

Member State questions within the framework of the EGESIF discussion on the draft Closure Guidelines¹

DISCLAIMER

This document was prepared by and expresses the view of the Commission services and does not commit the European Commission. Only the Court of Justice of the European Union is competent to authoritatively interpret Union law.

It should be noted that this document was prepared at a time when the Closure Guidelines had not yet been finalised, except for the replies to the fourth and fifth sub-set of questions received from the Member States.

| | MS | Category | Sub-Category | Question | Answer |
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| 1 | Czech Republic | General question on EUR conversion | | General remark to the EUR/CZK conversion: The document uses limits in EUR (e.g. phased projects). To determine the given limit, we haven't found any information in the Closure Guideline about the exchange rate that will be used for conversion to the given limit. Do you have this information? If not, it would probably be more suitable to add this to the Closure Guideline. | For the purposes of calculating the threshold for phased projects, the calculation of the total cost of both phases may be made using a conversion into euro on the basis of the amount indicated in the document setting out the conditions for support, by using the monthly accounting exchange rate of the Commission in the month during which this document was last amended. The conversion rate for all expenditure declared should be made on the basis of Article 133 of the CPR. |
| 2 | Croatia | 01. General Principles | EMFF | Since the Guidelines are apply for EMFF, we have a question related to the Final implementation report. There is no such thing as final Implementation report for EMFF. By 31.05.2024 should be submitted the last annual implementation report (article 138). Shall we also submit something additional? | This is clarified in the draft Closure Guidelines, which provide that for the programmes supported by the EMFF a final implementation report is not required. Instead, the last annual implementation report must be submitted by 31 May 2024 and include the information described in Article 50(2) of the CPR and Article 114 of Regulation (EU) No 508/2014. The structure of such annual implementation report is set out in Annex to Commission Implementing Regulation (EU) No 1362/2014. No additional information is required for the EMFF. |

¹ This version of the Q&A document includes only a corrigendum of the answer provided to question 323, which is marked. The answers to the rest of the questions remain unchanged.

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| 3 | Greece | 01. General Principles | EMFF | We would like to ask if the Commission (DG Mare) intends to issue more specific guidelines on the closure of EMFF Operational Programs. | No, the EMFF is under the scope of the draft Closure Guidelines and there will not be additional guidelines by DG MARE. |
| 4 | Spain | 01. General Principles | General Principles | Paragraph 1.GENERAL PRINCIPLES - This paragraph should also refer to the treatment of irrecoverable amounts subsequently developed in paragraph 9.2. | It is not considered necessary. |
| 5 | France | 02. Possibility of Early Closure | Procedure | What is the procedure to request an early closure? A letter addressed to the Commission for each programme? Is an entry in SFC2014 necessary? | Member States may request an early closure provided that they have carried out all the activities related to the implementation of the programme. The request can be done through a letter sent to the Commission for each programme submitted by SFC. |
| 6 | Slovakia | 02. Possibility of Early Closure | Procedure | Section 2 – We would like to clarify the following conditions of proof: “Member States may request an early closure provided that they have carried out all activities related to the implementation of the programme”. | In order to request an early closure, the Member State must have carried out all the activities related to the implementation of the programme. In particular, this condition refers to the fact that the total EU support (budget) of the programme has been consumed. |
| 7 | Greece | 02. Possibility of Early Closure | Non-functioning Operations | Please confirm that the deadline for the non-functioning operations will be still valid also for early closure of an OP. | Early closure is not possible for programmes with non-functioning operations, since in order to request an early closure, the Member State must have carried out all the activities related to the implementation of the programme ² . If the programme contains non-functioning operations, it cannot be considered that all the activities relating to the implementation of the programme have been carried out. |
| 8 | Poland | 02. Possibility of Early Closure | Deadlines | How early does the application for early closure have to be submitted? | There is no deadline for the request of an early closure, as long as all the activities related to the implementation of the programme have been carried out. |

² 28/04/2021: Text clarified compared to the version of 10/03/2021, without change in substance, in order to align with the wording of question 6.

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| 9 | Poland | 02. Possibility of Early Closure | Deadlines | When does the Commission take decisions on the requests for early closure (standard three months from receipt of the application)? | The Commission services will take a decision within the standard deadlines. No specific deadline to reply to an early closure request has been foreseen at this stage. |
| 10 | Greece | 03. Preparation for closure | 3.2 Submission and amendment of major projects | In sub-section 3.2 "Submission and amendment of major projects" it is stated that "Member States should submit a request for major project approval or amendment by 30 September 2023". It is considered critical to extend this date (proposed 15/12/2023) in order to include expenses necessary for the closure of the program. | The Commission proposed this deadline in order to be able to approve the major projects or amend them in due time before the end of the eligibility period. Regarding requests for major project approval, it is reasonable to expect that no new projects will be presented at the end of eligibility period when there will be no time to implement them. |
| 11 | Romania | 03. Preparation for closure | 3.2 Submission and amendment of major projects | "As major projects involve considerable amounts of the Funds and are therefore important for the overall performance of the programmes, Member States should submit a request for major project approval or amendment by 30 September 2023. This will permit adoption of the decisions before the final date of eligibility, 31 December 2023." Please clarify the object of the amendments for which the approval of the EC should be obtained, given the above-mentioned provision. Are such amendments referring only to the indicators/objectives aimed by the major projects concerned, as well as to the related allocation of funds? | A request for modification needs to be made by the Member State through SFC2014. Changes need to be assessed on the basis of their effect on the feasibility, economic viability and compliance with EU law of the major project and major project data provided in SFC2014. Procedure according to Article 102(1) of the CPR: A modification will be needed when the changes of data in SFC 2014 may have an impact on the feasibility, economic viability and compliance with EU law of the major project and require re-assessment. In case there are substantial changes that require re-assessment (independent quality review), JASPERS IQR issues a new IQR report. In both cases, the Member State submits its modification request to the Commission through a new notification form and either the JASPERS's confirmation of the validity of the previous report or the updated IQR report. The Commission conducts the appraisal procedure, which may result in "acknowledged by the Commission" or negative decision. Procedure according to Article 102(2) of the CPR: This procedure is based on the application form and its supportive documents being presented directly to the Commission. The Member State submits its modification request to the Commission through an updated application form |

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| | | | | | <p>and its updated supportive documents. The Commission conducts the appraisal procedure, which may result in "acknowledged by the Commission" when the changes do not affect the feasibility, economic viability and compliance with EU law; a positive amending decision or negative decision when they do. Any change of the total eligible costs results in a modifying Commission decision (positive or negative).</p> <p>Procedure according to Article 103 of the CPR:</p> <p>This procedure relates to the second phase of major project, approved tacitly under Article 103. In most cases, such projects should not undergo any significant modifications as projects should have been in advanced construction from the previous programming period.</p> <p>For non-significant modifications, the Member State submits an updated notification form to the Commission. The Commission conducts the appraisal procedure, which may result in "acknowledged by the Commission" if the qualification of changes as non-substantial are confirmed as a result of the Commission appraisal.</p> <p>The draft Closure Guidelines provide:</p> <p>“The submission and notification of major projects must follow the procedures set out in Article 102 and 103 of the CPR and the information requirements of Article 101 of the CPR, of Commission Implementing Regulation (EU) 2015/207 and of Commission Implementing Regulation (EU) No 1011/2014.</p> <p>The requests for amendment of major projects must follow the same procedure as the one used for the initial notification or submission to the Commission (Article 102(1) or Article 102(2) of the CPR respectively). Amendments of major projects include phasing requests, amendments of major projects still to be completed in the 2014-2020 programming period and cancellation of major projects.</p> |
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| 12 | Poland | 03. Preparation for closure | 3.1 Amendment of Commission decisions for programmes | Programme amendments require a decision of the Commission (Article 30 CPR), but non-substantial transfers (up to 8% /axis and 4% /programme) requires just notification (Article 30(5)). Therefore, the latter should not be included in the chapter referring to amendments requiring decisions of the Commission. | The title of this section has been changed in the draft Closure Guidelines to “Amendment of programmes”. |
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| 13 | Italy | 03. Preparation for closure | 3.1. Amendment of Commission decisions for programmes | <p>Requests for amendment of the programme (including changes to the financial plans to transfer resources between priority axes of the same programme, within the same category of region and the same Fund) should be submitted by 30 September 2023, three months before the final date of eligibility of expenditure. The 2007-2013 Closure Guidelines provided that requests for amendment of a programme decision could be submitted until the final date of eligibility of expenditure (31 December 2015); however, the Commission recommended submitting the amendment application until three months earlier (see 30 September 2015). We request that the same deadlines as laid down in the 2007-2013 Closure Guidelines, paragraph 2.3, be maintained and that, therefore, requests for amendment of a decision concerning a programme can be submitted until the final date of eligibility of expenditure.</p> <p>The following amendment is proposed in the context of the paragraph: “In order to ensure the proper implementation of programmes and the timely preparation of closure, Member States may submit requests for amendment of the programme, including amendments to financing plans to transfer funds between priority axes of the same programme within the same category of region and the same Fund, by the final eligibility date.(...)”.</p> | <p>Amendments of financing plans to transfer funds between priority axes of the same programme under the same category of region and the same fund need to be submitted by 30 September 2023. This will permit decisions to be adopted before 31 December 2023 (final date of eligibility).</p> <p>These deadlines are not compulsory but are highly recommended in order to give the Commission sufficient time to process the amendments on time before the end of the eligibility period.</p> <p>For non-substantial transfers, the financial tables should be notified before the end of the eligibility period.</p> |
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| 14 | Belgium | 04. Financial Management | 4.4 Overbooking | <p>In general, point 4.4 relating to overbooking deserves to be clarified (in particular with regard to annual closings and the invitation made to the certification authorities to "postpone the declaration of excess expenditure to the last financial year").</p> | <p>Following the concept of annual acceptance of the accounts, payment applications are cumulative only within a given accounting year. Therefore, if a priority axis reaches the maximum Funds contribution set out in the Commission decision approving the programme before the final accounting year (i.e. already in 2022), amounts which are declared (and eligible) for this priority will not be "carried over" to the next accounting year, as the declaration of expenditure starts again from 0. Consequently, the "overbooking" is lost for the programme.</p> <p>A solution to this issue put forward in the draft Closure Guidelines is that certifying authorities may decide that amounts entered in their accounting systems in an accounting year are declared to the Commission in a subsequent accounting year or in the final accounting year</p> <p>If Member States wish to have overbooked expenditure available in the final accounting year, they can refrain from declaring to the Commission overbooked expenditure in any accounting year before the final one and use this expenditure considering the needs of the programme.</p> <p>Member States may consider declaring overbooked expenditure only in the final accounting year except if: a) they need to declare it in an earlier accounting year to replace irregular amounts detected; or b) they modify the financing plan in accordance to the rules applicable to the programme amendments.</p> |
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| 15 | Belgium | 04. Financial Management | 4.4 Overbooking | A question also concerning Point 4 Overbooking: “As payment applications are cumulative only within a given accounting year, if a priority reaches the maximum Funds contribution set out in the Commission decision approving the programme before the final accounting year, expenditure declared to the Commission in excess of this maximum Funds contribution for the priority will not be carried over to the next accounting year” => overbooked expenditure cannot move forward to a later accounting year (to replace irregular amounts). | Correct. |
| 16 | Belgium | 04. Financial Management | 4.4 Overbooking | “Overbooked expenditure declared to the Commission in the final accounting year will be considered at and after closure to replace irregular amounts (declared in any accounting year, including the final accounting year)” => overbooked expenditure can move backwards to replace irregular amounts in earlier accounting years. Is this correct? | Correct. However, TER and RTER for previous accounting years cannot be recalculated. |
| 17 | Belgium | 04. Financial Management | 4.4 Overbooking | Concerning the following sentence mentioned in point 4.4. “Overbooking”: “Overbooked expenditure declared to the Commission in the final accounting year will be considered at and after closure to replace irregular amounts (declared in any accounting year, including the final accounting year) and for the 10% flexibility as per Article 130 (3) of the CPR ”, does this mean that you can only use the 10% flexibility in the event of overbooking? | Correct. |

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| 18 | Czech Republic | 04. Financial Management | 4.4 Overbooking | We would welcome more flexible approach to overbooking declared before the final accounting year, where this overbooking would be included in the calculation of the final balance. In our point of view the limitation introduced in this chapter is rather technical and should not lead to unnecessary constraints in the implementation of the well performing priorities and programmes. | See reply to question 14. The overbooked expenditure has to be included in the final application for an interim payment in the final accounting year so the Commission can take it into consideration, including for the 10% flexibility. |
| 19 | Slovakia | 04. Financial management | 4.4. Overbooking | We don't see the reason not to allow the MS to declare overbooked expenditure before the final accounting year only because of the yearly closure concept. This is rather technical problem, which can be resolved on the Commission side. Therefore, we have to stick to our comment for the same reasons (see comment 44 of the Q&A). | See replies to questions 14 and 18. |
| 20 | Latvia | 04. Financial Management | 4.4 Overbooking | According to the guidelines section 4.4. "Taking the above into account, and should Member States wish to have overbooked expenditure available in the final accounting year, they could refrain from declaring to the Commission overbooked expenditure in any accounting year before the final accounting year and use this expenditure considering the needs of the programme." (this sentence is quoted as example) it is not acceptable to declare overbooked expenditure before the final accounting year. We would like to object this provision and ask to reconsider this by allowing to declare flexibly in cumulative way all the expenditure incurred and amount declared above contribution to use as overbooking. Otherwise it creates administrative | See reply to questions 14 and 18. |

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| | | | | burden in the process of declaration. We do not highlight projects, which are covered from overbooking. | |
| 21 | Poland | 04. Financial Management | 4.4 Overbooking | point 4.4 + annex IV - Please explain why the overbooking procedure may only apply to expenditure declared in the final accounting year. Procedure for final balance calculation is based on the expenditure certified during the entire implementation period. It seems possible to change the method of final balance calculation by taking into account overbooking from previous accounting years. Proposal for a modified formula: $M = F = C * (D + D1)$ or $C * (E + E1)$. | See reply to questions 14 and 18. |
| 22 | Spain | 04. Financial Management | 4.4 Overbooking | The practical application of the content of this section as set out in the guidelines may be complex, has no added value and could be a source of confusion, since it would mean re-declaring the amounts that in previous years exceeded what had been programmed for each axis, given that these amounts do not correspond to specific claims for reimbursement and that the amounts declared cumulatively are included in the information system for checking compliance with the n + 3 rule. For this reason, it is proposed, for the purpose of calculating the closure, that the amounts declared should be cumulative from the origin of the programme, and that the excess amounts should be used, as indicated in the guidelines, both to compensate for possible financial corrections and to make use of the flexibility of transfer between axes of 10 % allowed by the Common Provisions Regulation (CPR). The text of point 4.4 should therefore be | See reply to questions 14 and 18. |

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| | | | | amended to make it clear that implementation is possible. | |
| 23 | Czech Republic | 04. Financial Management | 4.3 Calculation of the final balance (Flexibility) | What is the final date for submission of programme amendments in case of transfers between different funds or categories of region of the same programme according to Article 25a (2)? | <p>Article 25a(2) of the CPR, as amended by Regulation (EU) 2020/558 of 23 April 2020 ('CRII+') reads as follows:</p> <p>“In response to the COVID-19 outbreak, the resources available for programming for the year 2020 for the Investment for growth and jobs goal may, at the request of a Member State, be transferred between the ERDF, the ESF and the Cohesion Fund, irrespective of the percentages referred to in points (a) to (d) of Article 92(1).”</p> <p>Modifications which include transfers between Funds, between programmes or between categories of regions needed to be submitted and adopted by the end of 2020 because they imply a budgetary commitment which can only be done in the same year (on the basis of Articles 14 and 15 of the Financial Regulation).</p> <p>This means that after the end of 2020 it is still possible to transfer resources between priority axes as long as these transfers concern the same programme, the same Fund and the same category of region.</p> |
| 24 | Czech Republic | 04. Financial Management | 4.3 Calculation of the final balance (Flexibility) | We would like to ask for clarification concerning provisions related to possible flexibility for REACT-EU. The sentence in the bracketed paragraph „In this regard, no flexibility can be applied between the programme’s additional resources priorities and the ERDF and ESF priorities broken down per category of region“ is not totally clear. If the 10% flexibility is possible between the same fund and category of region (for ERDF/ESF), would it be also possible between the priority axis of additional resources from REACT-EU under one fund (for instance the ERDF) and the same fund (ERDF) priority axis that has only one category of region? | <p>REACT-EU resources constitute external assigned revenue, which in accordance with Article 21(1) of the Financial Regulation shall be used to finance specific items of expenditure. REACT-EU resources are kept on specific budget lines, separate from the non-REACT-EU ERDF and ESF. Therefore, it is not possible to apply the 10% flexibility between them, as this would imply a modification of the budgetary commitment after the year in which it was made.</p> <p>As a result, in the case of REACT-EU, the flexibility will only apply between the REACT-EU priorities of the same Fund within the same programme, e.g. between two REACT-EU ERDF priorities.</p> |

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| 25 | Spain | 04. Financial Management | 4.3 Calculation of the final balance (Flexibility) | <p>At the closure of the programme, the transfer of up to 10 % of the financial allocation between axes of the same programme is allowed. If this flexibility is applied, this variation should be extended to the targets of the performance framework indicators.</p> | <p>The flexibility provided by Article 130(3) of the CPR is a mechanism whereby the EU payment to a priority (per Fund and per category of regions) exceeds the level set in the Commission decision adopting the programme.</p> <p>To benefit from this flexibility, there is no need for an OP modification. Consequently, the indicator targets shall not be adjusted either. When assessing the indicator achievement against the target, the application of this flexibility will be taken into consideration.</p> <p>It should be noted that, in line with the provisions of the Implementing Regulation (EU) No 215/2014, it is not required that the performance framework represents all types of investments under the priority axis and the minimum thresholds of achievement are way below 100%. Therefore, sufficient flexibility is already in place to account for the additional 10% in EU contribution to a priority axis.</p> |
| 26 | Estonia | 04. Financial Management | 4.3 Calculation of the final balance | <p>Whether it is possible to replace costs (for example in case of major irregularities) with other suitable costs in the OP context that are not necessarily initially selected and implemented as Structural Funds project costs (not implemented as overbooking). Would it be possible to open up this opportunity also in the draft closure guideline (under 4. financial management), for example under what conditions this is allowed, at what stage, what is the negotiation procedure? Or if this is already covered somewhere, I would really appreciate any reference to that.</p> <p>For the meeting (if there is enough time), I would like to suggest presenting two examples of calculation of final programme level EU contribution based on closure excel worksheet just sent, where 1) actual national public contribution considerably exceeds national public contribution agreed in the</p> | <p>No, it is not possible. The overbooked expenditure has to comply with all applicable cohesion policy rules to be legal and regular. In addition, the proposed approach seems to be in breach of Article 65(6) of the CPR, i.e. "Operations shall not be selected for support by the ESI Funds where they have been physically completed or fully implemented before the application for funding under the programme is submitted by the beneficiary to the managing authority."</p> <p>It is important to consider that Annex IV to the draft Closure Guidelines represents a conceptual illustration of how flexibility between priorities works at closure. It is not to be understood as a calculation sheet for the closure of a programme, which is more complex than what is included in Annex IV and which will be developed at a later stage.</p> <p>The "or" in column F means that the co-financing rate has to be applied to the Total expenditure declared "or" to the public expenditure depending on the basis of calculation that was defined in the operational programme.</p> |

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| | | | | financial plan, and 2) where actual national private contribution considerably exceeds national private contribution agreed in the financial plan. I do not quite understand this “or” in the table column F based on the examples provided. Just to be safe at closure. | |
| 27 | Malta | 04. Financial Management | 4.3 Calculation of the final balance | Calculation of the final balance: we would like to propose the following revisions to the text: by more than 10%, the contribution from the Funds for each priority per Fund and per category of region as set out in the Commission decision approving the programme, and any modification made to such programme. This revision is being proposed since the text as presented does not seem to take into account subsequent Commission decisions issued for programme modifications. | When draft Closure Guidelines refer to the decision approving the programme, reference is made to the latest Decision. |
| 28 | Poland | 04. Financial Management | 4.3 Calculation of the final balance | Shouldn't the moment of calculating the final balance be the moment when the Commission pays out the amounts retained from each subsequent payment claim, i.e. the difference between the amount claimed and paid out on the basis of the payment claim? Please provide more details on possible practical ways of proceeding by managing authorities with regard to the transfer of funds between priorities pursuant to Article 130(3) of the CPR. | The provisions for calculating the final balance are provided in Article 130(3) of the CPR. Annex IV to the draft Closure Guidelines represents a conceptual illustration of how flexibility between priorities works at closure. It is not to be understood as a calculation sheet for the closure of a programme, which is more complex than the illustration included in Annex IV and which will be developed at a later stage. |
| 29 | Spain | 04. Financial Management | 4.2 Clearance of the initial and annual pre-financing | It is proposed to include the possibility for a Member State to request the Commission to offset the initial pre-financing before closure. For example, in the two previous annual accounts | Article 82 of the CPR stipulates that the amount paid as initial pre-financing shall be totally cleared from the Commission accounts not later than when the programme is closed. Therefore, the clearing can start in earlier accounting years, if a programme receives the maximum Funds contribution set out in the Commission decision approving the programme. |

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| 30 | Spain | 04. Financial Management | 4.2 Clearance of the initial and annual pre-financing | The procedure described in this paragraph should be applied when the total aid ceiling of a programme as a whole is reached, not when the maximum level of support for each priority is reached. | Correct. The programme has to receive the maximum Funds contribution set out in the Commission decision approving the programme in order to start clearing the initial pre-financing. |
| 31 | France | 04. Financial Management | 4.1 Decommitment | In case of decommitment of the part of the unused commitments on 31 December 2020, the amounts are decommitted in the course of closure. For a program that has submitted complete and on-time closure documents, when exactly does the decommitment apply: when calculating the final balance of the programme mentioned in point 4.3 of the text, after 31 may 2025 or before? | For a programme that has submitted the closure documents by 15 February 2025 (or 1 March 2025 if extended by the Commission), the decommitment of the unused commitments will be done after establishing the final balance to be paid/recovered. |
| 32 | France | 04. Financial Management | 4.1 Decommitment | The text indicates that the part of commitments still open on 31 December 2023 will be decommitted in the course of closure if any of the closure documents has not been submitted to the Commission by 15 February 2025 or 1 March 2025. Does this mean that for the calculation of the "decommitment" of the 2020 annual allocation, the last annual allocation of the programming period 2014-2020, the Commission will take into account the expenditure declared to the Commission even after 31 December 2023, end date of eligibility of expenditure in accordance with the article 65.2 of the CPR? | Member States can declare expenditure to the Commission after 31 December 2023 (final date of eligibility). According to Article 135(2) of the CPR, the certifying authority shall submit the final application for an interim payment by 31 July following the end of the previous accounting year. Therefore, the certifying authority can submit the last final application for an interim payment by 31 July 2024 (after the end of the final accounting year). |

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| 33 | France | 04. Financial Management | 8. Operations affected by on-going national investigations or suspended by a legal proceeding or by an administrative appeal having suspensory effect | Are the application for payment of the final balance mentioned in Article 41.d of the CPR and the final application for an interim payment mentioned at point 8 of the text, one and the same document mentioned? | <p>Article 135 of the CPR names two types of payment applications: the application for an interim payment and the final application for an interim payment, which needs to be submitted by 31 July following the end of the previous accounting year.</p> <p>The draft Closure Guidelines in its section on operations affected by on-going national investigations or suspended by a legal proceeding or by an administrative appeal having suspensory effect refers to the final application for an interim payment to be submitted by 31 July 2024 (following the end of the final accounting year).</p> <p>Article 41(d), second subparagraph of the CPR, although setting the rules specifically for the financial instruments, refers to the same payment application as the above-mentioned draft Closure Guidelines.</p> |
| 34 | Malta | 04. Financial Management | 4.1 Decommitment | Section 4.1 Decommitment: The document specifies that there will be decommitment of any part of the commitments open on 31st December 2023, if any of the closure documents are not submitted by 15th February 2025 (or 1st March 2025 if deadline is extended). The way this is phrased seems to imply a contrario sensu, that if the closure documents are submitted by the abovementioned deadline, the decommitment will not occur. While as MA we believe that this is not the message that the Commission wants to give, we suggest that the text is reworded to avoid such possible interpretation. | The quoted sentence is fully in line with Article 136(2) of the CPR. There is another sentence in the same section in the draft Closure Guidelines which explains that unused commitments related to the last year of the programming period will be decommitted in the course of closure. Therefore, the Commission does not think that there is room for misinterpretation, as suggested by the Member State. |
| 35 | Romania | 04. Financial Management | 4.4 Overbooking | "If overbooked expenditure is not needed before the final accounting year, Member States would declare to the Commission such expenditure, including expenditure incurred and paid by beneficiaries during the previous accounting years, only in the final accounting year (or at an earlier | See reply to questions 14 and 18. |

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| | | | | <p>stage if a Member State opts for an early closure). Overbooked expenditure declared to the Commission in the final accounting year will be considered at and after closure to replace irregular amounts (declared in any accounting year, including the final accounting year) and for the 10% flexibility as per Article 130(3) of the CPR18. Without prejudice to Article 145(7) of the CPR, the Member States may be able to replace irregular amounts, which are detected after the submission of the accounts of the final accounting year/after closure, using overbooked expenditure."</p> <p>RO: Regarding the replacement of ineligible expenditure with overbooked expenditure, our proposal is to be able to use overbooked expenditure, which meet the eligibility conditions, even if they were not included in the final application for an interim payment.</p> | |
| 36 | Belgium | 04. Financial Management | 4.4 Overbooking | <p>Concerning the following sentence mentioned in point 4.4. "Overbooking": «Overbooked expenditure declared to the Commission in the final accounting year will be considered at and after closure to replace irregular amounts (declared in any accounting year, including the final accounting year) and for the 10% flexibility as per Article 130(3) of the CPR», does this mean that you can only use the 10% flexibility in case of overbooking?</p> | Correct. |

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| 37 | Cyprus | 04. Financial Management | 4.4 Overbooking | <p>“As payment applications are cumulative only within a given accounting year, if a priority reaches the maximum Funds contribution set out in the Commission decision approving the programme before the final accounting year, expenditure declared to the Commission in excess of this maximum Funds contribution for the priority will not be carried over to the next accounting year.”</p> <p>Although we understand the logic of annual accounts, we still believe that it is not fair for the member states if declared eligible expenditure are not taken into account during the closure procedure, if these were declared at prior accounting year and the Priority has already reached the maximum amount of EC contribution. There is always the risk for the Member States to have some financial corrections at the said priority during closure or need to apply the 10% flexibility rule between priorities of the same Fund.</p> | See replies to questions 14 and 18. |
| 38 | Hungary | 04. Financial Management | 4.4 Overbooking | If a priority reaches the maximum Funds contribution set out in the Commission decision approving the programme before the final accounting year, what will happen with the expenditure declared to the Commission in excess of the maximum Funds contribution for the priority (as it cannot be carried over to the next accounting year)? How can Member States make that expenditure accountable? | See reply to questions 14 and 18. |
| 39 | Hungary | 04. Financial Management | 4.3 Calculation of the final balance | We suggest a 10% flexibility in the case of Thematic Objectives as well. | This is not possible. According to Article 130(3) of the CPR, the flexibility will only apply per Fund and per category of regions. |

| | | | (Flexibility) | | |
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| 40 | Hungary | 04. Financial Management | 4.4 Overbooking | <p>4.4 Overbooking (p6, last paragraph):</p> <p>Due to the annual clearance logic, it is not clear whether the amounts related to the overbooking reported in the last accounting year can also cover irregularities detected retrospectively to previous years. Please confirm this.</p> | <p>As per draft Closure Guidelines, this is possible:</p> <p>“Overbooked expenditure declared to the Commission in the final accounting year will be considered at and after closure to replace irregular amounts (declared in any accounting year, including the final accounting year) and for the 10% flexibility as per Article 130(3) of the CPR. Without prejudice to Article 145(7) of the CPR, the Member States may be able to replace irregular amounts, which are detected after the submission of the accounts of the final accounting year/after closure, using overbooked expenditure.”</p> |
| 41 | Italy | 04. Financial Management | 4.4 Overbooking | <p>The whole paragraph should be amended by allowing the use of overbooking for accounting periods prior to the final accounting year (1 July 2023-30 June 2024), as the intended limitations on the use of overbooking are entirely new and are also in contradiction with the rules governing the functioning of payment requests and accounts, and do not provide for any mention of the borderline cases described in the guidelines.</p> <p>It is even more serious that this restrictive approach emerges and is proposed by the European Commission precisely at a time when many OPs, in order to deal with the COVID emergency, are undergoing major reprogramming, involving a shift of significant resources from one axis to another, and would therefore require maximum flexibility in the use of resources within the programmes.</p> <p>The following rewording of paragraph 4.4 is proposed:</p> <p>“Overbooking is the practice of Member</p> | <p>See reply to questions 14 and 18.</p> |

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| | | | <p>States to declare to the Commission eligible expenditure exceeding the maximum contribution from the Funds laid down in the Commission decision approving the programme.</p> <p>Although payment applications are cumulative within a given accounting year, if a priority achieves the maximum contribution from the Funds laid down in the Commission decision approving the programme before the final accounting year, expenditure declared to the Commission in excess of that year will be taken into account for the calculation of the final balance.</p> <p>Due to the regulatory changes to combat the health emergency caused by COVID 19, where due to the application of the increase in the EU co-financing rate to 100 % referred to in Article 25a (1) of Reg.1303/2020 * and/or the need for Member States to speed up the certification of expenditure for operations to promote crisis response capacities in the context of the COVID-19 outbreak, as referred to in Article 65 (10) (2) * *, also at the same EU co-financing rate, the final accounting period may be replaced by the closure of the accounting period, including the closure of the previous accounting period, may lead to changes to the health emergency caused by COVID, where due to the application of the increase of the EU co-financing rate to 10 % referred to in Article a of * and/or the need for the Member States to speed up the certification of expenditure for operations to promote crisis response</p> | |
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| | | | | <p>capacities in the context of the COVID-outbreak, as referred to in Article *.</p> <p>Overbooking expenditure declared to the Commission will be taken into account at closure and after closure to replace irregular amounts (declared in any accounting year, including the final accounting year) and for the 10 % flexibility under Article 130(3) CPR. Without prejudice to Article 145(7) CPR, Member States may replace irregular amounts, recognised after the submission of the accounts of the final accounting year/after closure, using expenditure in overbooking.”</p> <p>* As introduced by Regulation (EU) 2020/558 of 23 April 2020.</p> <p>* * As amended by Regulation (EU) 2020/460 of 30 March 2020</p> | |
| 42 | Netherlands | 04. Financial Management | 4.4 Overbooking | <p>We would like to have some further clarification related to paragraph 4.4./overbooking, i.e. how overbooking should be understood and used. Do we understand correctly that overbooking should in principle be only used in the final accounting year but may then also include undeclared expenditure (to the EC) from previous accounting years (e.g. amounts that were withheld as ‘buffer’)?</p> | <p>As advised in the draft Closure Guidelines, certifying authorities may decide that amounts entered in their accounting systems in an accounting year are declared to the Commission in a subsequent accounting year or in the final accounting year.</p> <p>If Member States wish to have overbooked expenditure available in the final accounting year, they can refrain from declaring to the Commission overbooked expenditure in any accounting year before the final one and use this expenditure considering the needs of the programme.</p> <p>Member States may consider declaring overbooked expenditure only in the final accounting year except if: a) they need to declare it in an earlier accounting year to replace irregular amounts detected; or b) they modify the financing plan in accordance to the rules applicable to the programme amendments.</p> |

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| 43 | Portugal | 04. Financial Management | 4.4 Overbooking | <p>In summary, it is stated that overbooking should only be declared in the final EC (23/24) and that any overbooking certified in previous ECs will not be carried over to the next EC. In this respect, and even if payment claims are cumulative in a given accounting year, we believe that this measure will bring constraints at the level of closure, emphasising the amount of expenditure to be certified and therefore audited in the Final Accounting Exercise. Although requests for payment are made cumulatively by Accounting Exercise, the contribution from the Funds in the form of payments of the final balance for each priority, by Fund and by category of regions, in the final accounting year shall not exceed:</p> <p>-at Axis level by bottom and by category of region:</p> <p>by more than 10 %, the contribution from the Funds to each priority per Fund and by category of region as defined in the Commission decision approving the programme</p> <p>-at programme level:</p> <p>Eligible public expenditure declared; or the contribution of each fund and category of regions to each programme.</p> <p>Therefore, having the Commission all the information on the total of payments made throughout the accounting exercises and the volume of expenditure declared (Total Cost and corresponding Public Expenditure), we believe that the declaration of expenditure in overbooking, in accounting exercises</p> | See reply to questions 14 and 18. |
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| | | | | <p>prior to the accounting exercise of 23-24, should not be penalising for the MS.</p> <p>We therefore believe that this measure should be removed from the guidelines as the Commission books this information for the purposes of monitoring payment limits as shown in the spreadsheet annexed to the draft guidelines. In situations where the amount declared for a priority exceeds the programmed fund for that priority, payment is naturally limited but the remainder, irrespective of the accounting exercise of its certification, would be accounted for by the Commission for the purpose of payment of the final balance.</p> | |
| 44 | Slovakia | 04. Financial Management | 4.4 Overbooking | <p>If the priority axis reaches the maximum contribution from the Fund set out in the EC Decision, expenditures exceeding this maximum contribution on the given priority axis will not be carried over to the following accounting year. Such expenditures can be used to reimburse (EC declaration) ineligible expenditures, resp. they may be declared when the financial plan is changed.</p> <p>Expenditure in excess of the maximum contribution declared by the EC in the last accounting year will be taken into account after closure so as to compensate for ineligible expenditure (declared in any accounting year) and for 10% flexibility (Art. 130). This is a rule beyond CPR. In practice, we have found that the restriction is already on the category of region, not only on the priority axis, as stated in Guideline. The non-inclusion of excess expenditures in the currently processed accounting year</p> | See reply to questions 14 and 18. |

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| | | | | <p>leads to complications on the part of the Member State in the processing of the payment request to the EC. Expenditures that exceed the set maximum contributions for the priority axis, resp. category of the region must be artificially reduced, which is a non-systemic solution. In the case of meeting the limits at the level of the category of regions, there is a reduction not only in the expenditures of the MDR, but also in the expenditures of the LDR. At the same time, the Slovak Republic has long shown problems with meeting the n + 3 rule, while following the application of 100% financing to 7th financial year expenditures, the Slovak Republic can no longer declare expenditures to the EC, for a program where the n + 3 rule has not yet been met. There is a risk that by applying 100% intensity of the funding to the expenditure related to the 7th financial year, the maximum contribution on the priority axis will be achieved in several operational programs. This is counterproductive in relation to the measures taken by the EC to eliminate COVID-19. The Slovak Republic will not be able to declare expenditures and will have not only a problem with compliance with the n + 3 rule, but also with the liquidity of bank accounts. This also eliminates the possibility of applying the 10% flexibility that is needed, especially for more powerful priority axes. Such a setting forces Member States to submit revisions to their financial plans, without ultimately exceeding the overrun of 10% at the level of the priority axis, and thus of 10%</p> | |
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| 45 | Spain | 04. Financial Management | 4.4 Overbooking | We do not agree with the statement made in the third paragraph, according to which the Certifying Authority may decide on the amount to be included in its accounting system, since a distinction must be made between the booking of expenditure relating to a given accounting year and the total certified expenditure cumulatively in the total eligibility period. The computation of the total declared expenditure should be counted cumulatively, although each accounting year starts from zero. In our case, we have already declared overbooking in some axes. | See reply to questions 14 and 18. |
| 46 | Lithuania | 04. Financial Management | 4.3 Calculation of the final balance (Flexibility) | Regarding Section 4 FINANCIAL MANAGEMENT. Although the provisions concerning the Commission's REACT EU proposal and the proposal for CPR 2021-2027 Regulations have not yet been adopted and were presented in square bracket, the sub-section 4.3. Calculation of the final balance states: "[Additional resources made available by the Commission's REACT-EU proposal will not be broken down per category of region. As the 10% flexibility provided under Article 130(3) of the CPR is only possible between the programme's priorities within the same Fund and category of region, for the additional resources made available by the Commission's REACT-EU proposal the flexibility will only apply between those programme's priorities where additional resources are allocated. In this regard, no flexibility can be applied between the | See reply to question 24. |

