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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**

{SWD(2018) 301 final} - {SEC(2018) 305 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The Commission proposal for the Multiannual Financial Framework (MFF) for 2021-2027 (the MFF proposal)¹ sets the budgetary framework and main orientations for the Common Agricultural Policy (CAP). On this basis, the Commission presents a set of regulations laying down the legislative framework for the CAP in the period 2021-2027, together with an impact assessment of alternative scenarios for the evolution of the policy. These proposals provide for a date of application as of 1 January 2021 and are presented for a Union of 27 Member States, in line with the notification by the United Kingdom of its intention to withdraw from the European Union and Euratom based on Article 50 of the Treaty on European Union received by European Council on 29 March 2017.

The latest reform of the CAP was decided in 2013 and implemented in 2015. Since then, the context in which that reform was forged has shifted significantly. In particular:

Agricultural prices have fallen substantially – depressed by macroeconomic factors, geopolitical tensions and other forces.

The emphasis of trade negotiations has moved more visibly from multilateral to bilateral deals and the EU has become more open to world markets.

The EU has signed up to new international commitments – e.g. concerning climate change mitigation (through COP 21) and broad aspects of international development (through the UN's Sustainable Development Goals – SDGs), as well as efforts to better respond to other geopolitical developments including migration.

These shifts have prompted a public debate about whether the 2013 reform goes far enough to help the CAP adequately meet broad ongoing challenges related to the economic health of the farm sector, care for the environment, action over climate change, and a strong and economic and social fabric for the EU's rural areas – especially in view of emerging opportunities for action in the areas of trade, the bioeconomy, renewable energy, the circular economy and the digital economy.

The CAP must be modernised to meet these challenges, simplified to do so with a minimum of administrative burden, and made even more coherent with other EU policies to maximise its contribution to the ten Commission Priorities and the Sustainable Development Objectives. Indeed, as the Commission recalled in its recent Communication on the MFF, a modernised Common Agricultural Policy will need to support the transition towards a fully sustainable agricultural sector and the development of vibrant rural areas, providing secure, safe and high-quality food for over 500 million consumers. Europe needs a smart, resilient, sustainable and competitive agricultural sector in order to ensure the production of safe, high-quality, affordable, nutritious and diverse food for its citizens and a strong socio-economic fabric in rural areas. A modernised Common Agricultural Policy must enhance its European added value by reflecting a higher level of environmental and climate ambition and addressing citizens' expectations for their health, the environment and the climate.

As foreseen in its Programme of Work for 2017, the Commission consulted widely on the simplification and modernisation of the CAP to maximise its contribution to the

¹ [COM(2018) 322 final- MFF Regulation].

Commission's ten priorities and to the Sustainable Development Goals (SDGs). This focused on specific policy priorities for the future without prejudice to the financial allocations for the CAP in the next MFF. The process included a large consultation, as well as analysis of available evidence on the performance of the CAP, including the relevant REFIT Platform opinions.

The outcome was presented in the Communication adopted on 29 November 2017 and entitled "the Future of Food and Farming". The Communication enables a structured dialogue on the future CAP in EU Institutions as well as with stakeholders. This policy document outlined challenges, objectives and possible avenues for a "future-proof" CAP that needs to be simpler, smarter and modern, and lead the transition to a more sustainable agriculture.

In particular, the Commission identified higher environmental and climate action ambition, the better targeting of support and the stronger reliance on the virtuous Research-Innovation-Advice nexus as top priorities of the post-2020 CAP. It also proposed as a way to improve the performance of the CAP a new delivery model (NDM) to shift the policy focus from compliance to performance, and rebalances responsibilities between the EU and the Member State level with more subsidiarity. The new model aims at better achieving EU objectives based on strategic planning, broad policy interventions and common performance indicators, thus improving policy coherence across the future CAP and with other EU objectives.

- **Consistency with existing policy provisions in the policy area**

Article 39 TFEU sets out the objectives of the CAP:

- to increase agricultural productivity by promoting technical progress and by ensuring the rational development of agricultural production and the optimum utilisation of the factors of production, in particular labour;
- thus to ensure a fair standard of living for the agricultural community, in particular by increasing the individual earnings of persons engaged in agriculture;
- to stabilise markets;
- to assure the availability of supplies;
- to ensure that supplies reach consumers at reasonable prices.

This proposal is fully consistent with the CAP Treaty objectives. It modernises and simplifies the way the Treaty provisions are implemented.

- **Consistency with other Union policies**

Agriculture and forestry cover 84% of the EU territory. The sectors both depend on and influence the environment. Therefore, a number of the proposed CAP specific objectives will trigger environmental and climate action in line with the respective EU policies.

It is well known that consumption patterns have an influence on public health. Via its link to food and sometimes also the way food is produced agricultural policies are linked to health policies. The proposals reinforce the links to health policy, in particular as regards healthy diets and the decrease of the use of anti-microbials.

The EU is a major importer of commodities and an exporter of valuable agriculture and food products and has therefore an impact on food systems outside the EU. The proposal, in line with Art 208 of TFEU, takes into account the EU development cooperation's objectives of

poverty eradication and sustainable development in developing countries, in particular by ensuring that EU support to farmers has no or minimal trade effects.

Finally, like in other sectors, agriculture and rural areas can make better use of new technology and knowledge, in particular of digital technologies. The proposals reinforce the links to research policy by putting the organisation of knowledge exchange prominently in the policy delivery model. Similarly, the emphasis placed on digitisation allows linking up to the EU Digital Agenda.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Articles 42 and 43(2) TFEU as regards CAP Plan Regulation.

- **Subsidiarity (for non-exclusive competence)**

The Treaty on the Functioning of the European Union provides that the competence for agriculture is shared between the Union and the Member States, while establishing a common agricultural policy with common objectives and a common implementation. The current CAP delivery system relies on detailed requirements at EU level, and features tight controls, penalties and audit arrangements. These rules are often very prescriptive, down to farm level. In the Union's highly diversified farming and climatic environment, however, neither top-down nor one-size-fits-all approaches are suitable to delivering the desired results and EU added value.

In the delivery model in this proposal, the Union sets the basic policy parameters (objectives of the CAP, broad types of intervention, basic requirements), while Member States bear greater responsibility and are more accountable as to how they meet the objectives and achieve agreed targets.

Greater subsidiarity will make it possible to better take into account local conditions and needs, against such objectives and targets. Member States will be in charge of tailoring CAP interventions to maximise their contribution to EU objectives. While maintaining current governance structures – that must continue to ensure an effective monitoring and enforcement of the attainment of all policy objectives - the Member States will also have a greater say in designing the compliance and control framework applicable to beneficiaries (including controls and penalties).

- **Proportionality**

The economic, environmental and social challenges facing the EU's farm sector and rural areas require a substantial response which does justice to the EU dimension of those challenges. The greater power of choice to be offered to MS in selecting and adapting available policy tools within the CAP to meet objectives, in a more results-based model, should make it even less likely that the CAP oversteps a proportionate level of action.

- **Choice of the instrument**

Since the original acts are all European Parliament and Council regulations the amendments must be introduced by European Parliament and Council regulation.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

• Ex-post evaluations/fitness checks of existing legislation

The CAP is deeply rooted in the construction and in the development of the European Union (EU). Established in the early sixties around goals enshrined in the Treaty, it has since undergone several waves of reforms to improve the competitiveness of the agricultural sector, to foster rural development, to address new challenges and to better reply to societal demands. The latest major reform was adopted in 2013. In the **2013 reform**, the **general objectives of the CAP were** streamlined around three blocks:

- i. Viable food production
- ii. Sustainable management of natural resources and climate action
- iii. Balanced territorial development

To assess progress towards achieving the above objectives and identify future challenges, a wide consultation process encouraged a structured debate with all stakeholders, including non-agricultural actors. Furthermore, evidence on the performance of the CAP was gathered from a wealth of information available on the CAP (briefly summarised in Box 1 below), which served as background for assessing the achievements and shortcomings of the CAP over the years, but especially with respect to its most recent reform. This concerns in particular:

- evidence collected through the Common Monitoring and Evaluation and Framework (CMEF) which serves for measuring the performance of the CAP²;
- A series of evaluation studies scheduled over the current Multiannual Financial Framework (2014-2020) to assess current CAP objectives, with first findings available in 2017/18³.

Results concerning progress towards targets and corresponding financial envelopes available in the Annual Implementation Reports (AIR) for Rural Development.

- Additional background documents, data, facts, figures relevant for the impact assessment have been published on the internet page of DG AGRI⁴.

² Established in art. 110 of European Parliament and Council Regulation (EU) No 1306/2013 of 17 December 2013 [on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations](#) and the Commission Implementing Regulation (EU) No 834/2014 of 22 July 2014 laying down rules for the [application of the common monitoring and evaluation framework of the common agricultural policy](#).

³ European Commission (2017) [Evaluation and studies plan 2017-2021](#), Direction General for Agriculture and Rural Development.

⁴ See:

https://ec.europa.eu/agriculture/statistics/facts-and-figures_en

https://ec.europa.eu/agriculture/sites/agriculture/files/consultations/cap-modernising/eco_background_final_en.pdf

https://ec.europa.eu/agriculture/sites/agriculture/files/consultations/cap-modernising/env_background_final_en.pdf

https://ec.europa.eu/agriculture/sites/agriculture/files/consultations/cap-modernising/soc_background_final_en.pdf

- **Stakeholder consultations**

An open public consultation was held with more than 322.000 submissions, structured dialogue with stakeholders, five expert workshops, opinions of the REFIT Platform, contributions from the European Economic and Social Committee, the Committee of the Regions, and from National Parliaments. The process also took into account recommendations of the Agricultural Market Task Force (AMTF)⁵ and the Cork Conference on Rural Development (2016).⁶

- **Collection and use of expertise**

In order to gather evidence/knowledge from experts on CAP-related issues a set of specialised workshops were organised between March 2017 and February 2018. These workshops allowed to exchange views between experts and Commission officials, and to advance in the formulation of the key conclusions/ issues to take into account in the modernisation and simplification process.

The five issues to be tackled by workshops were selected in order to cover the most relevant areas where gaps on knowledge and disagreements on policy approaches had been detected. The workshops were designed according to a similar methodology based on the following:

- (1) collection of the latest evidence available at the level of experts, academics, practitioners and international institutions;
- (2) focus on practical experiences on the ground;
- (3) assessment on the potential of new technologies/approaches to improve future policy design in the specific area covered.

The summaries of the workshops and presentations are available at:
https://ec.europa.eu/agriculture/events/cap-have-your-say/workshops_en

Workshop 1: Best practices addressing environmental and climate needs (23/24 March 2017)

This two-day workshop involved a wide range of experts on the environmental and climate challenges. It examined:

- tools available for assessing the environmental needs;
- methods to improve the uptake of the measures (with a focus on the role of behavioural approaches).

Workshop 2: Risk management (18/19 May 2017)

This two-day workshop tried to advance in the collection of evidence in the debate on the tools to support the farming community to better face the production, price and income risks. It examined:

- the challenges of the EU market safety net and the recent developments in the risk management system in force in the US;

⁵ Report of the Agricultural Markets Task Force (the AMTF report) (2016) [Improving market outcomes enhancing the position of farmers in the supply chain.](#)

⁶ European Commission (2016) [Cork 2.0: European Conference on Rural Development](#), website.

