

Measure fiche

**Farm and business development**

Measure 6

Article 19 of Regulation 1305/2013

*This fiche is based on the text of Regulation (EU) No 1305/2013 [EAFRD] and, when relevant, on Regulation (EU) No 1303/2013 [CPR]. The Delegated and Implementing Acts supplementing these regulations have also been considered in this guidance fiche.*

*This guidance does not represent a binding legal interpretation of Regulation (EU) No 1305/2013 or its Delegated and Implementing Acts. It is therefore essentially non-binding in nature and complements the related legal acts.*

**1. RATIONALE OF THE MEASURE**

In a situation of an economic slowdown, financially difficult economic circumstances and a rather restricted access to capital for many European rural enterprises, support for the creation and development of new viable economic activities such as new farms run by young people, new businesses and entrants as well as investments in non-agricultural activities is essential for the development and the competitiveness of rural areas. A very important role in this process plays the opportunity for entry of women and young people into the labour market and business management as they are groups at risk of migrating out to urban areas if they do not find appropriate employment in rural areas. At the same time, certain agricultural sectors in the EU continue to face restructuring difficulties and there is a need for consolidating efforts and assets also by transferring holdings and reduction of the number of less or non-efficient agricultural operators. Aging of agricultural farm holders is another issue that needs a policy response ensuring the future of the farmers' profession. Young farmers can bring new skills and energy, new and modern professional management to the farming sector, and can be a smooth provider of innovative management tools and investments in agriculture.

Business integration in rural areas can also be fostered by building-up on local inter-sectorial links, promotion of employment and entrepreneurship, and reduction of seasonality fluctuations in employment. Economic and farm diversification is necessary for growth, employment and sustainable development in rural areas, and thereby contributes to a better territorial balance, both in economic and social terms, increasing directly the farming households' income.

## **2. WHAT'S NEW IN COMPARISON TO THE PERIOD 2007-2013**

The measure "Farm and business development" combines several independently existing measures from the current programming period 2007-2013 supplemented by newly introduced support options. It groups measures 311, 312 and the business part from measure 313 from the current (2007-2013) Axis 3 structure into one single measure. It also covers the whole support provided for the setting up of young farmers under measure 112 and the support to semi-subsistence farming under measure 141 from the current (2007-2013) Axis 1 structure.

The new elements related to measure "Farm and business development" could be summarized as follows:

- Start-up aid (of maximum 70,000 euro) for the development of new non-agricultural activities in rural areas is for the first time introduced in the legal set up, alongside with a requirement for submission of a business plan;
- The amount of support for young farmers and non-agricultural activities in rural areas is defined also taking into account the socio-economic situation of the programme area;
- Implementation of the business plan now has to start within nine months from the date of the decision on granting the aid.
- Thresholds in terms of production potential of the agricultural holding, measured in standard output or equivalent shall be defined by the Member States for allowing agricultural holdings to access start up support for young farmers and non-agricultural activities in rural areas.
- Support for investments in farm diversification activities could now be given to all farmers and their household members, including those located in urban areas;
- Support for investments and development of non-agricultural activities could now be provided also to small-sized rural enterprises (previously this was possible only for rural tourism and service provision; the rest was limited to micro-sized enterprises);
- The business plan shall provide that the young farmer receiving a start-up aid support has to comply with the definition of active farmer under Article 9 of Regulation (EU) No 1307/2013, within 18 months from the date of setting up
- Natural persons are listed as beneficiaries under the support for non-agricultural activities.
- Semi-subsistence support is now being replaced by farm development support, and maximum support levels have been doubled up to 15,000 euro;
- New form of support to small farmers eligible for the small farmers' scheme under Pillar I when they transfer completely their holding is introduced;
- Start-up aid is paid at least in two instalments and it could be degressive over a period of maximum five years, with the final payment for support to young farmers and development of new activities dependent on the correct implementation of the business plan.

### **3. CONTRIBUTION TO FOCUS AREAS AND CROSS-CUTTING OBJECTIVES**

The measure contains three major support options targeting variety of potential beneficiaries: business start-up aid, investments in non-agricultural activities, and annual payments for small farmers. Therefore, the measure serves multiple objectives and can contribute to different rural development priorities and focus areas. The most relevant priorities to which it contributes are as follows:

Priority (2) "Enhancing farm viability and competitiveness of all types of agriculture in all regions and promoting innovative farm technologies and sustainable management of forests", with a focus on:

(a) improving the economic performance of all farms and facilitating farm restructuring and modernisation, notably with a view to increase market participation and orientation as well as agricultural diversification;

(b) facilitating entry of adequately skilled farmers into the agricultural sector and in particular generational renewal.

Priority (3) "Promoting food chain organisation, including processing and marketing of agricultural products, animal welfare and risk management in agriculture", with a focus on:

(a) improving competitiveness of primary producers by better integrating them into the agri-food chain through quality schemes, adding value to agricultural products, promotion in local markets and short supply circuits, producer groups and organisations, and inter-branch organisations;

Priority (5) "Promoting resource efficiency and supporting the shift towards a low carbon and climate resilient economy in agriculture, food and forestry sectors", with a focus on:

(c) facilitating the supply and use of renewable sources of energy, of by-products, wastes, residues and other non-food raw material for purposes of the bio-economy;

Priority (6) "Promoting social inclusion, poverty reduction and economic development in rural areas", with a focus on:

(a) facilitating diversification, creation and development of small enterprises and job creation;

### **4. SCOPE, TYPE AND LEVEL OF SUPPORT**

#### **4.1. Relevant definitions**

For the purpose of this measure, certain definitions provided under Regulation (EU) No 1305/2013 or under the general state aid apply:

- "young farmer" means a person who is no more than 40 years of age at the moment of submitting the application, possesses adequate occupational skills and

competence and is setting up for the first time in an agricultural holding as head of that holding; [Article 2.1(n) of Regulation (EU) No 1305/2013].