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| | | | | <p>programme's additional resources priorities and the ERDF and ESF priorities broken down per category of region. No flexibility can be either applied between the programme's additional resources priorities and the Cohesion Fund priorities as the additional resources will fall under a different Fund (ERDF or ESF).]</p> <p>We would like to keep 10% of flexibility applied for the whole operational programme without an exclusion of the additional resources priorities. Reasons of the exclusion are not entirely clear for us. If it is the way to protect the REACT-EU activities in case the implementation is not achieved and funds are used by other priorities, then we would like to stress the positive side of it when payments of the REACT-EU exceed the planned funding and may cover other priorities.</p> | |
| 47 | Romania | 04. Financial Management | 4.3 Calculation of the final balance (Flexibility) | <p>Apart from the flexibility included in CPR as a result of the COVID-19 pandemic, no other flexibility is foreseen at closure. The CPR flexibility is rather limited; therefore, we ask for a similar flexibility with the one offered in the 2007-2013 programming period.</p> | <p>If the Member State means the 10% flexibility at closure 2014-2020, its effects are of the same nature as of the 10% flexibility offered at closure 2007-2013.</p> |
| 48 | Slovakia | 04. Financial Management | 4.3 Calculation of the final balance (Flexibility) | <p>Due to the fact that the Slovak Republic will implement the additional funds from the REACT-EU within a separate priority axis, we request to make it possible to apply the 10% flexibility rule for REACT-EU expenditures in relation to other priority axes of the operational programme.</p> | <p>See reply to question 24.</p> |

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| 49 | Poland | 04. Financial Management | 4.3 Calculation of the final balance | Calculation of the final balance (including 10% flexibility) will be broken down per Fund and category of region. Please confirm whether the Youth Employment Initiative (YEI) will be treated as a separate fund (analogous to data included in calculating reports preparing after submitting payment application / accounts) or in a different way? How to qualify matching ESF resources (additional source to YEI allocation) at closure: as part of the ESF, YEI or in a separate category? | <p>In accordance with Article 22 of the ESF Regulation, the specific allocation for the YEI and the ESF corresponding contribution are considered as one Fund. Therefore, for the purposes of the CPR, the YEI is treated as a Fund, which comprises both the specific allocation for the YEI and the ESF corresponding support, unless otherwise specified.</p> <p>This means that for the purposes of applying the 10% flexibility at closure, the YEI (YEI + ESF corresponding contribution) and ESF (purely ESF support not related to YEI) are considered as separate funds.</p> |
| 50 | Romania | 04. Financial Management | 4.3 Calculation of the final balance | <p>"An example of a final balance calculation for a programme is set out in Annex IV to these guidelines."</p> <p>RO: It would be useful to have several examples of calculating the final balance, in different scenarios and taking into account the pre-financing - similar to the Guidance on Preparation, Examination and Acceptance of Accounts.</p> | See reply to question 28. |
| 51 | Spain | 04. Financial Management | 4.3 Calculation of the final balance | Sub-paragraph 4.3 Calculation of the final balance - It is proposed to include the possibility for a Member State to request the clearance of the amount not recovered by the Commission in the 2020 accounts before closure. | <p>Article 139(7) of the CPR, as amended by Regulation (EU) 2020/460 of 30 March 2020 ('CRII'), stipulates that:</p> <p>"By way of derogation from the first subparagraph, the Commission shall not issue a recovery order for amounts recoverable from the Member State for the accounts submitted in 2020. Amounts not recovered shall be used to accelerate investments related to the COVID-19 outbreak and eligible under this Regulation and Fund-specific rules. The amounts not recovered shall be cleared or recovered at closure."</p> <p>The Commission cannot deviate from such regulatory requirements.</p> |

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| 52 | Belgium | 04. Financial Management | 4.4 Overbooking | In general, point 4.4 relating to overbooking deserves to be clarified (in particular with regard to the annual closings and the invitation made to the certification authorities to "postpone the declaration of excess expenditure to the last financial year "). | See reply to question 14. |
| 53 | Belgium | 04. Financial Management | 4.4 Overbooking | <p>A question also concerning Point 4 Overbooking: “As payment applications are cumulative only within a given accounting year, if a priority reaches the maximum Funds contribution set out in the Commission decision approving the programme before the final accounting year, expenditure declared to the Commission in excess of this maximum Funds contribution for the priority will not be carried over to the next accounting year” => overbooked expenditure cannot move forward to a later accounting year (to replace irregular amounts).</p> <p>“Overbooked expenditure declared to the Commission in the final accounting year will be considered at and after closure to replace irregular amounts (declared in any accounting year, including the final accounting year)” => overbooked expenditure can move backwards to replace irregular amounts in earlier accounting years. Is this correct?</p> | See replies to questions 14, 15 and 16. |

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| 54 | Hungary | 04. Financial Management | 4.4 Overbooking | <p>In our understanding, final date for the submission of payment applications relating to the expenditures incurred until 31 December 2023 to the Commission is July 2024, and the Member States have to submit the final account until February or March 2025. How long is it possible using the overbooking entered in the accounting system in the final accounting year? May the Member States be able to replace irregular amount after the submission of the final accounts, if the irregularity is identified by the Commission after February or March 2025.</p> | <p>As per the draft Closure Guidelines, this is possible: "Overbooked expenditure declared to the Commission in the final accounting year will be considered at and after closure to replace irregular amounts (declared in any accounting year, including the final accounting year) and for the 10% flexibility as per Article 130(3) of the CPR. Without prejudice to Article 145(7) of the CPR, the Member States may be able to replace irregular amounts, which are detected after the submission of the accounts of the final accounting year/after closure, using overbooked expenditure."</p> <p>The overbooked expenditure has to be included in the final application for an interim payment in the final accounting year so the Commission can take it into consideration, also for the irregularities identified after the accounts for the final accounting year have been submitted.</p> |
| 55 | Lithuania | 04. Financial Management | 4.4 Overbooking | <p>In the 1st paragraph of Sub-Section 4.4 "Overbooking" it is stated: "Overbooking is the practice of the Member States of declaring to the Commission eligible expenditure in excess of the maximum Funds contribution set out in the Commission decision approving the programme."</p> <p>Do we understand correctly that total eligible expenditure declared to the Commission is equal to the sum of expenditure included in all previous accounting years accounts and expenditure declared in current (not finished) accounting year payment applications?</p> | <p>Yes, the understanding of the Member State is correct.</p> <p>Since the payment applications in the programming period 2014-2020 are cumulative only within a given accounting year, the overbooked expenditure has to be included in the final application for an interim payment for the final accounting year so the Commission can take it into consideration, including for the 10% flexibility.</p> |
| 56 | Greece | 05. Indicators and Performance Framework at Closure | 5.2 Implications of the performance framework for closure | <p>We consider possible to include the values of output indicators for non-functioning operations in the final implementation report at closure of the OPs 2014-2020. Please confirm.</p> | <p>The draft Closure Guidelines provide that for non-functioning operations, only outputs actually delivered based on the expenditure declared under the programme should be reported in the final implementation report for the programme. In certain cases, this will mean 0 output reported but in other cases, output indicators values can be reported.</p> |

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| 57 | Greece | 05. Indicators and Performance Framework at Closure | 5.2 Implications of the performance framework for closure | <p>In sub-section 5.2, last paragraph, it is stated that “If the non-functioning operations included in the programme result in a serious failure to achieve the targets selected for the performance framework, the undertaking to complete them by 15 February 2026 will be assimilated to a corrective measure the Member State will take in order to achieve the targets as per Article 22(7) of the CPR.”.</p> <p>As the connection between expenditure declared in 2014-2020, output delivered, Performance Framework assessment, completion of the operation, and the timing of the necessary actions to be undertaken are not very clear, please provide an example. Could the revision of the output indicator be a corrective measure? and till when could that take place? Please provide further explanation on the term “corrective measure”.</p> | <p>For the “corrective action”, please see Article 22(7) of the CPR. The revision of the indicator target does not constitute a corrective action under Article 22(7) of the CPR.</p> <p>Example:</p> <ul style="list-style-type: none"> • 80% of expenditure incurred by the beneficiary until 31/12/2023, but the operation is not completed and no output delivered. • Submission of the final implementation report, with the 80% expenditure declared to the Commission and with the commitment of the Member State to complete the operation until 15/2/2026 (covering the remaining 20% of the project expenditure). • Assessment of indicator achievement against target under the performance framework. • If there is a serious failure to meet the target, the Commission checks conditions under Art 22(7) of the CPR to apply correction. • If the serious failure is due to this operation (for which expenditure was declared, but no indicator), the fact that the Member State commits itself to complete the operation in the additional year granted by the draft Closure Guidelines constitutes a corrective action in the meaning of Article 22(7) of the CPR, and no financial correction shall apply. • The Member State will have to report by 15/2/2026 that the operation was completed and the outputs delivered, which will be considered when assessing again the indicator’s cumulative achievement value against the target. |
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| 58 | Greece | 05. Indicators and Performance Framework at Closure | 5.2 Implications of the performance framework for closure | It seems reasonable that, in case where Phase A (pp 2014-2020) of a phasing operation does not deliver any indicator achievement value (this applies to operations for which indicator achievement values are delivered at completion), the target value of indicators of Phase B (pp 2021-2027) will refer to the whole operation. Please confirm | Correct. |
| 59 | Greece | 05. Indicators and Performance Framework at Closure | 5.2 Implications of the performance framework for closure | Please explain how to handle the situation where, indicators in Phase A (pp 2014-2020) of a phasing operation are not coherent with the ones in Phase B (pp 2021-2027). Will the operation end up with 2 sets of indicators, each one covering a period but none the whole operation, or ...? | <p>The draft Closure Guidelines provide that only outputs actually delivered by the phase included in the 2014-2020 programming period can be reported in the final implementation report of the programme. Other outputs (together with the related expenditure) must be reported under the 2021-2027 programming period.</p> <p>The draft Closure Guidelines provides for the possibility for the Member State to propose a revision of targets through a programme amendment in case of phasing of certain operations pursuant to section 6 of the draft Closure guidelines.</p> <p>The indicators above obviously refer to the aggregate values reported by the Member State for all individual operations for which they declare their intention to phase and which will be reported as is the case for all indicators at programme level in the final implementation report.</p> <p>The draft Closure Guidelines clarifies the conditions relating to phased operations and indicates that Member States undertake that the operations listed in Annex I to the draft Closure Guidelines will be functioning, i.e., physically completed or fully implemented and contributing to the objectives of the relevant priorities by the deadline to submit the assurance package for the final accounting year of the 2021-2027 programming period.</p> <p>This implies that indicators values at operation level reported at the end of phase A and the final values at operation level reported at the end of phase B should in principle be consistent at the operation level.</p> |

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| 60 | Italy | 05. Indicators and Performance Framework at Closure | 5.2 Implications of the performance framework for closure | <p>5. “Indicators and performance framework at closure”. In a general context such as the current one — characterised by radical reprogramming carried out in 2020, which are not definitive and will require a necessary adjustment in 2021 at the end of the period in which the 100 % co-financing rate can be used — the recommendation in this paragraph not to change the target values of the indicators after 2020 is incomprehensible and counterproductive, also considering that the valorisation of the indicators may still be changed in the following cases:</p> <ul style="list-style-type: none"> - changes in financial allocations between priorities; - phased projects; - substantial changes in economic, environmental and labour market conditions (referred to in paragraph 5.2, which in turn refers to the possibility provided for in Article 30 of Regulation (EU) No 1303/2013 and Annex 2). <p>It is clear, however, that consideration must necessarily be given to the possibility of adjusting and refining the estimates proposed during the recent reprogramming. On the other hand, there is no valid reason to differentiate this deadline from that for making amendments to the Programmes.</p> <p>It is therefore proposed that the following sentence be deleted from the paragraph:</p> <p>“Member States are recommended not to revise targets beyond 2020, except where the revision is due to changes in</p> | <p>The draft Closure Guidelines have been amended and the recommended deadline not to revise targets has been extended to end 2022: "Member States are indeed recommended not to revise the targets beyond 2022, except for cases where the revision is due to changes in allocations for a given priority or phasing of certain operations".</p> |
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| | | | | allocations for a given priority or at stages of certain operations.” | |
| 61 | Poland | 05. Indicators and Performance Framework at Closure | 5.2 Implications of the performance framework for closure | It’s necessary to clarify what is meant by „a serious failure to achieve the targets" and "achievement values are significantly different from the set targets". We propose to add a reference to the respective legal act. | <p>a) Serious failure: Articles 6(3) and (4) of the Commission Implementing Regulation (EU) No 215/2014 provide that a priority will be deemed to have seriously failed to achieve the targets set out in the performance framework in the following cases:</p> <ul style="list-style-type: none"> - if there are no more than two indicators in the performance framework related to a priority and any of these two indicators has failed to achieve at least 65% of the target value by the end of 2023 or - if there are more than two indicators in the performance framework related to a priority and at least two of these indicators have failed to achieve at least 65% of the target value by the end of 2023. <p>b) Significantly: The draft Closure Guidelines have been amended and now they provide: "In the column “Observations”, Member States should explain (where necessary) the year 2023 achievement values, especially in cases where they are significantly different (i.e. deviation of more than 20%) from the set targets".</p> |
| 62 | Portugal | 05. Indicators and Performance Framework at Closure | 5.2 Implications of the performance framework for closure | <p>Once again, taking into account the current context of uncertainty, PT considers that there should be some degree of flexibility regarding the methodology/thresholds adopted for the calculation of the financial correction for serious failure of the performance framework.</p> <p>Portuguese Authorities also consider that the possibility of changing targets should be maintained, whenever the assumptions on which those targets were based on are wrong (this possibility is defined in Article 5(6) of Regulation 215/2014 and was not included in these</p> | Article 5(6) of Commission Implementing Regulation (EU) No 215/2014 is in force and applicable. The purpose of the draft Closure Guidelines is not to replicate the provisions of the legal framework 2014-2020. |

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| | | | | Guidelines). | |
| 63 | Romania | 05. Indicators and Performance Framework at Closure | 5.2 Implications of the performance framework for closure | <p>"If the non-functioning operations included in the programme result in a serious failure to achieve the targets selected for the performance framework, the undertaking to complete them by 15 February 2026 will be assimilated to a corrective measure the Member State will take in order to achieve the targets as per Article 22(7) of the CPR. This is subject to the condition that the necessary outputs are delivered, by the operations concerned, in the additional year granted by section 7 of these guidelines. A financial correction may be applied if the outputs are not delivered by 15 February 2026."</p> <p>RO: According to section 7 - NON-FUNCTIONING OPERATIONS of the draft Guidelines for closure, the Commission will proceed with the recovery of the amounts allocated to the non-functioning projects, based on a procedure to be carried out with the Member States, should these projects will not be functional by 15 February 2026.</p> <p>In addition, "the lack of completion of the operations by the above deadline may give rise to a financial correction for a serious failure to achieve the targets selected for the performance framework."</p> <p>Application of a financial correction on a flat-rate basis, as well as recovery of amounts paid to the non-functioning projects (even if the entire amounts shall not be recovered, which is hard to be</p> | <p>The recovery of the amounts allocated to the non-functioning operations is carried out (if not replaced by overbooking) in case the operation is not completed or fully implemented and not contributing to the objectives of the relevant priorities by the deadline of submission of the closure documents, or by 15 February 2026, if the non-functioning operation complies with the conditions set out in the draft Closure Guidelines to be granted an additional year for its completion.</p> <p>If failure to complete the non-functioning operation results into a serious failure to achieve the targets selected for the performance framework, the Commission may apply a financial correction in accordance with Article 22(7) of the CPR.</p> <p>Such situation does not constitute a double correction for the Member State because the flat-rate correction for a serious failure to achieve the targets selected for the performance framework would be applied after the individual correction for the non-functionality of the operation has been applied. In this regard, see Article 3(2) of Commission Delegated Regulation (EU) No 480/2014 which provides: "The flat rate shall be applied to the contribution from the ESI Fund determined on the basis of the expenditure declared by the Member State under the priority that meets the conditions referred to in the first subparagraph of Article 22(7) of Regulation (EU) No 1303/2013, after the application of any other financial corrections."</p> |

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| | | | | <p>presumed), cannot be acceptable for the Member States, imposing a financial burden not justified either from the applicable legal framework point of view (including the principle of proportionality), or the factual one.</p> <p>What could be the justification for a double sanction (financially) for the Member State? Proposal: to enforce the same principle as per 2007-2013 programming period - recovery of the funds allocated to the project/projects.</p> | |
| 64 | Romania | 05. Indicators and Performance Framework at Closure | 5.2 Implications of the performance framework for closure | <p>"If phasing of certain operations results in a serious failure to achieve the targets selected for the performance framework, the Commission may decide to apply a financial correction under Article 22(7) of the CPR."</p> <p>RO: Once established that a project complies with the conditions for phasing, implementing this measure should not result in a financial correction at the current Programme level, especially as the remaining targets implied by the phased projects' implementation are assumed to be completed over the next programming period, with all the consequences involved (Phase 2).</p> | <p>Phasing is offered as a flexibility measure but if its use results in a serious failure to achieve targets selected for the performance framework, the Commission may decide to apply a financial correction in accordance with Article 22(7) of the CPR. Each underachievement will be assessed on a case-by-case basis, taking also the fact of phasing into account, before initiating a financial correction procedure.</p> <p>It should be taken into account that the draft Closure Guidelines allow the Member States to propose the revision of the targets through a programme amendment in case of phasing.</p> |
| 65 | Spain | 05. Indicators and Performance Framework at Closure | 5.2 Implications of the performance framework for closure | <p>We call for the removal of the restriction to change the targets of the post-2020 performance framework. In accordance with the rules in force, and as specified in section 5.2 of the draft Closure Guide, a request may be made to modify the targets of the RM indicators in duly justified cases, such as errors in the baseline assumptions, significant changes in economic, environmental or</p> | <p>The draft Closure Guidelines provide that: "The indicator targets in the performance framework may indeed be modified in duly justified cases, such as a significant change in the economic, environmental and labour market conditions in a Member State or region, and in addition to amendments resulting from changes in allocations for a given priority, including phasing of certain operations". The provision in Article 5(6) of Commission Implementing Regulation (EU) No 215/2014 on incorrect assumptions leading to under- or over-estimation of targets or milestones is not derogated by the draft</p> |

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| | | | | labour market conditions, changes in the financial allocation of an axis, or projects. | Closure Guidelines and may be considered a duly justified case. In addition, the draft Closure Guidelines have been modified and the deadline has been extended to end 2022: "Member States are indeed recommended not to revise the targets beyond 2022, except for cases where the revision is due to changes in allocations for a given priority or phasing of certain operations". |
| 66 | Sweden | 05. Indicators and Performance Framework at Closure | 5.2 Implications of the performance framework for closure | The guidelines state that a serious failure to reach the indicator targets can lead to financial corrections. How is a serious failure defined, ie what is required for the target fulfilment of an indicator to be considered so low that it can lead to financial corrections? | See reply to question 61. |
| 67 | France | 05. Indicators and Performance Framework at Closure | 5.1 Reporting output indicators achievement values | The collection of certain output indicators is carried out on an annual or biannual frequency with a lag in the publication of the data and the reference year. Consequently, some output indicators will not be available on the date of submission of the final implementation report. It should be specified in the guidelines on closure 2014-2020 that the value of the output indicator entered in the final implementation report must correspond to the most recent value available. | Indicators achievement values should correspond to the situation at 31 December 2023. The draft Closure Guidelines indicate that, in practice, outputs delivered by the co-financed operations until the date of submission of the final implementation report (or the last annual implementation report for the EMFF) of the programme can be reported in these documents. This flexibility in reporting should address occasional difficulties in reporting achievement values at 31 December 2023. However, it does not apply to indicators included in the performance framework where, in compliance with Article 6 of Commission Implementing Regulation (EU) No 215/2014, the values achieved by the end of 2023 will need to be reported. |
| 68 | Malta | 05. Indicators and Performance Framework at Closure | 5.1 Reporting output indicators achievement values | By way of general comment, we would like to suggest to also include the guidance provided on the achievement of the performance framework targets in order to have one consolidated guidance document that includes both financial and implementation considerations in the context of closure. | The guidance on performance framework will not be merged with the Closure Guidelines, as this would make the document too cumbersome. |

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| 69 | Romania | 05. Indicators and Performance Framework at Closure | 5.1 Reporting output indicators achievement values | <p>"Although the indicator achievement values should correspond to the situation at 31 December 2023, in practice, outputs delivered by the co-financed operations until the date of submission of the final implementation report or the last annual implementation report for the EMFF of the programme can be reported in these documents."</p> <p>1) We consider that the same approach should be clarified and applicable also for the financial indicators of the performance framework.</p> <p>2) The financial indicators from the performance framework at 31st of December 2023 will not include all the expenditure which can be certified to EC and entered in the accounts, as 31st of December is the final date of eligibility of expenditure and the expenditure paid by beneficiaries in December 2023 will be certified in 2024.</p> | <p>1) See reply to question 67.</p> <p>2) Please see part C, section 15 of the model for the final implementation report (Annex V to Commission Implementing Regulation 2015/207). The financial indicator value is defined as "Total eligible expenditure incurred by beneficiaries and paid by 31 December 2023 and certified to the Commission Article 22(7) of Regulation (EU) No 1303/2013".</p> <p>According to the definition, the financial indicator values may include expenditure incurred and paid by beneficiaries by 31 December 2023 and certified to the Commission beyond that date.</p> |
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| 70 | Czech Republic | 05. Indicators and Performance Framework at Closure | 5. Indicators and Performance Framework at Closure | <p>...“Member States should notify revised financial tables to the EC for non-substantial transfers according to Art. 30(5) of the CPR before 31 Dec 2023.”</p> <p>...”Member States are recommended not to revise the targets beyond 2020, except for cases where the revision is due to changes in allocations for a given priority or phasing of certain operations”...</p> <p>Usually, the financial transfers relate to other relevant changes of the programming document elements (such as changes in indicators – mainly their target values). We would like to make sure that by non-substantial transfers it is understood „financial transfers and all relevant changes“ and these do not require EC decision and could be just notified to the EC.</p> | <p>The CPR has been amended by Regulation (EU) 2020/558 of 23 April 2020 (‘CRII+’), which introduced Article 30(5) of the CPR, allowing for limited financial transfers by notification of changes in the financial tables by Member States.</p> <p>Such amendment does not require a Commission decision. Some relevant consequential changes (e.g. new actions to be financed, changing the indicators or their targets) on the contrary require an amendment by a Commission decision, as set out in Article 96(10) of the CPR. The only change the Member State can do (and is advised to do so), related to the amendment entailing the limited financial transfer, is to amend the categories of interventions. Such a change can be done via a notification, as it is exempted from the need of a Commission decision by Article 96(10) of the CPR.</p> <p>It is correct to say that “Usually, the financial transfers relate to other relevant changes of the programming document elements”, but if these elements need to be changed beyond the financial transfer, the OP modification request needs to be submitted until 30/9/2023 to allow time for the Commission to adopt it by end-2023.</p> |
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| 71 | Czech Republic | 05. Indicators and Performance Framework at Closure | 5. Indicators and Performance Framework at Closure | <p>“At closure for the ERDF, ESF and Cohesion Fund, data for output and result indicators must be transmitted in the final implementation report of the programme using the template tables 1, 2, 3 and 4 set out in Annex V to Commission Implementing Regulation (EU) 2015/20720. In the column “Observations”, Member States should explain (where necessary) the year 2023 achievement values, especially in cases where they are significantly different from the set targets.”</p> <p>For the programming period 2007 - 2013 the “tolerance +/- 25 %” has been set up. For the current programming period some kind of a tolerance is set up for the performance framework. “A serious failure to achieve the targets relating only to financial indicators, output indicators and key implementation steps may give rise to financial corrections if the cumulative conditions set out in Article 22(7) of the CPR are met. A serious failure is assessed in accordance with criteria set out in Article 6(3) and (4) of the Commission Implementing Regulation (EU) No 215/2014. “</p> <p>What does “significantly different” from the set targets mean? Will there be any specification e.g. “tolerance +/- 25 %”?</p> <p>What are the consequences of the identified “significantly different” (not classified as a serious failure)?</p> | See replies to questions 60 and 61. |
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| 72 | Greece | 05. Indicators and Performance Framework at Closure | 5. Indicators and Performance Framework at Closure | <p>In our view the recommendation “not to revise the targets beyond 2020, except for cases where the revision is due to changes in allocations for a given priority or phasing of certain operations” can be confusing. We consider that until the last amendment, revision of indicators and their targets could and should be applied in duly justified cases due to other reasons as well, i.e. in cases that methodology assumptions have changed and affect the initial target setting of indicators, etc. Since this year’s OP amendment proposals are mainly based on the need to provide assistance for fostering crisis repair in the context of the COVID-19 pandemic (characterized as “force majeure”), OPs are not given the opportunity to proceed with substantial amendment proposals by taking into account changes in economic or/and labour market conditions which may lead to the need of a revised methodology for certain indicator targets. Therefore we propose to delete the reference on this recommendation.</p> | See reply to question 60. |
| 73 | Greece | 05. Indicators and Performance Framework at Closure | 5. Indicators and Performance Framework at Closure | <p>According to the draft Guidelines “In the column “Observations”, Member States should explain (where necessary) the year 2023 achievement values, especially in cases where they are significantly different from the set targets.” As the justification for over or under achievement of the targets is the case also in the AIRs, please provide further explanation on the meaning of “significantly different” (if necessary) for the case of final implementation report.</p> | See reply to question 61. |

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| 74 | Lithuania | 05. Indicators and Performance Framework at Closure | 5. Indicators and Performance Framework at Closure | <p>(1) In the column “Observations”, Member States should explain (where necessary) the year 2023 achievement values, especially in cases where they are significantly different from the set targets.</p> <p>In the case of the ESF, there is no possibility to fill the notes field in the column “Observations.</p> <p>(2) Member States are recommended not to revise the targets beyond 2020, except for cases where the revision is due to changes in allocations for a given priority or phasing of certain operations. The achievement of targets will be assessed by the Commission taking into account the information provided in the final implementation report of the programme, including elements and factors that might have seriously affected the achievement of the targets set.</p> <p>We propose to postpone the recommendation until mid-2021, as we already know that some of the target values for 2023 are to be revised, but we will not be able to do this by the end of 2020 on the situation of COVID-19.</p> | <p>As tables 2 A/B/C (result indicators ESF and YEI) and tables 4 (output indicators ESF) do not provide for an observations column, additional text can be provided in part C, section 17 ISSUES AFFECTING THE PERFORMANCE OF THE PROGRAMME AND MEASURES TAKEN — PERFORMANCE FRAMEWORK and section 18 YOUTH EMPLOYMENT INITIATIVE.</p> <p>See reply to question 60.</p> |
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| 75 | Malta | 05. Indicators and Performance Framework at Closure | 5. Indicators and Performance Framework at Closure | <p>Section 5 Indicators and Performance Framework at Closure: Besides the suggestion to consolidate the guidance regarding the achievement of the performance framework, we would also like to propose the following revisions to the text:</p> <ul style="list-style-type: none"> - Cumulative (annual) values for ESF output indicators, and Cumulative values for ESF result indicators and ERDF output indicators up to and including the year 2023. | <p>The draft Closure Guidelines have been amended as follows:</p> <p>"Member States are required to include in the final implementation report the following information on indicators:</p> <ul style="list-style-type: none"> • cumulative (annual for ESF): values for output and result indicators up to and including the year 2023. For ERDF and Cohesion Fund output indicators and for ESF outputs and result indicators, values will relate to operations that are co-financed by the programme". |
| 76 | Netherlands | 05. Indicators and Performance Framework at Closure | 5. Indicators and Performance Framework at Closure | <p>In the guidelines, the COM seems to suggest that no changes of indicators should be done after 2020, except where related to budget reallocations. While it is completely understandable that last minute 'convenience' changes of a more 'opportunistic character' should be avoided, there can be situations where programmes still need to correct indicators because of initially wrong assumptions at the time of the drafting of the cooperation programme or as a result of evaluations. In some cases programmes may have waited to correct such indicators in order to avoid potentially premature or unnecessary changes. For such cases it would therefore be important that such (motivated) changes are still possible beyond 2020.</p> | See reply to question 60. |

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| 77 | Netherlands | 05. Indicators and Performance Framework at Closure | 5. Indicators and Performance Framework at Closure | <p>At closure for the ERDF, ESF and Cohesion Fund, data for output and result indicators must be transmitted in the final implementation report of the programme using the template tables 1, 2, 3 and 4 set out in Annex V to Commission Implementing Regulation (EU) 2015/207. It is not very clear what the COM expects from AA in terms of checks vis-à-vis the performance framework and final implementation report and how this fits in the control tasks of the AA (assurance package). Is the AA expected to check the actual reported values or only the management and control process around the information that is provided in the (final) implementation report? Or the reliability of the system (electronic monitoring systems, such as eMS or Navision) where the information is collected and captured?</p> <p>This concerns the following sections in the guidelines:</p> <ul style="list-style-type: none"> • Section 5.1: National audit authorities should conclude on the reliability of performance data in the annual control report of the final accounting year. • P.16: The control report for the final accounting year should also include: assurance on the reliability of the data relating to indicators • p. 17, (above section 12) National audit authorities should conclude on the reliability of data relating to indicators, in the control report of the final accounting year. They should provide a final assessment on key requirement 6 “Reliable system for collecting, | <p>As outlined in the draft Closure Guidelines, national audit authorities must conclude on the reliability of data relating to indicators in the control report of the final accounting year. The final assessment should include confirmation that the aggregated data reported to the Commission is correct.</p> <p>In order to ensure a coherent approach on obtaining assurance on the reliability of data relating to indicators and milestones, it is specified in Article 27(2) of Delegated Regulation (EU) No 480/2014 (as amended by Regulation (EU) 2019/886) that this element should be part of the audit work on audit of operations.</p> <p>It is assumed that during audits of operations the audit authority verifies the correct recording of the relevant information for the selected sampling units in the IT systems used for recording and storing of the data. At closure, a final assessment should be provided on key requirement 6 with confirmation that the aggregated data reported to the Commission is correct. Such final assessment should be based on the previous audit work carried out in this area in the framework of audits of operations and system audits, complemented by any work needed at closure to get final conclusion on the aggregated data reported in the final audit report.</p> <p>In particular, if the audit authority confirmed in its previous audit work (within its audits of operations/system audits) the reliability of the IT system used to collect the data, it is expected that the audit authority concludes on the basis of the verification of the management and control process and the check of the aggregated amounts stored in the IT system that the data reported to the Commission in the final implementation report is correct.</p> |
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| | | | | <p>recording and storing data for monitoring, evaluation, financial management, verification and audit purposes, including links with electronic data exchange systems with beneficiaries” set out in table 1 of Annex IV to Commission Delegated Regulation (EU) No 480/2014. The final assessment should include confirmation that the aggregated data reported to the Commission is correct.</p> | |
| 78 | Poland | 05. Indicators and Performance Framework at Closure | 5. Indicators and Performance Framework at Closure | <p>1. Member States are recommended not to revise the targets beyond 2020 - Please clarify whether this recommendation applies to the revision of targets in the programmes at the period of programme closure, or to an earlier stage – still during the implementation of the programme.</p> <p>2. Paragraph 2 should read: In the column “Observations”, Member States should explain (where necessary) the year 2023 achieved values, especially in cases where they are significantly lower than the set targets. The logic of the paragraph indicates that these are values achieved in 2023, not targets to achieve for 2023.</p> <p>3. Additionally, it is not justified that every case where there was a significant difference in relation to the target values should be analyzed. Information on the achieved higher than expected indicator values will add minor value to the final implementation report. The key solution is to focus on those goals that have not been largely achieved.</p> <p>4. Does the Commission think there might be a discrepancy between the</p> | <p>1. The recommendation refers to the period during the implementation of the programme. The draft Closure Guidelines have been amended and the recommended deadline not to revise targets has been extended to end 2022: "Member States are indeed recommended not to revise the targets beyond 2022, except for cases where the revision is due to changes in allocations for a given priority or phasing of certain operations".</p> <p>2. The draft Closure Guidelines have been amended as follows: “[...] Member States should explain (where necessary) the achievement values for 2023, especially [...]”.</p> <p>3. Section 6 of the template for the final implementation report requires to provide information about issues affecting performance of the programme, including cases where targets are overachieved. The draft Closure Guidelines have been amended and now they provide: "In the column “Observations”, Member States should explain (where necessary) the year 2023 achievement values, especially in cases where they are significantly different (i.e. deviation of more than 20%) from the set targets".</p> <p>4. It is expected from the audit authority to confirm the achievement of performance targets and that the data is correctly aggregated and provide a final assessment of key requirement 6 over the whole programming period. It is expected that this assurance, i.e. to implement, collect and report data on performance indicators, is reported in the control report for the final accounting year. It is for the national authorities to agree on the timeline of verifications/audits in</p> |

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| | | | <p>delivery of outputs until the date of submission of the final implementation report, and the fact that the AA will conclude regarding the data of the final accounting year?</p> <p>We would appreciate a confirmation from the Commission, that the guidelines will be considered enough basis for the AAs and recommendation not to “extrapolate” the conclusions thereof to the period after last accounting year.</p> <p>5. It is proposed to extend the cases where a Member State can change the indicators. This proposal will also ensure consistency with the wording on page 8 on the conditions for changing the values of the performance framework indicators. The respective paragraph should read: Member States are recommended not to revise the targets beyond 2020, except for cases where the revision is due to changes in allocations for a given priority or phasing of certain operations or in duly justified cases, such as a significant change in the economic, environmental and labour market conditions. Also, this condition has been elaborated much too late. It will not be possible to amend the programme in this respect in 2020. PL proposes a change in 2021, especially due to the effects of the COVID-19, which may have an impact on the implemented projects and on targets selected under the performance framework.</p> <p>6. As regards revision of targets in the case of performance framework (5.2) it is justified to add in the second paragraph also a reference to section 7 – non-functioning projects, especially due the</p> | <p>order to ensure that the final implementation report and the control report for the final accounting year are coherent. The control report for the final accounting year is the last moment when the audit authority will report on the assurance concerning the reliability of performance data for 2014-2020.</p> <p>5. See reply to the first point above.</p> <p>In addition, only with regard to the indicators in the performance framework: the Member State may propose a revision of targets through a programme amendment in duly justified cases, such as a significant change in the economic, environmental and labour market conditions in a Member State or region, and in addition to amendments resulting from changes in allocations for a given priority, including phasing of certain operations.</p> <p>6.The provisions for the revision of targets in the case of the performance framework are provided for by the CPR and Article 5(6) of Commission Implementing Regulation (EU) No 215/2014 (see reply to question 65)</p> <p>The draft Closure Guidelines explain that the outputs delivered by the non-functioning operations in the additional year granted by the draft Closure Guidelines will count for the assessment of achievement of targets.</p> <p>7. The REACT-EU resources will have to be programmed in a dedicated OP or in a dedicated priority in an existing OP. There is no performance framework for REACT-EU resources.</p> |
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| | | | | <p>situation related to COVID-19.</p> <p>7. The recommendation regarding the last changes in the performance framework indicators should not concern a specific year (2020), but the change of programmes related to the inclusion of funds from the REACT-EU mechanism. The MA should be able to change indicators when making this change of the programme.</p> | |
| 79 | Portugal | 05. Indicators and Performance Framework at Closure | 5. Indicators and Performance Framework at Closure | <p>It is requested to include the values of the ERDF and CF result indicators for 2023. In the case of PT, the main source of most of these indicators is the National Statistical System (NSS), which means that they are calculated according to the availability standard established by the NSS. So, some indicators have a biennial periodicity and their availability occurs 1 or 2 years after the period to which they refer, which may be incompatible with the reporting of some output indicators relative to 2023 in the final report to be presented in the beginning of 2025, namely in the case of indicators whose primary source is the National Survey to the Scientific and Technological Survey. Could the draft guidelines provide some additional clarification on this subject?</p> | <p>For the result indicators, the latest available data shall be reported in the final implementation report. In some cases, where the data for 2023 is not yet available to the managing authority (e.g. the national statistical office did not publish it) at the time of the submission of the final implementation report, that will be the achievement value for 2022. In these cases, the reasons for the absence of the 2023 data have to be clearly explained in the “observations” column of Table 1 in the final implementation report. In case the Commission returns the final implementation report with observations pursuant to Article 50(7) of the CPR, the managing authority may be able to complete the report with the 2023 data for the result indicators, if it becomes available before the resubmission of the final implementation report.</p> |
| 80 | Portugal | 05. Indicators and Performance Framework at Closure | 5. Indicators and Performance Framework at Closure | <p>If the values of the achievement indicators obtained beyond 2023, and up to the date of submission of the final report, can be reported, should they be included in the tables of indicators allocated to 2023 (last year foreseen in the templates approved by Regulation (EU) 2015/207) or will a new column be</p> | <p>No new column can be added to the indicator tables in the model for the final implementation report. The achievements values will be accounted for 2023.</p> <p>In the case of the performance framework, achievement values shall refer to the situation at 31 December 2023, in compliance with Article 6 of Commission Implementing Regulation (EU) No 215/2014.</p> |

