 64

Elements of the integrated system

1. The integrated system shall comprise the following elements:
 - (a) an identification system for agricultural parcels;
 - (b) a geo-spatial application system and, where applicable, an animal-based application system;
 - (c) an area monitoring system;
 - (d) a system for the identification of beneficiaries of the interventions and measures referred to in Article 63(2);
 - (e) a control and penalties system;
 - (f) where applicable, a system for the identification and registration of payment entitlements;
 - (g) where applicable, a system for the identification and registration of animals.
- 1a The integrated system shall provide information relevant for the reporting on the indicators referred to in Article 7 of Regulation (EU) .../...[CAP Strategic Plan Regulation].
2. The integrated system shall operate on the basis of electronic databases and geographic information systems and shall enable the exchange and integration of data between the electronic databases and the geographic information systems (GIS). Where relevant, GIS shall allow for this exchange and integration of data on agricultural parcels in delimited protected zones and designated areas that have been established in accordance with Union legislation listed in Annex XI to Regulation (EU) .../... [CAP Strategic Plan Regulation], such as Natura 2000 areas or Nitrate Vulnerable Zones, as well as the landscape features under the good agriculture and environmental conditions defined in line with Article 12 of that Regulation [CAP SPR] or covered by interventions listed in Chapters II and IV of Title III of the same Regulation.

3. Without prejudice to the responsibilities of the Member States for the implementation and application of the integrated system, the Commission may seek the assistance of specialised bodies or persons in order to facilitate the establishment, monitoring and operation of the integrated system, in particular, with a view to providing the competent authorities of the Member States with technical advice.
4. Member States shall take the measures required for the proper establishment and operation of the integrated system and, where requested by another Member State, shall give one another the mutual assistance needed for the purposes of this Chapter.

Article 65

Data keeping and sharing

1. Member States shall record and keep any data and documentation on the annual outputs reported in the context of the annual performance clearance as referred to in Article 52, and the reported progress towards targets as set out in the CAP Strategic Plan and monitored in accordance with Article 115 of Regulation (EU) .../...[CAP Strategic Plan Regulation].

The data and documentation referred to in the first subparagraph relating to the current calendar year or marketing year and to the previous ten calendar years or marketing years shall be accessible for consultation through the digital databases of the competent authority of the Member State.

Data used for the area monitoring system may be stored as raw data on a server external to the competent authorities. Those data shall be kept on a server for at least three years.

By way of derogation from the second subparagraph, Member States which acceded to the Union in or after 2013 shall only be required to ensure that the data is available for consultation from the year of their accession.

By way of derogation from the second subparagraph, Member States shall only be required to ensure that the data and documentation related to the area monitoring system referred to in point (c) of Article 64(1) is available for consultation as of the date of the implementation of the area monitoring system.

2. Member States may apply the requirements laid down in paragraph 1 at regional level on condition that those requirements and the administrative procedures for recording and accessing data are designed to be uniform throughout the territory of the Member State and enable data to be aggregated at national level.
3. Member States shall ensure that data sets collected through the integrated system which are relevant for the purposes of Directive 2007/2/EC of the European Parliament and of the Council²² or relevant for monitoring Union policies, are shared free of charge between its public authorities and made publicly available at national level. Member States shall also provide the institutions and bodies of the Union with access to these data sets.
4. Member States shall ensure that data sets collected through the integrated system, and which are relevant for the production of European statistics as referred to in Regulation (EC) No 223/2009²³, are shared free of charge with the Community statistical authority, the national statistical institutes and, where necessary, with other national authorities responsible for the production of European statistics.
5. Member States shall limit public access to data sets referred to in paragraphs 3 and 4 where such access would adversely affect the confidentiality of personal data, in accordance with Regulation (EU) 2016/679.
- 5a. Member States shall set up systems in such a way to ensure that beneficiaries have access to all relevant data related to them, regarding the land they use or intend to use, in order to enable them to submit accurate applications.

²² Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (OJ L 108, 25.4.2007, p. 1).

²³ Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics and repealing Regulation (EC, Euratom) No 1101/2008 of the European Parliament and of the Council on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities, Council Regulation (EC) No 322/97 on Community Statistics, and Council Decision 89/382/EEC, Euratom establishing a Committee on the Statistical Programmes of the European Communities (OJ L 87, 31.3.2009, p. 164).

Article 66

Identification system for agricultural parcels

1. The identification system for agricultural parcels shall be a geographic information system established and regularly updated by the Member States on the basis of aerial or spatial ortho-imagery, with a uniform standard that guarantees a level of accuracy that is at least equivalent to that of cartography at a scale of 1:5 000.
2. Member States shall ensure that the identification system for agricultural parcels:
 - (a) uniquely identifies each agricultural parcel and units of land containing non-agricultural areas considered eligible by the Member States for receiving the aid for the interventions referred to in Title III of Regulation (EU) .../... [CAP Strategic Plan Regulation];
 - (b) contains up-to-date values on the areas considered eligible by the Member States for receiving the aid for the interventions referred to in Article 63(2);
 - (c) enables the correct localisation of agricultural parcels and non-agricultural areas claimed for payment;
3. Member States shall annually assess the quality of the identification system for agricultural parcels in accordance with the methodology set up at Union level.

Where the assessment reveals deficiencies in the system, Member States shall adopt appropriate remedial actions or shall be requested by the Commission to set up an action plan in accordance with Article 40.

An assessment report and, where appropriate, the remedial actions and the timetable for their implementation shall be submitted to the Commission by 15 February following the calendar year concerned.