- the case of future markets in the EU, the EU agricultural insurance and reinsurance sector, the case of a public-private partnership and a crop insurance scheme;
- behavioural aspects of risk management.

Workshop 3: Food and related issues (31 May 2017)

The Workshop on food and related issues examined the CAP's alignment to health policy and its capacity to facilitate farmers' adaptation to changes in consumption patterns. In particular Anti-Microbial Resistance warrants increased attention.

Workshop 4: Socio-economic issues (9 June 2017)

The workshop on socio-economic issues focused on the analysis of the dynamics of growth and jobs in EU agri-food sector. It examined the links between global agriculture and food value chains in the EU from both a conceptual perspective and a practical perspective, based on case-studies.

Workshop 5: Measuring the CAP environmental and climate performance (26 February 2018)

The workshop examined what basic policy objectives can be set at EU level, how they can be implemented at Member State level, and how they can be monitored, controlled and evaluated.

- **Impact assessment**

The impact assessment supporting the legislative proposals, as well as the opinions of the Regulatory Scrutiny Board (RSB), are available on the following site:

[List of impact assessments and the accompanying opinions of the Regulatory Scrutiny Board](#)

The RSB initially issued a negative opinion. While appreciating the ambition to modernise and simplify the CAP and the in-depth analysis of different scenarios that usefully highlight the trade-offs between the policy objectives, the Board considered that the report should better explain the rationale, feasibility and functioning of the proposed new delivery model. The required complements were added in the impact assessment report, including in a special Annex on the proposals for the new delivery model. On this basis, the RSB gave a positive opinion with reservations. While acknowledging improvements in the report, the Board requested further specifications on the precise safeguards for mitigating the identified risks. Annex 1 of the impact assessment report (Staff Working Document) spells out adjustments undertaken to meet the requirements of the Board.

Different policy options are presented and discussed in the impact assessment report. There is no preferred option in the impact assessment. Instead various combinations of elements of the proposals were tested in the different options to see what optimum mix could be distilled.

The options essentially test contrasted approaches to achieve the identified objectives:

1. varying levels of environmental and climate ambition, focussing on the potential effects of obligatory and voluntary systems of delivery;
2. different ways to support farm income and in particular its distribution between different farmers, focussing on the potential effects on small and medium-sized farms.

3. broader socio-economic interventions, in particular under the rural development policy, as well as cross-cutting approaches for modernisation.

The first option tests the potential of a voluntary eco-scheme to increase environmental and climate ambition. It also examines the potential role of risk management tools with lower direct payments in supporting farmers' income. Two sub-options reflect different MS environmental ambitions and approaches to direct payments within the new delivery model.

In another option, direct payments are better targeted and the implementation of conditionality is more ambitious in order to improve the joint economic and environmental performance of the CAP, as well as address climate challenges. Sub-options are also developed to illustrate possible differences in MS ambition regarding environmental and climate objectives.

A final option places strong emphasis on environmental care and employment – and shifts the focus on small and medium size farmers as a way to keep jobs in rural areas. MS are obliged to allocate 30% of pillar I payments to provide top ups for four schemes that would be voluntary for farmers - organic farming, permanent grassland, Areas with Natural Constraints (ANC) and linear landscape elements, to further encourage climate action and sustainable management of natural resources.

The impact assessment points out the difficult trade-offs that are inherent to a policy addressing so many diverse objectives, when basic parameters are significantly changed.

A key basic parameter is the level of CAP support. The cut of 5% proposed by the Commission in its May 2018 Communication for the 2021-2027 MFF is within the range considered in the impact assessment.

With respect to farm income, both the level and the distribution of support matter. Securing an adequate level of support and thus farm income remains a key element for the future, in order to ensure food security, environmental and climate ambition, as well as rural vitality. **Better targeting of support** to small and medium sized farms and areas with natural constraints can help keeping more jobs on farms and farming activity on the whole territory, hence strengthening the socio-economic fabric of rural areas. Capping and convergence can improve the distribution of direct payments. It is clear that any option that significantly redistributes direct payments towards farms and regions of lower productivity will, in the short-term, lead to a reduction of EU competitiveness, while it enhances the protection of the environment. Less clear, however, is the appropriate combination of measures that could mitigate negative income effects while at the same time better addressing challenges that are also pertinent for agriculture - such as environment and climate, or societal expectations. This requires incentivising adjustments that improve both the socio-economic as well as the environmental performance of the sector.

Contributions from the stakeholder consultation and analyses demonstrate that this is possible, provided that the necessary accompanying measures addressing a **higher environmental and climate action ambition** enable the adoption of best practices (in both conventional and other forms of farming) that include knowledge, innovation and the latest pertinent technology.

On the basis of the assumptions and choices made in the analysis, there are potential trade-offs in the achievement of economic, environmental and social objectives of the CAP, as well as with respect to its desired modernisation and simplification. In summary, redistribution could lead to manageable income impacts, and support the desired increased ambition of environmental and climate action and other **CAP synergies**. This, however, would require

that the sector and the policy grasp the opportunities offered by innovation and technologies already allowing modernisation and simplification.

Other assumptions and choices would certainly alter detailed results, but not the main underlying message – that *the preferred option for the future CAP should combine the most performing elements of the various options, but avoid their weaknesses by introducing the necessary safeguards to ensure an EU level-playing field*. This implies the need for clear criteria for the level and the distribution of income support (e.g. capping and/or degressivity), the climate and environmental ambition, conditionality, the incentives for modernisation and the appropriate degree of subsidiarity/simplification.

- **Regulatory fitness and simplification**

The complexity of the current policy implementation to a large extent is linked to the stress on compliance with detailed rules, laid down at EU level. The proposed new delivery model will remove the layer of EU level eligibility criteria for support which will allow the Member States to define eligibility conditions that are most suited to their particular circumstances. This is expected to produce a substantial simplification.

Historically the CAP developed in successive reforms into different instruments. Sometimes the coordination of these instruments has proved to be difficult. Under the current proposal all the different support elements of the CAP are brought together into one single and coherent framework which will reduce the administrative burden of the CAP implementation.

- **Fundamental rights**

The proposal respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.

4. BUDGETARY IMPLICATIONS

The Commission proposal on the multiannual financial framework for 2021-2027 (COM(2018) 322 final) provides that a significant part of the EU budget should continue to be dedicated to agriculture, which is a common policy of strategic importance. Thus, in current prices, it is proposed that the CAP should focus on its core activities with EUR 286.2 billion allocated to the EAGF and EUR 78.7 billion for the EAFRD.

These agricultural funds are complemented by additional funding from Horizon Europe, as the proposed envelope for this programme includes EUR 10 billion to support research and innovation in food, agriculture, rural development and the bioeconomy. A new agricultural reserve will be established in the EAGF to finance additional support for the agricultural sector. Unused amounts of the reserve in one year shall be carried over to the following.

As regards distribution of the direct payments among Member States, it is proposed that all Member States with direct payments below 90% of the EU average will see a continuation of the process started in the period of 2014-2020 and will close 50% of the existing gap to 90%. All Member States will contribute to financing this external convergence of direct payments levels. The Member States' allocations for direct payments in the CAP Strategic Plan regulation are calculated on this basis.

For rural development, it is proposed to rebalance the financing between the EU and Member States' budgets. In line with what is foreseen for the European Structural and Investment Funds, an increase in national co-financing rates will allow keeping public support to European rural areas largely unchanged. The distribution of EAFRD support is based on objective criteria linked to the policy objectives and taking into account the current

distribution. As is the case today, less developed regions should continue to benefit from higher co-financing rates, which will also apply to certain measures such as LEADER and the payments for management commitments.

A certain level of flexibility for transfers between allocations will be offered to the Member States. Up to 15% of respective direct payments can be transferred to EAFRD allocation and vice versa. A higher percentage can be transferred from direct payments to EAFRD allocation for interventions addressing environmental and climate objectives and installation grants for young farmers.

Details on the financial impact of the CAP proposal are set out in the financial statement accompanying the proposal.

5. OTHER ELEMENTS

• Implementation plans and monitoring, evaluation and reporting arrangements

A shift towards a more performance-oriented policy requires the establishment of a solid performance framework that, based on a set of common indicators, will allow the Commission to assess and monitor the performance of the policy. The current **Common Monitoring and Evaluation Framework (CMEF)** and the current monitoring system of Direct Payments and Rural Development would be used as a basis for monitoring and assessing policy performance, but they will have to be streamlined and further developed (including consistency between the two pillars). Further investment into developing appropriate indicators and ensuring sufficient data streams would be needed.

A new **Performance Monitoring and Evaluation Framework (PMEF)** will cover all instruments of the future CAP: the CAP Strategic Plans as well as those elements of the CAP not covered by the CAP Strategic Plans (some parts of the Common Markets Organisation, specific schemes). Performance would be measured in relation to the Specific Objectives of the policy by using a set of common indicators.

The new model will be organised around the following principles:

- Context indicators remain pertinent, as they reflect relevant aspects of the general trends in the economy, environment and society, and are likely to have an influence on performance.
- A selection of a limited, but more targeted set of indicators should be made primarily in a way to choose those that reflect as closely as possible whether the supported intervention contributes to achieving the objectives versus established baseline and using clear definitions.
- Overall policy performance will be assessed multi-annually on the basis of impact indicators. Annual policy performance follow-up will rely on the full list of result indicators.
- Output indicators would annually link expenditure with the performance of policy implementation. The latter is an annual exercise, and relies on a list of (primarily already available) output indicators.
- The reliability of relevant performance indicators can be facilitated by synergies between statistical and administrative data, but requires the presence of a system of quality controls.

In essence, what is being proposed is a shift in responsibilities and opportunities within a common framework, clearly defined and enforced, to deliver on more than one key objective at the same time, namely simplification, result-orientation (rather than compliance) and policy efficiency and effectiveness.

An annual performance review is foreseen as the key element of the ongoing monitoring and steering of policy implementation. In order to make an annual performance review operational, adequate output indicators and result indicators will have to be submitted jointly in an annual report on the implementation of the CAP Strategic Plan, the so-called *Annual Performance Report*. MS will report annually on realised output and expenditure as well as distance to targets set for the whole period, expressed as values of result indicators.

Evaluations will be carried out in line with paragraphs 22 and 23 of the Interinstitutional Agreement of 13 April 2016⁷, where the three institutions confirmed that evaluations of existing legislation and policy should provide the basis for impact assessments of options for further action. The evaluations will assess the programme's effects on the ground based on the programme indicators/targets and a detailed analysis of the degree to which the programme can be deemed relevant, effective, efficient, provides enough EU added value and is coherent with other EU policies. They will include lessons learnt to identify any lacks/problems or any potential to further improve the actions or their results and to help maximise their exploitation/impact.

- **Explanatory documents (for directives)**

Not relevant.

