EUROPEAN
COMMISSION

Brussels, 18.4.2013
COM(2013) 226 final

2013/0117 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

laying down certain transitional provisions on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and amending Regulation (EU) No […] [RD] as regards resources and their distribution in respect of the year 2014 and amending Council Regulation (EC) No 73/2009 and Regulations (EU) No […][DP], (EU) No […][HZ] and (EU) No […][sCMO] as regards their application in the year 2014

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The European Commission is working intensively to reach an agreement between EU institutions on the reform of the CAP which will permit the reformed CAP to enter into force on 1st of January 2014.

With the pursued objective of reaching an agreement between the Institutions on the MFF and a political agreement on the Common Agricultural Policy (CAP) reform before the summer 2013, the legal bases for the reformed CAP are foreseen to enter into force on 1st of January 2014.

However, transitional rules are needed to define technical arrangements which will permit a smooth adaptation to the new conditions, while at the same time ensuring continuity of the different forms of support under the CAP.

As regards direct payments, sufficient time must be available to allow Member States, and especially their paying agencies, to be well prepared and to inform in details farmers on new rules enough in advance. Therefore, the claims for 2014 will be treated under transitional rules.

As for the second pillar, the definition of transitional rules between the two programming periods represents standard practice. Transitional rules are generally needed to bridge the two consecutive programming periods, as already experienced at the beginning of the current programming period. However, for rural development, there is this time also a need for some specific transitional arrangements, notably to deal with the implications which the delay of the new direct payment regime has for certain rural development measures especially as regards the baseline for agri-environment and climate measures and the application of the cross-compliance rules. Transitional arrangements are also needed to ensure that MS can keep on undertaking new commitments for area and animal-related measures in 2014 even if the resources for the current period have been exhausted. These new commitments, as well as corresponding on-going commitments shall be eligible from the new financial envelopes of the rural development programmes of the next programming period.

For the horizontal regulation, the need for transitional measures is limited to the FAS, IACS and cross-compliance, due to their link to the direct payments.

In light of the above, specific transitional rules need to be adopted by the Council and the European Parliament before the end of the year, amending the current CAP basic acts where necessary.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

In relation to the transitional rules, there was no need for consultation of interested parties or an impact assessment since these adjustments follow from the state of play of the discussions between the Institutions regarding the MFF and the CAP reform.

3. LEGAL ELEMENTS OF THE PROPOSAL

For direct payments, the transitional measures first provide for the prolongation of the main elements of the existing schemes – SPS, SAPS, coupled regimes, also those granted as specific support under Article 68 – for claim year 2014. Secondly, they incorporate, subject to agreement of the European Parliament the financial impacts of the European Council

conclusions of 8 February; including the start of the external convergence process. The introduction of transitional measures implies that certain of the dates included in the Commission proposal for direct support after 2013 will have to be adapted accordingly in order to ensure consistency with this draft Regulation.

For rural development, transitional rules will have to be established to define how the current measures would be carried over to the next programming period, including their financing from the new financial envelope. In addition, these rules define which baseline and cross-compliance rules should apply in 2014. Finally, these rules establish transitional provisions for Croatia.

The transitional measures also include provisions regarding the possibility for Member States to transfer funds between pillars. Such flexibility mechanism is an element of the CAP reform to be decided by ordinary legislative procedure. Both the European Parliament on 13 March 2013 and the Agriculture Council on 19 March 2013 took position on this issue. Whilst the Council took over the European Council conclusions on the MFF, the EP increased the percentages proposed by the Commission to 15% for transfer to the second pillar and 10% for transfers to the first pillar, the latter being allowed only to those MS with an average payment below 90% of the EU average. To indicate that the present proposal is without prejudice to the final decision that will be taken by the legislator on this specific element, the parts of the Article included in the transitional measures that differ from Article 14 of the Commission proposal for direct support after 2013 have been put within square brackets.

4. BUDGETARY IMPLICATION

This draft Regulation only implements the Commission proposals on the MFF and the CAP reform for financial year 2015 taking into account the European Council conclusions of 8 February 2013. It incorporates the external convergence of the direct payments, the flexibility between the CAP pillars and the co-financing rate for rural development. The new elements arising from the European Council conclusions are put within square brackets pending the final agreement on the MFF.

For direct payments, the European Council conclusions of 8 February 2013 correspond, compared to the Commission proposal, to a reduction of EUR 830 million (in current prices) in financial year 2015 (corresponding to claim year 2014 for direct payments). The distribution of direct payments ceilings among Member States takes account of the external convergence as it should start from financial year 2015. Compared to the Commission proposal, the European Council conclusions modify the timeframe of the convergence (6 years) and add a minimum of 196 EUR/ha to be reached by financial year 2020.

Compared to the Commission proposal, the flexibility between pillars is increased according to the European Council conclusions. It will be budgetary neutral as exactly the same amounts reduced from one Fund (EAGF or EAFRD) will be made available to the other Fund (EAGF or EAFRD).

