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## **GUIDELINE No 5**

# **GUIDELINES FOR THE CERTIFICATION AUDIT OF THE EAGF/EAFRD ACCOUNTS**

### **GUIDELINE ON DEBT MANAGEMENT AND REPORTING**

## TABLE OF CONTENTS

GUIDELINE NO 5 .....	1
INTRODUCTION .....	7
<b>SECTION A – DEBT MANAGEMENT AND REPORTING IN THE FRAMEWORK OF REGULATION (EU) NO 1306/2013</b> .....	10
<b>PART 1. DEBT MANAGEMENT</b> .....	11
1.1. “New” cases and “old” cases.....	11
1.2. Recognition of a debt.....	12
1.3. Keeping a debtors' ledger .....	12
1.4. Monitoring procedures: .....	13
1.5. Recovery of the amounts: .....	13
1.6. EAGF and EAFRD- Booking and declaration of recoveries .....	13
1.7. Key and Ancillary controls.....	13
<b>PART 2. DEBT REPORTING</b> .....	14
2.1. ANNEX II TABLE OF REGULATION (EU) NO 908/2014.....	15
2.1.1. Cases to be reported.....	15
2.1.2. Contents of the columns .....	16
2.1.2.1. Column (A) – Paying Agency .....	16
2.1.2.2. Column (B) – Fund.....	16
2.1.2.3. Column (AA) – Case (Old/New).....	16
2.1.2.4. Column (V1) – Financial year of expenditure of origin.....	17
2.1.2.5. Column (V2) – Budget codes of expenditure of origin.....	17
2.1.2.6. Column (C) – Financial year n .....	18
2.1.2.7. Column (D) – Currency unit.....	18
2.1.2.8. Column (E) – Case identification number.....	18
2.1.2.9. Column (F) – OLAF (ECR or IMS) identification if applicable.....	18
2.1.2.10. Column (G) – Case included in the debtors' ledger? Y/N.....	19
2.1.2.11. Column (H) – Beneficiary identification.....	19
2.1.2.12. Column (I) – Programme closed? (Only for EAFRD 2007-2013 and TRDI)....	19
2.1.2.13. Column (W) – Date of approval of control report or similar document as referred to in Article 54(1) of Regulation (EU) 1306/2013 .....	20
2.1.2.14. Column (J) – Financial year of primary administrative or judicial finding of an irregularity .....	20
2.1.2.15. Column (X) - Date of recovery request.....	21
2.1.2.16. Column (K) – Subject to judicial procedures? .....	21
2.1.2.17. Column (L) – Original amount to be recovered .....	21
2.1.2.18. Columns (L1) and (L2) – Original amount to be recovered (principal) and Original amount to be recovered (interest).....	22

2.1.2.19. Columns (Y1 and Y2) – Principal amount for which recovery was ongoing at end of financial year n-1 and Interest for which recovery was ongoing at end of financial year n-1 .....	22
2.1.2.20. Column (M) – Total corrected amount (entire recovery period).....	23
2.1.2.21. Column (N) – Total recovered amount (entire recovery period) .....	23
2.1.2.22. Column (O) – Amount declared irrecoverable .....	23
2.1.2.23. Columns (O1) and (O2) – Amount (principal) declared irrecoverable and Amount (interest) declared irrecoverable .....	24
2.1.2.24. Column (P) – Financial year of establishment of irrecoverability .....	24
2.1.2.25. Column (Q) – Reasons for irrecoverability .....	24
2.1.2.26. Column (R) – Corrected amount (in financial year n) .....	25
2.1.2.27. Columns (R1) and (R2) – Corrected amount (principal) (in financial year n) and Corrected amount (interest) (in financial year n) .....	25
2.1.2.28. Column (Z) – Interest (in financial year n) .....	26
2.1.2.29. Column (S) – Recovered amount (in financial year n).....	26
2.1.2.30. Columns (S1) and (S2) – Recovered amount (principal) (in financial year n) and Recovered amount (interest) (in financial year n) .....	26
2.1.2.31. Columns (T) – Amount for which recovery is ongoing .....	26
2.1.2.32. Columns (T1) and (T2) – Amount (principal) for which recovery is ongoing and Amount (interest) for which recovery is ongoing .....	27
2.1.2.33. Column (BB) – Amount subject to the 50/50 rule as set out in Article 54(2) of Regulation (EU) No 1306/2013 at the end of financial year n.....	27
2.1.2.34. Column (U) – Amount to be credited to the EU budget.....	28
2.1.3. Technical specifications for the electronic submission of the Annex II table.....	29
2.1.4. Clearance of irregularity cases .....	31
2.1.5. Certification of the Annex II summary table .....	31
2.1.5.1. Contents of the columns .....	32
2.1.5.1.1. Column (AA) – Case (Old/New).....	32
2.1.5.1.2. Column (A) – Paying Agency .....	32
2.1.5.1.3. Column (B) – Fund .....	32
2.1.5.1.4. Column (C) – Financial year n .....	33
2.1.5.1.5. Column D – Currency unit .....	33
2.1.5.1.6. Column (Bal_P) – Opening Balance – Principal.....	33
2.1.5.1.7. Column (Bal_I) – Opening Balance – Interest .....	33
2.1.5.1.8. Column (NewC_P) – New cases in financial year n – Principal.....	33
2.1.5.1.9. Column (NewC_I) – New Cases in financial year n – Interest .....	33
2.1.5.1.10. Column (R1) – Corrected amount in financial year n – Principal.....	34
2.1.5.1.11. Column (R2) – Corrected amount in financial year n – Interest .....	34
2.1.5.1.12. Column (Z) – Interest in financial year n .....	34
2.1.5.1.13. Column (S1) – Recovered amount in financial year n – Principal.....	34
2.1.5.1.14. Column (S2) – Recovered amount in financial year n – Interest .....	35
2.1.5.1.15. Column (O1) – Amount declared irrecoverable in financial year n–Principal	35
2.1.5.1.16. Column (O2) – Amount declared irrecoverable in financial year n – Interest	35

2.1.5.1.17. Column (T1) – Amount for which recovery is on-going (Balance 15/10/n) – Principal .....	35
2.1.5.1.18. Column (T2) – Amount for which recovery is on-going (Balance 15/10/n) – Interest .....	36
2.1.5.2. Example .....	36
2.1.5.3. Transmission.....	36
2.1.6. Certification of the Article 54(2)/Article 54(3) ("50/50") table .....	36
2.1.6.1. Content of the columns.....	37
2.1.6.1.1. Column (A) – Paying Agency .....	37
2.1.6.1.2. Column (B) – Fund .....	37
2.1.6.1.3. Column (C) – Financial year .....	37
2.1.6.1.4. Column (D) – Currency unit.....	37
2.1.6.1.5. Column (EU_50) – 50% to be charged to the MS (Article 54(2) of Regulation (EU) 1306/2013) .....	37
2.1.6.1.6. Column (EU_100) – 100% to be borne by the EU budget (Article 54(3) of Regulation (EU) 1306/2013 .....	38
2.1.6.2. Example .....	38
2.1.6.3. Transmission.....	38
2.1.7. Recoveries from the beneficiaries after 15 October year N for irregularity cases being subject to the 50/50 rule in the financial clearance decision of May in year N+1 .....	38
2.2. ANNEX III TABLE OF REGULATION (EU) NO 908/2014 .....	39
2.2.1. Cases to be reported.....	39
2.2.2. Content of the columns.....	39
2.2.2.1. Column (A) – Paying Agency .....	39
2.2.2.2. Column (B) – Fund.....	39
2.2.2.3. Column (C) – Financial year n .....	40
2.2.2.4. Column (C_III) – Currency unit.....	40
2.2.2.5. Column (I_III) – Outstanding amount category (cross-compliance sanction, multi-annual sanction or others).....	40
2.2.2.6. Column (D_III) – Balance 15 October n-1.....	40
2.2.2.7. Column (E_III) – New cases (year n).....	40
2.2.2.8. Column (F_III) – Total recoveries (year n).....	40
2.2.2.9. Column (G_III) – Total corrections including irrecoverable amounts (year n) ...	41
2.2.2.10. Column (H_III) – Amount to be recovered 15 October year n .....	41
2.2.3. Example .....	41
2.2.4. Transmission .....	41
2.3.DETAILED TABLE ON RECOVERIES RELATED TO PREVIOUS PROGRAMMING PERIODS .....	42
2.3.1. CASES TO BE REPORTED.....	42
2.3.2. CONTENTS OF THE COLUMNS.....	43
2.3.2.1. Column (AA) – Case (Old/New).....	43
2.3.2.2. Column (A) – Paying Agency .....	43

2.3.2.3. Column (B) – Fund.....	43
2.3.2.4. Column (C) – Financial year .....	43
2.3.2.5. Column (S) – Recovered amount in financial year n .....	43
2.3.2.6. Column (B_21) – Differences between the recovery order issued by the Commission for the financial year n-1 and the MS debtors' ledger .....	44
2.3.2.7. Column (C_21) – Part of the amount already recovered and returned to the Commission by the 50/50 rule in previous financial years in application of Article 54 (2) of Regulation 1306/2013 .....	44
2.3.2.8. Column (C_21A) – Part of the amount already returned to the Commission following Article 57(1) of Regulation (EU) 2021/2116 and Article 22(1)(e) of Regulation (EU) 2022/128 .....	44
2.3.2.9. Column (D_21) – Total amount to be returned to the Commission for FY N .....	44
2.3.3. Example .....	45
2.3.4. Transmission .....	45
ANNEX 1: SUMMARY TABLE OF ANNEX II TABLE OF COMMISSION IMPLEMENTING REGULATION (EU) NO 908/2014 .....	46
ANNEX 2: EXAMPLES OF ANNEX II REPORTING.....	47
ANNEX 3: DETAILED TABLE ON RECOVERIES RELATED TO PREVIOUS PROGRAMING PERIODS.....	48
ANNEX 4: DETAILED TABLE ON RECOVERIES RELATED TO PREVIOUS PROGRAMING PERIODS – EXAMPLE.....	49
ANNEX 5: ARTICLE 54(2)/ARTICLE 54(3) (“50/50”) TABLES .....	52
ANNEX 6: ANNEX III MODEL TABLE REFERRED TO IN ARTICLE 29(G) OF REGULATION 908/2014 .....	53
<b>SECTION B – DEBT MANAGEMENT AND REPORTING IN THE FRAMEWORK OF REGULATION (EU) 2021/2116 .....</b>	<b>54</b>
PART 1. DEBT MANAGEMENT.....	55
1.1. Recovery on undue payments and interest arising from irregularities – main principles .....	55
1.1.1. Protection of the financial interests of the Union .....	55
1.1.2. Recoveries for non-compliance .....	55
1.2. Procedures for debts .....	56
1.2.1. Accreditation criteria - Regulation (EU) 2022/127 .....	56
1.2.1.1. The debtors’ ledger.....	57
1.2.1.2. Monitoring procedures (Inspection of the list).....	58
1.2.1.3. Pre-debtors list.....	58
1.2.2. Recovery of debts - Regulation (EU) 2022/128 .....	58
1.2.2.1. Booking and declaration of recoveries for EAGF and EAFRD .....	60
PART 2. DEBT REPORTING .....	60
2.1. COMPILATION AND CERTIFICATION OF THE TABLE OF ANNEX V OF REGULATION (EU) 2022/128 .....	61
2.1.1. Cases to be reported.....	61

2.1.2. Content of the columns.....	61
2.1.2.1. Column (a) – Paying Agency .....	61
2.1.2.2. Column (b) – Fund .....	61
2.1.2.3. Column (c) – Currency unit.....	62
2.1.2.4. Column (d) – Balance 15 October n-1 .....	62
2.1.2.5. Column (e) – Total new cases (year n).....	62
2.1.2.6. Column (f) – Total corrections (year n) .....	62
2.1.2.7. Column (g) – Total interests (year n) .....	62
2.1.2.8. Column (h) – Total recoveries (year n) .....	63
2.1.2.9. Column (i) Total irrecoverable amounts (year n).....	63
2.1.2.10 .Column (j) – Amount to be recovered 15 October year n.....	63
2.1.3. Certification of Annex V table .....	63
2.1.4. Example .....	63
2.1.5. Transmission .....	63
Annex 7: Model Table referred to in Article 32(1) point (f) of Regulation 128/2022.....	65

## INTRODUCTION

This document aims to provide guidance related to the debt management and debt reporting under the framework of Regulation (EU) No 1306/2013 of the European Parliament of the Council of 17 December 2013 (hereafter Regulation (EU) No 1306/2013) and of Regulation (EU) 2021/2116 of the European Parliament and of the Council of 2 December 2021 (hereafter Regulation (EU) 2021/2116).

Under both legal frameworks Member States need to ensure a management and control system that provides for the timely recognition of undue payments and their appropriate follow-up and financial reporting to the Commission. The level of reporting changes in the new legal framework as regards debts arising in relation to expenditure as from FY2023 onwards (and as further specified here below). However, the existing long-standing debt management procedures and systems of the Member States should be maintained as further elaborated in this guideline.

The system of financial responsibility provided by Article 54(2) of Regulation (EU) No 1306/2013 (the so-called “50/50” rule), as well as the other provisions included in this Article related to the follow up of the recovery procedures,<sup>1</sup> were repealed by Regulation (EU) 2021/2116.<sup>2</sup>

Regulation (EU) 2021/2116 entered into force on the day following its publication in the *Official Journal of the European Union* and applies from 1 January 2023<sup>3</sup>.

However, as provided in Article 104 (1)(a)(i),(ii),(iii) and (iv) of the said Regulation, Article 54 (and several other provisions) of Regulation (EU) No 1306/2013, continue to apply:

- a) *in relation to expenditure incurred and payments made for support schemes under **Regulation (EU) No 1307/2013** in respect of the **calendar year 2022 and before**;*
- b) *for measures implemented under **Regulations (EU) No 228/2013, (EU) No 229/2013, (EU) No 1308/2013 and (EU) No 1144/2014 until 31 December 2022**;*
- c) *for the aid schemes referred to in Article 5(6), first subparagraph, point (c), and Article 5(7) of Regulation (EU) 2021/2117 of the European Parliament and of the Council (36) in relation to expenditure incurred and payments made for operations implemented pursuant to Regulation (EU) No 1308/2013 **after 31 December 2022 and until the end of those aid schemes**; and*
- d) *as regards EAFRD, in relation to expenditure incurred by the beneficiaries and payments made by the paying agency in the framework of the implementation of rural development programmes **pursuant to Regulation (EU) No 1305/2013**;*

Furthermore, paragraph 104 (1)(c) of Regulation (EU) 2021/2116, specifies that *Article 54(2) of Regulation (EU) No 1306/2013 continues to apply in relation to revenue declared in the framework of the implementation of rural development programmes approved by the Commission under **Regulation (EU) No 1305/2013, Regulation (EC) No 1698/2005 and Commission Regulation (EC) No 27/2004**.*

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<sup>1</sup> Time limit to launch the recovery procedure and conditions to decide not to pursue the recovery.

