



Brussels, 1.8.2013  
C(2013) 4879 final

**COMMISSION DECISION**

**of 1.8.2013**

**on the approval of guidelines on the closure of operational programmes adopted for  
assistance from the European Fisheries Fund (2007-2013)**

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Whereas:

- (1) Taking into account the importance of timely and efficient closure of the operational programmes approved for assistance from the European Fisheries Fund (EFF) for the programming period 1 January 2007 to 31 December 2013, it is necessary to provide proper guidance on the closing of those operational programmes.
- (2) In view of the experience of closing the operational programmes of the 2000-2006 programming period, the guidelines should propose simplified procedures aiming to avoid the bottlenecks identified during the closure of the previous period.
- (3) The purpose of the guidelines is to facilitate the closure process by providing the methodological framework under which the closure exercise should take place for the financial settlement of outstanding Union's budgetary commitments through payment of the final balance, recovery of sums unduly paid and/or decommitment of any final balance. The proposed guidelines should therefore be approved,

HAS DECIDED AS FOLLOWS:

#### *Sole Article*

The Commission guidelines on the closure of operational programmes adopted for assistance from the European Fisheries Fund (2007-2013) as set out in the Annex are hereby approved.

Done at Brussels, 1.8.2013

*For the Commission*

*Maria DAMANAKI*

*Member of the Commission*

ANNEX

GUIDELINES ON CLOSURE 2007-2013

## Glossary

In the interests of clarity and readability, the following terms have been used throughout these guidelines.

*The EFF Regulation* Council Regulation (EC) No 1198/2006 of 27 July 2006 on the European Fisheries Fund

*The Implementing Regulation* Commission Regulation (EC) No 498/2007 of 26 March 2007 laying down detailed rules for the implementation of Council Regulation (EC) No 1198/2006 on the European Fisheries Fund

## **1. CLOSURE GENERAL PRINCIPLES**

These guidelines apply to the closure of operational programmes under the European Fisheries Fund implemented in accordance with the Council Regulation (EC) N° 1198/2006 on the European Fisheries Fund (hereafter the EFF Regulation) for the 2007-2013 programming period. Experience from the closure of programmes co-financed under 2000-2006 period was taken into account in preparation of these guidelines.

Closure of operational programmes concerns the financial settlement of outstanding Union's budgetary commitments through payment of the final balance to the competent authority of each operational programme or recovery of sums unduly paid by the Commission to the Member State and/or decommitment of any final balance. It also concerns the period until which all the Commission's and Member State's rights and obligations remain valid in respect of assistance to operations. The closure of operational programmes does not prejudice the Commission's right to impose financial corrections.

## **2. PREPARATION FOR CLOSURE**

### **2.1. Amendment of Commission decisions for programmes**

A request for a amendment of a decision for an operational programme, including amendment of the financing plan to transfer funds between the priority axes of the same operational programme, can be submitted up until the final date of eligibility of expenditure which is 31 December 2015.

However, in view of a timely preparation of the closure, the Commission recommends the submission of any request for a amendment by 30 September 2015 at the latest. The final date of eligibility of expenditure, or the deadline for submission of closure documents will not be extended because of the time necessary to process the amendment request.

## **3. ELIGIBILITY OF EXPENDITURE**

### **3.1. Final date of eligibility of expenditure and applicable rules**

In accordance with Article 55(1) of the EFF Regulation the final date for eligibility of expenditure is the 31 December 2015. In line with Article 78(1) of the EFF Regulation, eligible expenditure is expenditure paid by beneficiaries in implementing the operations and the corresponding public contribution paid or due to be paid to the beneficiaries according to the conditions governing the public contribution. Expenditure paid by beneficiaries must be supported by receipted invoices or accounting documents of equivalent probative value. As regards operations not involving expenditure by the beneficiary, the expenditure certified by the certifying authority and submitted to the Commission shall be the public aid paid to the beneficiary.

Following expenditure is also eligible:

- expenditure referred to in Article 55(2) of the EFF Regulation;
- expenditure referred to in Article 34(2) of the Commission Regulation (EC) No. 498/2007 laying down detailed rules for the implementation of Council Regulation (EC) No 1198/2006 on the European Fisheries Fund (hereafter the EFF Implementing

Regulation), in the context of financial engineering instruments (see section 3.3 of the guidelines)

### **3.2. Non-functioning projects**

At the time of the submission of the closure documents Member States have to ensure that all projects included in the programme are functioning, meaning completed and in use, so considered as eligible<sup>1</sup>.

The Member State may decide, exceptionally and on a case by case basis, provided that adequate justification exists, to include non-functioning projects in the final statement of expenditure. In doing so it should take into account the reasons why a project is non-functioning and it should verify that the financial impact of the project justifies this special treatment by examining if all of the following conditions are met:

- the total cost of each project amounts at least to EUR 5 million; and
- the Funds' contribution to the expenditure on these non-functioning projects cannot be more than 10% of the total allocation for the operational programme.

The Member State should undertake to complete all such non-functioning projects not later than two years after the deadline for submission of the closure documents and to commit to reimburse the Union co-financing allocated in case of non-completion of such projects by the two years deadline.

The Member States have to provide with the final report a list of such non-functioning projects retained in the operational programme (see section 5.2.6 of the guidelines). Thereafter, the Member State should introduce a close follow-up of these non-functioning projects and report to the Commission on a six-month basis on projects already completed as well as on the measures taken including milestones in order to complete the remaining projects.

Within two years of the deadline for submitting the closure documents for the programme concerned the Member State must provide the necessary information on the completion and operational aspect of these projects retained in the operational programme. In case such projects are non-functioning by this deadline the Commission will proceed with the recovery of the funds allocated to the whole project. If the Member State does not agree with the recovery, the Commission will proceed with a financial correction according to Article 97 of the EFF Regulation<sup>2</sup>.

### **3.3. Specific eligibility rules applicable to financial engineering instruments under Article 34 of the EFF Implementing Regulation**

According to Article 34(2) of the EFF Implementing Regulation, eligible expenditure at closure is the total of the following items:

- (1) any payments for investment in enterprises from financial engineering instruments for enterprises;

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<sup>1</sup> A project, which fulfilled the requirement of Article 56(1) but is no longer functioning at the time of the closure of the operational programme, shall not be considered as a non-functioning project.

<sup>2</sup> Judgements of the General Court confirm that the Commission is entitled to apply financial corrections in case of non-functioning projects See Case T-60/03 "*Regione Siciliana c/ Commission*" (Rec. 2005, P. II-04139), where the General Court confirmed the grounds for making a financial correction taken by the Commission on the basis of Article 24 of Regulation (EC) No 4253/88 because of absence of functionality of the project co-financed (in particular paragraphs 82, 83 and 99-102 of the ruling).

- (2) any guarantees provided including amounts committed as guarantees by guarantee funds;
- (3) eligible management costs.

For the expenditure to be considered eligible at closure it is not necessary for the final recipient to have completed the implementation of activity supported by the financial engineering instrument. The implementation of the investment activity by the final recipient may continue beyond 31 December 2015.

### *3.3.1. Eligibility of expenditure and the OP contribution in case of guarantees*

In case of guarantees the amount of eligible expenditure at closure is the value of the guarantees provided including amounts committed as guarantees.

### *3.3.2. Eligibility of management cost*

Management costs or fees incurred until 31 December 2015 are eligible pursuant to Article 34(2) of the EFF Implementing Regulation, within the limits set out in the Article 35(4) of the EFF Implementing Regulation,

### *3.3.3. Eligibility of capitalised interest rate subsidies and guarantee fee subsidies used in combination with financial engineering instruments*

Interest rate subsidies and guarantee fee subsidies can be considered to be a part of the financial engineering instrument and of the repayable investment, in the sense of Article 34 of the EFF Implementing Regulation, only when associated and combined with EFF loans or guarantees in a single financing package.