Article 67

Geo-spatial and animal-based application system

1. As regards the aid for the area-based interventions referred to in Article 63(2) and implemented under the national CAP Strategic Plans, Member States shall require the submission of an application by means of the geo-spatial application form provided by the competent authority.
2. As regards the aid for the animal-based interventions referred to in Article 63(2) and implemented under the national CAP Strategic Plans, Member States shall require the submission of an application.
3. Member States shall pre-fill the applications referred to in paragraphs 1 and 2 with information from the systems referred to in point (g) of Article 64(1) and in Articles 66, 68, 69 and 71 or from any other relevant public database.
4. Member States may set up an automatic claim system and decide which applications referred to in paragraphs 1 and 2 it shall cover.
- 4a. If a Member States decides to use an automatic claim system, it shall set up a system, which enable the administration to make the payments to the beneficiaries based on the existing details in the official computerised databases, where there has been no change, supplemented with additional information, where necessary to cover a change. Those details and any such additional information available through the automatic claim system shall be confirmed by the beneficiary.
5. Member States shall annually assess the quality of the geo-spatial application system in accordance with the methodology set up at Union level.

Where the assessment reveals deficiencies in the system, Member States shall adopt appropriate remedial actions or shall be requested by the Commission to set up an action plan in accordance with Article 40.

An assessment report and, where appropriate, the remedial actions and the timetable for their implementation shall be submitted to the Commission by 15 February following the calendar year concerned.

Article 68

Area monitoring system

1. Member States shall set up and operate an area monitoring system, which shall be operational from 1 January 2023. Should the full deployment of the system from that date not be feasible due to technical limitations, Member States may choose to set up and start the operation of such a system gradually, providing information for a limited number of interventions only. However, by 1 January 2024, an area monitoring system in all Member States shall be fully operational.
2. Member States shall annually assess the quality of the area monitoring system in accordance with the methodology set up at Union level.

Where the assessment reveals deficiencies in the system, Member States shall adopt appropriate remedial actions or shall be requested by the Commission to set up an action plan in accordance with Article 40.

An assessment report and, where appropriate, the remedial actions and the timetable for their implementation shall be submitted to the Commission by 15 February following the calendar year concerned.

Article 69

System for the identification of beneficiaries

The system for recording the identity of each beneficiary of the interventions and measures as referred to in Article 63(2) shall guarantee that all applications submitted by the same beneficiary can be identified as such.

Article 70

Control and penalties system

Member States shall set up a control and penalties system for the aid as referred to in Article 63. Member States, through the paying agencies or the bodies delegated by them, shall annually carry out administrative checks on the aid application and payment claims to verify legality and regularity as referred to in Article 57 (1)(a). Those checks shall be supplemented by on-the-spot checks, which may be executed remotely with the use of technology.

Article 71

System for the identification and registration of payment entitlements

The system for the identification and registration of payment entitlements shall allow for verification of the entitlements with the applications and the identification system for agricultural parcels.

Article 72

Delegated powers

The Commission is empowered to adopt delegated acts in accordance with Article 100 which are necessary to ensure that the integrated system provided for in this Chapter is implemented in an efficient, coherent and non-discriminatory way which protects the financial interests of the Union, supplementing this Regulation concerning:

- (a) rules on the quality assessment referred to in Articles 66, 67 and 68;
- (b) rules on the identification system for agricultural parcels, the system for the identification of beneficiaries and the system for the identification and registration of payment entitlements referred to in Articles 66, 69 and 71.

Article 73

Implementing powers

The Commission may adopt implementing acts laying down rules on:

- (a) the form, content and arrangements for transmitting or making available to the Commission of:
 - (i) the assessment reports on the quality of the identification system for agricultural parcels, of the geo-spatial application system and of the area monitoring system;
 - (ii) the remedial actions to be implemented by the Member States as referred to in Articles 66, 67 and 68;
- (b) basic features and rules on the aid application system and the area monitoring system referred to in Articles 67 and 68, including parameters of the gradual increase of the number of interventions under the area monitoring system.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).

Chapter III

Scrutiny of transactions

Article 74

Scope and definitions

1. This Chapter lays down specific rules on the scrutiny of the commercial documents of those entities receiving or making payments relating directly or indirectly to the system of financing by the EAGF, or representatives of those entities (hereinafter 'undertakings') in order to ascertain whether transactions forming part of the system of financing by the EAGF have actually been carried out and have been executed correctly.

2. This Chapter shall not apply to interventions covered by the integrated system referred to in Chapter II of this Title and by Chapter III of Title III of Regulation (EU) .../... [CAP Strategic Plan Regulation]. The Commission is empowered to adopt delegated acts in accordance with Article 100 supplementing this Regulation with the establishment of a list of interventions which, due to their design and control requirements, are unsuited for additional ex-post controls by way of scrutiny of commercial documents and, therefore, are not to be subject to such scrutiny under this Chapter.
3. For the purposes of this Chapter the following definitions shall apply:
 - (a) "commercial document" means all books, registers, vouchers and supporting documents, accounts, production and quality records, correspondence relating to the undertaking's business activity, and commercial data, in whatever form they may take, including electronically stored data, in so far as these documents or data relate directly or indirectly to the transactions referred to in paragraph 1;
 - (b) "third party" means any natural or legal person directly or indirectly connected with transactions carried out within the financing system by the EAGF.