- Member of the farm household - Any natural or legal person or a group of natural or legal persons, whatever legal status is granted to the group and its members by national law, may be considered as a member of a farm household, with the exception of farm workers. Where a legal person or a group of legal persons is considered as a member of the farm household, that member must exercise an agricultural activity on the farm at the time of the support application. [Article 19(2) of Regulation (EU) No 1305/2013]
- Enterprise - An enterprise is considered to be any entity engaged in an economic activity, irrespective of its legal form (Commission Recommendation 2003/361/EC). This includes, in particular, self-employed persons and family businesses engaged in craft or other activities, and partnerships or associations regularly engaged in an economic activity.
  - Micro enterprise - Within the SME category, a microenterprise is defined as an enterprise which employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million;
  - Small enterprise - Within the SME category, a small enterprise is defined as an enterprise which employs fewer than 50 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 10 million.
- Small farms – Regulation (EU) No 1305/2013 does not define what a "small farm" is. Two specific cases should be taken into account:
  - For support provided under Article 19(1)(a)iii it is the MS that needs to define what a small farm is as postulated by Article 19(2). The definition can be different than the one under Pillar I of the CAP.

When defining small farms Member States may base themselves on the agricultural structures operating in the programme area and relevant physical parameters (such as land size, number of livestock, etc.). It is possible to introduce several definitions (e.g. distinguishing between agricultural sub-sectors such as crops, livestock, etc.). Measurement can also be done based on Standard Output.
  - For support provided under Article 19(1)(c) the definition is the one that applies under Pillar I of the CAP (direct payments; Regulation (EU) No 1307/2013).

## **4.2. Types of support and supported operations**

### *4.2.1. Types of support*

Support under the measure can be provided in three different forms:

- a) Start-up aid (for young farmers, new non-agricultural activities in rural areas and for the development of small farms);

b) Tangible and intangible investments as defined by Article 45 from Regulation (EU) No 1305/2013 (for investments in creation and development of non-agricultural activities in rural areas);

c) Annual or one-off payments (for farmers eligible for the small farmers scheme under Regulation (EU) No 1307/2013 who permanently transfer their holding to another farm).

The start-up aid is not limited to the provisions of Article 45 of Regulation (EU) No 1305/2013. It can also cover running costs experienced by the supported beneficiary, for example, in the context of correct implementation of actions foreseen by the approved business plan. This covers the whole 3 categories eligible for support under it (young farmers, new non-agricultural activities in rural areas and development of small farms). The minimum elements to be described in the business plan are set out in Article 5(1) of the Delegated Act of Regulation (EU) No 1305/2013. It does not preclude, however, a MS to introduce additional requirements.

It is possible to combine some of the different support options under Article 19 within one supported project (i.e. integrated approach), for example, in the following cases:

(i) young farmer setting up who is simultaneously developing non-agricultural business/activities in rural areas;

(ii) rural micro- or small- enterprise or a farmer and/or his/her household members who are supported for investments in their existing non-agricultural businesses and at the same time are starting a new to that enterprise activity in a rural area;

(iii) a small farm in a development process, which in the course of the development period starts a new, or invest in an existing, non-agricultural business/activity;

#### *4.2.2. Types of supported operations*

The measure's objectives can be achieved either by supporting value-added projects or by capitalising on the synergies that exist between rural development tools: therefore, the Farm and business development measure could be used in combination with other measures such as knowledge transfer, advisory services, co-operation, investments in physical assets, etc.

Attention should also be paid to creating the right conditions to stimulate investments. This can be achieved by:

- Ensuring that relevant knowledge, skills and innovative practices are transferred to farmers, their household members or to rural micro- and small-businesses and their associations;
- Developing and stimulating networking and clustering between enterprises and outsourcing their R&D investments and activities;
- Delivering sound administrative capacity of the public authorities to assess and select best projects with most value added;
- Providing financial instruments (national/regional under shared management and/or EU-level).

By way of example, the following types of operation may be supported under the measure:

#### *4.2.3. Business start-up aid for young farmers*

- Support is provided for facilitating the setting up of the young farmer and the start of his/her agricultural activities. There are no specifications for what the young farmer should use the support, but it should support the activities foreseen in his/her business plan without an obligation for matching expenditure items mentioned in the business plan with the amount of support.

#### *4.2.4. Business start-up aid for non-agricultural activities in rural areas*

- Support is provided for the start of a new non-agricultural activity in a rural area (new for the enterprise or for the natural person receiving the support), among which some examples could be listed:
  - Rural tourism activities or activities linked to territorial economic development, including rural accommodation, tourism service provision, catering, transport, shops (non-Annex I products), restaurants, cafes, etc.
  - Construction, re-construction or establishment of workshops, factories, premises and facilities for various activities such as repair of machinery; production and/or processing of non-agricultural goods and materials, electricity, energy, gas, steam and hot water supply businesses, sewage and refuse disposal, sanitation and similar activities; renewable energy producers and inter-linked activities, etc.;
  - Processing and marketing resulting in non-Annex I products as output (no matter the input);
  - Social service provision including construction, re-construction and/or modernization of premises and area for carrying out the activities (childcare, eldercare, healthcare, care for disabled people, educational farms, etc.);
  - Provision of services to all economic sectors, including agriculture and forestry, or to the rural population;
  - Development of crafts and handicraft activities;
  - IT activities, computer-based and electronic activities, e-commerce, etc.;
  - Architectural and engineering activities, accounting, book keeping and auditing services, technical services, industrial cleaning, veterinary activities, etc.