- **Detailed explanation of the specific provisions of the proposal**

The proposal concerns three regulations:

- Regulation of the European Parliament and of the Council establishing rules on support for strategic plans to be drawn up by Member States under the Common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulation (EU) No 1305/2013 of the European Parliament and of the Council and Regulation (EU) No 1307/2013 of the European Parliament and of the Council (hereinafter: CAP Strategic Plan Regulation)
- 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 (hereinafter: CAP Horizontal Regulation)
- Regulation of the European Parliament and of the Council amending Regulations (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products, (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs, (EU) No 251/2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products, (EU) No 228/2013 laying down specific measures for agriculture in the outermost regions of the Union and (EU) No 229/2013 laying

⁷ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016; OJ L 123, 12.5.2016, p. 1–14.

down specific measures for agriculture in favour of the smaller Aegean islands (hereinafter: Amending Regulation)

These regulations combined adjust the CAP by aligning its objectives to the Juncker priorities and the SDGs while at the same time simplifying the policy implementation. The CAP will become more adjusted to local circumstance by the removal of eligibility condition for support at EU level. Member States will be able to define most eligibility conditions at national level to make them appropriate for their specific circumstances. At the same time, the administrative burden linked to controls will be reduced by limiting the direct link between EU level eligibility conditions and the final beneficiaries.

With the aim of further improving the sustainable development of farming, food and rural areas, the CAP general objectives focus on the economic viability, the resilience and income of farms, on an enhanced environmental and climate performance, and on the strengthened socio-economic fabric of rural areas. Moreover, fostering knowledge, innovation and digitalisation in agriculture and rural areas is a cross-cutting objective.

The new CAP will pursue the following specific objectives:

- (a) Support viable farm income and resilience across the EU territory to enhance food security;
- (b) enhance market orientation and increase competitiveness including greater focus on research, technology and digitalisation ;
- (c) Improve farmers' position in the value chain;
- (d) Contribute to climate change mitigation and adaptation, as well as sustainable energy;
- (e) Foster sustainable development and efficient management of natural resources such as water, soil and air;
- (f) Contribute to the protection of biodiversity, enhance ecosystem services and preserve habitats and landscapes;
- (g) Attract young farmers and facilitate business development in rural areas;
- (h) Promote employment, growth, social inclusion and local development in rural areas, including bio-economy and sustainable forestry;
- (i) Improve the response of EU agriculture to societal demands on food and health, including safe, nutritious and sustainable food, as well as animal welfare.

To deliver on these objectives Member States shall ensure simplification and performance of CAP support. They will design interventions that are appropriate in their circumstances based on the types of interventions mentioned in the regulation. The Member States will have to pay particular attention to the environmental and climate specific objectives, to generational renewal, and to the modernisation of the policy implementation by focusing on a better use of knowledge and advice and new (digital) technologies.

The Member States will present their proposed interventions to achieve the EU specific objectives in a CAP Strategic Plan. The legislation lays down rules on the content of such a CAP Strategic Plan and the Commission will check the plans and approve them. The CAP Strategic Plans will combine most CAP Support instruments financed under the EAGF (including the sectoral programmes that until now have been established under the CMO regulation) and EAFRD. In this way a single coherent intervention strategy per Member State will be designed though Member States. In the CAP Strategic Plans Member States will set

targets on what they want to achieve in the programming period using commonly defined result indicators.

Once the CAP Strategic Plans are established Member States will annually report on the progress made in the implementation using a system of common indicators. The Member States and Commission will monitor progress and evaluate the effectiveness of the interventions.

The section below provides information on the specific content of the three regulations.

CAP Strategic Plan Regulation

Title I provides for the scope of the regulation as well as definitions.

Title II presents the CAP general and specific objectives that have to be pursued through the interventions designed by the Member States in their CAP Strategic Plans. Title III introduces a number of common requirements for the CAP strategic Plans, as well as elements which apply to several interventions. The common requirements concern compliance with general principles and fundamental rights such as the avoidance of distortion of competition, respect for the internal market and non-discrimination as well as the respect of the rules of WTO domestic support. They also include requirements as regards specific elements to be defined in the CAP plans, such as what is an agricultural area, an agricultural activity, a genuine farmer, a young farmer. This section describes, the obligations under 'conditionality' (the requirements any beneficiary of area-based payments has to comply with concerning good agricultural practices but also obligations stemming from EU legislation, and the need to have well-functioning farm advisory services.

Finally this Title presents the types of interventions that the Member States may use to implement their CAP Strategic Plans. Types of interventions are the broad categories of interventions that Member States may use in their CAP Strategic Plans.

Title IV provides financial provisions. It includes in particular for envelopes financial allocations per Member State and per Fund and defines the flexibility for transferring allocations between funds.. It provides the contribution rates for EAFRD in relation to public expenditure in the Member States and sets out some minimum or maximum financial allocations for specific purposes.

Title V presents the rules on the CAP Strategic Plans. It mentions what elements Member States have to take into account when drafting a CAP Strategic Plan and what shall be its minimum content including targets and financial planning. This title also explains what rules apply for the approval of the CAP Strategic Plans by the Commission and how such plans can be amended.

Title VI provides the necessary elements on coordination and governance. It attributes responsibilities to Member States' authorities for specific tasks related to the CAP Strategic Plans. It establishes a monitoring committee to involve all stakeholders. It also establishes networks that have to facilitate the successful implementation of the CAP Strategic Plans. These networks will be established both at national and at EU level. Finally, this title establishes the European Innovation Partnership in order to stimulate the exchange of knowledge and innovation.

Title VII introduces the performance monitoring and evaluation framework laying down rules on what and when Member States have to report progress on their CAP Strategic Plans and

rules on how this progress will be monitored and evaluated. This title in particular contains the rules on a performance bonus for good environmental and climate performance.

Finally, Titles VIII and IX concern the competition rules, which explain how in particular State aid rules have to be applied, and the final provisions that explain what regulations are repealed and when the regulation becomes applicable.

CAP Horizontal Regulation

It is proposed to maintain the current structure of the CAP in two pillars with annual measures of general application in Pillar I complemented by measures reflecting the national and regional specificities under a multi-annual programming approach in Pillar II. However, the new design of the CAP for post 2020 will point to an increased subsidiarity so that Member States can better tailor implementing measures under both Pillars to their realities and farmers' concrete circumstances. More subsidiarity means rebalancing the responsibilities in the management of the CAP and looking for a new relationship between the European Union, the Member States and the farmers.

On this basis, the current CAP Horizontal Regulation is adapted to the new delivery model and reflects more flexibility for Member States in implementing the policy (in line with their local needs), less bureaucracy for beneficiaries and shift to a performance-based policy.

The move at EU level from an emphasis on compliance to performance requires a clear identification of the objectives which the policy has to achieve: again, these objectives will be established at EU level. In order to advance towards a more result-driven policy mechanism, there will be a shift from assurance on legality and regularity of the underlying transactions to assurance on performance and the respect of EU basic requirements, like the Integrated Administration and Control System (IACS) or the governance bodies (paying agencies, coordinating bodies, competent authorities and certification bodies). The robust and reliable governance structures which characterise the CAP will be maintained.

In addition to financing provisions, the CAP Horizontal Regulation continues to have provisions on general principles for checks and penalties, checks for conditionality and IACS. As a result, the regulation lays down rules on financing, management and control systems, clearance processes (annual financial clearance and annual performance clearance) and conformity procedure.

This regulation includes various simplification elements. First of all, the new annual performance clearance reflects the shift from compliance by the individual beneficiary to performance of the policy in the Member States.

Furthermore, it foresees reducing the number of paying agencies and reinforcing the role of the coordinating body and certification body in line with the new delivery model. This will render the system more transparent and less burdensome for both national administrations and the Commission. The concept of the single audit approach is introduced, in line with the Financial Regulation and the number of Commission audits can be reduced.

Amending Regulation

The Communication on the Future of Food and Farming confirms market orientation as a key element of the CAP, but also highlights challenges related to environmental sustainability and climate change. Moreover, it places the agricultural sector squarely in the debate about food and citizens' concerns in that regard, recalling that "the most important role for the policy is to

help farmers anticipate developments in dietary habits and adjust their production according to market signals and consumers' demands". As detailed rules that may prevent the necessary adjustments are laid down at EU level, the reform presents an opportunity to make necessary changes. The CAP should furthermore address citizens' concerns regarding sustainable agriculture production.

It is therefore foreseen to maintain the architecture and main features of Regulation (EU) 1308/2013, while amending a limited number of provisions in view of economic, environmental and societal evolutions experienced since its entry into force in 2014.

Firstly, it is foreseen to delete provisions related to sectoral interventions that have previously been laid down in Regulation (EU) No 1308/2013, as these interventions of the future CAP will be regulated under the [CAP plan regulation] and be part of Member States' strategic plans, to ensure a better coherence of CAP interventions.

Secondly, while the successive 2008 and 2013 reforms of the wine policy have overall reached their objectives, resulting in economically vibrant wine sector, new economic, environmental and climatic challenges have appeared. Therefore, the regulation foresees a number of specific amendments to existing rules to cope with these challenges.

Thirdly, the Communication on the Future of Food and Farming called for geographical indications (GIs) to be made more attractive to farmers and consumers, and render the system easier to manage. It is therefore proposed to amend current rules on GIs, spread over four basic Acts, aiming at a simpler GI system, faster registration of geographical indications and more efficient approval of amendments to product specifications. These changes aim to a simplified GI system that would be more understandable to consumers, easier to promote and would reduce administrative costs of managing the system.

On rules for wine GIs, limiting the EU scrutiny of applications to checking them against manifest errors, separating intellectual property rules from other requirements laid down in the product specification as well as habilitating Member States to decide on amendments that do not have impacts at EU level, would streamline approvals, shorten timelines, and rationalise resources, in line with the twin principles of subsidiarity and proportionality. In the same vein, simplification of some specific procedures, for example the opposition procedure, is envisaged to make the approval process more efficient.

Clarification of the definition of 'Protected Designation of Origin' for wines will enable producer groups to use new varieties, also needed in response to climate change, and allow proper justifications of applications in line with viticulture and oenological realities. Strengthening protection of GIs against counterfeiting of GIs on the internet and on goods in transit is also proposed.

The simplification proposed for wine GIs has to be applied also to agricultural products and foodstuffs: to ensure reasonable level of coherence between the schemes and bring the above benefits to producers of GIs in this sector, too. The aromatised wines GI scheme that only has 5 out of 3350 GIs, cannot be operational and should be merged into another scheme – the agricultural products and foodstuffs scheme is appropriate as already covers other alcoholic beverages.

Furthermore, the regulation foresees provisions that merely translate into internal legislation commitments taken by the EU and its Member States in the context of recent World Trade

Organization Ministerial Decisions, notably on export subsidies and more generally on export competition measures.

Finally, it is proposed to delete a number of obsolete provisions, *inter alia* the system of production regulation and requirements applying to the sugar sector that expired at the end of the 2016/2017 marketing year.

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

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 Article 43(2) 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 Committee⁸,

Having regard to the opinion of the Committee of the Regions⁹,

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.
- (2) [Place holder relevant resolutions of the Council and EP]
- (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 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 basic Union requirements in order to maximize their contribution to Union CAP objectives and to establish and design the compliance and control framework for beneficiaries.
- (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) .../...

⁸ OJ C , , p. .

⁹ OJ C , , p. .

of the European Parliament and of the Council¹⁰ [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 Council¹¹ 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) .../... of the European Parliament and of the Council [New Financial Regulation]¹², 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.
- (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.
- (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 and annual 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

¹⁰ Regulation (EU) .../... of the European Parliament and of the Council of [...] [...] (OJ L [...], [...], p. [...]).

¹¹ 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).

¹² Regulation (EU, Euratom) No [New Financial Regulation].

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.