Article 75

Scrutiny by Member States

1. Member States shall carry out systematic scrutiny of the commercial documents of undertakings taking account of the nature of the transactions to be scrutinised. Member States shall ensure that the selection of undertakings for scrutiny gives the best possible assurance of the effectiveness of the measures for preventing and detecting irregularities. The selection shall take account, inter alia, of the financial importance of the undertakings in that system and of other risk factors.
2. In appropriate cases, the scrutiny provided for in paragraph 1 shall be extended to natural and legal persons with whom undertakings are associated and to such other natural or legal persons as may be relevant for the pursuit of the objectives set out in Article 76.

3. The body or bodies responsible for the application of this Chapter shall be organised in such a way as to be independent of the departments or branches of departments responsible for the payments and the checks carried out prior to payment.
4. Undertakings for which the sum of the receipts or payments amounted to less than EUR 40 000 shall be scrutinised in accordance with this Chapter only for specific reasons to be indicated by the Member States in their annual control plan referred to in article 79(1).
5. The scrutiny carried out pursuant to this Chapter shall not prejudice the checks undertaken pursuant to Articles 47 and 48.

Article 76

Cross-checks

1. The accuracy of primary data under scrutiny shall be verified by a number of cross-checks, including, where necessary, the commercial documents of third parties, appropriate to the degree of risk presented, including:
 - (a) comparisons with the commercial documents of suppliers, customers, carriers and other third parties;
 - (b) physical checks, where appropriate, upon the quantity and nature of stocks;
 - (c) comparison with the records of financial flows leading to or consequent upon the transactions carried out within the financing system by the EAGF;
 - (d) checks, in relation to bookkeeping, or records of financial movements showing, at the time of the scrutiny, that the documents held by the paying agency by way of justification for the payment of aid to the beneficiary are accurate.
2. Where undertakings are required to keep particular book records of stock in accordance with Union or national provisions, scrutiny of those records shall, in appropriate cases, include a comparison with the commercial documents and, where appropriate, with the actual quantities in stock.

3. In the selection of transactions to be checked, full account shall be taken of the degree of risk presented.
4. The persons responsible for the undertaking, or a third party, shall ensure that all commercial documents and additional information are supplied to the officials responsible for the scrutiny or to the persons authorised to carry it out on their behalf. Electronically stored data shall be provided on an appropriate data support medium.
5. The officials responsible for the scrutiny or the persons authorised to carry it out on their behalf may require that extracts or copies of the documents referred to in paragraph 1 be supplied to them.

Article 78

Mutual assistance

1. Member States shall assist each other on their requests for the purposes of carrying out the scrutiny provided for in this Chapter in the following cases:
 - (a) where an undertaking or third party is established in a Member State other than that in which payment of the amount in question has or should have been made or received;
 - (b) where an undertaking or third party is established in a Member State other than that in which the documents and information required for scrutiny are to be found.

Article 79

Planning and reporting

1. Member States shall draw up control plans for scrutiny to be carried out pursuant to Article 75 during the subsequent scrutiny period.

2. Each year, before 15 April, Member States shall send the Commission:
 - (a) their control plan as referred to in paragraph 1 and shall specify the number of undertakings to be scrutinised and their breakdown by sector on the basis of the amounts relating to them;
 - (b) a detailed report on the application of this Chapter for the previous scrutiny period, including the results of the scrutiny carried out under Article 78.
3. The control plans and their amendments established by the Member States and forwarded to the Commission shall be implemented by the Member States, if, within eight weeks, the Commission has not made known its comments.

Article 82

Access to information and scrutiny by the Commission

1. In accordance with the relevant national laws, Commission officials shall have access to all documents prepared either with a view to or following the scrutiny organised under this Chapter and to the data held, including those stored in the data-processing systems. That data shall be provided upon request on an appropriate data support medium.
2. The scrutiny referred to in Article 75 shall be carried out by the officials of the Member States. Officials of the Commission may participate in that scrutiny. They may not themselves exercise the powers of scrutiny accorded to national officials. However, they shall have access to the same premises and to the same documents as the officials of the Member States.
3. Without prejudice to the provisions of Regulations (EU, Euratom) No 883/2013, (Euratom, EC) No 2988/95 (Euratom, EC) No 2185/96 and (EU) 2017/1939, where national provisions concerning criminal procedure reserve certain acts for officials specifically designated by the national law, neither the officials of the Commission, nor the officials of the requesting Member State referred to in paragraph 2, shall take part in these acts. In any event, they shall, in particular not take part in home visits or the formal interrogation of persons in the context of the criminal law of the Member State concerned. They shall, however, have access to information thus obtained.

Article 83

Implementing powers

The Commission shall adopt implementing acts laying down rules necessary for the uniform application of this Chapter and in particular relating to the following:

- (a) the performance of the scrutiny referred to in Article 75 as regards the selection of undertakings, rate and the timescale for the scrutiny;
- (b) the performance of the mutual assistance referred to in Article 78;
- (c) the content of reports referred to in Article 79(2)(b) and any other notification needed under this Chapter.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).

Chapter IV

Control system and penalties in relation to conditionality

Article 84

Control system for conditionality

1. Member States shall set up a system in order to control that the following categories of beneficiaries comply with the obligations referred to in Section 2 of Chapter 1 of Title III of Regulation (EU) .../...[CAP Strategic Plan Regulation]:
 - (a) beneficiaries receiving direct payments under Chapter II of Title III of Regulation (EU).../... [CAP Strategic Plan Regulation];
 - (b) beneficiaries receiving annual payments in accordance with Articles 65, 66 and 67 of Regulation (EU).../... [CAP Strategic Plan Regulation];

- (c) beneficiaries receiving support in accordance with Chapter IV of Regulation (EU) No 228/2013 and Chapter IV of Regulation (EU) No 229/2013.