#### *4.2.5. Business start-up aid for the development of small farms*

- Start-up support provided to existing small farms (as defined by Member States) for ensuring their sustainable development and growth. All relevant activities that may ensure this development as foreseen also in the business plan could be supported. This covers also running costs and investments by the small farm related to its development (in size), including in physical assets, trees/livestock, potentially agricultural land, machinery, equipment, labour, inputs, etc.

#### *4.2.6. Investments in creation and development of non-agricultural activities*

Support is provided only for investments in non-agricultural activities, among which could be listed as examples:

- Rural tourism activities or activities linked to territorial economic development, including rural accommodation, tourism service provision, shops, restaurants, local supply and food, etc.
- Catering, transport, road safety services, services for protected areas, security services, gardens/park management services, etc.
- Construction, re-construction or establishment of workshops, factories, plants, premises and facilities for various purposes such as repair of machinery; production and/or processing of non-agricultural goods and materials, plastics, electricity, energy, gas, steam and hot water supply businesses, sewage and refuse disposal, sanitation and similar activities; renewable energy production and inter-linked activities, etc.;
- Processing and marketing of non-Annex I products (no matter the input);
- Social service provision including construction, re-construction and/or modernization of premises and area for carrying out the activities (childcare, eldercare, healthcare, care for disabled people, educational farms, etc.);
- Provision of services to all economic sectors, including agriculture and forestry, or to the rural population;
- Development of crafts and handicraft activities;
- Investments in leisure, recreational and sport activities developed by private businesses;
- IT activities, computer-based and electronic activities, e-commerce, etc.;
- Architectural and engineering activities, accounting, book keeping and auditing services, technical services, industrial cleaning, veterinary activities, green infrastructure businesses, etc;

#### *4.2.7. Annual payments or one-off payments for farmers eligible for the small farmers scheme under Regulation (EU) No 1307/2013 who permanently transfer their holding to another farm*

Support is provided to farm holders who permanently transfer their holding to another farm and who are eligible under the small farmers' scheme under Pillar I.

### 4.3. Beneficiaries

#### 4.3.1. *Start-up aid for setting up of young farmers*

Beneficiaries under that this sub-measure are persons or groups of persons - whether natural or legal persons - complying with the definition of young farmer set out in Article 2.1(n) of Regulation (EU) No 1305/2013.

Member States can also establish and apply specific conditions to support young farmers not setting up as a sole head of the holding. These conditions should be equivalent to those required for a young farmer setting up as a sole head of a holding. However, if Member State decides to grant business start-up support for young farmers exclusively to those young farmers setting up as sole head of the holding this limitation should be clearly stated and justified in the RDP.

In fact, there are a variety of scenarios for young farmers to set up in an agricultural holding, however, the most common ones are briefly explained below.

- Young farmer is setting up as a sole head of the holding;

In this case, the beneficiary should comply with the definition of young farmer set out in Article 2.1(n) of Regulation (EU) No 1305/2013. In addition, a young farmer shall also respect the threshold defined by the MS for allowing agricultural holdings to have access to support.

- Young farmer is setting up with other young farmer(s) to operate a common agricultural holding;

The new legislative framework also encourages such forms of cooperation when several young farmers are willing to set up and commonly operate an agricultural holding. In light of this, young farmers should be given incentives to commence their agricultural activities. Nevertheless, certain rule shall be respected, in particular:

- All beneficiaries individually fulfil the conditions to be recognised as a young farmer;
- All beneficiaries individually respect the threshold defined by the Member State allowing agricultural holding to have access to support
- Young farmer(s) is setting up with non-young farmer(s) to operate a common agricultural holding.

The practice shows that sometimes young farmer(s) operate on a holding together with non-young farmer(s). In this case, certain rules shall be respected, in particular:

- The threshold defined by the Member State allowing an agricultural holding to have access to support shall be individually respected by the beneficiary(ies);
- Young farmer(s) shall be capable of exercising effective and long-term control either solely or jointly together with other farmers over the holding.



In the situations described above, all the beneficiaries individually fulfilling the eligibility conditions for the start-up aid are entitled to the amount defined in the respective rural development programme though not exceeding the limits set up in Annex II of Regulation (EU) No 1305/2013.

Member States, when designing the conditions to support young farmers setting up in whatever legal form should bear in mind that the provisions set up in Article 2 of the Delegated Act of Regulation (EU) No 1305/2013 require complex reading.

In particular, the notion of control over the holding referred to in paragraph 1 has to necessarily be interpreted in the light of the more specific definition provided for in paragraph 2 of Article 2 of the Delegated Act of Regulation (EU) No 1305/2013.

In other words control in paragraph 1 includes the possibility of joint control between a young farmer and other farmer(s). This would cover both joint control between e.g. a young farmer who is a natural person and a legal person which fulfils the criteria of paragraph 2 mentioned above and joint control between two natural persons, one of which is a young farmer and the other is not.

By introducing this concept it is also ensured that no discrimination may occur as among natural and legal persons in case of joint control.

For the purpose of this measure, Member States shall also explain the term – "setting up as a head of the holding" taking into account the conditions set out in the basic and delegated acts.

Article 2(3) of Regulation No 807/2014 requires that all elements of the definition of young farmer have to be met at the moment of submitting an application for support. In view of this, it is important to note that Article 2.1(n) of Regulation No 1305/2013 refers to the term "is setting up" which is considered as an ongoing period at the time of submitting the application.

Moreover, the applicant has to be below 40 at the moment of submitting the application; he/she must be setting up for the first time as a head of the agricultural holding and has to have the necessary occupational skills and competence. As regards the latter, Member States can grant a grace period of maximum 36 months.