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| | | | | created to register the final values in the SFC templates? The same question applies in relation to the completion of the performance framework. | |
| 81 | Portugal | 05. Indicators and Performance Framework at Closure | 5. Indicators and Performance Framework at Closure | It is indicated in the draft guidelines that when the 2023 indicator values show deviations (in particular in the case of significant deviations) from the targets set, the column “Remarks” in Tables 1, 2, 3 and 4 should be used to provide appropriate explanations. However, Tables 2 and 4 (ESF result and outcome indicators) and 3B (indicators on enterprises supported in productive investment projects) don’t have this column. How can deviations in these indicators be justified, namely taking into account the character limit of the various text fields? | See reply to question 74. Regarding table 3B: this table aggregates the indicators on enterprise support from table 3A, eliminating double counting, and there is no target value against which achievement can be assessed. Table 3B is an important information source for the Commission about the number of enterprises supported (net of multiple support to the same enterprise). In practice, in table 3A we may have 1 enterprise under priority axis 1, and 1 enterprise under priority axis 2. If this is the same enterprise supported under priority axes 1 and 2, table 3B will show 1 enterprise for that indicator. |
| 82 | Portugal | 05. Indicators and Performance Framework at Closure | 5. Indicators and Performance Framework at Closure | It is also important to specify what is meant by “achievement values... significantly different from the set targets”. The closure guidelines for the previous programming period explicitly requested the need to justify deviations above 25 %. | See reply to question 61. |
| 83 | Slovakia | 05. Indicators and Performance Framework at Closure | 5. Indicators and Performance Framework at Closure | Section 5 (Indicators and performance framework at closure) – We recommend extending the deadline for adjusting the objectives of the Operational Programme until 2022. | See reply to question 60. |
| 84 | Germany | 05. Indicators and Performance Framework at Closure | 5. Indicators and Performance Framework at Closure | We prefer to extend the deadline for programme amendments to 2021, especially to the expected amendments in regard to REACT-EU. | See reply to question 60. |

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| 85 | Germany | 05. Indicators and Performance Framework at Closure | 5. Indicators and Performance Framework at Closure | <p>Indicators</p> <p>Para 5 of the draft closure guidelines states that MS should explain the achievement values for 2023 if they differ significantly from the target values.</p> <p>In the final guidelines for the 2007-2013 funding period, the MS had to provide an explanation and justification for a significant deviation from the target value. The clear target value deviation was specified in the guidelines precisely as “by more than 25%”.</p> <p>For the creation of legal certainty it would be helpful to make a more precise specification and to state in the final guidelines for 2014-2020 the order of magnitude from which a target value deviation is to be classified as significant.</p> | See reply to question 61. |
| 86 | Cyprus | 05. Indicators and Performance Framework at Closure | 5. Indicators and Performance Framework at Closure | <p>“Member States are recommended not to revise the targets beyond 2020, except for cases where the revision is due to changes in allocations for a given priority or phasing of certain operations. The achievement of targets will be assessed by the Commission taking into account the information provided in the final implementation report of the programme, including elements and factors that might have seriously affected the achievement of the targets set.”</p> <p>Although it’s only a recommendation by the EC, Cyprus acknowledges that it should be provided more flexibility to Member States to proceed with Indicators adjustments, if deemed necessary. The adverse effects of</p> | See reply to question 60. |

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| | | | | COVID-19 pandemic to the project implementation cycle may affect the accomplishment of indicators' targets, so it should be allowed to the Member to proceed with Programmes amendments. | |
| 87 | Spain | 05. Indicators and Performance Framework at Closure | 5. Indicators and Performance Framework at Closure | <p>We insist on eliminating the restriction on modifying the targets of the performance framework after 2020. In accordance with the Annex II, paragraph 5, of the Common Provisions Regulation (CPR): "In duly justified cases, such as a significant change in the economic, environmental and labour market conditions in a Member State or region, and in addition to amendments resulting from changes in allocations for a given priority, that Member State may propose the revision of milestones and targets in accordance with Article 30."</p> <p>On the other hand, the Commission Implementing Regulation (EU) No 215/2014 in its article 5, paragraph 6, establishes:</p> <p>"Where the information referred to in Article 4(2) of this Regulation has been found to be based on incorrect assumptions leading to under- or over-estimation of targets or milestones, this may be considered to constitute a duly justified case in the meaning of paragraph 5 of Annex II to Regulation (EU) N° 1303/2013."</p> <p>We consider that the text included in the draft guidelines on the closure is more restrictive than the current regulation, since it does not cover the causes introduced by the Commission Implementing Regulation (EU) N°</p> | <p>See reply to question 60.</p> <p>The legal provisions cited by the Member State are in force and applicable. The draft Closure Guidelines cannot deviate from them.</p> |

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| 88 | Hungary | 05. Indicators and Performance Framework at Closure | 5.2 Implications of the performance framework for closure | In our understanding financial correction applicable only for indicators which are part of the performance framework. Is this correct? | Correct. |
| 89 | Hungary | 05. Indicators and Performance Framework at Closure | 5.1 Reporting output indicators achievement values | <p>Section 5 (p7, 2nd paragraph): The guidance requests the MA to explain the indicator values and deviations from the targets as at 31 December 2023, however, in Section 5.1 30 June 2024 is indicated as the deadline of delivery („...in practice, outputs delivered by the co-financed operations until the date of submission of the final implementation report”).</p> <p>Furthermore, it is not clear whether the projects that being results between 30 June 2024 and 15 February 2025 will also be taken into account or, where relevant, the indicator values of those can only be reported in the report of 15 February 2026 (non-functioning operations). It is recommended to clarify in the guidance what date can be taken into account for achieving the targets and which cut-off date should apply for the comments.</p> | <p>All indicators achievement values should correspond to the situation at 31 December 2023.</p> <p>In the case of output indicators included in the performance framework, the cut-off date of 31 December 2023 is set by Article 6 of Commission Implementing Regulation (EU) No 215/2014 and cannot be derogated by the draft Closure Guidelines.</p> <p>The values reported in the final implementation report shall relate to the values achieved by end 2023 (Table 5 of Part A of the model for the final implementation report set out in Annex V to Commission Implementing Regulation (EU) 2015/207).</p> <p>In order to facilitate reporting, and with the exception of the value achievements to be assessed under the performance framework as indicated above, the draft Closure Guidelines indicate that outputs delivered by the co-financed operations until the date of submission of the final implementation report (or the last annual implementation report for the EMFF) of the programme can be reported in these documents. Comments will relate to the achievement values reported.</p> |
| 90 | Hungary | 05. Indicators and Performance Framework at Closure | 5. Indicators and Performance Framework at Closure | Section 5 (p7, 4th paragraph): Modification of the OP is allowed until 31 December 2023 by the guidance (Section 3.2) while Section 5 recommends that the target values of the OP – except in certain cases - should not be changed after 2020 („...recommended not to revise the targets beyond 2020”). In order to ensure consistency in the | See reply to question 60. |

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| | | | | <p>guidance, even if the deadline of 31 December 2020 is only a recommendation, it is proposed to extend this deadline given that the present guidance is a draft version, therefore after the issuance of the final version the Member States would not have enough time to consider it, due to the current COVID situation, deviation from the targets could be a realistic consequence, which is currently not yet known, it is a positive result for the implementation of the OP if the modification of the objectives is allowed taking into account a possibly better performing priority. Based on the above, it is recommended to realistically extend this date in Section 5.</p> | |
| 91 | Hungary | 05. Indicators and Performance Framework at Closure | 5.2 Implications of the performance framework for closure | <p>Section 5 (p7, 2nd paragraph, last sentence): It is not clear, what is „significantly different” from the set targets, further clarification is recommended.</p> | See reply to question 61. |
| 92 | Hungary | 05. Indicators and Performance Framework at Closure | 5.2 Implications of the performance framework for closure | <p>Section 5 introduces a number of concepts that are not sufficiently specified (e.g. „any issues”, „significantly different”, „other factors”, „seriously affected”), for which further clarification and explanation should be considered.</p> | See reply to question 61. |
| 93 | Hungary | 05. Indicators and Performance Framework at Closure | 5. Indicators and Performance Framework at Closure | <p>Section 5 (p7, 2nd paragraph, technical note):</p> <ul style="list-style-type: none"> o The list of the tables does not include Table 5 (Information on the milestones and targets defined in the performance framework) of Annex V to CIR. o The FIR template allows to record comments (Column „Observation”) for | <p>The draft Closure Guidelines have been amended and they include now the reference to table 5 of Annex V to Commission Implementing Regulation (EU) No 2015/207.</p> <p>See reply to question 81.</p> |

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| | | | | every indicator in case of ERDF/CF, only for the performance framework indicators in case of ESF, and there is no column for observations in Tables 4A-4B. It is recommended to indicate in or outside the guidance where the MA should comment or provide explanations. | |
| 94 | Greece | 05. Indicators and Performance Framework at Closure | 5.2 Implications of the performance framework for closure | When will the achievement of the Performance Framework be assessed by the Commission and when will the financial corrections be applied, if required? | The assessment will start from the moment the Commission receives the final implementation report. Financial corrections may be applied if all conditions of Article 22(7) of the CPR are met. |
| 95 | Greece | 05. Indicators and Performance Framework at Closure | 5.2 Implications of the performance framework for closure | We consider given the possibility of modifying output and result indicators (in terms of e.g. their definition, methodology and values) for all operations of an OP including for phasing until 30/09/2023 due to corresponding transfer of resources between priorities, or other reasons. Furthermore, we would like to clarify whether a more structural OP amendment can also take place (e.g. by adding a new priority with possible other elements of intervention logic) beyond 31/12/2020. Could such a case be provided in the closure guidelines? | There is no restriction legally to modify indicator definitions and methodologies, although the Commission services strongly discourage it. In order to ensure consistency of data over time and comparability of achievements versus targets, the definition and methodology to calculate an indicator value has to be stable throughout the programming period. OP amendments, including adding a new priority, can take place until 2023 except for budgetary changes i.e. modifying the amounts per Fund and category of regions and/or transferring to other programmes. Therefore, this type of amendment cannot change the overall EU support, Fund and category of regions distribution. However, it is not advisable to change the intervention logic at the end of the programming period. |
| 96 | Romania | 05. Indicators and Performance Framework at Closure | 5.2 Implications of the performance framework for closure | "Member States should explain (where necessary) the year 2023 achievement values, especially in cases where they are significantly different from the set targets." RO: We propose to study the opportunity to detail/quantify the limits between which differences are considered "significant". | See reply to question 61. |

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| 97 | Portugal | 05. Indicators and Performance Framework at Closure | 5. Indicators and Performance Framework at Closure | Also according to the draft guidelines, Member States are recommended not to revise the targets beyond 2020, except if related to financial reallocations. Portuguese Authorities consider that a more flexible approach should be anticipated, in order to also allow adjustments resulting of changes in the conditions/context of the OP implementation. We consider that the revision of targets after 2020 is desirable, namely in the current context of uncertainty, where changes can actually occur that can affect measures under implementation and their targets (e.g. in the case of training, the reduction of the minimum threshold of pupils per class that is possible so that they can function and be supported by the funds). | See reply to question 60. |
| 98 | Slovakia | 05. Indicators and Performance Framework at Closure | 5. Indicators and Performance Framework at Closure | Section 5, 2nd paragraph – We would appreciate to elaborate more on the quantification of the wording "significantly different", as to clarify/streamline the interpretation of that text. | See reply to question 61. |
| 99 | Hungary | 05. Indicators and Performance Framework at Closure | 5.2 Implications of the performance framework for closure | What will be the exact form for reporting on outputs delivered by non-functioning operations after 15 February 2026, should we have to modify the values in final implementation report or there will be a separate report for this? | The reporting template to be used by 25 February 2026 will be similar to ANNEX II "LIST OF NON-FUNCTIONING OPERATIONS" to the draft Closure Guidelines with additional columns on "OPERATION COMPLETED Yes/No", COMMENTS and INDICATORS. The exact template will be made available to the Member States in due time. |

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| 100 | Romania | 05. Indicators and Performance Framework at Closure | 5.2 Implications of the performance framework for closure | <p>"Member States may propose a revision of targets through a programme amendment in duly justified cases, such as a significant change in the economic, environmental and labour market conditions, and when the revision is a consequence of changes in allocations for a given priority. In addition, the revision of the targets may be proposed by Member States through a programme amendment in case of phasing of certain operations pursuant to section 6 of these guidelines."</p> <p>RO: Is the revision of targets through a programme amendment to be intended as a revision of the performance framework by decreasing respective targets, correlated with the phasing of projects?</p> | <p>The Commission considers that in case of phasing of operations with significant impact on the achievement of indicator targets, the phasing may constitute a due justification in the meaning of paragraph 5 of Annex II to the CPR to propose the revision of indicator targets in the performance framework in accordance with Article 30 of the CPR.</p> |
| 101 | Hungary | 05. Indicators and Performance Framework at Closure | 5. Indicators and Performance Framework at Closure | <p>Related to Section 5. - Indicators and performance framework at closure: The Guidance states that the in final implementation report (FIR), which must be submitted by 15.02.2025 member states are required to include ERFA/CF result indicators achievement values for 2023. Please amend this section that the actual value of the last available year needs to be reported in the FIR, which will be updated during the closure procedure as the 2023 data becomes available. Justification: Due to the nature of statistical reporting, the actual values of ERDF result indicators from external database for 2023 will not be available in all cases when submitting the FIR in February 2025 (for example the EDIOP-1 priority's '3-year survival rate of SMEs' result indicator is from the KSH /CSO/, which will be available by 30</p> | <p>In the case of result indicators, the managing authority should report in the final implementation report the latest available data. In some cases, where the data for 2023 is not yet available to the managing authority (e.g. the national statistical office did not publish it) at the time of submission of the final implementation report, that will be the achievement value for 2022. In these cases, the reasons for the absence of the 2023 data have to be clearly explained in the "Observations" column of Table 1 in the final implementation report.</p> <p>In case the Commission returns the final implementation report with observations pursuant to Article 50(7) of the CPR, the managing authority may be able to complete the report with the 2023 data for the result indicators, if it becomes available before the resubmission of the final implementation report to the Commission.</p> |

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| | | | | September in the 2nd year following the reference year). | |
| 102 | France | 06. Phasing Of Certain Operations Over Two Programming Periods | Phasing and audit trail | What format should the audit trail be presented proving that the same expenditure has not been declared twice to the Commission, in the event of control and audit? | The phasing conditions are set out in Article 118 of the CPR 2021-2027 (and draft Closure Guidelines). One of the phasing conditions is to ensure that there is a detailed and complete audit trail for the expenditure so that the same expenditure is not declared twice to the Commission. The legal requirements for audit trail for each of the periods are set in the respective legal frameworks. |
| 103 | Czech Republic | 06. Phasing Of Certain Operations Over Two Programming Periods | Threshold | The limit of 5 million EUR for phasing of projects appears to be discriminating the small and medium enterprises. We would appreciate decreasing the limit to 3 million EUR. | The EUR 5 million threshold stems from Article 118 of the CPR 2021-2027: “The managing authority may proceed with the selection of an operation consisting of the second phase of an operation selected for support and started under Regulation (EC) No 1303/2013, provided that the following cumulative conditions are met: (b) the total cost of the operation exceeds EUR 5 million;” The Closure Guidelines cannot deviate from this legal requirement. |
| 104 | Netherlands | 06. Phasing Of Certain Operations Over Two Programming Periods | Threshold | The Covid crisis also poses challenges for closure. In some cases, there is a higher risk for underspending as some projects may not be able to carry out their activities as planned or will consume considerably less budget. As the COVID crisis is occurring towards the end of the current programming period, programmes have limited possibilities to still address this and may therefore have more difficulties in reaching 100% spending. Whereas the guidelines offer the possibility of phasing (section 6), this is limited to projects above MIO 5. | See reply to question 103. |

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| 105 | Portugal | 06. Phasing Of Certain Operations Periods | Threshold | Portuguese Authorities also consider that the 5 M€ threshold imposed for the phasing of operations is excessively high, and therefore we ask about the rational for this limit. Nevertheless, we understand that the Managing Authorities will only apply this option under exceptional circumstances and situations that always require a case-by-case analysis. | See reply to question 103. |
| 106 | Slovakia | 06. Phasing Of Certain Operations Over Two Programming Periods | Threshold | Section 6 (Phasing of certain operation over two programming periods) and section 7 (Non-functioning operations) – We propose, based on past experience, to reduce the limits of phased projects and non-functioning projects from EUR 5 million to EUR 1 million. | See reply to question 103. |
| 107 | Greece | 06. Phasing Of Certain Operations Over Two Programming Periods | Revenue Generating Projects | Taken into account that there will not be specific rules for revenue generating operations in pp 2021-2027, how will the Union contribution be calculated for Phase B of a phasing operation for which art. 61 of CPR Reg 1303/2013 is applied during pp 2014-2020 (operations generating net revenue after completion)? | <p>It is understood that the question refers to operations selected for support and started under CPR 2014-2020, which are phased into 2021-2027 and for which it is possible to determine the potential net revenue in advance using any of the methods set out in Article 61(3) and (5) CPR 2014-2020. Article 61(2) CPR 2014-2020 provides that the eligible expenditure of the operation to be co-financed from the ESI Funds shall be reduced in advance taking into account the potential of the operation to generate net revenue over a specific reference period that covers both the implementation of the operation and the period after its completion.</p> <p>Although implemented in two programming periods, a phased operation is one operation consisting of two phases. The perspective for an operation to generate revenue is independent to the implementation pace, triggering the phasing. In this regard, the Union contribution for both phases is determined based on the revenue generation potential of the operation, as detailed for the approval of the first phase.</p> <p>Therefore, following the above regulatory requirements, the potential of the operation to generate net revenue is to be taken into account for both phases of the operation and the eligible</p> |

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| | | | | | expenditure to be co-financed must be reduced accordingly in advance. |
| 108 | Greece | 06. Phasing Of Certain Operations Over Two Programming Periods | Revenue Generating Projects | In the same spirit as the above question, how will the provisions of art. 61, para 6 of CPR Reg 1303/2013 be applied for Phase B (pp 2021-2027) of a phasing operation for which it was not possible to determine its future revenue in advance i.e. during pp 2014-2020? | <p>The question refers to operations selected for support and started under CPR 2014-2020, which are phased into 2021-2027 and for which it is not possible to determine the potential net revenue in advance using any of the methods set out in Article 61(3) and (5) CPR 2014-2020.</p> <p>Article 61(6) CPR does not apply to such operations because they will be completed in 2021-2027 and their second phase will be implemented under 2021-2027 rules.</p> <p>CPR 2021-2027, which is applicable to the second phase of the operations phased into 2021-2027, does not contain provisions on revenue generating operations.</p> <p>Member States shall implement such operations in accordance with State aid rules, as well as all other applicable EU law, national and programme rules.</p> |
| 109 | Portugal | 06. Phasing Of Certain Operations Over Two Programming Periods | National funds | Concerning the condition that “the second phase of the operation is eligible for co-financing from Structural Funds and/or the Cohesion Fund under the 2021-2027 programming period and is compliant with all applicable rules of the 2021-2027 programming period”, Portuguese Authorities consider that an alternative to the financing of the Funds must be foreseen in the cases where the second phases of the operations will not be eligible under the applicable rules of the 2021-2027 programming period. It is a possibility and therefore it should be clarified that in such cases, the second phases of the operations can be financed through national resources, with the compromise, of the national authorities, of ensuring the completion and operationalization of these projects. | <p>The phasing conditions are set out in Article 118 of the CPR 2021-2027 (and draft Closure Guidelines).</p> <p>Operations should be physically completed or fully implemented and contributing to the objectives of the relevant priorities at the time of submission of the closure documents, unless they comply with the cumulative conditions set out in Article 118 of the CPR 2021-2027 (and draft Closure Guidelines) and can be phased into the programming period 2021-2027.</p> <p>According to Article 118(1)(b) of the CPR 2021-2027: "the second phase of the operation is eligible for co-financing from the ERDF, the ESF+, Cohesion Fund or the EMFAF under the 2021-2027 programming period and is compliant with all the applicable rules of the 2021-2027 programming period".</p> <p>The Closure Guidelines cannot deviate from this legal requirement.</p> |

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| 110 | Czech Republic | 06. Phasing Of Certain Operations Over Two Programming Periods | Monitoring | How will the EC assess the phased operations in the 2021-2027 programming period? Which information will be required by the EC within the monitoring period of phased operations? | <p>The phasing conditions are set out in Article 118 of the CPR 2021-2027 (and draft Closure Guidelines). The same Article provides that the second phase of the operation will be subject to provisions of the CPR 2021-2027.</p> <p>Member States should submit, with the final implementation report, a list of all phased operations, using the template provided in Annex I to the guidelines.</p> <p>In case of major projects, the Commission assessment takes place in the 2014-2020 programming period when the project is submitted / notified to the Commission. The major projects should also form part of the list of phased operations contained in the final implementation report.</p> <p>Monitoring of phased operations in 2021-2027 will follow the general monitoring rules applicable for 2021-2027.</p> |
| 111 | France | 06. Phasing Of Certain Operations Over Two Programming Periods | Major Projects | Do the Member-States have to submit either a major project application which foresees phasing of the major project over two periods or a request for amendment of the corresponding Commission decision in accordance with the procedures applicable to the amendment of Commission decisions for major projects? (see. 3.3 Specific rules for phasing of major projects over two programming periods - guidelines on closure 2007-2013). | <p>Yes, phasing is considered a modification of the major project Commission decision.</p> <p>Therefore, a major project application which foresees phasing of the major project or a request for amendment of the corresponding Commission decision has to be submitted by the Member State.</p> <p>The draft Closure Guidelines has been clarified as follows:</p> <p>“In order to request formally the phasing of a major project, Member States should submit or notify either a major project which foresees phasing of the major project over two programming periods or a request for amendment of a major project already approved in 2014-2020 (see section 3.2 of these guidelines).”</p> <p>According to the draft Closure Guidelines:</p> <p>“The submission and notification of major projects must follow the procedures set out in Article 102 and 103 of the CPR and the information requirements of Article 101 of the CPR, of the Commission Implementing Regulation (EU) 2015/207 and of Commission Implementing Regulation (EU) No 1011/2014.</p> <p>The requests for amendment of major projects must follow the same procedure as the one used for the initial notification or</p> |

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| | | | | | submission to the Commission (Article 102(1) or Article 102(2) of the CPR).” |
| 112 | Romania | 06. Phasing Of Certain Operations Over Two Programming Periods | Interreg | Please clarify if the phasing of certain operations also applies to Interreg projects. In 2007-2013 it was not possible, but in the current Guideline no exemption for Interreg is envisaged, hence it seems to be applicable. | There is no restriction to phasing in that regard, that is, phasing can also be applied to Interreg operations, which comply with the conditions established in Article 118 of the CPR 2021-2027 (and draft Closure Guidelines). |
| 113 | Czech Republic | 06. Phasing Of Certain Operations Over Two Programming Periods | Indicators | <p>In the Guidelines the EC says, that the operation has two identifiable phases from a financial point of view. This means that the Managing Authority can divide the phased operation only financially.</p> <p>1) Does it mean that there is no need for defining indicators for each of the phases?</p> <p>2) We would like to make sure that it means that only at the end of the final phase the fulfilment of “physical completion, full implementation and contribution to the objectives of the relevant priorities of 2021-2027 programming period” of all phases will be examined. (No examination like that after each preceding phase is foreseen.)</p> | <p>1) Member States do not need to identify indicators for each phase, except for major projects, for which the indicators have to be identified according to the legal requirements of the 2014-2020 programming period.</p> <p>In line with the draft Closure Guidelines, only outputs actually delivered by the phase included in the 2014-2020 programming period can be reported in the final implementation report of the programme. Other outputs (together with the related expenditure) must be reported under the 2021-2027 programming period.</p> <p>2) Yes, a phased operation is considered as a whole and its physical completion and contribution to the objectives of the relevant priorities will be checked at the end of the 2021-2027 programming period.</p> |

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| 114 | France | 06. Phasing Of Certain Operations Over Two Programming Periods | Financial Instruments | <p>Can the financial instruments be inscribed on the list of phased operations for the closure of the programmes for the 2014-2020 programming period? They were excluded under the guidelines on closure 2007-2013. (see 3.4 Specific rules for phasing of non-major projects over two programming periods - guidelines on closure 2007-2013)</p> | <p>A clarification in the draft Closure Guidelines has been included which provides that financial instruments cannot be phased.</p> <p>The reason why phasing is not possible in case of financial instruments comes from the definition of an operation in the context of financial instruments (Article 2(9) of the CPR) and the eligibility of expenditure for financial instruments according to Article 42 of the CPR. The definition states that “in the context of financial instruments, an operation is constituted by the financial contributions from a programme to financial instruments and the subsequent financial support provided by those financial instruments”.</p> <p>The operation in the context of financial instruments does not imply a physical implementation of an investment.</p> <p>Programme resources of 2014-2020 contributed to the financial instrument cannot be spent in the subsequent programming period; i.e. only programme resources used for the purposes set out in Article 42 CPR within the eligibility period are considered eligible expenditure at closure.</p> |
| 115 | Romania | 06. Phasing Of Certain Operations Over Two Programming Periods | Financial Correction and Irregularities | <p>“Failure to complete a phased operation as planned may give rise to financial corrections for both phases of the operation.”</p> <p>RO: Please, explain this paragraph: is it related to the recovery of sums allocated for the project, or a financial flat rate correction at the Programmes/priorities level? If the later, please take into account the comments referring to sections 3.2 and 5.2.</p> | <p>If a phased operation is not completed and is not contributing to the objectives of the relevant priorities at the end of the programming period 2021-2027, the financial correction may result into the deduction of the affected expenditure relating to the operation (both phases) from the expenditure declared to the Commission in both programming periods.</p> |

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| 116 | Slovakia | 06. Phasing Of Certain Operations Over Two Programming Periods | Financial Correction and Irregularities | Section 6, 4th subparagraph – As regards the sentence “Failure to complete a phased operation as planned may give rise to financial corrections for both phases of the operation” – We propose to add link to legal text based on which the financial correction is possible to apply for non-completed phased operation. | <p>An operation phased over two programming periods is considered as a whole and will only be regarded as completed once both phases have been physically completed or fully implemented and have contributed to the objectives of the relevant priorities.</p> <p>If a phased operation is not completed and is not contributing to the objectives of the relevant priorities at the end of the programming period 2021-2027, expenditure declared to the Commission for that operation would be in breach of applicable EU law, leading to that expenditure being considered irregular.</p> <p>The irregular expenditure must be corrected by the Member State itself or the Commission pursuant to Articles 143 and 144 of the CPR and Articles 103 and 104 of the CPR 2021-2027.</p> |
| 117 | Greece | 06. Phasing Of Certain Operations Over Two Programming Periods | ESF | It’s not quite clear whether an operation co-financed by the ESF could phase into the 2021-2027 programming period, provided that all the conditions set by the relevant regulations and guidelines are met. | Yes, operations co-financed by ESF (complying with the conditions established in Article 118 of the CPR 2021-2027 and draft Closure Guidelines), can also be phased. |
| 118 | Greece | 06. Phasing Of Certain Operations Over Two Programming Periods | Eligible Expenditure | <p>In the cumulative conditions to be met for ensuring the phasing of operations it is included that “the operation has two identifiable phases from a financial point of view”.</p> <p>1) We need some explicit clarification on the term “identifiable phases”. If the separation of a financial object with accounts is sufficient, it is indeed easier to distinguish the two phases on the basis of the financial object only. A basic condition is to have a “detailed and complete audit trail for the expenditure”.</p> <p>2) In our view, the distinction of Phase A of phasing operations should not be linked to output indicators (which are related to the physical object and may correspond to a value of "0" in the</p> | <p>1) It is up to the Member State to define the two phases from a financial point of view ensuring that the other conditions for phasing set out in Article 118 of the CPR 2021-2027 (and the draft Closure Guidelines) are complied with (among others in particular, that there is a detailed and complete audit trail for the expenditure to ensure that the same expenditure is not declared twice to the Commission).</p> <p>2) See reply to question 113 1).</p> |

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| | | | | absence of a complete measurable indicator). | |
| 119 | Spain | 06. Phasing Of Certain Operations Over Two Programming Periods | Eligible Expenditure | We do not agree with the statement in the penultimate paragraph that if a failed operation is not completed, financial corrections could be applied in both phases. An operation is divided into phases precisely by the date of eligibility of expenditure. If Phase I is already approved and included in an approved closure, it should not be eligible for financial corrections. It is therefore proposed to delete the penultimate subparagraph of this paragraph. | See reply to question 116. |
| 120 | Romania | 06. Phasing Of Certain Operations Over Two Programming Periods | Definition of Project completion | <p>"Operations should be physically completed or fully implemented and contributing to the objectives of the relevant priorities at the time of submission of the closure documents."</p> <p>RO: A more detailed definition should be provided for these operations: what is understood by physically completed or fully implemented? It would be useful to include also some practical examples, having in mind also the experience of the closure of the 2007-2013 programming period.</p> | <p>The draft Closure Guidelines provide that at the time of submission of the closure documents, Member States must ensure that all operations in the programme are functioning, i.e. they have been physically completed or fully implemented and have contributed to the objectives of the relevant priorities.</p> <p>Article 2(9) of the CPR provides a definition of an operation, according to which the operation must contribute to the objectives of a priority or priorities. Article 2(14) of the CPR provides for a definition of a completed operation, according to which it is an operation which has been physically completed or fully implemented and in respect of which all related payments have been made by beneficiaries and the corresponding public contribution has been paid to the beneficiaries. Within the latter definition,</p> <ul style="list-style-type: none"> - Physical completion relates to operations that have a physical object, such as the construction of an infrastructure, whereas - Full implementation relates to operations that do not have a physical object - or not exclusively - but include other elements that also need to be carried out in order for the operation to be considered as implemented. In particular, it is the case for "soft" operations (such as research activities or trainings and certain types of support to SMEs). <p>In case of a group of projects within an operation, the operation</p> |

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| | | | | | <p>would only be considered physically completed or fully implemented if all projects within that operation have been physically completed or fully implemented.</p> <p>Following Article 2(9) of the CPR, for an operation to be considered functioning, it should not only be physically completed or fully implemented but also it should contribute to the objectives of the relevant priorities. As an example, if an operation consisting in infrastructure is physically completed but it is not being used according to its purpose, it cannot be considered that this operation contributes to the objectives of the relevant priorities.</p> |
| 121 | Romania | 06. Phasing Of Certain Operations Over Two Programming Periods | Definition of Project completion | <p>"At the time of submission of the closure documents, Member States must ensure that all operations (including the operations phased from the 2007-2013 programming period) in the programme are functioning, i.e. they have been physically completed or fully implemented and have contributed to the objectives of the relevant priorities."</p> <p>RO: It is not clear in which way the Members States can give the above mentioned ensurance related to the contribution to the objectives of the relevant priorities, even at the moment of the submission of the closure documents.</p> <p>A functional project should be the one completed and in use (as defined for the 2007-2013 period of programming), this status constituting the necessary prerequisite for its contribution to the objectives of the relevant priority.</p> <p>The current addition to this definition is more likely to create confusion and impose an additional and hardly justified burden for the Member States in framing these projects.</p> | See reply to question 120. |

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| | | | | Please, explain how the EC envisages the reporting of contribution of these projects to the objectives of the relevant priorities and consider to include in the guidelines the definition used for functional projects so far (completed and in use). | |
| 122 | Poland | 06. Phasing Of Certain Operations Over Two Programming Periods | Definition | point 6 – does even a slight modification of the project (e.g. it was originally planned to create a kindergarten and a building was built / renovated in the first phase, and in the second phase the building was equipped with support from ESIF or other resources and instead of a kindergarten, a nursery has been created) results in the non-eligibility of phase one expenditure? | <p>It is not clear from the question whether <i>i</i>) the operation has been implemented according to the document setting out the conditions for support and underwent a change in its execution phase (in the case of which the change should be assessed against the durability requirements mentioned below) or <i>ii</i>) the document setting out the conditions for support has been revised to take account of the change (in the case of which it should be ensured that the modified operation complies with the programme and contributes to the objectives of the priority(ies) under which it has been selected) or <i>iii</i>) the operation was not implemented according to the document setting out the conditions for support.</p> <p>The managing authority’s responsibility is to ensure that the beneficiary is provided with a document setting out the conditions for support for each operation including the specific requirements concerning the products or services to be delivered under the operation, the financing plan, the time limit for execution, as well as the requirements regarding information, communication and visibility.</p> <p>The managing authority must verify that the co-financed products and services have been delivered, that the operation complies with applicable law, the operational programme and the conditions for support of the operation (see Article 125(3)(c) and (d) and (4)(a) of the CPR).</p> <p>The audit of operations must verify that the operation has been implemented in accordance with the approval decision and fulfilled any conditions applicable at the time of the audit concerning its functionality, use, and objectives to be attained (see Article 27(2)(a) of Commission Delegated Regulation (EU) No 480/2014).</p> |

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| | | | | | <p>If the operation is not implemented according to the document setting out the conditions for support, it may give rise to an irregularity. A case by case assessment is necessary to establish if individual cases are irregular or not.</p> <p>Once implemented, the operation must comply with the durability requirements set out in Article 71 of the CPR or Article 65 of the CPR 2021-2027 if the operation is phased into the 2021-2027 programming period.</p> <p>The above mentioned legal provisions are in essence identical in that the Member State must repay the contribution from the Funds to an operation comprising investment in infrastructure or productive investment if within the time period enshrined therein the operation undergoes a substantial change affecting its nature, objectives or implementation conditions which would result in undermining its original objectives.</p> <p>A case-by-case analysis is necessary to determine if the durability requirements are breached.</p> |
| 123 | Portugal | 06. Phasing Of Certain Operations Over Two Programming Periods | Definition | <p>The PT authorities consider very positive that the phasing of certain operations is no longer linked with the need to have a physical scope of each phase , as set out in the guidelines for the 2007-2013 programming period (Decision C(2015) 2771 final).</p> <p>In order to ensure that operations are completed and contribute to the policy goals, phasing operations into the 2021-2027 programming period is possible provided that, amongst others, the operation has two identifiable phases from a financial point of view.</p> <p>Portuguese Authorities ask for a clarification of the concept of “financial point of view”:</p> <ul style="list-style-type: none"> • Can it correspond to a financial part of a contract that continues to be implemented in the 2021-2027 | See reply to question 118 1). |

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| | | | | <p>programming period?</p> <ul style="list-style-type: none"> • Can it be part of an invoice that is split between the two programming periods, with the safeguard of the segregation of expenses in order to avoid the possibility of a double funding? | |
| 124 | Slovenia | 06. Phasing Of Certain Operations Over Two Programming Periods | Definition | <p>"Phasing of certain operations over two programming periods": We suggest to upgrade guidelines with a clear definition or clarification of the text "the operation has two identifiable phases from a financial point of view". So far, it is not clear how different phases should be defined taking into account only the financial aspect of the operation. In order to avoid different interpretations, it would be logical to include also the technical aspect of an operation when defining a phase to be implemented within a specific programming period.</p> | See reply to question 118 1). |
| 125 | Greece | 06. Phasing Of Certain Operations Over Two Programming Periods | Annex I | <p>The phasing operations according to the closure guidelines for the 2007-2013 programming period were distinguished between a) Major phasing projects and b) Other phasing projects (i.e. non-major projects with a budget threshold of € 5 million). These two categories were reflected in 2 different tables in the closure report, since the Major Projects required additional data derived from the corresponding Decisions of the European Commission, the elements of which "bound" the project at least for Phase A. The non-major phasing projects were included in a separate table, with the only reference to the Co-financed Public Expenditure of the decision for the selection of Phase A which was identical</p> | The Commission needs to have an overview of all phased operations (major projects and other operations). |

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| | | | | <p>with the respective expenditures for the pp 2007-2013. There was no obligation to report a cost estimate for Phase B or estimation for the time of their completion.</p> <p>On the contrary, the closure guidelines for pp 2014-2020 do not distinguish between the different kinds of phasing projects (Major and Other). It is requested to include all phasing projects (regardless of their budget) in a single list (table) that will be annexed in the final implementation report of the OPs that will be submitted until 15/02/2025. So, new obligation is introduced to provide additional information concerning non-major phasing projects: (a) Total cost of the operation, which will be analyzed in a.1) total for both phases and a.2) for the proposed second phase (estimated), and (b) Planned completion date of the second phase (year / quarter). Taking into consideration the above and in order to reduce the administrative burden, we propose to have separate data record (list) for major and other projects by limiting the information provided for the other projects or by clarifying the binding nature of the data provided for them (since they are not recorded in Commission Decisions).</p> | |
| 126 | Cyprus | 06. Phasing Of Certain Operations Over Two Programming Periods | Financial Instruments | <ul style="list-style-type: none"> • Since a financial instrument can be defined as an ‘operation’ , it is believed that is possible to be phased between the two programming periods. Is that correct? | See reply to question 114. |

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| 127 | Cyprus | 06. Phasing Of Certain Operations Over Two Programming Periods | Aid Scheme | <ul style="list-style-type: none"> The same for an aid scheme. Since it can be defined as an 'operation', it is possible to be phased between the two programming periods. | <p>An operation is defined by Article 2(9) of the CPR as a project, contract, action or group of projects selected by the managing authorities of the programmes concerned or under their responsibility, that contributes to the objective of a priority or priorities.</p> <p>Therefore, an operation implemented under a State aid scheme can be phased provided that the phased operation complies with State aid rules, notably with procedural rules applicable to prolongation of an aid scheme.</p> |
| 128 | Cyprus | 06. Phasing Of Certain Operations Over Two Programming Periods | Different policy fund | Can a phased operation, which is financed by a Cohesion Policy Fund (ERDF or ESF or Cohesion Fund) in programming period 2014-2020 to be financed by a different Cohesion Policy Fund in the next programming period 2021-2027? | Yes, Article 118 of the CPR 2021-2027 provides for no limitation with regard to financing the second phase of an operation from a different Cohesion Policy Fund than the one from which the first phase was financed. |
| 129 | Hungary | 06. Phasing Of Certain Operations Over Two Programming Periods | Phasing during N+3 | Taking into account, that the years between 2021-2023 overlap the two programming period, in our understanding it is possible phasing an operation that is physically completed before 31/12/2023. Eg.: given an operation started in 2018 and will be finished in 2022. In our understanding the operation can be phased by e.g.: 31 12. 2021. So the expenditures occurred before that date would be declared under 14-20 programming period, and the expenditures that will occur after that date will be declared during the next OP. | <p>The question is not clear: if the operation is physically completed before 2023, there seems to be no need to phase it.</p> <p>The Member State has to proceed with phasing ensuring the respect of all conditions set out in Article 118 of the CPR 2021-2027 (and draft Closure Guidelines), in particular that there is a detailed and complete audit trail for the expenditure to ensure that the same expenditure is not declared twice to the Commission.</p> |
| 130 | Hungary | 06. Phasing Of Certain Operations Over Two Programming Periods | Financial Phasing | In our understanding it is also possible to financially phase a project before 31/12/2023 even if the planned physical completion of the operation is after 31/12/2023. | Yes, an operation can and should be phased before the end of the eligibility period, especially if phasing causes changes in allocations for priorities (see deadlines in draft Closure Guidelines for amendment of programmes). |

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| 131 | Hungary | 06. Phasing Of Certain Operations Over Two Programming Periods | Financial Phasing | If an operation is phased, what will happen with the contractual advance payments which are not matched by physical delivery (works, services) until the end of the first phase? In our understanding it's the MS's competence to determine the accounting rules of the contractual advance payment. | <p>On the basis of article 65(2) and 131(2) of the 2014-2020 CPR, payments by beneficiaries shall be undertaken prior to 31 December 2023 in order for the expenditure to be eligible. Therefore, contractual advance payments may be eligible, provided that they are paid by the beneficiary within the eligibility period in application of a contractual obligation and duly justified through invoices or documents with equivalent probative value.</p> <p>Certification of expenditure in the form of only advances not covered by activities implemented on the ground is not possible in 2014-2020 programming period.</p> <p>If a contract covers the two phases, the advance payment relating to the entire contract (covering both phases) is eligible at closure provided the full amount of the advance is covered by the provision of work, equipment or service of at least the equivalent value of the advance as included in the accounts of the final accounting year³</p> |
| 132 | Hungary | 06. Phasing Of Certain Operations Over Two Programming Periods | Annex I | Annex I (LIST OF ALL OPERATIONS PHASED FROM 2014-2020 INTO 2021-2027): It is recommended to insert the column "OPERATION REFERENCE" in the table (as in Annex II and II) | The suggested column has been added to Annex I to the draft Closure Guidelines. |
| 133 | Hungary | 06. Phasing Of Certain Operations Over Two Programming Periods | Threshold | Section 6 (p9, 2nd bullet point): It is necessary to clarify whether the threshold of 5 million euros applies to two phases together or separately. | The total cost of the operation, i.e. both phases. |

³ The last sentence of the reply to this question has been revised to correct a drafting error.