<sup>2</sup> Article 104 of Regulation (EU) 2021/2116.

<sup>3</sup> Article 106 of Regulation (EU) 2021/2116.

On the other hand, the debt reporting to the Commission as per Regulation (EU) No 1306/2013 and the Commission Implementing Regulation (EU) No 908/2014<sup>4</sup> was significantly simplified in relation to expenditure incurred as of 1 January 2023 or FY2023 and not covered by Article 104 (1)(a)(i),(ii),(iii) and (iv) of Regulation (EU) 2021/2116.

**Reporting according to the current rules that remains in place for part of the expenditure (covered by Article 104 (1)(a)(i),(ii),(iii) and (iv) of Regulation (EU) 2021/2116):**

According to Article 32(1)(e), (f) and (g) of Commission Implementing Regulation (EU) 2022/128, the annual accounts should include, as regards the expenditure mentioned in points a) to d) above:

- i. Separately, the amounts to be borne by the Member State concerned and the Union in accordance with **Article 54(2), first subparagraph, and (3)** of Regulation (EU) No 1306/2013<sup>5</sup> (“50/50” table);
- ii. An extract of the undue payments yet to be recovered at the end of the financial year as a consequence of irregularities within the meaning of Article 1(2) of Council Regulation (EC, Euratom) No 2988/95, including any penalties provided for by the applicable sectoral Union rules and the interest thereon in a table in accordance with the model set out in **Annex II to Regulation (EU) No 908/2014<sup>6</sup> (Annex II table - Irregularities)**;
- iii. An extract from the debtors ledger of the amounts to be recovered and credited to either the EAGF or the EAFRD other than administrative errors and irregularities, including any penalties and interest thereon, to be presented in a table in accordance with the model set out in **Annex III to Regulation (EU) No 908/2014 (Annex III table – Multiannual sanctions and other penalties)**.

**New reporting as from FY2023 onwards that is applicable for undue payments arising from the programming period 2023-2027 and not mentioned in Article 104 (1)(a)(i),(ii),(iii) and (iv) of the Regulation (EU) 2021/2116:**

According to Article 32(1)(f), first part, of Regulation (EU) 2022/128, the annual accounts should include as regards the expenditure covered by the new programming period, not included in points a) to d) above:

- iv. An extract of the undue payments yet to be recovered at the end of the financial year as a consequence of irregularities within the meaning of Article 1(2) of Council Regulation (EC, Euratom) No 2988/95, including any penalties provided for by the applicable sectoral Union rules and the interest thereon in a table in accordance with the model set out in **Annex V to Regulation (EU) 2022/128 (Annex V table - Irregularities)**;

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<sup>4</sup> Article 29 (e), (f), (g) and annexes II and III (of Regulation (EU) No 908/2014).

<sup>5</sup> Article 32(e) of Regulation (EU) 2022/128.

<sup>6</sup> Article 32(1)(f) of Regulation (EU) 2022/128.



Therefore, the debt reporting system put in place by Regulation (EU) No 1306/2013 and Regulation (EU) No 908/2014 continues to apply in financial year FY 2023 and beyond to the above-mentioned expenditure. The guidance previously provided in this respect to the Member States remains unchanged, with the exception of specific aspects, as provided in **SECTION A** of this Guideline.

The Member States' existing debt management system and the new reporting as provided by Regulation (EU) 2021/2116 and Regulation (EU) 2022/128 is further explained in **SECTION B** of this Guideline.

**SECTION A – DEBT MANAGEMENT AND REPORTING IN THE FRAMEWORK  
OF REGULATION (EU) NO 1306/2013**

## **PART 1. DEBT MANAGEMENT**

### **1.1. “New” cases and “old” cases**

Following the provision of Article 41(5) of Commission Delegated Regulation (EU) No 907/2014 of 11 March 2014 (hereafter Regulation No 907/2014) a differentiation has to be made regarding "old" and "new" irregularity cases.

#### ***a) For "Old" irregularity cases:***

The primary administrative or judicial finding<sup>7</sup> (PACA) determines, inter alia, the moment when a case is to be registered in Annex II of Regulation (EU) No 908/2014. Hence, an assessment can be considered as the primary administrative or judicial finding within the meaning set out in Article 35 of Council Regulation (EC) No 1290/2005 if the following conditions are met:

- The beneficiary is identified;
- The amount of the debt is known, and
- A written document with the assessment of the facts, including the debtor and the amount of the debt, is established by the authority competent for the assessment and communicated to the debtor or another authority, thus excluding purely internal documents.

The date of the primary administrative or judicial finding is the moment when all three conditions are jointly met for the first time, thus ensuring a link between Annex II and the Paying Agency's (PA) debtors' ledger.

#### ***b) For "New" irregularity cases:***

As referred to in article 54(1) of Regulation (EU) No 1306/2013, the date to be considered is the one of the first document, in the chronology of the case, stating that an irregularity has occurred. This document should also meet the following two conditions:

- It has been approved;
- Where applicable, received by the PA or the body responsible for the recovery procedure.

From the date that one or both of the above conditions are met (where applicable), the PA has 18 months to establish and send to the beneficiary the recovery request. In addition, the corresponding amounts shall be recorded at the date of the recovery request in the debtor's ledger of the PA.

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<sup>7</sup> According to Article 35 of Regulation (EC) No 1290/2005 of 21 June 2005, the primary administrative or judicial finding means *the first written assessment of a competent authority, either administrative or judicial, concluding on the basis of actual facts that an irregularity has been committed, without prejudice to the possibility that this conclusion may subsequently have to be adjusted or withdrawn as a result of developments in the course of the administrative or judicial procedure.*

## 1.2. Recognition of a debt

The time of establishment of a debt is the moment the debt is identified as being tangible and a valid obligation to pay exists. The PA must be able to establish:

- the precise identity of the debtor;
- that the debt is due;
- the amount in question.

Once these conditions are fulfilled, the established debt should be immediately recorded in a **single debtors' ledger**. The PA has to ensure that the debtors' ledger provides a correct and complete picture of the amounts to be recovered, that the procedures for recovery are effective, and that the amounts are correctly and promptly credited to the Funds.

## 1.3. Keeping a debtors' ledger

A single debtors' ledger should be kept by the PA in respect of payments managed under the EU Funds (EAGF (including TRDI) and EAFRD) in order to follow-up outstanding amounts. A separate ledger per Fund may also be reasonable due to the organisational or procedural set-up in the given Member State. The debtors' ledger should be updated on the basis of information received from the relevant services. The debtors' ledger should be complete, accurate and valid. To that end, the following procedures should be ensured:

### *Completeness of the debtors' ledger:*

- The amounts to be recovered should be promptly recorded in one, centrally kept, debtors ledger. The person responsible for maintaining this register should have no responsibility for payments or for claim processing;
- Management needs to develop a system which ensures that all debts are reported to the department responsible for the debtors' ledger;
- The PA should have systems in place to ensure that all information related to potential recoveries (e.g. the inspection reports and letters for recovery) is available, and that the timely recording in the debtors' ledger is assured. The completeness of the debtors' ledger should be checked on a regular basis.

### *The validity and accuracy of the debtors' ledger:*

- The debtors' ledger should be reconciled on a regular basis by the Finance department with the data in the operational systems;
- The amount to be recovered should be correctly calculated. Management should review the calculation of the amount to be recovered (including any sanctions, reductions, corrections or interest);
- Receipts should be promptly recorded and matched against outstanding debts;
- Amounts set-off should be properly recorded and matched against outstanding debts;
- Receipts should only be received via the bank account or at a central cash office. The necessary procedures must be put in place to avoid fraud or theft.

#### **1.4. Monitoring procedures:**

Inspection of the list:

- Reconciliation by the Finance department

In order to guarantee the completeness and correctness of the list, the Finance department should reconcile on a regular basis (at least every 3 months) the debtors' list details with all relevant data in the operational departments.

- Management supervision

Through management supervision, the management verifies if the responsible department takes sufficient and adequate action in order to recover the amounts.

Similar procedures should be in place to monitor the pre-debtors list (cases for which an irregularity has been identified but for which no recovery request was established yet).

#### **1.5. Recovery of the amounts:**

Amounts can be recovered in two ways: a “pure” recovery (including legal action) or via a set-off against future payments. For this second approach follow up of the debt is less complex. The system should foresee a set-off against the first following payment(s) to be made by the PA to the same beneficiary in accordance with Article 28 of Regulation (EU) No 908/2014.

#### **1.6. EAGF and EAFRD- Booking and declaration of recoveries**

Reference is made to the Commission Working Document Ares(2022)7234030 dated 19.10.2022.

#### **1.7. Key and Ancillary controls**

Reference is made to key and ancillary controls concerning irregularities and debt management and control system in relation to conformity clearance procedures launched as from 1.1.2015<sup>8</sup>.

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<sup>8</sup> Ares(2015)4978316 dated 10.11.2015. [https://circabc.europa.eu/ui/group/d9d57ada-2d34-4c85-9e3c-7ce690099d5d/library/1a04cfdd-a296-441d-8588-96008302a5e4?p=3&n=10&sort=modified\\_DESC](https://circabc.europa.eu/ui/group/d9d57ada-2d34-4c85-9e3c-7ce690099d5d/library/1a04cfdd-a296-441d-8588-96008302a5e4?p=3&n=10&sort=modified_DESC).

## PART 2. DEBT REPORTING

Article 29 of Regulation (EU) No 908/2014 sets out these rules for the treatment of recovery cases in the context of the annual financial clearance exercise. The treatment depends on the category to which the case belongs:

- (1) Administrative errors: undue payments not resulting from irregularities committed by the beneficiaries are to be treated according to Article 29(b) of Regulation (EU) No 908/2014 in case of EAGF expenditure and Article 29(c) of Regulation (EU) No 908/2014, in case of EAFRD expenditure. This category essentially concerns cases where the undue payment results from an error made by the national administration.
- (2) Irregularities: undue payments resulting from irregularities committed by the beneficiaries are to be treated according to Articles 29(e) and (f) and Annex II of Regulation (EU) No 908/2014.
- (3) Other recoveries: other amounts to be recovered from beneficiaries, such as reductions and exclusions due to the non-respect of cross-compliance obligations and multi-annual sanctions, are to be treated according to Article 29(g) and Annex III of Regulation (EU) No 908/2014.

According to these provisions, **irregularity cases** have to be registered in **Annex II of Regulation (EU) No 908/2014** at the latest at the date of the recovery request and the recognition of a case must meet the following conditions:

- The debtor is identified;
- The amount of the debt is known, and
- The recovery request is established by the competent authority and communicated to the debtor.

The **debtors' ledger** should comprise the **elements described under Annex II of Regulation (EU) No 908/2014**. The debtors' ledger should also contain information on the financial year to which the irregularity or error relates (i.e. financial year of the payment).

**An extract from the debtors' ledger** of the amounts (**other than irregularities and administrative errors**) to be recovered and credited to either the EAGF or the EAFRD, including any sanctions and interests thereon, is to be provided in accordance with **Annex III of Regulation (EU) No 908/2014**.

In addition, to Annex II and Annex III tables, Member States are also expected to provide within the annual accounts:

- The Annex II Summary;
- The “50-50” table;
- The detailed table on recoveries related to previous programming periods.

The present Section A, Part 2 of this guideline provides guidance for the compilation and transmission of the tables of Annexes II and III of Regulation (EU) No 908/2014. Point 2.1. is about the **table of Annex II** of Regulation (EU) No 908/2014, point 2.2. is about the table of **Annex III** of Regulation (EU) No 908/2014 and point 2.3. is about the **Detailed table on recoveries related to previous programming periods**.

## 2.1. ANNEX II TABLE OF REGULATION (EU) No 908/2014

### 2.1.1. Cases to be reported

The Annex II table of Regulation (EU) No 908/2014 shall include all undue payments to be recovered at the end of the financial year as a consequence of irregularities within the meaning of Article 1(2) of Council Regulation (EC, Euratom) 2988/95, including any penalties and interests on these payments. The said Article 1(2) defines the term irregularity as "*any infringement of a provision of EU law resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the EU or budgets managed by it, either by reducing or losing revenue accruing from own resources collected directly on behalf of the EU, or by an unjustified item of expenditure*". If an undue payment results both from an irregularity committed by the beneficiary within the meaning of this definition as well as from an error made by the national administration (mixed cases), it shall be included in the Annex II table.

For each financial year n, Member States are required to submit this table per PA electronically to the Commission by 15 February in the year n+1.

In the table, one line represents one irregularity case unless it concerns expenditure charged under different budget codes, in which case the amount of the irregularity should be divided over these budget codes. The reporting obligation in the table applies to the following cases:

- irregularity cases which are outstanding at the end of financial year n (15 October). As the table shall reflect the relation between the PA and the beneficiary, cases which have already been subject to the 50/50 rule of Article 54(2) of Regulation (EU) No 1306/2013<sup>9</sup>, but were not yet fully recovered from the beneficiary, have to be reported with the full outstanding amount;
- irregularity cases which were outstanding at the end of financial year n-1 (15 October), but were fully recovered or declared irrecoverable during financial year n;
- irregularity cases which were discovered during financial year n, and were fully recovered (including those cases off-set against subsequent payments) or declared irrecoverable during the same financial year.

Following Article 54(3)(a) of Regulation (EU) No 1306/2013, which contains a voluntary *de minimis* rule for both EAGF and EAFRD debts<sup>10</sup>, any new debt which is waived in accordance with this rule does not have to be reported in the Annex II table. The same principle shall apply for debts waived in accordance with any sectoral *de minimis* rules included in EU regulations, such as Articles 48(10) and 49(3) of Commission Regulation (EC) No 612/2009. However, debts below EUR 250 for which recovery proceedings have been initiated have to be reported in the table. Debts exceeding EUR 250 are to be included in the table, irrespective of any national practice or decision waiving such debts in accordance with Article 54(3)(a) of Regulation (EU) No 1306/2013.

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<sup>9</sup> Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013, published in the Official Journal L347/549 on 20.12.2013.

<sup>10</sup> Below EUR 100 or between EUR 100 and EUR 250 when this rule is consistent with similar thresholds under national law for not pursuing national debts.

Irregularity cases under the transitional rural development instrument (TRDI) and European Agricultural Fund for Rural Development (EAFRD) 2007-2013 programming period have to continue to be reported in the Annex II table of Regulation (EU) No 908/2014 as any amount recovered by the Member State from the beneficiary will have to be recovered by the Commission from the concerned Member State. This will be done via recovery orders issued in accordance with Regulation (EU, Euratom) No 2018/1046 on the financial rules applicable to the general budget of the Union (i.e. the Financial Regulation).

Regulation (EU) No 1306/2013 introduced several changes concerning the irregularities regime. As a result, as from financial year 2015, for "new" cases all columns of the Annex II table will have to be filled in, with the exception of columns (V1) and (V2), for which values only have to be inserted from financial year 2016 onwards.

Detailed instructions on how to report in each of the different columns of the Annex II table are set out below.

## **2.1.2. Contents of the columns**

### **2.1.2.1. Column (A) – Paying Agency**

The code of the PA that is responsible for the recovery of the irregularly paid amount.