As a result of the above, Member States are requested to provide in its RDP:

- explanation on what exactly "setting up as a head of the holding " means;

For example, it could involve:

- being registered as a farmer and a head of the holding in the relevant national register;
- being registered as a member of certain farmers' organisations etc. (and possibly also as a taxpayer);
- a series of administrative steps to be completed (in this case, a certain time might be necessary to do the "setting-up" – it would not be an instant act).

- information on the application of the grace period should as required under point 8 of Annex I of Regulation 808/2014.

For reasons of concentration of limited available resources and in order to avoid deadweight, in the case of support provided for the setting up of young farmers and for development of small farm, Member States shall define upper and lower thresholds for allowing agricultural holdings an access to support under the two support options as required by Article 19(4) of Regulation No 1305/2013. The lower threshold for support to young farmers has to be higher than the upper threshold for access to support under the development of small farms. In other words, the starting entry point for a young farmer is a farm of a size bigger than the size that a small development farm under Article 19(1)(a)iii should have. The thresholds shall be defined in Standard Output or its equivalent as provided for in Article 5.2 of the Delegated Act of Regulation (EU) No 1305/2013. As regards the equivalent to Standard Output, Member States can use physical parameters or combinations of these (e.g. ha, number of livestock etc.). Those thresholds can also be set in terms of agricultural income; however, the conditions for "setting up as a head of the holding" are to be fulfilled.

Article 19(1)(a)(iii) provides support for "development of small farms", i.e. these small farms must be existent before the date of submission of the application, i.e. they should have, by default, a certain size at the time of submission of the application in order to fulfil the requirement for "development" after implementing their business plan. Young farmers come with a higher threshold requirement, so there is no possibility for application, for example, of a "zero threshold" approach. The provisions of Article 2(3) of the Delegated Act, which provide that all elements of the definition of young farmer including the setting up for the first time in an agricultural holding as a head of that holding have to be met at the moment of submission of an application for support, must also be taken into consideration. In addition, Article 5(1)(c) of the Delegated Act requires the applicant to describe in his/her business plan the initial situation of the agricultural holding, which further eliminates any possibility for introduction of "zero thresholds" for young farmers. Even in cases when the applicants have no real production at the moment of application for support, the applicant must demonstrate that he/she objectively has the potential (in terms of production factors such as land, animals, etc.) of reaching a certain production level, which constitutes the established entry threshold for support.

With the support provided under Article 19(1)(a)(i) and (iii) improvement of the structural situation of the benefitting farms should be achieved, which is also in line with the experience from 2007-2013

If a farm has mid- to long- term objectives that go beyond the 5-year durability period, it will be up to the MA to evaluate whether it has to commit itself to approving that objectives taking also into account the controllability and verifiability issue.

Support is limited to farms that fall within the definition of micro- and small- enterprises at the time of applying for support (Commission Recommendation 2003/361/EC; see point 4.1 of this measure fiche).

The business plan shall provide that the young farmer has to comply with the definition of active farmer under Article 9 of Regulation (EU) No 1307/2013, within eighteen (18) months from the date of setting up. The implementation of the business plan should start within nine (9) months from the date of the decision to grant the aid. The minimum

elements to be described in the business plan are set out in Article 5.1 of the Delegated Act of Regulation (EU) No 1305/2013. It does not preclude, however, a MS to introduce some additional requirements.

#### *4.3.2. Start-up aid for non-agricultural activities in rural areas*

Beneficiaries under this support option are:

- farmers or members of the farm household diversifying into non-agricultural activities in rural areas,
- non-agricultural micro-, small enterprises in rural areas; and
- natural persons in rural areas.

It must be noted that support could be provided to existing businesses or to new start-ups. If support is provided to existing businesses it could only be provided for activities that the beneficiary has never carried out by the time of applying for support.

The territorial scope of the new activity, which is the rural area as defined by the MA, remains an eligibility condition which applies to all beneficiaries. The rural area location of the beneficiaries is also an eligibility condition.

Natural persons who are beneficiaries under the measure could commit to set up a new enterprise or continue working, for example, as self-employed (e.g., in the case of crafts). MS should try to establish clear eligibility rules in relation to this.

Farms of all sizes located in rural areas are eligible for support.

#### *4.3.3. Start-up aid for the development of small farms*

The start-up aid for the development of small farms should be given only to existing before the date of submission of the application small farms. MS have to provide in their RDP the definition of a "small farm" that applies to that support option. This could be the same definition as under Pillar I of the CAP (under the "small farmers" scheme of the direct payment regulation) or could well be a different definition which serves the purpose of the RDP, its targets and objectives. In both cases, MS have to base themselves on the existing agricultural economic structures in the programme area and the SWOT analysis (alongside the ex-ante evaluation of the RDP) should have determined whether such support is really needed.

MS may define differently "small farms". Such definition could also be consistent with the existing sub-sectorial agricultural structures in the programme area, if such a differentiation is necessary. For example, in cereal production farm sizes are much higher compared to farms in fruit & veg sector, or in the wine sector, or in certain livestock production. However, when MS define such sub-sectorial definitions of small farms they must keep in mind the implications this will have for the support provided for the setting up of young farmers as the upper threshold under the development scheme should be below the lower threshold of the young farmers scheme. Thus, a sub-sectorial approach here would definitely lead to a sectorial approach in the young farmers scheme, unless upper thresholds for all sub-sectors in the development scheme are (estimated in) the same (way).

Thresholds may be defined by MS for criteria of production potential, measured in Standard Output or its equivalent as provided for in Article 5(2) of the Delegated Act of Regulation (EU) No 1305/2013. The use of Standard Output may facilitate those willing to have a more streamlined and uniform approach in the programme area.