As regards rural development, this draft Regulation aims to ensure the continuity of a number of measures involving multiannual commitments. Those provisions have no financial impact as the rural development allocation remains unchanged. However, the distribution over time of the payments might be slightly different than otherwise but it cannot be quantified at this stage.

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

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laying down certain transitional provisions on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and amending Regulation (EU) No [RD] as regards resources and their distribution in respect of the year 2014 and amending Council Regulation (EC) No 73/2009 and Regulations (EU) No [DP], (EU) No [HZ] and (EU) No [sCMO] as regards their application in the year 2014

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 European Economic and Social Committee[1],

Having regard to the opinion of the Committee of the Regions[2],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Regulation (EU) No […] [RD] of the European Parliament and of the Council of… on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)[3], which is to apply from 1 January 2014, lays down rules governing Union support for rural development and repeals Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)[4], without prejudice to the continued application of the Regulations implementing that Regulation until they are repealed by the Commission. To facilitate the transition from existing support schemes under Regulation (EC) No 1698/2005 to the new legal framework which covers the programming period starting on 1 January 2014 ("the new programming period"), transitional rules should be adopted to avoid any difficulties or delays in the implementation of rural development support, which may result from the time of adoption of the new rural development programs. For that reason it should be provided that Member States may continue to undertake legal commitments under their existing rural development programs in 2014 for certain measures and that the resulting expenditure shall be eligible for support in the new programming period.

(2) In view of the substantial change in the method for the delimitation of areas facing significant natural constraints proposed for the forthcoming programming period, it

1 OJ C , , p. .
2 OJ C , , p. .
3 OJ L […], […], p. […].
4 OJ L 277, 21.10.2005, p. 1.

should be provided that for new legal commitments undertaken in 2014 the obligation for the farmer to continue farming in the area for 5 years does not apply.

(3) To ensure legal certainty in the transition it should be provided that expenditure undertaken pursuant to Regulation (EC) No 1698/2005 under area and animal related measures should be eligible for an EAFRD contribution in the new programming period when there are still payments to be made. In the interest of sound financial management and effective programme implementation, such expenditure should be clearly identified in the rural development programmes and throughout the management and control systems of the Member States. In order to avoid unnecessary complexity in the financial management of rural development programmes in the new programming period, it should be provided that the co-financing rates of the new programming period shall apply to transitional expenditure.

(4) Regulation (EU) No […] of the European Parliament and of Council of… establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy [DP][5] sets up new support schemes and is to apply from 1 January 2014. That date of application would not allow that the administrative and practical arrangements needed for the lodging of applications for 2014 are set up in time. For that reason, the application of the new direct payments regime needs to be postponed by one year. Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers[6] should therefore continue to form the basis on which to grant income support for farmers in calendar year 2014, while taking due account of [Regulation laying down the Multiannual Financial Framework][7].

(5) Given that Regulation (EC) No 73/2009 is to continue to apply in 2014 and in order to ensure consistency in the implementation of the provisions on cross-compliance and the respect of the standards required by certain measures, it should be provided that the relevant provisions that apply in the 2007-2013 programming period continue to apply until the new legislative framework becomes applicable. For the same reasons, it should be provided that the provisions relating to complementary national direct payments for Croatia that apply in 2013 continue to apply.

(6) Pursuant to Article 76 of Regulation (EU) No […][HZ] of the European Parliament and the Council[8] Member States will be able to pay advances for the direct payments. Under Regulation (EC) No 73/2009 such possibility needs to be authorised by the Commission. Experience in the implementation of direct support schemes shows that it is appropriate to allow for farmers to receive advance payments. As regard applications made in 2014, those advances should be limited to up to 50% of the support schemes listed in Annex I to Regulation (EC) No 73/2009 and to up to 80% of the beef and veal payment.

(7) In order to respect [Regulation laying down the Multiannual Financial Framework], and in particular the levelling of the amount available for granting direct support to farmers as well as the external convergence mechanism, it is necessary to modify the national ceilings fixed in Annex VIII to Regulation (EC) No 73/2009 for 2014. The

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5 OJ L […], […], p. […].
6 OJ L 30, 31.1.2009, p. 16.
7 OJ L […], […], p. […].
8 OJ L […], […], p. […].

modification of the national ceilings will inevitably have an impact on the amounts that individual farmers may receive as direct payments in 2014. The way in which this modification will impact on the value of payment entitlements and the level of other direct payments should therefore be laid down.

(8) Experience gained in the financial implementation of Regulation (EC) No 73/2009 showed that there was a need for clarifying certain provisions, in particular as regards the elements covered by the figures set out in Annex VIII to that Regulation and the link with the possibility given to Members States to use the funds unspent in the single payment scheme to finance the specific support. As Article 40 of Regulation (EC) No 73/2009 has to be modified in order to make clear how Member States will have to take into account the variations in the national ceilings, it is appropriate to take this as an opportunity to clarify the wording of the relevant provisions.

(9) Under Regulation (EC) No 73/2009, Member States had the possibility to decide to use a certain percentage of their national ceiling for specific support for their farmers as well as to review a previous decision by deciding to modify, or put an end to, such support. It is appropriate to provide for an additional review of those decisions with effect from calendar year 2014. At the same time, the special conditions under which the specific support is paid in some Member States pursuant Article 69(5) of Regulation (EC) No 73/2009, which are due to expire in 2013, need to be extended for one more year, in order to avoid disruption in the degree of support.