Required format: MS99, where MS stands for the alpha-2 ISO code of the Member State and 9 stands for a digit from 0 to 9

### **2.1.2.2. Column (B) – Fund**

The fund from which the undue amount was paid.

Required format: to be expressed by a one-character code corresponding to the following code list:

Code	Significance
3	EAGF, including all former EAGGF Guarantee expenditure.
4	EAFRD 2007-2013
5	TRDI for EU10
6	EAFRD 2014-2020

### **2.1.2.3. Column (AA) – Case (Old/New)**

This field allows differentiating "old" and "new" irregularity cases.

The provisions of Article 41(5) of Commission Delegated Regulation (EU) No 907/2014 of 11 March 2014<sup>11</sup>, apply, namely:

- (1) For the irregularity cases reported or to be reported to the Commission in respect of financial year 2014 and before, the financial year of the primary administrative or judicial finding (PACA<sup>12</sup>) of an irregularity, in the sense of Article 35 of

<sup>11</sup> Official Journal L255/18 on 28.8.2014.

<sup>12</sup> Acronym of the French for the primary administrative or judicial finding ("le premier acte de constat administratif ou judiciaire").



Regulation (EC) No 1290/2005, shall continue to apply. This also implies that column (J) shall be considered as the reference point for the application of the 50/50 rule for these old cases. For the cases for which no PACA or judicial finding of irregularity was established before 16 October 2014, the provisions of Article 54(1) and (2) of Regulation (EU) 1306/2013 shall apply.

- (2) For all "new" cases, i.e. those which do not have a PACA established before 16 October 2014, the provisions of Articles 54(1) and (2) of Regulation (EU) No 1306/2013 shall apply.

With regard to irrecoverable amounts and corrections, Regulation (EU) No 1306/2013 is immediately applicable. Therefore those amounts are due to be accounted for as from financial year 2014 (and no longer only after the closure of the concerned rural development programme).

Required format: old = "O"; new = "N".

#### **2.1.2.4. Column (V1) – Financial year of expenditure of origin**

Here the financial year to which the expenditure of origin refers should be indicated.

Required format: "YYYY" (year in four digits).

In case of multi-annual expenditure, the oldest financial year of expenditure of origin shall be considered for reporting the irregularity. In case of sanctions without any payment (e.g. export refund), the financial year of the claim has to be considered instead.

This information shall be provided only as from financial year 2016.

#### **2.1.2.5. Column (V2) – Budget codes of expenditure of origin**

If an irregularity relates to several budget codes, it shall be reported on separate lines. These shall have the same case identification number (column E) and the same beneficiary identification (column H).

In the table every single row refers to one individual budget code of expenditure of origin.

The information concerning the budget code shall be as follows:

<b>Fund</b>	<b>Budget codes<sup>13</sup></b>
EAGF & TRDI	8 first figures
EAFRD 2007-2013	11 first figures
EAFRD 2014-2020	10 first figures
former EAGGF	"BXX" as default value

Required format without spaces: "999999(...)99", where 9 stands for a digit from 0 to 9 except for former EAGGF expenditure where the default value "BXX" should be indicated.

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<sup>13</sup> In case the irregularity concerns expenditure from the EAFRD programming period 2007-2013, the first 8 digits are "05040501"; for the programming period 2014-2020, the first 8 digits are "05046001". Reference is made to Annex IV of the X-table Regulation (last published version; Commission Implementing Regulation (EU) No 1067/2014 of 3 October 2014).

In case of multi-annual expenditure<sup>14</sup>, the reporting of the irregularity should be grouped per relevant fund. In such a case, and if the budget code does not vary over time, then the irregularity case can be declared on one line.

This information shall be provided only as from financial year 2016.

#### **2.1.2.6. Column (C) – Financial year n**

The financial year to which the table refers should be indicated, i.e; "Year n" for the tables to be sent to the Commission by 15 February "Year n+1". This field allows differentiating the data reported in different years.

Required format: "YYYY" (year in four digits).

#### **2.1.2.7. Column (D) – Currency unit**

The currency unit in which the amount for each case is reported in the table is indicated here. The amounts in the table shall be presented in national currency.

Required format: ISO 4217 code: e.g. DKK, EUR, GBP, HUF etc.

#### **2.1.2.8. Column (E) – Case identification number**

The identification number is the code assigned by the Member State to uniquely identify the case within the PA. This number is therefore internal to the Member State and should not be confused with the reference number referred to in column (F). Furthermore, for the purpose of a clear and transparent reporting, the unique identification number of a given individual irregularity case should not change after the first time it is reported in the Annex II table.

Required format: "text field". This is a mandatory field so it cannot remain blank.

#### **2.1.2.9. Column (F) – OLAF (ECR or IMS) identification if applicable**

This number represents the identification code used for the case in OLAF's database IMS 5 (cases reported from 2000 onwards) or OLAF's registry AFIS/ECR Module 595 (cases reported before 2000). It allows the cross-check with the information provided in this table. This field is applicable only to irregularity cases where the financial impact is superior to EUR 4.000 or EUR 10.000<sup>15</sup>, for irregularities found after 1 January 2007.<sup>16</sup> For cases with a financial impact of less than EUR 4.000 or EUR 10.000, this field will thus remain blank.

Required format: This information must be supplied in all cases where an IMS or AFIS/ECR identification exists.

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<sup>14</sup> Example: afforestation measure (with an obligation for the beneficiary to maintain the investment for 20 years), that was first financed under the former EAGGF Guarantee expenditure and later under EAGF.

<sup>15</sup> In terms of EU contribution.

<sup>16</sup> Threshold provided by Commission Regulation (EU) No 2015/1971 of 8 July 2015 (Official Journal L293/6 on 10.11.2015).

Module 595: "MS/YYYY/999999", where 9 stands for a digit from 0 to 9 (example: BE/2005/000143).

Module 5: "MS/YYYY/Reporting authority/999999", where 9 stands for a digit from 0 to 9 (example: DE/2005/15/000143).

#### **2.1.2.10. Column (G) – Case included in the debtors' ledger? Y/N**

The Annex III table of Regulation (EC) 885/2006 included all irregularity cases where a PACA had been established, but which might not have been recorded in the debtors' ledger. Concerning "new" cases, the Annex II table of Regulation (EU) No 908/2014 foresees that only cases for which a recovery request has been issued shall be reported. The debtors' ledger shall include receivables in accordance with generally accepted accounting principles.<sup>17</sup>

If a case reported in the table is recorded in the debtors' ledger the cell should be filled with a Y (yes), if not with an N (no). This column allows the reconciliation between the information provided in the Annex II table of Regulation (EU) No 908/2014 and in the debtors' ledger. In cases where recoveries are effected, this column has to be filled in with Y (yes).

Required format: yes = "Y"; no = "N".

#### **2.1.2.11. Column (H) – Beneficiary identification**

The beneficiary identification is the code assigned by the Member State to uniquely identify the beneficiary in the PA's database. This code corresponds to the F200 code of the X-tables. This identification is therefore internal to the Member State.

No specific requirement. This is a mandatory field so it cannot remain blank.

#### **2.1.2.12. Column (I) – Programme closed? (Only for EAFRD 2007-2013 and TRDI)**

According to Article 33 of Regulation (EC) No 1290/2005, amounts recovered from irregular EAFRD 2007-2013 payments had to be reused within the same rural development programmes. The 50/50 rule enshrined in Article 33(8) of the aforementioned Regulation No 1290/2005 was therefore only applicable to the amounts still outstanding 4/8 years after the PACA that were not fully recovered and/or reused until the closure of each programme. According to Article 28 of the Regulation, a programme is closed by the clearance of accounts decision of the last execution year of the programme. The same rules are applicable for the EU10 regarding the transitional rural development instrument (TRDI).

In this column, information shall be provided on the status of the programme to which the debt is related.

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<sup>17</sup> Receivables are defined as rights or revenue entitlements arising from past events that an organisation expects to receive from third parties. As a result, the debtor must pay a specific amount to the organisation within a certain period of time and in accordance with the conditions laid down in the relevant legislation.

Regarding specifically TRDI, the programmes have now been closed for EU10 by Commission Decisions 2009/984/EU<sup>18</sup> and 2010/750/EU<sup>19</sup>. However the completion of this column is still compulsory.

Required format: yes = "Y", no = "N"; blank if the fund concerned is the EAGF, EAFRD 2014-2020 or former EAGGF.

Without prejudice to what is stated above, it should be underlined that according to Article 57(1), second paragraph, of Regulation 2021/2116, applicable as of 1.1.2023, *amounts of the Union financing under the EAFRD which are cancelled and amounts recovered, and the interest thereon, shall be reallocated to other rural development operations in the CAP Strategic Plans*<sup>20</sup>. In this context, it should be clarified that the amounts recovered and reused in accordance with this provision should be registered in the debtors' ledger and in the Annex II table as any other recovery. The debtors' ledger and Annex II table should reflect the life cycle of a debt and the relation between the PA and the debtor.

#### **2.1.2.13. Column (W) – Date of approval of control report or similar document as referred to in Article 54(1) of Regulation (EU) 1306/2013**

As referred to in article 54(1) of Regulation (EU) 1306/2013, the date to be considered is the one of the first document, in the chronology of the case, stating that an irregularity has taken place. This document shall additionally meet the two following conditions:

- i. it has been approved;
- ii. and, where applicable, received by the PA or the body responsible for the recovery procedure.

From the date that one or both of the above conditions are met (where applicable), the PA has 18 months to establish the recovery request.

Required format: "YYYYMMDD" (four digits for the year/two digits for the month/two digits for the day).

#### **2.1.2.14. Column (J) – Financial year of primary administrative or judicial finding of an irregularity**

This is the financial year in which the primary administrative or judicial finding (PACA), pursuant to Article 35 of Regulation (EC) No 1290/2005, has been established. For all the cases with a PACA date before 16 October 2014, the 4/8 year period of the 50/50 rule is still calculated from this year. For "new" cases as defined under 2.1.2.3., the completion of this column is no longer required.

Required format: "YYYY" (year in four digits).

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<sup>18</sup> For Czech Republic, Hungary and Slovenia.

<sup>19</sup> For Estonia, Cyprus, Latvia, Lithuania, Malta, Poland and Slovakia.

<sup>20</sup> However, Member States may reuse the cancelled or recovered Union funds in their entirety only for a rural development operation under their CAP Strategic Plans and may not reallocate them to rural development operations which have been the subject of a financial adjustment.

### **2.1.2.15. Column (X) - Date of recovery request**

The date of the 'recovery request' shall be the date of the recovery document sent by the PA to the beneficiary. The type of recovery document is established by national legislation.

For all "new" cases, as defined under 2.1.2.3., the 4/8 year period of the 50/50 rule is calculated from this date.

Required format: "YYYYMMDD" (four digits for the year/two digits for the month/two digits for the day).

### **2.1.2.16. Column (K) – Subject to judicial procedures?**

If the recovery action was not successful or cannot be taken through an administrative procedure and the case is brought before the national court, the case is subject to a judicial procedure. A case can be regarded as such when:

- the recovery is taken or contested by the operator via court procedure;
- the authority wants to enforce recovery through a court procedure after its recovery claim was neglected by the operator;
- insolvency procedure against the operator is already in place before the national court.

The date when a recovery becomes subject to judicial procedures is the day on which the case is registered in the court register. If the case is brought before national court, in case of non-recovery it will be subject to the 50/50 rule after the 8<sup>th</sup> year of the PACA date of the irregularity (for the old cases) or of the recovery request (for the new cases), irrespective of the fact when the court procedure is completed.

Required format: yes ="Y"; no = "N".

### **2.1.2.17. Column (L) – Original amount to be recovered**

This column only needs to be completed for the "old" cases. The "original amount" shall include:

- the initial unduly paid amount: the amount of the actual financial impact of the irregularity as discovered by the primary finding;
- any interests charged on the initial unduly paid amount until the time the beneficiary is first informed of his recovery obligation (whether this interest is simple interest or compound interest depends on national rules and, if applicable, EU sectoral rules);
- the sanctions to be paid over to the EU budget: the amount of the sanction that the authority applies in relation to the individual case, including both the sanctions already paid by the beneficiary and sanctions still to be paid. Multi-annual sanctions,<sup>i</sup> which are following Article 16(7) and 17(8) of Regulation (EC) No 65/2011 amounts to be off-set in the course of the three calendar years following the calendar year of the finding, do not have to be reported in the Annex II table of

Regulation (EU) No 908/2014, but they are to be reported in the Annex III table of the Regulation (EU) No 908/2014.

Required format: +99.....99.99, where 9 stands for a digit from 0 to 9.

**2.1.2.18. Columns (L1) and (L2) – Original amount to be recovered (principal) and Original amount to be recovered (interest)**

For "new cases", as from financial year 2015 the amounts defined in 2.17 shall be broken down between columns L1 and L2:

- L1 = Original amount to be recovered shall include:
  - the initial unduly paid amount: the amount of the actual financial impact of the irregularity as discovered by the primary finding;
  - the sanctions to be paid over to the EU budget: the amount of the sanction that the authority applies in relation to the individual case, including both the sanctions already paid by the beneficiary and sanctions still to be paid. Multi-annual sanctions,<sup>ii</sup> which are following Articles 19, 21, 28, 31, 35 of Regulation (EU) No 640/2014, amounts to be off-set in the course of the three calendar years following the calendar year of the finding, do not have to be reported in the Annex II table of Regulation (EU) No 908/2014, but they are to be reported in the Annex III table of the Regulation (EU) No 908/2014.
- L2 = any eventual accrued interest

These should always be positive values. It should be noted that in case the beneficiary does not pay immediately and the recovery procedure takes time, the additional interests accrued on top of the "original amount" for the following years should be included every year in the column (Z) as "interest (in financial year n)" and cumulated in the year after to column Y2.

Required format: +99.....99.99, where 9 stands for a digit from 0 to 9.

**2.1.2.19. Columns (Y1 and Y2) – Principal amount for which recovery was ongoing at end of financial year n-1 and Interest for which recovery was ongoing at end of financial year n-1**

The columns Y1 and Y2 are only applicable for new cases. They should be filled in only as from financial year 2015 with values of zero. From financial year 2016, the values in these columns of the Annex II table of financial year n shall equal the values in columns T1 and T2 of financial year n-1.

Required format: +99.....99.99, where 9 stands for a digit from 0 to 9.

**2.1.2.20. Column (M) – Total corrected amount (entire recovery period)**

This column only needs to be completed for the "old" cases.

The total amount of correction: the total amount of interest on the amount disbursed in error for the entire recovery period (whether this interest is simple interest or compound

interest depends on national rules and, if applicable, EU sectoral rules) and any correction (+ or -) resulting from the revision of the 'original amount' identified by the primary finding is indicated in this field. The amount can be positive if it refers to the interest or if the original amount increases after revision, or can be negative in cases where the original amount decreases after revision. The "entire recovery period" means here the period between the primary finding and the closing date (e.g. 15 October financial year n).