Article 19(1)(a)(iii) provides support for "development of small farms", i.e. these small farms must be existent before the date of submission of the application, i.e. they should have, by default, a certain size at the time of submission of the application in order to fulfil the requirement for "development", so there is no possibility for application, for example, of a "zero threshold" approach. In addition, Article 5(1)(c) of the Delegated Act requires the applicant to describe in his/her business plan the initial situation of the agricultural holding, which further eliminates any possibility for introduction of "zero thresholds".

With the support for development of small farms, improvement of the structural situation of the benefitting farms should be achieved, which is also in line with the experience from 2007-2013 and could be channeled through the business plan. In this way the legal requirement for "development" as defined by Article 19(1)(a)(iii) will be fulfilled.

If a farmer is to change his/her product specialization after the grant decision (e.g. from crop production to livestock) then this should form part of the business plan submitted by that farmer.

If a farm has mid- to long- term objectives that go beyond the 5-year durability period, it will be up to the MA to evaluate whether it has to commit itself to approving that objectives taking also into account the controllability and verifiability issue.

#### *4.3.4. Investments in creation and development of non-agricultural activities*

Beneficiaries under this support option are:

- Non-agricultural micro- and small- enterprises in rural areas;

Non-agricultural micro- and small- enterprises should be operational in rural areas and the benefit of the support should be for rural areas.<sup>1</sup>

- Natural persons in rural areas;

Natural persons who are beneficiaries under the measure should be living in a rural area, which could be proven, for example, by their registration. They could commit to set up a new enterprise or continue working, for example, as self-employed (e.g., in the case of crafts). MS should try to establish clear eligibility rules in relation to this.

- Farmers or members of the farm household diversifying into non-agricultural activities

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<sup>1</sup> It is to be noted that enterprises sometimes can be registered only in the main town of a municipality, which is urban area. Therefore, a distinction should be made between location of an enterprise and place of undertaking economic activities, and place of registration. MS should carefully analyse these cases when setting up eligibility conditions.

Farms and/or their household members may be eligible beneficiaries no matter whether these are located in urban or in a rural area.

*4.3.5. Annual or one-off payments to farmers eligible for the small farmers scheme under Regulation (EU) No 1307/2013 who permanently transfer their holding to another farm*

Beneficiaries under that provision are small farmers eligible for the small farmers scheme under Regulation (EU) 1307/2013 at the time of submitting the support for application for at least one year, who permanently transfer their entire holding and the corresponding payment entitlements to another farm. MS should define "small farmers" in accordance with the rules under Regulation (EU) 1307/2013.

The definitions of a "small farm" applied under Article 19(1)(c) and Article 19(1)(a)iii do not need to be the same.

A long-term lease could, under certain conditions, be sufficient to permit access to the above EAFRD support scheme, but only where the effects of such a lease would correspond to those of a "permanent transfer" of a holding, as required under Article 19(1)(c). In such cases, the farmer should own the land which is to be transferred, and the transfer must concern all his agricultural land in order to be eligible for support under Article 19(1)(c). It is for the Member State to assess on a case-by-case basis whether this requirement of 'correspondence' is fulfilled or not by a particular lease.

#### **4.4. Eligible expenditure and remarks on administrative/financial management**

*4.4.1. Eligible expenditure under start-up aid [Article 19(1)(a)]*

There are no restrictions of the costs that could be covered under Article 19(1)(a) as long as the maximum amounts defined in Annex II of Regulation (EU) No 1305/2013 and respectively the relevant ones for the programme area as defined in the RDP are respected for each of the start-up aid category.

The start-up aid is provided to facilitate the farm and business development of the beneficiary and is conditional on the submission of a business plan. MS should be able to check the reasonableness of the business plan and they should be able to assess their progress for young farmers and non-agricultural activities as required by Article 8(1) of the Implementing Act. The start-up aid is not limited to the provisions of Article 45 of Regulation (EU) No 1305/2013. It can also cover running costs experienced by the supported beneficiary, for example, in the context of proper implementation of actions foreseen by the approved business plan.

The start-up aid could also be used for purchase of land or other assets that facilitate the implementation of the business plan or are linked to the supported activity, without any limitations applying to this. Start-up aid for young farmers and for development of small farms could also cover, for example, the purchase of ownership rights, livestock, various physical assets, machinery, etc.; renting of agricultural land; improvement of existing farm buildings or investments in new ones; seasonal agricultural activities within the period of setting up or development of the activity; general costs linked to any of the investments, etc. Taking into account that the support is conditional to the provision of a business plan and its correct implementation, there is no need for listing eligible

costs/categories in the programmes and there is no need to link the start-up aid with such categories.

#### *4.4.2. Eligible expenditure under investments in creation and development of non-agricultural activities [Article 19(1)(b)]*

The eligible expenditure under this support option is defined by Article 45 "Investments" of Regulation (EU) No 1305/2013. The forms of grants are defined in Article 67 from Regulation (EU) No 1303/2013, while the specific eligibility rules for grants are defined by Article 69 from Regulation (EU) No 1303/2013.

#### *Other eligibility issues*

- The Commission is empowered to adopt delegated acts concerning the conditions under which other costs connected with leasing contracts, second hand equipment may be considered to be eligible expenditure and specifying the types of renewable energy infrastructure that are to be eligible for support (Article 45(6) of Regulation (EU) No 1305/2013).

According to Article 13 of the Delegated Act of Regulation (EU) No 1305/2013 in the case of leasing, other costs connected with the leasing contract, such as lessor's margin, interest refinancing costs, overheads and insurance charges, shall not be eligible expenditure.