Member States applying Article 25 of Regulation (EU)..../[CAP Strategic Plan Regulation] may set up a simplified control system:

- (a) for beneficiaries receiving payments under Article 25 of Regulation (EU)..../[CAP Strategic Plan Regulation] or
- (b) for small farmers as defined by Member States pursuant to Article 25 of Regulation (EU)..../[CAP Strategic Plan Regulation not applying for such payments.

Where a Member State does not apply Article 25 of Regulation (EU)..../[CAP Strategic Plan Regulation], it may set up a simplified control system for farmers with a maximum size of holding not exceeding 5 hectares of agricultural area declared in accordance with Article 67(1).

Member States may make use of their existing control systems and administration to ensure compliance with the rules on conditionality.

Those systems shall be compatible with the control systems referred to in the first and second subparagraphs of this paragraph.

Member States shall conduct a yearly review of the control systems referred to in the first and second subparagraphs in light of the results achieved.

2. For the purposes of this Chapter, the following definitions shall apply:

- (a) "requirement" means each individual statutory management requirement under Union law referred to in Article 11 of Regulation (EU) .../[CAP Strategic Plan Regulation] within a given legal act, differing in substance from any other requirements of the same legal act;
- (b) "legal act" means each of the individual Directives and Regulations referred to in Article 11 of Regulation (EU) .../[CAP Strategic Plan Regulation];

(ba) ‘reoccurrence of a non-compliance’ means the non-compliance with the same requirement or standard determined more than once within a consecutive period of three calendar years.

3. In order to comply with their control obligations laid down in paragraph 1, Member States:

- (a) shall include on-the-spot checks to verify compliance by beneficiaries with the obligations laid down in Section 2 of Chapter I of Title III of Regulation (EU) .../... [CAP Strategic Plan Regulation];
- (b) may decide, depending on the requirements, standards, legal acts or areas of conditionality in question, to use the checks, including administrative checks, carried out under the control systems applicable to the respective requirement, standard, legal act or area of conditionality, provided the effectiveness of these checks is, at least, equal to the on-the-spot checks referred to in point (a);
- (c) may, where appropriate, make use of remote sensing or the area monitoring system or other relevant technologies assisting them to carry out the on-the-spot checks referred to in point (a);
- (d) shall establish the control sample for the checks referred to in point (a) to be carried out each year on the basis of a risk analysis that shall take into account farm structure, the inherent risk of non-compliance and, where applicable, participation of beneficiaries in the farm advisory services as referred to in Article 13 of Regulation (EU) .../... [CAP Strategic Plan Regulation] and for which weighting factors shall apply, shall include a random component, and shall provide the control sample to cover at least 1 % of the beneficiaries listed in Art 84(1);
- (e) as regards the obligations of conditionality in relation to Directive 96/22/EC, the application of a specific sampling level of monitoring plans shall be considered to fulfil the requirement of the minimum rate mentioned in point (d).

- (f) may decide, when using the simplified control system referred to in the second and third subparagraphs of paragraph 1, to exclude from the on-the-spot checks referred to in point (a) of this paragraph, the verification of compliance with the obligations referred in that point, where it can be demonstrated that cases of non-compliance by the beneficiaries concerned could not have significant consequences for the achievement of the objectives of the legal acts and standards.

Article 85

System of administrative penalties for conditionality

1. Member States shall set up a system providing for the application of administrative penalties to beneficiaries referred to in Article 84(1) who do not comply, at any time in the calendar year concerned, with the rules on conditionality as laid down in Section 2 of Chapter I of Title III of that Regulation ("penalty system").

Under that system, the administrative penalties referred to in the first subparagraph shall only apply where the non-compliance is the result of an act or omission directly attributable to the beneficiary concerned; and where one or both of the following conditions are met:

- (a) the non-compliance is related to the agricultural activity of the beneficiary;
- (b) the non-compliance concerns the holding as defined in point (b) of Article 3 of Regulation (EU) .../... [CAP Strategic Plan Regulation] or other areas managed by the beneficiary situated within the territory of the same Member State.

With regard to forest areas, however, the administrative penalty referred to in the first subparagraph shall not apply where no support is claimed for the area concerned in accordance with Articles 65 and 66 of Regulation (EU) .../...[CAP Strategic Plan Regulation].

2. In their penalty systems referred to in paragraph 1, Member States:
- (a) shall include rules on the application of administrative penalties in cases where the agricultural land, or an agricultural holding or part thereof is transferred during the calendar year concerned or the years concerned. These rules shall be based on a fair and equitable attribution of the liability for non-compliances among transferors and transferees.

For the purpose of this point, 'transfer' means any type of transaction whereby the agricultural land ceases to be at the disposal of the transferor.

- (b) may decide, notwithstanding paragraph 1, not to apply a penalty per beneficiary and per calendar year when the amount of the penalty is EUR 100 or less. The beneficiary shall be informed about the finding and the obligation to take remedial action for the future;
 - (c) shall provide that no administrative penalty be imposed if:
 - i the non-compliance is due to force majeure or exceptional circumstances as set out in Article 3;
 - ii the non-compliance is due to an order from a public authority.
3. The application of an administrative penalty shall not affect the legality and regularity of the expenditure to which it applies.