Payments for interest rate subsidies or guarantee fee subsidies can be claimed at closure of the operational programme under Article 34(2) of the EFF Implementing Regulation once the subsidies are drawn down within the eligibility period, as laid down in Article 55 of the EFF Regulation. Eligible expenditure is the payment of interest rate subsidies or guarantee fee subsidies to the financial intermediary or the final recipient regarding loans or guarantees which are outstanding.

Capitalised interest rate subsidies or guarantee fee subsidies due to be paid after the eligibility period can be declared as eligible expenditure in accordance with Article 34(4) of the EFF Implementing Regulation in relation to loans or other risk-bearing instruments whose duration falls behind the eligibility period, provided that the following four conditions are respected:

- interest rate subsidies or guarantee fee subsidies are associated and combined with the EFF loans or guarantees in a single financing package, and
- interest rate subsidies or guarantee fee subsidies are in respect of loans or other risk-bearing instruments disbursed for investments in final recipients within the eligibility period, and
- capitalised interest rate subsidies or guarantee fee subsidies are calculated at the end of the programming period as the total of discounted payment obligations, and
- the total amount of capitalised interest rate subsidies or guarantee fee subsidies is transferred to an escrow account held in the name of the Managing Authority or of the body that implements financial engineering instrument with financial institutions in EU Member States.

Any residual resources left in the escrow account (including subsidies which were not paid due to defaults or early repayments and any accrued interests) are used in accordance with Article 34(3) of EFF Implementing Regulation to finance financial engineering instruments for small and medium sized enterprises, including micro enterprises.

Managing Authority should separately declare eligible expenditure related to the capitalised interest rate subsidies or guarantee fee subsidies in the final report.

#### *3.3.4. Possible reductions of eligible expenditures*

##### **3.3.4.1. Arrangement fees paid by final recipient and overlapping with eligible management costs**

If arrangement fees or other administrative costs of the financial engineering instrument charged to final recipients overlap with the management costs or fees declared as eligible expenditure for reimbursement from EFF, the corresponding amount is deducted from eligible expenditure claimed from the EFF in accordance with Article 34(2) of the EFF Implementing Regulation.

##### **3.3.4.2. Interest generated by payments from the operational programme**

Interest generated by payments from the operational programme to the financial engineering instrument, including holding funds, which are attributable to the EFF contribution and which at the partial or final closure of the operational programme have not been used in accordance with provisions of Article 34(2) and (3) of the EFF Implementing Regulation should be deducted from the eligible expenditure.

### **3.4. Accession of Croatia**

As Croatia will be joining the union in July 2013, i.e. towards the end of the programming period, the Accession Treaty provides for the arrangements and modalities to be applied in the case of Croatia in the context of implementation of the EFF (Chapter 5 of Annex III to the Accession Treaty<sup>3</sup>).

## **4. SUBMISSION OF CLOSURE DOCUMENTS**

### **4.1. Closure documents**

For the payment of the final balance Article 86(1) of the EFF Regulation stipulates that Member States must submit for operational programme the following three documents ("closure documents"):

- (1) an application for payment of the final balance and a statement of expenditure in accordance with Article 78;
- (2) a final implementation report for the operational programme, including the information set out in Article 67;
- (3) a closure declaration supported by a final control report referred to in Article 61 (1)(f).

Member States shall ensure that the financial information contained in all the above documents as well as in SFC2007 are aligned.

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<sup>3</sup> OJ L 112, 24.04.2012



## **4.2. Deadline for submission of closure documents**

The closure documents should all be submitted by 31 March 2017 as stipulated in Article 86(1) of the EFF Regulation covering also operations suspended due to legal proceedings or administrative appeals. Member States should continue transmitting regularly interim payment claims even when the total of pre-financing and interim payments has reached 95% of the contribution from the EFF to the operational programme. In order to facilitate the work of the Audit authority, it is recommended that the Member States submit the last interim payment claim by 30 June 2016.<sup>4</sup>

The Commission will send a letter to Member States two months prior to the deadline for submission of the closure documents for an operational programme informing them of the consequences of the late submission of the closure documents.

All three documents are part of the closure package. The Commission will automatically decommit that part of commitment for which the Commission has not received any of the closure documents referred to in section 4.1 of the guidelines by 31 March 2017. In such a case, the closure of the operational programme will be carried out based on the last information available to the Commission (latest interim payment and statement of expenditure, latest admissible annual implementation report and latest admissible annual control report).

The failure to submit the final implementation report and the closure declaration reveals a serious deficiency in the management and control system of the operational programme which puts at risk the Union contribution already paid to the operational programme. Therefore in case of failure to submit these documents the Commission might proceed with a financial correction in accordance with Article 97 of the EFF Regulation.

The submission of documents should be carried out only electronically and no paper submission will be accepted. This is in line with the provisions of Articles 66(4) and 75(4) of the EFF Regulation and Articles 65(1)(b) and 65(1)(e) and 65(2)(g) of the EFF Implementing Regulation. The Commission will consider that the documents have been received on time if the relevant information has been submitted, validated and sent in SFC2007. Once all the documents have been sent the Member States will receive an SFC2007 acknowledgement of receipt which states the time and date the documents were received.

In June 2016 the Member States should submit the annual implementation report for the year 2015.

In December 2015 the Member States should submit the last annual control report.

## **4.3. Changing documents after the deadline for their submission**

Member States will not be allowed to modify any of the closure documents listed under Article 86(1) of the EFF Regulation after the deadline for their submission, except for correcting clerical mistakes.

In relation to the statement of expenditure and the application for payment of the final balance, the Member States cannot submit new expenditure but they can revise it downwards by withdrawing expenditure.

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<sup>4</sup> In order to ensure that the Audit Authority is able to cover the expenditure declared in 2016 and in view of the deadline of 31 March 2017 for the submission of the closure declaration

The Commission may request that a Member State correct the application for payment of the final balance or the statement of expenditure insofar as this involves the submission of supplementary information or the making of technical corrections where such supplementary information and corrections relate to expenditure submitted to the Commission before the deadline for submission. In this event, the Commission will give the Member State two months to carry out the correction. If the correction is not made within the two months period, the Commission will proceed with closure on the basis of the available information.

#### **4.4. Availability of documents**

According to Article 87 of the EFF Regulation, the managing authority ensures that all the supporting documents regarding expenditure and audits on the operational programme concerned are kept available for the Commission and the Court of Auditors for a period of three years following the closure of the operational programme as communicated by the Commission in accordance with Article 86(5) of the EFF Regulation.

The 3-years period could be interrupted either in the case of legal proceedings or at the duly motivated request of the Commission.

The managing authority should make available to the Commission on request a list of all completed operations for the full period of three years following the closure of the operational programme.

### **5. CONTENT OF CLOSURE DOCUMENTS**

#### **5.1. Certified statement of final expenditure, final payment application**

##### *5.1.1. General principle*

A certified statement of final expenditure, including a final payment application, should be drawn up in the form set out in Annex IX Part B to the EFF Implementing Regulation.

Discrepancies between the payments from the Union to the priority and the effective EFF contribution to the operation could occur. This is a consequence of the flexibility allowed to the managing authority in applying different co-financing rates to individual operations as stated in Article 53(5)(6)(7)(8) and (9) of the EFF Regulation.

However, in accordance with the principle of sound financial management of the EFF, the amount of public contribution (as declared in the 'certified statement of final expenditure') paid to beneficiaries should be at the end of the programming period at least equal to the contribution paid by the Commission to the operational programme and in accordance with Article 80 of the EFF Regulation, the Member States should ensure that the beneficiaries receive the total amount of the public contribution as quickly as possible and in full.