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| 134 | Hungary | 06. Phasing Of Certain Operations Over Two Programming Periods | Physical implementation | Section 6 (p9, 3rd bullet point): It should be considered to prescribe a physical delimitation between each project phase, also in terms of clearly attributing indicators to a programming period. | <p>The requirement on identifiable phases from a financial point of view constitutes a condition for phasing, which stems from Article 118 of the CPR 2021-2027. It reads as follows: “the operation, as selected for support under Regulation (EC) No 1303/2013, has two phases identifiable from a financial point of view with separate audit trails”.</p> <p>With regard to the identification of indicators, see reply to question 113 1).</p> |
| 135 | Hungary | 06. Phasing Of Certain Operations Over Two Programming Periods | Definition of Phasing | Section 6 (p10, second-to-last paragraph, last sentence): The exact meaning of completion „as planned” is not clear, furthermore it is also not clear at what point in time the facts regarding the plan should be taken into account during the assessment (when awarding the grant or at the time of the submission of final documents where applicable). It is recommended to clarify the description. | <p>The draft Closure Guidelines state that a failure to complete a phased operation as planned may give rise to financial corrections for both phases of the operation.</p> <p>‘As planned’ in this context means that the phased operation must be implemented according to the document setting out the conditions for support, or, in case of major projects, its decision granting assistance or notification (if tacitly approved).</p> <p>As per the draft Closure Guidelines, by including the operations in Annex I, Member States undertake that these operations will be functioning by the deadline to submit the assurance package for the final accounting year of the 2021-2027 programming period.</p> |
| 136 | Spain | 06. Phasing Of Certain Operations Over Two Programming Periods | Definition | Clarification is requested on the condition “the operation has two financially identifiable phases”. | See reply to question 118 1). |

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| 137 | Czech Republic | 07. Non-functioning Operations | Threshold | <p>How to deal with the operation / expenditure incurred and paid for operations that are not physically completed or fully implemented ('non-functioning operations') which does not fulfil the selected criteria (the total cost of each non-functioning operation exceeds EUR 5 million; and the total expenditure certified to the Commission for the non-functioning operations does not exceed 10% of the eligible total expenditure (EU and national) decided for the programme)?</p> <p>With the current situation, the impact is on many operations and the limit of EUR 5 mil. can be very problematic. Why does this limit have to be set up?</p> | <p>The draft Closure Guidelines have been amended as follows:</p> <p>" Member States are invited to exclude from the accounts for the final accounting year expenditure incurred and paid for operations that are not physically completed or fully implemented and/or not contributing to the objectives of the relevant priorities ('non-functioning operations'). Member States may however decide to include in the accounts for the final accounting year such expenditure provided that:</p> <ul style="list-style-type: none"> • the total cost of each non-functioning operation exceeds EUR 2 million; and • the total expenditure certified to the Commission for the non-functioning operations does not exceed 10% of the eligible total expenditure (EU and national) decided for the programme". |
| 138 | Greece | 07. Non-functioning Operations | Threshold | <p>The 5 million euro threshold proposed for non-functioning operations is high and in practice it is estimated that it will not be so much of use, as the same threshold applies to phased projects. Namely, operations over 5 mio euro that are not completed on time during the pp 2014-2020 and are eligible for funding in pp 2021-2027, might be preferable to declare them as phased and not as non-functioning. In this way the 5 mio euro threshold weakens the facility given by the Commission Services for the completion of non-functioning operations. Therefore, we propose to reduce the threshold for non-functioning operations to 3 million euros and specifically for EMFF to 2 million euros.</p> | See reply to question 137. |
| 139 | Greece | 07. Non-functioning Operations | Threshold | <p>We propose to reduce the threshold for non-functioning operations co-financed by the EMFF to 2 million euros.</p> | See reply to question 137. |

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| 140 | Lithuania | 07. Non-functioning Operations | Threshold | <p>In the 2nd paragraph of Section 7 “Non-functioning operations” it is stated: “Member States may decide to include expenditure incurred and paid for operations that are not physically completed or fully implemented (‘non-functioning operations’) in the accounts for the final accounting year provided that:</p> <ul style="list-style-type: none"> - The total cost of each non-functioning operation exceeds EUR 5 million; and - The total expenditure certified to the Commission for the non-functioning operations does not exceed 10% of the eligible total expenditure (EU and national) decided for the programme.” <p>In the Annex II “List of non-functional operations” there are two columns: “Total cost of the Operation (in Eur)” and “Total certified expenditure (in Eur)”.</p> <p>Do we understand correctly that in the column “Total cost of the Operation (in Eur)” the total cost of operation should be indicated (not evaluating that project may have possible irregular expenditure, which was not declared to the EC or corrected in payment applications) and the limit of EUR 5 million is determined on the basis of this amount?</p> | Correct. |
| 141 | Lithuania | 07. Non-functioning Operations | Threshold | <p>As regards the 2nd condition (“the total expenditure certified to the Commission”), the limit is determined on the basis of the information indicated in column “Total certified expenditure (in Eur)”?</p> | Correct. |

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| 142 | Portugal | 07. Non-functioning Operations | Threshold | As stated, Portuguese Authorities consider that the 5 M€ threshold imposed for the phasing of operations is excessively high, since projects have much lower average costs and, in addition, some OP's will have difficulties of having high amounts of overbooking that can cover projects that need to be phased and that cannot be included in the final payment claim. In this context, we suggest the removal of this limit or its reduction. Once again, we notice that these will always be exceptional circumstances and situations that require a case by case analysis by the Managing Authorities. In the case of non-operational projects, as a whole they cannot exceed 10% of the Eligible Total Cost that is in the financial schedule. Would it be possible for this limit to be considered on the basis of the declared expenditure at closure? | See reply to question 137. |
| 143 | Spain | 07. Non-functioning Operations | Threshold | It is proposed to remove the threshold of EUR 5 million for non-functional projects or, where appropriate, to reduce it. Above all, taking into account the effects of the COVID-19 crisis. | See reply to question 137. |
| 144 | Germany | 07. Non-functioning Operations | Threshold | The corona pandemic has already led to delays in many projects; the current pandemic trend gives rise to fears of further delays. We therefore ask that the deadline for establishing the functionality of non-functioning projects be extended to 2 years (analogous to the previous period) and that the minimum size for non-functional projects be reduced to 1 million euros in total costs | See reply to question 137. This should be compensated by the simplified possibility for phasing operations included in the CPR 2021-2027, which would help ensuring the limited presence of non-functioning operations at the time of submission of closure documents. Moreover, the fact that only one additional year has been granted to complete non-functioning operations (and not two years as in the Closure Guidelines 2000-2006 and 2007-2013) is justified by the N+3 rule (compared with the N+2 rule in the |

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| | | | | to contribute. | previous programming periods). Therefore, Member States will have an additional year to implement the operations, which in practice equals the approach of 2007-2013. |
| 145 | Romania | 07. Non-functioning Operations | Proportionality | <p>"If the operations are non-functioning by 15 February 2026, Member States, taking into account the status of completion as well as the achievement of the overall objectives of the operations, should provide the Commission with the amounts to be corrected and justification as to how the amounts were calculated..."</p> <p>RO: It is hard to presume that an incomplete operation can contribute to the aimed overall objectives. This being said, please clarify how the amounts to be corrected should be calculated, considering the two factors above mentioned (status of completion and the achievement of the overall objectives of the operations).</p> | The principle of proportionality has to be taken into account. A partially completed operation can contribute partially to the objectives of relevant priorities. For example, an operation consists of two sections of a road infrastructure. The first section has been physically completed and is being used independently from the second section of the infrastructure, which remains uncompleted. Therefore, it can be concluded in this case that the partially completed operation contributes partially to the objectives of relevant priorities. |
| 146 | Belgium | 07. Non-functioning Operations | Performance Framework | <p>Some projects may be operational when the program closes on 15/02/2025, but it will not yet be possible to report on these projects at the level of the related performance indicators.</p> <p>Indeed, when an EPB certificate is necessary to attest to the reduction in energy consumption, a period of use of the renovated building for one year is necessary before this certificate is issued.</p> <p>A project can therefore be operational when the program is closed without its outputs being able to be taken into account for the performance framework. Can the additional period until</p> | See reply to question 101. |

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| | | | | 02/15/2026 also be granted in this case? in other words, without the project having to meet the conditions that apply to non-operational projects (minimum of 5 million, ceiling of 10%)? | |
| 147 | Greece | 07. Non-functioning Operations | Overbooking/ Performance Framework | <p>With regard to the reference “Any irregular amounts may be replaced using overbooked expenditure (if available)” in page 11 which is also used for operations affected by ongoing national investigations or suspended by a legal proceeding or by an administrative appeal having suspensory effect in Section 8 of these Guidelines (page 11), please clarify:</p> <p>What will happen if the values of the indicators linked to the available overbooked expenditure in a priority axis do not contribute to the achievement of the final targets of the indicators in the same way as the ones linked to the irregular amounts (of the non-functional operations and operations affected by investigations/suspensions) in case of:</p> <p>a) reduction of the Performance Framework indicators as completed in the final report?</p> <p>b) reduction of other operational indicators (beyond the Performance Framework)?</p> | <p>The Commission services expect that the Member States will include in the final implementation report the indicator achievement values related to the expenditure declared under the programme, including overbooking.</p> <p>If after submission of the closure documents expenditure is “replaced” by using overbooking, the indicator reporting in the final implementation report will not be modified.</p> |
| 148 | Romania | 07. Non-functioning Operations | National funds | We do not consider the provision of “national funds” necessary, as the completion is the key element, the funds for completion are not - as long as they are not EU funds (MS can decide to use private funds - for instance, own responsibility of private beneficiaries). | The draft Closure Guidelines have been amended to delete "national funds". |

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| 149 | Czech Republic | 07. Non-functioning Operations | Monitoring | How will the EC monitor the non-functioning projects? What are the EC's requirements on the check of the functioning of the projects? Is it possible to prove the functioning of projects based on the administrative check of projects (monitoring reports on sustainability, special report)? Which information will be required by the EC within the monitoring period of non-functioning projects before submitting of the final implementation report? | <p>Regarding the monitoring of the non-functioning operations, the Member States should submit, with the final implementation report, a list of the non-functioning operations included in the programme (which comply with the conditions set out in the draft Closure Guidelines to be granted an additional year for their completion), using the template provided in Annex II to the draft Closure Guidelines.</p> <p>Member States should monitor the non-functioning operations and by 15 February 2026, they should provide the Commission with the necessary information on their physical completion or full implementation and their contribution to the objectives of the relevant priorities. There will be no intermediate reporting before 15 February 2026.</p> <p>As per Article 125(4)(a) of the CPR, the managing authority must verify that the co-financed products and services have been delivered, that the operation complies with applicable law, the operational programme and the conditions for support of the operation.</p> <p>Before submission of the final implementation report, no specific information on the non-functioning projects will be required.</p> |
| 150 | Romania | 07. Non-functioning Operations | Financial Correction Procedure | <p>"If the Commission disagrees with the calculation of the amounts to be corrected, it may launch a financial correction procedure."</p> <p>RO: Please consider inserting a conciliation procedure between MS and EC before launching a financial correction procedure.</p> | The financial correction procedure between the Member States and the Commission always takes into account the right of the parties to be heard. |
| 151 | Greece | 07. Non-functioning Operations | Eligible Expenditure | Please confirm that the total expenditure certified to the Commission for the non-functioning operations does not exceed 10% of the eligible total expenditure (EU and National) decided for the programme and not for every Fund for programmes that receive support from more than one | It is the total eligible expenditure (EU and national) decided for the programme (not per Fund). |

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| | | | | ESI Fund. | |
| 152 | Spain | 07. Non-functioning Operations | Early Closure | The possibility of early closure is welcome, but we would like to know if this possibility could be applied to programmes where some non-functional projects exist. | See reply to question 7. |
| 153 | Greece | 07. Non-functioning Operations | Definition within AIR | Please confirm that the approach for “physically completed” and “fully implemented” operations (also mentioned in Section 7 of these Guidelines) as described in the AIR Q&As documents and is used for all the AIRs so far, will be followed for the closure and the final implementation report. | The same approach as in the AIR Q&A will be followed at closure regarding the elements of "physically completed" and "fully implemented". |
| 154 | Italy | 07. Non-functioning Operations | Deadlines/Thresholds | <p>It is noted that the time needed for the completion of non-functioning projects has been reduced to one year after the deadline for submission of closure documents; the 2007-2013 closure guidelines provided for a two-year deadline for completion within two years.</p> <p>This amendment appears to be exactly contrary to what would be necessary. The difficulties caused by the COVID emergency may lead to downsizing and have already led to slowdowns of many investment projects: given this situation, the granting of extensions may be an alternative to waiving or definancing, and it is therefore essential to have a reasonable period for completion.</p> <p>It is proposed, by analogy with the 2007-2013 programming cycle, that the deadline be extended to at least 15/02/2027, so that the deadline for</p> | See reply to questions 137 and 144. |

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| | | | | <p>completing non-functioning projects with national resources should be postponed by one year. It would also be appropriate to grant further flexibility by reducing the size threshold of projects that can be completed beyond the closure of the programming, e.g. from EUR 5 million to EUR 1 million.</p> <p>The following amendment is proposed in the context of the paragraph:</p> <p>“Member States may decide to include expenditure incurred and paid for operations which are not physically completed or fully implemented (“non-functioning operations”) in the accounts for the final accounting year provided that:</p> <p>The total cost of each operation not operating exceeds EUR 1 million; and the total expenditure certified to the Commission for non-functioning operations shall not exceed 10 % of the total eligible expenditure (EU and national) decided for the programme.</p> <p>By including expenditure for operations not functioning in the accounts of the final accounting year, Member States commit to complete all non-functioning operations with national funds by 15 February 2027 and to reimburse the amounts concerned to the EU budget if these operations are not operational by that date.</p> <p>Member States should submit, together with the final implementation report, a list of non-functioning operations included in the programme, using the template provided in Annex II to these</p> | |
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| | | | | <p>guidelines. Member States should monitor non-functioning transactions and, by 15 February 2027, provide the Commission with the necessary information on the completion of those operations.</p> <p>If operations are not operational by 15 February 2027, Member States...'</p> | |
| 155 | Belgium | 07. Non-functioning Operations | Deadlines | <p>The deadline for MS to make non-operational projects operational at closure is only 1 year (until 02/15/2026) while it was 2 years for the 2007-2013 programming. An additional 2-year period should be left to finalize non-operational projects in the 2014-2020 programming. Indeed, the current health crisis is expected to cause delays that cannot be made up by the end of the programming.</p> | See reply to question 144. |
| 156 | France | 07. Non-functioning Operations | Deadlines | <p>Regarding the monitoring of the Member-States about the necessary information relating to the completion of non-functioning operations, is one information, by means of a letter, once before the deadline of 15 February 2026, enough?</p> | <p>If an operation is functioning before 15 February 2026, Member States can inform the Commission by means of a letter before such date, but they must ensure to submit the reporting by 15 February 2026, as requested by the draft Closure Guidelines.</p> |
| 157 | Greece | 07. Non-functioning Operations | Deadlines | <p>In our view the deadline of 15/02/2026 to complete the non-functioning operations is too short. We propose to extent this deadline to 2 years from the submission of the final implementation report of the OPs 2014-2020, i.e. until 15/02/2027.</p> | See reply to question 144. |
| 158 | Greece | 07. Non-functioning Operations | Deadlines | <p>Given that the deadline for the submission of closure documents is 15/02/2025, please confirm that for non-functioning operations, the provision of art. 61, para 6 of CPR Reg 1303/2013</p> | <p>The obligation under Article 61(6) CPR 2014-2020 to deduct the net revenue from the expenditure declared to the Commission does not apply to the operations, which are completed after the deadline for the submission of documents for programme closure 2014-2020.</p> |

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| | | | | will be applied for just 1 year. | State aid rules, together with all other applicable EU law, national and programme rules apply. |
| 159 | Poland | 07. Non-functioning Operations | Deadlines | point 7 - Guidelines on the closure for programming period 2007-2013 state that all such non-functioning projects must be terminated no later than two years after the deadline for submission of the closure documents. In the draft guidelines the period has been shortened to 1 year. It is suggested to retain the period of 2 years and therefore change the date to February 15, 2027. | See reply to question 144. |
| 160 | Romania | 07. Non-functioning Operations | Deadlines | <p>"By including expenditure for non-functioning operations in the accounts for the final accounting year, Member States undertake to complete with national funds all such non-functioning operations not later than by 15 February 2026, and to reimburse the amounts concerned to the EU budget if such operations are non-functioning by this date."</p> <p>RO: Considering the actual pandemic context, giving rise to a whole array of hindering conditions, and taking also into account the increase in the amounts and complexity of the projects financed during the current programming period, shortening of the interval allowed for the completion of the non-functioning operations appears not to be justified (with reference to the 2007-2013 period).</p> <p>We insist in the preserving of the previous rule in this concern, meaning to allow a two years period after the deadline for submission of the closure documents for completion of such</p> | See reply to question 144. |

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| | | | | <p>projects - deadline: 15 of February 2027.</p> <p>Also, please consider an even longer period (maximum three years) for completion of the non-functioning major projects, taking into account their value, tasks and targets included (their contribution to the relevant priorities of the Programmes), as well as the current implementation delay factors, likely to be encountered for the period to come.</p> | |
| 161 | Romania | 07. Non-functioning Operations | Deadlines | <p>"Member States should monitor the non-functioning operations and by 15 February 2026, they should provide the Commission with the necessary information on the completion of these operations".</p> <p>RO: Information related to the completion of the operations cannot be provided by the Member States by the term of the projects' completion, but after a reasonable period allowed for the reporting and verifying the data received from the beneficiaries concerned.</p> <p>We propose a 6 months period after the deadline for the completion of the projects.</p> | As per draft Closure Guidelines, Member States must report by 15 February 2026 on the physical completion or full implementation of the operations and their contribution to the objectives of the relevant priorities. |
| 162 | Slovakia | 07. Non-functioning Operations | Deadlines | <p>Section 7 – the draft guideline defines that in the case of non-functional projects, the operation must be operational by 15 February 2026. Based on the experience from previous programming periods, we request that the deadline be postponed to 15 February 2027. We understand that the EC strives to complete the implementation as soon as possible, but for the Slovak Republic, it is necessary that deadline to be longer.</p> | See reply to question 144. |

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| 163 | Slovenia | 07. Non-functioning Operations | Deadlines | "Non functioning operations": We suggest to upgrade guidelines with instructions or a template which could be used for the monitoring and the final reporting on non-functioning operations. The main reason for this is that the deadline for submission of the final implementation report of the programme is 31 May 2024, for the remaining closure documents 15 February 2025, while the deadline for non-functioning operations is 15 February 2026, this is one year after the submission of closure documents. This would help MS to use a common approach when reporting on non-functional operations | See reply to question 99. |
| 164 | Spain | 07. Non-functioning Operations | Deadlines | It is proposed to extend by one year the deadline for completing non-functional projects, 15 February 2027 instead of 15 February 2026. | See reply to question 144. |
| 165 | Germany | 07. Non-functioning Operations | Deadlines | <p>PARA 7 Non functioning operations</p> <p>Extension of the deadline until 28 Feb 2026 specially in regard to construction or infrastructure projects. There are a lot of unforeseen circumstances which will deliver towards the end of the programme. The significant disruption of COVID 19 does place a number of them at risk of not completing by December 2023 and therefore potentially placing a substantial burden on domestic funds. The corona pandemic has already led to delays in many projects; the current pandemic trend gives rise to fears of further delays. We therefore ask that the deadline for establishing the functionality of non-functioning projects be extended to 2 years (analogous to the</p> | It is not foreseen to change the deadline set out in the draft Closure Guidelines. |

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| | | | | previous period) | |
| 166 | Belgium | 07. Non-functioning Operations | 5. Indicators and Performance Framework at Closure | <p>We suggest a way to take into account the impact of covid for infrastructure projects:</p> <p>still be able to report on achievements until 15 February 2026 (and that at the level of performance framework indicators, we therefore have one more year to achieve the planned objectives (even keeping the end date) eligibility of expenditure on 31 December 2023, for infrastructure projects intended to accommodate companies, this leaves more time for the project to:</p> <p>1) finalize the work which has generally been delayed because of the covid and</p> <p>2) accommodate businesses in their infrastructure (which may be more difficult given the impact that the crisis has had on businesses).</p> | <p>This is possible according to the draft Closure Guidelines: "Outputs delivered by the non-functioning operations will be assessed after 15 February 2026, the deadline for Member States to physically complete or fully implement such operations and ensure they contribute to the objectives of the relevant priorities".</p> |
| 167 | Belgium | 07. Non-functioning Operations | Deadlines | <p>The deadline for MS to make non-operational projects operational at closure is only 1 year (until 15 February 2026) while it was 2 years for the 2007-2013 programming. An additional 2 years should be left to finalize non-operational projects of the 2014-2020 programming. Indeed, the current health crisis is expected to cause delays that cannot be made up by the end of the programming.</p> | <p>See reply to question 144.</p> |

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| 168 | Belgium | 07. Non-functioning Operations | Additional eligibility criteria | <p>Some projects may be operational when the program closes on 15 February 2025, but it will not yet be possible to report on these projects at the level of the related output indicators.</p> <p>Indeed, when an EPB certificate is necessary to attest to the reduction in energy consumption, a period of use of the renovated building for one year is necessary before this certificate is issued.</p> <p>A project can therefore be operational when the program is closed without its outputs being able to be taken into account for the performance framework. Can the additional period until 15 February 2026 also be granted in this case? In other words, without the project having to respect the conditions that apply to non-operational projects (minimum of 5 million, ceiling of 10%)?</p> | See reply to question 101. |
| 169 | Cyprus | 07. Non-functioning Operations | Deadlines/Thresholds | <p>Member States may decide to include expenditure incurred and paid for operations that are not physically completed or fully implemented ('non-functioning operations') in the accounts for the final accounting year provided that:</p> <ul style="list-style-type: none"> • the total cost of each non-functioning operation exceeds EUR 5 million; and • the total expenditure certified to the Commission for the non-functioning operations does not exceed 10% of the eligible total expenditure (EU and national) decided for the programme. <p>Cyprus is concerned about the budget ceiling of €5mln for non-functioning operations and recommends its</p> | See reply to questions 137 and 144. |

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| | | | | <p>withdrawal. There may be cases, especially for small Member States and regions, where the budget of incomplete projects is lower than €5mln. Since the completion of non-functioning operations will be financed solely by national funds with ending date 15/2/2026, it is believed that there shouldn't be any budget restriction for these operations.</p> | |
| 170 | Czech Republic | 07. Non-functioning Operations | Deadlines/Thresholds | <p>The current COVID crisis has an impact on various subjects and thus can influence the completion of many operations (also the ones under the limit of EUR 5 mil.). Could EC reconsider decrease of this limit?</p> <p>During the EGESIF meeting the fact that there is a n+3 rule applied in current programming period was interpreted as an argument for shortened period for completion of non-functioning operations. We cannot agree with this argument since new operations can be supported in years 2021, 2022 (or even in 2023 depending on the amount of free allocation). For these projects n+3 rule will be irrelevant while they are most likely to become non-functioning by the end of the programming period. We would appreciate if the same approach as in previous period was applied, i.e. 2 years period for the non-functioning operations to be completed.</p> | See reply to questions 137 and 144. |

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| 171 | Spain | 07. Non-functioning Operations | Deadlines | <p>- We propose to extend the deadline for completing non-functional projects, similarly to the previous period. According to the guidelines on the closure of operational programmes (2007-2013), section 3.5 related to non-functioning projects: “Within two years of the deadline for submitting the closure documents for the programme concerned the Member State should provide the necessary information on the completion and operational aspect of these projects retained in the programme.”</p> <p>On the other hand, in the same guidelines, section 4.2 establishes the deadline for submission of closure documents:</p> <p>“The closure documents should all be submitted by 31 March 2017 as stipulated in Article 89(1) of the General Regulation”</p> <p>Therefore, the time to complete non-functioning operations, since the end of the eligibility period, was 39 months (from the 31 December 2015 to 31 March 2019).</p> <p>For the current period, the deadline for completing non-functional operations proposed in the draft guidelines on the closure of programmes (2014-2020) is by 15 February 2026, (25,5 months after the end of the eligibility period). Comparing both periods we consider that it is necessary to delay the deadline by 15 February 2027.</p> | See reply to question 144. |
| 172 | Slovakia | 07. Non-functioning | Proportionality | Section 7, 5th subparagraph – In relation to the wording “taking into account the | The amounts to be corrected should correspond to expenditure declared for operations that are not physically completed or |

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| | | Operations | | status of completion as well as the achievement of the overall objectives of the operations, should provide the Commission with the amounts to be corrected and justification as to how the amounts were calculated" – please clarify in detail how the amounts to be corrected should be calculated. (If non-functioning operation is not completed by the set deadline, what the amount/percentage will be calculated from the total contribution spent on the operation?) | fully implemented ⁴ . That being said, the principle of proportionality must be taken into account. See reply to question 145. |
| 173 | Hungary | 07. Non-functioning Operations | 5. Indicators and Performance Framework at Closure | Section 7, 8, 9: It has not been indicated whether the ex-post reporting of indicator values for non-functioning projects requires the AA's assessment, nor it is clear how it affects the indicators and in which cases the AA's assessment is required if a „partial irregularity” is identified regarding a project after the closure of the OP. | The audit authorities do not have a legal obligation to perform further audit work after the control report is issued for the final accounting year. For non-functioning operations, only outputs actually delivered based on the expenditure declared under the programme should be reported in the final implementation report of the programme. Outputs delivered by non-functioning operations will be assessed after 15 February 2026, the deadline for Member States to physically complete or fully implement such non-functioning operations and ensure they contribute to the objectives of the relevant priorities. The notion of partial irregularity is not clear; either there is an irregularity or not. |

⁴ 28/04/2021: Text clarified compared to the version of 10/03/2021, on the basis that the question concerns expenditure declared for the operation, i.e. it can also be declared in other years not only the final accounting year (as stated by the previous version).

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| 174 | Latvia | 08. Operations Affected By Ongoing National Investigations Or Suspended By A Legal Proceeding Or By An Administrative Appeal Having Suspensory Effect | Reporting | Regarding to the mentioned sentence in the section 8 of the guidelines “Member States must inform the Commission about the outcome of national investigations, legal proceedings and administrative appeals.” please include in the guidelines separate section of clarifications to each Member state regarding necessary reports and other obligations to be met after submission of the closure documentation to the EC. Especially, we would like to ask you to describe in much deepest way all the processes regarding irregularity aspects (detection, reporting and recovery) after submission of the closure documents. | <p>If expenditure relating to operations affected by ongoing national investigations or suspended by a legal proceeding or by an administrative appeal having suspensory effect are included in the accounts for the final accounting year, Member States should submit, with the final implementation report, a list of such operations using the template provided in Annex III to the draft Closure Guidelines.</p> <p>Member States must inform the Commission about the outcome of the above-mentioned national investigations / legal proceedings or administrative appeals with suspensory effect. Where irregularities are established, the Commission will proceed with recovery of the amounts concerned. Any irregular amounts may be replaced using overbooked expenditure (if available).</p> <p>Article 122 of the CPR establishes the responsibilities of the Member States with regard to the irregularities. If irregularities are established after closure of the programme in relation to the expenditure included in the accounts, amounts recovered after closure of the programme must be repaid to the budget of the Union. Any irregular amounts may be replaced using overbooked expenditure (if available).</p> |
| 175 | Netherland | 08. Operations Affected By Ongoing National Investigations Or Suspended By A Legal Proceeding Or By An Administrative Appeal Having Suspensory Effect | Reporting | “Member States must inform the Commission about the outcome of national investigations, legal proceedings and administrative appeals.” How should the COM be informed by the Member Sate? Is there a special template for this? And does this first have to go via the CA/AA? How frequently does the COM have to be informed? | The Member State should inform the Commission through a communication (it can be via a letter or via electronic email but it has to reach the concerned service). Taking into account that the cases concerned are subject to national investigations, legal proceeding and administrative appeals with suspensory effect, there is no requirement for the audit authorities to review the results of these national investigations / legal proceedings or administrative appeals with suspensory effect. The certifying authority is the accountant of the programme. Its involvement depends on the procedures in place. |

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| 176 | Czech Republic | 08. Operations Affected By Ongoing National Investigations Or Suspended By A Legal Proceeding Or By An Administrative Appeal Having Suspensory Effect | OLAF | CZ is of the opinion that, beside the operations affected by ongoing national investigations or suspended by a legal proceeding or by an administrative appeal having suspensory effect, it should also be possible to include in the final application for an interim payment for the final accounting year all or part of any operation with ongoing OLAF investigation, EC or ECA audits. Similar approach has been applied for the 2007-2013 programming period. | A new section has been added in the draft Closure Guidelines ⁵ : “Before submitting the closure documents, Member States are invited to exclude from the accounts for the final accounting year expenditure affected by potential irregularities identified in ongoing OLAF investigations (if such investigations and the concerned affected expenditure are known to the Member States at that stage), OLAF reports or the Commission’s or the European Court of Auditors’ audits. If the Member State contests such findings or the concerned affected expenditure amounts and includes the affected expenditure in the accounts, the Commission will continue the contradictory procedure, which may lead to a financial correction. Without prejudice to Article 145(7) of the CPR, any irregular amounts may be replaced using overbooked expenditure (if available).” |
| 177 | Latvia | 08. Operations Affected By Ongoing National Investigations Or Suspended By A Legal Proceeding Or By An Administrative Appeal Having Suspensory Effect | Irregularities | Latvia in the period 4-6 and 7-13 faced lots of questions regarding time period when the irregularity could be established, for example, some questions: a) Do the member state should take into account the COUNCIL REGULATION (EC, EURATOM) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (hereinafter - EURATOM), Article 3, which states that the limitation period for proceedings shall be four years as from the time when the irregularity referred to in Article 1 (1) was committed? That means that after this time the irregularity couldn’t be detected (established) and as a consequence reported to the EC/OLAF? | With regard to the limitation period defined in Article 3(1) of Regulation (EC) No 2988/95, it should be noted that it does not apply in relations between the Commission and the Member States. |

⁵ 23/07/2021: Text updated compared to the version of 28/4/2021: the final text of the guidelines has been included.