Member States shall set out in their rural development programmes the conditions under which the purchase of second-hand equipment may be regarded as eligible expenditure.

As regards investments in energy infrastructure a number of provisions apply such as compliance with minimum standards for energy efficiency for supported investments that consume or produce energy; requirement for heat production when energy installations are placed, thresholds for the maximum proportions of cereals and other starch rich crops, sugars and oil crops used for bioenergy production, etc. [Article 13 of the Delegated Act of Regulation (EU) No 1305/2013].

**Investments supported under Article 19(1)(b) should not result in the creation of an agricultural activity or in support of an activity, which output is an Annex I product listed in the TFEU.** From this perspective the provision of services to agriculture could be considered a non-agricultural activity if the service provider (including a farmer or member of the farmer's household) maintains a proper record keeping of all services carried out to third parties as a proof for the activity. The support should be provided mainly for the provision of services to third parties. The notion of non-agricultural activity applies also to Article 19(1)(a)ii. There, in addition and according to Article 5(1)(b)ii from the Delegated Act, the supported activity must be a new activity for the beneficiary. In this context it is difficult to assume that a farmer who owns agricultural machinery at the time of application for support develops a new non-agricultural activity (such as provision of services to agriculture) by asking for EAFRD support for purchasing additional, or replacing already existing, agricultural machinery.

4.4.3. *Eligible expenditure under the annual payments to small farmers participating in the small farmers scheme under Regulation (EU) No 1307/2013 who permanently transfer their holding to another farm*

The eligible expenditure under this support option equals to 120% of the annual payment that the beneficiary received under the small farmers scheme under Regulation (EU) No 1307/2013. The support shall be paid from the date of the transfer until 31 December 2020 or calculated in respect of that period and paid in the form of a one-off payment.

4.4.4. *Alternative to the grant options for implementation of Article 19*

- MS are also encouraged to make use of **financial instruments** (loans, guarantees, equity) to foster the uptake of investment operations and start-up activities. In this measure, financial instruments can be used for implementing operations only under Article 19(1)(b).

The setting up and the implementation of financial instruments is defined by Title IV of Regulation (EU) No 1303/2013 and its respective secondary legislation (DA/IA). Eligibility conditions and rules defined in Regulation (EU) No 1305/2013, respectively the RDP, should be respected.

A preliminary guidance on the set up, use and implementation of financial instruments is provided in the *Guidance document on financial instruments for ESIF MA* and it will be further elaborated following the adoption of the legal framework as well as developed under the Financial Instruments - Technical Advisory Platform.

Given that the start-up aid under Articles 19(1)(a), point (i) to (iii) has a non-investment character, financial instruments cannot be used as a type of support. These should be developed under investment oriented measures such as under Article 19(1)(b), Article 17(1), 17(2), etc.

4.4.5. *Remarks on administrative/financial management*

- Alongside the use of receipts and invoices, Member States are also encouraged to make use of standard costs where appropriate. Experience of MS in previous programming periods has shown that, even though schemes are actually administered on the basis of receipts and invoices, the system can be combined with the use of standard costs where these are used as a check / limit to ensure that expenditure claimed on foot of invoices is in line with what is regarded as reasonable expenditure. If the cost on the invoice exceeds the amount laid down in the standard costs, it is accepted up to the amount of the standard costs only. Receipts/invoices below the standard costs are paid in full assuming everything is in order.
- Start-up aid under Article 19(1)(a) is to be paid in at least two installments over a period of maximum five years. Installments may be degressive. The payment of the last installment under Article 19(1)(a)i and Article 19(1)(a)ii [i.e. start-up aid for young farmers and for non-agricultural activities in rural areas] shall be conditional upon the correct implementation of the business plan.

#### **4.5. Targeting and principles with regard to the setting of selection criteria**

Member States, when designing measures and targeting support, should take into account the issues of deadweight and displacement. In particular, Member States should design their measures in a way that shows a clear relationship between objectives (potentially quantifiable), specific sectorial or sub-sectorial needs and funding, and in a way that stimulates the provision of support to innovative investments as well as investments for which it is difficult for the investor to raise capital. Measures' scope and supported interventions should be targeted.

The simple opening of the measure to all potential investments and investors without attention to be paid to the specific needs of the programme area has to be avoided.

In the case of project selection, MS have to take into account the stage in which the project is (at the time of the application) and whether the beneficiary has the potential to develop/finalise the project on its own. MS should set up appropriate selection criteria stimulating also the selection of new and innovative projects.

Detailed principles and rules related to eligibility conditions and selection criteria can be found in the *"Guidelines on eligibility conditions and selection criteria"*.

#### **4.6. Links with other legislation**

MS have to identify the way by which they ensure that no double funding is presented as well as other appropriate arrangements ensuring the most efficient use of the ESI Funds.

#### **4.7. Aid intensity/amount of support**

Support under this measure shall be limited to the maximum support rates laid down in Annex II of Regulation (EU) No 1305/2013 or should be set in accordance to the general State aid rules.

- The support rates for start-up activities under Article 19(1)(a) are the following:

- Maximum 70,000 euro per young farmer under Article 19(1)(a)i
- Maximum 70,000 euro per beneficiary under Article 19(1)(a)ii

MS shall define the amount of support under the above two categories also taking into account the socio-economic situation of the programme area.

- Maximum 15,000 euro per small farm under Article 19(1)(a)iii

MS are advised to use a single business start-up support level (in the form of a lump sum), applicable to all beneficiaries. However, the legal provisions allow MS to define different support levels in which case they would have to provide appropriate justification and define in the RDP the requirements



associated with the different support levels (for example, differentiation could be made between sectors).