(10) The single area payment scheme laid down in Regulation (EC) No 73/2009 has a transitional nature and was due to end on 31 December 2013. Since the new basic payment scheme will replace the single payment scheme only as from 1 January 2015, an extension of the single area payment scheme for the year 2014 is necessary in order to prevent new Member States from having to apply the single payment scheme for only one year.

(11) With a view to allowing Member States to address the needs of their agricultural sectors or to strengthen their rural development policy in a more flexible way, they should be given the possibility to transfer funds from their direct payments ceilings to their support assigned for rural development and from the suport assigned for rural development to their direct payments ceilings. At the same time, Member States where the level of direct support remains lower than 90 % of the Union average level of support should be given the possibility to transfer additional funds from their support assigned for rural development to their direct payments ceilings. Such choices should be made, within certain limits, once and for the whole period of financial years 2015-2020.

(12) According to Article 22 of Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy[9], Council Directive 80/68/EEC of 17 December 1979 on the protection of groundwater against pollution caused by certain dangerous substances[10] is repealed from 22 December 2013. In order to maintain the rules under cross compliance related to protection of groundwater, it is appropriate to adjust the scope of cross-compliance and to define a standard of good agricultural and environmental condition encompassing the requirements of Articles 4 and 5 of Directive 80/68/EEC.

[9] OJ L 327, 22.12.2000, p. 1.
[10] OJ L 20, 26.1.1980, p. 43.

(13) Regulation (EU) No […][sCMO] of the European Parliament and of the Council[11] provides for the integration of the support for silkworm rearing into the direct support regime and therefore its removal from Regulation (EU) No […][sCMO]. In view of the delayed application of the new direct support regime, it is appropriate to provide for the continuation of the aids in the silkworm sector for one more year.

(14) Moreover, the provisions on the farm advisory system, the integrated administration and control system and cross compliance laid down in Title III, Chapter II of Title V and Title VI, respectively, of Regulation (EU) No […][HZ] of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy[12] should apply from 1 January 2015.

(15) Following the insertion of Article 136a into Regulation (EC) No 73/2009 and the replacement of Article 14 of Regulation (EU) No [DP], which applies from 1 January 2015, references to Article 14 of Regulation (EU) No [DP] in Regulation (EU) No […] [RD] need to be amended.

(16) Regulations (EC) No 73/2009, (EU) No […][DP], (EU) No […][HZ], (EU) No […][sCMO] and (EU) No […] [RD] should therefore be amended accordingly.

(17) This Regulation should apply from 1 January 2014. In order to avoid any overlap between the rules on flexibility between pillars laid down in Regulation (EC) No 73/2009 and Regulation (EU) No [DP] as amended by this Regulation, it is appropriate to provide that that particular amendment to Regulation (EC) No 73/2009 is to apply from the date of entry into force of this Regulation and that the amendments of Regulation (EU) No [DP], including its deferred application from 1 January 2015, are to apply from the date of entry into force of Regulation (EU) No [DP]. Furthermore, the amendment of Annexes II and III to Regulation (EC) No 73/2009 should apply from 22 December 2013,

HAVE ADOPTED THIS REGULATION:

CHAPTER 1

Transitional provisions on support for rural development

Article 1

Legal commitments under Regulation (EC) No 1698/2005 in 2014

1. By way of derogation from Article 94 of Regulation (EU) No […] [RD], for the measures of Article 36(a)(i) to (v) and (b)(iv) and (v) of Regulation (EC) No 1698/2005, Member States may continue to undertake new legal commitments to beneficiaries in 2014 pursuant to the rural development programmes adopted on the basis of Regulation (EC) No 1698/2005 even after the financial resources of the 2007-2013 programming period have been used up, until the adoption of the respective rural development programme for the 2014-2020 programming period. The expenditure incurred on the basis of these commitments shall be eligible in accordance with Article 3 of this Regulation.

[11] OJ L […], […], p. […].
[12] OJ L […], […], p. […].

2. The condition of the second indent of Article 14(2) of Council Regulation (EC) No 1257/1999[13] shall not apply to new legal commitments undertaken by Member States under Article 36(a)(i) and (ii) of Regulation (EC) No 1698/2005 in 2014.

Article 2

Continued application of Articles 50a and 51 of Regulation (EC) No 1698/2005

By way of derogation from Article 94 of Regulation (EU) No […] [RD], Articles 50a and 51 of Regulation (EC) No 1698/2005 shall continue to apply until 31 December 2014 in relation to operations selected under the rural development programmes of the 2014-2020 programming period pursuant to Article 22(1)(a) and (b) of Regulation (EU) No […] [RD] as regards the annual premium and Articles 29 to 32 and 34 and 35 of that Regulation.