It should be noted that in accordance with Articles 77a of the EFF Regulation the amount paid through interim payments and payment of the final balance of the programme should not be higher than the public contribution and the maximum of the assistance from the EFF for each priority and objective of the programme. Therefore, it is not possible, on the basis of Article 77a of the EFF Regulation to grant the same type of

flexibility as the one granted at closure of the 2000-2006 programmes (10% flexibility on the calculation of the final contribution at priority level)<sup>5</sup>.

#### 5.1.2. *Financial Management for certain Member State concerned by Regulation (EU) No 387/2012 (Top-up)*

Article 77(2) of the EFF Regulation (as amended by Regulation (EU) No 387/2012) allows the Commission to pay under specified conditions an increased amount for each payment claim submitted by the Member States threatened with serious difficulties with respect to their financial stability. This increased amount is calculated by applying a top-up of 10 percentage points on the applicable co-financing rate.

For the purpose of calculating interim payments and payments of the final balance after the Member State ceased to benefit from the financial assistance, the Commission should not take into account the increased amounts paid to a Member State for the period it benefited from the top-up.

However, the Union contribution should not be higher than the public contribution and the maximum amount of assistance from the EFF for each priority axis and objective as laid down in the decision of the Commission approving the operational programme.

#### 5.1.3. *Recoveries (including after submission of closure documents) and irregularities*

At closure, the annual statement that needs to be sent via SFC2007 (in accordance with Annex X to the EFF Implementing Regulation<sup>6</sup>) by 31 March 2017 and covering the year 2016, will be treated as follows:

- the amounts indicated in Annex X(3) as "pending recoveries" should be included in the final payment application, however they will not be paid, but may constitute an outstanding commitment for the Commission. The Member States should inform the Commission on the outcome of the pending procedures.
- for the amounts declared under Annex X(4) as "irrecoverable amounts", where the Member State requests the Union share to be borne by the general budget of the European Union, the Commission will carry out an appropriate examination of each case. In this respect it will either (a) inform the Member State in writing about its intention to open an enquiry in respect of that amount or (b) request that the Member State continue the recovery procedure or (c) accepts that the Union's share is borne by the general budget of the European Union.
- a commitment will remain open for the amounts declared under Annex X(4) for which the Commission has requested further information, opened an inquiry in respect of that amount or requested that the Member State continue the recovery procedure.
- Member States should ensure that the amounts indicated in Annex X(4), for which Member State has not requested the Union to take its share of the loss are deducted from the certified statement of final expenditure.

Nevertheless any amounts recovered after closure should be paid back to the Commission.

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<sup>5</sup> Decision of the Commission C(2009)960 of 11 February 2009 amending the Guidelines on closure of assistance (2000-2006) from the Structural Funds, approved by the Decision C(2006)3424 of 1 August 2006.

<sup>6</sup> Commission Regulation (EU) No 1249/2010

## **5.2. Final implementation report**

### *5.2.1. General principle*

The final report should include information as described in Article 67(2) of the EFF Regulation. It should have the same structure as the annual implementation report since both documents are based on the same template provided in Annex XIV to the EFF Implementing Regulation. It should present aggregated data and information for the whole of the implementing period.

### *5.2.2. Admissibility, approval and deadlines*

The EFF Regulation does not provide any deadline for the admissibility check of the final report. Nor does it make provision of what happens in case a report is not admissible. Moreover, it refers to an admissible report as the one which contains all the necessary information referred to in Article 67(2). Taking into account that the acceptance of the final report is also made against the provisions of Article 67(2), then admissibility and acceptance can be considered as the same in the context of the closure exercise and the two terms should be used interchangeably.

Therefore, the Commission has five months from the date of the receipt of the final report to confirm its admissibility or provide comments to Member States in case it is not satisfied with its content and ask for it to be revised. The final report will only be considered admissible/ accepted if all the comments from the Commission have been addressed satisfactorily.

The regulation foresees the timeframe for the Commission to provide its comments to the Member States but does not provide likewise a timeframe for the response from the Member State. It is therefore necessary to establish a framework for the dialogue between the Commission and the Member State.

Once the Commission has provided comments on the final report, the Member State will be given two months to respond and provide the necessary information. In case the Member State cannot comply with this deadline, it should inform the Commission accordingly and the deadline may be extended by another 2 months.

In case the Member State is not able to improve the final report, the Commission will reject it and will carry out closure on the basis of the available documents. At the same time, the Commission may apply financial corrections in the context of Article 97 of the EFF Regulation.

The objective is to have the final report revised and accepted by the Commission within 1 year of the date of its receipt.

### *5.2.3. Reporting on the top-up*

Despite the fact that Article 77 of the EFF Regulation (as modified by Regulation (EU) No 387/2012) does not foresee explicitly the obligation of the Member States to report on the use of the amounts resulting from the top-up, since Article 76(6) (as modified by Regulation (EU) No 387/2012) foresees the obligation of the Member States to provide information on the use of the amounts resulting from the top-up in the annual reports and the final report cumulates all information already provided in the annual reports, the final report should include a summary of the information requested in Article 76(6).

#### 5.2.4. Reporting on FEI

The final report should provide, by way of narrative, a summary description of the financial engineering instrument(s) and implementation arrangements. For the purpose of final reporting, the "implementation arrangements" should be interpreted in a broad sense in order to satisfy the general objective of providing a balanced overview of financial engineering instruments' performance during the programming period 2007-2013.

The final report should contain the following information:

- (1) the number and type of funds established during the programming period;
- (2) the identity of national co-financing providers and type of national co-financing (loan, in kind contribution). Any co-investment funds should be clearly identified;
- (3) date of signature and the duration of funding agreements underpinning operation;
- (4) information on selection procedure for the holding fund manager, fund's managers and final recipients;
- (5) types of products offered and final recipients targeted;
- (6) information on withdrawals of operational programme resources from FEI;
- (7) amount of capitalised interest rate subsidies and guarantee fee subsidies (as referred to in section 3.3.3);
- (8) interest generated by payments from operational programme and attributable to the EFF;
- (9) a brief overall assessment of fund performance in terms of its contribution to the achievements of the objectives of the operational programme and the priority concerned;
- (10) information on legacy including:
  - (a) value of legacy resources (residual funds and value of investments and participations at the final date of eligibility) attributable to EFF resources at 31 December 2015
  - (b) the date of winding up (as envisaged in the funding agreement) and accrual of legacy
  - (c) the information on the reuse of legacy resources attributable to EFF specifying the competent authority which is responsible for managing legacy resources, the form of reuse, the purpose, the geographic area concerned and the envisaged duration.
- (11) to the extent that financial instruments encountered particular difficulties and/or failed to reach the principal objectives contained in their respective business plans, the final report should contain a brief summary of the principal reasons for such difficulties and the nature, timing and effectiveness of any remedial action undertaken by (as appropriate) the managing authority, Holding Fund manager or fund manager.

Additional numerical information should be provided using the reporting template in Annex I of the guidelines.

#### *5.2.5. Reporting on results*

During the implementation period the Member States were asked in the context of the annual implementation reports to include, in accordance with Article 67(2) of the EFF Regulation, detailed information on the progress made in implementing the operational programme. This includes information by priority axis in relation to their specific, verifiable targets, using the indicators referred to in the operational programme.

Furthermore, the Member States, in the context of the assessment of the annual implementation reports were asked to explain any divergence/progress against the agreed targets and to change targets which were inappropriately set.

Nonetheless, performance targets should be maintained as much as possible in order to avoid a downgrading of the interventions. The Member States in their request for modification should ensure that the revised targets are correct, especially if the targets were not properly set in the first place. However, targets should not be changed to adapt to performance, i.e. the objective is not to amend the target to equate to actual performance.