Article 86

Application and calculation of the penalty

1. The administrative penalties shall be applied by means of reduction or exclusion of the total amount of the payments listed in Article 84(1) granted or to be granted to the beneficiary concerned in respect of aid applications that beneficiary has submitted or will submit in the course of the calendar year of the finding.

For the calculation of those reductions and exclusions account shall be taken of the severity, extent, permanence or reoccurrence and, intentionality of the non-compliance determined. The penalties imposed shall be dissuasive and proportionate.

The administrative penalties referred to in the first subparagraph of this paragraph shall be based on the controls carried out according to Article 84(3).

2. The reduction shall be as a general rule 3% of the total amount of the payments referred to in paragraph 1a of this Article.

2a In case the non-compliance has no or only insignificant consequences for the achievement of the objective of the standard or requirement concerned, no administrative penalty shall be applied.

Member States shall set up an awareness mechanism to ensure that beneficiaries are informed about non-compliances found and possible remedial actions to be taken. The mechanism shall also include the specific farm advisory services under Article 13 of Regulation [SPR], attendance of which may be made mandatory for the beneficiaries concerned.

2b. If a Member State uses the area monitoring system referred to in point c of Article 64(1) to detect cases of non-compliance, it may decide to apply lower percentage of reductions than those provided for in paragraph 2.

2c. In case the non-compliance has grave consequences for the achievement of the objective of the standard or requirement concerned or constitutes a direct risk to public or animal health, a higher reduction than the one applied in accordance with paragraph 2 shall be applied.

3. In case the same non-compliance persists or reoccurs once within three consecutive calendar years the percentage reduction shall be, as a general rule, 10 % of the total amount of the payments referred to in the first subparagraph of paragraph 1a. Further re-occurrences of the same non-compliance without justified reason by the beneficiary shall be considered cases of intentional non-compliance.

In case of intentional non-compliance, the percentage reduction shall be at least 15 % of the total amount of the payments referred to in paragraph 1a.

4. In order to ensure a level-playing field between Member States and the effectiveness, proportionality and dissuasive effect of the penalty system, the Commission is empowered to adopt delegated acts in accordance with Article 100 supplementing this Regulation with detailed rules on the application and calculation of penalties.

Article 87

Amounts resulting from the administrative penalties on conditionality

Member States may retain 25 % of the amounts resulting from the application of the reductions and exclusions referred to in Article 86.

Chapter IVa

Control system and penalties in relation to social conditionality

Article 87a

Control system for social conditionality

1. Member States shall set up a system providing for the application of administrative penalties to beneficiaries referred to in Article 11a of Regulation (EU) .../... [CAP Strategic Plan Regulation] who do not comply with the rules of the social conditionality mechanism as laid down in Annex XIV of that Regulation ("penalty system").

To that end Member States shall make use of their applicable control and enforcement systems in the field of social and employment legislation and applicable labour standards to ensure that beneficiaries of the aid referred to in Article 11a of Regulation (EU) .../... [CAP Strategic Plan Regulation] and in Chapter IV of Regulation (EU) No 228/2013 [outermost regions] and in Chapter IV of Regulation (EU) No 229/2013 [Aegean islands] respectively, comply with the obligations referred to in Annex XX of Regulation (EU) .../...[CAP Strategic Plan Regulation].

2. Member States shall ensure a clear separation of responsibilities between the authorities or bodies competent for the enforcement of employment and social legislation and applicable labour standards on the one hand, and the paying agencies on the other, the role of the latter being execution of payments and application of penalties under the social conditionality mechanism.

Article 87b

System of administrative penalties for social conditionality

1. Under the system referred to in Article 87a (1), first subparagraph, the paying agency shall be notified at least once per year of cases of non-compliance with the legislation referred therein where enforceable decisions in that respect have been made by the competent authorities or bodies referred to in Article 87a (2). This notification shall include an assessment and grading of the severity, extent, permanence or reoccurrence and intentionality of the non-compliance in question. Member States may make use of any applicable national grading system of labour sanctions in order to carry out such assessment. The notification to the paying agency shall respect the internal organisation, tasks and procedures of the competent enforcement authorities and bodies

The paying agency shall only be notified where the non-compliance is the result of an act or omission directly attributable to the beneficiary concerned; and where one or both of the following conditions are met:

- (a) the non-compliance is related to the agricultural activity of the beneficiary;
 - (b) the non-compliance concerns the holding as defined in point (b) of Article 3 of Regulation (EU) ... [CAP Strategic Plan Regulation] or other areas managed by the beneficiary situated within the territory of the same Member State.
2. In their penalty systems referred to in paragraph 1, Member States:
 - (a) may decide, not to apply a penalty per beneficiary and per calendar year when the amount of the penalty is EUR 100 or less. The beneficiary shall be informed about the finding and the obligation to take remedial action for the future;

(b) shall provide that no administrative penalty be imposed if:

- i the non-compliance is due to force majeure;
- ii the non-compliance is due to an order from a public authority.

3. The application of an administrative penalty shall not affect the legality and regularity of the expenditure to which it applies.

Article 87c

Application and Calculation of the penalty

1. The administrative penalties shall be applied by means of reduction or exclusion of the total amount of the payments listed in Article 84(1) granted or to be granted to the beneficiary concerned in respect of aid applications that beneficiary has submitted or will submit in the course of the calendar year of the finding. The reductions or exclusions shall be calculated on the basis of the payments granted or to be granted in the calendar year in which the non-compliance occurred. However, when it is not possible to determine the calendar year in which the non-compliance occurred, the reductions or exclusions shall be calculated on the basis of the payments granted or to be granted in the calendar year of the finding.