- (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.
- (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.
- (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]¹³.
- (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.
- (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. However, the threshold of EUR 2000 should be abolished. 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) [New Financial Regulation] 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 2020. 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 without time limitation to finance the agricultural reserve in the following financial year(s). Furthermore, as regards the financial year 2020, a

¹³ Regulation (EU, Euratom) No [New MFF Regulation]

second derogation is necessary as the total unused amount of the reserve available at the end of year 2020 should be carried over to the year 2021 to the corresponding line of the new agricultural reserve without being returned to the budgetary lines which cover direct payment interventions under the CAP Strategic Plan.

- (15) In order to avoid an excessive administrative burden for national administrations and farmers 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.
- (16) Taking into account the levels of direct payments to farmers in Croatia in the framework of the application of the phasing-in mechanism to all direct payments granted in that Member State, the instrument of financial discipline should only apply in Croatia from 1 January 2022.
- (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, the use of the agro-meteorological system and the acquisition and improvement of satellite data should be provided for.
- (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 Council¹⁴[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.
- (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], Member States' payments should be eligible if they are matched by corresponding output and in compliance with the applicable basic Union requirements.
- (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.

¹⁴ Regulation (EU) .../... of the European Parliament and of the Council of [...] [...] (OJ L [...], [...], p. [...]).

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 and an annual performance report on the implementation of the CAP Strategic Plan to the Commission by 15 February N+1. 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, 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, by means of an implementing act. Where the Member State fails to submit or to implement the action plan or where the action plan is manifestly insufficient to remedy the situation, the Commission should have the power to suspend the monthly or interim payments, by means of an implementing act.
- (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, 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.
- (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.
- (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. In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013¹⁵ of the European Parliament and of the Council, Council Regulation (Euratom, EC) No 2988/95¹⁶, Council Regulation (Euratom, EC) No 2185/96¹⁷ and Council Regulation (EU) 2017/1939¹⁸, 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) 2017/1371¹⁹ 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.

- (43) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 or 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..

¹⁵ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999, (OJ L248, 18.9.2013, p. 1).

¹⁶ Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.95, p. 1).

¹⁷ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L292, 15.11.96, p. 2).

¹⁸ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L283, 31.10.2017, p. 1).

¹⁹ Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

- (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 Council²⁰ and in Chapter IV of Regulation (EU) No 229/2013 of the European Parliament and of the Council²¹ 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.
- (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 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.

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) No 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).

- (49) The Communication from the Commission on 'The future of food and farming' set out the bolstering of environmental care and climate action and the contributing to the achievement of Union environmental and climate objectives 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, in particular with regard to its environmental and climate elements but also concerning public health and animal related issues. This implies that controls should be carried out and, where necessary, penalties should be applied to ensure the effectiveness of the conditionality system. To have a level playing field between beneficiaries in different Member States, certain

general rules on conditionality controls and penalties 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 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.
- (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 45/2001²² and (EU) 2016/679 of the European Parliament and of the Council²³, 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.
- (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.
- (68) Regulation (EU) .../[CPR Regulation²⁴] 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

²² 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).

²³ 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).

²⁴ Regulation (EU) No.../...

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.
- (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. 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, 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. 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 and the conditions under which certain types of expenditure and revenue under the Funds are to be compensated. Moreover, 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.

Furthermore, that empowerment should 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.

Moreover, 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 Council²⁵, 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.

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.

Furthermore, that empowerment should cover, rules on the interventions excluded from the scrutiny of transactions, 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.

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.

²⁵

Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

- (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 Council²⁶. 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.
- (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

²⁶ 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).

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 geo-spatial application system and the area monitoring system.
- (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.²⁷
- (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:

²⁷ OJ C , , p.[...]. . .

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), including expenditure on rural development;
- (b) the management and control systems to be put in place by the Member States;
- (c) clearance and conformity procedures.

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 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.

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 gravely affecting the holding;
- (b) the accidental destruction of livestock buildings on the holding;
- (c) an epizootic or a plant disease 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.

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 1308/2013²⁸;
 - (b) sectoral interventions as referred to in Chapter 3 of Title III of Regulation (EU).../...[CAP Strategic Plan Regulation];
 - (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;

²⁸ 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) 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].

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, 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 improvement of evaluation methods and exchange of information on practices under the CAP, 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 58/2003²⁹ acting in connection with the CAP;
- (h) contribution to measures relating to the dissemination of information, raising awareness, promoting cooperation and exchanging experiences at Union level, and taken in the context of rural development interventions, including the networking of the parties concerned;

²⁹ 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).

- (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 Council³⁰ and for the protection of intellectual property rights linked to it, and the necessary information technology (IT) developments.

CHAPTER II

Governance bodies

Article 8

Paying agencies and coordinating bodies

1. Paying agencies shall be departments or bodies of the Member States 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 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.

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.

3. For the purposes of Article 63(5) and (6) of Regulation (EU, Euratom) 2018/... [the new Financial Regulation] ('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:

³⁰ 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).

- (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) showing that the expenditure was made in accordance with Article 35;
- (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, which give the necessary guarantees concerning the outputs reported in the annual performance report, as provided for in points (b) and (c) of Article 63(6) of the Financial Regulation,
 - (iii) an 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, as provided for in point (b) of Article 63(5) 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.

4. Where more than one paying agency is accredited, Member States 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 furnish the annual performance report referred to in Article 52(1);
 - (c) to take or coordinate actions with a view to resolving any deficiencies of a common nature and to keep the Commission informed of any follow-up;
 - (d) to promote and ensure harmonised application of Union rules.

As regards the processing of the financial information referred to in point (a) of the first subparagraph, the coordinating body shall be subject to specific accreditation by the Member States.

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 entirety of that report.

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 the control report supporting the payment applications submitted by the EIB or another international institution.

Article 9

Competent authority

1. Member States shall designate an 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 accreditation of the coordinating body referred to in Article 8(4);
 - (c) the appointing of the certification body referred to in Article 11;
 - (d) carrying out the tasks assigned to the competent authority under this Chapter.
2. The competent authority shall, by way of a formal act, decide on the issuing or, following a review, the withdrawal of the accreditation of the paying agency and the coordinating body on the basis of an examination of the accreditation criteria to be adopted by the Commission in accordance with point (a) of Article 10(1). The competent authority shall inform the Commission of accreditations and withdrawals of accreditations without delay.

Article 10

Commission powers

1. The Commission is empowered to adopt delegated acts in accordance with Article 100 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 8(4);
 - (b) the obligations of the paying agencies as regards public intervention and the rules concerning 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 work and checks underlying the management declaration of the paying agencies, referred to in point (c) of Article 8(3);
 - (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 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.

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;
- (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 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).

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.

2. The certification body shall have the necessary technical expertise. 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 tasks 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. A reserve intended to provide additional support for the agricultural sector for the purpose of market management or stabilisation or in the case of crises affecting the agricultural production or distribution (“the agricultural reserve”) shall be established at the beginning of each year in the EAGF.

Appropriations for the agricultural reserve shall be entered directly in the Union's budget.

Funds from the agricultural reserve shall be made available for measures under Articles 8 to 21 and 219, 220, and 221 of Regulation (EU) No 1308/2013 for the year or years for which the additional support is required.

2. The amount of the agricultural reserve shall be at least EUR 400 million in current prices at the beginning of each year of the period 2021-2027. 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.

By way of derogation from point (d) of Article 12(2) of the Financial Regulation, non-committed appropriations of the agricultural reserve shall be carried over without time limitation to finance the agricultural reserve in the following financial years.

Moreover, by derogation from point (d) of Article 12(2) of the Financial Regulation, the total unused amount of the crisis reserve available at the end of year 2020 shall be carried over to the year 2021 without being returned to the budgetary lines which cover the actions referred to in point (c) of Article 5(2) and made available for the financing of the agricultural reserve.

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 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 140(2) of Regulation.../... [phasing in CAP Strategic Plan], financial discipline shall apply to Croatia from 1 January 2022.
6. The Commission is empowered to adopt delegated acts in accordance with Article 100, 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 and shall recover it on completion of the work.

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 crops so as to enable estimates to be made, in particular as regards yields and agricultural production and agricultural impacts associated with exceptional circumstances;
- (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 transparency of world markets;
- (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 2021 and 31 December 2027.

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 2021: 1 % of the amount of support from the EAFRD for the entire duration of the CAP Strategic Plan;
 - (b) in 2022: 1 % of the amount of support from the EAFRD for the entire duration of the CAP Strategic Plan;
 - (c) in 2023: 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 2022 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 for each type of intervention to the public expenditure effected pertaining to it as referred to in Article 85 of Regulation (EU) .../...[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 52 of Regulation (EU).../... [CPR], the declaration of expenditure shall include the total amounts disbursed or, in the case of guarantees, the amounts set aside as agreed in 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 52 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 25% of the total amount of the CAP Strategic Plan contribution 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. 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. However, in cases in which expenditure referred to in Article 107(8) of Regulation (EU) No.../... [CAP Strategic Plan Regulation] cannot be declared to the Commission in the period concerned due to pending approval by the Commission of an amendment to the CAP Strategic Plan, it 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(3) 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] or 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 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 European Structural and Investments Funds (ESI) Funds 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 expenditure to the Commission for:

- (a) support from another ESI Fund 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:

- (a) it has been effected by accredited paying agencies,
- (b) it has been effected in accordance with the applicable Union rules, or
- (c) 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 (c)(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 considers the response to be unsatisfactory, 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.

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.

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 by means of the implementing act referred to in Article 52.

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.

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

Before adopting those implementing acts, 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. In case of delayed or insufficient progress towards targets, as set out in the national CAP Strategic Plan and monitored in accordance with Articles 115 and 116 of Regulation (EU) .../...[CAP Strategic Plan Regulation], the Commission may ask the Member State concerned to implement the necessary remedial actions in accordance with an action plan with clear progress indicators, to be established in consultation with the Commission.

The Commission may adopt implementing acts laying down further rules on the elements of 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 States fails to submit or to implement the action plan referred to in paragraph 1 or if that action plan is manifestly insufficient to remedy the situation, 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 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 121 of Regulation (EU) .../... [CAP Strategic Plan Regulation] satisfactory progress towards targets is achieved. If the situation is not remedied by the closure of the national CAP Strategic Plan, the Commission may adopt an implementing act definitively reducing the amount suspended for the Member State concerned.

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.

3. The implementing acts provided for in paragraphs 1 and 2 shall be adopted in accordance with the advisory procedure referred to in Article 101(2).

Before adopting those 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.

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 may ask the Member State concerned to implement the necessary remedial actions in accordance with an action plan with clear progress indicators, to be established in consultation with the Commission.

The Commission may adopt implementing acts laying down further rules on the elements 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 or if that action plan is manifestly insufficient to remedy the situation, 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, 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 Article shall be adopted in accordance with the advisory procedure referred to in Article 101(2).

Before adopting the implementing acts referred to in paragraph 2, 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 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 the first subparagraph of this paragraph.

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;
 - (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 supplementing this Regulation with rules on the interventions or measures for which the Member States may pay advances.
 5. In the event of an emergency, the Commission may adopt implementing acts to resolve specific problems 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 to reinstate consumer confidence following crises through information campaigns, to inform farmers and other parties active in rural areas and to promote the European model of agriculture, as well as to help citizens understand it.