Amounts of old irregularity cases with a PACA before financial year 2014, which, for whatever reason, were not included in the Annex II table of Regulation (EU) 908/2014 of financial year 2014, shall be reported here in this column and in column (R), instead of reporting them as "original amount" in column (L) or as a "new" case in column (L1).

Required format: +99.....99.99 or -99.....99.99, where 9 stands for a digit from 0 to 9.

#### **2.1.2.21. Column (N) – Total recovered amount (entire recovery period)**

This column only needs to be completed for the "old" cases.

Total recoveries from the beneficiary of the outstanding amount (columns L + M) since the PACA. No deduction is to be made for the 20% retention according to Article 55 of Regulation (EU) 1306/2013 for EAGF payments.

The amount recovered is to be presented with a negative sign.

Required format: -99.....99.99, where 9 stands for a digit from 0 to 9.

#### **2.1.2.22. Column (O) – Amount declared irrecoverable**

This column only needs to be completed for the "old" cases.

This is the amount that the PA considers to be irrecoverable during financial year n. An amount can only be declared irrecoverable by applying the justifications provided in Article 54(3) of Regulation (EU) 1306/2013 (see point 2.1.2.25).

Only cases that are declared irrecoverable in financial year n are to be reported, because cases which have been declared irrecoverable before 16 October financial year n were cleared by Commission Implementing Decision, or will be cleared by subsequent Decision(s), by charging 100% of the outstanding amounts to the EU budget.

The irrecoverable amount is to be presented with a negative sign.

Required format: -99.....99.99, where 9 stands for a digit from 0 to 9.

#### **2.1.2.23. Columns (O1) and (O2) – Amount (principal) declared irrecoverable and Amount (interest) declared irrecoverable**

For "new cases", as from financial year 2015 the principles defined in 2.22 shall be broken down between columns (O1) and (O2):

- (O1) = principal amount declared irrecoverable
- (O2) = Interest amount declared irrecoverable

The irrecoverable amount is to be presented with a negative sign.

Required format: -99.....99.99, where 9 stands for a digit from 0 to 9.

#### **2.1.2.24. Column (P) – Financial year of establishment of irrecoverability**

This column is applicable to both "old" and "new" cases.

The financial year in which the decision about irrecoverability under national law was taken is to be indicated here.

Only cases that are declared irrecoverable in financial year n are to be reported, because cases which have been declared irrecoverable before 16 October of financial year n were cleared by Commission Implementing Decision, or will be cleared by subsequent Decision(s), by charging 100% of the outstanding amounts to the EU budget.

Required format: "YYYY" (year in four digits).

#### **2.1.2.25. Column (Q) – Reasons for irrecoverability**

This column is applicable to both "old" and "new" cases.

It has to be specified here why it is decided not to pursue recovery. Article 54(3) of Regulation (EU) 1306/2013 provides two justifications:

(a) cases where the costs already and likely to be incurred total more than the amount to be recovered, the condition for which shall be considered to be met under Article 54(3)(a)(i) and Article 54(3)(a)(ii); Cases for which this justification is applicable do not have to be reported in the Annex II table.

(b) cases of insolvency (which may include both natural and legal persons) as defined under Article 54(3)(b).

Furthermore, from FY2021 onwards the Certification Bodies are required to verify and confirm in the audit report the total amount of debts for which the decision not to pursue recovery is classified in Annex II as "other reasons than those provided for by Articles 54(3)(a) or 54(3)(b) of Regulation (EU) No 1306/2013", i.e. (Q=3).

The Commission may follow-up these cases by way of the conformity clearance procedure pursuant to Article 54(5) of Regulation (EU) 1306/2013.

Required format: to be expressed by a one-character code corresponding to the following code list:

Code	Significance
1	Application of Article 54(3)(a)
2	Application of Article 54(3)(b)
3	Other reason than Articles 54(3)(a) or 54(3)(b)

#### **2.1.2.26. Column (R) – Corrected amount (in financial year n)**

This column only needs to be completed for the "old" cases.



Any correction (+ or -) resulting from the revision of the initial (principal) amount in financial n-1 and/or any correction of the amount of interest (simple or compound interest, depending on national and EU legal provisions) on the original amount due in financial year n-1 shall be indicated in this column. The amount can be positive or negative.

Amounts of "old" irregularity cases with a PACA date before financial year 2014, which, for whatever reason, were not included in the Annex II table of Regulation (EU) 908/2014 of financial year 2014 or earlier<sup>21</sup>, shall be reported here in this column and in column (M), instead of reporting them as "original amount" in column (L).

This column shall also be used in case the amounts have been subject to some EC financial corrections but have not yet been recovered.

Required format: +99.....99.99 or -99.....99.99, where 9 stands for a digit from 0 to 9.

**2.1.2.27. Columns (R1) and (R2) – Corrected amount (principal) (in financial year n) and Corrected amount (interest) (in financial year n)**

For "new" cases, as from financial year 2015, the amounts defined in 2.1.2.26 shall be broken down between columns (R1) and (R2):

- (R1) = Corrections of the initial (principal) amount
- (R2) = Corrections concerning previously reported interest amounts.

The amount can be positive or negative.

Amounts of irregularity cases with a recovery request issued before financial year n, which, for whatever reason, were not included in the Annex II table of financial year n-1 or earlier, shall be reported in these columns, and not as "original amounts" in column (L1) and (L2).

These columns shall also be used in case the amounts have been subject to some EC financial corrections but have not yet been recovered.

Required format: +99.....99.99 or -99.....99.99, where 9 stands for a digit from 0 to 9.

**2.1.2.28. Column (Z) – Interest (in financial year n)**

For "new" cases, as from financial year 2015, this column shall comprise of interest applicable on undue payments to be recovered as a consequence of irregularity or negligence as specified in article 27 of Regulation (EU) No 908/2014.

It shall be used for the interest accrued within the financial year n on the basis of the remaining principal amount to be recovered, even though it has not yet been effectively charged to the beneficiary e.g. when the principal amount has not yet been fully recovered.

The amounts should be presented with a positive value.

Required format: +99.....99.99, where 9 stands for a digit from 0 to 9.

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<sup>21</sup> In Annex III tables of Regulation (EC) 885/2006.

### **2.1.2.29. Column (S) – Recovered amount (in financial year n)**

This column only needs to be completed for the "old" cases.

These are the amounts recovered by the Member State from the beneficiary in financial year n. No deduction is to be made to the amount reported in the Annex II table for the 20% retention according to Article 55 of Regulation (EU) 1306/2013. These amounts have to be reconcilable with the recoveries declared in T104 (in year n), taking into account the 20% retention and the 50/50 rule.

The amounts recovered are to be presented with a negative sign.

Required format: -99.....99.99, where 9 stands for a digit from 0 to 9.

### **2.1.2.30. Columns (S1) and (S2) – Recovered amount (principal) (in financial year n) and Recovered amount (interest) (in financial year n)**

For "new" cases, as from financial year 2015, the amounts defined in 2.29 shall be broken down between columns (S1) and (S2):

- (S1) = Recoveries of the initial (principal) amount
- (S2) = Recoveries of the amount of interest on the original amount

The amounts recovered are to be presented with a negative sign.

According to Article 13 of Regulation (EU) No 907/2014 Member States are obliged to credit the remaining 50% of any amounts recovered to the EAFRD from cases which have fallen under the 50/50 rule, unless these amounts can be reallocated in accordance to Article 56 of Regulation (EU) No 1306/2013.

Required format: -99.....99.99, where 9 stands for a digit from 0 to 9.

### **2.1.2.31. Columns (T) – Amount for which recovery is ongoing**

This column is applicable to both "old" and "new" cases.

For "old" cases, the column (T) is equal to columns:

$$(L) + (M) + (N) + (O)$$

It represents the debt at the closing date (e.g. 15 October "Year n") that remains to be recovered by the Member State from the beneficiary. If full recovery has not taken place within 4/8 years starting from the PACA, the 50/50 rule will be applied on this amount.

From financial year 2015, this column is completed for "new" cases and shall equal the sum of columns (T1) and (T2), as defined below.

If full recovery has not taken place within 4/8 years starting from the recovery request, the 50/50 rule will be applied on this amount.

Required format: +99.....99.99, where 9 stands for a digit from 0 to 9.

**2.1.2.32. Columns (T1) and (T2) – Amount (principal) for which recovery is ongoing and Amount (interest) for which recovery is ongoing**

For "new" cases only, as from financial year 2015, these columns shall be equal to:

$$(T1) = (Y1)^* + (O1) + (R1) + (S1);$$

$$(T2) = (Y2)^* + (O2) + (R2) + (Z) + (S2).$$

It represents the debt at the closing date (e.g. 15 October "Year n") that remains to be recovered by the Member State from the beneficiary.

The values in these columns of the Annex II table of financial year n shall equal the values in columns (Y1) and (Y2) of financial year n+1.

\* In the first year a case is reported in the Annex II, the formula should take into consideration values in (L1) and (L2) rather than (Y1) and (Y2).

**2.1.2.33. Column (BB) – Amount subject to the 50/50 rule as set out in Article 54(2) of Regulation (EU) No 1306/2013 at the end of financial year n**

For "new" cases only, as from financial year 2015, this column shall be filled in as follows:

- before the application of the 50/50 rule: 0;
- after the application of the 50/50 rule: the amount subject to the 50/50 rule. The amount should be presented as a positive value.

Once the 50/50 rule has been applied, the value reported in column (BB) shall remain the same in any Annex II reporting in subsequent financial years.

N.B. the amounts charged under the 50/50 rule for EAFRD cannot be "re-used" by the Member State as per Article 56 of Regulation (EU) No 1306/2013. The amounts resulting from the application from this rule are, thus, net corrections to be deducted from the Member State's EAFRD allocations.

Required format: +99.....99.99, where 9 stands for a digit from 0 to 9.

**2.1.2.34. Column (U) – Amount to be credited to the EU budget**

This column is applicable to both "old" and "new" cases.

Unlike other columns, column (U) shows more the situation of the irregularity cases reported by the Member State vis-à-vis the EU rather than the beneficiary.

Regarding EAGF, amounts recovered by the Member States from beneficiaries have to be credited to the EU budget.<sup>22</sup>

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<sup>22</sup> Article 55 of Regulation (EU) 1306/2013.

Regarding EAFRD, amounts recovered shall be reused according to the provisions. After the application of the 50/50 rule, the Member States are still required to pursue recovery and to credit 50% of the recovered amounts to the EU budget.

Consequently the amount to be credited to the EU budget is the following:

- EAGF and TRDI (for financial years 2014 and 2015):
  - before the application of the 50/50 rule: the total outstanding amount (reported in column (T));
  - after the application of the 50/50 rule: 50% of the total outstanding amount (reported in column (T)).
  - after full recovery: 0.
- EAGF, TRDI (as from financial year 2016) and EAFRD 2007-2013 (as from financial year 2016 until financial year 2022) :
  - before the application of the 50/50 rule: the total outstanding amount (reported in column (T));
  - after the application of the 50/50 rule: 50% of the total outstanding amount (reported in column (T)).
  - after full recovery: 0.

Regarding TRDI and EAFRD 2007-2013, the Commission will issue recovery orders for any amounts charged under the 50/50 rule and any amounts recovered by the Member State from the beneficiaries. The amount to be reported in this column is the following:

- before the application of the 50/50 rule: the total outstanding amount (reported in column (T));
  - after the application of the 50/50 rule: 50% of the total outstanding amount (reported in column (T));
  - after full recovery of the irregular amount: 0.
- EAFRD 2014-2020 (as from financial year 2014) and EAFRD 2007-2013 (as from financial year 2023)
    - before the application of the 50/50 rule: the total outstanding amount (reported in column (T));
    - after the application of the 50/50 rule: 50% of the total outstanding amount (reported in column (T)) and credited to the Union budget (after the closure of the programme or before the closure of the programme when the amounts recovered could not be reallocated in accordance with Article 56 of Regulation (EU) No 1306/2013 and Article 57 of Regulation (EU) 2021/2116).
    - after full recovery: 0.

Regarding the EAGF, Member States may retain 20% of the amounts recovered as flat-rate recovery costs at the moment when recovered amounts are credited to the EU budget. At the time of reporting information in the Annex II table, the amounts in columns (T), (T1) and (T2) are not yet recovered from the beneficiaries; therefore this retention is not deducted from the amounts reported in columns (T), (T1) and (T2).

Required format: +99.....99.99, where 9 stands for a digit from 0 to 9.

### **2.1.3. Technical specifications for the electronic submission of the Annex II table**

- 2.1.3.1. The Member State must create a computer record for each budget code of expenditure of origin related to an individual irregularity case if it concerns "new" cases; or for each individual irregularity when it concerns "old" cases (see 2.1.2.3., 2.1.2.4. and 2.1.2.5 above).
- 2.1.3.2. The records must have a flat file structure.
- 2.1.3.3. The "Total" row is not to be included in the electronic file.
- 2.1.3.4. Each Member State can send only one computer file per PA containing **all** irregularities, for EAGF, EAFRD 2007-2013, EAFRD 2014-2020 and TRDI.
- 2.1.3.5. The computer file must have the following characteristics:
  - 2.1.3.5.1. The first record in the file (header row) contains the file description. The field names shall correspond with the headings of the columns ((A); (B); (C), etc., see also example below). The order of the fields shall correspond with the order of point 2.1.3.5.2. below.
  - 2.1.3.5.2. The following records in the file are data (data rows), in the order indicated by the first record describing the file structure.
  - 2.1.3.5.3. The fields are separated by a semicolon (";"). The header row and data rows shall all contain the same number of semicolons. In the data rows, empty fields appear as a double semicolon (";;") within the record, or as a single semicolon (";") at the end of the record.
  - 2.1.3.5.4. Records vary in length. Each record ends with a code "CR LF" or "Carriage Return – Line Feed" (in hexadecimal: "0D 0A"). The header row never ends on a ";". Data rows only end on a ";" if the last field is empty.

#### 2.1.3.5.5. Numeric fields:

- (a) Decimal separator: "."
- (b) The symbol ("+" or "-") appears on the far left, followed immediately by the figures. For positive numbers, the "+" sign is optional.
- (c) Fixed number of decimals: 2.
- (d) No spaces between digits. No spaces or other signs between thousands.
- (e) When the information is not applicable for the record, the value 0 (zero) needs to be filled.

2.3.1.5.6. Quotation marks (“ ”) are not allowed at the beginning or at the end of the records. The semicolon field separator “;” must not be used in data in text format.

2.3.1.5.7. All fields: no spaces at the beginning or end of a field.

2.3.1.5.8. Files satisfying these rules will look like the following (example for financial year 2015):

A;B;AA;V1;V2;C;D;E;F;G;H;I;W;J;X;K;L;L1;L2;Y1;Y2;M;N;O;O1;O2;P;Q;R1;R2;Z;S;S1;S2;T;T1;T2;BB;U

BE02;3;O;;;2015;EUR;case\_nr;olaf\_nr;Y;H\_O\_1;;;2015;;N;100;;;;;0;0;0;;;;0;;;100;;;0

BE02;3;N;2010;05030101;2015;EUR;case\_nr;olaf\_nr;N;H\_N\_1;;20150101;;20150831;N;;100;10;100;10;;;;;0;0;0;0;0;0;110;100;10;0;0

Such file can be easily produced from e.g. Excel (by using the "Save As CSV" option).