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| 178 | Latvia | 08. Operations Affected By Ongoing National Investigations Or Suspended By A Legal Proceeding Or By An Administrative Appeal Having Suspensory Effect | Irregularities | <p>b) How long should the Member state inform EC on the recovery process of the established irregularities, which were detected after the submission of the closure documents? What is the reasonable deadline to interrupt to inform EC of the recovery process?</p> <p>Please for better understanding of the questions find the letter attached regarding need of legal certainty of proper application of the limitation period for proceedings and related obligations after closure of programming period and after durability period of projects is finished.</p> | Article 122 of the CPR establishes the responsibilities of the Member States with regard to the irregularities. If irregularities are established after closure of the programme in relation to the expenditure included in the accounts, amounts recovered after closure of the programme must be repaid to the budget of the Union. Any irregular amounts may be replaced using overbooked expenditure (if available). |
| 179 | Romania | 08. Operations Affected By Ongoing National Investigations Or Suspended By A Legal Proceeding Or By An Administrative Appeal Having Suspensory Effect | Irregularities | <p>"If pursuant to Article 137(2) of the CPR, the Member State decides to exclude expenditure from the accounts of the final accounting year due to an ongoing assessment of that expenditure's legality and regularity, if such expenditure is subsequently found to be legal and regular, it cannot be re-declared because there will be no subsequent applications for interim payment in which to include it."</p> <p>RO: Our proposal is to keep the expenditures under ongoing assessment in the accounts and also to include them in the Annex III to these guidelines.</p> | See reply to question 301 2). |
| 180 | Lithuania | 08. Operations Affected By Ongoing National Investigations Or Suspended By A Legal Proceeding Or | Final Balance | <p>In the 1st paragraph of Section 8 „Operations affected by ongoing national investigation or suspended by a legal proceeding or by an administrative appeal having suspensory effect” it is stated: “Before submitting the closure documents, Member States should decide whether to include or exclude from a</p> | <p>Before submitting the closure documents, Member States should decide whether or not to exclude from the accounts for the final accounting year all or part of the expenditure for any operation affected by ongoing national investigations or suspended by a legal proceeding or by an administrative appeal having suspensory effect.</p> <p>Indeed, if the Member State decides to keep such operations in</p> |

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| | | By An Administrative Appeal Having Suspensory Effect | | <p>programme all or part of any operation affected by ongoing national investigations or suspended by a legal proceeding or by an administrative appeal having suspensory effect.“</p> <p>Do we correctly understand that: - in case the MS decides to include the expenditure affected by ongoing national investigations/ suspended by a legal proceeding/ administrative appeal in the closure documents, all expenditure related to the cases still not declared and/or declared but excluded from the accounts of the previous accounting years pursuant to Article 137(2) of the CPR, can be declared or re-declared no later than in the final interim payment application for the final accounting year (conditionally, if the decisions regarding the ongoing cases will be adopted after the final payment application but before the deadline of the closure and the irregularities will be established, the deductions will be implemented in the final accounts)?</p> | <p>the accounts, the affected expenditure must be declared to the Commission at the latest in the final application for an interim payment for the final accounting year. If irregularities are established after the deadline to submit the final application for an interim payment for the final accounting year, the deductions must be carried out in the accounts for the final accounting year.</p> <p>If expenditure previously included in an application for interim payment for the accounting year was excluded by a Member State from the accounts due to an ongoing assessment of that expenditure’s legality and regularity, it may be included in the final application for an interim payment for the final accounting year only if that expenditure subsequently was found to be legal and regular (Article 137(2) of the CPR).</p> |
| 181 | Lithuania | 08. Operations Affected By Ongoing National Investigations Or Suspended By A Legal Proceeding Or By An Administrative Appeal Having Suspensory Effect | Final Balance | <p>in case the MS decides to include the expenditure affected by ongoing national investigations/ suspended by a legal proceeding/ administrative appeal in the closure documents and submits the list of such operations using template provided in Annex III, the amounts reported will not be deducted by the EC from the calculation of the final balance (the outcome of the final decisions regarding each of the reported cases will be awaited and the recoveries will be launched in case of the irregularities established)?</p> | Correct. |

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| 182 | Lithuania | 08. Operations Affected By Ongoing National Investigations Or Suspended By A Legal Proceeding Or By An Administrative Appeal Having Suspensory Effect | Final Balance | In case the MS decides to exclude the expenditure affected by ongoing national investigations/ suspended by a legal proceeding/ administrative appeal in the closure documents, all expenditure related to the cases declared in the earlier and final accounting year should be deducted from the final Accounts? | Correct. |
| 183 | Netherlands | 08. Operations Affected By Ongoing National Investigations Or Suspended By A Legal Proceeding Or By An Administrative Appeal Having Suspensory Effect | Final Balance | <p>“No expenditure may be declared for operations suspended by a legal proceeding or by an administrative appeal having suspensory effect after the submission of the final application for an interim payment for the final accounting year.” If we have a case, where a project has been excluded because of an ongoing legal proceeding but where the project appeals against the decision and wins subsequently the appeal? How should such projects/ongoing cases be registered? In the final application for an interim payment for the final accounting year? Or the final balance? Should such a project than be listed with EUR 0? More generally, how should the MA deal with such a decision?</p> | <p>The approach in the draft Closure Guidelines is that the Member State can decide whether or not to exclude from the accounts for the final accounting year all or part of the expenditure for any operation affected by ongoing national investigations or suspended by a legal proceeding or by an administrative appeal having suspensory effect.</p> <p>If the Member State decides to keep such operations in the accounts, the affected expenditure must be declared to the Commission at the latest in the final application for an interim payment for the final accounting year.</p> <p>No new expenditure will be allowed to be declared after the final interim payment claim for the final accounting year has been submitted by the Member State by 31 July 2024.</p> <p>If such operations are retained in the programme, and the outcome of the national investigations / legal proceedings or administrative appeals with suspensory effect is that the expenditure is ineligible, the Commission will proceed with the recovery of the amounts concerned (overbooking can be used to replace them).</p> <p>At submission of the closure documents, the Member State should provide the Commission with the list of all operations affected by ongoing national investigations / legal proceedings or administrative appeals with suspensory effect retained in the</p> |

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| | | | | | programme, following Annex III to the draft Closure Guidelines. |
| 184 | Latvia | 08. Operations Affected By Ongoing National Investigations Or Suspended By A Legal Proceeding Or By An Administrative Appeal Having Suspensory Effect | Final accounts | If Member State include such expenditure in final accounts, does it affects the error rate? | <p>The TER is calculated by the audit authority based on the results from its audits of operations for the expenditure declared to the Commission in the final accounting year. It will depend, if these cases form part of the audit authority's sample and, in case yes, if the audit authority establishes irregularities in these cases.</p> <p>These cases should be treated in line with the explanations in the guidance on the ACRs and treatment of errors (EGESIF 15-0002/04), section IV Treatment of errors (e.g. sub-chapters 2.2.5 in case of fraud investigations or 2.2.6 in case of bankruptcies).</p> <p>All other national investigations / legal proceedings or administrative appeals with suspensory effect should be treated based on the same principles.</p> |
| 185 | France | 08. Operations Affected By Ongoing National Investigations Or Suspended By A Legal Proceeding Or By An Administrative Appeal Having Suspensory Effect | Eligible Expenditure | Does the article 87 of EU regulation 1303/2013 apply to closure? Being at the closure of the programme, are arrangements possible in order to declare these expenditure to the Commission during the closure, after the final accounting year? (see 7.1. Automatic decommitment - guidelines on closure 2007-2013). | Expenditure linked to suspended operations can be declared at the latest in the final application for an interim payment to be submitted by 31 July 2024. No new expenditure will be allowed to be declared after the final application for an interim payment for the final accounting year has been submitted. |
| 186 | Latvia | 08. Operations Affected By Ongoing National Investigations Or Suspended By A Legal | Eligible Expenditure | Regarding section 8 first paragraph of this guidelines "Before submitting the closure documents, Member States should decide whether to include or exclude from a programme all or part of any operation affected by ongoing national investigations or suspended by a | Article 137(2) of the CPR does not contain an obligation for the Member State to exclude the expenditure under ongoing assessment of its legality and regularity from the accounts. If expenditure affected by national investigations / legal proceedings or administrative appeals with suspensory effect remain included in the accounts for the final accounting year, Member States should submit, with the final implementation |

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| | | Proceeding Or By An Administrative Appeal Having Suspensory Effect | | <p>legal proceeding or by an administrative appeal having suspensory effect.” please specify clearly:</p> <p>- whether this condition relates only to expenditure certified in previous accounting years or also to expenditure which is declared in the final accounting year.</p> <p>If it relates also to the final acc. year, then in our view it is not in line with Guidance for Member States on Amounts Withdrawn, Recovered, to be Recovered and Irrecoverable Amounts, according to which “it is not possible to certify the legality and regularity of expenditure which is under ongoing assessment in line with provisions of Article 137(2) CPR”.</p> | <p>report, a list of such operations using the template provided in Annex III to the draft Closure Guidelines. However, this does not relate to the management verifications and audits, as those must be completed before submission of the closure documents.</p> |
| 187 | Romania | 08. Operations Affected By Ongoing National Investigations Or Suspended By A Legal Proceeding Or By An Administrative Appeal Having Suspensory Effect | Eligible Expenditure | <p>"If operations affected by ongoing national investigations or suspended by a legal proceeding or by an administrative appeal having suspensory effect are included in the programme, Member States should submit, with the final implementation report, a list of such operations using the template provided in Annex III to these guidelines. "</p> <p>RO: It would be useful to detail and exemplify the cases for both categories. We can consider that operations affected by ongoing national investigation include, among other, cases related to audit recommendations, which are divergent, or in the conciliation phase or under implementation. Also, cases challenged by the beneficiaries, under administrative or judicial proceedings.</p> | <p>If the Member State decides to retain operations affected by ongoing national investigations or suspended by a legal proceeding or by an administrative appeal having suspensory effect in the programme, the expenditure has to be declared as regular expenditure in the final application for interim payment for the final accounting year. In Annex III to the draft Closure Guidelines the Member State should report the total certified expenditure affected.</p> <p>The draft closure guidelines have been amended to include examples of on-going national investigations, including: “investigations carried out by national bodies different to the programme authorities (such as police investigations, judicial or criminal investigations) the outcome of which may affect the expenditure’s legality and regularity”.</p> |

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| | | | <p>It could be the case that the amounts to be recovered/recovered reported in Appendix 2/3 to the final accounts, are, at the same time, the subject of ongoing judicial case, and thus reported also in Annex III to these guidelines.</p> <p>It is not clear what should be filled in column Total certified expenditure in Annex III: the total amount certified for the operation or only the amount affected by the ongoing investigations and how should be reflected an operation, which is at the same time, in both categories. According to Point 8 - Operations affected by ongoing national investigations or suspended by a legal proceeding or by an administrative appeal having suspensory effect, the Member State has the possibility to include or exclude from a programme the expenditure:</p> <ul style="list-style-type: none"> - under ongoing investigations regarding the legality and regularity, made by the national authorities (for instance the suspicions of fraud) - suspended by a legal proceeding (pending legal proceedings before a court); - affected by an administrative appeal having suspensory effect. <p>These amounts, in case the Member State decides to include them in the declared expenditure, will be highlighted in Annex III of the Guidelines on closure.</p> <p>Taking into consideration that the above-mentioned Guidelines do not include clear provisions regarding how these</p> | |
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| | | | | categories of expenditure should be declared in the final accounting year (for instance, if they should be included in a specific category or just included as normal expenditure in the intermediary and final payment applications), we consider useful the clarification of this issue. | |
| 188 | Romania | 08. Operations Affected By Ongoing National Investigations Or Suspended By A Legal Proceeding Or By An Administrative Appeal Having Suspensory Effect | Eligible Expenditure | Also, the Guidelines do not clearly mention how the above-mentioned expenditure will be reflected in Appendix 8 and how will the amounts belonging to these operations be treated, when their status is clarified after the submission of the closure documents. | <p>Before submitting the closure documents, Member States should decide whether or not to exclude from the accounts for the final accounting year all or part of the expenditure for any operation affected by ongoing national investigations or suspended by a legal proceeding or by an administrative appeal having suspensory effect.</p> <p>If such operations are included in the programme, and therefore in the final application for an interim payment for the final accounting year and in the accounts for the final accounting year, appendices 1 and 8, Member States should submit, with the final implementation report, a list of such operations using the template provided in Annex III to the draft Closure Guidelines.</p> <p>Member States must inform the Commission about the outcome of national investigations, legal proceedings or administrative appeals with suspensory effect. Where irregularities are established, the Commission will proceed with recovery of the amounts concerned. Any irregular amounts may be replaced using overbooked expenditure (if available).</p> |
| 189 | Slovakia | 08. Operations Affected By Ongoing National Investigations Or Suspended By A Legal Proceeding Or By An Administrative Appeal | Eligible Expenditure | Section 8 and 9 – In relation to the application of the ongoing examination rules, we request to maintain the possibility for the Member State (as was in the 2007-2013 programming period) to declare expenditure subject to ongoing examination without suspensive effect on the final interim payment claim until the cases are resolved. | Expenditure affected by on-going national investigations / legal proceedings or administrative appeals with suspensory effect can be declared to the Commission and can remain included in the accounts for the final accounting year, if the Member State decides to do so. Such operations and affected expenditure must be reported to the Commission in Annex III to the draft Closure Guidelines. However, this does not relate to the management verifications and audits, as those must be completed before submission of the closure documents. |

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| 190 | Netherlands | 08. Operations Affected By Ongoing National Investigations Or Suspended By A Legal Proceeding Or By An Administrative Appeal Having Suspensory Effect | Annex III | “If operations affected by ongoing national investigations or suspended by a legal proceeding or by an administrative appeal having suspensory effect are included in the programme, Member States should submit, with the final implementation report, a list of such operations using the template provided in Annex III to these guidelines.” We assume that such a project should in any case be listed in Annex III that should be attached to the final implementation report – is this correct? | Correct. |
| 191 | Netherlands | 08. Operations Affected By Ongoing National Investigations Or Suspended By A Legal Proceeding Or By An Administrative Appeal Having Suspensory Effect | Annex III | Where in the aforementioned annex III should be indicated which amount a Member State would still like to declare, for example after a court judgement following an appeal? In the 2007-2013 programming period there was a separate column for this in Annex VII. | No expenditure can be declared after the submission of the final application for an interim payment for the final accounting year (to be submitted by 31 July 2024). |

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| 192 | Poland | 08. Operations Affected By Ongoing National Investigations Or Suspended By A Legal Proceeding Or By An Administrative | Annex III | point 8, 11.1, annex III - The procedure will not always affect the total expenditure in the project. It is stated in point 8 (p. 11) 8 that MS may decide whether to include or exclude "all or part" of any operation. PL proposes to refer to expenditure level rather than to an operation level. | The draft Closure Guidelines have been amended as follows: "Before submitting the closure documents, Member States should decide whether or not to exclude from the accounts for the final accounting year all or part of the expenditure for any operation affected by ongoing national investigations or suspended by a legal proceeding or by an administrative appeal having suspensory effect." |
| 193 | Latvia | 08. Operations Affected By Ongoing National Investigations Or Suspended By A Legal Proceeding Or By An Administrative Appeal Having Suspensory Effect | Final accounts | <p>Please confirm our understanding and necessary actions to be done regarding ongoing national investigations and legal proceedings and administrative appeal and similarity of this approach to the 2007-2013 programming period:</p> <p>1) The Member State before submission of closure documentation may review all the open cases and decide which shall be included in the final payment application and final accounts as "pending recoveries".</p> <p>2) After closure of the programme the Member State will report to the Commission on the progress of these open cases.</p> <p>3) When the result of the national investigation, legal proceedings and administrative appeal is positive, then the amount which was declared as pending recovery becomes eligible.</p> <p>4) When the result of the national investigation, legal proceedings and administrative appeal is negative, then the Member State has two options - 1) to reimburse the amounts concerned or 2) to replace the amount concerned with</p> | <p>1) Before submitting the closure documents, Member States should decide whether or not to exclude from the accounts for the final accounting year all or part of the expenditure for any operation affected by ongoing national investigations or suspended by a legal proceeding or by an administrative appeal having suspensory effect. Such operations and affected expenditure must be reported to the Commission in Annex III to the draft Closure Guidelines. However, this category of expenditure should not be confused with the amounts to be recovered (so called pending recoveries) which are established irregularities and will be treated as explained in the section of the draft Closure Guidelines devoted to irregularities.</p> <p>2, 3, 4) Member States must inform the Commission about the outcome of national investigations, legal proceedings and/or administrative appeals with suspensory effect. Where irregularities are established, the Commission will proceed with recovery of the amounts concerned. Any irregular amounts may be replaced using overbooked expenditure (if available).</p> |

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| | | | | overbooked expenditure, if available. | |
| 194 | Latvia | 08. Operations Affected By Ongoing National Investigations Or Suspended By A Legal Proceeding Or By An Administrative Appeal Having Suspensory Effect | Final accounts | In case the EC provides exception for the final accounts and having regard to the fact that after closure of programme it will not be possible to declare expenditure to the Commission, thus if the Member State decides to include in a programme all or part of any operation affected by ongoing national investigations or suspended by a legal proceeding or by an administrative appeal having suspensory effect, it is necessary to provide more detailed explanation on how it should be reported in final accounts so that the Member State could certify the legality of expenditure. | Such operations and affected expenditure must be reported to the Commission in Annex III to the draft Closure Guidelines. Member States must inform the Commission about the outcome of national investigations, legal proceedings and/or administrative appeals with suspensory effect. Where irregularities are established, the Commission will proceed with recovery of the amounts concerned. Any irregular amounts may be replaced using overbooked expenditure (if available). |
| 195 | Czech Republic | 10. Irregularities | 10.3 Potential risk of irregularities leading to additional verifications by the programme authorities of expenditure already declared to the Commission | CZ disagrees with the additional requirement for the expenditure deducted from the previous accounts that could be included in the final application for an interim payment for the final accounting year only if the verification is finalized, for expenditure deducted from the accounts of an accounting year preceding the final accounting year pursuant to Article 137(2) of the CPR, the additional verifications must be finalised in time to enable the declaration of the expenditure at the latest in the final application for an interim payment for the final accounting year, for which the deadline for submission is 31 July 2024. CZ believes that the expenditure deducted pursuant to Article 137(2) of the CPR should be treated as the | See reply to question 301 2). The draft Closure Guidelines do not introduce any additional requirements for expenditure deducted from previous accounting years. |

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| | | | | operations affected by ongoing national investigations. | |
| 196 | Romania | 10. Irregularities | 10.3 Potential risk of irregularities leading to additional verifications by the programme authorities of expenditure already declared to the Commission | <p>"If a potential risk of irregularities has been detected which leads to additional verifications by programme authorities of expenditure already declared to the Commission, national authorities must comply with the following deadlines:</p> <p>For expenditure deducted from the accounts of an accounting year preceding the final accounting year pursuant to Article 137(2) of the CPR, the additional verifications must be finalised in time to enable the declaration of the expenditure at the latest in the final application for an interim payment for the final accounting year, for which the deadline for submission is 31 July 2024;"</p> <p>Our proposal is to include in the final application for an interim payment the expenditure for which the additional verifications were not completed at that time and, if at the deadline for submission of the accounts, the verification are still ongoing, to include the expenditure at stake in Annex III.</p> | See reply to question 301 2). |
| 197 | Romania | 10. Irregularities | 10.3 Potential risk of irregularities leading to additional verifications by the programme authorities of expenditure already declared to the | <p>"in case of a potential risk of irregularities leading to additional verifications of expenditure declared in the final accounting year, the decision about its legality and regularity and therefore the decision whether to keep this expenditure in or deduct it from the accounts of the final accounting year, should be taken at the moment of the submission of the accounts, for which the deadline for submission is 15 February 2025, or 1 March 2025, if extended by</p> | <p>See reply to question 301 2) .</p> <p>The audit authority will perform its audits of operations for the expenditure declared in the final accounting year as in any other year, and calculate the TER and RTER depending on its results and definitive corrections performed.</p> |

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| | | | Commission | <p>the Commission."</p> <p>RO: Our proposal is to keep in the accounts the expenditure for which the additional verifications were not completed at the deadline for submission of the accounts and to include the expenditure at stake in Annex III.</p> <p>RO: Moreover, the Guidelines do not clearly mention the treatment of these expenditures in the accounts when the Member State decides to keep those amounts, and in this case their influence on the total error rate. Also, there is no mention of how these amounts will be treated, when their status is clarified after the submission of the closure documents.</p> | |
| 198 | Latvia | 10. Irregularities | 10.2 Amounts to be recovered and irrecoverable amounts | <p>According to the section 10.2. of this guidelines "Amounts in Appendix 3 and 5 of the accounts related to expenditure declared in the final accounting year should be included in column A of Appendix 1 of the accounts to allow for their possible future reimbursement by the budget of the Union, pending the outcome of such procedures or assessments", please specify that amounts should be included also in the column B and C.</p> | <p>The draft Closure Guidelines have been amended as follows:</p> <p>"Amounts in Appendix 3 and 5 of the accounts related to expenditure declared in the final accounting year should also be included in Appendix 1 of the accounts to allow for their possible future reimbursement by the budget of the Union, pending the outcome of such procedures or assessments".</p> <p>Column A concerns the total expenditure, B the total public expenditure and C the eligible amounts paid in 90 days to the beneficiaries. Therefore, these amounts should indeed be reflected in all 3 columns.</p> |
| 199 | Latvia | 10. Irregularities | 10.2 Amounts to be recovered and irrecoverable amounts | <p>Regarding a statement in section 10.2 of these guidelines "As a general rule, the Commission will exclude the amounts reported as to be recovered and irrecoverable from the calculation of the final balance (footnote: this will only apply to the programmes which still have open commitments at closure or for which the final balance is negative leading to a recovery. For the other</p> | <p>The cited footnote does not apply to ongoing national investigations / legal proceeding or administrative appeals with suspensory effect. For this category, if the Member State decides to retain such expenditure in the accounts for the final accounting year, the Commission will reimburse this expenditure. If irregularities are established as the outcome of these national investigations / legal proceedings or administrative appeals with suspensory effect, the Commission will recover the concerned amounts (overbooking may be used</p> |

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| | | | | <p>programmes, no deduction will be made at this stage and the Member States will have to reimburse the recovered amounts after closure)” do we understand correct, that if the Member State will have no negative final balance but instead will have overbooked expenditure, then this condition can also be extended to expenditure affected by ongoing national investigations or a legal proceeding or an administrative appeal? In a meaning that the Commission will not exclude such reported amounts from the final balance according to the conditions stated in section 8?</p> <p>In addition please clarify why irrecoverable amounts also will be excluded from the calculation of final balance?</p> | <p>to replace the irregular amounts).</p> <p>Irrecoverable amounts will be excluded from the calculation of the final balance until the Commission completes its assessment to determine whether the irrecoverable amounts should be charged to the budget of the Union.</p> |
| 200 | Lithuania | 10. Irregularities | 10.2 Amounts to be recovered and irrecoverable amounts | <p>We would like to enquire about the irregularities detected by the MS and recoveries after the submission of the closure documents – we suppose in the guidance there should be the basic principles regarding the submission of the information to the EC on such of the cases.</p> | <p>The draft Closure Guidelines have been amended to add the clarification that if irregularities are established after closure of the programme in relation to the expenditure included in the accounts, amounts recovered after closure of the programme must be repaid to the budget of the Union. Any irregular amounts may be replaced using overbooked expenditure (if available).</p> |
| 201 | Poland | 10. Irregularities | 10.2 Amounts to be recovered and irrecoverable amounts | <p>point 10.2 - In accordance with its provisions the amounts to be recovered will be excluded from eligible expenditure used to calculate the payment of the final balance (As a general rule, the Commission will exclude the amounts reported as to be recovered and irrecoverable from the calculation of the final balance (...), Amounts in Appendix 3 and 5 of the accounts related to expenditure declared</p> | <p>The rationale to inform the Commission on the outcome of the pending recovery process is that if the amounts become irrecoverable and the Member State wishes them to be charged on the EU budget, the Commission after having assessed this request may reimburse such amounts.</p> <p>It is also important for the financial management by the Commission, as if the amounts are finally recovered at the Member State level, the Commission would not keep credits for their reimbursement to the Member State.</p> |

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| | | | | <p>in the final accounting year should be included in column A of Appendix 1 of the accounts...). Such amounts will not be reimbursed by the European Commission and their effective recovery is the matter of a member state only.</p> <p>So what is the rationale for the need to inform the Commission at the earliest convenience on the outcome of the pending recovery process after the submission of the closure documents?</p> | |
| 202 | Romania | 10. Irregularities | 10.2 Amounts to be recovered and irrecoverable amounts | <p>"As a general rule, the Commission will exclude the amounts reported as to be recovered and irrecoverable from the calculation of the final balance."</p> <p>RO: The footnote 33 ("This will only apply to the programmes which still have open commitments at closure or for which the final balance is negative leading to a recovery. For the other programmes, no deduction will be made at this stage and the Member States will have to reimburse the recovered amounts after closure") should be included in the main text of the guidelines. The different approach provided should be detailed.</p> | <p>The draft Closure guidelines have been amended and the current text provides that "The Commission will exclude the amounts reported as to be recovered and irrecoverable from the calculation of the final balance".</p> <p>The cited footnote, which is only a clarification on the main text, has been amended in the draft Closure Guidelines: "This will result in a lower amount to be paid or cleared in cases of positive final balance or a higher amount to be recovered in cases for which the final balance is a recovery".</p> |
| 203 | France | 10. Irregularities | 10.1. Treatment of irregularities in the final accounting year | <p>In case of a suspension or interruption of interim payments on-going at closure, what will be the impact on the calculation and payment of the final balance? (see. 9 Payments suspended guidelines on closure 2007-2013)</p> | <p>The Commission will not reimburse expenditure subject to an ongoing interruption or suspension decision and entered into the accounts for the final accounting year. Consequently, the Commission will exclude such expenditure from the payment of the final balance.</p> |

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| 204 | Latvia | 10. Irregularities | 10.1 Treatment of irregularities in the final accounting year | <p>Regarding section 10.1. of these guidelines “If pursuant to Article 137(2) of the CPR, the Member State decides to exclude expenditure from the accounts of the final accounting year due to an ongoing assessment of that expenditure’s legality and regularity, if such expenditure is subsequently found to be legal and regular, it cannot be re-declared because there will be no subsequent applications for interim payment in which to include it.”</p> <p>Please clarify, is it possible that the Member state decides to leave such expenditure, which is declared within the final accounting year in final payment application, in the accounts?</p> <p>Till now according to the Guidance for Member States on Amounts Withdrawn, Recovered, to be Recovered and Irrecoverable Amounts the Member state was obliged to deduct them from accounts. In case the EC provides exception for the final accounts, how it affects the error rate (the same relates to the section 9.3. second bullet point). How does this possibility correlates to the previous mentioned that “any necessary deductions (notwithstanding the fact that they may refer to the expenditure declared in previous accounting years) must be carried out in the accounts of the final accounting year”.</p> | <p>See reply to questions 301 2) and 197.</p> <p>The purpose of the phrase included in the draft Closure Guidelines “any necessary deductions (notwithstanding the fact that they may refer to the expenditure declared in previous accounting years) must be carried out in the accounts of the final accounting year” is to remind the Member States that if they have a need to carry out deductions for ineligible expenditure (including for ineligible expenditure declared in previous accounting years), they must do it in the accounts for the final accounting year.</p> |
| 205 | Poland | 10. Irregularities | 10.1 Treatment of irregularities in the final accounting year | <p>point 10..1 - If pursuant to Article 137(2) of the CPR, the Member State decides to exclude expenditure from the accounts of the final accounting year due to an ongoing assessment of that expenditure’s</p> | <p>The management of the programme is the responsibility of the programme authorities, including the decision on which expenditure is finally declared as legal and regular. If the programme authorities choose to exclude expenditure previously included in an application for interim payment from</p> |

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| | | | | <p>legality and regularity, if such expenditure is subsequently found to be legal and regular, it cannot be re-declared because there will be no subsequent applications for interim payment in which to include it. It is not indicated how the Member State should act in such a situation. It is not always up to the Managing Authority to decide when expenditure can be considered correct (e.g. in legal proceedings finished between 01/07/24-15/02/2025). It is proposed to cover the issue in the document.</p> | <p>the accounts for the final accounting year, the programme authorities will not be able to re-declare such expenditure even if it is subsequently found to be legal and regular. This is because there will be no subsequent applications for interim payment in which to include it.</p> |
| 206 | Romania | 10. Irregularities | 10.1 Treatment of irregularities in the final accounting year | <p>"Given that after the final application for an interim payment to be submitted by 31 July 2024, no subsequent payment application can be submitted to the Commission, any necessary deductions (notwithstanding the fact that they may refer to the expenditure declared in previous accounting years) must be carried out in the accounts of the final accounting year, and reported in Appendix 8 of the model for the accounts."</p> <p>RO: Considering that in the final accounts are included only expenditure declared in the final accounting year it is not clear how to deduct irregularities related to expenditure certified in previous accounting years and report them in Annex 8. It could be an option to be reported as recovered, in Appendix 2 or to be recovered, in Appendix 3.</p> | <p>In the final accounting year, the corrections/other deductions can be done directly in the accounts also in relation to the amounts declared in the previous accounting years.</p> <p>The draft Closure Guidelines have been amended as follows:</p> <p>"Given that after the final application for an interim payment to be submitted by 31 July 2024, no subsequent payment application can be submitted to the Commission, any necessary deductions (even with respect to expenditure declared in previous accounting years) must be carried out in the accounts of the final accounting year reported in accordance with the model for the accounts, in particularly Appendices 1, 2 and 8 thereto".</p> <p>Moreover, the draft Closure Guidelines provide that the above does not concern amounts to be recovered, irrecoverable amounts or amounts relating to operations affected by ongoing national investigations / legal proceedings or administrative appeals with suspensory effect.</p> |

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| 207 | Spain | 10. Irregularities | 10.1 Treatment of irregularities in the final accounting year | <p>Sub-paragraph 10.1. Treatment of irregularities in the last accounting year. According to the second subparagraph of this paragraph, if the Member State decides to exclude expenditure from the last annual account because it forms part of an ongoing legality or regularity assessment, and it is subsequently established that such expenditure is regular, it cannot be declared again, as there would no longer be any interim payment applications for inclusion.</p> <p>In this case, we need to know how this should be done in order not to lose the certified expenditure excluded from the last annual account in the closure of the programmes that becomes regular once the necessary checks have been made.</p> | See reply to questions 301 2) and 205. |
| 208 | Hungary | 10. Irregularities | 10.1 Treatment of irregularities in the final accounting year | <p>The management of ongoing irregularities is not clearly regulated: this was also a problem in the previous programming period and the treatment expected by the Commission does not appear in this document either. It should be clarified whether they fall into the category under Section 8 (operations affected by ongoing national investigations or suspended by a legal proceeding or by an administrative appeal having suspensory effect), because they should then be included in the list in Annex 3, should be included in the statement of expenditure and, if necessary, recovered after its closure. However, the irregularity procedure does not involve automatic suspension so only some of them are included here.</p> | <p>The draft Closure Guidelines refer to operations affected by ongoing national investigations / legal proceedings or administrative appeals with suspensory effect, i.e. still ongoing, where an irregularity is not yet established until the national investigations / legal proceedings or administrative appeals with suspensory effect are concluded. If the Member States decides not to exclude the affected expenditure of such operations from the accounts for the final accounting year, Member States should submit, with the final implementation report, a list of such operations using the template provided in Annex III to the draft Closure Guidelines.</p> <p>Irregularities, on the other hand, are already established / confirmed irregular amounts. They will be treated as explained in the section of the draft Closure Guidelines devoted to the irregularities.</p> |
| 209 | Hungary | 10. | 10.1 Treatment | If they do not fall into category of | See reply to questions 301 2) and 205- |

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| | | <p>Irregularities</p> | <p>of irregularities in the final accounting year</p> | <p>Section 8, then, according to previous regulation, they should belong to the category of expenditure under ongoing assessment at an extent of 100%, however the guide states (Section 10.1) that these items cannot be re-declared later (Special attention needs to be paid to this when submitting the last statement of expenditure!), thus this creates an empty concept. Staying with the procedure of the previous period would mean they are part of the final statement of expenditure and reimbursed by the Member State to the Commission following a negative decision. In this case they are not part of Annex 3; however this is not explicitly stated in the guide. Furthermore a cut-off date until when the processes have to be examined is also necessary. The deadline of 15 February according to Section 10.3 of the guide is unrealistic; it is not feasible to take all final decisions until this date.</p> <p>The guidance emphasizes in Section 12.4 that items pending due to open findings of Commission or ECA audits should be included in Chapter VIII of the ACR. However, the expected method of their management in the accounts is not described. It would be justified to include such a description, especially due to the omission of ongoing items. For this reason too, we recommend - in case of open findings - to consider the possibility of including the items concerned in the statement of expenditure.</p> | <p>If the irregularities are established and they do not constitute amounts to be recovered or irrecoverable amounts which the Member State decided to keep in the accounts, the necessary deductions of the affected expenditure needs to be carried out at latest in the accounts for the final accounting year.</p> <p>For other cases, it is up to the Member State to decide whether to keep the affected expenditure in the accounts for the final accounting year or to exclude it. This decision needs to be taken by the deadline to submit the closure documents.</p> <p>Regarding the expenditure affected by issues raised in ongoing OLAF investigations, OLAF reports or audits of the Commission or the ECA, a new section has been included in the draft Closure Guidelines providing that:</p> <p>“Before submitting the closure documents, Member States are invited to exclude from the accounts for the final accounting year expenditure affected by potential irregularities identified in ongoing OLAF investigations (if such investigations and the concerned affected expenditure are known to the Member States at that stage), OLAF reports or the Commission’s or the European Court of Auditors’ audits. If the Member State contests such findings or the concerned affected expenditure amounts and includes the affected expenditure in the accounts, the Commission will continue the contradictory procedure, which may lead to a financial correction. Without prejudice to Article 145(7) of the CPR, any irregular amounts may be replaced using overbooked expenditure (if available)”</p> |
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| 210 | Latvia | 10. Irregularities | 10.2 Amounts to be recovered and irrecoverable amounts | <p>Regarding section 10.2 of these guidelines “In the accounts of the final accounting year, Member States may report amounts to be recovered and irrecoverable amounts relating to expenditure declared not only in the previous accounting years, but also in the final accounting year. Member States may also report in the accounts of the final accounting year amounts that have become amounts to be recovered or irrecoverable amounts after the end of the final accounting year but before submission of the closure documents ” please clarify whether our understanding is correct, that the Member state is allowed to include in the programme irregular expenditure, which is identified and relates to the final accounting year and not recovered till the submission of final interim payment and report them in annex 3 of accounts, how it affects error rate and opinion of AA.</p> | <p>Yes, the Member State can include expenditure relating to the final accounting year, which is identified as irregular and is not recovered until the submission of the final application for an interim payment, in the accounts for the final accounting year and report it in appendix 3 of the accounts.</p> <p>These amounts will be excluded by the Commission from the calculation of the final balance.</p> <p>Such expenditure is part of the sampling population of the audit authority, it is included in the TER calculation should there be an irregularity detected by the audit authority.</p> <p>As amounts to be recovered relating to the final accounting year can be included in the accounts for the final accounting year, they can be taken into account for reducing the RTER and reported as structured data in SFC.</p> |
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| 211 | Slovakia | 10. Irregularities | 10.1 Treatment of irregularities in the final accounting year | Section 10.1, first subparagraph – In the first paragraph states that “any necessary deductions (notwithstanding the fact that they may refer to the expenditure declared in previous accounting years) must be carried out in the accounts of the final accounting year, and reported in Appendix 8 of the model for the accounts “, in the last accounts must include all discrepancies, including those relating to previous financial years, which would also require a change in the ITMS. In contrast, Chapter 10.3 states, in relation to potentially risky expenditures, that only the expenditures of the current financial year can be expected to be withdrawn from the accounts. It is necessary to assess whether these chapters are not in conflict with each other. | <p>The two sections are not in contradiction.</p> <p>Section 10.1 of the draft Closure Guidelines provides that any necessary deductions (notwithstanding the fact that they may refer to the expenditure declared in previous accounting years) must be carried out in the accounts for the final accounting year.</p> <p>Section 10.3 provides the deadlines to be complied with, when a risk of irregularities has been detected which lead to additional verifications by programme authorities of expenditure already declared to the Commission.</p> <p>Therefore, the two sections are not contradictory but complementary, as they explain in the first place what happens with established irregularities (section 10.1) and in a second case what happens with possible irregularities for which the final conclusion is outstanding at a certain point of time (section 10.3).</p> <p>Furthermore, Article 139(10) of the CPR provides that “Member States may replace irregular amounts which are detected after the submission of the accounts by making the corresponding adjustments in the accounts for the accounting year in which the irregularity is detected, without prejudice to Articles 144 and 145”.</p> |
| 212 | Hungary | 10. Irregularities | 10.1 Treatment of irregularities in the final accounting year | 10.1. Treatment of irregularities in the final accounting year: It should be considered that the costs deducted from the last interim payment claim due to the ongoing irregularity procedure, if eligible, can still be accounted for, as in point 10.2, at the latest until the submission of the final documents. | If the Member State decides to deduct expenditure from the final application for an interim payment (submitted by 31 July 2024) due to an on-going assessment of that expenditure’s legality and regularity, such expenditure cannot be re-declared because there will be no subsequent applications for interim payments in which to include it. New expenditure cannot be declared in the accounts submitted by 15 February 2025 (or 1 March 2025, if extended by the Commission). |
| 213 | Latvia | 11. Submission of Closure Documents | 11.3 Availability of documents | Please clarify in line with the section 11.3 of the guidelines if interruption of each individual operation effects documents’ retention period of the whole 14-20 period or this retention period of individual operations is counted separately and could be even longer than the retention period of the whole 14-20 | The Commission will make a request to interrupt the retention period for the operations affected (for the non-functioning operations until they are notified to the Commission as functioning, or for the first phase of phased operations until the retention period starts for the second phase of such operations). |