It shall supply coherent, objective and comprehensive information, both inside and outside the Union.
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

For the purposes of 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.

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, 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 Articles 5(2) and 6 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 work of the certification body is carried out in accordance with Article 11 and for the purposes of Section 2 of this Chapter;
 - (d) 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).

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 (EU, 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.

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 supplementing this Regulation with specific obligations to be complied with by the Member States under this Chapter and with rules in particular 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 clearance of accounts provided for in paragraph 1 with regard to the measures to be taken in connection with the adoption of the implementing acts referred to in the second subparagraph of paragraph 1 and their implementation, including the 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 Articles 5(2) and 6 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, 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.
3. Before the adoption of the implementing act referred to in paragraph 1, the Commission shall give the Member State an opportunity to submit its comments and justify any differences.
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 measures to be taken in connection with the adoption of the implementing act referred to in paragraph 1 and its implementation, including the information exchange between the Commission and the Member States, the procedure 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 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 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.

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 measures to be taken in connection with the adoption of the implementing act referred to in paragraph 1 and its implementation, including the information exchange between the Commission and the Member States, the deadlines to be respected and the conciliation procedure provided for in paragraph 3, 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.

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 with the conditions of the rural development interventions referred to in the CAP Strategic Plan are detected, Member States shall make financial adjustments by totally or partially cancelling 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 interventions 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.

2. For rural development interventions receiving aid from financial instruments as referred to in Regulation (EU) .../...[CPR Article 52], a contribution cancelled in accordance with paragraph 1 of this Article 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 of Funds 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 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, adopt all legislative, regulatory and administrative provisions and take any other measures necessary to ensure effective protection of the financial interests of the Union. Those provisions and measures shall relate in particular to:
 - (a) checking the legality and regularity of operations financed by the Funds;
 - (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.
2. Member States shall set up efficient management and control systems in order to ensure compliance with the Union legislation governing Union interventions.
3. Member States shall take appropriate precautions ensuring the 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;
 - (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, the beneficiary shall retain the right to receive aid.
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.

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 in relation to the obligations as set out in paragraphs 1 and 2;
 - (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 a level of checks needed for an effective management of the risks.

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 bodies implementing financial instruments.

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 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 on:
 - (a) which ensure a non-discriminatory treatment, equity and the respect of proportionality when lodging a security;
 - (b) specifying the responsible party in the event that an obligation is not met;
 - (c) laying down the specific situations in which the competent authority may waive the requirement of a security;
 - (d) laying down the conditions applying to the security to be lodged and the guarantor and the conditions for lodging and releasing that security;
 - (e) laying down the specific conditions related to the security lodged in connection with advance payments;
 - (f) setting 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 228/2013³¹ and in Chapter IV of Regulation (EU) 229/2013³² respectively.

3. To the extent necessary, the integrated system shall also be used for the management and control of conditionality and measures in the wine sector as laid down in Title III of Regulation (EU) .../... [CAP Strategic Plan Regulation].
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 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 Council³³ or the system for the identification and registration of ovine and caprine animals laid down by Council Regulation (EC) No 21/2004³⁴;
 - (d) "agricultural parcel" means a unit of land representing an agricultural area as defined in Article 4 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) "claimless system" means an application system for area- or animal-based interventions in which necessary data required by the administration on at least individual areas or animals claimed for aid is available in official computerised databases managed by the Member State.

Article 64

Elements of the integrated system

1. The integrated system shall comprise the following elements:

³¹ 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).

³² 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).

³³ Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820/97 (OJ L 204, 11.8.2000, p. 1).

³⁴ Council Regulation (EC) No 21/2004 of 17 December 2003 establishing a system for the identification and registration of ovine and caprine animals and amending Regulation (EC) No 1782/2003 and Directives 92/102/EEC and 64/432/EEC (OJ L 5, 9.1.2004, p. 8).

- (a) an identification system for agricultural parcels;
 - (b) a geo-spatial and 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.
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.
 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 all measures required for the proper establishment and operation of the integrated system and 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.

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 Council³⁵ 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 223/2009³⁶, 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.

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;
 - (d) contains any information relevant for the reporting on the indicators referred to in Article 7 of Regulation (EU) .../...[CAP Strategic Plan Regulation];
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.

³⁵ 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).

³⁶ 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).

Where the assessment reveals deficiencies in the system, Member States shall adopt appropriate remedial actions or shall be requested 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 using the geo-spatial application provided by the competent authority to submit an application.
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 decide that a claimless system shall cover one or more applications referred to in paragraphs 1 and 2.
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.
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 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.

Paragraphs 1 to 5 of Article 57 shall apply *mutatis mutandis*.

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 supplementing this Regulation concerning:

- (a) further rules on the quality assessment referred to in Articles 66, 67 and 68;
- (b) further definitions, basic features and 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 geo-spatial application system and the area monitoring system referred to in Articles 67 and 68.

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 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.

Article 77
Access to commercial documents

1. 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.
2. 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.
3. Where, during scrutiny carried out pursuant to this Chapter, the commercial documents maintained by the undertaking are considered inadequate for scrutiny purposes, the undertaking shall be directed to maintain in future such records as are required by the Member State responsible for the scrutiny, without prejudice to obligations laid down in other Regulations relating to the sector concerned.

Member States shall determine the date from which such records are to be established.

Where some or all of the commercial documents required to be scrutinised pursuant to this Chapter are located with an undertaking in the same commercial group, partnership or association of undertakings managed on a unified basis as the undertaking scrutinised, whether located inside or outside the territory of the Union, the undertaking shall make those commercial documents available to officials responsible for the scrutiny, at a place and time to be determined by the Member States responsible for carrying out the scrutiny.

4. Member States shall ensure that officials responsible for scrutiny are entitled to seize commercial documents, or have them seized. This right shall be exercised with due

regard to the relevant national provisions and shall be without prejudice to the application of rules governing proceedings in criminal matters concerning the seizure of documents.

Article 78

Mutual assistance

1. Member States shall assist each other 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.

The Commission may coordinate joint actions involving mutual assistance between two or more Member States.

2. Member States shall send the Commission a list of undertakings established in a third country for which payment of the amount in question has or should have been made or received in that Member State.
3. If additional information is required in another Member State as part of the scrutiny of an undertaking in accordance with Article 75, and in particular cross-checks in accordance with Article 76, specific scrutiny requests may be made indicating the reasons for the request.

The scrutiny request shall be fulfilled not later than six months after its receipt; the results of the scrutiny shall be communicated without delay to the requesting Member State.

Article 79

Programming

1. Member States shall draw up programmes 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 their programme as referred to in paragraph 1 and shall specify:
 - (a) the number of undertakings to be scrutinised and their breakdown by sector on the basis of the amounts relating to them;
 - (b) the criteria adopted for drawing up the programme.
3. The programmes 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.
4. Paragraph 3 shall apply *mutatis mutandis* to the amendments to the programme made by the Member States.
5. At any stage, the Commission may request the inclusion of a particular category of undertaking in the programme of a Member States.

6. 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 programme referred to in paragraph 1 or by the Commission in any proposed amendment to that programme.

The Commission is empowered to adopt delegated acts in accordance with Article 101 amending the threshold set out in the first subparagraph.

Article 80

Special departments

1. In each Member State, a special department shall be responsible for monitoring the application of this Chapter. Those departments shall, in particular, be responsible for:
 - (a) the performance of the scrutiny provided for in this Chapter by officials employed directly by that special department; or
 - (b) the coordination and general surveillance of the scrutiny carried out by officials belonging to other departments.

Member States may also provide that scrutiny to be carried out pursuant to this Chapter is allocated between the special departments and other national departments, provided that the former is responsible for its coordination.

2. The department or departments 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 scrutiny checks carried out prior to payment.
3. The special department referred to in paragraph 1 shall take all the measures necessary, and it shall be entrusted by the Member State concerned with all the powers necessary, to perform the tasks referred to in this Chapter.
4. Member States shall adopt appropriate measures to penalise natural or legal persons who fail to fulfil their obligations under this Chapter.

Article 81

Reports

1. Before 1 January, following the scrutiny period, Member States shall send the Commission a detailed report on the application of this Chapter.

The report referred to in the first subparagraph shall also contain an overview of the specific scrutiny requests referred to in Article 78(3) and the results of the scrutiny following those requests.
2. The Member States and the Commission shall have regular exchanges of views on the application of this Chapter.

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. In the case of scrutiny taking place under Article 78, officials of the requesting Member State may be present, with the agreement of the requested Member State, at the scrutiny in the requested Member State and have access to the same premises and the same documents as the officials of that Member State.

Officials of the requesting Member State present at scrutiny in the requested Member State shall at all time be able to furnish proof of their official capacity. The scrutiny shall at all times be carried out by officials of the requested Member State.

4. 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 Member State referred to in paragraph 3, 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 conservation of commercial documents and the types of documents to maintain or data to record;
- (c) the performance and coordination of joint actions referred to in Article 78(1);
- (d) the details and specifications regarding the content, form and means of submission of requests, the content, form and means of notification, submission and exchange of information required under this Chapter;
- (e) conditions and means of publication or specific rules and conditions for the diffusion or making available by the Commission to the competent authorities of the Member States of the information needed under this Regulation;
- (f) the responsibilities of the special department referred to in Article 80;
- (g) the content of reports referred to in Article 81 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 control system to ensure that beneficiaries of the aid referred to in Article 11 of Regulation (EU) .../... [CAP Strategic Plan Regulation] and in Chapter IV of Regulation (EU) No 228/2013 and in Chapter IV of Regulation (EU) No 229/2013 respectively, comply with the obligations referred to in Section 2 of Chapter 1 of Title III of Regulation (EU) .../...[CAP Strategic Plan Regulation].

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 system referred to in the first subparagraph of this paragraph.

Member States shall conduct a yearly review of the control system referred to in the first subparagraph 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 act, differing in substance from any other requirements of the same act;
 - (b) "act" means each of the individual Directives and Regulations referred to in Article 11 of Regulation (EU) .../...[CAP Strategic Plan Regulation].
3. In their control system referred to 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 1 of Title III of Regulation (EU) .../... [CAP Strategic Plan Regulation];
 - (b) may decide, depending on the requirements, standards, acts or areas of conditionality in question, to use the checks carried out under the control systems applicable to the respective requirement, standard, 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 to carry out the on-the-spot checks referred to in point (a);
 - (d) 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 and shall include a random component and shall provide the control sample to cover at least 1% of beneficiaries receiving the aid provided for in Section 2 of Chapter 1 of Title III of Regulation (EU) .../... [CAP Strategic Plan Regulation].

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 11 of Regulation (EU) .../... [CAP

Strategic Plan Regulation] 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 1 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 area of the holding of the beneficiary is concerned.

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 land 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 finding and the obligation to take remedial action shall be notified to the beneficiary;
 - (c) shall provide that no administrative penalty be imposed where the non-compliance is due to force majeure.
3. The application of an administrative penalty shall not affect the legality and regularity of the expenditure to which it applies.

Article 86

Calculation of the penalty

1. The administrative penalties provided for in Section 2 of Chapter 1 of Title III of Regulation (EU) .../[CAP Strategic Plan Regulation] shall be applied by means of reduction from or exclusion of the total amount of the payments listed in that Section of that Regulation granted or to be granted to the beneficiary concerned in respect of aid applications he 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, reoccurrence or intentionality of the non-compliance determined. The penalties imposed shall be dissuasive and proportionate, and compliant with the criteria set out in paragraphs 2 and 3 of this Article.
2. In the case of non-compliance due to negligence, the percentage of reduction shall be as a general rule 3% of the total amount of the payments referred to in paragraph 1 of this Article.