2.3.1.6. The Member States must send the computer file(s) to the Commission by 15 February following financial year n via SFC2014, section “ANNUAL ACCOUNTS – ART 30(1)(A) REG(EU) NO908/2014”, “Debtor Ledger”, document type “Irregularities”.

### 2.1.4. Clearance of irregularity cases

Pursuant to Article 29(e) of Regulation (EU) No 908/2014, Member States have to indicate 8 amounts per PA after each financial year:

- The total amount to be borne by the Member State according to the 50/50 rule for the outstanding irregularity cases separately for EAGF, EAFRD (2007-2013 and 2014-2020) and TRDI;
- The total amount to be borne in 100% by the EU budget due to irrecoverability of irregular payments separately for EAGF, EAFRD (2007-2013 and 2014-2020) and

TRDI. It should be recalled that amounts declared irrecoverable may only be charged in full to the EU budget. Only, if the declaration of irrecoverability is adopted within 4 or, in the case of legal proceedings, 8 years as from the date of the PACA for the "old" cases and from the date of the recovery request for the "new" cases, the amounts in question can be reported in these columns. In other words, if the irrecoverability is established after the application of the 50/50 rule, no amount should be reported under the column '100% to be borne by the EU budget (article 54(3) of Regulation (EU) 1306/2013'.

Furthermore, it is underlined that pursuant to Article 54(3) of Regulation (EU) No 1306/2013, the irrecoverable amounts may be borne (100%) by the EU budget if the decision not to pursue recovery is taken in the following cases:

- a) where the costs already and likely to be effected total more than the amount to be recovered as prescribed in points (i) and (ii) of paragraph 3(a);
- b) where recovery proves impossible owing to the insolvency, recorded and recognised under national law, of the debtor or the persons legally responsible for the irregularity;
- c) where the so called "50/50" rule was not yet applied, as provided in the last subparagraph of Article 54(3).

In accordance with Article 54(5) (b) of Regulation (EU) No 1306/2013, the Commission may apply a financial correction if the decision by a Member State not to pursue recovery is not justified.

The Commission will verify the accuracy of these amounts on the basis of the information provided by Member States in the Annex II table and may request additional information during the clearance exercise for the review of specific cases.

#### **2.1.5. Certification of the Annex II summary table**

The total figures of the amounts reported in Annex II of Regulation 908/2014 have to be reported separately per PA and need to be certified by the Certification Body.

For each financial year n, Member States are required to submit this table per PA electronically to the Commission by 15 February in the year n+1.

From financial year 2019 onwards, the Member States are requested to submit these total figures in a structured computer file following the characteristics described under point 2.1.3.5. This format enables automated processing.

Columns "Bal\_P" and "Bal\_I" represent the opening balance in financial year n. This amount has to be identical with the closing balance of the Annex II table of financial year n-1. Columns "NewC\_P" and "NewC\_I" are only applicable for "new" cases and must not be reported for "old" cases. The other columns represent the total of columns (R), (R1), (R2), (S), (S1), (S2), (O), (O1), (O2), (Z) and (T) of the (detailed) Annex II table.

The columns "Balance 15/10/n-1" (Bal), "Corrected amount in financial year n" (R), "Recovered amount in financial year n" (S), "Amount declared irrecoverable in financial year n" (O) and "Amount for which recovery is ongoing" (T) of this table are split into two columns for making the distinction between principal and interest amounts. These columns

reflect the details requested in the (detailed) Annex II table. For 'old' cases, this breakdown is not requested and the full amounts need to be reported as 'principal' amount.

Furthermore, in order to enable the reconciliation of the closing balance, the column "*Interest in financial year n*" (Z) from the detailed Annex II table, remains in the summary table for "new" cases. This total reflects amounts reported at case level in column (z) in the detailed Annex II table (see 2.1.2.28 above).

Detailed instructions on how to report each of the different columns of the Annex II summary table are set out below.

### **2.1.5.1. Contents of the columns**

#### **2.1.5.1.1. *Column (AA) – Case (Old/New)***

This field allows differentiating "old" and "new" irregularity cases as described in point 2.1.2.3. above.

Required format: old = "O"; new = "N".

#### **2.1.5.1.2. *Column (A) – Paying Agency***

The code of the PA that is responsible for the recovery of the irregularly paid amount.

Required format: MS99, where MS stands for the alpha-2 ISO code of the Member State and 9 stands for a digit from 0 to 9

#### **2.1.5.1.3. *Column (B) – Fund***

The fund from which the undue amount was paid.

Required format: to be expressed by a one-character code corresponding to the following list:

Code	Significance
3	EAGF, including all former EAGGF Guarantee expenditure.
4	EAFRD 2007-2013
5	TRDI for EU10
6	EAFRD 2014-2020

#### **2.1.5.1.4. *Column (C) – Financial year n***

The financial year to which the table refers should be indicated, i.e. "Year n" for the tables to be sent to the Commission by 15 February "Year n+1".

Required format: "YYYY" (year in four digits).

#### **2.1.5.1.5. *Column D – Currency unit***

The currency unit in which the amount in the table is reported is indicated here. The amounts in the table shall be presented in national currency.

Required format: ISO 4217 code: e.g. DKK, EUR, GBP, HUF etc.



#### 2.1.5.1.6. *Column (Bal\_P) – Opening Balance – Principal*

This column presents the situation as of 15/10/n-1. This column reports the full amount (principal + interests) for "old" cases and only the principal amount for "new" cases.

The amount reported in this column should be presented with a positive sign.

Required format: +99.....99.99, where 9 stands for a digit from 0 to 9.

#### 2.1.5.1.7. *Column (Bal\_I) – Opening Balance – Interest*

This column reports the total outstanding interest amount as of 15/10/n-1 and is applicable only for "new" cases.

The amount reported in this column should be presented with a positive sign.

Required format: +99.....99.99, where 9 stands for a digit from 0 to 9.

#### 2.1.5.1.8. *Column (NewC\_P) – New cases in financial year n – Principal*

This column is applicable only for "new" cases. It reports the total irregular principal amount to be recovered that has been registered during financial year n.

The amount reported in this column should be presented with a positive sign.

Required format: +99.....99.99, where 9 stands for a digit from 0 to 9.

#### 2.1.5.1.9. *Column (NewC\_I) – New Cases in financial year n – Interest*

This column is applicable only for "new" cases. It reports the total interest amount to be recovered that has been registered during financial year n.

The amount reported in this column should be presented with a positive sign.

Required format: +99.....99.99, where 9 stands for a digit from 0 to 9.

#### 2.1.5.1.10. *Column (R1) – Corrected amount in financial year n – Principal*

This column reports the full amount (principal + interests) for "old" cases and only the principal amount for "new" cases.

Consequently, as regards the "old" cases, the amount reported in this column reflects the total of the amounts reported at case level in column (R) (described in point 2.1.2.26. above) of the table Annex II of Regulation 908/2014.

As regards the "new" cases, the amount in this column reflects the total of the amounts reported at case level in column R1 (described in point 2.1.2.27. above) of the table Annex II of Regulation 908/2014.

The amount can be positive or negative.

Required format: +99.....99.99 or -99.....99.99, where 9 stands for a digit from 0 to 9.

**2.1.5.1.11. *Column (R2) – Corrected amount in financial year n – Interest***

This column is applicable only for "new" cases.

The amount in this column reflects the total of the amounts reported at case level in column (R2) (described in point 2.1.2.27. above) of the table Annex II of Regulation 908/2014.

The amount can be positive or negative.

Required format: +99.....99.99 or -99.....99.99, where 9 stands for a digit from 0 to 9.

**2.1.5.1.12. *Column (Z) – Interest in financial year n***

This column is applicable only for "new" cases and shows the total of the amounts reported at case level in column (Z) (described in point 2.1.2.28. above) of the table Annex II of Regulation 908/2014.

The amount in this column is to be presented with a positive sign.

Required format: +99.....99.99, where 9 stands for a digit from 0 to 9.

**2.1.5.1.13. *Column (S1) – Recovered amount in financial year n – Principal***

This column is applicable for "old" and "new" cases. As regards the "new" cases, only the principal recovered amount is to be reported here.

Consequently, as regards the "old" cases, the amount reported here reflects the total of the amounts reported at case level in column (S) (described in point 2.1.2.29. above) of the table Annex II of Regulation 908/2014.

As regards the "new" cases, the amount reported here reflects the total of the amounts reported at case level in column (S1) (described in point 2.1.2.30. above) of the table Annex II of Regulation 908/2014.

The amount in this column is to be presented with a negative sign.

Required format: -99.....99.99, where 9 stands for a digit from 0 to 9.

**2.1.5.1.14. *Column (S2) – Recovered amount in financial year n – Interest***

This column is applicable for "new" cases. The total amount of recoveries pertaining to interest on the original amount is to be reported here.

The amount reported here reflects the total of the amounts reported at case level in column (S2) (described in point 2.1.2.30. above) of the table Annex II of Regulation 908/2014.

The amount recovered is to be reported with a negative sign.

Required format: -99.....99.99, where 9 stands for a digit from 0 to 9.

**2.1.5.1.15. Column (O1) – Amount declared irrecoverable in financial year n – Principal**

This column is applicable for "old" and "new" cases. As regards the "new" cases, only the principal amount is to be reported here.

Consequently, as regards the "old" cases, the amount reflects the total of the amounts reported at case level in column (O) (described in point 2.1.2.22. above) of the table Annex II of Regulation 908/2014.

As regards the "new" cases, the amount reflects the total of the amounts reported at case level in column (O1) (described in point 2.1.2.23 above) of the table Annex II of Regulation 908/2014.

The irrecoverable amount is to be presented with a negative sign.

Required format: -99.....99.99, where 9 stands for a digit from 0 to 9.

**2.1.5.1.16. Column (O2) – Amount declared irrecoverable in financial year n – Interest**

This column is applicable for "new" cases. The total amount declared irrecoverable pertaining to interest is to be reported here.

The amount reported here reflects the total of the amounts reported at case level in column (O2) (described in point 2.1.2.23. above) of the table Annex II of Regulation 908/2014.

The irrecoverable amount is to be presented with a negative sign.

Required format: -99.....99.99, where 9 stands for a digit from 0 to 9.

**2.1.5.1.17. Column (T1) – Amount for which recovery is on-going (Balance 15/10/n) – Principal**

This column is applicable for "old" and "new" cases. As regards the "new" cases, only the principal amount is to be reported here. This amount represents the (principal) debt at the closing date that remains to be recovered by the Member State from the beneficiary.

Consequently, as regards the "old" cases, the amount reported here reflects the total amount of irregular cases that remain to be recovered and shall be equal to:

$$(T1)^{23} = (Bal\_P) + (R1) + (S1) + (O1).$$

As regards the "new" cases, the amount reported here reflects the total amount of irregular cases that remain to be recovered at case level in column (T1) (described in point 2.1.2.32. above) of the table Annex II of Regulation 908/2014. This column shall be equal to:

$$(T1)^{24} = (Bal\_P) + (NewC\_P) + (R1) + (S1) + (O1).$$

Required format: +99.....99.99, where 9 stands for a digit from 0 to 9.

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<sup>23</sup> This equation shall take into account only cells related to "old" cases.

<sup>24</sup> This equation shall take into account only cells related to "new" cases.

**2.1.5.1.18. Column (T2) – Amount for which recovery is on-going  
(Balance 15/10/n) – Interest**

This column is applicable for "new" cases. This amount represents the part of debt pertaining to interest at the closing date that remains to be recovered by the Member State from the beneficiary.

The amount reported here reflects amounts reported at case level in column (T2) (described in point 2.1.2.32. above) of the table Annex II of Regulation 908/2014. This column shall be equal to:

$$(T2) = (Bal\_I) + (NewC\_I) + (R2) + (Z) + (S2) + (O2).$$

Required format: +99.....99.99, where 9 stands for a digit from 0 to 9.

**2.1.5.2. Example**

Annex 1 to this Guideline illustrates the relation between the previous summary table of Annex II and the new csv-file format.

**2.1.5.3. Transmission**

The Member States must send the computer file(s) to the Commission by 15 February following financial year n via SFC2014, section "ANNUAL ACCOUNTS – ART 30(1)(A) REG(EU) NO908/2014", "Debtor Ledger", document type "Annex II - total".

**2.1.6. Certification of the Article 54(2)/Article 54(3) ("50/50") table**

The Certification Bodies are required to certify the figures mentioned under point 2.1.4 above. Furthermore, from FY2021 onwards the Certification Bodies are also required to verify and confirm in the audit report the total amount of debts for which the decision not to pursue recovery is classified in Annex II as "other reasons than those provided for by Articles 54(3)(a) or 54(3)(b) of Regulation (EU) No 1306/2013", i.e. (Q=3).<sup>25</sup> From financial year 2019 onwards, the Member States are requested to submit these total figures in a structured computer file following the characteristics described under 2.1.3.5.. This format enables automated processing.

**2.1.6.1. Content of the columns**

**2.1.6.1.1. Column (A) – Paying Agency**

The code of the PA that is responsible for the recovery of the irregularly paid amount.

Required format: MS99, where MS stands for the alpha-2 ISO code of the Member State and 9 stands for a digit from 0 to 9.

**2.1.6.1.2. Column (B) – Fund**

The fund from which the undue amount was paid.

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<sup>25</sup> See point 2.1.2.25.

Required format: to be expressed by a one-character code corresponding to the following list:

Code	Significance
3	EAGF, including all former EAGGF Guarantee expenditure.
4	EAFRD 2007-2013
5	TRDI for EU10
6	EAFRD 2014-2020

#### 2.1.6.1.3. *Column (C) – Financial year*

The financial year to which the table refers should be indicated; i.e. "Year n" for the tables to be sent to the Commission by 15 February "Year n+1".

Required format: "YYYY" (year in four digits).

#### 2.1.6.1.4. *Column (D) – Currency unit*

The currency unit in which the amount in the table is reported is indicated here. The amounts in the table shall be presented in national currency.

Required format: ISO 4217 code: e.g. DKK, EUR, GBP, HUF etc.

#### 2.1.6.1.5. *Column (EU\_50) – 50% to be charged to the MS (Article 54(2) of Regulation (EU) 1306/2013)*

The total amount charged to the Member State under the 50/50 rule in financial year n, pursuant to article 54(2) of Regulation (EU) 1306/2013 is to be reported here.

The amount reported here is to be presented with a positive value.

Required format: +99.....99.99, where 9 stands for a digit from 0 to 9.

#### 2.1.6.1.6. *Column (EU\_100) – 100% to be borne by the EU budget (Article 54(3) of Regulation (EU) 1306/2013<sup>26</sup>)*

The total amount to be borne by the EU budget in financial year n, pursuant to article 54(3) of Regulation (EU) 1306/2013 is to be reported here.

The amount reported here is to be presented with a positive value.