Article 3

Eligibility of certain types of expenditure

1. By way of derogation from Article 7(1) of Regulation (EU) No […] [RD], expenditure relating to legal commitments to beneficiaries, undertaken under the measures of Article 36(a)(i) to (v) and (b)(iv) and (v) of Regulation (EC) No 1698/2005 and of Article 36(b)(i) and (iii) of that Regulation in relation to the annual premium, shall be eligible for an EAFRD contribution in the 2014-2020 programming period in the following cases:

   (a) for payments to be made between 1 January 2014 and 31 December 2015, if the financial allocation for the measure concerned of the respective programme adopted pursuant to Regulation (EC) No 1698/2005 has already been used up; and

   (b) for payments to be made after 31 December 2015.

2. The expenditure referred to in paragraph 1 shall be eligible for an EAFRD contribution in the 2014-2020 programming period subject to the following conditions:

   (a) such expenditure shall be provided for in the respective rural development programme for the 2014-2020 programming period;

   (b) the EAFRD contribution rate of the corresponding measure under Regulation (EU) No […] [RD] as set out in Annex I to this Regulation shall apply;

   (c) Member States shall ensure that the relevant transitional operations are clearly identified through their management and control systems.

Article 4

Application of certain provisions of Regulation (EC) No 73/2009 in 2014

1. For 2014, the reference to Chapter I of Title VI of Regulation (EU) No [HZ] in Articles 29, 30, 31 and 34 of Regulation (EU) No […] [RD] shall be read as a reference to Articles 5 and 6 of Regulation (EC) No 73/2009 and Annexes II and III thereto.

[13] OJ L 160 , 26.6.1999, p. 80.

2. For 2014, the reference in Article 40a(1) of Regulation (EU) No […] [RD] to Article 17a of Regulation (EU) No [DP] shall be read as a reference to Article 132 of Regulation (EC) No 73/2009. For the same year, the reference in Article 40a(2)(a) of Regulation (EU) No […] [RD] to Article 16a of Regulation (EU) No [DP] shall be read as a reference to Article 121 of Regulation (EC) No 73/2009.

CHAPTER 2

Amendments

Article 5

Amendments to Regulation (EC) No 73/2009

1. Regulation (EC) No 73/2009 is amended as follows:

(1) In Article 29, the following paragraph is added:

"5. By way of derogation from paragraph 2, Member States may pay, from 16 October 2014, advances to farmers of up to 50 % of the direct payments under the support schemes listed in Annex I in respect of applications made in 2014.

Regarding the beef and veal payments provided for in Section 11 of Chapter 1 of Title IV, Member States may increase the amount referred to in the first subparagraph to up to 80 %."

(2) Article 40 is replaced by the following:

"*Article 40*

National ceilings

1. For each Member State and each year, the total value of all allocated payment entitlements, of the national reserve as referred to in Article 41 and of the ceilings fixed in accordance with Articles 51(2) and 69(3) shall be equal to the respective national ceiling determined in Annex VIII.

2. Where necessary, a Member State shall make a linear reduction/increase in the value of all payment entitlements and/or the amount of the national reserve as referred to in Article 41 in order to ensure compliance with the ceiling determined in Annex VIII.

3. Without prejudice to Article 25 of Regulation (EU) No [HZ] of the European Parliament and of the Council*, the amounts of direct payments which may be granted in a Member State in respect of calendar year 2014 under Articles 34, 52, 53 and 68 of this Regulation and for the aid to silkworm rearers under Article 111 of Regulation (EC) No 1234/2007 shall not be higher than the ceilings set out in Annex VIII to this Regulation for that year. Where necessary, and in order to comply with the ceilings set out in Annex VIII, Member States shall make a linear reduction in the amounts of direct payments in respect of calendar year 2014.

* OJ L …, …, p."

(3) In Article 51(2), the following *subparagraph* is added:

"For 2014, the ceilings for the direct payments referred to in Articles 52 and 53 shall be identical to the ceilings determined for 2013, multiplied by a coefficient to be calculated for each Member State concerned by dividing the national ceiling for 2014 set out in Annex VIII by the national ceiling for 2013. This multiplication shall only apply to Member States where the national ceiling set out in Annex VIII for 2014 is lower than the national ceiling for 2013."

(4) In Article 68(8), the introductory phrase is replaced by the following:

"8. By ...[14], the Member States that took the decision referred to in Article 69(1) may review it and decide, with effect from 2014, to:"

(5) Article 69 is amended as follows:

(a) Paragraph 1 is replaced by the following:

"1. Member States may decide, by 1 August 2009, 1 August 2010, 1 August 2011, 1 September 2012 or by […[15]], to use, from the year following such decision, or in the case of a decision taken by [...], from the year 2014, up to 10 % of their national ceiling referred to in Article 40, or, in the case of Malta, the amount of EUR 2 000 000 for the specific support provided for in Article 68(1).";

(b) In paragraph 3, the second subparagraph is replaced by the following:

"For the sole purposes of ensuring compliance with the national ceilings as provided for in Article 40(2) and making the calculation referred to in Article 41(1), the amounts used to grant the support referred to in point (c) of Article 68(1) shall be deducted from the national ceiling referred to in Article 40(1). They shall be counted as allocated payment entitlements. "

(c) In the first sentence of paragraph 5,"2013" is replaced by "2014";

(d) In paragraph 6, the second subparagraph is replaced by the following:

"For the sole purposes of ensuring compliance with the national ceilings provided for in Article 40(2) and making the calculation referred to in Article 41(1), where a Member State makes use of the option provided for in point (a) of the first subparagraph of this paragraph, the amount concerned shall not be counted as part of the ceilings fixed under paragraph 3 of this Article."