Member States may set up an early warning system that applies to individual cases of non-compliance occurring for the first time and which, given their minor severity, extent and permanence, shall not lead to a reduction or exclusion. Where a subsequent check within three consecutive calendar years establishes that the non-compliance has not been remedied, the reduction pursuant to the first subparagraph shall be applied retroactively.

However, cases of non-compliance which constitute a direct risk to public or animal health shall always lead to a reduction or exclusion.

Member States may provide mandatory training under the farm advisory system provided for in Section 3 of Chapter 1 of Title III of Regulation (EU) .../...[CAP Strategic Plan Regulation] to the beneficiaries who have received an early warning.

3. In case of reoccurrence, the percentage reduction shall be higher than the one to be applied in case of non-compliance due to negligence and sanctioned for the first time.
4. In case of intentional non-compliance, the percentage shall be higher than the one applied in case of reoccurrence pursuant to paragraph 3 and may go as far as total exclusion from payments and may apply for one or more calendar years.
5. In order to ensure a level-playing field between Member States and the effectiveness and dissuasive effect of the penalty system, the Commission shall be empowered to adopt delegated acts in accordance with Article 100 supplementing this Regulation with further rules on the application and calculation of penalties.

Article 87

Amounts resulting from the administrative penalties on conditionality

Member States may retain 20 % of the amounts resulting from the application of the reductions and exclusions referred to in Article 86.

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.

The annual accounts of accredited paying agencies relating to EAFRD expenditure shall be submitted at the level of each CAP Strategic Plan.

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 in accordance with [Article 44(3)-(5) of Regulation (EU) .../...CPR Regulation] and paragraphs 2, 3 and 4 of this Article.
2. [Article 44(3)-(5) of Regulation (EU) .../...CPR Regulation] shall apply in respect of beneficiaries of EAFRD and EAGF, where relevant; however, the amounts corresponding to the national contribution and the co-financing rate, as provided for in points (h) and (i) of Article 44(3) of that Regulation shall not apply to EAGF.
3. For the purposes of this Article:
 - "operation" means measure or intervention;
 - "location" 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)-(5) 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 or 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 and processed in aggregated form only.
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 5, Article 7(3), Articles 9, 34, Article 35(4), Articles 36, 37, 38, 43, 51, 52, 54, 110 and 111 of Regulation (EU) No 1306/2013 and the relevant implementing and delegated rules shall continue to apply in relation to expenditure incurred and payments made for the agricultural financial year 2020 and before as regards the EAGF, and as regards the EAFRD in relation to expenditure incurred and payments made for rural development programmes approved by the Commission under 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 operations implemented pursuant to Regulation (EU) No 1307/2013 and 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 Council³⁷.
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.

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 2021.
2. However, Articles 7, 10, 18, 19, 35, 36, 37, 38, 39, 40, 43, 51, 52, 53 and 54 shall apply to expenditure effected from 16 October 2020 as regards the EAGF, and as

³⁷ Regulation (EU) .../... of the European Parliament and of the Council of [...] [...] (OJ L [...], [...], p. [...]).

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

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

- 1.1. Title of the proposal/initiative
- 1.2. Policy area(s) concerned in the ABM/ABB structure
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2. MANAGEMENT MEASURES

- 2.1. Monitoring and reporting rules
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- 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected
- 3.2. Estimated impact on expenditure
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1. FRAMEWORK OF THE PROPOSAL

1.1. Title of the proposal

- a) 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;
- b) Proposal for a Regulation of the European Parliament and of the Council establishing rules on support for strategic plans to be drawn up by Member States under the Common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulation (EU) No 1305/2013 of the European Parliament and of the Council and Regulation (EU) No 1307/2013 of the European Parliament and of the Council;
- c) Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products, (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs, (EU) No 251/2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products, (EU) No 228/2013 laying down specific measures for agriculture in the outermost regions of the Union and (EU) No 229/2013 laying down specific measures for agriculture in favour of the smaller Aegean islands.

1.2. Policy area(s) concerned (*Programme cluster*)

Programme cluster 8 - Agriculture & Maritime Policy under Heading 3 of the Multiannual Financial Framework (MFF) 2021-2027 – Natural Resources and Environment

1.3. The proposal/initiative relates to:

- a new action following a pilot project/preparatory action³⁸
- the extension of an existing action
- a merger or redirection of one or more actions towards another/a new action

1.4. Grounds for the proposal/initiative

1.4.1. Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative

The objectives of the Common Agricultural Policy (CAP), set out in Article 39 of the Treaty on the Functioning of the European Union, aim at:

(a) increasing agricultural productivity (including through technical progress and optimum usage of the factors of production);

(b) thus ensuring a fair standard of living for the agricultural community (including by increasing earnings);

(c) stabilising markets;

(d) ensuring the availability of supplies; and

(e) ensuring that supplies reach consumers at reasonable prices.

³⁸

As referred to in Article 58(2)(a) or (b) of the Financial Regulation.

Those are adjusted and articulated to the challenges mentioned in section 1.4.2 below in order to put the emphasis on the 10 Commission priorities for 2015-2019 and UN Sustainable Development Goals and in order to fulfil the above the proposals aiming to lay down the legislative framework for the Common Agricultural Policy for the period 2021-2027 – A simpler, smarter, modern and more sustainable CAP.

- 1.4.2. *Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.*

The cross-border and global nature of key challenges faced by EU agriculture and rural areas require a common policy at EU level. The CAP addresses those challenges by:

- securing a single market and level playing field via a common income safety net system of support that underpins food security and avoids potential distortions of competition;
- shoring up EU farming sector resilience necessary to harness globalisation and
- delivering on key dimensions of sustainability challenges like climate change, water use, air quality and biodiversity via the CAP environmental architecture.

In other areas, a strong EU-wide dimension needs to be combined with more subsidiarity. These areas include food safety (e.g. harmonisation of standards), rural area challenges (with big gaps in rural unemployment existing between Member States), poor rural infrastructure and services, weaknesses in research and innovation, and problems related to food quality, public health and nutrition. An appropriate EU-level response to these challenges allows more effective and efficient action when combined with more flexibility at Member State level.

- 1.4.3. *Lessons learned from similar experiences in the past*

On the basis of the evaluation of the current policy framework, an extensive consultation with stakeholders as well as an analysis of future challenges and needs, a comprehensive impact assessment has been carried out. More details can be found in the impact assessment and the explanatory memorandum that are accompanying the legal proposals.

- 1.4.4. *Compatibility and possible synergy with other appropriate instruments*

Predominantly as regards the CAP, significant synergies and simplification effects will be obtained by including under one strategic framework of the CAP Strategic Plan the implementation of interventions financed by the EAGF and EAFRD. The structures already in place in the Member States shall be sustained while management and control rules simplified and tailored to specific interventions implemented by the Member States.

The CAP maintains strong synergies with climate and environment policies, food safety and health-related issues, digital agenda in rural areas and bioeconomy, knowledge and innovation enlargement and neighbourhood policy, trade and development policies, Erasmus+.

The CAP will work in synergy and complementarity with other EU policies and funds such as actions implemented under the European Structural and Investment

Funds, the InvestEU fund, the ninth Framework Programme for Research as well as environmental and climate-related policies. Where appropriate, common rules will be established in view of maximising consistency and complementarity between funds, while making sure that specificities of these policies are respected.

Synergies with the Research Framework Programme (FP) will be secured in the FP9 cluster on “Food and Natural Resources” whose objective is to make agriculture and food systems fully safe, sustainable, resilient, circular, diverse and innovative. The CAP will forge even stronger links to EU Research and Innovation policy by introducing bioeconomy as a priority for the CAP. Under the cluster on “Food and Natural Resources”, emphasis is also given to reaping the benefits of the digital revolution, so Research and Innovation activities will contribute to the digital transformation of agriculture and rural areas.

The legislative proposals concerned by this financial statement should be seen in the broader context of the proposal for the Common Provisions Regulation laying down a single framework of common rules for funds such as the EAFRD, the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Maritime and Fisheries Fund and others. That framework regulation will make an important contribution to reducing administrative burden, to spending EU funds in an effective way, and to put simplification into practice.

1.5. Duration and financial impact

limited duration

- in effect from 01/01/2021 to 31/12/2027
- Financial impact from 2021 to 2027 for commitment appropriations and from 2021 to beyond 2027 for payment appropriations.

unlimited duration for Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products, (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs, (EU) No 251/2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products, (EU) No 228/2013 laying down specific measures for agriculture in the outermost regions of the Union and (EU) No 229/2013 laying down specific measures for agriculture in favour of the smaller Aegean islands

- Implementation as from 2021 (budget year).

1.6. Management mode(s) planned³⁹

Direct management by the Commission

- by its departments, including by its staff in the Union delegations;
- by the executive agencies

Shared management with the Member States

Indirect management by entrusting budget implementation tasks to:

³⁹ Details of management modes and references to the Financial Regulation may be found on the BudgWeb site:

<https://myintracomm.ec.europa.eu/budgweb/EN/man/budgmanag/Pages/budgmanag.aspx>

- third countries or the bodies they have designated;
- international organisations and their agencies (to be specified);
- the EIB and the European Investment Fund;
- bodies referred to in Articles 70 and 71 of the Financial Regulation;
- public law bodies;
- bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;
- bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;
- persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.
- *If more than one management mode is indicated, please provide details in the 'Comments' section.*

Comments

No substantive change compared to the present situation, i.e. the bulk of expenditure concerned by the legislative proposals on the CAP will be managed by shared management with the Member States. However, a very minor part will continue to fall under direct management by the Commission.

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

A performance, monitoring and evaluation framework shall be established with a view to:

- (a) assess the impact, effectiveness, efficiency, relevance, coherence and EU added value of the CAP;
- (b) set milestones and targets for CAP Strategic Plans specific objectives;
- (c) monitor progress made towards achieving the CAP Strategic Plan targets;
- (d) assess the impact, effectiveness, efficiency, relevance and coherence of the CAP Strategic Plans interventions;
- (e) support a common learning process related to monitoring and evaluation.

The Managing Authority and the Monitoring Committee will monitor the implementation of the CAP Strategic Plan and progress made towards achieving CAP Strategic Plan targets.

Annual performance reports

By 15 February 2023 and 15 February of each subsequent year until and including 2030, Member States shall submit to the Commission annual performance reports on the implementation of the CAP Strategic Plan in the previous financial year. These reports shall set out key qualitative and quantitative information on implementation of the CAP Strategic Plan by reference to financial data, output and result indicators. They shall also include information about realised outputs, realised expenditure, realised results and distance to respective targets.

The data transmitted shall relate to achieved values for indicators for partial and fully implemented interventions. They shall also set out a synthesis of the state of implementation of the CAP Strategic Plan realised during the previous financial year, any issues which affect the performance of the CAP Strategic Plan, in particular as regards deviations from milestones, underlining reasons and, where relevant, the measures taken.

The Commission shall carry out an Annual Performance Review and an Annual Performance Clearance based on the information provided in the Annual Performance reports.