- The aid intensity rates that apply under Article 19(1)(b) are defined by the general State-aid rules. Two specific cases could be envisaged:
  - Support is granted under the "*de minimis*" rule [maximum 200,000 euro per beneficiary for a period of 3 years]<sup>2</sup>;
  - Support is granted in accordance with an approved State aid scheme, which sets the aid intensity rate for the respective operations.

When support is granted under the "*de minimis*" rule MS can define the aid intensity in accordance with their policy objectives, i.e. it could vary and be up to 100%. According to the Commission's opinion when support is provided to profit-generating operations even within the limits of the "*de minimis*" rules, the aid intensity should be set in a way requiring the beneficiary to contribute sufficiently to the funding of the supported operation.

There is no aid intensity under Article 19(1)(a) where the support has a lump-sum character.

The general State aid rules apply ("*de minimis*", Block-exemption regulation) also to investments in processing, marketing, and/or development of Annex I products into non-Annex I products, i.e. when the output is not listed in Annex I of the TFEU. The same applies for investments in the provision of services to agriculture.

The support under Article 19(1)(b) related to the provision of services to agriculture should not be used by farm holdings as a way for circumventing the agricultural State-aid rules and the provisions of Article 17 (especially as regards the purchase of agricultural machinery and equipment). Therefore, the aid rate under Article 19(1)(b) for purchase of agricultural machinery for provision of agricultural services should be the same as for Article 17, or lower, with the caveat that the limits of Annex II for Article 19 apply.

Beneficiaries of investment related support provided, for example, under Article 19(1)(b) of Regulation (EU) No 1305/2013, may request the payment of an advance of up to 50% of the public aid related to the investment from the competent bodies, if that option is included in the rural development programme. The RDP should define the applicable rate. When paying advances MS should take into account the principles of sound financial management and should avoid situations where the majority of the declared to the Commission expenditure under a measure relates to advances paid out for projects that have not even started. Over-contracting and payment of advances based on it should be avoided.

According to Article 63 of Regulation (EU) No 1305/2013, the payment of advances is subject to the establishment of a bank guarantee or an equivalent guarantee corresponding to 100% of the amount of the advance. The guarantee may be released when the competent paying agency establishes that the amount of actual expenditure

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<sup>2</sup> To be noted that the general State aid rules are currently in a reform process. The "*de minimis*" level could therefore be subject to changes following the reform.

corresponding to the public contribution related to the operation exceeds the amount of the advance.

#### **4.8. Co-financing rate(s)**

The EAFRD contribution rate applicable to investment operations is defined in Article 59 of Regulation (EU) No 1305/2013.

#### **4.9. Focus on specific issues and demarcation lines**

##### *4.9.1. Rural area definition*

For the purpose of this measure and in accordance with Article 50 of the Regulation (EU) No 1305/2013, MS shall define "rural area" at programme level. The definition must form part of the approved RDP.

##### *4.9.1. Processing with Annex I and non-Annex I products*

Under Article 19 processing of all types of input (Annex I or non-Annex I) is eligible as long as the output from the supported activity is a non-Annex I product.

##### *4.9.2. Mobile trade shops*

Support to mobile trade shops must be carefully examined by MA if it is to be provided. If the beneficiary is a rural micro- and/or small enterprise [e.g. under Article 19(1)(b)] it can be allowed to visit and trade also in urban places. However, support should not be provided for setting up of permanent trading facilities in urban areas except when the beneficiary is a farmer or a member of the farm household diversifying its agricultural activities (in which case it is legally possible to be funded under Article 19(1)(b) as long as the predominantly sold products are non-Annex I ones).

Start-up aid for non-agricultural activities under Article 19(1)(a)ii can only be given to mobile trade shops that operate in rural areas only, and to beneficiaries located in rural areas only (including farmers and their household members).

##### *4.9.3. Re-allocation of economic activities*

It is possible that a single enterprise requests an investment support for re-allocating its activities to a (another part of the) rural area. In such cases, the MS should check the location of the facilities of the applicant and whether it has already received support from other EU funds (e.g. the ERDF) for similar operations (e.g. reallocation of activities to a declining industrial zone). If such support has been previously provided to the applicant, it should be checked whether the rules on durability of investments or other relevant rules under the ERDF have been respected. As a matter of principle, premium hunting attempts by potential beneficiaries should be blocked.

##### *4.9.4. Demarcation with Article 18*

##### *Renewable energy production*

In case of investment support for on-farm renewable energy plants with a **capacity of production exceeding the annual self-consumption** of the beneficiary, general state aid rules (e.g. De minimis, Environmental state aid rules, Block Exemption Regulation) shall apply as this constitutes processing of agricultural products into non-Annex I products.

Such production is therefore eligible for support under Article 19 of Regulation (EU) No 1305/2013.

If the bioenergy produced is for **self-consumption**, the investment in a renewable energy plant on farm should be supported under Article 18 of Regulation (EU) No 1305/2013.<sup>3</sup>

*Energy efficiency requirements linked to renewable energy:*

According to Article 13(c) of the Delegated Act of Regulation (EU) No 1305/2013 Member States shall require compliance with minimum standards for energy efficiency for supported investments in renewable energy infrastructure, that consume or produce energy, where such standards exist at national level.

Furthermore, Article 13(d) of the Delegated Act specifies that investments in installations, the primary purpose of which is electricity production from biomass shall not be eligible for support unless a minimum percentage of heat energy is utilised, to be determined by the Member States. This contributes to improving energy efficiency and to promoting combined heat and power. In fact, the energy efficiency of combined heat and power plants (co-generation) or of those for heat only is higher than the efficiency of those plants generating power only.