Required format: +99.....99.99, where 9 stands for a digit from 0 to 9.

### 2.1.6.2. Example

Annex 5 to this Guideline illustrates the relation between the previous “50-50 table” and the new csv-file format.

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<sup>26</sup> 100% is borne by the EU budget only if the irrecoverability is declared within 4/8 years as from the date of the primary administrative or judicial finding for the "old" cases and from the date of the recovery request for the "new" cases as set out under point 2.1.4 above (CLEARANCE OF IRREGULARITY CASES).

### **2.1.6.3. Transmission**

The Member States must send the computer file(s) to the Commission by 15 February following financial year n via SFC2014, section “ANNUAL ACCOUNTS – ART 30(1)(A) REG(EU) NO908/2014”, “Debtor Ledger”, document type “50-50 table”.

#### **2.1.7. Recoveries from the beneficiaries after 15 October year N for irregularity cases being subject to the 50/50 rule in the financial clearance decision of May in year N+1**

Amounts recovered by the Member States from the beneficiaries have to be credited to the EU budget:

- in full before the 50/50 rule is applied on the case;
- 50% if the 50/50 rule has already been applied on the case.

As the 50/50 rule is applied only in May of calendar year N+1 by the financial clearance decision, the following special provision is necessary: if the Member State recovers money from the beneficiary after 15 October of calendar year N in relation to a case that will undergo the 50/50 rule in the financial clearance decision of May of calendar year N+1 only 50% of the sums recovered shall be credited to the EU budget in order to avoid "overcompensation" of the EU budget.

## 2.2. Annex III table of Regulation (EU) No 908/2014

### 2.2.1. Cases to be reported

This table contains the amounts due from the Member States to the EU budget but which are neither irregularities, nor administrative errors. These amounts include, for example, reductions and exclusions due to the non-respect of cross compliance obligations, penalties and sanctions (i.e. multi-annual sanctions) or milk levy due to the EU budget from the campaign 2002/2003 and before<sup>27</sup>. The amounts reported in this table (outstanding amounts toward the EU budget) do not necessarily correspond to the amounts in the paying agencies' debtors' ledger (outstanding amounts towards beneficiary).

Article 54(3)(a) of Regulation (EU) 1306/2013 on the *de minimis* rule is not applicable to amounts reported in the Annex III table. However, amounts which are waived in accordance with any sectoral *de minimis* rules included in EU regulations, such as Article 23(2) of Regulation (EC) No 73/2009, do not have to be included in the Annex III table. On the contrary, cases which were discovered during financial year n, and were fully recovered (including offset against subsequent payments) during the same financial year have to be reported in the table.

The purpose of this table is to provide the Commission a full overview per Fund of the amounts recovered by the Member States and the amount outstanding at the end of each financial year, together with the Annex II table.

From financial year 2019 onwards, the Member States are requested to report the figures in a structured computer file following the characteristics described under point 2.1.3.5. above. Detailed instructions on how to report each of the different columns are set out below. The amounts in the table indicate total amounts per Fund and per outstanding amount category, including all the relevant cases.

### 2.2.2. Content of the columns

#### 2.2.2.1. Column (A) – Paying Agency

The code of the PA that has to credit the amount to the EU budget.

Required format: MS99, where MS stands for the alpha-2 ISO code of the Member State and 9 stands for a digit from 0 to 9.

#### 2.2.2.2. Column (B) – Fund

The fund from which the undue amount was paid is to be indicated here.

Required format: to be expressed by a one-character code corresponding to the following code list:

Code	Significance
3	EAGF, including all former EAGGF Guarantee expenditure.
4	EAFRD 2007-2013
5	TRDI for EU10
6	EAFRD 2014-2020

<sup>27</sup> Regarding the milk levy from campaign 2003/2004 onwards there is no outstanding amount towards the EU budget.

### **2.2.2.3. Column (C) – Financial year n**

The financial year to which the table refers should be indicated, i.e. "Year n" for the tables to be sent to the Commission by 15 February "Year n+1". This field allows differentiating the data reported in different years.

Required format: "YYYY" (year in four digits).

### **2.2.2.4. Column (C\_III) – Currency unit**

The currency unit in which the amounts are reported in the table is indicated here. The amounts shall be presented in national currency in the table.

Required format: ISO 4217 code: e.g. DKK, EUR, GBP, HUF etc.

### **2.2.2.5. Column (I\_III) – Outstanding amount category (cross-compliance sanction, multi-annual sanction or others)**

The category to which the undue amounts correspond should be indicated here.

Required format: to be expressed by a one-character code corresponding to the following code list:

Code	Significance
1	Cross-compliance sanction
2	Multi-annual sanction
3	Other reason than cross-compliance sanction and multi-annual sanction

### **2.2.2.6. Column (D\_III) – Balance 15 October n-1**

This is the opening balance of these recovery cases (other than irregularities and administrative errors) due to EAGF/EAFRD/TRDI for financial year n.

Required format: +99.....99.99, where 9 stands for a digit from 0 to 9.

### **2.2.2.7. Column (E\_III) – New cases (year n)**

Amounts to be recovered (other than irregularities and administrative errors) registered in financial year n have to be reported here.

Required format: +99.....99.99, where 9 stands for a digit from 0 to 9.

### **2.2.2.8. Column (F\_III) – Total recoveries (year n)**

The amounts recovered in financial year n are summarised in this column with a negative sign.

Required format: -99.....99.99, where 9 stands for a digit from 0 to 9.

### **2.2.2.9. Column (G\_III) – Total corrections including irrecoverable amounts (year n)**

The amount of interest on the original amount due in financial year n and any correction (+ or -) resulting from the revision of the amount to be recovered in financial year n-1,



including amounts which are irrecoverable, are indicated in this column. The amount can be positive or negative.

Required format: +99.....99.99 or -99.....99.99, where 9 stands for a digit from 0 to 9.

#### **2.2.2.10. Column (H\_III) – Amount to be recovered 15 October year n**

This is the amount that remains to be recovered on 15 October year n. Column (H\_III) is the sum of columns (D\_III), (E\_III), (F\_III) and (G\_III).

Required format: +99.....99.99, where 9 stands for a digit from 0 to 9.

#### **2.2.3. Example**

Annex 6 to this Guideline illustrates the relation between the previous summary table of Annex III (Article 29(g) of Regulation 908/2014) and the new csv-file format.

#### **2.2.4. Transmission**

The Member States must send the computer file(s) to the Commission by 15 February following financial year n via SFC2014, section “ANNUAL ACCOUNTS – ART 30(1)(A) REG(EU) NO908/2014”, “Debtor Ledger”, document type “Annex III”.

## 2.3. Detailed table on recoveries related to previous programming periods

### 2.3.1. Cases to be reported

In accordance with Article 56 § 2 of Regulation (EU) No 1306/2013 of the European Parliament and of the Council, after the closure of EAFRD (2007-2013) and TRDI, the Member State (MS) shall refund the sums recovered from beneficiaries to the EU Budget. The recoveries after the closure are followed up on the basis of the reporting in Annexes II and III of Commission Implementing Regulation (EU) No 908/2014. This reporting forms the basis for the establishment of the Recovery Order (RO) to be issued in accordance with Articles 98 and 100 of Financial Regulation (EU, Euratom) No 2018/1046.

However, for the programming period 2023-2027, Article 57(1) second paragraph of Regulation 2021/2116, states that the *amounts of the Union financing under the EAFRD which are cancelled and amounts recovered, and the interest thereon, shall be reallocated to other rural development operations in the CAP Strategic Plans*. It is also stated that *Member States may reuse the cancelled or recovered Union funds in their entirety only for a rural development operation under their CAP Strategic Plans and may not reallocate them to rural development operations which have been the subject of a financial adjustment*.

Therefore, as established in this provision, as of 1.1.2023, recovered amounts financed under the EAFRD, can *be reallocated to other rural development operations under the CAP Strategic Plans*, as long as the conditions mentioned in the same Article are respected<sup>28</sup>.

This part of the Guideline provides guidance for the compilation and transmission of the Detailed table on recoveries related to previous programming periods (hereafter Detailed table on recoveries). Only cases related to EAFRD (2007-2013) and TRDI should be reported under this Detailed table on recoveries.

From financial year 2019 onwards, the Member States are requested to report the figures in a structured computer file following the characteristics described under Section A, Part 2, point 2.1.3.5. Detailed instructions on how to report each of the different columns are set out below.

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<sup>28</sup> According to Article 22(1)(e) of Commission Implementing Regulation (EU) 2022/128, amounts recovered during the current period, for EAFRD rural development programmes from 2007 onwards, for which Member States are no longer required to submit an interim declaration of expenditure, can only be declared in the declaration for the CAP Strategic Plan.

The current rural development programmes for the period 2014-2022 will continue to be implemented until the end of 2025 (the end of the eligibility period) and for these programmes the declarations of expenditure must be submitted by that date. Therefore, the amounts recovered for the 2014-2022 rural development programmes must be indicated in these declarations. From 2025 onwards, the recovered amounts can be reported in the declaration for the CAP Strategic Plan. If the paying agency does not provide a declaration for the CAP Strategic Plan in FY2023, the recovered amounts will be returned to the EU budget via recovery order. The following should be emphasized:

- From 1 January 2023, the paying agent must submit quarterly declarations of expenditure for the CAP Strategic Plan, even if there is no expenditure for the CAP Strategic Plan. The declarations must include any amounts recovered for the past periods (e.g., for the period 2007-2013).
- For the period 16.10.22-31.12.2022, before the implementation of the CAP Strategic Plan starts, these amounts will be recovered by recovery order as before.

This Detailed table on recoveries has to be certified by the Certification Body, both for the accuracy of the amounts contained therein as well as the correct disclosure/categorisation in each of the columns of the Detailed table on recoveries. The confirmation of the amounts reported in the Detailed table on recoveries should be provided in the Certification Body report for financial year n under section 5.3.3 and/or 18.4.3 in the context of the certification of the annual accounts.

## **2.3.2. Contents of the columns**

### **2.3.2.1. Column (AA) – Case (Old/New)**

This field allows differentiating "old" and "new" irregularity cases as described in Section A, Part 2, point 2.1.2.3. of this Guideline.

Required format: old = "O"; new = "N".

### **2.3.2.2. Column (A) – Paying Agency**

The code of the PA that is responsible for the recovery of the irregularly paid amount.

Required format: MS99, where MS stands for the alpha-2 ISO code of the Member State and 9 stands for a digit from 0 to 9.

### **2.3.2.3. Column (B) – Fund**

The fund from which the undue amount was paid is to be indicated here.

Required format: to be expressed by a one-character code corresponding to the following code list:

Code	Significance
3	EAGF, including all former EAGGF Guarantee expenditure.
4	EAFRD 2007-2013
5	TRDI for EU10
6	EAFRD 2014-2020

### **2.3.2.4. Column (C) – Financial year**

The financial year to which the table refers should be indicated; i.e. "Year n" for the tables to be sent to the Commission by 15 February "Year n+1".

Required format: "YYYY" (year in four digits).

### **2.3.2.5. Column (S) – Recovered amount in financial year n**

The amounts recovered by the MS from the beneficiary in financial year n shall be indicated here. These should correspond to the sum of the amounts reported in columns (S1) and (S2) in the Summary table of Annex II table of Commission Implementing Regulation (EU) No 908/2014 for financial year n.

The amounts recovered are to be presented with as a positive amount.

Required format: +99.....99.99, where 9 stands for a digit from 0 to 9.

### **2.3.2.6. Column (B\_21) – Differences between the recovery order issued by the Commission for the financial year n-1 and the MS debtors' ledger**

In this column the amounts of any potential differences between the RO issued by the Commission for the financial year n-1 and the MS debtor's ledger should be reported. (For example clerical errors made by the MS or the Commission should be reported in this column.

The amounts in this column can be positive or negative.

Required format: +99.....99.99 or -99.....99.99, where 9 stands for a digit from 0 to 9.

### **2.3.2.7. Column (C\_21) – Part of the amount already recovered and returned to the Commission by the 50/50 rule in previous financial years in application of Article 54 (2) of Regulation 1306/2013**

The part of the amounts recovered<sup>29</sup> that has already been returned to the Fund under the 50/50 rule in previous years should be reported in this column.

The part of the recovered amounts already returned to the Fund should be presented as a positive amount.

Required format: +99.....99.99, where 9 stands for a digit from 0 to 9.

### **2.3.2.8. Column (C\_21A) – Part of the amount already returned to the Commission following Article 57(1) of Regulation (EU) 2021/2116 and Article 22(1)(e) of Regulation (EU) 2022/128**

The amounts declared as recovered in the EAFRD declarations of expenditure, according to Article 22 (1)(e) of Regulation (EU) 2022/128, and following Article 57(1), second paragraph of Regulation 2021/2116, should be reported in this column.

The part of the recovered amounts already returned to the Fund should be presented as a positive amount.

Required format: +99.....99.99, where 9 stands for a digit from 0 to 9.

### **2.3.2.9. Column (D\_21) – Total amount to be returned to the Commission for FY N**

The values in this column (D\_21) are equal to columns:

$$(D_{21}) = (S) + (B_{21}) - (C_{21}) - (C_{21A})$$

And represent the amounts recovered by the MS from the beneficiaries which should still be returned to the EU Funds. In exceptional cases, this amount could be negative, representing a decrease in the amount to be recovered via the RO.

The recovered amounts in this column will be included in the RO for the financial year n.

The amounts in this column may be positive or (in exceptional cases) negative.

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<sup>29</sup> Presented in the column (a) and corresponding to the amounts in the column g in the Summary table of Annex II table of Commission Implementing Regulation (EU) No 908/2014 for financial year n

Required format: +99.....99.99 or -99.....99.99, where 9 stands for a digit from 0 to 9.

### **2.3.3. Example**

Annex 3 to this Guideline illustrates the relation between the previous Detailed table on recoveries related to previous programming periods and the new csv-file format.

### **2.3.4. Transmission**

The Member States must send the computer file(s) to the Commission by 15 February following financial year n via SFC2014, section “ANNUAL ACCOUNTS – ART 30(1)(A) REG(EU) NO908/2014”, “Debtor Ledger”, document type “Detailed table on recoveries related to previous programming periods”.

# ANNEX 1: SUMMARY TABLE OF ANNEX II TABLE OF COMMISSION IMPLEMENTING REGULATION (EU) No 908/2014

Each paying agency has to send to DG AGRI a certified summary Annex II table, in a structured computer file following the characteristics described under Section A, Part 2, point 2.1.5.3., by 15th February following financial year n.