CAP strategic Plan evaluation

Member States shall carry out ex ante evaluations, including an analysis of the strength, weaknesses, opportunities and threats relevant for the CAP Strategic Plan concerned in order to identify the needs to be addressed by the CAP Strategic Plan.

Evaluations of CAP Strategic Plans shall be carried out by the Member States to improve the quality of the design and implementation of plans, as well as to assess their effectiveness, efficiency, relevance, coherence, EU added value and impact in relation to their contribution to the CAP general and specific objectives.

Performance assessment by the Commission

The Commission shall establish a multiannual evaluation plan of the CAP to be carried out under the responsibility of the Commission.

The Commission shall carry out an interim evaluation to examine the effectiveness, efficiency, relevance, coherence and EU added value of the Funds taking into account the indicators set out in Annex VII. The Commission may make use of all relevant information already available in accordance with Article 128 of Financial Regulation.

The Commission shall carry out a retrospective evaluation to examine the effectiveness, efficiency, relevance, coherence and EU added value of the Funds.

Based on evidence provided in evaluations on the CAP, including evaluations on CAP Strategic Plans, as well as other relevant information sources, the Commission shall present an initial report on the implementation of this Article, including first results on the performance of the CAP, to the European Parliament and the Council by 31 December 2025. A second report including an assessment of the performance of the CAP shall be presented by 31 December 2031.

Reporting based on a core set of indicators

The information provided by the Member States is the basis on which the Commission shall report on the progress towards the achievement of specific objectives over the whole programming period using for this purpose a core set of indicators.

In compliance with its reporting requirement pursuant to Article 38(3)(e)(i) of the Financial Regulation, the Commission shall present to the European Parliament and the Council the performance information referred to in that Article measured by the core set of indicators.

2.2. Management and control system(s)

2.2.1. Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed

The CAP is primarily implemented in shared management with the Member States. The existing governance bodies set up in the Member States, notably the paying agencies and certification bodies, have shown their effectiveness in protecting the EU budget and ensuring sound financial management. The steady low error rate levels under the CAP in the most recent years show that the management and control systems set up by the Member States function properly and provide reasonable assurance.

The new delivery model under the CAP acknowledges this situation by conferring more subsidiarity on Member States in deciding and managing the control systems in place within a more general set of rules at the level of the Union. Moreover, following the strategy on budgeting focused on results and performance oriented payments, the CAP will link the eligibility of the payments to the actual delivery on the ground. Performance is therefore at the heart of the financial management and assurance model in the legislative proposals for the CAP post 2020.

The control strategy for the new period will be fully in line with the single audit approach, ensuring that accredited paying agencies and certification bodies provide the necessary assurance. The Commission will pay particular attention to the

effective functioning of the governance systems in place and the reliability of the performance reporting. As currently, there will be an audit strategy drafted at the beginning of the period and a multi-annual working programme.

To summarize, the Commission will ensure that the governance systems set up in the Member States are functioning effectively, will reimburse the payments incurred by the accredited paying agencies and will carry out annual performance clearance assessing the achieved outputs reported by the Member States.

2.2.2. *Information concerning the risks identified and the internal control system(s) set up to mitigate them*

There are more than seven million beneficiaries of the CAP, receiving support under a large variety of different aid schemes. The downward trend in the reduction of the error rate in the domain of the CAP shows robust and reliable management and control systems in the paying agencies.

The CAP has been implemented so far through detailed eligibility rules at the level of the beneficiary which added complexity, administrative burden and risk of error. The costs of the management and control system, in order to mitigate this risk, have been considered as somewhat disproportionate.

The legislative package for the CAP post 2020 reduces substantially the compliance element, increasing the focus on performance. Obligations stemming from EU rules are to be fulfilled by Member States who then should put in place the appropriate management and control system. Member States will have more flexibility to design the schemes and measures that better fit their concrete realities. Therefore, the CAP funding will be conditioned to a strategic delivery of the policy towards common objectives defined at EU level. The CAP Plan will be the agreement between the Member States and the Commission whereby the strategy for 7 years, targets, interventions and planned expenditure are laid down and approved.

The proposal for the regulation on the financing, management and monitoring of the common agricultural policy adapts the current set up to this new delivery model, while maintaining the well-functioning governance bodies (paying agencies and certification bodies). As in the current situation, every year the head of each paying agency is required to provide a management declaration which covers the completeness, accuracy and veracity of the accounts, the proper functioning of the governance structures, including fulfilment of EU basic requirements, and the reliability of the performance reporting. An independent audit body (Certification Body) is required to provide an opinion on these elements.

Expenditure will be reduced if the Member State has not delivered outputs to the agreed standards. Compliance audits will still be carried out to assess the functioning of the governance structures. The Commission will continue to audit agricultural expenditure, using a risk-based approach in order to ensure that its audits are targeted to the areas of highest risk, in accordance with the single audit principle. Furthermore, there are clear mechanisms for suspensions of payments for cases of serious deficiencies in the governance structures or significant underperformance trends.

The main risk envisaged for the new period is that the alleviation of concrete and detailed rules on how the management and control system in the Member State should be established at the level of the paying agencies may have a reputational

impact for the Commission in cases where eligibility rules established by the Member States are not respected. It should be stressed that the Commission will ensure that governance systems are in place and outputs and results are being achieved. In the spirit of budgeting focused on results, the Commission will put the focus to what the policy delivers.

2.2.3. *Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)*

The new delivery model for the CAP is expected to significantly reduce the cost of controls, both for Member States and beneficiaries.

The EU level requirements have been significantly reduced and they have been set at the level of the Member States, who should use this opportunity to adapt the obligations to be fulfilled by beneficiaries to the concrete national or regional circumstances.

Member States will define the management and control system within the simplified EU framework defined in the legislative proposals. The Integrated Administration and Control System (IACS), accountable for roughly 88% of the CAP payments, is maintained although specific elements, so far defined at EU level, will be left to Member States. Therefore, intensity and scope of controls which is the main cost driver is no longer defined at EU level.

The focus on performance requires a robust and reliable reporting system, which as mentioned in previous sections, will be subject to independent audits. It is not expected though that this has a significant impact on the administrative burden of the Member States, since most of the output indicators are already available in the accredited paying agencies.

The Member States have the potential to simplify and reduce the administrative burden linked to the management and control of the CAP, since they will be able to tailor eligibility rules at beneficiary level and decide most suitable way to control (no one-size-fits-all). As stated in the Impact Assessment accompanying the CAP legislative proposals, chapter on simplification, the delivery costs for the new CAP are not expected to be higher (currently at 3.6%), even when taking into account the enhanced focus on performance reporting.

As regards the expected level of errors, according to the new delivery model, the eligibility of the expenditure is assessed in terms of outputs achieved. Therefore, errors would not be calculated in respect to legality and regularity of individual transactions but on the level of outputs achieved in relationship with the expenditure reimbursed. The expenditure which has not a corresponding output will be reduced in the framework of the annual performance clearance, so the EU budget remains protected.

2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures, e.g. from the Anti-Fraud Strategy.

The legislative package envisages that Member States shall ensure effective prevention against fraud, especially in the areas with a higher level of risk, preventing, detecting and correcting irregularities and fraud. Member States must

impose effective, dissuasive and proportionate penalties as laid down in Union legislation or national law, and recover any irregular payments plus interests.

These EU basic requirements are part of the governance structures that will be audited by the Certification Bodies and on a risk-based approach, also by the Commission following the single audit principle.

Details will be addressed, as appropriate, in a revised AGRI Anti-fraud Strategy. It is however not expected that the typology of fraud and other serious irregularities will substantially change in the future compared to the status quo.

The current approach of delivering targeted training to Member States on the prevention, detection and correction of fraud and other serious irregularities is likely to be extended onto the future CAP. The same applies to thematic guidance notes for Member States on specific areas of high risk.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL

The amounts indicated in this financial statement are expressed in current prices.

In addition to the changes resulting from the legislative proposals as listed in the accompanying tables below, the legislative proposals imply further changes which have no financial impact.

As regards the market-related expenditure, it should be underlined that the amounts taken into account for market-related expenditure are based on the assumption of no public intervention buying-in and other measures related to a crisis situation in any sectors.

A new agricultural reserve will be established in the EAGF, to provide additional support for the agricultural sector for the purpose of safety-net measures in the context of market management or stabilisation and/or in case of crises affecting the agricultural production or distribution. The amount of the reserve will be at least EUR 400 million at the beginning of each financial year. The unused amounts of the agricultural crisis reserve in financial year 2020 will be carried forward to financial year 2021 to set up the reserve; an annual roll-over of the unused amounts will apply in the period 2021-2027. In case the reserve is used, it will be re-filled using existing budgetary availabilities or by fresh appropriations. In case the specific EAGF sub-ceiling fixed in the MFF 2021-2027 is overshoot, the financial discipline will apply to cover all needs above the sub-ceiling, including those for refilling the reserve. Therefore, the repeated application of financial discipline for the purpose of setting up the reserve is not foreseen in the period 2021-2027. The financial discipline mechanism will remain for the purpose of ensuring the respect of the EAGF sub-ceiling.

As concerns direct payments types of interventions, the net ceilings for financial year 2021 (calendar year 2020) set by Regulation (EU) No 1307/2013 of the European Parliament and of the Council, are higher than the amounts allocated to direct payments types of interventions indicated in the accompanying tables, consequently they will need to be adjusted in line with the final agreement on the CAP financial envelope within the deadlines needed for timely implementation in the Member States.

The proposal includes a continuation of the process of external convergence of direct payments: Member States with an average support level below 90% of the EU average will close 50% of the gap to 90% of the EU average in 6 gradual steps starting in 2022. All Member States will contribute to financing this convergence. It is reflected in the Member States allocations for direct payments in Annex IV to the CAP Strategic Plans Regulation.

The impact of the reduction of payments in direct support to farmers is budgetary neutral for the direct payments allocation, as the product of the reduction of payments will be used to finance redistributive payment within the same Member State. In case the product of the reduction of payments cannot be accommodated in the financing of direct payments types of interventions, it will be transferred to the EAFRD allocation of the Member State concerned. The amounts of such possible transfer cannot be quantified at this stage.

As regards the revenue assigned to the EAGF, the estimate reflects the effect of granted deferrals and instalments on the past clearance decisions that will be cashed

in after 2020, and the estimated assigned revenue from clearance and irregularities to be collected. The latter is assumed to decrease compared to current levels following the introduction of the new delivery model.

As regards the EAFRD, the proposal foresees a decrease in EU co-financing rates similarly to the other European Structural and Investment Funds. This together with the allocation for the EAFRD types of interventions will allow keeping public support to European rural areas largely unchanged. The allocation between Member States is based on objective criteria and past performance.

The reform proposals contain provisions giving Member States a degree of flexibility in relation to their allocation for direct payments types of interventions and for rural development types of interventions, as well as between the allocation for direct payments types of interventions and for certain sectoral types of interventions. In case Member States decide to use that flexibility, this will have financial consequences within the given financial amounts, which cannot be quantified at this stage.