For the calculation of those reductions and exclusions account shall be taken of the severity, extent, permanence or reoccurrence and intentionality of the non-compliance determined, in line with the assessment of the competent enforcement authorities or bodies as provided for in Article XXb(1). The penalties imposed shall be effective, dissuasive and proportionate.

The application and calculation of the penalty shall be effected in line with the relevant provisions of Article 86 (2), 86(2a) and (3).

2. In order to ensure a level-playing field between Member States and the effectiveness, proportionality and dissuasive effect of the penalty system under this Chapter, the Commission is empowered to adopt delegated acts in accordance with Article 100 supplementing this Regulation with detailed rules on the application and calculation of penalties.

Title V

Common provisions

CHAPTER I

Transmission of information

Article 88

Communication of information

1. In addition to the provisions laid down in Regulation (EU) .../... [CAP Strategic Plan Regulation], Member States shall send to the Commission the following information, declarations and documents:
 - (a) for accredited paying agencies and accredited coordinating bodies:
 - (i) their accreditation document,
 - (ii) their function (accredited paying agency or accredited coordinating body),
 - (iii) where relevant, the withdrawal of their accreditation;
 - (b) for certification bodies:
 - (i) their name,
 - (ii) their address;

- (c) for measures relating to operations financed by the Funds:
 - (i) declarations of expenditure, which also act as payment requests, signed by the accredited paying agency or the accredited coordinating body and accompanied by the requisite information,
 - (ii) estimates of their financial requirements, with regard to the EAGF and, with regard to the EAFRD, an update of estimated declarations of expenditure which will be submitted during the year and estimated declarations of expenditure in respect of following financial year,
 - (iii) the management declaration and the annual accounts of the accredited paying agencies.
2. Member States shall inform the Commission regularly of the application of the integrated system referred to in Chapter II of Title IV. The Commission shall organise exchanges of views on this subject with the Member States.

Article 89

Confidentiality

1. Member States and the Commission shall take all necessary steps to ensure the confidentiality of the information communicated or obtained under inspection and clearance of accounts measures implemented under this Regulation.

The rules laid down in Article 8 of Regulation (Euratom, EC) No 2185/96 shall apply to that information.

2. Without prejudice to national provisions relating to legal proceedings, information collected in the course of scrutiny as provided for in Chapter III of Title IV shall be protected by professional secrecy. It shall not be communicated to any persons other than those who, by reason of their duties in the Member States or in the institutions of the Union, are required to have knowledge thereof for the purposes of performing those duties.

Article 90

Implementing powers

The Commission may adopt implementing acts laying down rules on:

- (a) the form, content, intervals, deadlines and arrangements for transmitting or making available to the Commission:
 - (i) declarations of expenditure and estimates of expenditure and their updates, including assigned revenue,
 - (ii) management declaration and annual accounts of the paying agencies,
 - (iii) the account certification reports,
 - (iv) the names and particulars of accredited paying agencies, accredited coordinating bodies and certification bodies,
 - (v) arrangements for taking account of and paying expenditure financed by the Funds,
 - (vi) notifications of financial adjustments made by Member States in connection with rural development interventions,
 - (vii) information on the measures taken pursuant to Article 57;
- (b) the arrangements governing exchanges of information and documents between the Commission and the Member States, and the implementation of information systems, including the type, format and content of data to be processed by these systems and the corresponding data storage rules;
- (c) the notifications to the Commission by Member States of information, documents, statistics and reports, and the deadlines and methods for their notification.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).

Chapter II

Use of the euro

Article 91

General principles

1. The amounts given in the Commission decisions adopting the CAP Strategic Plans, the amounts of commitments and payments by the Commission and the amounts of expenditure attested or certified and amounts in declarations of expenditure by the Member States shall be expressed and paid in euro.
2. The prices and amounts fixed in the sectoral agricultural legislation shall be expressed in euro.

They shall be granted or collected in euro in the Member States which have adopted the euro and in the national currency in the Member States which have not.

Article 92

Exchange rate and operative event

1. The prices and amounts referred to in Article 91(2) shall be converted in the Member States which have not adopted the euro into the national currency by means of an exchange rate.
2. The operative event for the exchange rate shall be:
 - (a) the completion of customs import or export formalities in the case of amounts collected or granted in trade with third countries;
 - (b) the event whereby the economic objective of the operation is attained in all other cases.

3. Where a direct payment as provided for in Regulation (EU) .../... [CAP Strategic Plan Regulation] is made to a beneficiary in a currency other than the euro, Member States shall convert the amount of aid expressed in euro into the national currency on the basis of the most recent exchange rate set by the European Central Bank prior to 1 October of the year for which the aid is granted.

By way of derogation from the first subparagraph, Member States may decide, in duly justified cases, to carry out the conversion on the basis of the average of the exchange rates set by the European Central Bank during the month prior to 1 October of the year for which the aid is granted. Member States that choose that option shall set and publish that average rate before 1 December of that year.