		Member State[1]: MS															
		Paying Agency[2]: MS99															
		Table with the total line of the Annex II table per paying agency, to be certified by the Certification Body.															
		Fund	Currency	Balance 15/10/n-1		New cases in financial year n		Corrected amount in financial year n		Interest in financial year n	Recovered amount in financial year n		Amount declared irrecoverable financial year n		Amount for which recovery is on-going (Balance 15/10/n)		
		a	b	c		d		e		f	g		h		i		
"Old" cases	EAGF	EUR	1500.00				-100.00				-500.00		0.00		900.00		
	EAFRD	EUR	150.00				0.00				-150.00		0.00		0.00		
	TRDI																
				Principal	Interest	Principal	Interest	Principal	Interest*		Principal	Interest	Principal	Interest	Principal	Interest	
"New" cases	EAGF	EUR	2500.00	25.00	250.00	2.50	0.00	0.00	12.00	-750.00	-15.00	0.00	0.00	1985.00	14.50		
	EAFRD (2007-2013)	EUR	15.00	3.00	0.00	0.00	0.00	0.00	1.00	0.00	0.00	-15.00	-4.00	0.00	0.00		
	EAFRD (2014-2020)	EUR	250.00	2.50	25.00	0.00	-50.00	0.00	3.00	-125.00	-2.00	0.00	0.00	100.00	3.50		
	TRDI																
A	AA	B	C	D	Bal_P	Bal_I	NewC_P	NewC_I	R1	R2	Z	S1	S2	O1	O2	T1	T2
X	O	X	X	X	X				X			X		X		X	
X	N	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
A	AA	B	C	D	Bal_P	Bal_I	NewC_P	NewC_I	R1	R2	Z	S1	S2	O1	O2	T1	T2
MS99	O	3	n	EUR	1500				-100			-500		0		900	
MS99	O	4	n	EUR	150				0			-150		0		0	
MS99	N	3	n	EUR	2500	25	250	2.5	0	0	12	-750	-15	0	0	1985	14.5
MS99	N	4	n	EUR	15	3	0	0	0	0	1	0	0	-15	-4	0	0
MS99	N	6	n	EUR	250	2.5	25	0	-50	0	3	-125	-2	0	0	100	3.5
Final result:																	
A;AA;B;C;D;Bal_P;Bal_I;NewC_P;NewC_I;R1;R2;Z;S1;S2;O1;O2;T1;T2																	
MS99;O;3;n;EUR;1500;;;-100;;;-500;;0;;900;																	
MS99;O;4;n;EUR;150;;;0;;;-150;;0;;0;																	
MS99;N;3;n;EUR;2500;25;250;2.5;0;0;12;-750;-15;0;0;1985;14.5																	
MS99;N;4;n;EUR;15;3;0;0;0;0;1;0;0;-15;-4;0;0																	
MS99;N;6;n;EUR;250;2.5;25;0;-50;0;3;-125;-2;0;0;100;3.5																	

## **ANNEX 2: EXAMPLES OF ANNEX II REPORTING**

Case studies giving practical examples of reporting via the Annex II table, using fictitious scenarios. [Please refer to the cases included in the annexed excel table].

### ANNEX 3: DETAILED TABLE ON RECOVERIES RELATED TO PREVIOUS PROGRAMING PERIODS

Each paying agency has to send to DG AGRI a certified Detailed table on recoveries related to previous programming periods, in a structured computer file following the characteristics described under Section A, Part 2, point 2.3.4. of this Guideline, by 15th February following financial year n.

Member State[1]: MS

Paying Agency[2]: MS99

Table to be certified by the Certification Body (section 5.3.3 and/or 18.5.3 of the report)

	Fund	Previous programming periods ONLY				
		FY n	FY n-1	FY n	FY n	FY n
		Recovered amount in financial year n	Differences between the recovery order issued by the Commission for the financial year n-1 and the MS debtors' ledger	Part of the amount already recovered and returned to the Commission by the 50/50 rule in previous financial years in application of Article 54 (2) of Regulation 1306/2013	Part of the amount already returned to the Commission following Article 57(1) of Regulation (EU) 2021/2116 and Article 22(1)(e) of Regulation 2022/128	Total amount to be returned to the Commission for FY n
		(a)	(b)	(c)	(d)	(e) = (a) + (b) - (c) - (d)
"Old" cases	EAGF					
	EAFRD	1000,00	0,00	0,00	100,00	900,00
	TRDI					
"New" cases	EAGF					
	EAFRD (2007-2013)	25000,00	0,00	0,00	150,00	24850,00
	EAFRD (2014-2020)					
	TRDI					

A	B	AA	C	S	B_21	C_21	C_21 A	D_21
X	X	X	X	X	X	X	X	X
X	X	X	X	X	X	X	X	X

A	B	AA	C	S	B_21	C_21	C_21 A	D_21
MS99	4	O	n	1000	0	0	100	900
MS99	4	N	n	25000	0	0	150	24850

Final result:

A;B;AA;C;S;B\_21;C\_21;C\_21 A;D\_21  
MS99;4;O;n;1000;0;0;100;1000  
MS99;4;N;n;25000;0;0;150;25000



#### ANNEX 4: DETAILED TABLE ON RECOVERIES RELATED TO PREVIOUS PROGRAMING PERIODS – EXAMPLE

A practical example of reporting via this Detailed table on recoveries, using a fictitious scenario is provided below:

##### Scenario:

In financial year 2019 (financial year n) the paying agency recovered an amount of EUR 5 000 000.00 related to the "old" cases from TRDI (Transitional Rural Development Instrument).

When receiving the RO for financial year 2018 from the Commission, possibly due to a clerical error, the amount of EUR 3 **960** 000 was indicated as total amount to be returned to the Fund instead of the amount of EUR 3 **690** 000. Due to this transposition error, the amount in the RO was overstated by EUR 270 000.

According to the MS debtors' ledger, from the amounts recovered in financial year 2019 (EUR 5 000 000) an amount of EUR 300 000 has already been subject to the 50/50 rule in previous years and should be deducted from the amount of EUR 5 000 000 to avoid double compensation.

Taking into account all the above information the total amount to be included in the Recovery Order for financial year 2019 is EUR 4 430 000 (5 000 000 – 270 000 - 300 000).

##### Summary of information:

Title of the column	Amounts
Recovered amount in financial year n <sup>30</sup>	5 000 000.00
Differences between the recovery order issued by the Commission for the financial year n-1 and the MS debtors' ledger	(-) 270 000
Part of the amount already recovered and returned to the Commission by the 50/50 rule in previous financial years in application of Article 54 (2) of Regulation 1306/2013	300 000
Part of the amount already returned to the Commission following Article 57(1) of Regulation (EU) 2021/2116 and Article 22(1)(e) of Regulation (EU) 2022/128	
<b>Total amount to be returned to the Commission for FY N</b>	<b>4 430 000</b>

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<sup>30</sup> Amount in the column g in the Summary table of Annex II table of Regulation (EU) No 908/2014 for financial year n

## Reporting in the Detailed table on recoveries related to previous programming periods for financial year n:

Member State[1]: MS

Paying Agency[2]: MS99

Table to be certified by the Certification Body (section 5.3.3 and/or 18.5.3 of the report)

		Fund	Previous programming periods ONLY				
			FY n	FY n-1	FY n	FY n	FY n
			Recovered amount in financial year n	Differences between the recovery order issued by the Commission for the financial year n-1 and the MS debtors' ledger	Part of the amount already recovered and returned to the Commission by the 50/50 rule in previous financial years in application of Article 54 (2) of Regulation 1306/2013	Part of the amount already returned to the Commission following Article 57(1) of Regulation (EU) 2021/2116 and Article 22(1)(e) of Regulation 2022/128	Total amount to be returned to the Commission for FY n
			(a)	(b)	(c)	(d)	(d) = (a) + (b) - (c) - (d)
"Old" cases	EAGF						
	EAFRD						
	TRDI		5.000.000,00	-270.000,00	300.000,00	0,00	4.430.000,00
"New" cases	EAGF						
	EAFRD (2007-2013)						
	EAFRD (2014-2020)						
	TRDI		0,00	0,00	0,00	0,00	0,00

  

A	B	AA	C	S	B_21	C_21	C_21 A	D_21
X	X	X	X	X	X	X	X	X
X	X	X	X	X	X	X	X	X

  

A	B	AA	C	S	B_21	C_21	C_21 A	D_21
MS99	5	O	n	5000000	-270000	300000	0	4430000
MS99	5	N	n	0	0	0	0	0

Final result:

A;B;AA;C;S;B\_21;C\_21;C\_21 A;D\_21

MS99;5;O;n;5000000;-270000;300000;0;4430000

MS99;5;N;n;0;0;0;0

## ANNEX 5: ARTICLE 54(2)/ARTICLE 54(3) (“50/50”) TABLES

Each paying agency has to submit to DG AGRI a certified article 54(2)/ARTICLE 54(3) (“50/50”) table in a structured computer file following the characteristics described under Section A, Part 2, point 2.1.6.3., by 15th February following financial year n.

<u>Article 54(2)/ Article 54(3) table ("50/50 table")</u>					
Member State[1]: <u>MS</u>					
Paying Agency[2]: <u>MS99</u>					
Table to be certified by the Certification Body					
Fund		Currency [3]	50% to be charged to the MS (article 54(2) of Regulation (EU) No 1306/2013)		100% to be borne by the Community budget (article 54(3) of Regulation (EU) No 1306/2013)
a		b	c		d
EAGF		EUR	10000.00		100.00
EAFRD 2007-2013		EUR			150.00
EAFRD 2014-2020		EUR			10.00
TRDI		EUR			
A	B	C	D	EU_50	EU_100
X	X	X	X	X	X
A	B	C	D	EU_50	EU_100
MS99	3	n	EUR	10000	100
MS99	4	n	EUR	0	150
MS99	6	n	EUR	0	10
Final result:					
A;B;C;D;EU_50;EU_100					
MS99;3;n;EUR;10000;100					
MS99;4;n;EUR;0;150					
MS99;6;n;EUR;0;10					

# ANNEX 6: ANNEX III MODEL TABLE REFERRED TO IN ARTICLE 29(G) OF REGULATION 908/2014

Each paying agency has to submit to DG AGRI a certified article Annex III table in a structured computer file following the characteristics described under Section A, Part 2, point 2.2.4., by 15th February following financial year n.

ANNEX III									
Model Table referred to in Article 29(g) of Regulation 908/2014									
Member State:		MS							
a	b	c	i	d	e	f	g	h	
Paying Agency	Fund	Currency Unit	Outstanding amount category (cross-compliance sanction, multi-annual sanction or others)	Balance 15/10/2017	New cases (2018 financial year)	Total recoveries (2018 financial year)	Total corrections including irrecoverable amounts (2018 financial year)	Amount to be recovered 15 October 2018	
MS99	EAGF	EUR	1	300.00	4,000.00	-1,500.00	-100.00	2,700.00	
MS99	EAGF	EUR	3	0.00	50.00	0.00	0.00	50.00	
MS99	EAFRD	EUR	1	50.00	200.00	-50.00	0.00	200.00	
	Totals:	EUR		350.00	4,250.00	-1,550.00	-100.00	2,950.00	
A	B	C	C_III	I_III	D_III	E_III	F_III	G_III	H_III
X	X	X	X	X	X	X	X	X	X
A	B	C	C_III	I_III	D_III	E_III	F_III	G_III	H_III
MS99	3	n	EUR	1	300	4000	-1500	-100	2700
MS99	3	n	EUR	3	0	50	0	0	50
MS99	4	n	EUR	1	50	200	-50	0	200
Final result:									
A;B;C;C_III;I_III;D_III;E_III;F_III;G_III;H_III									
MS99;3;n;EUR;1;300;4000;-1500;-100;2700									
MS99;3;n;EUR;3;0;50;0;0;50									
MS99;4;n;EUR;1;50;200;-50;0;200									

**SECTION B – DEBT MANAGEMENT AND REPORTING IN THE  
FRAMEWORK OF REGULATION (EU) 2021/2116**

## **PART 1. DEBT MANAGEMENT**

### **1.1. Recovery on undue payments and interest arising from irregularities – main principles**

The main principles related to the recovery of undue payments arising from irregularities remain unchanged in the programming period 2023-2027, as explained in the following points.

#### **1.1.1. Protection of the financial interests of the Union**

According to Article 59(1) of Regulation (EU) 2021/2116, Member States shall, within the framework of the CAP, while respecting the applicable governance systems, adopt all laws, regulations and administrative provisions and take any other measures necessary to ensure effective protection of the financial interests of the Union, including effective application of the eligibility of expenditure criteria laid down in Article 37<sup>31</sup>. Those acts and measures shall relate in particular to (...) (e), *recovering undue payments plus interest and bring legal proceedings to that effect, as necessary, including for irregularities within the meaning of Article 1(2) of Regulation (EC, Euratom) No 2988/95*.

#### **1.1.2. Recoveries for non-compliance**

##### ***EAGF***

As per Article 56 of Regulation (EU) 2021/2116, **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 Plans and the interest thereon shall be paid over to the PA and booked by the PA as revenue assigned to the EAGF in the month in which the sums are actually received from the beneficiary.

When the Union budget is credited as referred to in paragraph above, the Member State concerned 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.

##### ***EAFRD***

Following Article 57 of Regulation (EU) 2021/2116, where irregularities and other cases of non-compliance by beneficiaries, and as regards financial instruments, also by specific funds under holding funds or final recipients, with the conditions of the interventions for

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<sup>31</sup> Article 37 - Eligibility of expenditure effected by the paying agencies -  
1. The expenditure referred to in Article 5(2) and Article 6 may be financed by the Union only if it has been effected by accredited paying agencies and if:  
(a) it has been effected in accordance with the applicable Union rules; or  
(b) as regards types of intervention referred to in Regulation (EU) 2021/2115:  
(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 relevant CAP Strategic Plan.  
2. Paragraph 1, point (b)(i), shall not apply to advances paid to beneficiaries under types of intervention referred to in Regulation (EU) 2021/2115.

rural development specified in the CAP Strategic Plans are detected, Member States shall make financial adjustments by cancelling partially or, when justified, entirely the Union financing concerned. Member States shall take into consideration the nature and gravity of the non-compliance detected and the level of the financial loss to the EAFRD.

### ***Reuse – General rule***

Amounts of the Union financing under the EAFRD which are cancelled and amounts recovered, and the interest thereon, **shall be reallocated to other rural development operations under the CAP Strategic Plans**. However, Member States may reuse the cancelled or recovered Union funds in their entirety only for a rural development operation under their CAP Strategic Plans and may not reallocate them to rural development operations which have been subject to a financial adjustment.

### ***Reuse - In the context of financial instruments***

For interventions for rural development receiving aid from the financial instruments referred to in Article 58 of Regulation (EU) 2021/1060, a contribution cancelled as a result of an individual non-compliance may be reused within the same financial instrument as follows:

- a) *where the non-compliance that gives rise to the cancellation of the contribution is detected at the level of the final recipient as defined in Article 2, point (18), of Regulation (EU) 2021/1060, 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 defined in Article 2, point (21), of Regulation (EU) 2021/1060 within a holding fund as defined in Article 2, point (20), of that Regulation, only for other specific funds.*

## **1.2. Procedures for debts**

Similarly to the previous programming periods, for the programming period 2023-2027, a debt management control system should be in place, based on the EU requirements and the national rules. Elementary procedures should be established as provided in the following Regulations:

### **1.2.1. Accreditation criteria - Regulation (EU) 2022/127**

According to point 2(F) of Annex I – *Accreditation criteria of the Paying Agencies* - of Regulation (EU) 2022/127:

- a) The PA shall set up a system for the **recognition of all amounts due** and for the recording in a **single debtor's ledger** of all such debts prior to their receipt;
- b) The debtor's ledger **shall be inspected** at regular intervals and action shall be taken to collect debts that are overdue.