Member States shall establish thresholds for the maximum proportions of cereals and other starch rich crops, sugars and oil crops used for bioenergy production, including biofuels, for different types of installations.<sup>4</sup> Support to bioenergy projects shall be limited to bioenergy meeting the applicable sustainability criteria laid down in Union legislation, including in Article 17(2) to (6) of Directive 2009/28/EC of the European Parliament and of the Council<sup>5</sup>. In that context, a general assessment shall be included in the strategic environmental assessment of the rural development programme.

Member States should consider the overall contribution of bioenergy derived from food and feed crops to their national renewable energy targets when setting these limitations. The Commission recently proposed changes to the Renewable Energy Directive (2009/28/EC) and the Fuel Quality Directive (98/70/EC), which limit the contribution of biofuels produced from food and feed crops to the renewable energy targets.<sup>6</sup>

*Processing and marketing*

The main difference between operations that can be supported under Article 17 and Article 19 is in the fact that under Article 17 the input of the

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<sup>3</sup> See the Measure fiche on Article 18 for further details.

<sup>4</sup> This requirement is aimed to incentivise the utilisation of non-food and feed crop-based biomass, such as waste and residues, as well as ligno-cellulosic biomass. The limitation on the use of food and feed crops for bioenergy production should apply to individual installations.

<sup>5</sup> Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ L 140, 5.6.2009, p. 16).

<sup>6</sup> Practical examples concern the utilisation of feed stocks in biogas installations, where a maximum percentage of silage maize or other food and feed crops shall be set. Member States shall also utilise this provision in order to regulate, for instance, the utilisation of edible plant oil for the on-farm production of biodiesel.

processing/marketing/development shall always be an Annex I product, i.e. agricultural product. Nonetheless, even though the same type of operations may be financed under both instruments, the same support rates under non-agricultural state aid rules apply in case the output is a non-Annex I product. In this context, it is up to the MS to decide which instrument to activate.

It should also be noted that the scope of Article 19 is broader in that it also covers any diversification activity, while, under Article 17, support is limited to processing/marketing/development of agricultural products.

#### *Farm shops*

In the specific case of on-farm shops, if sales are totally limited to agricultural produce, support for their setting up shall be provided only under Article 17(1)(b), with support rates subject to the maximum amounts fixed in Annex II of Regulation (EU) No 1305/2013. This limitation applies also in the cases when the nature of the on-farm shop determines it to be agriculturally oriented.<sup>7</sup> It must be noted that the support provided under Articles 19(1)(a)i and 19(1)(a)iii (i.e. start-up aid for young farmers or development of small farms) may be used by the beneficiaries to support the setting up or the development of a farm shop.

On the other hand, if the nature of the shop is non-agricultural, support could be provided under Article 19(1)(a)ii or Article 19(1)(b) where the general State aid rules would apply in terms of aid ceilings.

#### *4.9.5. Demarcation with Article 35*

While under Article 19 product and enterprise development can be supported at the level of the individual holding or enterprise, Article 35 shall only concern co-operation activities between at least two actors.

In this context MS must pay attention to the case of supporting partnerships of (non-agricultural) enterprises with a leading partner. In particular, it should be kept in mind that the function of payments executed by the competent paying agency cannot be delegated (even to a leading partner of such partnership).

## **5. OUTPUT INDICATORS**

See the working paper "Monitor tables".

## **6. VERIFIABILITY AND CONTROLLABILITY**

Reference should be made to the *"Guidelines on verifiability and prevention of errors"*.

## **7. TRANSITIONAL ARRANGEMENTS**

As regards the:

- setting up of young farmers when the premium is paid in several instalments,

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<sup>7</sup> A typical example is when the farm shop sales also coffee/tea for its customers or farm visitors, or very small souvenirs, alongside its agricultural produce. In such cases, the nature of the shop could be considered agriculturally oriented.

- support for semi-subsistence farming

provided in the current programming period, it is possible to make commitments until the exhaustion of the current funds. As regards payments from 1 January 2014 onwards these are possible for the two measures by the end of the commitment period, with no changes in the conditions for the beneficiaries.

In 2014, Member States may continue to undertake grant decisions under the old rules until the adoption of their new programmes by using the funds from the 2014-2020 envelope.

## **8. BEST PRACTISES**

An extensive set of good practices are collected by the SEGIRA study:

[http://ec.europa.eu/agriculture/analysis/external/employment/index\\_en.htm](http://ec.europa.eu/agriculture/analysis/external/employment/index_en.htm)

These are analysed in the Commission Staff Working Document "A view on employment, growth and innovation in rural areas" [SWD(2012) 44 final]:

[http://ec.europa.eu/agriculture/publi/reports/ruralemployment/swd-2012-44\\_en.pdf](http://ec.europa.eu/agriculture/publi/reports/ruralemployment/swd-2012-44_en.pdf)

Examples of good IT projects were collected in the context of the Study on availability of access to computer networks in rural areas:

[http://ec.europa.eu/agriculture/analysis/external/networks/index\\_en.htm](http://ec.europa.eu/agriculture/analysis/external/networks/index_en.htm)

which are analysed in the Commission SWD accompanying the Communication to the Council and the EP on "Better access for rural areas to modern ICT"[SEC(2009) 254 dated 3.3.2009]:

[http://ec.europa.eu/agriculture/rurdev/employment/ict/sec2009\\_254\\_en.pdf](http://ec.europa.eu/agriculture/rurdev/employment/ict/sec2009_254_en.pdf)

More examples can be found in the ENRD website:

[http://enrd.ec.europa.eu/policy-in-action/rdp\\_view/en/view\\_projects\\_en.cfm](http://enrd.ec.europa.eu/policy-in-action/rdp_view/en/view_projects_en.cfm)