4. As regards EAGF, when drawing up their declarations of expenditure, Member State which have not adopted the euro shall apply the same exchange rate as that which they used to make payments to beneficiaries or receive revenue, in accordance with the provisions of this Chapter.
5. The Commission is empowered to adopt delegated acts in accordance with Article 100 supplementing this Regulation with rules on those operative events and the exchange rate to be used. The specific operative event shall be determined taking account of the following criteria:
- (a) actual applicability as soon as possible of adjustments to the exchange rate;
 - (b) similarity of the operative events for analogous operations carried out under the market organisation;
 - (c) coherence in the operative events for the various prices and amounts relating to the market organisation;
 - (d) practicability and effectiveness of checks on the application of suitable exchange rates.

6. The Commission is empowered to adopt delegated acts in accordance with Article 100 supplementing this Regulation with rules on the exchange rate applicable when declarations of expenditure are drawn up and when public storage operations are recorded in the accounts of the paying agency.

Article 93

Safeguard measures and derogations

1. The Commission may adopt implementing acts safeguarding the application of Union law if exceptional monetary practices related to national currency are likely to jeopardise it. Those implementing acts may only derogate from the existing rules for a period of time which is strictly necessary.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).

The European Parliament, the Council and the Member States shall be notified forthwith of the measures referred to in the first subparagraph.

2. Where exceptional monetary practices concerning a national currency are liable to jeopardise the application of Union law, the Commission is empowered to adopt delegated acts in accordance with Article 100 supplementing this Regulation with derogations from this Chapter, in the following cases:

- (a) where a country uses abnormal exchange techniques such as multiple exchange rates or operates barter agreements;
- (b) where countries have currencies which are not quoted on official foreign exchange markets or where the trend in such currencies is likely to create distortion in trade.

Article 94

Use of the euro by non-euro Member States

1. If a Member State which has not adopted the euro decides to pay the expenditure resulting from sectoral agricultural legislation in euro rather than in its national currency, the Member State shall take measures to ensure that the use of the euro does not provide a systematic advantage compared with the use of national currency.
2. The Member State shall notify the Commission of the measures planned before they come into effect. The measures may not take effect until the Commission has notified its agreement thereto.

Chapter III

Reporting

Article 95

Annual financial report

By end September of each year following the budget year, the Commission shall draw up a financial report on the administration of the Funds during the previous financial year, which it shall submit to the European Parliament and to the Council.

Chapter IV

Transparency

Article 96

Publication of information relating to beneficiaries

1. Member States shall ensure annual ex-post publication of the beneficiaries of the Funds for the purposes of [Article 44(3)-(4) of Regulation (EU) .../... CPR Regulation] and in accordance with paragraphs 2, 3 and 4 of this Article, including, where applicable, the information on groups, as referred to in paragraph 2b of Article 57, as provided to them by those beneficiaries in accordance with that paragraph.

2. [Article 44(3) points (a), (b), (d), (e), (f), (g), (h), (i), (j), (l) and Article 44(4) of Regulation (EU) .../...CPR Regulation] shall apply in respect of beneficiaries of EAFRD and EAGF, where relevant. The application of point (e) of Article 44(3) Regulation (EU) .../... CPR Regulation shall be limited to the purpose of the operation. Article 44 (3) point (k) of Regulation (EU) .../...CPR Regulation shall apply to EAFRD.
3. For the purposes of this Article:
- "operation" means measure, sector, or type of interventions;
 - "total cost of the operation" means the amounts of payment corresponding to each measure, sector, or type of interventions financed by the EAGF or the EAFRD received by each beneficiary in the financial year concerned. As regards the payments corresponding to the types of interventions financed by the EAFRD, the amounts to be published shall correspond to the total public funding, including both the Union and the national contribution;
 - "location indicator or geolocation for the operation" means the municipality where the beneficiary is resident or is registered and, where available, the postal code or the part thereof identifying the municipality.
4. The information referred to in Article 44(3)-(4) of that Regulation shall be made available on a single website per Member State. It shall remain available for two years from the date of the initial publication.

Member States shall not publish the information referred to in points (a) and (b) of Article 44(3) of the Regulation (EU) .../...[CPR Regulation] if the amount of aid received in one year by a beneficiary is equal to or less than EUR 1 250.

Article 97

Informing beneficiaries of the publication of data concerning them

Member States shall inform the beneficiaries that their data will be made public in accordance with Article 96 and that the data may be processed by auditing and investigating bodies of the Union and the Member States for the purposes of safeguarding the Union's financial interests.

In accordance with the requirements of Regulation (EU) 2016/679, where personal data is concerned, the Member States shall inform the beneficiaries of their rights under that Regulation and of the procedures applicable for exercising those rights.

Article 98

Implementing powers

The Commission shall adopt implementing acts laying down rules on:

- (a) the form, including the way of presentation by measure, sector, or type of intervention, and the timescale of the publication provided for in Articles 96 and 97;
- (b) the uniform application of Article 97;
- (c) the cooperation between the Commission and Member States.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 101(3).

Chapter V

Protection of personal data

Article 99

Processing and protection of personal data

1. Without prejudice to Articles 96 to 98, Member States and the Commission shall collect personal data for the purposes of carrying out their respective management, control, audit and monitoring and evaluation obligations under this Regulation and, in particular, those laid down in Chapter II of Title II, Chapters III and IV of Title III, Title IV and Chapter III of Title V and for statistical purposes, and shall not process this data in a way that is incompatible with that purpose.
2. Where personal data are processed for monitoring and evaluation purposes under Regulation (EU) .../... [CAP Strategic Plan Regulation], and for statistical purposes, they shall be made anonymous.
3. Personal data shall be processed in accordance with Regulations (EC) No 45/2001 and (EU) 2016/679. In particular, such data shall not be stored in a form which enables data subjects to be identified for longer than is necessary for the purposes for which those data were collected or for which they are further processed, taking into account the minimum retention periods laid down in the applicable national and Union law.
4. Member States shall inform the data subjects that their personal data may be processed by national and Union bodies in accordance with paragraph 1 and that in this respect they enjoy the data protection rights provided by Regulations (EC) No 45/2001 and (EU) 2016/679.