(6) In Article 90, paragraph 3 is replaced by the following:

"3. The amount of the aid per eligible hectare shall be established by multiplying the yields established in paragraph 2 with the following reference amounts:

Bulgaria: EUR [520,20]

Greece: EUR [234,18]

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14 OJ please insert the date one month from the date of application of this Regulation.

15 OJ please insert the date one month from the date of application of this Regulation.

Spain: EUR [362,15]

Portugal: EUR [228,00]."

(7) In Article 122, paragraph 3 is replaced by the following:

"3. The single area payment scheme shall be available until 31 December 2014."

(8) In Article 131, paragraph 1 is replaced by the following:

"1. The new Member States applying the single area payment scheme may decide, by 1 August 2009, 1 August 2010, 1 August 2011, 1 September 2012 or by […][16], to use, from the year following that decision, or in the case of a decision taken by […][17], from the year 2014, up to 10 % of their national ceilings referred to in Article 40 to grant support to farmers as set out in Article 68(1) and in accordance with Chapter 5 of Title III, as applicable to them."

(9) In Title VI, the following Article 136*a* is inserted:

"Article 136a

Flexibility between pillars

"1. Before ...[18], Member States may decide to make available as additional support for measures under rural development programming financed under the EAFRD as specified under Regulation (EU) No […] [RD] of the European Parliament and of the Council*, up to [15] % of their annual national ceilings for calendar years 2014 to 2019 as set out in Annex VIII to this Regulation for year 2014 and in Annex II to Regulation (EU) No [DP] of the European Parliament and of the Council**, for years 2015-2019. As a result, the corresponding amount shall no longer be available for granting direct payments.

The decision referred to in the first subparagraph shall be notified to the Commission by the date referred to in that subparagraph.

The percentage notified in accordance with the second subparagraph shall be the same for the years referred to in the first subparagraph.

2. [Member States] not using the possibility under paragraph 1, [may decide, before ...[19], to make available as direct payments under this Regulation and Regulation (EU) No [DP] up to [15] % of the amount allocated to support for measures under rural development programming financed under the EAFRD in the period 2015-2020 as specified under Regulation (EU) No […] [RD]]. Bulgaria, Estonia, Finland, Latvia, Lithuania, Poland, Portugal, Romania, Slovakia, Spain, Sweden and the United-Kingdom may decide to make available as direct payments an [additional] [10%] of the amount allocated under rural development. As a

16 OJ please insert the date one month from the date of application of this Regulation.
17 OJ please insert the date one month from the date of application of this Regulation.
18 OJ please insert the date 7 days from the date of entry into force of this Regulation.
19 OJ please insert the date 7 days from the date of entry into force of this Regulation.

result, the corresponding amount shall no longer be available for support measures under rural development programming.

The decision referred to in the first subparagraph shall be notified to the Commission by the date referred to in that subparagraph.

The percentage notified in accordance with the second subparagraph shall be the same for the years referred to in the first subparagraph of paragraph 1.

3. In order to take account of the decisions notified by Member States in accordance with paragraphs 1 and 2, the Commission shall be empowered to adopt delegated acts in accordance with Article 141a reviewing the ceilings set out in Annex VIII.

* OJ L …, …, p.

** OJ L …, …, p. "

(10) Article 141a is replaced by the following:

"Article 141a

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 Article 11a shall be conferred on the Commission for a period from 1 September 2012 until 31 December 2014. The power to adopt delegated acts referred to in Article 136a(3) shall be conferred on the Commission for a period from […[20]] until 31 December 2014.

3. The delegation of power referred to in Article 11a and Article 136a(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke 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. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 11a and Article 136a(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and 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 at the initiative of the European Parliament or of the Council."

[20] OJ please insert the date 7 days from the date of entry into force of this Regulation.

(11) Annexes II, III and VIII are amended in accordance with Annex II to this Regulation.

Article 6

Amendments to Regulation (EU) No […][DP]

Regulation (EU) No […] [DP] is amended as follows:

(1) In Article 6, paragraph 2 is replaced by the following:

"2. In order to take account of the developments relating to the total maximum amounts of direct payments that may be granted, including those resulting from the decisions taken by the Member States in accordance with Article 136a of Regulation (EC) No 73/2009 and Article 14 of this Regulation and those resulting from the application of the second paragraph of Article 17b of this Regulation, the Commission shall be empowered to adopt delegated acts in accordance with Article 55 of this Regulation for the purpose of reviewing the national ceilings set out in Annex II to this Regulation."