3.1. Heading of the multiannual financial framework and preliminary list of new expenditure budget lines proposed⁴⁰

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Heading 3: Natural Resources and Environment	Diff./Non-diff. ⁴¹	from EFTA countries ⁴²	from candidate countries ⁴³	from third countries	within the meaning of Article [21(2)(b)] of the Financial Regulation
3	[08.01.YY] EAGF Non-operational technical assistance	Non-diff	NO	NO	NO	NO
3	[08.01.YY] EAFRD Non-operational technical assistance	Non-dif	NO	NO	NO	NO
3	[08.01.YY] Executive agencies	Non-diff	NO	NO	NO	NO
3	[08.02.YY] Agricultural reserve	Non-diff	NO	NO	NO	NO
3	[08.02.YY] Sectoral types of interventions under the CAP plan	Non-diff	NO	NO	NO	NO
3	[08.02.YY] Market related expenditure outside the CAP plan	Diff and non-diff	NO	NO	NO	NO
3	[08.02.YY] Direct payments types of	Non-diff	NO	NO	NO	NO

⁴⁰ A number of the existing budgetary lines is to be maintained and the numbering is to be adapted to the new budgetary nomenclature (e.g. current chapters 05 07 and 05 08). Following the development of the CAP proposal the nomenclature could be adjusted.

⁴¹ Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.

⁴² EFTA: European Free Trade Association.

⁴³ Candidate countries and, where applicable, potential candidates from the Western Balkans

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Heading 3: Natural Resources and Environment	Diff./Non-diff. ⁴¹	from EFTA countries ⁴²	from candidate countries ⁴³	from third countries	within the meaning of Article [21(2)(b)] of the Financial Regulation
	interventions under the CAP plan					
3	[08.02.YY] Direct payments outside the CAP plan	Non-diff	NO	NO	NO	NO
3	[08.02.YY] EAGF Operational technical assistance	Diff and non-diff	NO	NO	NO	NO
3	[08.03.YY] 2021-2027 rural development types of interventions under the CAP plan	Diff	NO	NO	NO	NO
3	[08.03.YY] EAFRD Operational technical assistance	Diff	NO	NO	NO	NO
7	[08.01.YY] Expenditure related to official and temporary agents in the 'Agriculture and rural development' policy area	Non-diff	NO	NO	NO	NO
7	[08.01.YY] External personnel and other management expenditure in support of the 'Agricultural and Rural Development' policy area	Non-diff	NO	NO	NO	NO
7	[08.01.YY] Expenditure related to information and communication technology equipment and services of the 'Agricultural and Rural Development' policy area	Non-diff	NO	NO	NO	NO

The list of budget items in the table above is preliminary and does not prejudice the concrete budget nomenclature that the Commission will propose in the context of the annual budgetary procedure.

3.2. Estimated impact on expenditure

3.2.1. Summary of estimated impact on expenditure

EUR million (with three decimal places)

Heading of multiannual financial framework	3	Natural Resources and Environment
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			2021	2022	2023	2024	2025	2026	2027	Post 2027	TOTAL
08 02 YY – Agricultural reserve	Commitments = Payments	(1)	p.m.		p.m.						
08 02 YY – Sectoral types of interventions under the CAP plan ⁴⁴	Commitments = Payments	(2)	2,044.116	2,066.584	2,091.060	2,115.010	2,139.737	2,165.443	2,192.347		14,814.294
08 02 YY - Market related expenditure outside the CAP plan	Commitments	(3)	638.309	638.309	638.309	638.309	638.309	638.309	638.309		4,468.163
	Payments	(4)	605.136	611.601	623.808	627.643	629.770	630.334	630.314	109.558	4,468.164
08 02 YY – Direct payments types of interventions	Commitments = Payments	(5)	37,392.689	37,547.129	37,686.679	37,802.859	37,919.038	38,035.217	38,151.396		264,535.007
08 02 YY – Direct payments outside the CAP plan	Commitments = Payments	(6)	421.321	421.321	421.321	421.321	421.321	421.321	421.321		2,949.249
08 02 YY – EAGF operational technical assistance ⁴⁵	Commitments = Payments ⁴⁶	(7)	71.000	71.000	71.000	71.000	71.000	71.000	71.000		497.000

⁴⁴ An increase in the Sectoral types of interventions under the CAP plan is explained by the allocation proposed for the support to the apiculture sector amounting to EUR 60 million, as well as the evolution of the expenditure in fruit and vegetables sector, which is not limited by an EU level envelope, following the observed past level of execution.

⁴⁵ Including also the amounts financed currently under chapters 05 07 (Audit of agricultural expenditure) and 05 08 (Policy strategy and coordination of the Agriculture and rural development policy area).

08 01 YY - Appropriations of an administrative nature financed from the EAGF ⁴⁷	Commitments = Payments	(8)	13.000	13.000	13.000	13.000	13.000	13.000	13.000		91.000
67 01 & 67 02 – Revenue assigned to the EAGF	Commitments = Payments	(9)	280.000	230.000	130.000	130.000	130.000	130.000	130.000		1,160.000
SUBTOTAL – EAGF	Commitments	(10)=(1+2+3+5+6+7+8-9)	40,300.435	40,527.343	40,791.369	40,931.499	41,072.405	41,214.290	41,357.373		286,194.715
	Payments	(11)=(1+2+4+5+6+7+8-9)	40,267.262	40,500.635	40,776.868	40,920.833	41,063.866	41,206.315	41,349.378	109.558	286,194.715

08 03 YY – Rural development types of interventions	Commitments	(12)	11,230.561	11,230.561	11,230.561	11,230.561	11,230.561	11,230.561	11,230.561		78,613.927
	Payments	(13)	786.139	3,703.699	6,314.312	7,860.977	9,356.414	10,331.700	11,025.236	29,235.450	
08 03 YY – EAFRD operational technical assistance EU	Commitments = Payments ⁴⁸	(14)	22.147	22.147	22.147	22.147	22.147	22.147	22.147		155.029
08 01 YY - Appropriations of an administrative nature financed from the EAFRD	Commitments = Payments	(15)	6.000	6.000	6.000	6.000	6.000	6.000	6.000		42.000
SUBTOTAL – EAFRD	Commitments	(16)=(1+2+14+15)	11,258.708		78,810.955						
	Payments	(17)=(1+3+14+15)	814.286	3,731.846	6,342.459	7,889.124	9,384.561	10,359.847	11,053.383	29,235.450	

⁴⁶ For simplification, the appropriations for EAGF technical assistance are here considered as non-differenciaded. The amount of RAL tends to be insignificant compared to the total amounts concerned by this financial statement.

⁴⁷ Including the amounts financed currently under item 05 01 04 01 - Support expenditure for European Agricultural Guarantee Fund (EAGF) - Non-operational technical assistance and 05 01 06 01 - Consumer, Health, Agriculture and Food Executive Agency - Contribution from the agricultural promotion programme

⁴⁸ For simplification, the appropriations for EAFRD technical assistance are here considered as non-differenciaded. The amount of RAL tends to be insignificant compared to the total amounts concerned by this financial statement.

TOTAL appropriations for the CAP	Commitments	=10+16	51,559.143	51,786.051	52,050.077	52,190.207	52,331.113	52,472.998	52,616.081		365,005.670
	Payments	=11+17	41,081.548	44,232.481	47,119.327	48,809.957	50,448.427	51,566.162	52,402.761	29,345.008	365,005.670

Totals do not tally due to rounding.

Heading of multiannual financial framework	7	‘Administrative expenditure’
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EUR million (with three decimal places)

		2021	2022	2023	2024	2025	2026	2027	<i>Post 2027</i>	TOTAL
Human resources		125.678	125.678	125.678	125.678	125.678	125.678	125.678		879.746
Other administrative expenditure		6.008	6.008	6.008	6.008	6.008	6.008	6.008		42.056
TOTAL appropriations under HEADING 7 of the multiannual financial framework	Commitments = Payments	131.686		921.802						

EUR million (with three decimal places)

		2021	2022	2023	2024	2025	2026	2027	<i>Post 2027</i>	TOTAL
TOTAL appropriations across HEADINGS of the multiannual financial framework	Commitments	51,690.829	51,917.737	52,181.763	52,321.893	52,462.799	52,604.684	52,747.767		365,927.472
	Payments	41,213.234	44,364.167	47,251.013	48,941.643	50,580.113	51,697.848	52,534.447	29,345.008	365,927.472

Totals do not tally due to rounding.

3.2.2. Summary of estimated impact on appropriations of an administrative nature

- The proposal/initiative does not require the use of appropriations of an administrative nature
- The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

Years	2021	2022	2023	2024	2025	2026	2027	TOTAL
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HEADING 7 of the multiannual financial framework								
Human resources	125.678	125.678	125.678	125.678	125.678	125.678	125.678	879.746
Other administrative expenditure	6.008	6.008	6.008	6.008	6.008	6.008	6.008	42.056
Subtotal HEADING 7 of the multiannual financial framework	131.686	921.802						

Outside HEADING 7⁴⁹ of the multiannual financial framework								
Human resources	1.850	1.850	1.850	1.850	1.850	1.850	1.850	12.950
Other expenditure of an administrative nature	17.150	17.150	17.150	17.150	17.150	17.150	17.150	120.050
Subtotal outside HEADING 7 of the multiannual financial framework	19.000	133.000						

Totals do not tally due to rounding.

TOTAL	150.686	1 054.802						
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The appropriations required for human resources and other expenditure of an administrative nature will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

⁴⁹ Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

3.2.2.1. Estimated requirements of human resources

- The proposal/initiative does not require the use of human resources.
- The proposal/initiative requires the use of human resources, as explained below:

Estimate to be expressed in full time equivalent units

Years	2021	2022	2023	2024	2025	2026	2027
• Establishment plan posts (officials and temporary staff)							
Headquarters and Commission's Representation Offices	845	845	845	845	845	845	845
Delegations	3	3	3	3	3	3	3
Research							
• External staff (in Full Time Equivalent unit: FTE) - AC, AL, END, INT and JED⁵⁰							
Heading 7							
Financed from HEADING 7 of the multiannual financial framework	- at Headquarters	57.75	57.75	57.75	57.75	57.75	57.75
	- in Delegations	1	1	1	1	1	1
Financed from the envelope of the programme ⁵¹	- at Headquarters	29	29	29	29	29	29
	- in Delegations						
Research							
Other (specify)							
TOTAL	935.75	935.75	935.75	935.75	935.75	935.75	935.75

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

⁵⁰ AC= Contract Staff; AL = Local Staff; END = Seconded National Expert; INT = agency staff; JPD= Junior Professionals in Delegations.

⁵¹ Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

3.2.3. Third-party contributions

The proposal/initiative:

- does not provide for co-financing by third parties
- provides for the co-financing by third parties estimated below:

Appropriations in EUR million (to three decimal places)

Years	2021	2022	2023	2024	2025	2026	2027	TOTAL
Specify the co-financing body								
TOTAL appropriations co-financed								

3.3. Estimated impact on revenue

- The proposal/initiative has no financial impact on revenue.
- The proposal/initiative has the following financial impact:
 - on own resources
 - on other revenue

please indicate, if the revenue is assigned to expenditure lines

EUR million (to three decimal places)

Budget revenue line:	Impact of the proposal						
	2021	2022	2023	2024	2025	2026	2027
67 01 & 67 02	280	230	130	130	130	130	130

For assigned revenue, specify the budget expenditure line(s) affected.

08 02 YY – Sectoral types of interventions

08 02 YY – Direct payments types of interventions

Other remarks (e.g. method/formula used for calculating the impact on revenue or any other information).

Please refer to comments under point 3