At closure, in case the reported indicators in the final report appear to divert significantly (i.e. by more than 25%) from the targets set in the operational programme, then the Member State should provide an explanation and a justification of why the target has not been met and why corrective actions have not been taken during the implementation period. This should take a form of a short summary of 3 pages at maximum.

#### *5.2.6. Non-functioning projects*

The Member States should submit a list of non-functioning projects with the final report (see section 3.2 of the guidelines on non-functioning projects) using the template in Annex II to the guidelines.

#### *5.2.7. Use of interest*

According to Article 81(3) of the EFF Regulation, any interest generated by the pre-financing, at whichever level it might be (central body, intermediate body), is being regarded as a resource for the Member State in the form of a national public contribution, and shall be used for operations decided by the Managing Authority within the given operational programme.

### **5.3. Closure declaration**

#### *5.3.1. General principle*

In accordance with Article 61(1)(f) of the EFF Regulation the closure declaration is prepared by the audit authority and submitted to the Commission at the latest by 31 March 2017. It assesses the validity of the application for payment of the final balance and the legality and regularity of the underlying transactions covered by the final statement of expenditure, which is supported by a final control report.

The closure declaration should be based on all the audit work carried out by, or under the responsibility of, the audit authority in accordance with the audit strategy, as provided for in Article 44(3) of the EFF Implementing Regulation. This work includes the audits carried out by the audit authority after 1 July 2015 (Article 61(e)(i) of the EFF Regulation) and the final control report should include the related information. This

means that the audit authority should report on the basis of the audit work carried out until 1 July 2015 and also on the audit work carried out between 1 July 2015 and 31 December 2016. The audits of operations carried out by the audit authority in accordance with Article 42 of the EFF Implementing Regulation during this period will cover the expenditure declared in 2015 and 2016<sup>7</sup>.

Article 44(3) of the EFF Implementing Regulation also foresees that the closure declaration and final control report is drawn up in accordance with the model set out in Annex VII to the EFF Implementing Regulation.

Following Article 44(4) of the EFF Implementing Regulation, if there is a limitation in the scope of examination or if the level of irregular expenditure detected does not allow the provision of an unqualified opinion in the closure declaration, the audit authority should give the reasons and estimate the scale of the problem and its financial impact.

The procedures for the preparation of the closure declarations were provided to the Commission in the context of the compliance assessment exercise, as results from Article 49(e) of the EFF Implementing Regulation. Any subsequent modifications to those procedures should be communicated to the Commission in the context of the annual control reports.

In case the Member State has applied for partial closure (note EFFC/36/2009) during the programming period, the Audit Authority should disclose in the final control report any irregularities detected after the partial closure and concerning operations subject to partial closure; in this case, the Audit Authority should also confirm in the final control report that the financial corrections applied by the Commission under Article 97 were net, as established by Article 85(3) of the EFF Regulation.

### *5.3.2. Admissibility, approval and deadlines*

According to Article 86(3) of the EFF Regulation, the Commission should inform the Member State of its opinion on the content of the closure declaration within five months of the date of its receipt; the closure declaration should be deemed to be accepted in the absence of observations by the Commission within that five-month period.

Similarly to the dialogue procedure established for the final report, once the Commission has provided comments on the closure declaration, the Member State will be given two months to respond and provide the necessary information. In case the Member State cannot comply with this deadline, it should inform the Commission accordingly and the deadline may be extended for another 2 months, except where further audit work is requested from the Member State, in which case the deadline can be extended to the period considered necessary to conclude this work. The closure declaration will only be considered accepted if all the comments from the Commission have been addressed.

The objective is to have the closure declaration revised and accepted by the Commission within one year of the date of its receipt, except for those cases when the request for further audit work requires a longer period.

The failure to submit the closure declaration reveals a serious deficiency in the management and control system of the programme which puts at risk the Union

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<sup>7</sup> In order to ensure that the Audit Authority is able to cover the expenditure declared in 2016 and in view of the deadline of 31 March 2017 for the submission of the closure declaration, it is recommended that the Certifying Authority submits the last interim payment claim by 30 June 2016, at the latest, thus ensuring that after this date no new expenditure will be declared to the Commission before the submission of the final payment application.

contribution already paid to the programme in the meaning of Article 97 of the EFF Regulation. The submission of a closure declaration which does not assess properly the validity and regularity of the underlying transactions covered by the final statement of expenditure might lead to the same conclusion.

In such cases and when the closure declaration discloses irregularities or systems deficiencies not corrected before closure, the Commission may consider the possibility of launching a financial correction procedure under Articles 97 and 98 of the EFF Regulation and as further detailed by the Commission decision C(2012)3876 of 25 June 2012).

Specific guidance on the preparation and contents of the final control report and closure declaration is set out in Annex III to these guidelines.

## **6. AVAILABILITY OF TA**

The technical assistance of operational programmes in the programming period 2007-2013 is governed by Article 46(2) of the EFF Regulation. According to this Article it is possible to finance preparatory activities for the 2014-2020 programming period. However, these preparatory activities should be materially eligible under the 2007-2013 Union and national eligibility rules and should also fulfil the selection criteria of the operational programme concerned. The preparatory activities must also be appropriate, i.e. there should be a clear demonstrable link between the proposed activities and the preparations within the Member State for the new programming period.

Nonetheless, it should be underlined that the primary purpose of the technical assistance of the current period is for the management and the implementation of the 2007-2013 operational programmes.

## **7. DECOMMITMENTS**

### **7.1. Automatic decommitment**

All amounts concerning operations not declared at closure will be decommitted, except for the amounts that the Certifying Authority has not been able to declare because of operations suspended due to legal proceeding or an administrative appeal having suspensory effect (Article 92 of the EFF Regulation) or for reasons of force majeure (Article 93(c) of the EFF Regulation).

The Member State should indicate in the final report on implementation and in the closure declaration the amount relating to those operations, which could not be declared at the time of submission of the closure documents.

### **7.2. Making appropriations available again**

Pursuant to Article 157 of the Council Regulation (EC) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities (hereafter Financial Regulation), decommitted appropriations may be made available again in the event of manifest error attributable solely to the Commission.

## **8. OPERATIONS SUSPENDED DUE TO LEGAL OR ADMINISTRATIVE PROCEEDINGS**

For each operation that is the subject of a legal proceedings or an administrative appeal having suspensory effects, the Member State must decide, before the deadline for



submission of the closure documents for the operational programme, whether the operation should be (wholly or partly):

- withdrawn from the programme and/or replaced by another eligible operation before the deadline ;
- retained in the programme.

For those retained operations (Article 92 of the EFF Regulation), the Member State should inform the Commission of the amount that could not be declared in the final statement of expenditure, so as to keep a commitment open.

The maximum amounts remaining to be paid by the Commission or recovered from the Member State in respect of the suspended operations constitute an outstanding commitment until the responsible national authorities deliver a final decision.

The Member State should therefore keep the Commission informed of the outcome of the legal proceedings or administrative appeal. In accordance with the outcome of the legal proceedings, further payments will be made, the recovery of amounts already paid will be carried out or payments already made will be confirmed. In case of irrecoverable amounts, the Commission might, upon a request of the Member State, agree by a decision that the Union share of the loss should be borne by the budget of the European Union and proceed to a further payment.

A list of suspended projects retained in the programme should be provided using the template of Annex 4 to the guidelines.

## **9. PAYMENTS SUSPENDED**

The issues underlying any suspension or interruption of interim payments on-going at closure (Article 89 of the EFF Regulation) will be reviewed in the context of the assessment of the closure declaration. The payment of the final balance will be calculated by the Commission taking into account, if applicable, the financial corrections to be imposed upon the Member State in accordance with Articles 97 and 98 of the EFF Regulation.