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| 214 | Lithuania | 10. Irregularities | 10.1 treatment of irregularities in the final accounting year | <p>Section 11.3 "Availability of documents". First paragraph: "In line with Article 140(1) of the CPR, the retention period for the availability of documents could be interrupted either in the case of legal proceedings or by a duly justified request of the Commission."</p> <p>In the Guidance for Member States on Amounts Withdrawn, Recovered, to be Recovered and Irrecoverable Amounts (section 10) ("Established irregularities") it is noted: "All the above mentioned corrections are considered definitive. Therefore, the deducted expenditure cannot be re-introduced in any subsequent payment application to the Commission (neither for current, nor for following accounting years). Exceptionally, after a decision by a Court (or other body that is part of the judicial system) challenging the substance of the application of the financial correction, and taking into account impact on the legality and regularity of the expenditure at stake, the national authorities may decide to re-introduce in the subsequent payment application the expenditure previously deducted and reported as financial correction."</p> <p>We would like to enquire if in the payment applications and/ or accounts the corrections with regard to established irregularities are implemented, however before or after submission of the closure documents the decisions concerning the corrections are appealed to Court, whether after submission of the closure documents the Member State could</p> | <p>If the affected expenditure is not included in the accounts for the final accounting year, the Member State will not be able to declare it anymore, even if the court decision would confirm the legality or regularity of the affected expenditure.</p> |

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| | | | | report the Commission on the decisions by a Court challenging the substance of the application in order to request additional payments from the budget of the Union? | |
| 215 | France | 11. Submission of Closure Documents | 11.2 Modification of the closure documents after the deadline for their submission | What is the time limit allowed to the Member States in case of a request from the Commission to modify the closure documents after the deadline for their submission? | As established in the draft Closure Guidelines, Member States will be given two months to respond to the Commission's observations on the final implementation report. The Commission may extend this deadline by a further two months, upon request by a Member State. As for the assurance package, the procedure will be the same as for any other accounting year. |
| 216 | France | 11. Submission of Closure Documents | 11.1 Deadline for submission of closure documents | When will it be possible for Member States to enter in the Closure module of SFC2014? | The closure module in SFC2014 will be ready in due time. |

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| 217 | Belgium | 11. Submission of Closure Documents | 11.1 Deadline for submission of closure documents | <p>Is there an extension of the deadline beyond the end of programming (02/15/2025) and of the additional deadline of 02/15/2026 for cases of force majeure due to the health crisis (and which particularly impact infrastructure projects)? will there be flexibility? Will the impact of the health crisis be taken into account?</p> | <p>The concept of force majeure is of restricted scope in Union law and must be interpreted in the light of conditions set out by the Court of Justice of the European Union. The question whether the COVID-19 pandemic can be regarded as an instance of force majeure should be analysed on a case-by-case basis and cannot be tackled in a general manner in the draft Closure Guidelines.</p> <p>In addition, the provisions of the CPR, as amended by Regulation (EU) 2020/558 of 23 April 2020 ('CRII+') already make reference to force majeure in order to flexibly respond to the rapidly emerging needs of the Member States. In particular, specific arrangements for invoking the COVID-19 pandemic as a reason of force majeure in the context of decommitment have been provided (Article 25(a) (8) of the CPR, as amended by Regulation (EU) 2020/558 of 23 April 2020).</p> <p>It is underlined that the legislative framework for the implementation of the European Structural and Investment Funds programmes remains fully applicable even under the exceptional circumstances posed by the COVID-19 pandemic. In this regard, the deadline for submission of the closure documents are set out in the Financial Regulation and CPR. It cannot be extended by the Closure Guidelines. As for the additional year granted by the draft Closure Guidelines for the non-functioning operations, the Commission does not foresee to extend this deadline.</p> |
| 218 | Czech Republic | 11. Submission of Closure Documents | 11.1 Deadline for submission of closure documents | <p>The final date of eligibility of expenditures is set for 31 Dec 2023 – is it considered as a date when final payment is credited to the supplier's account or the date of deduction of final payment from beneficiary's account or the date when the invoice is issued?</p> <p>Wage costs will still emerge in December 2023, and these types of costs cannot be paid by the eligibility deadline. How to assure that these types of costs will be eligible? This point was widely discussed in the previous programming</p> | <p>As stated in Article 65(2) of the CPR, in order to be eligible for co-financing from the ESI Funds, expenditure must be incurred by a beneficiary and paid between the date of submission of the programme to the Commission or 1 January 2014, whichever is the earlier, and 31 December 2023.</p> <p>The requirements on eligibility are cumulative: incurred and paid.</p> |

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| | | | | period and we would welcome EC's clear position on it. | |
| 219 | Czech Republic | 11. Submission of Closure Documents | 11.1 Deadline for submission of closure documents | In the Guidelines the EC says, that deadline (to submit of the closure documents) may be extended by the Commission to 1 March 2025, upon communication by the Member State concerned. What are the EC's requirements regarding the communication, in which cases the deadline could be extended, under what conditions? | Article 138 of the CPR refers to the possibility of extension of the deadline provided in Article 63(7) of the Financial Regulation. The Guidance for Member States on Preparation, Examination and Acceptance of Accounts (EGESIF_15_0018-04) advises that such requests should be sent before 15 February to the Commission (via SFC2014) in the form of a letter setting out the exceptional circumstances justifying the request for extension. |
| 220 | Malta | 11. Submission of Closure Documents | 11.1 Deadline for submission of closure documents | Section 11.1 Deadline for submission of closure documents: please see comment on Section 4.1 Decommithment. | See reply to question 34. |
| 221 | Poland | 11. Submission of Closure Documents | 11.1 Deadline for submission of closure documents | It is currently unclear whether the final date of eligibility will be extended. If the period of eligibility of expenditure is extended, all related deadlines in the guidelines should also be extended. | The eligibility period remains as set out in Article 65(2) of the CPR; it has not been extended. |
| 222 | Slovakia | 11. Submission of Closure Documents | 10.1 Deadline for submission of closure documents | Section 11.1 (Deadline for submission of closure documents) – We propose to replace the automatic decommitment of open commitments to the possibility of granting a decommitment ("The Commission will automatically decommit ...") to replace "The Commission may decommit ...". | Article 136(2) of the CPR provides: "That part of commitments still open on 31 December 2023 shall be decommitted if any of the documents required under Article 141(1) has not been submitted to the Commission by the deadline set out in Article 141(1)." The word shall indicates that it is an obligation for the Commission. Therefore, the Commission cannot deviate from such regulatory requirement in the draft Closure Guidelines. |

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| 223 | Belgium | 11. Submission of Closure Documents | 11.1 Deadline for submission of closure documents | Is there an extension of the deadline beyond the end of programming (15 February 2025) and of the additional deadline of 15 February 2026 for cases of force majeure due to the health crisis (and which particularly impact infrastructure projects)? will there be flexibility? Will the impact of the health crisis be taken into account? | See reply to question 217. |
| 224 | Hungary | 11. Submission of Closure Documents | 11.1 Deadline for submission of closure documents | Section 11 (p14, double sanction): Similarly to the previous period, Section 10.1 of the Guidelines penalizes twice the failure to submit the closure documents by the deadline – on the one hand the Member State loses the amount concerned and on the other hand further sanctions are envisaged due to system error. This fact has been already noted by several Member States in the past, however no changes have been achieved yet. | <p>Article 136(2) of the CPR provides that the Commission will decommit the parts of the commitments still open on 31 December 2023, if any of the closure documents have not been submitted to the Commission by 15 February 2025. In such a case, closure of the programme will be carried out on the basis of available information.</p> <p>Failure to submit any of the closure documents may be an indication of a serious deficiency in the management and control system of the programme, which puts at risk the Union contribution already paid to the programme. The Commission may decide to impose a financial correction in such cases.</p> <p>Decommitment of the commitments still open at the end of 2023 (i.e. for which no payment application has been submitted) does not represent a financial correction to the Member State as it concerns credits, which have not been used by the Member State. Therefore, the fact that the Commission would decommit the commitments still open at the end of 2023 if the closure documents are not submitted by the deadline and apply a financial correction if a serious deficiency in the management and control systems is established do not represent a double correction to the Member State.</p> |
| 225 | Hungary | 11. Submission of Closure Documents | 11.1 Deadline for submission of closure documents | Section 11.1 (deadlines): It is not included that sufficient time should be provided to the AA to audit the closure documents. Even if the Guideline does not lay down rules on the sub-processes, this should be included, especially because of the preparation of the FIR. | This should be decided within the Member State abiding by the deadline to submit the closure documents. |

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| 226 | Hungary | 11. Submission of Closure Documents | 11.1 Deadline for submission of closure documents | Section 11.1 (p14, last paragraph, last sentence): In case of imposing a financial correction, it is not clear enough that what criteria and factors are taken into account by the Commission in the course of evaluation. | <p>Failure to submit any of the closure documents may be an indication of a serious deficiency in the management and control system of the programme, which puts at risk the Union contribution already paid to the programme.</p> <p>The Commission will assess the functioning of management and control systems against the criteria set out in Commission Delegated Regulation (EU) No 480/2014 (see Articles 30, 31 and Annex IV thereof) and may apply a financial correction in accordance with Article 144(1)(a) of the CPR. Each case would be assessed on its own merits.</p> |
| 227 | Hungary | 11. Submission of Closure Documents | 11.3 Availability of documents | Section 11.3 (p14, 1st paragraph): Regarding the availability of documents the Guideline is not clear enough whether in case of court proceedings the availability of documents is considered automatically extended from the initiation of the proceedings until the final conclusion of the proceeding, and whether in such cases is it necessary to provide any information or notice beyond the general rules to draw the attention of the party(ies) concerned (the party responsible for custody of documents) to this fact? | Article 140(1), fourth sub-paragraph of the CPR provides that "The time period referred to in the first or second subparagraph shall be interrupted either in the case of legal proceedings or by a duly justified request of the Commission". The parties concerned should be made aware of this provision. |
| 228 | Poland | 11. Submission of Closure Documents/ Legality and Regularity Issues | 11.2 Modification of the closure documents after the deadline for their submission | points 11.1 and 13: Financial corrections applied by the European Commission - in the draft guidelines, the Commission underlines that the closure of programmes does not infringe the Commission's powers to impose financial corrections. The guidelines should clearly explain when and on what terms a correction at closure may occur. The basis for such a claim is the fact that the European Commission has been authorized to apply a correction at the stage of closure of operational programmes in the following cases: | <p>The phrase "Closure of the programme is without prejudice to the Commission's power to impose financial corrections" refers to the fact that, regardless closure, the Commission has the right to launch financial correction procedures in order to exclude from Union financing expenditure which is in breach of applicable law.</p> <p>The Commission shall make the financial corrections in the cases provided in Articles 85, 144 and 145 of the CPR, and additionally in the case of EMFF Article 105 of Regulation (EU) No 508/2014.</p> |

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| | | | | <p>= failure to meet the indicators assumed for the operational programme, as determined on the basis of the final implementation report (Articles 22 (7), 144 (4) of the CPR),</p> <p>= failure to comply with the additionality principle (Articles 95 (6), 144 (5)).</p> <p>These corrections may be net corrections due to the fact that they are applied at the stage of operational programme settlement (based on the analysis of the final report or ex-post verification in the case of the additionality principle).</p> <p>Article 85 CPR describes the objective of the European Commission to apply corrections, which may also be applied during the implementation of programmes, e.g. excluding from EU financing expenditure which violate applicable law. Articles 144 and 145 indicate that the European Commission makes corrections by means of implementing acts and determine the situations in which the Commission may make corrections, in particular, for serious defects in the functioning of the management and control system.</p> | |
| 229 | Austria (AT) | 12. Content Of Closure Documents | 12.4 Audit opinion and control report | <p>The legal basis of the last two paragraphs of § 11.4 is not clear. These two paragraphs probably refer to financial instruments but unlike the previous paragraphs they do not specifically mention financial instruments. These two para of 11.4 should be amended in a way that it becomes crystal clear that they refer to financial instruments. On the contrary, if they refer to all programmes activities they should be skipped - since</p> | <p>The last paragraph refers to the reliability of data relating to indicators in general, not only with regard to financial instruments.</p> <p>The second but last paragraph refers to audit of a statistical sample of investments and management costs and fees (referring to financial instruments) allowing the audit authorities to project any errors and conclude if the financial instruments allocation can be considered eligible at closure in its entirety, i.e. confirmation of Article 42 of the CPR.</p> <p>In addition, the draft Closure Guidelines clarify that the control</p> |

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| | | | | the relevant information was/is provided within the annual account exercise. | report for the final accounting year should also include assurance that the amount of public expenditure paid to beneficiaries is at least equal to the contribution from the Funds and the EMFF paid by the Commission to the Member State (Article 129 of the CPR). |
| 230 | Belgium | 12. Content Of Closure Documents | 12.4 Audit opinion and control report | <p>In point 11.4, it is stated 'National audit authorities should conclude on the reliability of data relating to indicators, in the control report of the final accounting year. They should provide a final assessment on key requirement 6 "Reliable system for collecting, recording and storing data for monitoring, evaluation, financial management, verification and audit purposes, including links with electronic data exchange systems with beneficiaries" set out in table 1 of Annex IV to Commission Delegated Regulation (EU) No 480/2014. The final assessment should include confirmation that the aggregated data reported to the Commission is correct. ". This point should be clarified as it is not reasonable to require Audit Authorities to re-do a system audit relating to key requirement 6. There is a nuance between re-auditing system on key requirement 6 and rule on the reliability of the final data relating to the indicators.</p> | <p>In order to ensure a coherent approach on obtaining assurance on the reliability of data relating to indicators and milestones, it is specified in Article 27(2) of Delegated Regulation (EU) No 480/2014 (as amended by Regulation 2019/886) that this element should be covered in every audit of operations.</p> <p>During audits of operations, the audit authority has to verify the correct recording of the relevant information for the selected sampling units in the IT systems used for recording and storing of the data.</p> <p>At closure, a final assessment should be provided on key requirement 6 with confirmation that the aggregated data reported to the Commission is correct. Such final assessment should be based on the previous audit work carried out in this area in the framework of audits of operations and system audits, complemented by any work needed at closure to get a final conclusion on the aggregated data reported in the final audit report.</p> <p>In particular, if the audit authority confirmed in its previous audit work (within its audits of operations/system audits) the reliability of the IT system used to collect the data, it is expected that the audit authority concludes on the basis of its control tests, i.e. its audits of operations in the final accounting year that its previous conclusions are still confirmed and that the data reported to the Commission in the final implementation report is correct.</p> |

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| 231 | Greece | 12. Content Of Closure Documents | 12.4 Audit opinion and control report | <p>Concerning the Closure Documents and in particular the Control Report of the Audit Authority, does the European Commission intend to distribute to the Audit Authorities any other Document which will clarify in more detail:</p> <p>a) the additional audit activities the Audit Authority should carry out in view of the Closure of the current Programming Period (e.g. the additional audit work by the AA concerning the requested “confirmation that the aggregated data of the indicators reported in the Final Implementation Report is correct” as mentioned in the end of Section 11.4 of the Draft Closure Guidelines in page 17)? and</p> <p>b) the content of the final Control Report, in case there is any difference from the content of the yearly ACRs ?</p> | <p>The content of the control report for the final accounting year is the same as for any other accounting year, with the small differences outlined in the draft Closure Guidelines.</p> <p>In particular, the control report for the final accounting year should also include:</p> <ul style="list-style-type: none"> • information on open findings stemming from the audits carried out by the Commission services or the European Court of Auditors, which should be provided in section 8 “Other information” of the control report; • assurance on the legality and regularity of expenditure under financial instruments (Articles 41 and 42 of the CPR); • assurance on the reliability of the data relating to indicators; • assurance that the amount of public expenditure paid to beneficiaries is at least equal to the contribution from the Funds and the EMFF paid by the Commission to the Member State (Article 129 of the CPR). <p>There will not be additional guidance provided by the Commission.</p> |
| 232 | Romania | 6. Phasing of operations | | <p>What are the expectations of the European Commission with regard to the verifications that the audit authorities should perform concerning the status of these completed operations?</p> | <p>A phased operation is considered as a whole and will only be regarded as completed once both phases have been physically completed or fully implemented and have contributed to the objectives of the relevant priorities by the end of the 2021-2027 programming period.</p> <p>The audit authorities shall carry out audits of operations in respect of expenditure declared to the Commission for each accounting year, based on a random sample. This rule applies to both 2014-2020 and 2021-2027 programming period.</p> |
| 233 | Germany | 12. Content Of Closure Documents | 12.4 Audit opinion and control report | <p>Audit report –method</p> <p>According to the wording of the draft of the final guidelines, this simplified procedure would be due to the reference to the requirement to test a statistical sample (at least 30 sample units, possibly taking into account tests that have already been carried out) for the final</p> | <p>The Commission is working on an update of the financial instruments audit methodology and plans further simplification of the sampling methods proposed.</p> |

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| | | | | examination (for the remaining 15 percent) is no longer permissible in every case. In this respect, we suggest a clarification to the effect that the simplified test procedure for small populations is also used in the context of financial statements. | |
| 234 | Germany | 12. Content Of Closure Documents | 12.4 Audit opinion and control report | <p>IT audit.</p> <p>In connection with the check for target achievement, the COM demands a new system check for the area of indicators and a new check as to whether the IT system guarantees correct aggregation of the data. This is a real duplication of work because all countries have probably already carried out a system test for the area of indicators. It should therefore be left to the AA's risk assessment as to whether this system test for indicators should actually be carried out again.</p> | See reply to question 230. |
| 235 | Romania | 12. Content Of Closure Documents | 12.3 Management declaration and annual summary | We suggest adding the following paragraph to Point 12.3 Management declaration and annual summary:” Also, the structure of the annual summary is set out in Annex I to Guidance for Member States on the Drawing of Management Declaration and Annual Summary Programming period 2014-2020 (Revision 2018) - EGESIF_15-0008-05 03/12/2018.” | The Commission prefers not to add in the draft Closure Guidelines references to guidance notes, as the draft Closure Guidelines may become very cumbersome (there are many guidance notes issued during the programming period 2014-2020). |

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| 236 | France | 12. Content Of Closure Documents | 12.1.1 Reporting on major projects | Can the Commission give examples of non-compliance of the implemented major project implemented with the Commission decision which could lead to the application of a financial correction? | <p>The non-compliance of the implemented major project includes the non-compliance with the application documents (for Article 102(2) of the CPR procedure) and with notification documents (for Article 102(1) procedure), which formed the basis of the Commission Decision or Commission tacit approval.</p> <p>Divergences in the implemented major project and the information included in these documents could lead to financial corrections, after the analysis of the level of departure from those documents, based on the reporting according to point 10 of Annex V (model for the final implementation report) of Commission Implementing Regulation (EU) 2015/207 made by the Member State at closure for the respective major project.</p> |
| 237 | Greece | 12. Content Of Closure Documents | 12.1.1 Reporting on major projects | In sub-section 12.1.1 “Reporting on major projects” states that “Member States should describe and explain any divergence in the implementation of the major project compared to what was stated in the above-mentioned documentation”. Please clarify what is considered as “divergence” (e.g. in terms of time, cost, CBA data, etc.?) and what specific information in relation to this is required. | Member States should confirm that the major project is implemented in accordance with the application form and accompanying documents (as per Articles 102 or 103 of the CPR), approved by the Commission, and that the major project is functioning. The "divergences" must be non-substantial, as substantial changes should have been approved by the Commission (through the same procedure as originally followed (Article 102(2) or Article 102(1) of the CPR). |
| 238 | Latvia | 12. Content Of Closure Documents | 12.1.1 Reporting on major projects | <p>According to the guidelines 3.2.point - Member States should submit a request for major project approval or amendment by 30 September 2023. This will permit adoption of the decisions before the final date of eligibility, 31 December 2023.</p> <p>According to the guidelines 11.1.1.section - By including a major project in the final implementation report (table 12 of Annex V to the Implementing Commission Regulation (EU) No 2015/207), the Member State confirms that the major project is completed and contributes to the objectives of the relevant priorities.</p> | No special treatment for IQR. The recommended deadline of 30 September 2023 applies. |

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| | | | | <p>Major projects that are non-functioning, or which are phased, should be reported in line with sections 6 and 7 of these guidelines.</p> <p>The above mentioned points are the only ones regarding the major projects amendments and they do not clarify whether, when submitting the amendments to the EC by 30 September 2023, these amendments should be before harmonized with JASPERS IQR, t.i. how the Jaspers consulting and Jaspers IQR experts are involved in the project amendments evaluation process? What would be considered major changes when amendments should be submitted to IQR and the Commission, etc.</p> | |
| 239 | Poland | 12. Content Of Closure Documents | 12.1.1 Reporting on major projects | <p>point 12 - There is no reference to annual summary in the point on „Management declaration and annual summary”. In chapter 12.1.1 it should be clarified that the differences between implemented scope and the documentation submitted and approved by the Commission, resulting from measurements or technological changes do not constitute a modification of the project, do not require a change of the Commission decision and do not require a financial correction for all projects (major and non-major).</p> | <p>For the annual summary, there is no model provided in the EU legislation. In order to promote a consistent approach, a non-binding recommended template is included in Annex 1 to the Guidance for Member States on the Drawing of Management Declaration and Annual Summary (EGESIF_15-008-05 of 3/12/2018). This model can be used for the final accounting year as for any other accounting year.</p> <p>Regarding the scope of major projects, see reply to question 237.</p> |
| 240 | Portugal | 12. Content Of Closure Documents | 12.1.1 Reporting on major projects | <p>12.1.1. Reporting on major projects</p> <p>It is stated that “In the column “Observations” in table 12, Member States should indicate whether the major project has been implemented in accordance with the documentation</p> | See reply to question 237. |

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| | | | | <p>submitted to the Commission under Article 102 or 103 of the CPR which formed the basis for the Commission decision approving the financial contribution to the project, in the form of the decision or tacit agreement. Member States should describe and explain any divergence in the implementation of the major project compared to what was stated in the above-mentioned documentation.”</p> <p>We ask for the clarification regarding the scope of the explanation to be provided on any divergence in the implementation of the major project, since the application of a major project entails a vast and detailed amount of information. Further explanation on this subject should be provided (what can be classified as any divergence in the implementation of the major project versus application form).</p> | |
| 241 | Romania | 12. Content Of Closure Documents | 12.1.1 Reporting on major projects | <p>"The Commission will assess compliance of the implemented major project with the documentation submitted and the Commission decision approving the financial contribution. In doing so, the Commission will take into account the reasons and consequences of any non-compliance of the implemented major project with the Commission decision and may impose a financial correction."</p> <p>Please, clarify the conditions which are likely to give rise to a financial correction for a major project. Are they related to a potential non -fulfillment of the indicators only, or might they concern other elements of implementation, as well? Please, specify.</p> | <p>Yes, when assessing the conditions which may lead to a financial correction for a major project, also other elements than indicators in the performance framework will be taken into account.</p> <p>See reply to question 236.</p> |

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| 242 | Austria | 12. Content Of Closure Documents | 12.1 Final implementation report | The first paragraph of 12.1 should include the reference to the legal terms of final implementation reports that are applicable to ETC, in addition to IGJ and EMFF. | A reference to ETC has been added in the draft Closure Guidelines. |
| 243 | Belgium | 12. Content Of Closure Documents | 12.4 Audit opinion and control report | In point 12.4, it is indicated « National audit authorities should conclude on the reliability of data relating to indicators, in the control report of the final accounting year. They should provide a final assessment on key requirement 6 “Reliable system for collecting, recording and storing data for monitoring, evaluation, financial management, verification and audit purposes, including links with electronic data exchange systems with beneficiaries” set out in table 1 of Annex IV to Commission Delegated Regulation (EU) No 480/2014. The final assessment should include confirmation that the aggregated data reported to the Commission is correct. ». This point should be clarified as it is not reasonable to require Audit Authorities to re-do a system audit relating to key requirement 6. There is a nuance between re-auditing system on key requirement 6 and rule on the reliability of the final data relating to the indicators. | See reply to question 230. |
| 244 | Hungary | 12. Content Of Closure Documents | 12.4 Audit opinion and control report | It also raises the issue of deadlines if – according to Section 2 of the guidance - the submission date of the FIR is 15 February 2025. The AA is required to declare its opinion in the ACR on the reliability of output indicators included in FCR. In order for the AA’s statement to be soundly based, it would be necessary to allow the application of a | See reply to question 225. |

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| | | | | cut-off date in the guidance (e.g. elimination of irregular projects). | |
| 245 | Hungary | 12. Content Of Closure Documents | 12.1.2. Acceptance and deadlines | Section 12.1.2 (p15, last paragraph): Regarding the acceptance of the FIR, it is not clear whether the Commission will send a notification letter on the acceptance. | This will be communicated at a later stage. |
| 246 | Hungary | 12. Content Of Closure Documents | 12.4 Audit opinion and control report | Section 12.4 (p16 ACR, 1st bullet point regarding the content of the ACR): It is not clear whether it is necessary to provide information on the procedures of OLAF related to open findings – beside the information on open findings stemming from the audits carried out by the Commission or the European Court of Auditors – in Section 8 “Other information” of the control report. | The reporting requirements, as established in Annex IX to the Commission Implementing Regulation (EU) 2015/207 continue to apply also for the final accounting year. |
| 247 | Hungary | 12. Content Of Closure Documents | 12.4 Audit opinion and control report | Section 12.4 (content of the ACR): It would be useful to clearly define whether there is an extra audit task in relation to closure. For instance, to what extent is the examination of the other data (not related to indicators) included in the FIR part of the closure tasks? The annex of the previous Guideline, which listed the tasks of the certain organizations related to closure, was useful. In case there is no such requirement, this should also be stated. | The final accounting year is subject to the same rules as any other accounting year. This concerns also the controls. The elements to be clarified at closure in addition to those verified at any other annual accounts cycle is the eligibility of expenditure for financial instruments, assurance on the reliability of the data relating to indicators and assurance that the amount of public expenditure paid to beneficiaries is at least equal to the contribution from the Funds and the EMFF paid by the Commission to the Member State. |

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| 249 | Latvia | Issues Not Dealt With In The Guidelines | Durability | <p>The guidance do not stipulate when it is considered that the operation is completed and therefore starts its durability period regarding Article 71 of the CPR. Please explain and also foresee such an explanation in the closure guidelines by including answers to the questions below:</p> <p>a) Do the same criteria as of 2007-2013 planning period (an operation is completed, if the following three cumulative criteria are met: 1) activities are actually carried out (no further activity is required to complete the operation); 2) all expenditure by beneficiaries has been paid and 3) the public contribution has been paid to the beneficiary) apply also for 2014 -2020 period to consider the project is completed?</p> | See reply to question 120. |
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| 250 | Latvia | Issues Not Dealt With In The Guidelines | Durability | <p>In the case of similarity of applicable criteria, please clarify which may be the start of the durability period when (1) activities are actually carried out (no further activity is required to complete the operation and it is already functional and (2) all expenditure by beneficiaries has been paid however (3) the public contribution has not been paid to the beneficiary in full or partially due to suspected fraud or any other doubts of eligibility (cases still under investigation by the competent judicial authorities regarding section 8 of the guidelines):</p> <p>1) is it acceptable to set the durability start date when there is evidence of fulfilment of the first two criteria mentioned above (1) activities are actually carried out (no further activity is required to complete the operation); 2) all expenditure by beneficiaries has been paid?</p> <p>2) in case the decision by the competent authority is still not taken by the end of the eligibility of the programming period - 31.12.2023 and also not by the time the Closure documentation due to be submitted to the Commission, is it correct to set 31.12.2023 as start of durability period even if 3) criterion - the public contribution has not been paid to the beneficiary in full – is not fulfilled?</p> | <p>1) Article 71 of the CPR provides that the durability period starts from the final payment to the beneficiary or within the period of time set out in State aid rules.</p> <p>2) See reply to question 120.</p> |
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| 251 | Latvia | Issues Not Dealt With In The Guidelines | Durability | How the above mentioned situation would impact the reporting of the indicators of such operations? | The starting date of durability is not relevant for indicator reporting. The draft Closure Guidelines clarify that only outputs actually delivered based on expenditure declared under the programme should be reported in the final implementation report. The provisions of Article 5(3) of the Commission Implementing Regulation (EU) No 215/2014 will continue to apply for reporting of indicators under the performance framework. |
| 252 | Poland | Issues Not Dealt With In The Guidelines | Technical Assistance | Provisions on technical assistance are missing. | The Commission services do not deem necessary to include the legal provisions on technical assistance. The purpose of the draft Closure Guidelines is not to replicate the provisions of the legislative framework 2014-2020. |
| 253 | Portugal | Issues Not Dealt With In The Guidelines | Technical Assistance | As regards technical assistance, it is important to have guidance concerning the possibility to declare in 2014-2020 OP's, expenditures concerning the next programming period. | It is possible as per Article 59(1) of the CPR: "At the initiative of a Member State, the ESI Funds may support actions for preparation, management, monitoring, evaluation, information and communication, networking, complaint resolution, and control and audit. The ESI Funds may be used by the Member State to support actions for the reduction of the administrative burden on beneficiaries, including electronic data exchange systems, and actions to reinforce the capacity of Member State authorities and beneficiaries to administer and use those Funds. The ESI Funds may also be used to support actions to reinforce the capacity of relevant partners in line with point (e) of Article 5(3) and to support exchange of good practices between such partners. The actions referred to in this paragraph may concern previous and subsequent programming periods." |
| 254 | Slovakia | Issues Not Dealt With In The Guidelines | State Aid/Revenue Generating projects | We request the provisions / procedures in relation to termination of state aid and in accordance with Art. 61 CPR (operations generating net revenue after completion - in case objectively it is not possible to determine income in advance and net revenue generated within three years from the end of the operation is deducted from the expenditure declared to the EC). | The draft Closure Guidelines do not foresee provisions on State aid nor on operations generating net revenue, as the issues are already regulated in the CPR and other legislative acts. The purpose of the draft Closure Guidelines is not to replicate the provisions of the legislative framework 2014-2020. |
| 255 | France | Issues Not Dealt With In The | State Aid | Should the operations submitted to state aids have their public co-financing paid to the beneficiaries by the body granting | Article 131(3) of the CPR provides: "In the case of State aid, the public contribution corresponding to the expenditure included in a payment application shall have been paid to the |

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| | | Guidelines | | the aid before the submission of the closure documents? (see. 3.8 State aid and eligibility of expenditure - guidelines on closure 2007-2013). | beneficiaries by the body granting aid, or where Member States have decided that the beneficiary is the body granting the aid pursuant to point 10(a) of Article 2, paid by the beneficiary to the body receiving the aid”. |
| 256 | Greece | Issues Not Dealt With In The Guidelines | State Aid | There is no reference on state aid issues in the draft closure guidelines for the 2014-2020 programming period. Does the Commission (DG Regio and DG Comp) intends to publish a specific note regarding closure guidelines for the State aid measures in this pp? There is a need to clarify various issues in order to provide for the sound closure of SGEIs’ projects or to clarify issues as for example if a state aid measure could be transfered/ continued in the next pp, phasing projects, etc. | The Commission does not intend to publish any such type of guidance. |
| 257 | Greece | Issues Not Dealt With In The Guidelines | State Aid | <p>According to the closure guidelines of pp 2007-2013, “as regards aid schemes within the meaning of Article 107(1) TFEU in order to be eligible, in addition to the payment being made by the beneficiaries, the public contribution corresponding should have been paid to the beneficiaries by the body granting the aid before the submission of the closure documents.”</p> <p>Respectively, it is proposed to add to the closure guidelines of pp 2014-2020 a relevant clarification as follows: “As regards aid schemes within the meaning of Article 107(1) TFEU in order to be eligible, in addition to the payment being made by the beneficiaries, the public contribution corresponding should have been paid to the beneficiaries by the body granting the aid before the end of the final accounting year i.e. before the</p> | See reply to question 255. |

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| | | | | 30th June of 2024”. | |
| 258 | Portugal | Issues Not Dealt With In The Guidelines | State Aid | <p>The Portuguese Authorities consider that the draft Guidelines on Closure don't cover all the subjects that directly relate to closure, such as:</p> <p>Eligibility</p> <p>Having regard to the calendars below:</p> <ul style="list-style-type: none"> • Deadline for eligibility of expenditure: 31/12/2023; • Final Accounting Exercise: EC 23-24 (1 July 2023 to 30 June 2024); • Date of last payment request for the Final Accounting Year: between 01/07/2023 and 31/07/2024; • Submission date EC final accounts 23-24: until 02/15/2025. <p>the Managing Authorities only have 6 months (between the deadline for eligibility and the closing of the expenditure of the Final Accounting Year) to receive and validate requests for reimbursement from beneficiaries, and to integrate the corresponding expenditure up to the last payment application of the EC 23-24 (to emphasise that in the accounts to be formalised by 15/02/2025 no new expenditure can be declared). This issue is all the more worrying when it comes to state aid operations and financial instruments.</p> <p>In the case of State aid, considering that the costs of operations are eligible provided that they are paid by the beneficiaries until 31/12/2023 and provided that their public contribution is</p> | See reply to question 255 and 267. |

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| | | | | paid to the beneficiary by the agency granting the aid, it should be clarified by the Commission that the public contribution may be paid to the beneficiary after 31/12/2023 (and up to 30/06/2024) so that it can be included in the last payment application, which may include additional expenditure (until 31/07/2024). | |
| 259 | Greece | Issues Not Dealt With In The Guidelines | Revenue Generating Projects | There is no reference on “revenue generating operations” in the draft closure guidelines for the pp 2014-2020. Please clarify in which cases recalculation of net revenue generated by operations is required at closure (change of tariffs, new sources of income, ...) | <p>In 2014-2020, there is no obligation to recalculate net revenues after the completion of the project, except for situations where it was impossible to objectively estimate it in advance. However, Member States might undertake it on the basis of their internal national rules.</p> <p>According to Article 61(6) of the CPR: "Where it is objectively not possible to determine the revenue in advance based on any of the methods set out in paragraphs 3 or 5, the net revenue generated within three years of the completion of an operation, or by the deadline for the submission of documents for programme closure fixed in the Fund-specific rules, whichever is the earlier, shall be deducted from the expenditure declared to the Commission."</p> |
| 260 | Poland | Issues Not Dealt With In The Guidelines | ITI | <p>The issue of ITI. The Guidelines do not relate to the issue of settling the expenditure in the case of Integrated Territorial Investments.</p> <p>How will the Commission approach the implementation of ITI in individual programmes? Will the use of Funds contribution for ITI be verified at the level of the Partnership Agreement (Member State), or for each programme according to the amounts declared at the level of the programme?</p> <p>Can the resources allocated to ITI be used for the purpose of implementation of other projects using the mechanism of</p> | <p>The implementation of the ITI in individual programmes will be approached by the Commission as during the implementation period.</p> <p>Member States have to comply with the provisions on ITI specified in the CPR and ERDF Regulation.</p> <p>The provisions on flexibility for the calculation of the final balance are provided in Article 130(3) of the CPR, as amended by Regulation (EU) 2020/558 As they do not make an exception with regard to ITI, flexibility applies also to the resources allocated to ITI.</p> |

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| | | | | flexibility? | |
| 261 | Poland | Issues Not Dealt With In The Guidelines | Force Majeure | There are no provisions relating to the impact of force majeure on the implementation of projects, while in the CPR force majeure occurs and is one of the exceptions to the imposition of financial corrections by the European Commission. | See reply to question 217. |
| 262 | Czech Republic | Issues Not Dealt With In The Guidelines | Financial Instruments | The Guideline is lacking information on establishing of the eligible expenditure of the financial instruments at closure in accordance with Article 42 of the CPR. | The legislative framework for 2014-2020 contains detailed and comprehensive provisions on financial instruments. Therefore, in order to avoid unnecessary duplication of existing legislation, the Commission considered that no guidance is necessary in relation to financial instruments. The draft Closure Guidelines only include clarifications in relation to audit work. |
| 263 | France | Issues Not Dealt With In The Guidelines | Financial Instruments | Financial instruments are hardly mentioned in the text, in particular the reporting aspects. Will additional requests, other than those appearing in the CPR, be requested from Member-states? | See reply to question 262. When submitting the closure documents, the national authorities should respect the requirements of the CPR and the respective delegated and implementing regulations. In terms of reporting requirements, the SFC 2014 reporting module includes the data fields also for the final implementation report (data fields 18-21 with information only at closure), which will be activated for the final data encoding. |
| 264 | Greece | Issues Not Dealt With In The Guidelines | Financial Instruments | There is no reference on eligibility rules applicable to financial instruments in the draft closure guidelines for the 2014-2020 programming period. Does the Commission intends to issue a separate guidance note, as did at the end of the previous programming period, regarding the closure guidelines of the financial instruments, since there are significant differences between the current and the previous pp? | See reply to question 262. The Commission will not issue a separate guidance note on this subject. |