(2) Article 14 is replaced by the following:

"Article 14

Flexibility between pillars

"1. Before ...[21], Member States may decide to make available as additional support for measures under rural development programming financed under the EAFRD as specified under Regulation (EU) No […] [RD], up to [15] % of their annual national ceilings for calendar years 2014 to 2019 as set out in Annex VIII to Regulation (EC) No 73/2009 for year 2014 and in Annex II to this Regulation for years 2015-2019. As a result, the corresponding amount shall no longer be available for granting direct payments.

The decision referred to in the first subparagraph shall be notified to the Commission by the date referred to in that subparagraph.

The percentage notified in accordance with the second subparagraph shall be the same for the years referred to in the first subparagraph.

2. [Member States] not using the possibility under paragraph 1, [may decide, before ...[22], to make available as direct payments under Regulation (EC) No 73/2009 and this Regulation up to [15] % of the amount allocated to support for measures under rural development programming financed under the EAFRD in the period 2015-2020 as specified under Regulation (EU) No […] [RD]]. Bulgaria, Estonia, Finland, Latvia, Lithuania, Poland, Portugal, Romania, Slovakia, Spain, Sweden and the United-Kingdom may decide to make available as direct payments an [additional] [10%] of the amount allocated under rural development. As a result, the corresponding amount shall no longer be available for support measures under rural development programming.

[21] OJ please insert the date 7 days from the date of entry into force of this Regulation.

[22] OJ please insert the date 7 days from the date of entry into force of this Regulation.

The decision referred to in the first subparagraph shall be notified to the Commission by the date referred to in that subparagraph.

The percentage notified in accordance with the second subparagraph shall be the same for the years referred to in the first subparagraph of paragraph 1."

(3) In Article 57(2), the following subparagraph is inserted after the first subparagraph:

"However, it shall continue to apply in respect of aid applications relating to claim years starting before 1 January 2015."

(4) In Article 59, the second and the third paragraphs are replaced by the following:

"It shall apply from 1 January 2015.

However, Articles 20(5), 22(6), 35(1), 37(1) and 39 shall apply from the date of entry into force of this Regulation."

Article 7

Amendment to Regulation (EU) No […][HZ]

Article 115 of Regulation (EU) No […][HZ] is replaced by the following:

"Article 115

Entry into force and application

This Regulation shall enter into force on the seventh day following that of its publication in the *Oficial Journal of the European Union*.

It shall apply from 1 January 2014, except as follows:

(a) Articles 7, 8 and 9 shall apply from 16 October 2013;

(b) Articles 18, 42, 43 and 45 shall apply from 16 October 2013 as regards expenditure incurred from 16 October 2013;

(c) Title III, Chapter II of Title V and Title VI shall apply from 1 January 2015. "

Article 8

Amendment to Regulation (EU) No […][sCMO]

In Article 163(1) of Regulation (EU) No […][sCMO], the following point is added:

"(h) Article 111 [Article 155 of Regulation (EU) No COM(2010)799], until 31 March 2015."

Article 9

Amendment to Regulation (EU) No […] [RD]

In Article 64 of Regulation (EU) No […] [RD], paragraphs 4 and 5 are replaced by the following:

"4. The Commission shall, by means of an implementing act, make an annual breakdown by Member State of the amounts referred to in paragraph 1, after deduction of the amount referred to in paragraph 2 and taking into account the transfers of funds referred to in Article 136a(2) of Council Regulation (EC) No 73/2009*.

In making the annual breakdown the Commission shall take into account:

(a) objective criteria linked to the objectives referred to in Article 4; and

(b) past performance.

5. In addition to the amounts referred to in paragraph 4, the implementing act referred to in that paragraph shall also include the funds transferred to the EAFRD in application of Article 136a(1) of Regulation (EC) No 73/2009 and Article 7(2) of Regulation (EU) No [DP] and the funds transferred to the EAFRD in application of Articles 10b and 136 of Regulation (EC) No 73/2009 in respect of calendar year 2013.

_____

* OJ L 30, 31.1.2009, p. 16."

CHAPTER 3

Final provisions

Article 10

Entry into force and application

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

It shall apply from 1 January 2014.

However:

– points (9) and (10) of Article 5 shall apply from the date of entry into force of this Regulation;

– point (11) of Article 5 of this Regulation as regards Annexes II and III to Regulation (EC) No 73/2009 shall apply from 22 December 2013; and

– Article 6 of this Regulation shall apply from the date of entry into force of Regulation (EU) No […] [DP].