## **10. THE EURO**

Article 95 of the EFF Regulation sets out the arrangements on the use of the euro in the budgetary management of the EFF which are applicable at closure.

### **List of Annexes**

Monitoring on FEI in AIR\_SFC2007

Non-functioning projects

Guidance on preparation of final control report and closure declaration

Suspended projects

**Annex I**

**Template 1: Financial Engineering Instruments operations implemented with Holding Fund (sections marked with \* are optional)**

No.	Required information/data	Required data/information format	Comments
<b>I. Description and identification of the entities which implement the financial engineering instrument at the level of the Holding Fund</b>			
I.1	<b>Holding Fund</b> (name and registered place of business)	text	
I.2	<b>Legal status of the Holding Fund</b>	////////////////////////////////////	
	independent legal entities governed by agreements between the co-financing partners or shareholders	⊖	
	separate block of finance within a financial institution		⊖
I.2.1*	name, legal status and registered place of business of co-financing partners	text	*
I.3	<b>Holding Fund manager</b>	////////////////////////////////////	

	European Investment Bank (EIB)	⊙	
	European Investment Fund (EIF)	⊙	
	financial institution other than the EIB/EIF	⊙	
	other body	⊙	
I.3.1	name, legal status and registered place of business of other body	text	
I.4	<b>Procedure for selecting the Holding Fund manager</b>	////////////////////////////////////	
	award of a public contract in accordance with applicable public procurement law		
	award of a grant (in the meaning of Article 36(1) (b) of Commission Regulation (EC) No 498/2007)	⊙	
	award of a contract directly to the EIB or the EIF		

		⊙	
		⊙	
I.5	<b>Date of signature of funding agreement with Managing Authority</b>	DD/MM/YYYY	
I.6	<b>Number of financial engineering instruments implemented under this specific Holding Fund</b>	number	

<b>II. Description and identification of the entities which implement the financial engineering instrument</b>			
II.1	<b>Financial engineering instrument</b> (name and registered place of business)	text	
II.2	<b>Attributable to Article 35, 36 or 37 of Commission Regulation (EC) No 498/2007)?</b>	////////////////////////////////////	
	(a) financial engineering instruments for enterprises	⊙	
	(b) funds or other incentive schemes providing loans, guarantees for repayable investments, or equivalent instruments,;	⊙	
II.3	<b>Type of financial product offered by the financial engineering instrument to the final recipients</b>	////////////////////////////////////	
II.3.1	equity	clicking box <input type="checkbox"/>	
II.3.2	loan	clicking box <input type="checkbox"/>	
II.3.3	guarantee	clicking box <input type="checkbox"/>	
II.3.4	other product (interest rate subsidies, guarantee fee subsidies and equivalent measures)	clicking box <input type="checkbox"/>	

II.4	<b>Financial engineering instrument manager</b> (its name, legal status and registered place of business)	text	
II.5	<b>Procedure for selecting the financial engineering instrument manager</b>	////////////////////////////////////	
	award of a public contract in accordance with applicable public procurement law	⊙	
	award of a grant (in the meaning of Article 35(1)(b) of Commission Regulation (EC) No 498/2007)	⊙	
	award of a contract directly to the EIB or the EIF	⊙	
II.7	<b>Legal status of the financial engineering instrument</b>	////////////////////////////////////	
	independent legal entities governed by agreements between the co-financing partners or shareholders	⊙	
	separate block of finance within a financial institution	⊙	

<b>III. Amounts of assistance from the EFF and national co-financing paid to the financial engineering instrument</b>			
<b>III.1</b>	<b>Amounts of assistance to the financial engineering instrument from the Operational Programme</b>		
III.1.1	Operational Programme	text (CCI n°+title)	
III.1.2	Priority axis	text	
III.1.3	Contribution to the Holding Fund	%	
<b>III.2</b>	<b>Amounts of assistance to the Holding Fund from this Operational Programme</b>	////////////////////////////////////	
<b>III.2.1</b>	<b>Amounts of assistance from the EFF</b>	////////////////////////////////////	
III.2.1.1*	EFF amounts of assistance committed in the funding agreement (in EUR)	number (amount)	*
III.2.1.2	EFF amounts effectively paid to the Holding Fund (in EUR)	number (amount)	
<b>III.2.2</b>	<b>Amounts of national co-financing</b>	////////////////////////////////////	
III.2.2.1*	National public co-financing committed in the funding agreement (in EUR)	number (amount)	*
III.2.2.2	National public co-financing effectively paid to the Holding Fund (in EUR)	number (amount)	
III.2.2.3*	National private co-financing committed in the funding agreement (in EUR)	number (amount)	*

III.2.2.4	National private co-financing effectively paid to the Holding Fund (in EUR)	number (amount)	
<b>III.3*</b>	<b>Amounts of other assistance paid to the Holding Fund outside Operational Programme (in EUR)</b>	number (amount)	*
<b>III.4</b>	<b>Management costs paid to the Holding Fund ( in the meaning of Article 34(2) of Commission Regulation (EC) No 498/2007) (in EUR)</b>	number (amount)	
<b>III.5</b>	<b>Amounts of assistance from the Holding Fund</b>	////////////////////////////////////	
III.5.1*	Amounts of Holding Fund resources legally committed to the financial engineering instrument (in EUR)	number (amount)	*
III.5.2	Amounts of Holding Fund resources effectively paid to the financial engineering instrument (in EUR)	number (amount)	
III.5.3	out of which amounts of assistance from the EFF (in EUR)	number (amount)	
<b>III.6</b>	<b>Management costs paid to the financial engineering instrument by the Holding Fund (in the meaning of Article 34(2) of Commission Regulation (EC) No 498/2007) (in EUR)</b>	number (amount)	
<b>IV. Amounts of assistance from the EFF and national co-financing paid by the financial engineering instrument</b>			
<b>IV.1</b>	<b>Amounts of assistance paid to the final recipients through loans (per financial product)</b>		
IV.1.1	Name of product	text	
IV.1.2*	Number of final recipients supported, per type:	////////////////////////////////////	*



IV.1.2.1*	large enterprises	number	*
IV.1.2.1.2.	Enterprises with less than 750 employees or with a turnover of less than EUR 200 million as mentioned in Article 34 (3)(b) of Council Regulation (EC) No 1198/2006.	number	
IV.1.2.2*	SMEs	number	*
IV.1.2.2.1*	out of which micro-enterprises	number	*
IV.1.2.3*	individuals	number	*
IV.1.2.5*	other	number	*
IV.1.3*	Number of loan contracts signed with final recipients	number	*
IV.1.4*	Total loan amount committed in contracts signed with final recipients (in EUR)	number (amount)	*
IV.1.4.1*	out of which Operational Programme contribution	number (amount)	*
IV.1.5	Total amounts of assistance for loans effectively paid to the final recipients (in EUR)	number (amount)	
IV.1.5.1	out of which amounts of assistance from the EFF (in EUR)	number (amount)	
IV.1.6	Date of signature of funding agreement with Holding Fund	DD/MM/YYYY	
<b>IV.2</b>	<b>Amounts of assistance paid to the final recipients through guarantees (per financial product)</b>	////////////////////////////////////	
IV.2.1	Name of product	text	
IV.2.2*	Number of final recipients supported, per type	////////////////////////////////////	*
IV.2.2.1*	large enterprises	number	*