The time of establishment of a debt is the moment the debt is identified as being tangible and a valid obligation to pay exists. The PA must be able to establish:

- i. the precise identity of the debtor;
- ii. that the debt is in fact due;
- iii. the amount in question.

Once these conditions are fulfilled, the established debt should be immediately recorded in a single debtors' ledger. The PA has to ensure that the debtors' ledger provides a correct and complete picture of the amounts to be recovered, that the procedures for recovery are effective, and that the amounts are correctly and promptly credited to the Funds.

#### **1.2.1.1. The debtors' ledger**

A single debtors' ledger should be kept by the PA in respect of payments managed under the EU Funds (EAGF and EAFRD) in order to follow-up outstanding amounts. A separate ledger per Fund may also be reasonable due to the organisational or procedural set-up in the given Member State.

The debtors' ledger should include the relevant data related to the life cycle of the debt. At least the following elements should be indicated for each debt case:

- The identification of the debtor;
- The Fund, measure or intervention which the undue amount concerns;
- The classification of the debt amount (administrative error, irregularity or penalty);
- The date of the first notice of the irregularity (or potential irregularity);
- Amount;
- Interest accrued;
- Corrected amounts;
- Recovered amounts and the corresponding dates;
- Administrative steps taken to recover the debt amount, namely the recovery request, and the corresponding dates;
- Judicial steps taken to recover the debt amount and the corresponding dates;
- If the debt was considered as irrecoverable, the corresponding date of the decision not to pursue the recovery;
- If the debt was cancelled, the corresponding date of PA's decision;
- OLAF reference, when applicable.

The debtors' ledger should be updated on the basis of information received from the relevant services. The debtors' ledger should be complete, accurate and valid. To that end, the following procedures should be ensured:

- Completeness of the debtors' ledger:
  - The amounts to be recovered should be promptly recorded in one, centrally kept, debtors ledger. The person responsible for maintaining this register should have no responsibility for payments or for claim processing;



- Management needs to develop a system which ensures that all debts are reported to the department responsible for the debtors' ledger;
  - The PA should have systems in place to ensure that all information related to potential recoveries (e.g. the inspection reports and letters for recovery) is available, and that the timely recording in the debtors' ledger is assured;
  - The completeness of the debtors' ledger should be checked on a regular basis.
- The validity and accuracy of the debtors' ledger:
- The debtors' ledger should be reconciled on a regular basis by the Finance department with the data in the operational systems;
  - The amount to be recovered should be correctly calculated. Management should review the calculation of the amount to be recovered (including any sanctions, reductions, corrections or interest);
  - Receipts should be promptly recorded and matched against outstanding debts;
  - Amounts set-off should be properly recorded and matched against outstanding debts;
  - Receipts should only be received via the bank account or at a central cash office. The necessary procedures must be put in place to avoid fraud or theft.

#### **1.2.1.2. Monitoring procedures (Inspection of the list)**

##### **Reconciliation by the Finance department**

In order to guarantee the completeness and correctness of the list, the Finance department should reconcile on a regular basis (at least every 3 months) the debtors' list details with all relevant data in the operational departments.

##### **Management supervision**

By this control, management verifies if the responsible department takes sufficient and adequate action in order to recover the amounts.

#### **1.2.1.3. Pre-debtors list**

In order to ensure the completeness and veracity of the debtors' ledger and a sound debt management, the procedures mentioned above should apply, *mutatis mutandis*, to the pre-debtors list (cases for which an irregularity has been identified but for which no recovery request was established yet).

#### **1.2.2. Recovery of debts - Regulation (EU) 2022/128**

According to Articles 30 and 31 of Regulation (EU) 2022/128, for the recovery of undue payments, following the occurrence of irregularity or negligence, Member States shall set up a debt management system ensuring that:

- a) A recovery request is sent to the beneficiaries within a reasonable time frame after where applicable, the PA or body responsible for the recovery received a control report or similar document, stating that an irregularity has taken place;

- b) The corresponding amounts are recorded, at the latest, at the time of the recovery request in the debtors' ledger of the PA;
- c) The recovery procedures include the calculation of interest in accordance with the applicable national laws, regulations and administrative provisions;
- d) The off-setting and enforcement of unduly paid amounts are launched and followed up in a timely manner;
- e) The follow up of a debt according to the applicable national recovery procedure shall be ensured and the recovered amounts shall be reimbursed to the Funds in due time;
- f) The correction of a debt (cancellation of a debt) towards the Funds shall only take place if the absence of any irregularity is recorded by an administrative or legal instrument of a final nature;
- g) The write-off of a debt (irrecoverable decision) and the decision not to pursue the recovery (e.g. for amounts below a certain amount) of a debt is properly justified in accordance with the applicable national rules.

In addition to the above mentioned control elements, Member States are recommended to implement appropriate procedures to ensure:

- h) The follow-up of the recovery of a debt within 1 year after the last event or action which is relevant according to the applicable national recovery procedure;
- i) That the calculation of interest of a debt is properly done;
- j) That the PA and/or the responsible body in charge for the debt recovery is the "by default" recipient of all communications of irregularities related to the CAP;
- k) That the correction and write-off of a debt, and the decision to not pursue the recovery of a debt are properly documented and available at any time;
- l) The monitoring of the debtor's ledger and of the pre-debts list on a regular basis;
- m) That the recording of data related to the registration and the recovery of debts in debtors' ledger and in the Annex V of Regulation (EU) 2022/128 is accurate and complete;
- n) The registration, the recovery and the reporting of debts in Annex V of Regulation No 2022/128 are adequately documented and available at any time.

Although Regulation (EU) No 1306/2013 is not applicable to the expenditure related to the programming period 2023-2027<sup>32</sup>, Member States are recommended to maintain the debt management control system put in place in the context of Article 54 of the said regulation, in particular as regards the time-limit to launch the recovery procedures (18 months deadline to launch the recovery request) and the grounds to decide not to pursue the recovery (base on a *de minimis* rule and when the recovery proves to be impossible).

As regards irrecoverable decisions, Member States are recommended to continue with a diligent procedure and consider only national decisions of a final nature when charging the amounts declared irrecoverable to the Fund as provided in the framework under Article 54 of Regulation (EU) No 1306/2013. Member States must appropriately represent the EU financial interests in any ongoing proceedings for as long as there is any option to recover the unduly paid EU support.

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<sup>32</sup> Please see the introduction of this Guideline

Concerning cancellation of debts, Member States must ensure that any such decision is based on a final and valid court or administrative ruling in relation to the substance of the case. Positive amounts on the assigned revenue budget lines, charged to the Funds in the annual accounts related to debt management issues must continue to be subject to reconciliation and verification by the Paying Agencies and audit by the Certification Bodies.

#### **1.2.2.1. Booking and declaration of recoveries for EAGF and EAFRD**

The Commission Working Document covering the new programming period (2023-2027) is currently under preparation.

### **1.3. Debt management control system**

In addition to the above mentioned debt procedures, Member States should ensure:

- a) An adequate organizational structure and the allocation of appropriate human resources to the debt management function - Annex I, Point (1) (A) and (B) of Regulation (EU) 2022/127;
- b) Adequate risk assessment of the ongoing debts - Annex I, Point (1) (C) of Regulation (EU) 2022/127;
- c) Adequate supervision of delegated bodies if the PA delegates any of its tasks related to debt management to another body - Annex I, Point (1) (D1) and (D2) of Regulation (EU) 2022/127;
- d) Adequate communication procedures and information systems security implemented for debt management function - Annex I, Point (3) of Regulation (EU) 2022/127;
- e) Adequate monitoring procedures - Annex I, Point (4) (A) of Regulation (EU) 2022/127;
- f) Adequate audit work concerning the debt management function by the Internal Audit service of the PA - Annex I, Point (4) (B) of Regulation (EU) 2022/127.

## **PART 2. DEBT REPORTING**

According to Article 32(1)(f), first part, of Regulation (EU) 2022/128, the annual accounts referred to in Article 90(1) first subparagraph, point (c)(iii), of Regulation (EU) 2021/2116 shall include, as regards undue payments arising from the programming period 2023-2027, **an extract of the irregularity cases**, including any penalties provided for by the applicable sectoral Union rules and the interest thereon, in a table in accordance with the **model set out in Annex V** of the said Regulation (EU) 2022/128.

The information to be provided in accordance with the model set out in Annex V of Regulation (EU) 2022/128 should be an extract of the debt cases, arising from irregularities, included in the PA's debtors' ledger<sup>33</sup>.

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<sup>33</sup> • The debtor is identified, the amount of the debt is known, and the recovery request is established by the competent authority and communicated to the debtor.

## **2.1. Compilation and certification of the table of Annex V of Regulation (EU) 2022/128**

### **2.1.1. Cases to be reported**

The amounts reported in Annex V of Regulation (EU) 2022/128 have to be reported separately per PA and need to be certified by the Certification Body.

For each financial year n, Member States are required to submit this table per PA electronically to the Commission by 15 February in the year n+1.

The reporting obligation in the table applies to the total of following cases:

- **irregularity cases** which are outstanding at the end of financial year n (15 October). This extract shall reflect the relation between the PA and the beneficiary;
- **irregularity cases** which were outstanding at the end of financial year n-1 (15 October), but were fully corrected, recovered or declared irrecoverable during financial year n;
- **irregularity cases** which were discovered during financial year n, and were fully recovered (including those cases off-set against subsequent payments), corrected or declared irrecoverable during the same financial year.

Any new debt which is waived in accordance with *de minimis* rule does not have to be reported in the Annex V table. The same principle shall apply for debts waived in accordance with this rule. However, debts below the *de minimis* rule for which recovery proceedings have been initiated have to be reported in the table.

Member States should keep a record of the cases for which recovery was not pursue in accordance with the *de minimis* rule.

### **2.1.2. Content of the columns**

#### **2.1.2.1. Column (a) – Paying Agency**

The code of the PA that is responsible for the recovery of the irregularly paid amount..

Required format: MS99, where MS stands for the alpha-2 ISO code of the Member State and 9 stands for a digit from 0 to 9.

#### **2.1.2.2. Column (b) – Fund**

The fund from which the undue amount was paid is to be indicated here.

Required format: to be expressed by a one-character code corresponding to the following code list:

Code	Significance
7	EAGF
8	EAFRD

### **2.1.2.3. Column (c) – Currency unit**

The currency unit in which the amounts are reported in the table is indicated here. The amounts shall be presented in national currency in the table.

Required format: ISO 4217 code: e.g. DKK, EUR, GBP, HUF etc.

### **2.1.2.4. Column (d) – Balance 15 October n-1**

This total indicates the opening balance of these debt cases (irregularity cases) due to EAGF (code 7) and EAFRD (code 8) for financial year n.. It presents the situation on 15/10/n-1. This column reports the full amount (principal + interests).

Required format: +99.....99.99, where 9 stands for a digit from 0 to 9.

### **2.1.2.5. Column (e) – Total new cases (year n)**

Amounts to be recovered (irregularities), registered in financial year n, have to be reported here. It reports the total irregular principal amount and interest accrued in previous financial years.

Required format: +99.....99.99, where 9 stands for a digit from 0 to 9.

### **2.1.2.6. Column (f) – Total corrections (year n)**

This column includes any correction (+ or -) resulting from the revision of the amount (principal and/or any correction of the amount of interest previously reported) to be recovered in financial year n-1. These are corrections done in financial year n. The amount can be positive or negative<sup>34</sup>.

This column shall also be used in case the amounts have been subject to some European Commission financial corrections but have not yet been recovered

Required format: +99.....99.99 or -99.....99.99, where 9 stands for a digit from 0 to 9.

### **2.1.2.7. Column (g) – Total interests (year n)**

This column shall comprise of interest applicable on undue payments to be recovered. It shall be used for the interest accrued within the financial year n on the basis of the remaining principal amount to be recovered, even though it has not yet been effectively charged to the beneficiary e.g. when the principal amount has not yet been fully recovered.

The amounts should be presented with a positive value.

Required format: +99.....99.99, where 9 stands for a digit from 0 to 9.

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<sup>34</sup> The interest accrued in financial year n should not be included in this column. They should be reported in column (g) - Total interests (year n)

#### **2.1.2.8. Column (h) – Total recoveries (year n)**

These are the amounts recovered by the Member State from the beneficiaries in financial year n. No deduction is to be made to the amount reported in the Annex V table for the 20% retention according to Article 56 of Regulation (EU) 2021/2116.

These amounts have to be reconcilable with the recoveries declared in the intermedium declarations (in year n), taking into account the 20% retention.

The amounts should be presented with a negative value.

Required format: -99.....99.99, where 9 stands for a digit from 0 to 9.

#### **2.1.2.9. Column (i) Total irrecoverable amounts (year n)**

This is the amount that the PA considers to be irrecoverable during financial year n. An amount can only be declared irrecoverable if properly justified.

The irrecoverable amount is to be presented with a negative sign.

Required format: -99.....99.99, where 9 stands for a digit from 0 to 9.

#### **2.1.2.10. Column (j) – Amount to be recovered 15 October year n**

This is the amount that remains to be recovered on 15 October year n. Column (j) is the sum of columns (d), (e), (f), (g), (h) and (i).

Required format: +99.....99.99, where 9 stands for a digit from 0 to 9.

#### **2.1.3. Certification of Annex V table**

The Certification Bodies are required to certify the amounts disclosed in Annex V table and to verify the completeness, validity and accuracy of the debtor's ledger and the amounts disclosed in Annex V table.

The Commission will verify the accuracy of these amounts on the basis of the information provided by Member States and may request additional information during the clearance exercise.

#### **2.1.4 Example**

Annex 7 of this guideline contains an example.

#### **2.1.5 Transmission**

The technical details on the transmission of Annex V table will be provided in the note on the Clearance for the annual accounts for FY 2023.

## Annex 7: Model Table referred to in Article 32(1) point (f) of Regulation 128/2022

### ANNEX V

Model Table referred to in Article 32(1) point (f) of Regulation 128/2022

FY

Member State:

a	b	c	d	e	f	g	h	i	j			
Paying Agency	Fund	Currency unit	Balance 15 October N-1	Total "new cases" (financial year N)	Total "corrections" (financial year N)	Total "interest" (financial year N)	Total "recoveries" (financial year N)	Total "irrecoverable" amounts (year N)	Amount for which recovery is ongoing (Balance 15 october N)			
MS99	EAGF	EUR	25.000,00	15.000,00	-	2.800,00	2.000,00	-	8.500,00	-	3.200,00	27.500,00
MS99	EFARD	EUR	15.000,00	7.500,00	-	1.450,00	1.200,00	-	4.000,00	-	1.560,00	19.590,00
	Totals	EUR	40.000,00	22.500,00	-	1.350,00	3.200,00	-	12.500,00	-	4.760,00	47.090,00