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| 265 | Latvia | Issues Not Dealt With In The Guidelines | Financial Instruments | Please, clarify what will be the eligibility period for the FI, what is a deadline for disbursement of FI products? | <p>The end date of the eligibility period is 31 December 2023, according to Article 65(2) of the CPR. For the eligible expenditure of financial instruments at closure, please refer to Article 42 of the CPR.</p> <p>See also reply to question 262.</p> |
| 266 | Poland | Issues Not Dealt With In The Guidelines | Financial Instruments | <p>No specific guidelines on financial instruments, unlike in 2007-2013 programming period, have been introduced. Therefore:</p> <p>1. Please confirm that for the expenditure to be considered eligible at closure, it is not necessary for the final recipient to have completed the implementation of an investment by the end of eligibility period or the submission of closure documents.</p> <p>2. Please clarify, how the residual resources paid into an escrow account (in line with article 42(3) of CPR) should be reported?</p> <p>3. Please confirm that the use of interest generated by payments from the programme should not be presented in closure documents in detail but any amounts not used in accordance with the provisions of Article 43(2) of CPR, should be indicated and deducted from the eligible expenditure.</p> <p>4. Please confirm that the application for payment of the final balance (specified in article 41(1) of CPR) is of the same template as application for interim payment.</p> | <p>See reply to question 262.</p> <p>1. It is possible that the completion / implementation of the investment by the final recipient may continue beyond the end date of the eligibility period. The draft Closure Guidelines provide: "National audit authorities should obtain assurance on the legality and regularity of this expenditure before submission of the accounts for the final accounting year. However, it is not necessary for the final recipient to have completed the implementation of an investment supported by the financial instrument by the submission of the closure documents".</p> <p>2. In case of equity-based instruments, the amounts paid to escrow accounts should respect the cumulative conditions of Article 42(3) second sub-paragraph of the CPR (not a residual amount). At closure of a programme, the final application for an interim payment shall include the total amount of eligible expenditure as referred to in Article 42 of the CPR. This is also clarified in the footnote to Appendix I of Annex VI to the Commission Implementing Regulation (EU) No 1011/2014. The amount should be included in the payment claim and in Annex I to the payment claim in the columns A,B, C and D. In the structured data of the financial instruments reporting module, the amount should be reported in the data field 20.</p> <p>3. Interest and other gains generated by payments from ESI Funds to the financial instrument (in EUR) should be reported in the data field 35 in the structured data of the reporting module for financial instruments. If not used as specified in Article 43(2) of the CPR, the amount should be deducted from the eligible expenditure at closure.</p> <p>4. Yes. The last sub-paragraph of Article 41(1) of the CPR states: "At closure of a programme, the application for payment of the final balance shall include the total amount of eligible</p> |

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| | | | | | expenditure as referred to in Article 42". It is also clarified in the footnote to Appendix I of Annex VI to the Commission Implementing Regulation (EU) No 1011/2014. |
| 267 | Portugal | Issues Not Dealt With In The Guidelines | Financial Instruments | <p>The Portuguese Authorities consider that the draft Guidelines on Closure don't cover all the subjects that directly relate to closure, such as:</p> <p>The same clarification should be provided for investments made by financial instruments in final recipients (can they occur until, the latest, 30/06/2024, so that they can be included in the final application for an interim payment to be submitted by 31/07/2024?).</p> <p>It should be noted that in the previous programming period, this possibility was foreseen until the date for the submission of the closure documents.</p> | <p>Article 42(1) of the CPR specifies that "at closure of a programme, the eligible expenditure of financial instruments shall be the total amount or programme contributions effectively paid or, in the case of guarantees, committed by the financial instrument <u>within the eligibility period, corresponding to [...]</u>".</p> <p>For example, financial instrument makes an investment of 100 in an SME, i.e. payment to final recipient according to Article 42(1)(a) of the CPR by 31 December 2023. 100 will be included as eligible in the final application for an interim payment submitted by 31/07/2024 and certified in the accounts for the final accounting year submitted by 15/02/2025. Financial instruments provide financing and not reimbursement of costs, as it is in case of grants.</p> |
| 268 | Germany | Issues Not Dealt With In The Guidelines | Financial Instruments | <p>Particularly against the background of the ongoing pandemic, we ask you to work towards an extension of the funding period for financial instruments analogous to the funding period 2007-2013 (possibly by changing the regulation).</p> | <p>Article 42(1) of the CPR refers to the eligible expenditure "within the eligibility period". The eligibility period ends on 31 December 2023, according to Article 65(2) of the CPR. The Closure Guidelines cannot extend the eligibility period set out by the CPR.</p> |
| 269 | Romania | Issues Not Dealt With In The Guidelines | FEAD | <p>"These guidelines apply to the closure of programmes under the Structural Funds (ERDF, ESF and EMFF) and the Cohesion Fund implemented in accordance with the Common Provisions Regulation ('the CPR') for the 2014-2020 programming period. ". It would be useful a similar guideline for the closure of programmes under the Fund for European Aid to the Most Deprived.</p> | <p>The scope of the draft Closure Guidelines is limited to the ERDF, ESF, EMFF and the Cohesion Fund.</p> |

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| 270 | Greece | Issues Not Dealt With In The Guidelines | State Aid | <p>Regarding the date of eligibility of the expenses, according to our understanding of the draft guidelines, the beneficiary should have fully paid the expenditure by 31.12.2023 (expenditure paid by beneficiary must be supported by receipted invoices) and then submit the receipted invoices to the Managing Authority so that the public expenditure can be paid to the beneficiary by 30.6.2024 (end of final accounting year). As this is not clear from the text of the draft guidelines, please add a paragraph clarifying the above, in particular regarding private investments, as set out in the guidelines on closure of the previous programming period (2007-2013) for the European Fisheries Fund (EFF).</p> | See reply to question 255. |
| 271 | Italy | Issues Not Dealt With In The Guidelines | State Aid | <p>The deadline for eligibility of expenditure is set at 31 December 2023 in accordance with Article 65 (2) of Regulation (EU) No 1303/2013 'Expenditure shall be eligible for a contribution from the ESI Funds if it has been incurred by a beneficiary and paid between the date of submission of the programme to the Commission or 1 January 2014, whichever is the earlier, and 31 December 2023.'</p> <p>As provided for in the Regulation, it is important to bear in mind and to clarify that, in the case of aid schemes, the expenditure of the beneficiaries must be incurred within the eligibility period, but the contribution may be paid later, provided that the payment application is submitted (Article 131 (3) of Regulation (EC) No 1303).</p> | See reply to question 255. |

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| | | | | <p>It is therefore proposed, by analogy with the 2007-2013 Guidelines, that the following paragraph be inserted in the document:</p> <p>‘4.5 State aid and eligibility of expenditure. As regards aid schemes, in order to be eligible, the corresponding public contribution must have been paid to the beneficiaries by the body granting the aid before the submission of the closure documents. Advances paid to beneficiaries by the body granting the aid must be covered by expenditure incurred by the beneficiaries in implementing the project and supported by receipted invoices or accounting documents of equivalent probative value not later than 31 December 2013.’</p> | |
| 272 | Slovakia | Issues Not Dealt With In The Guidelines | Eligible Expenditure | <p>How to refund salaries for the month of December 2023 since the expenditures are eligible only up to 31 December 2023 and salaries are supposed to be paid in January 2024? Wage costs will still emerge in December 2023, and these types of costs cannot be paid by the eligibility deadline. How can these types of costs be made eligible?</p> | See reply to question 218. |
| 273 | Slovakia | Issues Not Dealt With In The Guidelines | Eligible Expenditure | <p>The final date of eligibility of expenditures is set for 31 December 2023 – is it considered as a date when final payment is credited to the supplier’s account, the date of deduction of final payment from beneficiary’s account or the date when the invoice is issued?</p> | <p>Article 131(1)(a) of the CPR requires that payment applications include for each priority "the total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations, as entered in the accounting system of the certifying authority".</p> <p>According to Article 65(2) of the CPR "expenditure shall be eligible for contribution from the ESI Funds if it has been incurred by a beneficiary and paid between the date of submission of the programme to the Commission or from 1 January 2014 whichever is the earlier and 31 December 2023".</p> |

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| | | | | | <p>Furthermore Article 131(1)(a) CPR requires that payment applications shall include for each priority "the total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations, as entered in the accounting system of the certifying authority".</p> <p>Thus, to be eligible, expenditure must be incurred by the beneficiaries and paid in implementing operations after the submission of the OP or after the 1 January 2014 – whichever is the earlier – and 31 December 2023⁶.</p> |
| 274 | Cyprus | Issues Not Dealt With In The Guidelines | Financial Instruments | <p>FINANCIAL INSTRUMENTS</p> <p>It is believed that further clarifications are needed in the Closure Guidelines about the treatment of Financial Instruments during closure, so it is suggested to add a new chapter in the Guidelines document for this purpose.</p> | See reply to question 262. |
| 275 | Czech Republic | Issues Not Dealt With In The Guidelines | Financial Instruments | <p>FINANCIAL INSTRUMENTS</p> <p>According to article 62(1a) of the draft CPR for 2021-2027 financial instruments may be implemented across consecutive programming periods. For example we want to implement FI created in the 2014-2020 programming period also in the 2021-20(1) programming period. Will it in any way influence the program's closure in 2014-2020? We ask for confirmation that such FI won't be treated as phased project in sense of the 2014-2020 CPR. In general will there be any detailed rules for FIs implemented across consecutive programming periods besides the above mentioned article.</p> | See reply to question 114. |

⁶ 28/04/2021: Text clarified compared to the version of 10/03/2021, in order to give a more complete reply.

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| 276 | Poland | Issues Not Dealt With In The Guidelines | Financial instruments | <p>First part of the comment: Unlike the Commission guidelines on the closure of operational programmes adopted for assistance from the European Regional Development Fund, the European Social Fund and the Cohesion Fund (2007-2013), that in section 3.6 give clear answer to the question what amounts, in the case of financial (engineering) instruments, can be treated as the eligible expenditure at closure, the current draft guidelines miss that information. Lack of such information, especially in relation to the expenditure incurred at the level of final recipients, might result in potential problems at closure, since there would be no time for any adjustments and therefore implementation of many investments contributing to the objectives of cohesion policy might be questionable. That is why it is in our common interest to answer the question of eligibility of expenditure in the case of investments carried out by final recipients of support from ESIF financial instruments.</p> <p>In the opinion of Poland, in the case of support granted to final recipients under financial instruments operations, the basis for the recognition of the expenditure as eligible at closure should be effective payment to final recipients or to their benefit. For the expenditure to be considered eligible at closure, national authorities must also have assurance that the contribution paid to the final recipient is used for its intended purpose. However, it is not necessary for the final recipient to have completed the implementation of an investment activity</p> | <p>The following clarification has been added in the draft Closure Guidelines: "National audit authorities should obtain assurance on the legality and regularity of this expenditure before submission of the accounts for the final accounting year. However, it is not necessary for the final recipient to have completed the implementation of an investment supported by the financial instrument by the submission of the closure documents".</p> |
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| | | | | supported by the financial engineering instrument by the submission of closure documents. Therefore, for the purpose of declaring eligible expenditure at closure, national authorities shall carry out management verifications or audits in relation to the supporting documents, which are relevant for the financial product and type of supported investment and are available before the date of closure. | |
| 277 | Poland | Issues Not Dealt With In The Guidelines | Financial Instruments | Second part of the comment: Adoption of a different solution (declaring only these expenditure for which complete relevant supporting documents have been verified until the date of closure) would lead to absurd situation in which, in order to be sure that all the ESIF amounts distributed to final recipients are correct and regular, financial intermediaries would have to stop disbursing any new products long before the end of eligibility period. The duration of investments of final recipients vary, in the case of simple ones all supporting documents may be available quickly (e.g. purchase of a machine or support of working capital, for which a business plan is the supporting document), but for more complex ones the timeframe is longer. Financial intermediaries providing ESIF loans or even banks providing commercial loans covered by ESIF guarantees would then have to verify business plans, assess if the investment to be supported is likely to be completed early enough to be thoroughly audited and only after that they would decide to grant support. Such solution would be contrary to the provisions of | See reply to question 276. |

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| | | | | <p>the CPR. Article 37(1) clearly states that investments to be supported are expected to be financially viable and do not give rise to sufficient funding from market sources. Article 37(5) states that investments that are to be supported through financial instruments shall not be physically completed or fully implemented at the date of the investment decision. If the intention of the legislator was to support only these investments that would be completed before closure of a relevant programme, it would be clearly stated in the CPR, whereas it is not. Please confirm our position concerning the aforementioned matter. Also, please take the provisions of section 3.6 of the guidelines on 2007-2013 closure and incorporate relevant provisions in the current draft guidelines, especially pointing out that it is not necessary for the final recipient to have completed the implementation of an investment activity supported by the financial instrument by the submission of closure documents.</p> | |
| 278 | Hungary | Issues Not Dealt With In The Guidelines | Financial Instruments | <p>We ask guidance related to the required data on financial instrument projects (list of supported projects) which will need to be submitted.</p> | <p>See reply to question 262.</p> <p>There will not be additional data requested apart from what is required by the CPR and the respective delegated and implementing regulations.</p> |
| 279 | France | Other Queries | Training | <p>Will The Commission, in collaboration with the Member-States, provide guidance through seminars/trainings to be organised in the run-up to closure? (see. 2.1. Trainings - guidelines on closure 2007-2013)</p> | <p>It has not yet been foreseen.</p> |

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| 280 | Italy | Other Queries | Training | <p>It is proposed to supplement document EGESIF_20-0012-00 of 25/09/2020 Draft “Guidelines for the closure of programmes under the European Regional Development Fund, the European Social Fund, the European Fisheries Fund and the Cohesion Fund (2014-2020)” as follows:</p> <ul style="list-style-type: none"> • With regard to “preparation for closure”, the 2007-2013 Closure Guidelines provided for specific training courses (see “2.1. Trainingcourses. The Commission, in close cooperation with the Member States, intends to provide guidance through seminars and training courses to be organised in the run-up to closure period”) which are not foreseen in the draft closure guidelines 2014-2020. It is proposed to include this provision: <p>‘3.3 Training courses. The Commission, in close cooperation with the Member States, intends to provide guidance through seminars and training courses, to be organised in the run-up to closure.’</p> | It has not yet been foreseen. The Commission does not see the need to include reference to trainings in the draft Closure Guidelines. |
| 281 | Poland | Other Queries | Training | <p>In the draft Guidelines, there are no provisions concerning guidance to be organized by the Commission e.g. in the form of seminars or workshops. Will such activities be organized by the Commission?</p> | It has not yet been foreseen. |
| 282 | Poland | Other Queries | Q&A | <p>Does the Commission plan, following the example of previous financial perspectives, to draw up a closure manual in the Q&A formula?</p> | It has not yet been foreseen. |
| 283 | France | Other Queries | Outermost | <p>Will the possibility of making transfers</p> | No transfers are allowed at closure. The draft Closure |

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| | | | Region | from and to the specific additional allocation for the outermost regions be opened for the closure? | <p>Guidelines clarify that the transfers between the priority axes of the same programme under the same category of region and the same Fund are allowed until the end of the eligibility period.</p> <p>As for the 10% flexibility at closure, it applies within the same programme for each priority per Fund and per category of regions (Article 130(3) of the CPR).</p> <p>The special allocation for outermost regions is used to offset the additional costs linked to the special characteristics and constraints referred to in Article 349 TFEU incurred in the outermost regions (see the introductory sentence of Article 12(1) ERDF Regulation). This special allocation is kept distinct from the “normal” ERDF funds which are broken down per category of regions in the financing plans of the OPs, see model for the financing plan of an operational programme (Table 17, lines (1) to (12), of the model in Annex I to Commission Implementing Regulation (EU) No 288/2014, Table 18a, the lines below priority axis 5 thereof, and Table 18c thereof.</p> <p>Considering its specific purpose and the separation in the financing plans from the “normal” ERDF funds broken down per category of regions, the 10% flexibility at closure is not possible.</p> |
| 284 | Poland | Other Queries | Glossary | It is worth adding a short glossary including, for example, a list of Regulations, definitions of the programme, priority, operation - for clarity and better readability of the document. | For definitions, please refer to the CPR and other applicable regulations. The purpose of the draft Closure Guidelines is not to replicate the legal provisions of the legislative framework 2014-2020. |
| 285 | Belgium | Other Queries | Annex IV | Simulations will be carried out on the basis of the excel file received (annex IV). Additional remarks / questions could be made at the end of these simulations. | No answer required. |
| 286 | Belgium | Other Queries | Annex IV | To send the Excel version of the last table (Annex IV) | It was already sent to all delegations. |

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| 287 | Latvia | Other Queries | Annex IV | Regarding annex IV please explain what amount should be included in column (P), it is not clear, since in the example it seems that it is simply the result of multiplying column (D1) with column (C). We would appreciate if the Commission would provide more detailed example of calculation, including output data, overbooking at least in one priority, taking into account clearance of initial, annual advances (also clearance of balance for 2020), otherwise it is not complete, some questions are still opened. | The amounts in column P (Paid over all past accounting years) are the result of applying the co-financing rate to the eligible expenditure declared. Yes, it does demonstrate an example of overbooking – please refer to priority axis 1. See reply to question 28. |
| 288 | Poland | Other Queries | Annex IV | Annex IV - the given example is understandable and we have no comments on it, but it presents a relatively simple situation (each priority axis refers only to one category of region). In our opinion it is worth modifying the example in such a way that it takes into account more complex situations, e.g. axes implemented in two categories of regions and priority axes financed by React-EU funds. Therefore more, more complex, examples should be introduced. | See reply to question 28. |
| 289 | Poland | Other Queries | Annex I-III | Annex I-III - Do the values indicated in the columns Public contribution refer only to the certified public contribution? | Yes, certified public contribution. |
| 290 | Poland | Other Queries | Annex - Final Audit Report | Annexes – There is no annex related to the preparation of the final audit report and closure declarations. In the guidelines on 2007-2013 perspective closure such annex existed. Does the Commission intend to prepare one? | No. As it is clarified in the draft Closure Guidelines, the structure of the audit opinion and control report for the final accounting year, as for any other accounting year, is set out in Annexes VIII and IX to the Commission Implementing Regulation (EU) 2015/207. |

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| 291 | Greece | Other Queries | AIR | Please clarify explicitly in the closure guidelines whether there is obligation to submit an annual implementation report for the financial year 2023, or the MSs are relieved from this obligation. | According to Article 111 of the CPR, the last annual implementation report is the one for the year 2022 that should be submitted by 31/05/2023. (page 7, question 5 of a Q and A document published on Inforegio on AIR: https://ec.europa.eu/regional_policy/sources/docgener/informat/2014/air_qa_model.pdf |
| 292 | Belgium | Other Queries | Annex IV | Simulations will be carried out on the basis of the excel file received (annex IV). Additional remarks / questions could be made at the end of these simulations. | No answer required. |
| 293 | Belgium | Other Queries | Annex IV | Request for clarification: The clarification concerns Annex IV and the calculations made in column P "Paid over all past accounting years". In the example provided by the Commission, the amounts in this column are the result of a formula. For example: $59.684 = E1 * C$ or $70.000 * 85.26\%$. In order to avoid any misunderstanding, we would like this formula to be clearly specified in the header of the column. Concretely, the current mention "P" should be replaced by " $P = C * D1$ or $C * E1$ ". | This has been clarified in Annex IV to the draft Closure Guidelines. |

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| 294 | Sweden | Other Queries | Article 129 of EU Regulation 1303/2013/ | We (SE) would like a clarification of the interpretation of Article 129 of EU Regulation 1303/2013. Mainly in relation to Article 130. Is "amount of public expenditure" in Article 129 the same as "support from the Funds paid to beneficiaries" in Article 130, i.e. as it is called in the new regulations for 2021-2027? Furthermore, it is not clear from the closure guidelines how the assurance and reporting according to Article 129 should be done in practice? Is this assurance made by Annex IV in the closure guidelines? | For the definition of the public expenditure, please refer to Article 2(15) of the CPR. Contribution from the Funds and the EMFF paid by the Commission to the Member State, as per Article 129 of the CPR, relates only to EU Funds contribution paid by the Commission to the Member State. Article 129 provides: "The Member State shall ensure that by the closure of the operational programme, the amount of public expenditure paid to beneficiaries is at least equal to the contribution from the Funds and the EMFF paid by the Commission to the Member State". The certifying authority should perform the calculations and ensure that in the accounts for the final accounting year Article 129 of the CPR is respected. The audit authority should add this check in the audit of the accounts for the final accounting year and provide assurance on the compliance with this Article in chapter 6 of the control report for the final accounting year. |
| 295 | Sweden | Other Queries | Interreg | How should "Member State" be interpreted in the context of an Interreg programme? | Member State should be interpreted for the Interreg programmes as "programme authorities". |
| 296 | Romania | 4. Financial management | Overbooking | 1. Overbooked expenditure declared to the Commission will be considered at and after closure to replace irregular amounts. Can this be applied within the same priority or also between different priorities, within the same fund/region? 2. The Guidelines do not specify if there any different treatment of overbooked expenditures regarding the verifications or audit. | 1) Overbooking can be used to replace the irregular expenditure within the same priority axis and for the 10% flexibility between priority axes of the same Fund and category of region, within the same programme (for the 10% flexibility, see Article 130(3) of the CPR). 2) Any overbooking should be subject to management verifications and should be included in the population of eligible expenditure for the final accounting year from which the audit authority draws its sample. |
| 297 | Romania | 5. Indicators and performance framework | Phasing and non-functioning operations | The Guidelines should clearly state that for phased projects, the programmes should be updated in order to reflect the target values only for the first phase. Also, it should be clarified what happens with target values of the non-functioning | 1) The draft Closure Guidelines states that: "Member States are recommended not to revise the targets beyond 2022, except for cases where the revision is due to changes in allocations for a given priority or phasing of certain operations". Therefore, the targets for phased operations can be updated. |

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| | | | | <p>operations (they remain unchanged if expenditure for non-functioning operations is included in the accounts for the final accounting year?).</p> | <p>2) For non-functioning operations which the Member State decides to retain in the programme because they comply with the conditions set out in the draft Closure Guidelines to be granted an additional year for their completion, the draft Closure Guidelines states that: “[...] only outputs actually delivered based on the expenditure declared under the programme should be reported in the final implementation report of the programme. In certain cases, this will mean zero output is reported.”</p> <p>In this regard:</p> <p>“Outputs delivered by non-functioning operations will be assessed after 15 February 2026, the deadline for Member States to physically complete or fully implement such operations and ensure they contribute to the objectives of the relevant priorities”.</p> |
| 298 | Romania | 6. Phasing of operations over two programming periods | | <p>The obligation of reporting the output indicators for the phased operations is mentioned in Chapter 5.1, paragraph 2. As such, to the phasing conditions mentioned in Chapter 6, a new condition should be added regarding the reporting of output indicators at the end of phase 1, situation that would imply a physical quantification, not only a financial one.</p> <p>We kindly ask EC to include this new condition in the Guidelines.</p> | <p>The conditions for phasing are set out in Article 118 of the CPR 2021-2027 (and draft Closure Guidelines).</p> <p>With regard to indicators, see reply to question 113 1).</p> |

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| 299 | Romania | 7. Non-functioning operations | | <p>According to the art. 2 (14) of the CPR: a 'completed operation' means an operation that has been physically completed or fully implemented and in respect of which all related payments have been made by beneficiaries and the corresponding public contribution has been paid to the beneficiaries.</p> <p>Please adjust the Closure Guidelines in order to follow the CPR definition.</p> | <p>The draft Closure Guidelines take into account Article 2(14) of the CPR.</p> |
| 300 | Romania | 8. Operations affected by ongoing national investigations or suspended by a legal proceeding or by an administrative appeal having suspensory effect | | <p>8. Operations affected by ongoing national investigations or suspended by a legal proceeding or by an administrative appeal having suspensory effect.</p> <p>Please find below some issues for which we would EC to include clarifications in the Closure Guidelines:</p> <p>1) It would be useful to include in the Guidelines a clear definition of the situations that lead to an operation being under investigation at the national level (for instance: operations affected by irregularity or fraud suspicions, operations for which there is an appeal in court following a debt note, etc.)</p> <p>2) It is not clear the meaning of column 5 - Total Certified Expenditure in Annex III of the Guidelines: is it the total expenditure certified for the specific operation or only the amount affected by the ongoing investigation (for instance, in the case of a fraud related to a procurement contract, should the entire amount of the operation be included in column 5 or only the value of the</p> | <p>1) Examples of what is considered ongoing national investigations have been added in the draft Closure Guidelines.</p> <p>2) The requested information is the total certified expenditure affected.</p> <p>3) Yes. If such operations are included in the programme, and therefore in the final application for an interim payment for the final accounting year and in the accounts for the final accounting year, appendices 1 and 8, Member States should submit, with the final implementation report, a list of such operations using the template provided in Annex III to the draft Closure Guidelines. Furthermore, the draft Closure Guidelines states: "No expenditure may be declared for operations suspended by a legal proceeding or by an administrative appeal having suspensory effect after the submission of the final application for an interim payment for the final accounting year".</p> <p>4) See reply to point 2 above.</p> <p>5) Yes, see reply to point 2 above.</p> <p>6) See reply to point 1 above.</p> |

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| | | | | <p>affected procurement contract)?</p> <p>3) It is not clear if the expenditures belonging to these operations should be also included in the final application for an interim payment for the final accounting year and not only in the Annex III of the Final Implementation Report.</p> <p>4) In the case of an operation affected by ongoing national investigation for which expenditure was declared both in the previous accounting years and in the final accounting year, what expenditure should be included in Annex III of the Final Implementation Report?</p> <p>5) For those operations for which all expenditure was already declared to the EC in the previous accounting years, but the national investigations start in the final accounting year or before the submission of the Final Implementation Report, the amounts should be included in Annex III?</p> <p>6) The ongoing national investigations include the investigations at the level of the managing authorities or the intermediate bodies regarding possible irregularities and the investigations regarding the suspicions of fraud?</p> <p>7) Is it possible to declare expenditures in the accounts of the final accounting year, in addition to the expenditures from the final payment application?</p> <p>8) If the expenditures affected by ongoing national investigations or suspended by a legal proceeding or by an administrative appeal having suspensory</p> | <p>7) No. All expenditure should be declared at latest at the moment of the final application for an interim payment for the final accounting year.</p> <p>8) For guidance on these specific cases, we refer to the Guidance on the Annual Control Report (EGESIF 15-0002-04), section IV.2.2. There is no difference to the audit work performed at any other accounting year.</p> |
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| | | | | effect are included in the final payment application for the final accounting year, will the audit approach be similar to the 2007-2013 one (issuing a scope limitation in the final control report and a disclaimer of the audit opinion and auditing the expenditures after the investigations are finalized and the managing authority and the certifying authority have decided with regard to the eligibility of expenditure). | |
| 301 | Romania | 10. Irregularities | 10.1 Treatment of irregularities in the final accounting year | <p>1) Taking into consideration the fact the Guidelines provide that the irregular amounts related to the previous accounting years are withdrawn in the accounts of the final accounting year, will the model for Appendix 8 be revised in order to highlight the withdrawn amounts belonging to the previous accounting years/ per accounting years, similar to the presentation of amounts in Appendix 2 (the split of amounts withdrawn by accounting year of declaration of the corresponding expenditure)?</p> <p>2) When the expenditures are deducted from Appendix 8 of the accounts of the final accounting year, according to art. 137 (2), can the respective amounts be included in Annex III of the Final Implementation Report as amounts affected by ongoing investigations in order to maintain an open commitment of the European Commission?</p> | <p>1) Withdrawals and recoveries are treated in the final accounting year the same way as in any other accounting year. This means that withdrawals and recoveries implemented before the final application for an interim payment for the final accounting year are recorded in Appendix 2 of the accounts, any other corrections are recorded in Appendix 8 of the accounts.</p> <p>2) Article 137(2) of the CPR does not contain an obligation for the Member State to exclude the expenditure under ongoing assessment of its legality and regularity from the accounts.</p> <p>However, pursuant to the same Article, if expenditure previously included in an application for interim payment for the accounting year was excluded by a Member State from the accounts due to an ongoing assessment of that expenditure's legality and regularity, it may be included in the final application for an interim payment for the final accounting year only if that expenditure subsequently was found to be legal and regular.</p> <p>In Annex III to the draft Closure Guidelines, the Member State should report only expenditure relating to operations affected by</p> |

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| | | | | | <p>ongoing national investigations / legal proceedings or administrative appeals with suspensory effect, which are included in the programme, and therefore the relating expenditure is declared in the final application for an interim payment for the final accounting year and included in the accounts for the final accounting year, appendices 1 and 8.</p> <p>If the Member State decides to exclude the expenditure of the affected operations from the accounts for the final accounting year, they cannot be reported in Annex III to the draft Closure Guidelines, as Annex III is aimed only at cases where expenditure remains included in the accounts.</p> <p>It should be taken into account that no expenditure may be declared after submission of the final application for an interim payment for the final accounting year. In this regard, the draft Closure Guidelines provide:</p> <p>“If pursuant to Article 137(2) of the CPR, the Member State decides to exclude expenditure from the accounts for the final accounting year due to an ongoing assessment of that expenditure’s legality and regularity, if such expenditure is subsequently found to be legal and regular, it cannot be re-declared because there will be no subsequent applications for interim payment in which to include it.”</p> |
| 302 | Romania | 10. Irregularities | 10.3 Potential risk of irregularities leading to additional verifications by the programme authorities of expenditure already declared to the Commission | 1. According to point 10.3 of the Closure Guidelines, in case of a potential risk of irregularities leading to additional verifications of expenditure declared in the final accounting year, the decision about its legality and regularity and therefore the decision whether to keep this expenditure in or deduct it from the accounts of the final accounting year, | <p>1. The decision lies with the programme authorities. The information about these cases (including their financial impact and treatment) should be included in the control report for the final accounting year.</p> <p>If the programme authorities decide to include these amounts in the accounts for the final accounting year, the Commission will analyse</p> |

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| | | | | <p>should be taken at the moment of the submission of the accounts (15.02.2025 or 01.03.2025).</p> <p>The Guidelines do not explain the treatment of these expenditures in the accounts, in case the Member State decides to keep them and their influence on the total error rate. Also, there is no mention of how these amounts will be treated when their status is clarified, after the submission of the closure documents.</p> <p>2. When the additional verifications are not finalized in due time in order to include the expenditure in the final payment application, can the respective expenditures (excluded from the accounts according to art 137.2 of Regulation 1303/2013 in an accounting year before the final accounting year) be included in Annex III of the Final Implementation Report, on the basis of the information regarding the status of investigations?</p> <p>3. The expenditures included in the final accounting year for which there is a fraud suspicion or additional verifications are needed, can be maintained in Appendix 1 and included in Annex III of the Final Implementation Report on the basis of the fraud suspicion without having information regarding the actual start of the investigation?</p> | <p>the information in the control report for the final accounting year.</p> <p>The audit authority will perform its audits of operations for the expenditure declared in the last accounting year as in any other year, and calculate the TER and RTER depending on its results and definitive corrections performed.</p> <p>2. See reply to question 301 2)-</p> <p>3. Expenditure related to fraud suspicion can be considered as ongoing national investigations in the sense of section 8 of the draft Closure Guidelines and could be included in Annex III. Examples of on-going national investigations include investigations carried out by national bodies different to the programme authorities (i.e. police investigations, judicial or criminal investigations).</p> |
| 303 | Romania | 12. Content of the closure documents | 12.1 Final implementation report | The Annexes I-III of the Final Implementation Report will be included in SFC2014 to be filled-in, as in SFC2007? | The relevant annexes will be made available in SFC in due time. |

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| 304 | Romania | 12. Content of the closure documents | 12.4. Audit opinion and control report | It is not clear from the Closure Guidelines which are the expectations of the European Commission with regard to the verifications that the audit authorities should perform concerning the completed operations (any additional verifications needed or not). | See reply to question 232. In addition, Article 125(4)(a) of the CPR provides that the managing authority must verify that the co-financed products and services have been delivered, that the operation complies with applicable law, the operational programme and the conditions for support of the operation. |
| 305 | Italy | 12. Content of the closure documents | 12.4 Audit opinion and control report | In dettaglio, si propone di aggiungere al capitolo 11.4. Audit opinion and control report, terzo capoverso, il seguente testo in corsivo: “National audit authorities should carry out an audit of a statistical sample of investments and management costs and fees and may treat such expenditure as an additional sampling period in order to use the results of audits carried out previously. In regard to financial instruments managed indirectly by the European Commission (article 38.1.a of the CPR) with implementation tasks entrusted to the EIB/EIF, management costs and fees charged by EIB/EIF are checked by the external auditors of EIB/EIF; any management costs and fees charged by the financial intermediaries selected at national level by EIF are checked by the external auditors of EIB/EIF.” | A footnote has been added in the draft Closure Guidelines: “With regard to financial instruments set up under points (a) and (c) of Article 38(1) of the CPR and for financial instruments set up under point (b) of the same Article implemented by the European Investment Bank (EIB) or other international financial institution, management costs and fees charged by EIB/European Investment Fund (EIF) or by other international financial institution are audited by the external auditors of the EIB/EIF. Furthermore, any management costs and fees charged by the financial intermediaries selected at national level by EIF for loans and equity instruments are checked by the external auditors of EIB/EIF .” |

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| 306 | Hungary | 11. Submission of the closure documents | | <p>It also raises the issue of deadlines if – according to Section 2 of the guidance - the submission date of the FIR is 15 February 2025. The AA is required to declare its opinion in the ACR on the reliability of output indicators included in FCR. In order for the AA’s statement to be soundly based, it would be necessary to allow the application of a cut-off date in the guidance (e.g. elimination of irregular projects).</p> | <p>The Commission recommends the national authorities to organise their procedures in order to allow the audit authority to audit the reliability of the indicators on time for the submission of the control report for the final accounting year.</p> |
| 307 | Germany | 02. Possibility of early closure | | <ol style="list-style-type: none"> 1) Clarifications will be appreciated on the deadlines for reporting on indicators and what about the physical implementation? 2) REACT EU – how does it relate to early closure? Is it possible to have partial early closure? Or we have to wait for REACT EU to be spent? | <p>1) The assessment of the achievement of indicators target values will be carried out by the Commission on the basis of the data reported in the final implementation report. The deadline for reporting indicators is the moment of submission of the final implementation report which is 15 February of the year following the accounting year considered. In line with the draft Closure Guidelines, early closure should follow all rules established for closure including those relating to indicators.</p> <p>Regarding the physical implementation, see reply to question 7. Early closure is not possible for programmes with non-functioning operations, since the prerequisite for requesting such early closure is to have carried out all the activities relating to the implementation of the programmes.</p> <p>2) No partial early closure is possible. In order to request an early closure, the Member State must have had carried out all the activities related to the implementation of the programme. In particular, this condition refers to the fact that the total EU support (budget) of the programme must have been consumed.</p> |