IV.1.2.1.2.	Enterprises with less than 750 employees or with a turnover of less than EUR 200 million as mentioned in Article 34 (3)(b) of Council Regulation (EC) No 1198/2006.	number	
IV.2.2.2.1*	out of which micro-enterprises	number	*
IV.2.2.3*	individuals	number	*
IV.2.2.5*	other	number	*
IV.2.3*	Total amounts of assistance blocked for guarantee contracts signed (in EUR)	number (amount)	*
IV.2.4	Total amounts of assistance blocked for guarantee contracts for actually disbursed loans (in EUR)	number (amount)	
IV.2.4.1	out of which amounts of assistance from the EFF (in EUR)	number (amount)	
IV.2.5*	Number of loans actually disbursed in relation to guarantees contracts	number	*
IV.2.6	Total value of loans actually disbursed in relation to guarantees contracts (in EUR)	number (amount)	
IV.2.7	Date of signature of funding agreement with Holding Fund	DD/MM/YYYY	
<b>IV.3</b>	<b>Amounts of assistance paid to the final recipients through equity/venture capital (per financial product)</b>	////////////////////////////////////	
IV.3.1	Name of product	text	
IV.3.2*	Number of final recipients supported, per type	////////////////////////////////////	*
IV.3.2.1*	large enterprises	number	*
IV.1.2.1.2.	Enterprises with less than 750 employees or with a turnover of less than EUR 200 million as mentioned in Article 34	number	

	(3)(b) of Council Regulation (EC) No 1198/2006.		
IV.3.2.2*	SMEs	number	*
IV.3.2.2.1*	out of which micro-enterprises	number	*
IV.3.2.4*	other	number	*
IV.3.3*	Number of investments made in line with agreements signed	number	*
IV.3.4	Total amount of investments effectively made in line with agreements (in EUR)	number (amount)	
IV.3.4.1	out of which amounts of assistance from the EFF (in EUR)	number (amount)	
IV.3.5	Date of signature of funding agreement with Holding Fund	DD/MM/YYYY	
<b>IV.4</b>	<b>Amounts of assistance paid to the final recipients through other type of financial product (per financial product)</b>	////////////////////////////////////	
IV.4.1	Name of product	text	
IV.4.2*	Number of final recipients supported, per type	////////////////////////////////////	*
IV.4.2.1*	large enterprises	number	*
IV.1.2.1.2.	Enterprises with less than 750 employees or with a turnover of less than EUR 200 million as mentioned in Article 34 (3)(b) of Council Regulation (EC) No 1198/2006.	number	
IV.4.2.2*	SMEs	number	*
IV.4.2.2.1*	out of which micro-enterprises	number	*
IV.4.2.3*	individuals	number	*

IV.4.2.5*	other	number	*
IV.4.3	Total amount effectively paid to the final recipients (in EUR)	number (amount)	
IV.4.3.1	out of which amounts of assistance from the EFF (in EUR)	number (amount)	
IV.4.4*	Number of products effectively provided to the final recipients	number	*
IV.4.5	Date of signature of funding agreement with Holding Fund	DD/MM/YYYY	
<b>IV.5</b>	<b>Indicators</b>	////////////////////////////////////	
IV.5.1*	Number of jobs created or safeguarded	number	*

**Annex I**

**Template 2: Financial Engineering Instruments operations implemented without Holding Fund** (sections marked with \* are optional)

No.	Required information/data	Required data/information format	Comments
<b>II.A Description and identification of the entities which implement the financial engineering instrument</b>			
II.1	<b>Financial engineering instrument</b> (name and registered place of business)	text	
II.2	<b>Attributable to Article 35 or 37 of Commission Regulation (EC) No 498/2007)?</b>	////////////////////////////////////	
	(a) financial engineering instruments for enterprises	⊙	
	(b) funds or other incentive schemes providing loans, guarantees for repayable investments, or equivalent instruments	⊙	
II.3	<b>Type of financial product offered by the financial engineering instrument to the final recipients</b>	////////////////////////////////////	
II.3.1	equity	clicking box <input type="checkbox"/>	

II.3.2	loan	clicking box <input type="checkbox"/>	
II.3.3	guarantee	clicking box <input type="checkbox"/>	
II.3.4	other product (interest rate subsidies, guarantee fee subsidies and equivalent measures)	clicking box <input type="checkbox"/>	
<b>II.B Description and identification of the entities which implement the financial engineering instrument</b>			
II.4	<b>Financial engineering instrument manager</b> (its name, legal status and registered place of business)	text	
II.5	<b>Procedure for selecting the financial engineering instrument manager</b>	////////////////////////////////////	
	award of a public contract in accordance with applicable public procurement law	<input type="radio"/>	
	award of a grant (in the meaning of Article 36(1)(b) of Commission Regulation (EC) No 498/2007)	<input type="radio"/>	
	award of a contract directly to the EIB or the EIF	<input type="radio"/>	

	<b>Legal status of the financial engineering instrument</b>	////////////////////////////////////	
II.7	independent legal entities governed by agreements between the co-financing partners or shareholders	⊙	
	separate block of finance within a financial institution	⊙	
II.6	Date of signature of funding agreement with Managing Authority	DD/MM/YYYY	
<b>III. Amounts of assistance from the EFF and national co-financing paid to the financial engineering instrument</b>			
<b>III.1</b>	<b>Amounts of assistance to the financial engineering instrument from the Operational Programme</b>		
III.1.1	Operational Programme	text (CCI n°+title)	
III.1.2	Priority axis	text (n°)	
III.1.3	Contribution to the financial engineering instrument	%	

<b>III.2</b>	<b>Amounts of assistance to the financial engineering instrument from the Operational Programme</b>	////////////////////////////////////	
<b>III.2.1</b>	<b>Amounts of assistance from the EFF</b>	////////////////////////////////////	
III.2.1.1*	EFF amounts committed in the funding agreement (in EUR)	number (amount)	*
III.2.1.2	EFF amounts effectively paid to the financial engineering instrument (in EUR)	number (amount)	
<b>III.2.2</b>	<b>Amounts of national co-financing</b>	////////////////////////////////////	
III.2.2.1*	National public co-financing committed in the funding agreement (in EUR)	<b>number (amount)</b>	*
III.2.2.2	National public co-financing effectively paid to the financial engineering instrument (in EUR)	number (amount)	
III.2.2.3*	National private co-financing committed in the funding agreement (in EUR)	number (amount)	*
III.2.2.4	National private co-financing effectively paid to the FEI (in EUR)	number (amount)	
<b>III.3*</b>	<b>Amounts of other assistance paid to the financial engineering instrument outside the Operational Programme (in EUR)</b>	number (amount)	*
<b>III.4</b>	<b>Management costs paid to the financial engineering instrument (in the meaning of Article 34(2) of Commission Regulation (EC) No 498/2007) (in EUR)</b>	number (amount)	



<b>IV. Amounts of assistance from the EFF and national co-financing paid by the financial engineering instrument</b>			
<b>IV.1</b>	<b>Amounts of assistance paid to the final recipients through loans (per financial product)</b>	////////////////////////////////////	
IV.1.1	Name of product	text	
IV.1.2*	Number of final recipients supported, per type:	////////////////////////////////////	*
IV.1.2.1*	large enterprises	number	*
IV.1.2.1.2.	Enterprises with less than 750 employees or with a turnover of less than EUR 200 million as mentioned in Article 34(3)(b) of Council Regulation (EC) No 1198/2006.	number	
IV.1.2.2*	SMEs	number	*
IV.1.2.2.1*	out of which micro-enterprises	number	*
IV.1.2.3*	individuals	number	*
IV.1.2.5*	other	number	*
IV.1.3*	Number of loan contracts signed with final recipients	number	*
IV.1.4*	Total loan amount committed in contracts signed with final recipients (in EUR)	number (amount)	*
IV.1.4.1*	out of which Operational Programme contribution	number (amount)	*
IV.1.5	Total amounts of assistance for loans effectively paid to	number (amount)	

	the final recipients (in EUR)		
IV.1.5.1	out of which amounts of assistance from the EFF (in EUR)	number (amount)	
<b>IV.2</b>	<b>Amounts of assistance paid to the final recipients through guarantees (per financial product)</b>	////////////////////////////////////	
IV.2.1	Name of product	text	
IV.2.2*	Number of final recipients supported, per type	////////////////////////////////////	*
IV.2.2.1*	large enterprises	number	*
IV.1.2.1.2.	Enterprises with less than 750 employees or with a turnover of less than EUR 200 million as mentioned in Article 34 (3)(b) of Council Regulation (EC) No 1198/2006.	number	
IV.2.2.2*	SMEs	number	*
IV.2.2.2.1*	out of which micro-enterprises	number	*
IV.2.2.3*	individuals	number	*
IV.2.2.5*	other	number	*
IV.2.3*	Total amount of assistance blocked for guarantee contracts signed (in EUR)	number (amount)	*
IV.2.4	Total amounts of assistance blocked for guarantee contracts for actually disbursed loans (in EUR)	number (amount)	
IV.2.4.1	out of which amounts of assistance from the EFF (in	number (amount)	