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

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*

ANNEX I

Correspondence of Articles in animal and area related measures under the 2007-2013 and the 2014-2020 programming periods

Regulation (EC) No 1698/2005	Regulation (EU) No […] [RD]
Article 36(a)(i) and (ii) Natural handicap payments to farmers in mountain areas and Payments to farmers in areas with handicaps other than mountain areas	Article 32 Payments to areas facing natural or other specific constraints
Article 36(a)(iii) Natura 2000 payments and payments linked to Directive 2000/60/EC	Article 31 Natura 2000 and Water framework directive payments
Article 36(a)(iv) Agri-environment payments	Article 29 Agri-environment-climate
Article 36(v) Animal welfare payments	Article 34 Animal welfare
Article 36(b)(i) and (iii) First afforestation of agricultural land and First afforestation of non-agricultural land	Article 22(1)(a) Afforestation and creation of woodland
Article 36(b)(iv) Natura 2000 payments	Article 31 Natura 2000 and Water framework directive payments
Article 36(b)(v) Forest-environment payments	Article 35 Forest-environmental and climate services and forest conservation

ANNEX II

Annexes II, III and VIII to Regulation (EC) No 73/2009 are amended as follows:

(1) In Annex II, Point A. 'Environment' is replaced by the following:

"1	Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds (OJ L 103, 25.4.1979, p. 1)	Article 3(1), Article 3(2)(b), Article 4(1), (2) and (4) and Article 5(a), (b) and (d)
2	Council Directive 86/278/EEC of 12 June 1986 on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture (OJ L 181, 4.7.1986, p. 6)	Article 3
3	Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (OJ L 375, 31.12.1991, p. 1)	Articles 4 and 5
4	Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild flora and fauna (OJ L 206, 22.7.1992, p. 7)	Article 6 and Article 13(1)(a)"

(2) Annex III is amended as follows:

(a) The entry for "Protection and management of water" is replaced by the following:

"Protection and management of water: Protect water against pollution and run-off, and manage the use of water	- Establishment of buffer strips along water courses ([1])	
	- Where use of water for irrigation is subject to authorisation, compliance with authorisation procedures	
	The measures laid down in the Appendix	

([1]) Note: The GAEC buffer strips must respect, both within and outside vulnerable zones designated pursuant to Article 3(2) of Directive 91/676/EEC, at least the requirements relating to the conditions for land application of fertiliser near water courses, referred to in point A.4 of Annex II to Directive 91/676/EEC to be applied in accordance with the action programmes of Member States established under Article 5(4) of Directive 91/676/EEC."

(b) The following Appendix is added:

"APPENDIX

A. Measures relating to list I

Member States:

– shall prohibit all direct discharge of substances in list I,

– shall subject to prior investigation any disposal or tipping for the purpose of disposal of these substances which might lead to indirect discharge. In the light of that investigation, Member States shall prohibit such activity or shall grant authorisation provided that all the technical precautions necessary to prevent such discharge are observed,

– shall take all appropriate measures they deem necessary to prevent any indirect discharge of substances in list I due to activities on or in the ground other than those mentioned in the second indent.

However, should prior investigation reveal that the groundwater into which the discharge of substances in list I is envisaged is permanently unsuitable for other uses, especially domestic or agricultural, the Member

States may authorise the discharge of these substances provided that their presence does not impede exploitation of ground resources.

These authorisations may be granted only if all technical precautions have been taken to ensure that these substances cannot reach other aquatic systems or harm other ecosystems.

Member States may, after prior investigation, authorise discharges due to re-injection into the same aquifer of water used for geothermal purposes, water pumped out of mines and quarries or water pumped out for civil engineering works.

B. Measures relating to list II

Member States shall make subject to prior investigation:

– all direct discharge of substances in list II, so as to limit such discharges,

– the disposal or tipping for the purpose of disposal of these substances which might lead to indirect discharge.

In the light of that investigation, Member States may grant an authorisation, provided that all the technical precautions for preventing groundwater pollution by these substances are observed.

Furthermore, Member States shall take the appropriate measures they deem necessary to limit all indirect discharge of substances in list II, due to activities on or in the ground other than those mentioned in the first paragraph.

LIST I OF FAMILIES AND GROUPS OF SUBSTANCES REFERRED TO IN SECTION A

List I contains the individual substances which belong to the families and groups of substances enumerated below, with the exception of those which are considered inappropriate to list I on the basis of a low risk of toxicity, persistance and bioaccumulation.

Such substances which with regard to toxicity, persistance and bioaccumulation are appropriate to list II are to be classed in list II.

1. Organohalogen compounds and substances which may form such compounds in the aquatic environment
2. Organophosphorus compounds
3. Organotin compounds
4. Substances which possess carcinogenic mutagenic or teratogenic properties in or via the aquatic environment (*)
5. Mercury and its compounds
6. Cadmium and its compounds
7. Mineral oils and hydrocarbons
8. Cyanides.

LIST II OF FAMILIES AND GROUPS OF SUBSTANCES REFERRED TO IN SECTION B

List II contains the individual substances and the categories of substances belonging to the families and groups of substances listed below which could have a harmful effect on groundwater.

1. The following metalloids and metals and their compounds:

    1. Zinc
    2. Copper
    3. Nickel
    4. Chrome
    5. Lead
    6. Selenium
    7. Arsenic
    8. Antimony
    9. Molybdenum
    10. Titanium
    11. Tin
    12. Barium
    13. Beryllium
    14. Boron
    15. Uranium
    16. Vanadium
    17. Cobalt
    18. Thallium
    19. Tellurium
    20. Silver.

2. Biocides and their derivatives not appearing in list I.

3. Substances which have a deleterious effect on the taste and/or odour of groundwater, and compounds liable to cause the formation of such substances in such water and to render it unfit for human consumption.