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| 308 | Belgium | 04. Financial Management | | <p>As requested, a formula has been included in column P “Paid in all previous years” of Annex IV of the draft closure guidelines.</p> <p>Can it be concluded that the amount paid in all past accounting years will be calculated at closure on the basis of the latest version of the OP's financial plan (regardless of the amounts actually paid throughout the programming period)?</p> | <p>The Commission recalls that the calculations in Annex IV are for illustrational purposes only.</p> <p>The amounts paid in previous years are calculated and paid to the Member State in accordance with the co-financing rate in force at the time of the application. Indeed, it is possible to have two (or more) different co-financing rates.</p> <p>The co-financing rate in force at closure will be applied only to the expenditure submitted in the final accounting year.</p> |
| 309 | France | 04. Financial Management | | <p>Does the Commission foresee a regulatory deadline for the payment of the public contribution to the beneficiaries? Must the public expenditure (ESIF and corresponding public contribution), within the meaning of Article 2.15 of CPR, have actually been paid to the beneficiaries at the time of submission of the closure documents or not ?</p> | <p>Both Article 132(1) and Article 65(2) of the CPR have to be complied with.</p> <p>The expenditure has to be incurred by a beneficiary and paid before 31 December 2023 (see Article 65(2) of the CPR on eligibility). Also the managing authority has the obligation to pay to the beneficiary in full within 90 days from the date of submission of payment claim.</p> <p>There is no direct link between submission of the closure documents with the payment of the public contribution to the beneficiaries, provided that the relevant CPR provisions are respected.</p> |
| 310 | Lithuania | 04. Financial Management | Overbooking | <p>We understand that if the MS wants to have overbooked expenditure available in the final accounting year, it can stop declaring overbooking until the final accounting year and declare it in the final accounting year. Our question is: when the overbooking should be reviewed in one accounting year: in payment applications or in the accounts (in payment applications we do not know about possible future reductions in the accounts - only in the accounts the final</p> | <p>The expenditure declared in the accounts cannot be higher than that in the final application for an interim payment for a given accounting year. Member States can already see when submitting a payment application, if 2014 Front Office is capping the amount to be paid because the Fund maximum contribution has already been reached for the priority.</p> <p>It is a Member state choice if they would like to declare potential overbooking in the years before the final accounting year. However, as</p> |

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| | | | | certified expenditure is clear, however in the accounts only expenditure already declared is included)? | <p>specified in the draft Closure Guidelines, such overbooking if not used for potential deductions in the accounts of that accounting year, will not be carried over to the next accounting year and will be lost for the programme.</p> <p>If in the accounts of a given accounting year, there are deductions to be made (unknown amount at the moment of submission of the final application for interim payment), the amount accepted with the accounts may be lower than the maximum fund contribution for this priority axis. In this situation, the Member States can submit a subsequent payment application (in the next accounting year) to receive the remaining Fund contribution due for the priority.</p> |
| 311 | Lithuania | 04. Financial Management | Overbooking | We would like to suggest <u>in the SFC2014 to implement warning notices in the applications or the accounts</u> (for example to mark the amounts in red) when the cumulative amounts declared in the priorities reach the limit of overbooking | <p>Member States can already see when submitting a payment application, if 2014 Front Office is capping the amount to be paid because the Fund maximum contribution has already been reached for the priority.</p> <p>It is however possible that with the deductions made in the accounts a priority can have the commitments available again to be consumed by a future payment application.</p> <p>The Commission will assess the technical possibilities of introducing the appropriate warning notices in SFC2014.</p> |
| 312 | Lithuania | 04. Financial Management | Overbooking | We would like to enquire if for purposes of calculation of the cumulative declared expenditure under the priority, the cumulative amount should be calculated technically as follows: <u>expenditure certified in accounts for previous accounting year</u> (when the accounts for previous accounting year have already | Yes, the assumption is correct - cumulative declared expenditure = expenditure accepted in the accounts for each of the previous accounting years + expenditure declared in the applications for interim payment for the current accounting year. |

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| | | | | been submitted to the Commission) + <u>expenditure declared in the interim payment applications</u> for the current accounting year (when the accounts for this year are still not submitted to the Commission). | |
| 313 | Ireland | 04. Financial management | Overbooking | <p>We would support the observations of a number of Member States in relation to the approach to overbooking. We are also of the view that the approach adds to the administrative burden. Postponing the declaration of excess expenditure to the last financial year could, in terms of administrative effort, be equivalent to re-declaring expenditure. We would welcome a more flexible approach to overbooking before the final accounting year.</p> <p>1) Can you confirm our understanding is correct that the Managing Authority can re-profile any undeclared/unused profile to a performing priority in the final year of the Programme (2023), in order to avoid decommitment through lack of absorbcency under a priority?</p> <p>2) Can you also confirm that the Managing Authority can do this without the requirement of a Commission Decision?</p> <p>We would also like confirmation that this 10% is 10% of the ERDF available to the operational programme, for example where an operational programme has a Union Contribution (ERDF) of €300m allocated to it (including Technical Assistance) that this 10% of the profile is</p> | <p>1) and 2) The programme authorities can either:</p> <ul style="list-style-type: none"> • modify the financing plan of the programme to increase the Funds contribution for the overbooked priority in accordance with the rules applicable to the programme amendments. The recommended deadline for submission of a programme amendment is 30 September 2023; or • declare the overbooked expenditure in the final accounting year so that it could be considered for the 10% flexibility at the level of the priority per Fund and per category of region (to compensate for the priority which lacks absorption). <p>3) The 10% flexibility is calculated in relation to the Fund contribution per priority axis (PA), not in relation to the Fund contribution per programme. Example: a programme has two PAs, with ERDF PA1= €200m and ERDF PA2=€100m, so total ERDF for the programme = €300m. The 10% flexibility allows the Fund contribution due on PA1 to go up to €220m, and that on PA2 to up to €110m, but altogether they cannot go beyond the €300m as the latter is the maximum due (payable) per financial plan).</p> |

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| | | | | €30m. | |
| 314 | Italy | 04. Financial management | Annex IV | <p>In Annex IV, the example of closure of the financial plan is calculated based on the co-financing rate of the final version of the approved Operational Programme (OP).</p> <p>However, the simulation does not seem to consider the co-financing rates at 100% adopted in 2020-2021 period. It implies that, at the closure, the last co-financing rate applied to the OP's financial plan turns out to be lower. So, if we were applying the methodology as in the example, would occur at the closure a mismatch between EU Fund Contribution (ESF) and National Counterpart due to the different co-financing rates applied in the overall programming period.</p> <p>We would like some clarification on that mismatch.</p> | <p>It is important to consider that Annex IV to the draft Closure Guidelines represents a conceptual illustration of how flexibility between priorities works at closure. It is not to be understood as a calculation sheet for the closure of a programme. The latter is more complex than what is included in Annex IV and will include other important elements such as clearing of initial pre-financing and annual pre-financing etc.</p> <p>The 100% co-financing rate is something particular to the accounting year 2020-2021 only. Any expenditure submitted in the next accounting years (2021-2022 and onwards) will be reimbursed by applying the co-financing rate as per the financial plan, e.g. 85% in the example given. The Commission will not be adjusting the co-financing rate by averaging it because of the 100% co-financing rate applied in the accounting year 2020-2021. In other words, the Commission will apply the 100% co-financing rate to the expenditure declared during one year (2020-2021) and the co-financing rate as per the financial plan during the remaining accounting years.</p> <p>The expenditure reimbursed at the 100% co-financing rate will be considered when calculating the balance to be paid in future accounting years, as it will form part of the amounts paid during past accounting years (table 8 in the current calculation sheets).</p> <p>Since the Fund contribution decided for the programme is not increasing/changing, the only impact of the 100% co-financing rate applied in the accounting year 2020-2021 would be a “faster” spending of the Fund contribution due to the programme.</p> |

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| 315 | Italy | 5. Indicators and performance framework at closure | 5.2 Implications of the performance framework for closure | <p>In the paragraph starting “Where a programme authority decides to include ...”, in the 8th line it is proposed to erase “as per” and insert “without prejudice to full compliance with”.</p> <p>The sentence would then become “will be assimilated to a corrective action in order to achieve the targets, without prejudice to full compliance with Article 22(7) of the CPR”.</p> <p>This is put forward in order to ensure that any proposal of financial correction by the EC is based on failures previously communicated to the MS.</p> | <p>In the mentioned sentence of the draft Closure Guidelines, the reference is made to the corrective action as per Article 22(7) of the CPR, i.e. the emphasis is on the corrective action as provided in Article 22(7).</p> <p>All requirements of Article 22(7) apply, including the ones of Article 50(8) of the CPR, but it was not the purpose of this sentence.</p> |
| 316 | Czech Republic | 06. Phasing of certain operations over two programming periods | | <p>With ref to “<i>the total cost of the operation exceeds EUR 5 million (both phases)</i>”:</p> <ol style="list-style-type: none"> 1) Does the cost of each phase must be at least EUR 5 million, or the cost of both phases together must be at least EUR 5 million? 2) The point refers to the total cost of operation. Is it possible for any phase to have zero eligible expenditure even though the phase is at least partially materially eligible under the rules of operational programme? | <ol style="list-style-type: none"> 1) The total cost of both phases of the operation (together) must be at least EUR 5 million. 2) As the operation must have two identifiable phases from a financial point of view, the example given does not seem to be a phased project. |
| 317 | Czech Republic | 06. Phasing of certain operations over two programming periods | | <p>Does operation needs to be conceived by beneficiary as phased operation from its submission to operational programme? Or is it possible to change operation to phased operation after its submission to operational programme?</p> | <p>An operation can be conceived as a phased operation from its submission to the operational programme or can be transformed into a phased operation after its submission to the operational programme. In any case, each phased operation has to comply with the regulatory requirements applicable to each phase, the document setting out the conditions for support and satisfy the conditions for</p> |

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| | | | | | phasing set out in Article 118 of the CPR proposal for 2021-2027 (and draft Closure Guidelines) . |
| 318 | Czech Republic | 06. Phasing of certain operations over two programming periods | 3.2 Submission/notification and amendment of major projects | Could it be explained how is the art. 103 of the CPR relevant to the submission / notification of a major project that foresees phasing or to the requests of an amendment of the major projects due to phasing? This article refers to the phasing over the two last programming periods (2007-2013 and 2014-2020), it does not address the programming period 2021-2027. | Indeed, Article 103 of the CPR refers to major projects phased from 2007-2013 into 2014-2020, and does not apply for operations phased from 2014-2020 into 2021-2027. For major projects of 2014-2020 that from the start are foreseen to be phased into 2021-2027, Commission Implementing Regulation (EU) 2015/207 sets the information requirements in the major projects application form which need to be filled it. In order to phase a major project already approved in 2014-2020, Member States should submit or notify a request for amendment of a major project. The conditions for phasing set out in Article 118 of the CPR 2021-2027 (and draft Closure Guidelines) must be complied with. |
| 319 | Czech Republic | 06. Phasing of certain operations over two programming periods + 7. Non-functioning operations | | Limits for: <ul style="list-style-type: none"> • (For non-functioning) the total cost of each non-functioning operation exceeds EUR 2 million; • (For phased operations) the total cost of the operation exceeds EUR 5 million (both phases); Is compliance with the limits assessed according to the amounts indicated in the application for support at the time of its submission? | The moment of granting support (concluding a document setting out the conditions for support) would be the moment when the compliance with the thresholds is assessed. |
| 320 | Czech Republic | 06. Phasing of certain operations over two programming periods | | Please could you clarify if the phasing of certain operations could also apply to an operation (individual project) that is possible to implement by 2023 however there are not enough funds for its entire implementation in the current operational program. Therefore, the operation would | From 1 January 2021 until 31 December 2023, there is an overlap of the eligibility period of the programming periods 2014-2020 and 2021-2027. There is nothing preventing the Member State to proceed as requested as long as each phase complies with the legal frameworks of each period and the conditions |

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| | | | | <p>be financially phased which would among others allow a quick start of the new operation programme. In our case it would be relevant for a financially large operation with high environmental benefits.</p> | <p>for phasing set out in Article 118 of the CPR for 2021-2027 (and draft Closure Guidelines) are satisfied with.</p> <p>If the project is a Major project, a modification request will need to be presented to the Commission</p> |
| 321 | Italy | 06. Phasing of certain operations over two programming periods | | <p>In the second bullet point, it is proposed to delete “(both phases)”. This is proposed in order to have a provision coherent with art. 118 CPR 2021-2027.</p> | <p>The draft Closure Guidelines follow the wording of Article 118 of the CPR 2021-2027, where it is indicated that the total cost of both phases of the operation exceeds EUR 5 million</p> |
| 322 | Hungary | 06. Phasing of certain operations over two programming periods | | <p>With ref to question 129 and EC answer, here is a further clarification: It is clear, that if the operation physically completed before 2023, the phasing is not necessary in relation of the eligibility, nevertheless, it will be possible, that the MSs would like to use the opportunity. (for example, when the concerned OP is overcommitted / overbooked and some project sections are not necessary for the financial and indicator absorption of the 2014-20 programming period).</p> <p>If the MS ensures that the same expenditure is not declared twice to the Commission (financial demarcation), will it be acceptable to phase a project with a 'phasing demarcation date' earlier than 31.12.2023?</p> <p>(In the example, the project implemented between 2018-2022 (e.g.: December). Is it possible to finance the project:</p> <ul style="list-style-type: none"> - from 2014-20 funds/sources between 2018-December 2021 and - from 2021-27 funds/sources between January 2022- December 2022?) | <p>See reply to question 320.</p> |

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| | | | | This solution may help the MSs to reach the financial targets of the 2021-27 period in the first years. | |
| 323 | Poland | 06. Phasing of certain operations over two programming periods | | Please confirm that it is possible to phase repayable assistance operations or so called „umbrella projects”, provided they meet the conditions established for the phased operations (i.e. threshold, two identifiable phases etc...) | <p>1) Repayable assistance is one of the forms of support available in 2014-2020, which is distinct from grants and financial instruments. This form of support could fall either under the definition of “grants under conditions” or “financial instruments” in 2021-2027 period:</p> <p>a) Repayable assistance can be phased if it fits under the definition of “grants under conditions” of the CPR 2021-2027 (and provided all the relevant conditions of the 2021-2027 Regulations, including of Article 118 of the CPR for 2021-2027 are complied with);</p> <p>b) If the current umbrella projects in the form of repayable assistance would fall under the definition of financial instruments in 2021-2027, this cannot be treated as phasing.</p> <p>2) Under 2014-2020 rules, the Commission services have accepted that “umbrella operations” could cover the following cases:</p> <ul style="list-style-type: none"> • either those which in 2014-2020 fall under Article 2(10)(a) of the CPR when the Member State concerned decided that the beneficiary is the body granting the aid, • or similar structures outside the context of State aid where the body responsible for initiating the operation is considered the beneficiary, while implementing of the operation is done in full or in part by other bodies which are not considered beneficiaries under the CPR. |

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| | | | | | <p>Under 2021-2027 rules, the CPR and Fund-specific Regulations regulate the exhaustive cases where a beneficiary can select final recipients (outside financial instruments) or re-grant support within the operation selected by the managing authority. This is notably the case of small project Funds.</p> <p>The regulation also specifies where the beneficiary may further cascade the grant to other entities. In line with Article 2(9)(d) CPR in the context of de minimis aid, the beneficiary may be the body granting aid. In such operations, the beneficiary may identify undertakings (so entities engaged in economic activity and not households) that are to receive support based on criteria established when the operation was selected.</p> <p>Therefore, provided that</p> <ul style="list-style-type: none">• all the relevant conditions of the 2021-2027 Regulations, including of Article 118 of the CPR 2021-2027 are complied with, and• the aid granted to undertakings falls within de minimis aid or within one of the exhaustive cases where a beneficiary can select final recipients (outside financial instruments), <p>operations consisting of re-distributing financial support by the beneficiary to pre-defined types of bodies or natural persons based on pre-defined and clearly established parameters without any discretion by the beneficiary could be phased and implemented in 2021-2027 as long as such parameters are specified before the operation is selected and reflected in the documents setting out the conditions for support between the MA/IB and the beneficiary.</p> |
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| 324 | Poland | 06. Phasing of certain operations over two programming periods | | Will the list of phased operations in all member states be available to all member states or will there be national limitations? | The Commission is requesting a list of phased operations to be included in the final implementation report, using Annex I to the draft Closure Guidelines. Closure documents of each operational programme are not public information. |
| 325 | Czech Republic | 07. Non-functioning operations | | <p>If the operations are non-functioning by 15/2/2026, the MS should provide Commission with the amounts to be corrected and justification as to how the amounts were calculated.</p> <p>Do we understand correctly that the assessment of the performance framework will take place on three different levels?</p> <ol style="list-style-type: none"> 1. The assessment of the achievement of indicators' target values (financial correction are going to be calculated in compliance with the art. 3 of the Commission Implementing Regulation 480/2014). 2. The assessment of the status of completion of the non-functioning operation as well as the achievement of the overall objectives of this operations – here the principle of proportionality is applied and the MS calculates the amount itself (as mentioned in the document Question and answers from Commission). 3. The assessment of the impact that a particular operation still incomplete and non-functioning after the date of 15/2/2026 could have on the performance framework (again, financial correction would be calculated in compliance with the art. of the Commission Implementing Regulation 480/2014). <p>Could the Commission services elaborate</p> | <p>The assessment of the achievement of indicators target values will be carried out by the Commission on the basis of the data reported in the final implementation report. In the case of non-functioning operations, Member States will need to report outputs corresponding to expenditure certified under the programme and achieved by 31 December 2023.</p> <ol style="list-style-type: none"> 1) If the non-functioning operations have no impact on the performance framework, the performance framework assessment is finalised at this stage either by closing the assessment (if no serious failure is established) or, if a serious failure is established, the Commission may apply financial corrections provided that the conditions set out in Article 22(7) CPR are complied with. In the latter case, the criteria for determining the level of financial corrections to be applied under the performance framework are contained in Articles 2 and 3 of Commission Implementing Regulation (EU) No 480/2014. 2) If the non-functioning operations have an impact on the performance framework to the extent that they lead to a situation of a serious failure: <ol style="list-style-type: none"> a. the undertaking of the Member States to complete non-functioning operations by 15 February 2026 will be considered as a corrective action by the Commission ; b. the Commission will reassess the |

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| | | | | more on this topic to make it clear how to proceed especially with the corrections calculated by MS (an example would be particularly helpful). | <p>situation as far as the performance framework is concerned at 15 February 2026;</p> <p>c. if by that date thanks to the additional outputs delivered by completed operations performance framework target values are achieved, the Commission closes the assessment;</p> <p>d. if not, the Commission may apply financial corrections provided that the conditions set out in Article 22(7) CPR are complied with.</p> |
| 326 | Czech Republic | 07. Non-functioning operations | | Is non-functional operation one whose beneficiary has not received final payment and operations period of sustainability has not started? | Non-functioning operations are operations not physically completed or fully implemented and/or not contributing to the objectives of the relevant priorities and in respect of which all related payments have not been made by beneficiaries and the corresponding public contribution has not been paid to the beneficiaries. See the reply to question 120. |
| 327 | Czech Republic | 07. Non-functioning operations | | With ref to: <i>"the total cost of each non-functioning operation exceeds EUR 2 million"</i> : The point refers to the total cost of operation. Does this mean that the amount of eligible expenditure is not decisive by any means? | Yes, the threshold refers to total cost of the operation. Eligible expenditure does not play a role for this threshold. |
| 328 | Ireland | 07. Non-functioning operations | | <p>Taking point 7 of the guidelines into account are we correct in our understanding that projects which were slow to commence and only did so at the latter stages of the 2014-2020 funding period can have expenditure included in the final accounting year but have until February 15th 2026 to physically complete works?</p> <p>Can clarification be provided given the last date for eligible expenditure at</p> | As stated in Article 65(2) of the CPR, in order to be eligible for co-financing from the ESI Funds, expenditure must be incurred by the beneficiary and paid the latest by 31 December 2023. Such eligible expenditure may be certified to the Commission beyond that date, but expenditure that is not incurred by the beneficiary and paid by this deadline will not be eligible for co-financing from the ESI Funds. Beyond the final date of eligibility, the expenditure to physically complete or fully implement the operation can be financed, for |

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| | | | | <p>beneficiary level as per National Eligibility Rules is 31/12/2023?</p> <p>A practical example may be the best way to aid understanding the guidelines!</p> | <p>instance, from national funds.</p> <p>According to the draft Closure Guidelines, by including expenditure for non-functioning operations in the accounts for the final accounting year, Member States undertake to physically complete or fully implement all such non-functioning operations and ensure they contribute to the objectives of the relevant priorities no later than by 15 February 2026.</p> |
| 329 | Italy | 07. Non-functioning operations | | <p>It is proposed to extend the deadline to physically complete or fully implement all non-functioning operations to 15/02/2027.</p> <p>This proposal is in line with the provisions in force for the 2007-2013, where closure guidelines set a two-year deadline for completion. Moreover, the difficulties caused by the COVID emergency in 2020 and 2021 have often led to slowdown many investment projects. Given this situation, the granting of extensions may be an alternative to waiving or de-financing, it is therefore essential to have a reasonable period for completion.</p> | See reply to question 144. |
| 330 | Romania | 07. Non-functioning operations | | <p>The phrase "Member States should monitor the non-functioning operations and by 15 February 2026, they should provide the Commission with the necessary information on their physical completion or full implementation and their contribution to the objectives of the relevant priorities."</p> <p>should be modified as follows:</p> <p>Member States should monitor the non-functioning operations and, no later than 6 months after the 15 February</p> | <p>Pursuant to the draft Closure Guidelines, the deadline for the Member States to provide the Commission with the necessary information on the physical completion or full implementation and their contribution to the objectives of the relevant priorities is set at 15 February 2026.</p> |

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| | | | | <p>2026 (deadline for completion of the non-functioning operations), meaning by 15 August 2026, they should provide the Commission with the necessary information on their physical completion or full implementation and their contribution to the objectives of the relevant priorities."</p> <p>Reason: Information related to the completion of the operations cannot be provided by the Member States by the same term of the projects' completion, but after a reasonable period allowed for the reporting and verifying the data received from the beneficiaries concerned (administrative, on the spot verifications). If the reporting deadline for the Member States is maintained for the 15 February 2026, than the period allowed for the completion of the non-functioning operation would have to be shortened (as to allow the completion of the operation, proper checks of the management structures and reporting to the EC by that deadline). This cannot be regarded as a fair treatment for the Beneficiaries and is not justified by any of the arguments previously invoked in discussing the non-functioning projects' deadlines and reporting. We propose a 6 months period after the deadline for the completion of the non-functioning operations to be allowed for the reporting of the ME to EC.</p> | |
| 331 | Lithuania | 08. Operations Affected By Ongoing National Investigations Or | Final balance | <p>In accordance to explanations by the Commission in the Q&A document – <i>“If expenditure previously included in an application for interim payment for the</i></p> | <p>If the programme authorities consider the expenditure legal and regular, it can be included in the final application for an interim payment for the final accounting year.</p> |

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| | | <p>Suspended By A Legal Proceeding Or By An Administrative Appeal Having Suspensory Effect</p> | | <p><i>accounting year was excluded by a Member State from the accounts due to an ongoing assessment of that expenditure's legality and regularity, it may be included in the final application for an interim payment for the final accounting year only if that expenditure subsequently was found to be legal and regular (Article 137(2) of the CPR).".</i> We suppose that explanation by the Commission, which states that "<i>Article 137(2) of the CPR does not contain an obligation for the Member State to exclude the expenditure under ongoing assessment of its legality and regularity from the accounts</i>" was not completely clear, because in the <i>Guidance for MS on Preparation, Examination and Acceptance of Accounts</i> it is underlined that in all the cases when the MA or the CA has doubts about the legality and regularity of expenditure it is recommended not to include such expenditure in the accounts and this approach was also applied by the AA during audits of accounts. Because ongoing investigations by institutions (other than the MCS institutions) and trial processes may last for many years and could be not accomplished till the closure of the 2014-2020 Operation Programme, we would suggest to treat expenditure that was excluded from the Accounts under article 137(2) under recommendations by the Commission in the same way – to include the expenditure (which is actually legal/regular while processes are not finished (the presumption of innocence is applicable until proven guilty); also it</p> | <p>Expenditure affected by on-going national investigations / legal proceedings or administrative appeals with suspensory effect included in the accounts for the final accounting year must be reported to the Commission in Annex III to the draft Closure Guidelines.</p> |
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| | | | | should be noted that in most of the cases the proceedings finish without any financial impact) in the final payment <u>application of the last year</u> and to submit the detailed amounts using template provided in Annex III. | |
| 332 | Slovakia | 08. Operations affected by ongoing national investigations or suspended by a legal proceeding or by an administrative appeal having suspensory effect | | We would like to confirm that the ongoing judicial investigations include also the cases referred to in chapter 10 (8. paragraph and footnote 9) of the EC Guidance on Amounts Withdrawn, Recovered, to be Recovered and Irrecoverable Amounts. Thus in cases where a court decision on the eligibility of expenditure has not been issued before submission of the final application for payment (31 July 2024), the Member State can decide to declare such expenditure in the final application for payment. Later, in case a court has still not decided before submission of the final accounts (15 February 2025), the Member State can decide keep expenditure at stake in the accounts and report it in Annex III of the EC closure guidelines. | The footnote and the related paragraph of the Guidance on Amounts Withdrawn, Recovered, to be Recovered and Irrecoverable Amounts concern definitive corrections, i.e. the affected expenditure deducted due to established irregularities. Such expenditure can be re-declared (at latest in the final application for an interim payment for the final accounting year to be submitted by 31 July 2024) only if a court (or another body of the judicial system) concludes that the affected expenditure is legal and regular. |
| 333 | Czech Republic | 09. Expenditure affected by issues raised in ongoing OLAF cases or audits of the Commission or the ECA | | Please clarify what is meant by the “contradictory procedure” and whether it includes the procedures specified in the Article 145 of the CPR. In addition we would like to ask, whether we understand correctly, that the reference to “financial correction procedure” also refers to Article 145. After the findings of former ongoing OLAF cases or EC/ECA audits will be finalized and the irregular expenditure will be established, would it be possible | Yes, contradictory procedure includes, among others, the procedure specified in Article 145 CPR, i.e. financial correction procedure. The draft Closure Guidelines have been amended by adding: “Without prejudice to Article 145(7) of the CPR, any irregular amounts may be replaced using overbooked expenditure (if available).” |

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| | | | | to replace it using overbooked expenditure? CZ would like to propose an addition of following clause to the paragraph “Any irregular amounts may be replaced using overbooked expenditure (if available)”. | |
| 334 | Poland | 09. Expenditure affected by issues raised in ongoing OLAF cases or audits of the Commission or the European Court of Auditors | | Does “ongoing OLAF cases” relate to ongoing or closed OLAF investigations? As OLAF does not have an obligation, under the OLAF Investigation Regulation, to inform the national institutions (MA, IB, AFCOS, CP) about ongoing administrative investigations, it does not routinely do it. Therefore, the Commission would have to oblige OLAF to inform MS about such open investigations for the purposes of the process described under this section (although the purpose would be incomprehensible as an ongoing investigation may end up with no findings / recommendations). If the above provision refers to completed investigations with financial recommendations, as a result of which the settlements have not been finalized, then they should not be called “ongoing OLAF cases” because according to Regulation 883/2013 (amended by Regulation 2020/2223) an OLAF investigation ends with a report final and possible recommendations from DG OLAF. We propose to clarify the wording, inter alia, by referring to the terminology of the OLAF Investigations Regulation. | The draft Closure Guidelines have been amended as follows: “Before submitting the closure documents, Member States are invited to exclude from the accounts for the final accounting year expenditure affected by potential irregularities identified in ongoing OLAF investigations (if such investigations and the concerned affected expenditure are known to the Member States at that stage), OLAF reports or the Commission’s or the European Court of Auditors’ audits. If the Member State contests such findings or the concerned affected expenditure amounts and includes the affected expenditure in the accounts, the Commission will continue the contradictory procedure, which may lead to a financial correction. Without prejudice to Article 145(7) of the CPR, any irregular amounts may be replaced using overbooked expenditure (if available).” |
| 335 | Czech Republic | 10. Irregularities | 10.1 Treatment of irregularities in the final | CZ would like to propose to add a reference to Section 9 to the second paragraph of Section 10.1: “ <i>This does not</i> | The draft Closure Guidelines have been amended by adding: |

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| | | | accounting year | <i>concern amounts to be recovered, irrecoverable amounts or amounts referred to in sections 8 and 9 of these guidelines”</i> | “This does not concern amounts to be recovered, irrecoverable amounts or amounts referred to in sections 8 and 9 of these guidelines for which the Member State decided to maintain the affected expenditure in the accounts.” |
| 336 | Czech Republic | 10. Irregularities | 10.3 Potential risk of irregularities leading to additional verifications by the programme authorities of expenditure already declared to the Commission | <p>CZ would like to ask for the amendment of the following provision: „for expenditure deducted from the accounts of an accounting year preceding the final accounting year pursuant to Article 137(2) of the CPR, the additional verifications must be finalised in time to enable the declaration of the expenditure at the latest in the final application for an interim payment for the final accounting year, for which the deadline for submission is 31 July 2024.“</p> <p>CZ understands the merit of this additional requirement for the expenditure deducted from the previous accounts that could be included in the final application for an interim payment for the final accounting year only if the verification is finalized for the programme authorities. However we believe that the expenditure deducted pursuant to Article 137(2) of the CPR due to investigations carried out by national bodies different to the programme authorities (such as police investigations) should be treated as the operations affected by ongoing national investigations (Section 8)</p> | See reply to question 331. |
| 337 | Czech Republic | 10. Irregularities | 10.4 Amounts recovered after closure | As far as the obligation to reimburse amounts recovered from the beneficiaries to the EU budget set in Chapter 10. 4. is concerned, we would like to propose a | The legislative framework does not establish a time limit for the Member States to return to the EU budget amounts unduly paid and recovered (if they cannot be replaced by using |

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| | | | | time limitation for the fulfilment of this obligation. We are not aware of any legislation stipulating the obligation to reimburse the recovered amounts after the closure of the respective programme, moreover, we find the obligation of the member states to maintain administrative capacity necessary for such reporting without any limitation rather disproportionate. In our opinion, a ten-year time limit starting at the closure of the programme would be appropriate. | overbooking). |
| 338 | Bulgaria | 10. Irregularities | 10.4 Amounts recovered after closure | How long should the Member state inform EC on the recovery process of the established irregularities, which were detected after the submission of the closure documents? | See reply to question 337. |
| 339 | Lithuania | 10. Irregularities | 10.2 Amounts to be recovered and irrecoverable amounts | We understand that there is no time limit for submission of the information about recoveries after closure, but we suggest to specify deadlines how long should the MS monitor/ inspect the closed projects, documents, investigate irregularities (to allocate staff for these activities) after closure of the program. For example all the documents concerning the expenditure declared should be available for auditing to the EC and the ECA upon request for a period of three years from 31 December following the submission of the accounts in which the expenditure of the operation is included – accordingly it can be concluded, that procedures regarding administration of projects/ further monitoring (with exception of irregularities established till that moment) should also be accomplished till the same deadline? | See reply to question 337. The retention period for the availability of documents is set out in Article 140(1) of the CPR. |

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| 340 | Poland | 10. Irregularities | 10.1 Treatment of irregularities in the final accounting year | There are doubts about the reporting of deductions of eligible expenditure made after 31 July 2024 in Appendix 2. Appendix 2 shows the deductions made in payment applications to the Commission. Moreover, if the wording in Appendix 2 remained unchanged, it would be necessary to clarify which deductions should be included in Appendix 2 and which should be included in Appendix 8. | This is clarified in the guidance notes on the accounts, (EGESIF_15-0016, _0017 and _0018). Appendix 2 presents the deductions from the applications for interim payments made during the accounting year. Appendix 8 presents the deductions made directly in the accounts for the accounting year after the final application for interim payment of that accounting year has been submitted. There is no deviation from this rule for the final accounting year (i.e. any deductions made directly in the accounts after the final application for interim payment for the final accounting year has been submitted must be reported in Appendix 8). |
| 341 | Netherlands | 11. Submission of closure documents | 11.1 Deadline for submission of closure documents | Deadline to submit closure documents (15 February 2025) seems difficult to meet. What is the possibility of extension, especially for REACT EU? | The deadline to submit the closure documents is set in the Financial Regulation and CPR. The draft Closure Guidelines cannot deviate from this deadline. The closure documents must be submitted by 15 February 2025 (except for the last annual implementation report of the EMFF which must be submitted by 31 May 2024). This deadline may be extended by the Commission to 1 March 2025, upon communication by the Member State concerned. |
| 342 | Poland | 12. Content of closure documents | 12.4. Audit opinion and control report 12.4.1. Financial instruments | Footnote 42 - Why does the footnote refer only to management costs and fees and not to final recipients' expenditure? | The draft Closure Guidelines provide that the programme authorities should carry out an audit of a statistical sample of investments and management costs and fees and may treat such expenditure as an additional sampling period in order to use the results of audits carried out previously. The footnote makes the derogation for financial instruments managed by EIB Group indicating that management costs and fees cannot be part of this statistical sample as they have to be audited by the external auditors of |

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| | | | | | EIB/EIFs. However, the investments should be part of the sample and audited by the national authorities as provided in the main text of the guidelines. |
| 343 | Poland | 12. Content of closure documents | 12.4. Audit opinion and control report 12.4.1. Financial instruments | Under what circumstances may the AA decide to group the selected financial instruments? What are the allocation criteria? Who can decide about these criteria? Is grouping of expenditure under different priority axes allowed? Can both MCF and expenditure for final recipients be grouped within one group? | <p>Firstly, the audit authority has to decide if it will audit all or a sample of the financial instruments. It is possible for the audit authority to select some financial instruments based on professional judgement and some at random from the remaining ones.</p> <p>In a second step, the audit authority has to decide to audit either incurred expenditure from each of the selected instruments or to group the incurred expenditure for all selected instruments (or part of them). This grouping can concern different priority axes in one programme or even different programmes.</p> <p>In case of former auditing incurred expenditure separately from each of the selected instruments, the audit authority will have an error rate per instrument. In case of the latter, the audit authority will have an error rate for the group.</p> <p>In a third step, the audit authority can decide to draw a random statistical sample from all incurred expenditure items or to stratify. In case of stratification, the criteria for it are defined by the audit authority based on professional judgement.</p> |
| 344 | Poland | 12. Content of closure documents | 12.4. Audit opinion and control report 12.4.2. Reliability of data. | In Poland, the credibility of the indicators is confirmed by the AA, inter alia, in the audit of operations, additionally, the issues concerning aggregation of indicators were covered by the system audit examination twice. In addition, an annual examination of the central ICT system SL2014 is carried | In the described case, the audit authority will perform the audit on performance data as part of the audits of operations in the final accounting year and report in the control report for the final accounting year the results of all audit work performed on this subject during the programming period. The audit on performance data, also as linked to the audit |

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| | | | | <p>out, and successive audits of local IT systems are also carried out. In this situation, is it necessary to carry out additional work for the purpose of closure? What scope would this work cover? Does the provision of the guidelines mean collecting / describing the work performed by the AA throughout the perspective and confirming the final value of the indicators - or a dedicated separate study is required? If yes, should the study cover all indicators within a given programme or can it be done on a sample basis?</p> | <p>work on audits of operations, can (and in most cases will be performed) based on a sample.</p> <p>There is no need for any further specific audit work / dedicated separate study at closure in the Polish case described (provided that the work carried out by Polish audit authority so far has not identified issues that need a follow up by / at closure).</p> |
| 345 | Poland | 12. Content of closure documents | 12.1. Final implementation report, Annex III | <p>Does the table also apply to projects implemented with a fund of funds? In the case of irregularities identified at the level of the financial intermediary or the final recipient, what name shall be presented in the "operation title" field?</p> | <p>Article 40(5a) of the CPR stipulates that in case of operations comprising financial instruments, the contribution cancelled as a result of an individual irregularity, may be reused within the same operation under the conditions set out in Article 40(5a), first subparagraph of the CPR. Therefore, in view of these provisions, it is expected that irregularities within the operations comprising financial will be replaced with eligible expenditure within the eligibility period or excluded from the eligible expenditure at closure.</p> <p>If the operations comprising financial instruments are affected by ongoing national investigations/suspended by a legal proceeding or by an administrative appeal having suspensory effect in Annex III to the draft Closure Guidelines the Member State should provide the name of the operation and the affected amount at the level of the final recipient or the financial intermediary, depending on at which level the on-going investigation or the legal proceedings or</p> |

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| | | | | | administrative appeals with suspensory effect are being carried out. |
| 346 | Czech Republic | Financial instruments | | CZ would like to ask for clarification of the Article 42 of the CPR related to fulfilment of the Appendix 6 of the accounts. In case that the amounts paid as eligible expenditure in the meaning of Article 42(1)(a), (b) and (d) of the CPR are lower than the programme contribution paid to financial instruments included in payment applications at closure, is it expected that the CA will deduct the amount of programme contribution not covered by eligible expenditure from the accounts (Appendix 1 and 8) for the final accounting year, or it is sufficient that the difference will be reported only in the Appendix 6 and it would be cleared by the Commission after the submission of the closure documents? | In line with Article 126(c) of the CPR, the certifying authority must certify (inter alia) that the expenditure entered in the accounts complies with applicable law. Therefore, such expenditure should be at latest deducted in the accounts for the final accounting year (Appendices 1 and 8). |