	EUR)		
IV.2.5*	Number of loans actually disbursed in relation to guarantees contracts	number	*
IV.2.6	Total value of loans actually disbursed in relation to guarantees contracts (in EUR)	number (amount)	
<b>IV.3</b>	<b>Amounts of assistance paid to the final recipients through equity/venture capital (per financial product)</b>	////////////////////////////////////	
IV.3.1	Name of product	text	
IV.3.2*	Number of final recipients supported, per type	////////////////////////////////////	*
IV.3.2.1*	large enterprises	number	*
IV.1.2.1.2.	Enterprises with less than 750 employees or with a turnover of less than EUR 200 million as mentioned in Article 34 (3)(b) of Council Regulation (EC) No 1198/2006.	number	
IV.3.2.2*	SMEs	number	*
IV.3.2.2.1*	out of which micro-enterprises	number	*
IV.3.2.4*	other	number	*
IV.3.3*	Number of investments made in line with agreements signed	number	*
IV.3.4	Total amount of investments effectively made in line with agreements (in EUR)	number (amount)	

IV.3.4.1	out of which amounts of assistance from the EFF (in EUR)	number (amount)	
<b>IV.4</b>	<b>Amounts of assistance paid to the final recipients through other type of financial product (per financial product)</b>	////////////////////////////////////	
IV.4.1	Name of product	text	
IV.4.2*	Number of final recipients supported, per type	////////////////////////////////////	*
IV.4.2.1*	large enterprises	number	*
IV.1.2.1.2.	Enterprises with less than 750 employees or with a turnover of less than EUR 200 million as mentioned in Article 34 (3)(b) of Council Regulation (EC) No 1198/2006.	number	
IV.4.2.2*	SMEs	number	*
IV.4.2.2.1*	out of which micro-enterprises	number	*
IV.4.2.3*	individuals	number	*
IV.4.2.5*	other	number	*
IV.4.3	Total amount effectively disbursed to the final recipients (in EUR)	number (amount)	
IV.4.3.1	out of which amounts of assistance from the EFF (in EUR)	number (amount)	
IV.4.4*	Number of products effectively provided to the final recipients	number	*

<b>IV.5</b>	<b>Indicators</b>	////////////////////////////////////	
IV.5.1*	Number of jobs created or safeguarded	number	*

**Annex II**

**Guidelines on Closure 2007-2013**

Summary table of non-functioning projects  
(to be attached to the final report)

PRIORITY	PROJECT REFERENCE	PROJECT TITLE	NAME OF THE BENEFICIARY / RECIPIENT	CERTIFIED EXPENDITURE PAID <sup>1)</sup> (in EUR)	UNION CONTRIBUTION (in EUR)

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1) The total certified expenditure actually paid out for the project

### **Annex III**

#### **Guidance on preparation for the final control report and closure declaration**

### **PREPARATION FOR CLOSURE**

In preparation for closure, the managing authorities and intermediate bodies should:

- Analyse the final expenditure claims from all beneficiaries in relation to expenditure incurred up to the end of 2015.
- Complete management checks under Article 59(a) and (b) of the EFF Regulation and Article 39 of the EFF Implementing Regulation to verify eligibility and regularity of expenditure.
- Satisfy themselves that the final expenditure declaration for the programme (to be submitted to the certifying authority well in advance of the deadline of 31 March 2017) has been, and can be, reconciled with the records in the accounting system for the programme and that there is an adequate audit trail down to the level of the final recipient both for Union and national funds.
- Verify in the final expenditure declaration for the programme the amounts of public contribution actually paid to beneficiaries, in accordance with Article 78(1) and 80 of the EFF Regulation.
- Ascertain whether the conditions set out in this Article 34 of the EFF Implementing Regulation are met, namely in regard to financial engineering instruments (as defined in Article 55(8) of the EFF Regulation and Article 34 of the EFF Implementing Regulation).
- Verify that all errors/irregularities have been corrected, in respect of:
  - Management checks carried out under the provisions above-mentioned;
  - Systems audits carried out by the audit authority and audits of operations carried out under Article 42 of the EFF Implementing Regulation;
  - Verifications carried out by certifying authority
  - Audits by other national bodies;
  - Audits by European Commission;
  - Audits by European Court of Auditors

It should be noted that many of the above points are the completion of tasks, which need to be carried out regularly during the implementation of programmes.

In preparation for closure, the certifying authority should:

- Draw up application for payment of the final balance and a statement of expenditure in accordance with Article 77 of the EFF Regulation.



- Ensure that there is sufficient information from the managing authority to be able to certify the accuracy, eligibility and regularity of the amounts declared.
- Satisfy themselves that the conditions under Article 60 (points (b) to (f)) of the EFF Regulation are respected, namely that amounts recovered are repaid to the general budget of the European Union prior to the closure of the operational programme or, if this is not the case, that they have been taken into account in the final declaration of expenditure.
- Satisfy themselves that all errors/irregularities have been corrected and findings and recommendations of audits fully implemented.
- Request further information and/or undertake own verifications where necessary.
- Draw up the final statement on withdrawn and recovered amounts, pending recoveries and irrecoverable amounts, to be provided by 31 March 2017, in line with Article 46(2) and Annex X of the EFF Implementing Regulation.
- It is important that the application for payment of the final balance and a statement of expenditure, is submitted to the audit authority well in advance (e.g. at least three months before the deadline of 31 March 2017) so this body has sufficient time to carry out its work for the closure declaration<sup>8</sup>
- Draw up annex to the statement of expenditure on financial engineering instruments as foreseen in Article 34(2) of the EFF Implementing Regulation

At closure, the audit authority should:

- Verify if the work done by the managing authority/intermediate bodies and certifying authority in preparation for closure has adequately covered the points identified above.
- Ensure that there is sufficient and reliable information from the managing authority, intermediate bodies and certifying authorities to be able to provide an opinion on whether the final statement of expenditure presents fairly, in all material respects, the expenditure paid under the operational programme, that the application for payment of the final balance of the Community contribution to the relevant programme is valid and that the underlying transactions covered by the final statement of expenditure are legal and regular.
- Verify that all errors/irregularities have been corrected, in respect of:
  - Management checks carried out under the provisions above-mentioned;
  - Audits of operations carried out under Article 42 of the EFF Implementing Regulation;

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<sup>8</sup> The final statement on withdrawn and recovered amounts, pending recoveries and irrecoverable amounts would be prepared in the beginning of 2017. In any case, it should be submitted to the AA in time to allow this entity to perform necessary additional verifications.