Title VI

Delegated acts and implementing acts

Article 100

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Articles 10, 15, 21, 36, 38, 39, 42, 45, 50, 52, 53, 58, 62, 72, 74, 79, 86, 92, 93 and 103 shall be conferred on the Commission for a period of seven years from the date of entry into force of this Regulation. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the seven-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of powers referred to in Articles 10, 15, 21, 36, 38, 39, 42, 45, 50, 52, 53, 58, 62, 72, 74, 79, 86, 92, 93 and 103 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Articles 10, 15, 21, 36, 38, 39, 42, 45, 50, 52, 53, 58, 62, 72, 74, 79, 86, 92, 93 and 103 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months on the initiative of the European Parliament or of the Council.

Article 101

Committee procedure

1. The Commission shall be assisted by a committee, called the Committee on the Agricultural Funds. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

For the purposes of Articles 10, 11, 15, 16, 19, 21, 24, 30, 37, 38, 39, 40, 42, 45, 50, 51, 52, 53, 56, 57, 58, 62, 73, 83, 90, 93 and 98, as regards matters relating to direct payments interventions, rural development interventions and the common organisation of markets, the Commission shall be assisted by the Committee on the Agricultural Funds, the Common Agricultural Policy Committee established by Regulation (EU) .../... [CAP Strategic Plan Regulation] and the Committee for the Common Organisation of the Agricultural Markets established by Regulation (EU) No 1308/2013, respectively.

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Title VII

Final provisions

Article 102

Repeal

1. Regulation (EU) No 1306/2013 is repealed.

However:

- (a) Article 4(1)(b), Article 5, Article 7(3), Articles 9, 17, 21, 34, Article 35(4), Articles 36, 37, 38, 40, 41, 42, 43, 51, 52, 54, 56, 59, 63, 64, 67, 68, 70, 71, 72, 73, 74, 75, 77, 91, 92, 93, 94, 95, 96, 97, 99, 100, 102(2), 110 and 111 of Regulation (EU) No 1306/2013 continue to apply:
- in relation to expenditure incurred and payments made for support schemes under Regulation (EU) No 1307/2013 in respect of calendar year 2022 and before;
 - and for measures implemented under Regulation (EU) No 1308/2013, Regulation (EU) No 228/2013, Regulation (EU) No 229/2013 and Regulation (EU) 1144/2014 until 31 December 2022,
 - for the aid schemes referred to in paragraphs [3b(c) and] 3c of Article 6 of Regulation XXXX/XXXX [the CMO amending Regulation] in relation to expenditure incurred and payments made for operations implemented pursuant to Regulation (EU) No 1308/2013 after 31 December 2022 and until the end of the aid schemes referred to in paragraphs [3b(c) and] 3c of this Article; and
 - as regards the EAFRD in relation to expenditure incurred by the beneficiaries and payments paid by the paying agency in the framework of the implementation of rural development programmes pursuant to Regulation (EU) No 1305/2013.

- (b) Article 69 of Regulation (EU) No 1306/2013 shall continue to apply in relation to expenditure incurred and payments made for support schemes pursuant to Regulation (EU) No 1307/2013 and in the framework of the implementation of rural development programmes approved by the Commission under Regulation (EU) No 1305/2013 and other CAP measures as laid down in Chapter I of Title II of Regulation (EU) No 1306/2013 implemented before the date of entry into force of this Regulation, Regulation (EU) .../...[CAP Strategic Plan Regulation] and Regulation (EU) No 1308/2013 as amended by Regulation (EU) .../...of the European Parliament and of the Council²⁴.
- (c) Article 54(2) of Regulation (EU) No 1306/2013 shall continue to apply in relation to revenue declared in the framework of the implementation of rural development programmes approved by the Commission under Regulation (EU) No 1305/2013, Regulation (EC) 1698/2005 and Regulation 27/2004 (Transitional Rural Development Instrument);
- (d) Regulation (EU) No 1306/2013 shall continue to apply in relation to expenditure relating to legal commitments referred to in Article 140a (2) of Regulation (EU) .../...[CAP Strategic Plan Regulation]. Article 30 of this Regulation shall apply for the expenditure notified to the Commission in accordance with Article 140a (2) of Regulation (EU) .../...[CAP Strategic Plan Regulation] and shall for this purpose be considered as a type of intervention.

2. References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table set out in the Annex.

²⁴ [1] Regulation (EU) .../... of the European Parliament and of the Council of [...][...] (OJ L [...], [...], p. [...]).

Article 103

Transitional measures

The Commission is empowered to adopt delegated acts in accordance with Article 101 supplementing this Regulation with derogations from, and additions to, the rules provided for in this Regulation, where necessary.

Article 104

Entry into force and application

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

It shall apply from 1 January 2023.

2. However, Article 14 shall apply to expenditure effected from 16 October 2020 as regards the EAGF, and as regards the EAFRD to expenditure effected under Regulation (EU) No.../... [CAP Strategic Plan Regulation].

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

Done at Brussels,

For the European Parliament

The President

For the Council

The President