4. Toxic or persistent organic compounds of silicon, and substances which may cause the formation of such compounds in water, excluding those which are biologically harmless or are rapidly converted in water into harmless substances.

5. Inorganic compounds of phosphorus and elemental phosphorus.

6. Fluorides.

7. Ammonia and nitrites

(*) Where certain substances in list II are carcinogenic, mutagenic or teratogenic, they are included in category 4 of this list."

(3) In Annex VIII, the column for the year 2014 is replaced by the following:

"Table 1
(EUR 1000)

Member State	2014
Belgium	[544 047]
Denmark	[926 075]
Germany	[5 178 178]
Greece	[2 063 187]
Spain	[4 833 647]
France	[7 586 341]
Ireland	[1 216 547]
Italy	[3 953 394]
Luxembourg	[33 661]
Netherlands	[793 319]
Austria	[693 716]
Portugal	[557 667]
Finland	[523 247]
Sweden	[696 487]
United Kingdom	[3 548 576]

Table 2(*)
(EUR 1000)

Bulgaria	[642 103]
Czech Republic	[875 305]
Estonia	[110 018]
Cyprus	[51 344]
Latvia	[168 886]
Lithuania	[393 226]
Hungary	[1 272 786]
Malta	[5 239]
Poland	[2 970 020]
Romania	[1 428 531]
Slovenia	[138 980]
Slovakia	[377 419]
(*) Ceilings calculated taking into account of the schedule of increments provided for in Article 121."	

FINANCIAL STATEMENT

FS/13/ 344471Rev1

6.15.2013

DATE: 25.03.2013

1. BUDGET HEADING:

05 03 Direct aids
05 04 Rural Development

2. TITLE:

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down certain transitional provisions on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and amending Regulation (EU) No […] [RD] as regards resources and their distribution in respect of the year 2014 and amending Council Regulation (EC) No 73/2009 and Regulations (EU) No […][DP], (EU) No […][HZ] and (EU) No […][sCMO] as regards their application in the year 2014

3. LEGAL BASIS:

Article 43(2) of the Treaty on the Functioning of the European Union

4. AIMS:

This regulation lays down transitional rules for the application of direct payments in respect of the year 2014 and on support for rural development.

5. FINANCIAL IMPLICATIONS	12 MONTH PERIOD (EUR million)	CURRENT FINANCIAL YEAR 2013 (EUR million)	FOLLOWING FINANCIAL YEAR 2014 (EUR million)
5.0 EXPENDITURE - CHARGED TO THE EU BUDGET (REFUNDS/INTERVENTIONS) - NATIONAL AUTHORITIES - OTHER			
5.1 REVENUE - OWN RESOURCES OF THE EU (LEVIES/CUSTOMS DUTIES) - NATIONAL			

	2015	2016	2017	2018
5.0.1 ESTIMATED EXPENDITURE 5.1.1 ESTIMATED REVENUE	EUR -830 million			

5.2	METHOD OF CALCULATION: See Comments	
6.0	CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?	n.a.
6.1	CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?	n.a.
6.2	WILL A SUPPLEMENTARY BUDGET BE NECESSARY?	NO
6.3	WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS?	NO

OBSERVATIONS:

This financial statement is a complement to the financial statement of the CAP reform proposals (COM(2012)551, COM(2012)552, COM(2012)553) and should be read together with it.
This draft regulation aims to prolong some elements of the existing schemes, incorporating the effect of the

Multiannual Financial Framework (MFF) agreement on external convergence of the direct payments, flexibility between the CAP pillars and the co-financing rate for rural development. There is no financial consequence as such since this draft Regulation only implements the Commission proposals on the MFF and the CAP reform taking into account the European Council conclusions of 8 February 2013. The new elements arising from the European Council conclusions of 8 February 2013 are put within square brackets pending the final agreement on the MFF.

As regards direct payments, external convergence and flexibility between pillars are applicable as of financial year 2015 (corresponding to claim year 2014 for direct payments). Compared to the Commission proposal and its financial statement, the European Council conclusions of 8 February 2013 correspond to a reduction of EUR 830 million (in current prices) for direct payments in claim year 2014 (EUR 5 million for the crop specific payment for cotton and EUR 825 million for Annex VIII).

Concerning the flexibility between pillars, it is not possible to assess the financial impact yet as Member States will have to notify their transfers to the Commission later this year. In any case, the flexibility will be budgetary neutral as exactly the same amounts reduced from one Fund (EAGF or EAFRD) will be made available to the other Fund (EAGF or EAFRD).

As regards rural development, this draft Regulation aims to ensure the continuity of a number of measures involving multiannual commitments. Also for those measures, the draft Regulation intends that, for commitments undertaken during 2007-2013, the corresponding expenditure can be eligible after 2015 (if there are payments to be made) under the new programming period, or before when the current financial allocation has been exhausted. Those provisions have no financial impact as the rural development allocation remains unchanged. However, the distribution over time of the payments might be slightly different than otherwise but it cannot be quantified at this stage.