- Audits by other national bodies;
  - Audits by European Commission;
  - Audits by European Court of Auditors
- Ensure that all the errors detected by the audit authority in the context of its audit of operations are analysed in accordance with Commission’s guidance on treatment of errors disclosed in annual control reports<sup>9</sup>. In particular, *"in the case of a systemic irregularity, the Member State shall extend its enquiries to cover all operations liable to be affected"*<sup>10</sup>.
  - Verify whether the certifying authority has complied with the conditions under Article 60 (points (b) to (f)) of the EFF Regulation, namely that amounts recovered are effectively deducted prior to the closure of the operational programme.
  - Verify whether the certifying authority has drawn up the final statement on withdrawn and recovered amounts, pending recoveries and irrecoverable amounts in line with Article 46(2) and Annex X of Regulation (EC) No. 498/2007. The audit authority should check whether the data contained in the statement is supported by the information contained in the certifying authority's system and contains all the irregularities subject of a financial correction until closure. The final control report should disclose the results of audit authority's checks in this regard and its conclusion on the reliability and completeness of the certifying authority's statement to be submitted under Article 46(2). In case the final statement on withdrawn and recovered amounts, pending recoveries and irrecoverable amounts is not considered reliable and/or incomplete by the audit authority this will be considered a serious deficiency of the management and control system, and it might be subject to financial corrections.
  - Verify in particular the following with regard to the final statement of expenditure and request for final payment:
    - The correct presentation of the documents;
    - The correctness of the calculations;
    - The reconciliation of the final statement to declarations of the managing authority and intermediate bodies;
    - Compatibility with the applicable financial tables of the last decision in force;
    - Correspondence with the financial information, including information on irregularities, in the final report on execution of the programme.
    - The correct implementation of the deductions related to withdrawals and recoveries mentioned in the corresponding statements on withdrawn and recovered amounts, pending recoveries and irrecoverable amounts (Annex X of Regulation (EC) No. 498/2007).

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<sup>9</sup> EFFC note 87/2012 of 9/11/2012.

<sup>10</sup> Article 98(4) of the EFF Regulation

- Verify the presence in the statement of expenditure of Annex on financial engineering instruments as foreseen in Article 34(2) of the EFF Regulation.

In the final control report, the audit authority should describe the work done in regard to the aspects above-mentioned and consider the following:

- If the audit authority uses the work of another national body to carry out systems audit or audit of operations, the audit authority should have full reliance on the quality of the work done by this body and this should be clearly mentioned in the final control report. If the audit authority does not have such reliance, the final report should disclose the measures taken to address this problem and conclude on whether this gives the audit authority reasonable assurance that the audit work has been performed in line with the Community and national Regulations and with internationally accepted audit standards.
- The final control report should provide information on the follow-up of irregularities.
- The final control report should disclose by programme:
  - the annual total projected error rates disclosed each year in the annual control reports (or the revised error rate, if any, for the annual control report 2015) (column D of table for declared expenditure and sample audits);
  - the annual total projected error rate resulting from the audits of operations carried out between 1 July 2015 and 31 December 2016 and covering the expenditure declared in 2015 and 2016 (column D);
  - the quantification of the risk per year (column E) resulting from: (i) the application of the total projected error rate (as presented in the ACR) to the population; or (ii) the application of a projected error rate or a flat rate agreed with the Commission following its assessment;;
  - other expenditure audited per year (column H), i.e., expenditure from complementary sample and expenditure for random sample not in the reference year and the related amount of irregular expenditure (column D);
  - the sum of all financial corrections applied by the Member State on the basis of the total expenditure paid by beneficiaries (column F);
  - the residual risk amount for each reference year (column G), resulting from the deduction of all the financial corrections mentioned in the previous point (column F) from the quantification of the risk (column E);
  - the residual error rate at closure, corresponding to the sum of the annual residual risk amounts divided by the sum of the total expenditure declared at closure. ( $K = G/A$ )
- The opinion of the audit authority in the closure declaration should be drafted taking into account the Commission's guidance on treatment of errors disclosed in annual control reports. This means in particular that the audit authority may disclose an unqualified opinion if the residual error rate at closure is below the

materiality level (2% of the expenditure declared). A qualified opinion is deemed appropriate in case this error rate is equal or above 2%, unless the Member State takes the necessary corrective measures (as foreseen in section 5.3 and 5.4 of the mentioned guidance) on the basis of that error rate, before submission of the closure declaration to the Commission.

- In case the Member State decides to take these correctives measures by an extrapolated or a flat-rate financial correction, this is applied to the expenditure not audited by the audit authority. In any case, all the errors detected in the sample, including the systemic, known and anomalous errors have to be corrected.
- The "table for declared expenditure and sample audits" to be presented in point 9 of the final control report is as follows.

TABLE FOR DECLARED EXPENDITURE AND SAMPLE AUDITS

Reference year	Fund	Reference (CCI no)	Programme	Expenditure declared in reference year (A)	Expenditure in reference year audited for the random sample (B)		Amount and percentage (error rate) of irregular expenditure in random sample <sup>[11]</sup> (C)		Total projected error rate <sup>[12]</sup> (D)	Quantification of the risk <sup>[13]</sup> (E)	Financial corrections applied by the MS on the basis of the total expenditure paid by beneficiaries <sup>[14]</sup> (F)	Residual risk amount (G=E-F)	Other expenditure audited (H) <sup>[15]</sup>	Amount of irregular expenditure in other expenditure audited (I)	Total expenditure audited cumulatively <sup>[16]</sup> as a percentage of total expenditure declared cumulatively (J) = [(B)+(H)]/A
					Amount <sup>[17]</sup>	% <sup>[18]</sup>	Amount	%							
2007															
	EFF														
Subtotal for year 2007 (in case of common system, same Fund)															
2008															
	EFF														
Subtotal for year 2008 (in case of common system different Funds)															
...															

<sup>11</sup> Where the random sample covers more than one Fund or programme, the information on the amount and percentage (error rate) of irregular expenditure is provided for the whole sample and cannot be provided on programme/fund level.

<sup>12</sup> The concept of total projected error rate is explained in section 2.6 of the Commission's guidance on treatment of errors (EFFC note 87/2012 of 9/11/2012). In case of non-statistical sampling (non-formal approach) for small populations, the error rate of the sample.

<sup>13</sup> The quantification of the risk per year (column E) results from: (i) the application of the total projected error rate (as presented in the ACR) to the population; or (ii) the application of a projected error rate or a flat rate agreed with the Commission following its assessment

<sup>14</sup> The total of column (F) should be coherent with the amounts disclosed by the MS under Annex X of Regulation (EC) No. 498/2007.

<sup>15</sup> Expenditure from complementary sample and expenditure for random sample not in the reference year (for further guidance see EFFC note 0037/2009-EN on annual control reports and opinions).

<sup>16</sup> Includes both expenditure audited for the random sample and the other expenditure audited.

<sup>17</sup> Amount of expenditure audited.

<sup>18</sup> Percentage of expenditure audited in relation to expenditure declared to the Commission in the reference year.

2016															
<b>TOTAL</b> <sup>[19]</sup>															
<b>Residual risk rate at closure</b>															
<b>(K) = (G)/(A)</b>															

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<sup>19</sup> The annual amounts reported under column (A) should be equal to the amounts disclosed in the respective Annual Control Report under table 9. The total of the column (A) should be the equal to the total amount presented at closure in the certificate and statement of expenditure and application for final payment.

**Annex IV**

**Guidelines on Closure 2007-2013**

Summary table of suspended projects  
(to be attached to the final report)

OP TITLE					
CCI NUMBER					
PRIORITY	PROJECT REFERENCE	PROJECT TITLE	NAME OF THE BENEFICIARY / RECIPIENT	CERTIFIED EXPENDITURE PAID <sup>1)</sup> (in EUR)	UNION CONTRIBUTION (in EUR)

1) The total certified expenditure actually paid out for the project

\* Put an X in the appropriate column